

SECTION 3. FEES; BAD CHECKS; REFUNDS.

3.1 Fees.(a) The following fees are established at the amounts indicated:

- (1) Application fee - \$50.00
- (2) Original broker license fee - \$70.00
- (3) Broker experience requirement waiver application fee - \$50.00
- (4) Annual renewal broker license fee - \$80.00
- (5) Original salesperson license fee - \$50.00
- (6) Annual renewal salesperson license fee - \$60.00
- (7) Broker expired license fee - \$110.00
- (8) Salesperson expired license fee - \$80.00
- (9) License reissuance fee - \$30.00
- (10) Initial duplicate license fee - \$30.00
- (11) Annual renewal duplicate license fee - \$30.00
- (12) Transfer fee - \$30.00
- (13) Appeal filing fee - \$100.00
- (14) Recovery fund fee - \$25.00
- (15) Examination fee shall be the actual cost charged by the testing service and shall be paid directly to the testing service.

(b) The following fees for real estate education are established at the amounts indicated:

- (1) Original main school license fee - \$500.00
- (2) Annual renewal main school license fee - \$400.00
- (3) Original branch school license fee - \$300.00
- (4) Annual renewal branch school license fee - \$200.00
- (5) Original association license fee - \$200.00
- (6) Annual association license renewal fee - \$100.00
- (7) Principal instructor license application fee - \$250.00
- (8) Annual renewal fee for principal instructor - \$150.00
- (9) Associate instructor license application fee - \$200.00
- (10) Annual renewal fee for associate instructor - \$100.00
- (11) License amendment fee - \$100.00
- (12) License reissuance fee - \$50.00
- (13) Course approval fee - \$100.00
- (14) Annual renewal for course approval fee - \$50.00
- (15) Late renewal fee for license or course approval - \$250.00
- (16) Appeal filing fee - \$100.00

10.18 Property management definitions.

- (a) "Audit trail" means a documented history of a financial transaction by which the transaction can be traced to its source.
- (b) "Occupant" means a person who rents a property on a nightly basis.
- (c) "Tenant" means a person who rents a property on other than a nightly basis.
- (d) "Property Manager" means a licensed principal broker or designated executive broker who performs property management activities pursuant to A. C. A. § 17-42-103(9)
- (e) This section does not apply to any residential property management program operated or regulated by a federal or state act or agency which includes specific record keeping requirements that the commission determines are substantially equivalent to or greater than that required by this section.

10.19 Property management agreement.

(a) A principal broker or designated executive broker must not engage in the management of residential rental real estate without a written, current property management agreement between the owner and the property manager. A property management agreement must include the following:

- (1) Name, address and other contact information for property owner;
 - (2) The address or legal description of the property to be managed;
 - (3) The duties and responsibilities of the property manager and owner;
 - (4) The authority and power given by the owner to the property manager;
 - (5) The management fees, application fees, screening fees, rebates, discounts, overrides and any other form of compensation to be received by the property manager for management of rental real estate including when such compensation is earned and when it will be paid;
 - (6) A description of the monthly statements of accounting the property manager will provide to the owner;
 - (7) The duration of the agreement, rollover provisions, renewal clauses or automatic extensions, if any;
 - (8) The method by which the property management agreement can be terminated and any other terms and conditions of the agreement;
 - (9) Signatures of the property manager or executive broker and property owner; and
 - (10) The date of the agreement.
- (b) The property manager must promptly deliver a legible copy of the fully executed property management agreement, and any addenda or amendments, to the owner.

10.20 Tenant agreement.

(a) A property manager shall not lease property he manages without a written agreement with the tenant.

(b) Each lease or rental agreement for residential real estate managed by the property manager must contain the following:

- (1) The name and business address of the property manager and his firm;
 - (2) The name, address and other contact information of the tenant;
 - (3) The mailing address or unit number of property being rented or leased;
 - (4) Payment conditions and amounts pertinent to the rental or lease, and the rental or lease term;
 - (5) The amount of and the reason for all funds paid by the tenant to the property manager at the outset of the agreement including funds for rent, security deposits, and any other fees;
 - (6) The location where or entity by whom security deposits will be held;
 - (7) Method by which tenant will be notified in the event of termination of property manager's property management agreement to include handling of tenant's security deposit; and
 - (8) Signatures of the current property manager or current executive broker and tenant.
- (c) A tenant's refusal to sign the lease agreement shall not constitute noncompliance by the property manager with the terms stated herein.
- (d) A property manager may not expend any tenant security deposits for payment of any expenses or fees not otherwise allowed by the tenant's rental or lease agreement.

