



DIVISION OF REAL ESTATE NEWSLETTER

September/October 1988

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SUPERINTENDENT OF REAL ESTATE

Superintendent's Column

Agency Disclosure Education Program Recently Completed

By Margaret J. Ritenour, Superintendent

An Agency Disclosure Education Program sponsored by the Ohio Real Estate Commission has recently been completed.

The goal of this program is to assure that Ohio's real estate licensees are trained and educated on the issue of dual agency and the new agency disclosure law that becomes effective January 1, 1989. The Commission believes this goal can be achieved by assuring that there are qualified instructors and key industry leaders available to provide this training.

The Agency Disclosure Education program took place in two phases. In Phase One, 20 select instructors from around the state were trained in a one-day instructor workshop on July 28, 1988 conducted by John Reilly. Mr. Reilly, who is an attorney, a real estate licensee and lecturer from Hawaii, is a well respected expert on this topic. He has written a text book entitled *Agency's Relationships in Real Estate* and worked closely with both the Hawaii and California Real Estate Commissions in developing the education programs for their disclosure laws.

In the second phase of this program, the 20 instructors trained by Mr. Reilly were each assigned to a location in Ohio where they conducted an instructor's training workshop for up to 30 other participants. These workshops were held in August and September, 1988.

The Phase Two sessions were made up of pre-license course offerers, continuing education instructors, and training directors from brokerages. To qualify to participate in this program, these individuals had to make a commitment to offer courses, training or instruction in their geographical area on dual agency and the new disclosure law.

Besides conducting the Phase One workshop, John Reilly also wrote an Ohio agency disclosure handbook for licensees and an agency disclosure brochure for Ohio consumers.

The handbook is a guide for licensees to help them understand the issues involved with agency disclosure and to assist them in complying with Ohio's new law. It answers the most commonly asked questions and ex-

plains how to use the required disclosure form. It is currently being edited and should be available from the Division in November for use by course instructors, companies, or individual licensees.

The brochure, entitled "Working With A Real Estate Agent", is designed to help educate consumers about agency relationships and the disclosure form they will be asked to sign. This brochure can be used by licensees to explain to either a buyer or seller who they represent and what their duties are as an agent. By giving this handout to a buyer or seller early, the agent will pave the way for much easier presentation of the disclosure form. The brochure is also being edited now and should be available from the Division in November.

The Agency Disclosure Education Program was administered by the Center for Real Estate Education and Research at Ohio State University. The cost of this program was underwritten by a grant from the Education and Research Fund. In approving this grant, the Ohio Real Estate Commission had three goals:

- to assure that there are courses and qualified instructors available to educate Ohio's licensees on the topic of agency
- to make materials available to educate the public and to assist licensees in complying with the new disclosure law
- to utilize the Education and Research Fund for programs that will have practical application for our licensees.

The Commission and I believe that these three program goals have been achieved.

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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)

Ohio Real Estate Commission Amends 3 Rules

The Ohio Real Estate Commission recently amended three existing Ohio Administrative Code rules. These changes became effective on September 1, 1988. Each of these rules is summarized below with the rationale for the amendment.

1301:5-3-07 Education Loans To Individuals

This rule was amended to provide eligibility requirements for license applicants who seek to obtain a loan from the Education and Research Fund. These loans are available to help defray the costs of satisfying the pre-licensure education requirements.

Under Ohio Revised Code Section 4735.06, there is a \$10,000 limit on the amount of funds that can be used for student loans in any one year. Eligibility requirements were implemented to assure that these funds are available for those applicants who truly are in need of a student loan. These new eligibility requirements are based on the family income of the applicant.

1301:5-5-02 Continuing Education Requirements

This rule was amended to provide that a licensee may not complete more than eight (8) hours of continuing education instruction in any one day and to clarify the continuing education courses which will be accepted from licensees who are not residents of Ohio.

The rule previously did not limit the number of hours of continuing education instruction a licensee could

complete in any one day. The amendment was made since a licensee's retention and alertness is diminished if he/she attends over eight (8) hours of continuing education in any one day.

The language regarding continuing education requirements was also clarified for those out-of-state licensees whose state of residence does not require continuing education.

1301:5-5-05 Disclosure Of Agency Relationship: Dual Agency

This rule was amended to exempt residential leases from the agency disclosure requirement if the lease is for a term of one year or less. The rule was also amended to clarify that the term purchaser, as used within the rule, includes a tenant.

Previously, this rule required licensees to disclose whom they represent in *all* transactions. The Commission felt that the disclosure requirement was neither necessary nor beneficial to the industry or consumers in residential lease transactions. This is because there is minimal confusion as to whom the licensee is representing in these transactions. The disclosure requirement will still be required in all other types of real estate transactions, including commercial leases.

