



DIVISION OF REAL ESTATE NEWSLETTER

November/December 1988

RICHARD F. CELESTE
GOVERNOR, STATE OF OHIO

LINDA K. PAGE
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SUPERINTENDENT OF REAL ESTATE

Superintendent's Column

Agency Disclosure Law Effective January 1

By Margaret J. Ritenour, Superintendent

As all real estate licensees should be aware, Ohio's agency disclosure law becomes effective on January 1, 1989.

A copy of the disclosure form that must be used by Ohio licensees was mailed to all Ohio brokers in November, along with a letter explaining the basic disclosure requirements. Brokers should make sure that all their salespersons are aware of the new disclosure requirements and that they have copies of the form to use.

I hope all brokers have prepared themselves and their company to comply with the new law. For those who have not, the following are the crucial steps I believe each broker must take to develop a successful disclosure policy:

- 1.) **Educate yourself.** Each broker should take at least one course that deals with agency law and the risks associated with dual agency. This course should also cover Ohio's new agency disclosure requirements. Learning about these issues is critical for you to be able to answer the questions your salespersons will be asking. These courses are available in several places around the state. The Division's Education Section can provide you with information on these courses.
- 2.) **Develop your company's policy and establish specific disclosure procedures.** Brokers must make many policy decisions concerning agency. The most important of these decisions is who your company will represent in transactions. Will you only represent sellers, or will you consider representing buyers? Will your company ever be a dual agent and represent both the buyer and seller? When do you want your sales agents initially to discuss agency with buyers and with sellers? Do you want to develop a brochure to give buyers ex-

plaining the services your firm provides to buyers? How will your company deal with buyer's brokers? All of these are decisions you should be making. These decisions should be included in your company's policy and procedure manual and should be made available to all your salespeople.

- 3.) **Train your sales agents.** Sales agents should be encouraged to take advantage of available courses on agency. Through these courses, they will learn the basics of agency and the risks of implied agency and dual agency. In-house training is also crucial. By providing this type of training you can assure that the policies and procedures you have set for your company are being communicated, understood and followed. It will give your agents an opportunity to ask questions. Role playing in the office is also an excellent way to help your agents become comfortable discussing agency with both buyers and sellers. Make sure they are giving the explanations you want them to give.

The first few weeks of 1989 will be challenging ones for all licensees. As brokers, your attitude will make the difference in how your agents carry out their new disclosure responsibilities. The adjustment period for your salespersons will be much smoother if you are prepared for the new law by providing leadership through your company's policies and by providing the necessary training.

ATTENTION BROKERS!

Are you forwarding
copies of this newsletter
to your salespersons?

December 31 Marks 1989 Renewal Deadline

The deadline to file your 1989 Certificate of Continuation is December 31, 1988. The renewal forms were mailed to each licensed broker, corporation, partnership, or association in Ohio in late October. These certificates must be filed annually by all brokers in order to legally continue to practice real estate in Ohio.

If you have not received your certificates, call the Division's Licensing Section immediately at 1-800-344-4100.

Ohio law provides a 15-day grace period to file the renewal by January 15, 1989. However, an additional 50% of the renewal fee is charged as a late filing penalty for continuations postmarked during the grace period.

If the Certificate of Continuation is not postmarked by January 15, 1989, your license will be **revoked**. As a result, the licenses of all salespersons affiliated with you will be cancelled.

In order to be relicensed, you and your salespersons will need to apply for reinstatement of your licenses. Since the cost of being re-licensed would be greater than the standard renewal fee or the late filing fee, the Division encourages all brokers to make sure that their

Certificates of Continuation are filed on or before December 31, 1988.

No extension of the filing date or waiver of the penalty fees can be granted, in accordance with law.

When filing your certificate of continuation, please remember the important points listed below:

- Answer all questions on your Certificates of Continuation including the name and account number of your trust account
- Sign your Certificate of Continuation at the bottom
- Enclose your check, certified check, or money order made payable to the "Ohio Division of Real Estate"
- Include any late filing fee with your payment if filing after December 31, 1988, but before January 15, 1989
- Enclose all licenses for persons who are not being renewed, *if* they have been properly notified
- Proof of completion of education must be sent separately from the Certificates of Continuation

Brokers who have any questions about the renewal process should call the Division at 1-800-344-4100.