10.21 Property management accounting and recordkeeping.

(a) A property manager must retain records of all deposits in a manner in which they are traceable to the owners' and tenants' ledgers. A property manager must retain records identifying the amount of and purpose of each disbursement entered into the owner's and tenants' ledgers.

(b) The property manager shall disclose to the owner, in writing, the property manager's use of any employees or a business in which the property manager or any persons licensed under him has a pecuniary interest to provide billable services to the owner's property.

10.22 Property management owner ledgers.

(a) A property manager must prepare and maintain at least one separate owner's ledger for each property management agreement, for all monies received and disbursed.

(b) If a property is utilized for nightly rentals, a separate ledger account must be maintained for that property. Each occupant of the property must be identified, including the dates of occupancy and amounts paid.

(c) If a property manager has access to a separate banking or escrow account owned or controlled by the property owner pursuant to a property management agreement, the property manager may maintain either a record of receipts and disbursements or check register in lieu of an owner's ledger.

(d) All owner ledgers must contain the property manager's name, identification of property being managed, and the following information for each deposit of funds:

- (1) The amount of funds received;

- (2) The purpose of the funds and identity of the person who tendered the funds;
- (3) The check number, cash receipt number or a unique series of letters and/or numbers that establish an audit trail to the receipt of funds;
- (4) The date the funds were deposited; and
- (5) The balance of each recorded entry.
- (e) For each disbursement of funds, all owner ledgers must contain the following information:
 - (1) The date the funds were disbursed;
 - (2) The amount of funds disbursed;
 - (3) The check number or bank-generated electronic tracking number;
 - (4) The payee of the disbursement;
 - (5) The purpose of the disbursement; and
 - (6) The balance after each recorded entry.
- (f) If more than one property is managed for a property owner, each entry for deposit or disbursement must identify the applicable property rather than just the owner. If a property management agreement with an owner allows the property manager to use funds collected for one property to apply to expenses of another property owned by the same owner, an overall compilation/accounting shall be prepared for the owner.
- (g) At a minimum, once each month, a report showing all receipts and disbursements for the account of the owner must be provided to the owner. A copy or electronic version of each such report must be available through the property manager's records system.

10.23 Property management tenant ledgers.

- (a) A property manager must prepare and maintain at least one tenant's ledger for each unit from whom the property manager has received any funds under a property management agreement, whether or not the tenant has executed a written rental or lease agreement at the time of payment of funds to the property manager.
- (b) All tenant ledgers must contain the tenant's name and the legal description or physical address of the property sufficient to distinguish that property from other rental units, or a unique series of letters or numbers that establishes an audit trail.
- (c) For each deposit of funds, all tenant ledgers must contain the following information:
 - (1) The amount of funds received;
 - (2) The purpose of the funds and identity of the person who tendered the funds;
 - (3) The check number, cash receipt number or a unique series of letters or number that establishes an audit trail to the receipt of funds;
 - (4) The date the funds were received; and
 - (5) The balance after each recorded entry.
- (d) For each disbursement of funds, all tenant ledgers must contain the following information:
 - (1) The date the funds were disbursed;
 - (2) The amount of funds disbursed;
 - (3) The check number or bank-generated electronic tracking number;

- (4) The payee of the disbursement;
 - (5) The purpose of the disbursement; and
 - (6) The balance after each recorded entry.
- (e) In lieu of an individual tenant ledger a property manager may prepare and maintain a separate record of the receipt of funds from prospective tenants who do not become tenants after such payment.

10.24 Property management cash receipts.

(a) If a property manager chooses to accept cash, he or his designee must prepare a legible written receipt for any cash funds received under a property management agreement or from a prospective tenant. A copy of the receipt must be maintained in the property manager's records. Cash receipts must be consecutively pre-numbered, be printed in at least duplicate form and must contain:

- (1) The date of receipt of cash funds;
- (2) The amount of the funds;
- (3) The reason for payment or collection of the funds received;
- (4) The identity of the property for which the cash funds were received;
- (5) The tenant's name;
- (6) The payer of the funds if different than the tenant;
- (7) The payee of the funds; and
- (8) The name and signature of the individual who actually received the cash and prepared the receipt.

SECTION 13. TIME-SHARE.