Copies of the amended rules may be obtained from the Division of Real Estate. They will also be contained in a new edition of the Ohio Real Estate Law Manual which will be printed and available by the end of 1988.

Reminders Provided On Submitting, Completing Division Forms

In recent months, the Division of Real Estate has returned an increasing number of applications to transfer, reinstate, or be seated for examinations. These applications are usually returned because the applicant

completed the form incorrectly or submitted the wrong form.

Although these are not major mistakes, they cause a delay in the processing of applications. To help licensees correctly complete the proper forms and thus become licensed more quickly, the Division provides the following reminders:

- A **transfer** application is used if the individual was previously licensed within the calendar year and was not suspended for failing to meet education requirements. A **reinstatement** application is used if the individual was not licensed within the calendar year or was suspended for failing to meet educational requirements.
- On all application forms, the names and addresses of all prospective brokers must be listed.
- All of the Division's applications must be typed in black ink.

In a related matter, the Division reminds brokers of the following point:

- Under Ohio Revised Code Section 4735.13(B), brokers must immediately return a salesperson's license to the Division of Real Estate when the agent terminates his association with the broker. The broker cannot hold onto the salesperson's license because the agent owes him money, hasn't returned office keys, etc.

STATE OF OHIO
DIVISION OF REAL ESTATE
DEPARTMENT OF COMMERCE
TWO NATIONWIDE PLAZA, COLUMBUS, OHIO
43266-0547
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

AGENCY DISCLOSURE PUBLICATIONS TO BE AVAILABLE

The Division of Real Estate will soon print two new publications to help educate Ohio's real estate licensees and consumers on the issue of agency disclosure.

The "Ohio Agency Disclosure Handbook" will be available in November for Ohio's real estate professionals. In a question and answer format, this handbook provides an overview of Ohio's agency disclosure law and how it impacts upon agency relationships.

The "Working With A Real Estate Agent" brochure will be available in November for Ohio's real

estate consumers. This brochure explains what the role of a real estate agent is in a transaction. The brochure is designed to help licensees discuss agency with buyers and sellers.

The "Ohio Real Estate Laws & Rules Annotated" is being updated with three recent Ohio Administrative Code rule changes (see page 2). The updated law book will be available in December.

In addition to these new brochures, the Division of Real Estate has several other publications available for purchase.

DIVISION OF REAL ESTATE PUBLICATIONS ORDER FORM

TITLE	COST PER ITEM	QUANTITY	TOTAL COST
Ohio Agency Disclosure Handbook (AVAILABLE IN NOVEMBER)	\$1.00	_____	_____
Working With A Real Estate Agent (AVAILABLE IN NOVEMBER)	5¢	_____	_____
Ohio Real Estate Laws & Rules Annotated (AVAILABLE IN NOVEMBER)	\$7.00	_____	_____
Home Buyer's Guide	25¢	_____	_____
How to Become a Real Estate Broker in Ohio	5¢	_____	_____
How to Become a Real Estate Sales Associate in Ohio	5¢	_____	_____
Questions & Answers on Ohio Real Estate Education	5¢	_____	_____
Complaint Procedure: Ohio Division of Real Estate	5¢	_____	_____
	AMOUNT ENCLOSED	_____	_____

PLEASE INCLUDE YOUR NAME AND ADDRESS BELOW:

NAME _____ COMPANY _____
ADDRESS _____
CITY _____ STATE _____ ZIP CODE _____

PAYMENT MUST BE INCLUDED WITH ORDER. NO CASH WILL BE ACCEPTED.
SEND CHECK OR MONEY ORDER PAYABLE TO DIVISION OF REAL ESTATE TO:

Ohio Division of Real Estate
Two Nationwide Plaza
Fifth Floor
Columbus, OH 43266-0547

Ohio Division Of Real Estate Ready For License Renewals

As the end of 1988 approaches, the Division is gearing up for the 1989 annual renewal of approximately 53,000 real estate licenses.

As in previous years, Certificates of Continuation will be mailed to brokers at the end of October. Directions for completing this form will be enclosed with the certificate.

As renewal time nears, it is important for brokers to remember the following points:

- If you do not intend to renew a salesperson's license for 1989, you must notify that salesperson on or before November 1, 1988. This notice must be done in writing and sent by certified mail. A copy of this letter must be sent to the Division within 10 days after it is mailed to the salesperson.

- No sales license can be **transferred** in December. Cancelled licenses can, however, be **reinstated** during December.

