



DIVISION OF REAL ESTATE NEWSLETTER

March/April 1986

RICHARD F. CELESTE
GOVERNOR, STATE OF OHIO

KENNETH R. COX
DIRECTOR OF COMMERCE

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ACTING SUPERINTENDENT OF REAL ESTATE

Superintendent's Column

Depositing Licenses: Who Can Do It?

By Margaret J. Ritenour, Acting Superintendent

Recent inquiries to our office reveals much confusion as to which licensees can place their license on deposit and for how long.

To clarify, only brokers are eligible to deposit their license with the Division of Real Estate. Traditionally, they have only been permitted to do so for a period of two years, unless they activate a sales license. However, an amendment passed last year now allows a broker to keep his license on deposit indefinitely if he can demonstrate good cause for doing so. Permission for a broker to keep his license on indefinite deposit will not be granted unless specifically requested.

A broker whose license is on deposit must still renew this license annually and must still satisfy the continuing education requirements. However, he is not required to maintain a trust account. While on deposit, a broker may activate his sales license with another broker.

A salesperson, on the other hand, **cannot** place his license on deposit. Rather, it is automatically **cancelled** when returned to the Division. However, a salesperson whose license is so cancelled is eligible for reinstatement without examination for two years from the end of the last year in which his license was active. For example, if a broker renews a salesperson's license for 1986 and then returns it to the Division in May, 1986, that salesperson's license will be cancelled. He will only be eligible for reinstatement until December 31, 1988 (two years from the end of the last year his license was renewed, which was 1986).

To clarify, only brokers are eligible to deposit their license with the Division of Real Estate.

If a broker is returning a salesperson's license, he must notify the salesperson in writing of that fact by certified mail within 10 days. In this notice, the broker must

also notify the salesperson of the reinstatement deadline. A broker is required to send this notice to a salesperson even if the salesperson requests that his license be returned to the Division. Brokers should note that failure to send this notice to a salesperson can result in suspension or revocation of the broker's license.

Many salespersons missed their reinstatement deadline last year believing they could not reinstate their license in the month of December. This is not true. Salespersons can *reinstate* during the month of December; however, they are not permitted to *transfer* their license during that month.

It is important to note that this two year reinstatement period applies to brokers whose licenses are cancelled as well as to salespersons.

It is important to note that this two year reinstatement period applies to brokers whose licenses are cancelled as well as to salespersons. If the deadline is missed, re-examination is required of both brokers and salespersons to become licensed again.

If you are unsure of when your license or that of a former salesperson was returned to this Division, you should call our offices to verify your reinstatement deadline.

Attention!!!

PLEASE SHARE THIS NEWSLETTER WITH ALL OF YOUR SALES ASSOCIATES. FEEL FREE TO MAKE COPIES.

(THIS IS MAILED TO BROKERS AND BRANCH OFFICES ONLY)

Charles Santer Resigns As Division's Superintendent

After two years of service to the Ohio real estate industry, Superintendent Charles R. Santer resigned on March 1 to pursue career opportunities in private industry.

Margaret J. Ritenour, who has worked as the Division's legal counsel and Deputy Superintendent, is serving as Acting Superintendent.

During Mr. Santer's term as Superintendent, the Division made considerable progress. While establishing a more efficient and streamlined operation, the Division's annual operating budget was trimmed from \$2.2 million to \$1.7 million.

Under Mr. Santer's direction, the Division has:

- Established an Education and Research Fund Committee to assure that educational and research efforts are beneficial to real estate practitioners;
- Updated license examinations for brokers and salespersons to reflect changes in real estate practice and license law;
- Instituted a consumer program to provide information on home purchasing and services provided by the real estate industry and the Division of Real Estate;
- Printed a brochure entitled "How To Become A Real Estate Sales Person" to answer questions for potential sales persons; and
- Published for the first time in years a "Home Buyer's Guide" to aid potential home purchasers, and a Division of Real Estate Newsletter.

Kenneth R. Cox, Director of the Ohio Department of Commerce, praised Mr. Santer's work with the Division of Real Estate. "Through his energy and hard work, he initiated many fine programs to assist the real estate industry," Director Cox said.

10,000 Families Benefit From Mortgage Program

Through the Single Family Mortgage Program of the Ohio Housing Finance Agency (OHFA), more than 10,000 Ohio families realized the American dream of owning a home last year.