13.1 Registration; renewal: fees

(a) Each application for registration of a time-share plan or of an agent thereof shall be made on a form furnished by the Arkansas Real Estate Commission and shall be accompanied by the appropriate filing fee and evidence that a bond in the amount shown below has been placed with a surety company, corporate bond acceptable to the Commission or a cash bond with the Commission.. (b) Each registration shall be renewed annually and shall be filed no later than June 1 beginning with the upcoming renewal period beginning July 1. Such renewal shall be made on a form prescribed by the Commission and accompanied by the appropriate fee.

(c) The following fees are established at the amounts indicated:

- (1) Time-share plan registration fee - \$750.00
- (2) Time-share plan annual renewal fee - \$350.00
- (3) Abbreviated registration application fee - \$500.00
- (4) Abbreviated registration renewal and recertification fee - \$300
- (5) Acquisition agent registration and renewal fee - \$150.00
- (6) Principal broker registration and renewal fee - \$75.00
- (7) Managing agent registration and renewal fee - \$75.00
- (8) Exchange agent registration and renewal fee - \$75.00
- (9) Material change fee - \$150.00

(d) The following bond amounts are established at the amounts indicated:

- (1) Developer's consolidated bond - \$50,000
- (2) Acquisition agent bond - \$10,000
- (3) Principal broker bond - \$10,000
- (4) Managing agent bond - \$10,000

13.2 Agents; amendment of registration.

(a) Each developer shall file with the Commission the name, street address, mailing address, and telephone number of each acquisition agent, managing agent, sales agent and exchange agent and the responsible managing employee for each of said agents associated with each time-share plan. Should any of the information contained in this list change, then the developer shall notify the Commission of such change within two (2) weeks of such change.

(b) A developer shall amend or supplement its registration to report any material change in the information required by Ark. Code Ann. § 18-14-204. Such amendment or supplementation shall be made within forty-five (45) days of the occurrence of the material change. "Material change" means any change

which alters the meaning or effect of an instrument or information, or any change which affects the rights or liabilities of any time-share owner or any potential time-share purchaser.

13.3 Fictitious name.

Each developer, acquisition agent, managing agent, sales agent and exchange agent shall register with the Commission each fictitious name, if any, under which that person conducts business. No person shall conduct business which is regulated by the provisions of the Arkansas Time-Share Law under any names other than those registered with the Commission.

13.4 Purchase contract; cancellation notice; form, time, procedure.

(a) A purchaser may cancel any contract for the purchase of a time-share interest from a developer within five (5) days after execution of the contract. The purchaser's right to cancel a contract for purchase shall not be waived.

(b) The public offering statement shall be written in clear, plain and concise language. There shall be attached to the front of the public offering statement a notice in duplicate containing the following language in at least 10 point boldface type:

"IMPORTANT NOTICE

I UNDERSTAND THAT IF I SIGN A CONTRACT FOR THE PURCHASE OF A TIME-SHARE INTEREST I HAVE THE RIGHT TO CANCEL THE CONTRACT WITHIN FIVE (5) DAYS AFTER SIGNING THE CONTRACT. I UNDERSTAND THAT CANCELLATION IS WITHOUT PENALTY AND ALL PAYMENTS MADE BY ME BEFORE CANCELLATION SHOULD BE REFUNDED WITHIN THIRTY (30) DAYS OF RECEIPT OF THE NOTICE OF CANCELLATION. IF THE FIFTH DAY AFTER THE SIGNING OF THIS CONTRACT IS A SATURDAY, SUNDAY, OR LEGAL HOLIDAY MY RIGHT TO CANCEL IS EXTENDED TO THE NEXT DAY WHICH IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY. I REALIZE THAT TO CANCEL THIS CONTRACT I MUST MAIL OR DELIVER A WRITTEN NOTICE OF CANCELLATION TO (NAME OF DEVELOPER) AT (DEVELOPER'S ADDRESS).

I UNDERSTAND THAT THE ARKANSAS REAL ESTATE COMMISSION NEITHER RECOMMENDS NOR APPROVES THIS OR ANY OTHER TIMESHARE PLAN.

I HEREBY ACKNOWLEDGE RECEIPT OF THE ATTACHED PUBLIC OFFERING STATEMENT.

(Purchaser's Signature)

DATE: ”

The original executed notice shall be retained by the developer and the duplicate copy shall be given to the purchaser. This notice shall contain no other printing or writing thereon.

