



Notice of Intent to Adopt Rules

Revised July 2013

1. General Information

a. Agency/Board Name		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Contact Person	f. Contact Telephone Number	
g. Contact Email Address		
h. Date of Public Notice	i. Comment Period Ends	
j. Program		

2. Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.

If "New," provide the Enrolled Act numbers and years enacted:

a. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed

Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification.

Chapter Number:	Short Title:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
		<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
		<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
		<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
		<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
		<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
		<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
		<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
		<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
		<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
		<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed

c. The Statement of Reasons is attached to this certification.

d. N/A In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Section 5 of the Rules on Rules).

e. A copy of the proposed rules* may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

* If Item "d" above is not checked, the proposed rules shall be in strike and underscore format.

3. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. Yes No

	If "Yes:"	Date:	Time:	City:	Location:

b. What is the manner in which interested persons may present their views on the rulemaking action?
 By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.
 At the following URL: _____

		A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted: <input type="checkbox"/> To the Agency at the physical and/or email address listed in Section 1 above. <input type="checkbox"/> At the following URL: _____
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c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Contact Person listed in Section 1 above.

4. Federal Law Requirements

a. These rules are created/amended/revoked to comply with federal law or regulatory requirements. Yes No

	If "Yes:"	Applicable Federal Law or Regulation Citation:
		Indicate one (1): <input type="checkbox"/> The proposed rules meet, but do not exceed, minimum federal requirements. <input type="checkbox"/> The proposed rules exceed minimum federal requirements.
		Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to: <input type="checkbox"/> To the Agency at the physical and/or email address listed in Section 1 above. <input type="checkbox"/> At the following URL: _____

5. State Statutory Requirements

a. Indicate one (1):
 The proposed rule change *MEETS* minimum substantive statutory requirements.
 The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):
 The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:
 By contacting the Agency at the physical and/or email address listed in Section 1 above.
 At the following URL: _____
 Not Applicable.

6. Authorization

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

Distribution List:

- Attorney General and LSO: Hard copy of Notice of Intent; Statement of Reasons; clean copy of the rules; and strike-through and underline version of rules (if applicable). *Optional:* electronic copies of all items noted (in addition to hard copies) may be emailed to LSO at Criss.Carlson@wyoleg.gov.
- Secretary of State: Electronic version of Notice of Intent sent to Rules@wyo.gov.



Wyoming Real Estate Commission

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MEMBER - ASSOCIATION OF REAL ESTATE LICENSE LAW OFFICIALS

STATEMENT OF REASON

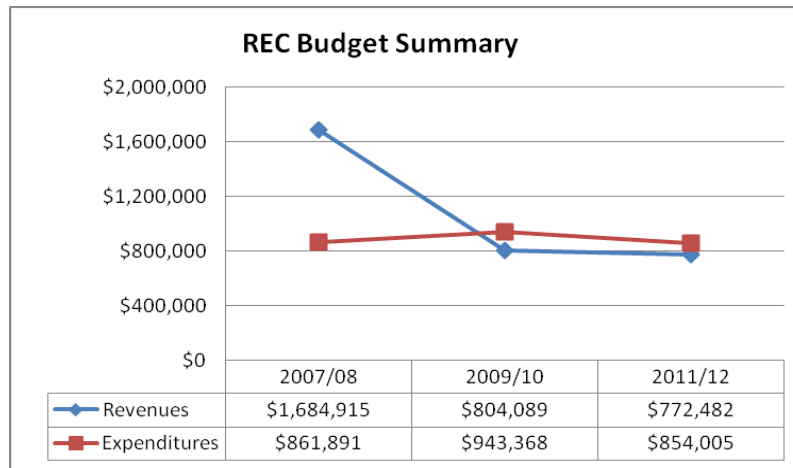
Statutory authority for the Wyoming Real Estate Commission to promulgate and amend administrative rules for the regulation of real estate licensing in Wyoming is authorized under W.S. 33-28-105(a). Amended rules approved by the Commission on July 2, 2013 were created for the following purposes:

1. To enhance the amounts for specific fees collected in accordance with a vote of the Wyoming Real Estate Commission during a regular public meeting on February 5, 2013.
2. To decrease the length of the rules by one chapter by condensing chapters 1 and 2.
3. Delete redundancies mirrored in statute, and incorporate accurate statutory references regarding Administrative Hearings per the request of Governor Mead in his memorandum to the Commission dated April 9, 2013.