The low-interest loan program is designed to assist first-time homebuyers or persons purchasing homes in designated reinvestment locations. The program is financed through the sale of tax-exempt revenue bonds with fixed rate loans over a 30-year period.

Kenneth R. Cox, Director of the Ohio Department of Commerce, serves as Treasurer of the Agency's governing board.

In August 1985, the \$346 million mortgage revenue bond program was the largest in the nation's history with 9,000 Ohioans purchasing homes at 9.8 percent interest rates. Last November, OHFA reached its bond issuing authority for the year with a \$62 million mortgage program for 1,200 Ohio families at 10.2 percent interest rates.

OHFA, which administers the program through the Department of Development, has sold \$1.16 billion in tax-exempt revenue bonds since 1983. Consequently, 26,000 Ohio home buyers have been able to purchase homes they may not have been able to afford, otherwise.

Division Approval Needed Before Naming A Company

Real estate brokers wishing to form a corporation must do so through the Ohio Secretary of State's Office. That office must approve all corporate and fictitious names.

Besides the Secretary of State's Office, all business names must also be pre-approved by the Superintendent of Real Estate. Under the Administrative Code names which are the same as, or substantially similar to, that of another licensed real estate broker cannot be approved. Moreover, a name cannot be approved if it is determined that it is misleading or likely to mislead the public.

It is important to note that registration of a business name with the Secretary of State's Office does not guarantee that the name will be approved by the Division of Real Estate. As stated above, this Division has separate criteria that must be met before a name will be approved. Thus, a broker planning on incorporating should check with this office, as well as that of the Secretary of State, as to name availability before filing a corporation and certainly *before* ordering signs, stationery, etc. It should also be noted that this Division cannot "hold" or reserve a name for a broker.

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RICHARD F. CELESTE, Governor, State of Ohio
KENNETH R. COX, Director
MARGARET J. RITENOUR, Acting Superintendent

The Ohio Real Estate Commission

ARTHUR C. CHURCH, President
PAUL J. EVERSON
EDWARD J. KIZER
SELMER E. PREWITT
SANDRA J. TAYLOR

Disciplinary Actions

The purpose of this article is to disseminate to licensees information concerning recent Commission activities and decisions, pursuant to Section 4735.03(E) of the Ohio Revised Code.

The Commission has taken the following action with regard to these real estate licensees:

SUSPENSIONS

CHERYL B. BALCH, sales associate, Parma Heights, Ohio, had her sales license suspended for 30 days for violating Section 4735.18 (F) of the Ohio Revised Code. This suspension commenced on February 27, 1986. The complainants entered into a contract for the purchase of a new home which was contingent upon them obtaining financing and upon the sale of their existing residence. The complainants entered into a contract for the sale of their other property. Before this sale actually closed, Balch advised the complainants to remove the contingency from the contract for their purchase of their new home. When the sale of their former residence fell through, the complainants were bound to proceed with the purchase of their new home because of the removal of this contingency. As a licensed real estate salesperson, Balch knew or should have known that the complainant's sale of their existing residence was not guaranteed until title actually transferred. Thus, this contingency should not have been removed until after such a closing. Balch's conduct in this matter was found to constitute gross negligence.

LLOYD BEULE, broker, New Philadelphia, Ohio, had his broker's license suspended for 30 days for violating Section 4735.18 (F) of the Ohio Revised Code. However, the Real Estate Commission ordered that imposition of 20 days of this suspension be waived. Beule began serving the 10 day balance of his suspension on February 27, 1986. The basis for this suspension was the finding that Beule received a termite inspection report for the property which indicated there was visual evidence of termite infestation. Beule failed to notify the buyers of the subject property of these findings or to provide them with a copy of this report prior to the closing of their purchase of the subject property. This conduct was found to be grossly negligent.

GERALD CONNOR, sales associate, Worthington, Ohio, had his broker's license on deposit and his sales license suspended for 60 days for violating Section 4735.18 (F) & (Z) of the Ohio Revised Code. Upon a motion for reconsideration, the Real Estate Commission ordered that imposition of 30 days of this suspension be waived. Connor began serving the 30 day balance of this suspension on February 27, 1986. Connor, acting in his capacity as a real estate broker, improperly withdrew money from the real estate trust account of the corporate broker with whom he was previously affiliated. Said conduct by Connor was done in contravention of his fiduciary duties with respect to the money deposited in this trust account.

