

RE03RC08: Real Estate Laws and Regulations for Owners and Managers

I. Broker as responsible person

A. Licensing, Reporting and Posting

B. Escrow duties (254 CMR 3.00)

1. Holding funds

a. Commingling

b. Conversion/Legality

c. Nonsufficient funds; dishonored check

2. Interest and non-interest bearing accounts

C. Maintaining Records

1. Sales transactions and rental transactions

2. Current licenses visually displayed

3. Specific forms

D. Legal Responsibility and Liability

1. Agency

2. Consumer protection statute 93A

3. Fair housing

a. Fair housing poster

4. Sherman Anti-trust Act

5. Preparation and obligations to close a sales transaction

6. Environmental issues

E. Insurance/Bond Coverage/Purpose

F. Legal Counsel

II. Employees vs. Independent Contractors

A. Independent Contractor

1. Current real estate license
2. Written contract; salespersons will not be treated as employee
3. At least 90% of income as a licensee must be on sales production

B. Hiring/Termination

C. Real estate assistants

1. Licensed or non-licensed
2. Compensation
3. Agency responsibility

III. Listing agreement - Property owner

A. Exclusive Right to Sell listing

B. Exclusive Agency listing

C. Open listing

D. Net listing

E. Option listing

IV. Buyer Agreements

A. Exclusive Buyer Agency agreement

B. Exclusive Agency Buyer Agency agreement

C. Open Buyer Agency agreement

V. Compensation

A. Commission

B. Referral fees

C. Fee for services arrangement

VI. Inactive Licensees/Referrals

- A. Definition of active license
- B. Definition of inactive license
- C. Referral Fees

VII. Agency

- A. Single Agency
- B. Dual Agency; disclosed/undisclosed
 - 1. Dual agency - Dual agent
- C. Designated Agency
- D. Sub-Agency
- E. Facilitator/Non-Agency

VIII. Forms

- A. Mandatory
- B. Non-Mandatory

IX. Apartment Rentals (254 CMR 7.00)

- A. Notice to prospective tenants
- B. Record maintenance and inspection
- C. Fees for services

X. Promotional sale of out of state; Real Property (254 CMR 6.00)

XI. Business Entities and Insurance Requirements

- A. Broker of Record
 - 1. Corporation
 - 2. Society
 - 3. Association
 - 4. Partnership
 - 5. Limited Liability Partnership

6. Limited Liability Company

XII. Real Estate Brokerage

- A. Tristam's Landing
- B. Procuring Cause
- C. Fax's, Emails, Websites and "Do not call" Registry
- D. House Inspectors Brochure
- E. Lead Paint Forms
- F. Conversion of rental units to condos
- G. Permits
- H. Advertising Requirements
- I. Businesses excluding real estate
- J. Reciprocating in other states
- K. Vicarious liability