The Wyoming Real Estate Commission operates solely with revenue collected from fees for licensing real estate brokers and salespeople. The agency does not use any monies from the Wyoming General Fund. The current fee structure for licensing real estate brokers and salespeople has not changed since it was last increased in 2006. The Wyoming Real Estate Commission endeavors to keep fees for licensing as minimal as possible, however, the proposed increases are deemed necessary due to increased efforts by the Commission staff to complete duties assigned by statute, increased industry regulation and overall economic conditions.

Operating Budget

The graph below highlights agency revenues and expenditures per biennium over the last six years:



As indicated in the chart, the cost of conducting business as a commission has remained steady while the amount of revenue collected over time has decreased substantially. Revenue collected in 2007/2008 allowed for a substantial cash balance for the Commission, but this initial \$823,024 cash balance has dwindled to \$308,092¹ since 2007. In the last fiscal year (FY2013), agency revenue totaled \$360,932 while operating costs required expenditure of \$418,541. The last fiscal year alone equates to a budget shortfall of -\$57,609 or -15.96 percent. Further reliance upon the Commission's cash balance puts the agency in a precarious position, especially if need arose to pay for an administrative hearing. If current levels of income and spending are maintained, the current cash balance will be entirely spent by 2016, at the latest, and the agency's budget moving forward will be in arrears.

Audits and Investigations

Since 2007, the Commission has engaged multiple efforts to keep operating costs as low as possible. Expenditures for everyday supplies were minimized and travel, especially for Commission meetings and investigative matters, was restricted. A recent assessment of office functions revealed that this gradual minimization of office functions, unfortunately, discouraged completion of routine audits to be conducted by staff with regard to education courses and brokers' trust accounts. These functions are articulated in existing agency rule, chapters five and six respectively.

In order to ensure that educational courses and instructors are high in quality, the Commission will begin auditing classes at least twenty times a biennium (ten per year) to cover roughly a quarter of all continuing education classes offered. Likewise, Commission staff will begin conducting audits of trust accounts held by real estate brokers on a regular basis. Ideally, the Commission will audit five percent of established broker accounts during each biennium. Based on 2012 data, this would equate to sixty-two account audits per biennium, or, thirty-one audits per year. The Commission aims to conduct these audits in Cheyenne, but travel within the state to conduct half of the education and account audits is likely and reasonable. If each trip for auditing purposes costs the agency \$200, this will equal a total cost of \$8,200 per biennium.

With increased focus on guarding public safety through auditing powers granted to the Commission, investigative costs moving forward will increase. The agency's investigator and paralegal investigate twenty-five real estate complaints a year, on average. Though the complexities of complaints and subsequent investigations vary, occasional travel is necessary. If complaints received by the Commission increase to thirty or thirty five a year, the agency will need to hire contract investigators to assist in completing investigations in a timely manner. In 2007/08 biennium, contract investigators were utilized by the agency at a cost of approximately \$100,000. In order to avoid a repeat expenditure of such a large sum, the Commission will hire investigators as needed and aims to expend \$20,000 per biennium for additional investigative support.

Special attention to the Commission's investigations and audits will add an estimated \$28,200 of expenses per biennium to an already insolvent operational agency budget. As always, if costs can be decreased or offset through other means, the Commission and its staff will pursue those alternatives instead of embracing high costs options.

Economic Impacts

In 2008, the Wyoming Real Estate Commission made the decision to better guard the public by eliminating reciprocity and requiring all licensees to complete education in Wyoming law and regulation. Though this decision was made in the interest of protecting the citizens of Wyoming, many brokers living outside of the state felt this educational requirement unnecessary and, rather than complete the necessary coursework in Wyoming law, they allowed their licenses to lapse and be canceled. The Commission desires to uphold a high standard of education and compliance to conduct business in Wyoming, instead of allowing all interested to be licensed or permitted as a means of generating revenue for the agency.

Nationally, inflation of the consumer price index has increased costs by 15.5 percent alone from 2006 to 2013. Concurrently, economic activity in Wyoming's real estate industry has experienced significant "boom and bust" cycles. These cycles directly impact the amount of licensed active/inactive brokers, associate active/inactive brokers, and active/inactive salespeople activating and renewing licenses on a regular basis. It is critical to note that this proposed fee increase amounts to a ten percent increase of costs for each licensee per year as license renewals are only required every three years for brokers and salespeople in the state of Wyoming. The data in the chart below reflect a complete renewal cycle for all licensees in our state (generally a three-year span of time).