Continuing Education Deadline Set For January 31, 1989

Approximately 17,000 real estate licensees have yet to complete their continuing education requirement due January 31, 1989.

Real estate professionals licensed before January 2, 1980 must submit proof of completing their continuing education by January 31, 1989 or have their licenses

automatically suspended. To become licensed again, these persons must complete their education and apply to reinstate their license. The reinstatement fee is \$39.00 for salespersons and \$59.00 for brokers.

Licensees fail to comply with the continuing education requirement on time for many reasons. Some licensees merely forget that the deadline is approaching. Others take their classes on time but do not file proof with the Division. Others mistakenly rely on the schools where they took their education to submit the certificates to the Division for them. Although some schools agree to do this for licensees, they are not required to do so. Remember, it is your duty as a licensed professional to make sure that proof of your education is submitted. Don't expect someone else to do it for you!

A simple and easy way to check if your continuing education is due is by looking on your broker's 1989 Certificate of Continuation. The continuing education deadline for each person licensed with your company is reflected after his/her name on this Certificate. Brokers should review their Certificates of Continuation and notify all salespersons who have a continuing education due date of January 31, 1989. (Please note that the date reflected on the Certificate of Continuation is current as of the issuing date of October 24, 1988.)

Any questions regarding continuing education due dates or for information about approved courses that are available should be directed to the Division's Education Section.

STATE OF OHIO
DIVISION OF REAL ESTATE
DEPARTMENT OF COMMERCE
77 S. HIGH STREET, COLUMBUS, OHIO
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614/466-4100
800/344-4100

RICHARD F. CELESTE, Governor, State of Ohio
LINDA K. PAGE, Director
MARGARET J. RITENOUR, Superintendent

The Ohio Real Estate Commission

ARTHUR C. CHURCH, President
PAUL J. EVERSON
EDWARD J. KIZER
MARCELLUS H. SMITH
LOIS YEAGER

Dennis Ginty, Newsletter Editor

Disciplinary Actions

Here is a summary of 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 licensees:

REVOCATION

CHARLES T. BERRY, sales associate, Maple Heights, Ohio, had his sales license revoked for violating Section 4735.18(A) of the Ohio Revised Code. This revocation became effective August 29, 1988. Berry was convicted of committing fraud against the federal government in violation of Title 18 U.S.C. Sections 1001 and 2 in the United States District Court for the Northern District of Ohio. His conduct constitutes a conviction of a felony or a crime of moral turpitude.

SUSPENSIONS

BRUCE C. DOOLEY, broker, Columbus, Ohio, had his broker's license suspended for 30 days for violating Section 4735.18(A) (E) and (F) of the Ohio Revised Code. Upon a motion for reconsideration, the Commission waived 10 days of the suspension. Dooley began serving the 20 day balance on September 30, 1988. After Dooley was no longer licensed with a corporate brokerage, he signed a settlement statement in which he represented himself to be an agent of that company. Furthermore, in connection with the sale of two other properties, Dooley received checks which represented the commissions owed to his former real estate brokerage. Dooley failed to account for and/or remit these checks to his former brokerage.

RICHARD DALE HALL, broker, Millersport, Ohio, had his broker's license suspended for 60 days for violating Section 4735.18(A)(1) and (A)(6) of the Ohio Revised Code. This suspension began on September 30, 1988. Hall knowingly misrepresented on a purchase contract that he was in receipt of an earnest money deposit when he knew that he was not in receipt of these funds. Also, Hall failed to disclose to the sellers of the property in a timely fashion that he had not received this deposit.

In another case, Hall's broker's license was suspended for 30 days for violating Section 4735.18(A)(6), (A)(28), and (A)(30) of the Ohio Revised Code. However, due to mitigating circumstances, 20 days of the suspension were waived. The ten day balance will run consecutively with Hall's 60 day suspension. Hall failed to satisfy a final judgment that arose out of his conduct as a licensed real estate broker. Furthermore, Hall failed within a reasonable time to pay the complainant, a real estate salesperson, her earned share of a commission on the sale of a property.

