

State Portion Overview

Licensing - 8 items

1. Qualifications/Requirements
 - a. Broker's Supervisory Requirements
 - b. Disciplinary Procedures and Sanctions
- i. Improper Dealings ii. Improper Brokerage
2. Inspection of Records and Audits
 - a. Record keeping requirements
3. License types and activities requiring license
4. License Maintenance
 - a. Post-license education
 - b. Continuing education
 - c. License transfer
 - d. Informing Board of changes

Escrow Accounts - 2 items

Disclosure Requirements - 10 items

1. Property Disclosure (incl Chesapeake Bay Act)
2. Aircraft Noise/Crash Disclosure
3. Septic Disclosure
4. Megan's Law
5. Stigmatized Properties
6. HOA/POA disclosures
7. Advertising Rules

Agency Definitions and Relationships - 12 items

1. Broker-Salesperson Relationships and Compensation
2. Limited Service
3. Disclosure of Agency
4. Agency duties
 - a. Document handling (delivery, leave copies)
 - b. Standard agent duties
 - c. Duties to client vs. customer
 - d. Misrepresentation, omissions
 - e. Brokerage agreements
5. Designated and Dual Agency
6. Unrepresented parties

Virginia Fair Housing Law and Regulations - 4 items

Specific Acts Pertaining to Real Estate Practice - 4 items

1. Virginia Condominium Act and Regulations
2. Virginia Residential Landlord and Tenant Act
3. Virginia Common Interest Communities Act
4. Virginia Underground Utility Damage Prevention Act

5. Virginia Property Owner's Association Act

Licensing - 8 items

Broker's Supervisory Requirements

Each place of business, each branch office, and each real estate team shall be supervised by a supervising broker. The supervising broker shall exercise reasonable and adequate supervision of the provision of real estate brokerage services by associate brokers and salespersons assigned to the branch office or real estate team.

1. The availability of the supervising broker to all licensees under the supervision of the broker to review and approve all documents, including leases, contracts affecting the firm's clients, brokerage agreements, and advertising;
2. The availability of training and written procedures and policies that provide, without limitation, clear guidance in the following areas:
 - a. Proper handling of escrow deposits;
 - b. Compliance with federal and state fair housing laws and regulations if the firm engages in residential brokerage, residential leasing, or residential property management;
 - c. Advertising;
 - d. Negotiating and drafting of contracts, leases, and brokerage agreements;
 - e. Use of unlicensed individuals;
 - f. Agency or independent contractor relationships;
 - g. Distribution of information on new or changed statutory or regulatory requirements;
 - h. Disclosure of matters relating to the condition of the property
3. The availability of the supervising broker in a timely manner to supervise the management of the brokerage services;
5. The supervising broker undertakes reasonable steps to ensure compliance by all licensees assigned to the branch office, including ensuring the licensees have an active, current license;
6. The supervising broker undertakes reasonable steps to ensure only licensees undertake activities requiring a license, including:

- a. Show property;
- b. Hold an open house;
- c. Answer questions on listings, title, financing, closing, contracts, brokerage agreements, and legal documents;
- d. Discuss, explain, interpret, or negotiate a contract, listing, lease agreement, or property management agreement with anyone outside the firm; and
- e. Negotiate or agree to any commission, commission split, management fee, or referral fee.

Improper Financial Transactions

- Offering to pay, paying, or providing valuable consideration to any person not licensed in this or any jurisdiction for services that require a real estate license.
- Accepting a commission, fee, compensation, or other valuable consideration, as a real estate salesperson or associate broker, for any licensed real estate activity from any person or entity except the licensee's principal broker or supervising broker at the time the licensed real estate activity was performed without the prior written consent of the licensee's principal broker.
- Receiving financial benefit from the use of any information about the property, the licensed real estate activity, or the parties to the transaction, when the information is gained as a result of the performance of licensed real estate activity without the prior written consent of the licensee's principal broker, the clients, and, when applicable, the parties to the transaction.
- Receiving financial benefit or other valuable consideration for any work or service related to a transaction without the prior written acknowledgment of the person paying for such work or service.
- Making a listing contract or lease which provides for a "net" return to the seller or lessor, leaving the licensee free to sell or lease the property at any price the licensee can obtain in excess of the "net" price named by the seller or lessor.