(c) There shall be included in each contract for the purchase of a time-share interest immediately above the signature line a notice containing the following language in print size larger than the other provisions of the contract (excluding descriptive headings and titles) but no less than 10 point boldface type:

"NOTICE TO PURCHASER

YOU HAVE THE RIGHT TO CANCEL THIS CONTRACT WITHIN FIVE (5) DAYS AFTER YOU SIGN THE CONTRACT. FOR FURTHER INFORMATION, SEE "IMPORTANT NOTICE" ATTACHED TO THE PUBLIC OFFERING STATEMENT."

(d) Should the fifth day after the execution of the contract for purchase of a time-share interest be a Saturday, Sunday or legal holiday, then the five (5) day cancellation period shall not expire until the end of the next day which is not a Saturday, Sunday or legal holiday. "Legal holiday" means any day designated as a holiday by the President or the Congress of the United States or designated by the laws of this state.

Notice of cancellation shall be properly addressed with sufficient postage prepaid to assure delivery and notice shall be deemed given when postmarked by the United States Postal Service.

13.5 Record maintenance.

Each developer shall assure that any records required to be maintained pursuant to the Arkansas Time-Share Law or regulations promulgated thereunder shall be maintained and made available to the Arkansas Real Estate Commission upon request.

13.6 Records; developer and agent; type, time.

(a) Each developer shall maintain complete records of each sale of any time-share interests in the time-share plan. The records shall be maintained for three (3) years and shall contain complete and detailed records of all escrow accounts required by statute or otherwise maintained; complete records of each sale of any time-share interests, including copies of sales contracts, closing statements, credit disclosure information, executed copies of "Important Notice;" and any other information necessary to make a complete record of each transaction effected by the developer. These records shall be open to inspection by the Arkansas Real Estate Commission.

(b) Each principal broker functioning pursuant to the Real Estate License Law shall maintain complete records of each transaction conducted by his/her firm. Each firm shall maintain signed copies of all offers, signed copies of all closing statements, detailed records of all escrow accounts required by statute or otherwise maintained, and any additional documents as may be necessary to make a complete record of each transaction effected by such firm. All such records shall be maintained for three (3) years and shall be open to inspection by the Arkansas Real Estate Commission.

(c) Each acquisition agent shall maintain complete records of all advertising and/or promotional materials used, names and addresses of all persons who receive prizes, other than the names and addresses of persons who received the prize most frequently awarded, the retail value of all prizes awarded and a statement of the odds of winning each prize. These records shall be maintained for three (3) years following the expiration date of the contest or gift offer and shall be open to inspection by the Arkansas Real Estate Commission.

(d) Each managing agent shall maintain complete records of all time-share plans managed by his/her firm. Each firm shall maintain complete and detailed records of all maintenance fees collected and the disbursement of these fees for repair and maintenance of the accommodations. These records shall include copies of all contracts, agreements, receipts and invoices, and any additional documents as may be necessary to make a complete record of all financial transactions with regard to the management of each accommodation. Each firm shall also maintain complete records of any rental program operated for the benefit of owners of time-share interests. These records shall be maintained for three (3) years and shall be open to inspection by the Arkansas Real Estate Commission.

13.7 Advertising materials.

Advertising materials used in this state shall be maintained for three (3) years by the developer or agent using the materials.

13.8 Financial statements.

Financial statements are required to be submitted to the Commission under Ark. Code Ann. § 18-14-204(a). The statements shall be in accordance with generally accepted accounting principles and be issued by a certified public accountant who shall perform an independent review or audit in accordance with the applicable standards of the Financial Accounting Standards Board of the American Institute of Certified Public accountants. **13.9 Promotional programs; prizes, odds.**

(a) For any promotion, contest, sweepstakes or other prize or gift offer (hereinafter referred to as "promotional program") regarding a time-share plan registered in Arkansas, the developer or acquisition agent or other principal party shall maintain for three (3) years a full and complete description of the promotional program, including but not limited to the following information:

- (1) The duration of the promotional program;
- (2) A description of each prize or gift to be awarded including the retail value of each prize or gift to be awarded and the minimum number of each prize to be awarded;
- (3) A copy of all advertising material to be used;
- (4) A statement of each condition precedent to the receipt of any gift or prize;
- (5) The formula used in computing the odds of winning each prize or category of prizes, if such odds are less than one to one.

(b) Any representation of the odds of winning a prize or gift shall be stated in a straightforward and easily comprehensible manner in whole numbers without the use of decimal points or percentage signs.

(c) All materials which advertise a promotional program shall prominently contain:

- (1) A disclosure of the odds of winning, if such odds are less than one to one;
- (2) A disclosure that a "time-share" sales presentation will be offered or required;
- (3) A disclosure of the qualifications necessary for participation in the promotional program;
- (4) The description and retail value of the prize or gift; and
- (5) If the promotional program involves the participation of other entities or developers, the disclosure that the promotional program has multiple sponsors and is either national, regional or statewide in scope, whichever is applicable.