WILLIAM D. HUNT, sales associate, Lyndhurst, Ohio, had his sales license suspended for 180 days for violating Section 4735.18(A)(5) and (A)(6) of the Ohio Revised

Code. This suspension began on September 30, 1988. Hunt received an earnest money deposit in connection with a purchase agreement. Hunt failed to remit this money he received in a fiduciary capacity to his broker for deposit in his broker's real estate trust account. Hunt endorsed the check and deposited it into his own personal account.

WILLIAM ORR, broker, East Cleveland, Ohio, was suspended for 90 days for violating three counts of Section 4735.18(A)(1) of the Ohio Revised Code. This suspension began on August 26, 1988. Orr represented to the Veteran's Administration on contracts for three separate properties that his brokerage had earnest money on deposit for the buyer's purchase of these properties. In fact, Orr had not received any earnest money deposit from these buyers.

RICHARD SMENNER, broker, Toledo, Ohio, had his broker's license suspended for ten days for violating Section 4735.18(A)(6) and (A)(20) of the Ohio Revised Code. However, due to mitigating circumstances, imposition of the suspension was waived. Smenner advertised property at a price that was lower than that authorized by the seller.

MYLES E. SMITH, broker, Cleveland, Ohio, had his broker's license suspended for 90 days for violating Section 4735.18(A)(26) and two counts of (A)(6) of the Ohio Revised Code. Due to mitigating circumstances, however, 30 days of the suspension were waived. The 60 day balance began on November 1, 1988. Smith issued a check from his real estate trust account which was returned by the bank due to insufficient funds. This check represented the return of earnest money that had been given to Smith in a fiduciary capacity. For approximately three years, Smith failed to maintain at all times a non-interest bearing special or trust account which was distinct from his other accounts.

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Division Has Moved To New Offices

The Division of Real Estate has moved to new offices in the Riffe Government Center across from the State House in downtown Columbus.

Please note the Division's new address:

Ohio Department of Commerce
Division of Real Estate
77 S. High St.
20th Floor
Columbus, OH 43266-0547

The Division's phone numbers remain the same at (614) 466-4100 or (800) 344-4100.

RECOVERY FUND ACTIONS

The following licensees had their real estate licenses automatically suspended pursuant to Section 4735.12(E) of the Ohio Revised Code. These suspensions were a result of payments made from the Real

Estate Recovery Fund:

Charles J. Bell	\$6,000.00	Paid on 08/23/88
Robert L. Newman	4,000.00	Paid on 08/23/88
Sara Sims	5,100.00	Paid on 09/07/88
Synthia Jackson	8,577.65	Paid on 10/11/88

Two New Publications Focus On Agency

Two new publications highlighting agency relationships and Ohio's disclosure law are now available from the Division of Real Estate.

The "Ohio Agency Disclosure Handbook" provides an overview of Ohio's agency disclosure law and agency relationships. The brochure, "Working With A Real Estate Agent", explains the role of a real estate agent in a transaction. It is designed for buyers and sellers to help them understand the role of the real estate professional in a transaction.

The handbooks can be purchased from the Division for \$1.00 each, while the brochures cost 5¢ each. To order these publications, send a written request specifying the publication and the quantity desired along with a check made out to the "Division of Real Estate" for the appropriate amount. No cash will be accepted.

Please send your orders to the Division's new address:

Ohio Department of Commerce
Division of Real Estate
77 S. High St.
20th Floor
Columbus, OH 43266-0547

UPCOMING TEST DATES

The following are the tentatively scheduled dates for the real estate sales, brokers and foreign real estate sales examinations for the upcoming months:

	SALES COLUMBUS/CLEVELAND		BROKERS COLUMBUS
Jan.	4	19	9, 23, 30
Feb.	8	16	13
March	1	16	

(Additional exams may be added if warranted)

FOREIGN REAL ESTATE SALES

Jan.	10, 24
Feb.	7, 21
March	7, 21

The foreign real estate sales examination is given only in Columbus. Because of the small number of applicants for the foreign real estate dealer examination, these exams are scheduled on an individual basis as the applications are received.

State of Ohio
Department of Commerce
Division of Real Estate
77 S. High Street
Columbus, Ohio 43266-0547

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