Improper Dealing - Offering real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized representative without taking reasonable steps to verify identity, or on any terms other than those authorized by the owner or the owner's authorized representative.

Record keeping requirements

The settlement agent shall retain records pertaining to each settlement handled for a minimum of five years after the settlement is completed. The appropriate licensing authority may prescribe the specific record entries and documents to be kept.

Real Estate Activities requiring license

- Show property;
- Hold an open house;
- Answer questions on listings, title, financing, contracts, brokerage agreements, legal documents;
- Discuss, explain, interpret, or negotiate a contract, listing, lease agreement, or property management agreement with anyone outside the firm; and
- Negotiate or agree to any commission, commission split, management fee, or referral fee.

Post-License Education (PLE) Curriculum

Section 54.1-2105.01 of the Code of Virginia requires all active new salesperson licensees to complete a Board-approved 30-hour post-license education (PLE) curriculum within one year from the last day of the month in which the license was issued in order to remain on active status.

Failure to complete these **30 hours of PLE within the one year** will result in automatic placement of your license on inactive status.

1. Fair Housing, ADA and Civil Rights (2 hours)
2. Real Estate Law and Regulations (6 hours)
3. Ethics and Standards of Conduct (3 hours)
4. Current Industry Issues and Trends (2 hours)
5. Agency Law (3 hours)
6. Contract Writing (6 hours)
7. Risk Management (3 hours)
8. Escrow Requirements (3 hours)
9. Real Estate-Related Finance (2 hours)

Continuing education

Experienced Salespersons must complete **16 hours of Continuing Education** to renew their licenses. Of these 16 hours, renewing experienced salespersons must take:

- Three (3) hours in Ethics & Standards of Conduct;
- Two (2) hours in Fair Housing;

- One (1) hour in Legal Updates and Emerging Trends;
- One (1) hour in Real Estate Agency; and
- One (1) hour in Real Estate Contracts.

The remaining 8 hours for both brokers and experienced salespersons may be in Real Estate Related Subjects (electives) or in the required Continuing Education subjects already referenced. These Continuing Education requirements also apply to inactive brokers and experienced salespersons who apply to activate their licenses.

License transfer

Any inactive licensee may activate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. A licensee who submits an activate application to the board shall not conduct business with the real estate firm or sole proprietorship set forth in the application until the application is processed and the license is issued by the board.

Informing Board of changes

Salespersons and individual brokers shall at all times keep the board informed of their current name and home address. Changes of name and address must be reported to the board in writing within 30 calendar days of such change.

Escrow Accounts - 2 items

Escrow

Escrow is a legal arrangement in which a third party temporarily holds money or property until a particular condition has been met – such as the fulfillment of a purchase agreement.

How Escrow Works

It's used in real estate transactions to protect both the buyer and the seller during the home buying process. Throughout the term of the mortgage, an escrow account will hold funds for taxes and homeowners insurance.

What Is An Escrow Account

In real estate, escrow is typically used for two reasons:

- To protect the buyer's good faith deposit, so the money goes to the right party according to the conditions of the sale
- To hold a homeowner's funds for property taxes and homeowners insurance.

Escrow Accounts For Home Buying

When you're buying a home, your purchase agreement will usually include a good faith deposit – (also known as earnest money). If the home purchase is successful, the deposit will be applied to the buyer's down payment.

Escrow Accounts For Taxes And Insurance

After you purchase a home, your mortgage lender will establish an escrow account to pay for your taxes and homeowners insurance. Each month, your mortgage servicer takes a portion of your monthly mortgage payment and holds it in the escrow account until your tax and insurance payments are due.

Who Manages An Escrow Account

Escrow accounts may be handled by a variety of third parties, including an escrow company, escrow agent or mortgage servicer. Where you are in the process will determine who manages the account.

Escrow Companies And Escrow Agents

When you're buying a home, escrow may be managed by a mortgage servicing company or agent. The escrow agent or company is sometimes the same as the title company.

Mortgage Servicers

Your mortgage servicer manages your mortgage, from closing until you pay off your loan. Mortgage servicers are responsible for collecting your mortgage payment, maintaining the records of payments and managing your escrow account.