(d) Within one (1) month of the conclusion of any prize offer in which the odds of receiving the prize are less than 1 to 1, the developer shall determine and maintain on record for three (3) years the total number of offers made and the total number of winning numbers distributed by prize category.

(e) Within one (1) month of the conclusion of any contest, the developer shall compile and record a list of the names and addresses of each person who received each prize, other than the prize most frequently awarded. The list shall identify the prize received by each person.

(f) All records and documents required by this subsection are subject to the review of the Arkansas Real Estate Commission upon its request.

13.10 "Reasonable Time" defined.

"Reasonable time" as used in Ark. Code Ann. § 18-14-409(a) shall be presumed to be thirty (30) days.

13.11 Limitations.

Should the parties agree to reduce the period of limitation as stated in Ark. Code Ann. § 18-14-403, such agreement to reduce shall be a separate and distinct paragraph of the contract and shall be initialed by the parties as though the paragraph were an alteration of the original agreement.

13.12 Reservation; deposit refundable.

Upon receipt of a deposit and acceptance of a reservation pursuant to Ark. Code Ann. § 18-14-202(a), the developer shall notify the purchaser in writing that the deposit is refundable at any time at the purchaser's option and that the acceptance of the deposit does not create a binding obligation.

13.13 General regulations apply.

Rules and Regulations of the Arkansas Real Estate Commission 1.1 through 15.8 inclusive shall regulate the practice and procedure for the Commission for enforcement of the Arkansas Time-Share Law and are hereby adopted and incorporated by reference as though included herein word for word; provided that, for purposes of the Arkansas Time-Share Law Regulations, reference to the real estate license law or

Commission regulations, and/or reference to licensees, shall be deemed to include the Arkansas Time-Share Law and Time-Share Regulations; and reference to licensees shall be deemed to include registrants under the Arkansas Time-Share Law.

13.14 "No Action" letter.

Whenever the Commission determines on the basis of the facts presented that no affirmative action is necessary to protect the public interest or prospective purchasers, a letter stating that no action will be taken by the Commission may be issued. Any letter by the Commission that action shall not be taken shall not bind the Commission with regard to its future actions relating to such matters unless the Commission shall specifically set forth in writing its determination to be so bound and the extent and nature thereof. Any such no-action letter shall not affect any right which any purchaser may have under the Arkansas Time-Share Law.

1 **SECTION 16. REAL ESTATE EDUCATION.**

2 **16.1 Instructor applications; education; experience.**

3 **16.2 School applications; association applications.**

4 **16.3 Course approval requirements.**

5 **16.4 Renewals.**

6 **16.5 Monitoring.**

7 **16.6 Third party sponsors.**

8 **16.7 Distance education.**

9 **16.8 Course requirements.**

10 **16.9 Felony reporting requirements.**

11 **16.10 Maintenance of records; school or association closings.**

12

13 **16.1 Instructor applications; education; experience.**

14 Applicants for original licensure as a Principal or Associate Instructor must apply on forms provided by
15 the Commission, pay the application fee established by these regulations, and meet the following
16 requirements:

17 (a) Broker pre-license and broker post-license Instructor applicants must provide proof of the
18 following:

19 (1) Completion of not less than a high school diploma or GED;

20 (2) Successful completion of the following courses of instruction in real estate, which proof shall
21 consist of the original certificate(s) or certified copies thereof, from the school or other organization or
22 other documentation satisfactory to the Commission:

23 (A) not less than thirty (30) classroom hours in the basic principles of real estate completed by
24 actual classroom attendance or completion of approved distance education courses;

25 (B) not less than sixty (60) classroom hours in broker pre-license education to include not less than
26 forty-five (45) hours of broker pre-license education developed by the Commission, completed by
27 actual classroom attendance;

28 (C) not less than eighteen (18) classroom hours in salesperson post-license education and thirty (30)
29 hours in broker post-license education developed by the Commission, completed by actual classroom
30 attendance;

31 (3) have in Real Estate five (5) years of work experience within the immediately preceding six (6)
32 years; and

33 (4) hold and maintain a current active Arkansas Real Estate Broker License.