WYOMING REAL ESTATE BROKER AND SALESPEOPLE LICENSES ISSUED 2010 – 2012*							
	Active Brokers	Inactive Brokers	Active Associate Brokers	Inactive Associate Brokers	Active Salespeople	Inactive Salespeople	Total Firms
11/29/10	730	100	734	294	1040	763	789
12/13/11	663	100	697	381	893	700	727
12/31/12	600	58	643	269	791	478	717
% Change (2010 to 2012)	-17.8%	-42.0%	-12.4%	-8.5%	-23.9%	-37.4%	-9.1%

*ARELLO Digest of Real Estate License Laws, 2012 Edition

As indicated in the above data, all categories of licensing and total firms existing in the state have decreased by at least eight percent; the highest change exists with inactive brokers showing a decrease of forty-two percent from 2010 to 2012. If Wyoming's economy remains strong in comparison to surrounding states and the nation as a whole, The Commission hopes to see a leveling off or rebound of this shrinking workforce. Unfortunately, a rebound is not evident at this time. This increase in licensing fees is essential in order for the Commission to be better poised and prepared to continue providing licensing services and regulation on behalf of the State of Wyoming.

CHAPTER 1
GENERAL PROVISIONS
AND
LICENSING

Section 1. Authority. Pursuant to the authority vested in the Wyoming Real Estate ~~commission~~**Commission (Commission)** by virtue of W.S. 33-28-101 through 33-28-401 the following rules and regulations are hereby promulgated.

Section 2. Definitions.

~~———— (a) "Active license" means a real estate license that has not been inactivated, suspended or revoked;~~

~~———— (b) "Advance fee" means a fee claimed, charged or received for a listing, advertisement or offer to sell or lease real estate issued primarily for promoting the sale or lease of real estate;~~

~~———— (c) "Aggregate limit" means a provision in an insurance contract limiting the maximum liability of an insurer for a series of losses in a given time period, such as the policy term;~~

~~———— (d) "Associate broker" means an individual who has qualified as a broker under the act, is licensed under a responsible broker and does not have supervisory responsibilities;~~

~~———— (e) "Auction," when used as a noun, means a method of sale at a predetermined date and time, by means of one (1) or more exchanges between an auctioneer and prospective purchasers either in person verbally or physically, or by regular mail, telecommunications, the internet or an electronic transmission, the exchanges consisting of one (1) or more offers to sell made by the auctioneer and offers to purchase made by prospective purchasers, with the right to acceptance of offers to purchase residing with the auctioneer. "Auction" includes a sale of real estate in which there has been a solicitation or invitation by advertisement to the public in advance for bidding using sealed bids, provided that the bids are opened and there is a call for an advancement of the bids. "Auction" when used as a verb, means any act or conduct done for compensation or the expectation thereof and designed, intended or expected to affect the bidding or results of a real estate auction, including, but not limited to, serving as an auctioneer or ring man or encouraging, soliciting or receiving bids;~~

~~———— (f) "Branch office" means any office of a responsible broker other than his principal place of business;~~

~~———— (g) "Broker" means any person licensed under the act including associate brokers and responsible brokers. "Broker" does not include a salesman;~~

~~———— (h) "Buyer" means a person attempting to acquire real estate and includes a tenant as that term is commonly used in the rental, leasing or management of real estate;~~

~~———— (j) "Buyer's agent" means a licensee who is authorized to represent and act on behalf of the buyer in a real estate transaction;~~