Many licensees confuse these two procedures and miss their reinstatement deadline under the mistaken

belief that they cannot reinstate their license during December. Again, it is only the **transfer** of licenses that is prohibited in December. If you are not sure whether a person is eligible to reinstate, please call our Licensing Section at 1-800-344-4100.

- During the renewal period, the Division asks that licensees do not "walk-in" any continuation, reinstatement, or any other application. Because of our heavy workload at this time, we cannot guarantee that such applications can be processed while you wait. Therefore, to avoid an unnecessary trip to Columbus, please **mail** these forms to the Division.

- Also, please note that proof of completion of education should **not** be sent along with certificates of continuation.

Brokers who have questions about the renewal procedures, or who do not receive their Certificates of Continuation by November 15, 1988, should contact the Division by calling 1-800-344-4100.

TEST RESULTS

In an effort to keep you apprised of the number of new licensees joining the real estate profession, below are the statistics compiled for the first half of 1988:

TEST DATE	BROKERS		
	TOTAL TESTED	TOTAL PASSED	PASS RATE
January*	48	42	88%
February*	47	41	87%
March	24	23	96%
April*	44	41	93%
May*	70	62	89%
June	22	21	95%

TEST DATE	SALES		
	TOTAL TESTED	TOTAL PASSED	PASS RATE
January	663	478	72%
February*	882	654	74%
March	765	586	77%
April*	954	724	76%
May	693	533	77%
June*	886	653	74%

*NOTE: Additional examinations were given in these months due to an increased number of applicants.

FOREIGN REAL ESTATE SALES

January	31	19	61%
February	30	15	50%
March	35	15	43%
April	26	10	38%
May	19	11	58%
June	21	15	71%

20,000 Licensees Still Need To File Continuing Education

The continuing education deadline is approaching quickly for nearly 20,000 licensees who have yet to file proof of completion of their continuing education.

The deadline for real estate professionals licensed before January 2, 1980 is January 31, 1989. Licensees who fail to provide proof of taking 30 hours of continuing education by this due date will have their licenses **automatically suspended**.

To meet the continuing education requirements, licensees must complete the following steps before January 31, 1989:

- complete 30 hours of continuing education which includes a separate three-hour civil rights course
- submit to the Division copies of the certificates of completion issued by the schools and forward the completed R-109 compliance form (typed in black ink) to the Division

Unfortunately, the Division has needed to return many continuing education materials since incomplete information was submitted. Please be sure to forward the appropriate items to avoid any delays in the processing of your continuing education materials.

If you have any questions on the continuing education requirements, contact the Education Section of the Division of Real Estate at 1-800-344-4100.

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:

REVOCATIONS

JAMES B. NELSON, sales associate, Toledo, Ohio, had his sales license revoked for violating Section 4735.18(A)(9) as it incorporates Section 4735.13(C) of the Ohio Revised Code. This revocation became effective July 27, 1988. Nelson failed to notify the Superintendent of the Ohio Division of Real Estate of his conviction of a felony within fifteen days of that conviction.

PAULA G. WALLEN, sales associate, Dayton, Ohio, had her sales license revoked for violating Sections 4735.18(A) and (A)(9) as it incorporates Section 4735.13(C) of the Ohio Revised Code. This revocation became effective June 30, 1988. Wallen was convicted of three counts of obtaining writings by deception in violation of Ohio Revised Code Section 2913.43 in the Common Pleas Court of Montgomery County. Wallen's conduct in this regard constitutes a conviction of a felony or a crime of moral turpitude. Furthermore, Wallen failed to notify the Superintendent of the Ohio Division of Real Estate of her felony conviction within fifteen days of her conviction.

SUSPENSIONS

FLOYD S. AHRENS, sales associate, Bucyrus, Ohio, had his sales license suspended for 180 days for violating Section 4735.18(A)(9) as it incorporates Section 1301:5-3-07 of the Ohio Administrative Code. This suspension began on August 26, 1988. Despite requests for payment, Ahrens failed to remit the final installment on a loan made to him from the Ohio Real Estate Education and Research Fund.

LAWRENCE W. BIGA, broker, Dayton, Ohio, had his broker's license suspended for 30 days for violating Section 4735.18(F) of the Ohio Revised Code. Due to mitigating circumstances, however, imposition of the suspension was waived. Biga used funds being held by him in a fiduciary capacity and in connection with his management of a property to pay his personal legal expenses.

LINDA A. BOOKER, sales associate, Youngstown, Ohio, had her sales license suspended for 120 days for violating Section 4735.18(A)(9) as it incorporates Section 4735.13(C) of the Ohio Revised Code. This suspension shall commence upon reinstatement of her sales license. Booker failed to notify the Superintendent of the Ohio Division of Real Estate of her felony conviction within fifteen days of the conviction.