34 (b) Salesperson pre-license Instructor applicants must provide proof of the following:

35 (1) Completion of not less than a high school diploma or GED;

36 (2) Successful completion of a course or courses of instruction consisting of not less than thirty (30)
37 classroom hours in the basic principles of real estate completed by actual classroom attendance or
38 completion of approved distance education courses, which proof shall consist of the original certificate(s)
39 or certified copies thereof, from the school or other organization or other documentation satisfactory to
40 the Commission;

41 (3) have in Real Estate five (5) years of work experience within the immediately preceding six (6)

- 1 years; and
- 2 (4) hold and maintain a current active Arkansas Real Estate Broker License.
- 3 (c) Salesperson post-license Instructor applicants must provide proof of the following:
- 4 (1) Completion of not less than a high school diploma or GED;
- 5 (2) Successful completion of the following courses of instruction in real estate, which proof shall
- 6 consist of the original certificate(s) or certified copies thereof, from the school or other organization or
- 7 other documentation satisfactory to the Commission:
- 8 (A) not less than thirty (30) classroom hours in the basic principles of real estate completed by
- 9 actual classroom attendance or completion of approved distance education courses;
- 10 (B) not less than eighteen (18) classroom hours in salesperson post-license education developed by
- 11 the Commission, completed by actual classroom attendance;
- 12 (3) have in Real Estate five (5) years of work experience within the immediately preceding six (6)
- 13 years; and
- 14 (4) hold and maintain a current active Arkansas Real Estate Broker License.
- 15 (d) Continuing education Instructor applicants must provide proof of the following:
- 16 (1) Completion of not less than a high school diploma or GED;
- 17 (2) Successful completion of a course or courses of instruction consisting of not less than thirty (30)
- 18 classroom hours in the basic principles of real estate completed by actual classroom attendance or
- 19 completion of approved distance education courses, which proof shall consist of the original certificate(s)
- 20 or certified copies thereof, from the school or other organization or other documentation satisfactory to
- 21 the Commission
- 22 (3) have in Real Estate five (5) years of work experience within the immediately preceding six (6)
- 23 years; and
- 24 (4) hold and maintain a current active Arkansas Real Estate Broker License.
- 25 (e) Real estate Guest Speakers must:
- 26 (1) have in the subject matter being presented five (5) years of work experience within the immediately
- 27 preceding six (6) years;
- 28 (2) register with the Commission on forms prescribed by the Commission; and
- 29 (3) refrain from engaging in product and/or service promotion during class time.
- 30 (f) All Instructors shall demonstrate in a manner satisfactory to the Commission a thorough, accurate
- 31 and current knowledge of the subject matter being taught.
- 32 (g) The Commission may require Instructor and Administrator attendance at an annual Educator Retreat
- 33 Workshop and other semi-annual Instructor training workshops.

34 **16.2 School applications; association applications.**

35 Applications for a Main School, Branch School or Association license must be submitted on forms

36 provided by the Commission and accompanied by the application fee established by these regulations and

37 shall meet the following requirements:

- 38 (a) Main and Branch School license applications must include:
- 39 (1) name and location of the school
- 40 (2) current roster of licensed Instructors and registered Guest Speakers
- 41 (3) an identified Principal Instructor;
- 42 (4) a signed statement that the school or association is in compliance with all local, state and federal
- 43 zoning ordinances and all accessibility requirements established by the Americans with Disabilities Act

- 1 (ADA); and
2 (5) copies of school policies to be filed with the Commission regarding course attendance, make-up
3 work and refunds.
4 (b) Association license applications must include:
5 (1) name and location of the Association;
6 (2) an identified Administrator; and
7 (3) copies of Association policies to be filed with the Commission regarding course attendance, make-
8 up work and refunds.

9 **16.3 Course approval requirements.**

10 Applications for real estate education course approvals must be submitted on forms provided by the
11 Commission and accompanied by the application fee established by these regulations and shall meet the
12 following requirements:

- 13 (a) Salesperson Pre-License Courses:
14 (1) must include not less than thirty (30) classroom hours in the basic principles of real estate; and
15 (2) may be offered by classroom instruction or approved distance education.
16 (b) Broker Pre-License Courses:
17 (1) must adhere to the Commission's approved broker pre-license education content outline, learning
18 objectives and measurement tools;
19 (2) may not be marketed as examination preparation or "exam prep" courses; and
20 (3) must be offered by classroom instruction only.
21 (c) Salesperson and Broker Post-License Courses:
22 (1) must adhere to the Commission's approved salesperson and broker post-license education content
23 outlines, learning objectives and measurement tools; and
24 (2) must be offered by classroom instruction only.
25 (d) Continuing Education Courses:
26 (1) must be based upon subject matter topics identified by the Commission, as established by § 17-42-
27 502;
28 (2) must include a course outline and learning objectives; and
29 (3) may be offered by classroom instruction or approved distance education.