What Escrow Accounts Don't Cover

Escrow accounts don't cover all the expenses related to homeownership. Your lender or servicer won't collect money to pay your utility bills or homeowners association (HOA) fees.

Disclosure Requirements - 10 items

Advertising Rules

Consent to Advertise: Real estate professionals must obtain written consent from property owners before advertising their properties. This includes placing signs or promoting properties listed by other brokers.

Content Standards: All advertisements must include the full name of the real estate brokerage and comply with specific content requirements. For online advertisements, each page or post must clearly display this information without requiring users to scroll.

Truthfulness and Accuracy: Advertisements must accurately represent the properties being marketed. Misleading information regarding property conditions, pricing, or features is prohibited. This is crucial for maintaining consumer trust and avoiding legal repercussions.

Federal Regulations: The Federal Trade Commission (FTC) oversees advertising practices to prevent deceptive claims. The Fair Housing Act also prohibits discrimination in housing advertisements, ensuring that marketing does not exclude protected classes.

State-Specific Laws: Each state may have additional regulations governing real estate advertising. For example, in Kentucky, the Kentucky Real Estate Commission (KREC) enforces advertising standards and holds brokers accountable for their agents' compliance.

Aircraft Noise and Crash Disclosure - Is required for residential property sales or leases within noise zones or Accident Potential Zone.

Chesapeake Bay Preservation Act (Bay Act) - Enacted in 1988, is Virginia's primary state law for protecting and improving water quality in the Chesapeake Bay by linking land use decisions to environmental protection. It requires local governments in Tidewater Virginia to incorporate water quality measures into their comprehensive plans, zoning ordinances, and subdivision regulations.

HOA/POA - Disclosures for the sale of homes that are part of a condominium or property owners' association (sometimes referred to as an HOA), resale disclosure documents (a resale certificate for condominium unit owners' associations and an association disclosure packet for property owners associations) are essential tools to ensure that all relevant information that may impact a decision to purchase a home in a particular community are provide.

Megan's Law - Is a federal law that requires information about convicted sex offenders to be made available to the public. It was enacted in response to the tragic murder of seven-year-old Megan Kanka in 1994, who was lured into her neighbor's house and raped by a convicted sex offender. The law mandates that law enforcement officials notify local communities about registered sex offenders living in their area, aiming to enhance public safety and awareness.

Septic Disclosure - Sellers are required to disclose any known problems with a home to potential buyers. If the property has a septic system, the disclosure must include a legal description of the property and the county in which it's located, and a map showing the location of the system on the property, to the extent practicable.

Stigmatized property - Is one that has an intangible, non-physical attribute that may elicit an emotional or psychological response from potential buyers. Common examples include:

- Properties associated with crime: Homes where violent crimes, such as murders or suicides, have occurred.
- Haunted properties: Homes believed to be haunted or associated with paranormal activity.
- Former grow-ops: Properties previously used for illegal drug cultivation, which may have lingering issues such as mold or structural damage.
- Criminal stigma: Properties used in the commission of a crime (e.g., drug dens, brothels).
- Death stigma: Properties where a death occurred, particularly violent deaths.
- Debt stigma: Properties associated with financial distress, which may lead to harassment from debt collectors unaware of a change in occupancy.

Realtors in Virginia are not required to disclose if a property is stigmatized unless directly asked by their client.

Virginia Residential Property Disclosure Act - Requires the owner of residential real property to provide a disclosure statement to purchasers.

This statement informs buyers of certain matters that may affect their decision to purchase the property.

Agency Definitions and Relationships - 12 items

Agency Duties - Real estate agents have duties to their clients that include loyalty, confidentiality, full disclosure of material facts, obedience to lawful instructions, reasonable care and diligence, and proper handling of money or property. Their roles and duties include interfacing with clients, acting as a go-between for buyers and sellers, and performing administrative, research, and marketing tasks.

Brokerage Agreements - A brokerage agreement establishes the terms under which a broker acts on behalf of a client to facilitate sales or services, typically in exchange for a commission. These agreements are crucial in various industries, including real estate, finance, and export services, as they clarify the roles and expectations of both parties involved.