WILLARD L. BURSON, broker, Worthington, Ohio, had his broker's license suspended for 180 days for violating

two counts of Section 4735.18(A)(6) as it incorporates Section 1301:5-1-13 of the Ohio Administrative Code, and for violating Section 4735.18(A)(26) of the Ohio Revised Code. This suspension began on August 26, 1988. Burson failed to obey a subpoena issued by the Superintendent of the Ohio Division of Real Estate requiring him to produce specific documents pertaining to his real estate trust account. In connection with Burson's management of a property, he received rent in a fiduciary capacity which he failed to deposit into his trust account. Also, Burson released and/or assigned the management of the property to another real estate company without obtaining the consent of the owner. Furthermore, Burson submitted false information regarding his real estate trust account on his Certificate of Continuation.

HOME RITE REALTY, INC., corporate real estate broker, Worthington, Ohio, had its broker's license suspended for 180 days for violating Sections 4735.18(A)(6) and (A)(26) of the Ohio Revised Code. This suspension began on August 26, 1988. In connection with its management of a property, Home Rite Realty collected rent which it failed to deposit into the corporate trust account. Also, Home Rite released and/or assigned the management of the property to another real estate company without obtaining the consent of the owner. Finally, Home Rite Realty submitted false information regarding its trust account on its Certificate of Continuation.

ISABELLA JONES, broker, Cleveland, Ohio, had her broker's license suspended for 120 days for violating Sections 4735.18(E) and (F) of the Ohio Revised Code. This suspension began on July 29, 1988. Jones received an earnest money deposit in connection with a purchase agreement. Jones failed to return the earnest money after both parties to the agreement agreed to a release of the funds to the buyers.

CHARLES MCLEAR, broker, Dayton, Ohio, had his broker's license suspended for 30 days for violating Section 4735.18(I) as it incorporates 4735.13(F) of the Ohio Revised Code. This suspension began on April 25, 1988. McLEAR managed a property in a name other than that of the corporate broker with whom he was associated.

JAMES L. TERRY, broker, Huber Heights, Ohio, had his broker's license suspended for 30 days for violating Section 4735.18(A)(6) of the Ohio Revised Code. However, due to mitigating circumstances, imposition of the suspension was waived. Terry represented to the buyers of a property that the seller would provide a 14 month home protection plan when he knew that the seller had only agreed to a 12 month home protection plan. The closing settlement statement reflected that the buyers would be receiving a home protection plan known as

Disciplinary Actions (continued from page 3)

"Best Warranty." Terry knew, or should have known, that the sellers had not purchased the "Best" warranty plan and he failed to disclose this information to the buyers.

RECOVERY FUND

GARY VAUGHN LOUDENBACK had his real estate license automatically suspended pursuant to Section 4735.12(E) of the Ohio Revised Code as a result of the following payments made from the Real Estate Recovery Fund:

- \$ 4,822.00 — paid on July 11, 1988
- \$ 4,822.00 — paid on July 11, 1988
- \$17,678.00 — paid on July 12, 1988
- \$ 8,676.00 — paid on July 12, 1988

In each of these cases, Loudenback entered into property management agreements and then failed to account for the funds obtained from the tenants. In addition, Loudenback entered into contracts to sell property without the owner's consent and improperly retained the proceeds from the sale of their property.

Division Moving To New Offices

The Division of Real Estate is scheduled to move to new offices on December 5 of this year. The Division will relocate to the new State Office Tower across from the State House in downtown Columbus.

Please make note of the Division's new address after December 5:

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

The Division's phone numbers will remain the same. To reach the Division, call (614) 466-4100 or (800) 344-4100.

Disclosure Education (continued from page 1)

I again urge all licensees to take advantage of the upcoming seminars and training programs being offered in their area. These courses, along with the handbook that will be available soon, will provide licensees with the information and training they need to comply with Ohio's new disclosure law. Licensees who receive this training will also gain a greater understanding of agency relationships and more confidence in discussing agency with buyers and sellers, which will be the key to effective disclosure.

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
Oct. '88	5 20	17
Nov.	9 17	7, 14
Dec.	-NO EXAMS GIVEN DURING THIS MONTH-	
Jan. '89	4 19	9

(Additional exams may be added if warranted)

FOREIGN REAL ESTATE SALES

Oct. '88	11, 25
Nov.	8, 22
Dec.	-NO EXAMS GIVEN DURING THIS MONTH-
Jan. '89	10, 24

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
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