30 **16.4 Renewals.**

- 31 (a) The renewal period for school, association and instructor licenses will be May 1 to April 30.
32 Renewal applications accompanied by the required fee must be filed with the Commission no later than
33 March 31. In order to be considered filed with the Commission by the deadline, the renewal applications
34 and accompanying fees must be submitted in completion and must bear a U.S. Postal Service postmark of
35 March 31 or be received in the Commission's office on or before March 31. If March 31 falls on a
36 Saturday, Sunday or legal holiday, the Commission shall accept as meeting the filing deadline those
37 renewal applications that bear a U.S. Postal Service postmark of the first business day thereafter, and
38 those applications received in the Commission office on the first day the office is open to the public
39 following such Saturday, Sunday or legal holiday.
40 (b) A renewal application filed after the March 31 renewal deadline shall be treated as a late renewal
41 application.

1 (c) A license renewal not received by April 30 will be considered an original application for licensure
2 upon submittal to the Commission.

3 (d) The renewal period for real estate education courses will be twelve (12) months from the date of
4 initial course approval.

5 (1) Where no substantive changes have been made to course content, course renewal applications
6 accompanied by the required fee must be filed with the Commission no later than thirty (30) days prior to
7 the approval's expiration date.

8 (2) Where substantive changes have been made to course content, course renewal applications
9 accompanied by the required fee must be filed with the Commission no later than sixty (60) days prior to
10 the approval's expiration date.

11 (e) A course approval renewal application received after the thirty (30) or sixty (60) day deadline shall
12 be treated as a late renewal.

13 (f) A course approval renewal application submitted to the Commission after the course approval
14 expiration date will be considered an original application for course approval.

15 **16.5 Monitoring.**

16 (a) The Commission or its designee shall periodically monitor all aspects of real estate education
17 offerings. As such, a School or Association's course schedule should at all times be readily available to
18 the Commission.

19 (b) For any real estate class that is offered and has an attendance of over forty (40) participants, that
20 Instructor or Administrator shall have on file with the Commission an approved monitoring plan. The
21 plan shall be filed prior to the course offering.

22 (c) Any licensed school associated by name with a real estate firm and whose courses are conducted
23 primarily at that firm's place of business shall have an approved permanent monitoring plan on file with
24 the Commission.

25 (d) For any real estate class that is offered and has instructional time devoted to luncheons, that
26 Instructor or Administrator shall have on file with the Commission an approved monitoring plan.

27 (e) For any real estate class that is closed to a specific group of individuals, that Instructor or
28 Administrator shall notify the Commission two (2) weeks prior to the course offering of the date, time
29 and location of the class.

30 (f) For any real estate class that is offered with a third party sponsor's participation, that Instructor or
31 Administrator shall have on file with the Commission an approved monitoring plan. The plan shall be
32 filed not less than fourteen (14) days prior to the course offering.

33 (g) Any monitoring plan filed with the Commission should include the following:

34 (1) criteria for determining one hundred percent (100%) attendance and course completion by students
35 enrolled in the course;

36 (2) methods for monitoring students' attendance and participation;

37 (3) a copy of the school or association's make-up policy; and

38 (4) identification and signature(s) of the Principal Instructor and other person(s) responsible for
39 monitoring the course and students.

40 **16.6 Third party sponsors.**

1 (a) Only Principal Instructors or Instructors designated by the Principal Instructor and approved by the
2 Executive Director may contract with a third party sponsor to offer a continuing education course.

3 (b) Time committed to product or service promotion shall not be considered instructional time.

4 (c) Students must be notified in advance of the time during which the third party sponsor will be
5 presenting product or service promotion to the class. Attendance will be neither monitored nor required
6 during that time by this subchapter.

7 (d) Third party sponsors must sign a statement affirming that their sponsorship of the course is not in
8 violation of RESPA. This statement must accompany the monitoring plan filed with the Commission.

9 (e) The Principal Instructor should obtain the signature of an authorized representative of the third
10 party sponsor on the monitoring plan filed with the Commission.

11 **16.7 Distance education.**

12 (a) Schools offering distance education must also offer classroom courses in Arkansas.

13 (b) Distance education instructors must meet the requirements listed under Regulation 16.1.