Broker-Salesperson Relationships and Compensation

- When a salesperson has participated in a completed transaction, any commissions or fees are paid to the broker, and then the broker will pay the salesperson.
- Salespeople often have an agreement with their sponsoring broker about what percentage of a commission they will get.
- Broker-to-Broker agreements memorialize compensation agreements between brokers.
- Recent changes in real estate commission structures have introduced more flexible and negotiable arrangements.
- Brokers are typically paid based on the terms of their agreement with the salesperson.

Designated Agency - Occurs when two agents from the same brokerage represent the buyer and seller separately. Each agent advocates for their respective client's interests, which can lead to a more balanced negotiation process.

Disclosure of Agency - Agency disclosure is a document that defines and explains the legal relationship between a broker and their client, outlining the specific duties the broker has towards the client. It is the process of informing all relevant parties about the relationship between the agent and the principal in a transaction, clearly stating that one party is acting on behalf of another.

Dual Agency - Occurs when a single real estate agent represents both the buyer and the seller in the same transaction. This arrangement can create potential conflicts of interest, as the agent cannot fully advocate for either party's best interests.

Legal Considerations - Dual agency is not legal in all states, and where it is permitted, agents must disclose their dual role to both parties involved.

Limitations - In a dual agency situation, the agent's role is limited; they cannot provide advice or negotiate on behalf of either party. This can lead to challenges in negotiations, as both parties may feel they lack adequate representation.

Limited Service - A limited-service real estate agent provides fewer services than a conventional full-service agent for a lower rate. A limited service agent must still follow Virginia statutory duties but only to the extent listed in their contract.

- **Written Agreement:** The agreement must be signed, clearly state they are a limited service agent, and outline which duties they will perform.

- **Mandatory Disclosures:** They must provide all federal and state-required disclosures at the time of the agreement.
- **Specific Services:** They may provide only limited services, such as listing a home on the MLS, but typically do not assist with, or have reduced duties regarding, pricing strategy, staging, marketing, or buyer negotiations.
- **Performance:** They must still act in accordance with the contract, handle client funds appropriately, and provide all required disclosures.

Standard Agent - Means a licensee who acts for or represents a client in an agency relationship in a residential real estate transaction. A standard agent shall have the obligations as provided in this article and any additional obligations agreed to by the parties in the brokerage agreement.

Virginia Fair Housing Law and Regulations - 4 items

Civil Rights Act of 1866 – Prohibits all racial discrimination in real estate transaction, with no exceptions.

Equal Opportunity in Housing – Is intended to create a marketplace in which persons of similar financial means have a similar range of housing choice. Equal opportunity laws apply to owners, real estate professionals, apartment management companies, real estate organizations, lending agencies, builders, and developers.

The Federal Fair Housing Act – Title VIII of the Civil Rights Act of 1968, prohibits discrimination in housing based on race, color, national origin, religion, sex, familial status, or disability.

Exemptions from the Fair Housing Act –

Rental in owner-occupied building with no more than four units.

Housing operated by organizations and private clubs that limit occupancy to members.

The sale or rental of a single-family home when fewer than three homes are owned by an individual.

The Housing and Community Development Act of 1974 – Added sex to the list to protected classes.

Specific Acts Pertaining to Real Estate Practice - 4 items

Condominium - A type of ownership of a multi-unit property in which each unit owner has a separate deed to their unit and an undivided interest in the common areas of the property. The common areas of a property are the areas that all the occupants of the property share.

Property Owners Association Act - Outlines the governance, rights, and responsibilities of property owners and associations, ensuring fair management and dispute resolution within common interest communities.

Property Owners Association Act (POAA) - Establishes the legal framework for property owners' associations (POAs) in Virginia, which govern common interest communities. The act defines key terms, outlines the powers of associations, and sets forth the rights and obligations of property owners.

Virginia Condominium Act - Is a set of laws that govern the operation and management of condominiums in Virginia. The Act sets forth the rights and responsibilities of condominium associations and unit owners. It also establishes procedures for the resolution of disputes relating to condominiums.

Virginia Residential Landlord and Tenant Act (VRLTA) - Outlines the rights and responsibilities of landlords and tenants in Virginia, ensuring fair treatment and clear expectations in rental agreements.

Virginia Underground Utility Damage Prevention Act - Aims to prevent damage to underground utility lines during excavation activities by establishing guidelines for marking utility locations and responsibilities for excavators.