AMIE GRAEF, sales associate, New Philadelphia, Ohio, had her sales license suspended for 30 days for violating Section 4735.18 (F) of the Ohio Revised Code. The Real Estate Commission also ordered that imposition of 20 days of her suspension be waived. This suspension shall be served by Graef, who is currently unlicensed, upon the reinstatement of her license. In the same transaction as that of her former broker, Mr. Buele, Ms. Graef also came into receipt of the termite inspection report indicating that there was visual evidence of termite infestation. Graef also failed to notify the buyers of the subject property of these findings or to provide them with a copy of this report prior to the closing of their purchase of the subject property. This conduct was found to be grossly negligent.

REVOCACTION

WILLIAM McSHEPARD, broker, Cleveland, Ohio, had his broker's license revoked for violating Section 4735.18 (E), (F) & (Z) of the Ohio Revised Code. Revocation became effective immediately. McShepard failed within a reasonable time to deposit into his real estate trust account earnest money received by him from the complainant in connection with offers to purchase two properties. When these offers were not accepted, McShepard failed within a reasonable time to either account for or to remit this earnest money to the complainant.

Hands Across America To Benefit Hungry, Homeless

The largest community gathering in American history will commence on Sunday, May 25 when six to 10 million people join hands from coast-to-coast.

The line will cover more than 4,000 miles and enter 16 states and the District of Columbia. In Ohio, 800,000 persons will unite along a 600-mile route. The State of Ohio is actively encouraging residents to participate. The line will enter 33 communities including Youngstown, Akron, Canton, Cleveland, Lorain, Toledo, Columbus, Springfield, Dayton and Cincinnati.

Proceeds from Hands Across America will be used to meet the short and long-term needs of the nation's hungry and homeless.

The national co-chairs for Hands Across America are Bill Cosby, Kenny Rogers, Lily Tomlin and Pete Rose.

To reserve your place in line for this historic event, fill out applications at outlets in your area or call 1-800-USA-9000. Participants are asked to donate at least \$10 each to aid America's hungry and homeless.

4,300 Licenses Suspended For Failing To Complete Education

On January 31, 1986, the licenses of approximately 4,300 real estate brokers and salespersons were suspended for failing to submit the required 30 hours of continuing education. Notice of this fact was mailed to each licensee.

Brokers whose salespersons were suspended were notified of this fact and instructed to immediately return their license to this office. If you are a broker who has not yet returned your salesperson's license or if you have permitted your salesperson to do business on your behalf following this suspension, you should be aware that this can be grounds for suspension or revocation of your license.

If you are a broker whose license was suspended, you are responsible for returning it to this Division immediately. You must also return the licenses of any salespersons affiliated with you and any branch office licenses you may have. However, if you are affiliated with a corporation, partnership, or association and there are other affiliated brokers whose licenses were not suspended, it is not necessary to return the sales licenses or branch office licenses.

Change of Address Needs To Be Reported

During the recent heavy license renewal period, a large number of certificates of continuation were returned to the Division of Real Estate because of incorrect addresses.

As a reminder, Section 4735.13 (D) of the Ohio Revised Code requires each broker to notify the Division of Real Estate, in writing, of any change in business address. Under this section, failure to notify the Division is grounds for *automatic revocation* of a broker's license. In order to effect such a change of address, a multiple change application form available from the Division must be completed and sent to this office. No fee is charged to file this application.

Under Ohio Revised Code Section 4735.141, an individual whose license has been suspended is eligible for reinstatement until January 31, 1988. To qualify he must complete the necessary 30 hours of continuing education by that date and must submit certificates from the school verifying his education, along with an R-109 compliance form, a reinstatement application, and the reinstatement fee. No waivers of the fee will be granted. Furthermore, no new license will be issued until an applicant's old license has been returned.

To assure that suspended brokers and their salespersons are not practicing real estate while they are suspended, the Division will be conducting spot checks. Evidence that a broker or salesperson practiced real estate while they were not licensed can result in criminal charges for a first-degree misdemeanor. Such evidence will also be grounds for denial of any future reinstatement of these persons' licenses.

UPCOMING TEST DATES

The following are the tentatively scheduled dates for the real estate sales examination for the remainder of 1986:

	COLUMBUS	CLEVELAND
May	7	28
June	4	24
July	2	23
August	13	27
September	10	24
October	8	22
November	12	19

Note: In the last issue of the newsletter, Lucas County was inadvertently omitted from the list of counties whose residents are tested in Cleveland for the sales examination.

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