14 (c) Distance education instructors must hold the ARELLO® Certified Distance Education Instructor
15 (CDEI) designation.

16 (d) For every distance education course, the instructor associated with the course must actively interact
17 with the students completing the course.

18 (e) All distance education courses must be ARELLO® certified unless the course content is developed
19 by and the delivery method(s) is approved by the Commission.

20 (f) In any distance education course, the student must attest that they personally completed the
21 coursework.

22 23 **16.8 Course requirements.**

24 (a) All real estate education courses shall be conducted in a facility that provides an appropriate
25 learning environment. At a minimum, the classroom shall:

26 (1) be of sufficient size to comfortably accommodate all enrolled students;

27 (2) be adequately equipped with student desks, worktables with chairs or other seating having a writing
28 surface and arranged so that the writing surface is in front of students allowing students to have an
29 unobstructed view of the Instructor and opportunities for interaction;

30 (3) have adequate light, heat, cooling, ventilation and public address equipment; and

31 (4) be free of distractions that disrupt class sessions.

32 (b) All real estate education courses shall require one hundred percent (100%) attendance for
33 satisfactory completion. Activities of a non-participatory nature shall not qualify as attendance. Therefore,
34 a student's physical presence in the classroom does not, in and of itself, establish satisfactory completion.

35 (c) It is the duty of the Principal Instructor or Administrator to immediately notify the Commission in
36 writing of any student or real estate licensee who petitions any person associated with a licensed School
37 or Association to falsify course attendance or completion.

38 (d) Make-up policies filed with the Commission will set forth provisions for student absences and
39 tardiness with corresponding methods for making up any course content or assignments missed.

40 (e) A school shall issue a certificate of completion to a student who has paid the appropriate fees and
41 complied with all attendance and make-up policy requirements for satisfactory completion of the course.

42 (f) Notwithstanding Regulation 16.7(e), nothing in this subchapter shall require an Instructor, a School

1 or an Association to issue a certificate of completion to an individual student who, in the Instructor's
2 opinion, has not satisfactorily completed the course.

3 (g) The Commission shall annually establish subject matter topics acceptable for continuing education
4 courses.

5 (h) For any topic required by the Commission under § 17-42-514(a)(2), the Commission may establish
6 additional parameters governing course content and delivery.

7 (i) All post-license education and broker pre-license education must include learning objectives
8 established by the Commission.

9 **16.9 Felony reporting requirements.**

10 (a) All real estate Instructors and Administrators of licensed Associations must comply with the
11 requirements set forth in Regulation 10.16(a) and (b).

12 (b) An applicant for a real estate instructor license who has been convicted of or pleaded guilty or nolo
13 contendere to any crime other than a traffic violation or who, after the initiation of an investigation,
14 hearing or other administrative action has surrendered or has had a professional, vocational or
15 occupational license, permit, certification or registration denied, revoked, suspended or canceled or who
16 has been subjected to any sanctions, including probation, involving such a license, permit, certification or
17 registration shall furnish the written report referred to in Regulation 10.16(a) or (b) to the Commission at
18 the time the application is submitted.

19 **16.10 Maintenance of records; school or association closings.**

20 (a) Each Principal Instructor, school owner or Administrator must maintain complete records of all real
21 estate education business handled by that school or association; for example, enrollment forms,
22 attendance records, certificates of completion, etc.

23 (b) All records shall be maintained by the Principal Instructor or Administrator for three (3) years or
24 such time as may be required by law, whichever is greater, and shall be open to inspection by and made
25 available to the staff of the Commission at the school or association's location or other location
26 designated by the Commission. All records required by this regulation may be maintained in an electronic
27 form, provided that a copy of the records can be produced as required by this regulation.

28 (c) When a School or Association ceases to offer real estate education, the last Principal Instructor or
29 Administrator remaining with the School or Association shall be responsible for all records of the School
30 or Association pertaining to real estate education, and at the time the School or Association ceases to offer
31 real estate education, the Principal Instructor or Administrator shall immediately notify the Commission
32 of the address and phone number of the place where those records are being maintained. If for any reason
33 that Instructor or Administrator delivers custody of or responsibility for those records to another person or
34 entity, he/she shall immediately notify the Commission of such transfer and furnish the name, address and
35 phone number of such person or entity.

36 (d) When a School or Association closes and students have paid for education offerings not yet
37 delivered, the Commission may arrange for completion of those students' education through another
38 licensed Instructor.

39 (1) The Commission may be assigned by these students all rights and claims that they may have against
40 the School or Association involved.

41