- ~~——(k) "Commission" means the Wyoming real estate commission;~~
- ~~——(m) "Compensation" means any money, item of value or payment which is provided, promised or expected for the performance of any real estate activity;~~
- ~~——(n) "Cooperative transaction" means any real estate transaction in which licensees from more than one (1) real estate company participate, regardless of agency representation;~~
- ~~——(o) "Customer" means a party to a real estate transaction who has established no intermediary or agency relationship with any licensee involved in the transaction;~~
- ~~——(p) "Degree in real estate" means a degree from an accredited degree granting college or university, including a junior or community college, with a major course of study in real estate. A degree under this section shall at minimum require the successful completion of four (4) core courses of real estate principles and practices, real estate law, real estate appraisal and real estate finance, plus at least two (2) additional real estate related courses. These courses shall total at least eighteen (18) or more semester hours or twenty seven (27) quarter hours;~~
- ~~——(q) "Designated licensee" means a licensee who is designated in writing by a responsible broker to serve as an agent for a seller or a buyer or as an intermediary in a real estate transaction;~~
- ~~——(r) "Distance education course" means a course where instruction takes place when the teacher and the student are not in a traditional classroom setting and are separated by distance or time;~~
- ~~——(s) "Equivalent coverage" means insurance coverage obtained independently of the group program available through the insurer under contract with the commission and subject to the provisions of the act;~~
- ~~——(t) "Errors and omissions insurance" means professional liability insurance which provides insurance coverage to active licensees for errors and omissions made during the course of real estate transactions subject to the coverages, limitations and exclusions of the specific policy;~~
- ~~——(u) "Expired license" means a license for which the license period has expired;~~
- ~~——(w) "Extended reporting period" means a designated period of time after a claims made policy has expired during which a claim may be made and coverage obtained as if the claim was made during the policy period;~~
- ~~——(y) "Funds holder" means a title company, closing agent or attorney licensed in this state who holds items of value in trust for the parties to a real estate transaction;~~
- ~~——(z) "Grace period" means January 1 to March 1 of each year during which an expired license may be renewed;~~
- ~~——(aa) "Group program" means an insurance policy from an insurance provider selected by the commission through the competitive process as specified in the act;~~
- ~~——(bb) "Inactive license" means a license that has been placed on inactive status at the request of the licensee and is not expired, terminated, suspended or revoked;~~

~~———— (cc) "Individual coverage" means insurance coverage other than coverage from the group program which meets the requirements of the commission;~~

~~———— (dd) "In house real estate transaction" means a real estate transaction in which the buyer and the seller have an agency, intermediary or customer relationship with licensees from the same real estate company;~~

~~———— (ee) "Interest in a transaction" means any advantage, benefit or profit, other than the agreed upon compensation, which may be realized by a licensee as the result of a purchase, sale or lease of real estate;~~

~~———— (ff) "Intermediary" means a licensee who assists one (1) or more parties throughout a contemplated real estate transaction without acting as an agent or advocate for any party to the transaction;~~

~~———— (gg) "License" means the document issued by the commission certifying that the person named on the document had fulfilled all requirements for a license under the act;~~

~~———— (hh) "Licensee" means any person issued a license by the commission;~~

~~———— (jj) "Like license" means a license from another jurisdiction which is at an equivalent level of experience and responsibility as a comparable Wyoming license;~~

~~———— (kk) "Material to the transaction" means having importance, relevance or consequence to a person making a decision regarding the purchase, sale or lease of real estate. "Material to the transaction" does not include psychological considerations including, but not limited to, health issues, suicide, murder or crimes which have occurred on the property;~~

~~———— (mm) "Offer" means any inducement, solicitation or attempt to encourage a person to acquire an interest in real estate which is made for gain or profit;~~

~~———— (nn) "Offeree" means a person to whom an offer is made;~~

~~———— (oo) "Offeror" means the person making an offer;~~

~~———— (pp) "Office" means a responsible broker's place of business where records are maintained;~~

~~———— (qq) "Option" is a right that an owner may give to another person to purchase or lease the owner's real estate at a specific price;~~

~~———— (rr) "Owner" means a person with a right to convey an ownership or leasehold interest in real estate;~~

~~———— (ss) "Person" means individuals, corporations, partnerships, associations or other public or private entities, foreign or domestic;~~

~~———— (tt) "Prior acts coverage" means insurance coverage for any claim made during a current policy period when the act or acts causing the claim or injuries for which the claim is made occurred prior to the inception of the current policy period;~~

~~———— (uu) "Proof of coverage" means a certificate of insurance demonstrating coverage of a policy of insurance equal to or exceeding the group coverage contracted for by the commission;~~

~~—— (ww) "Property management" means the act of management for compensation of real estate for another, including collection of rents, maintenance of the real estate and accounting of fees received for another;~~

~~—— (yy) "Qualified insurance carrier" means an insurance carrier that:~~

~~For the entire term of its contract shall provide the group plan of errors and omission insurance as provided in the act, maintains an A.M. Best rating of "B" or better and financial size category of class VI or higher;~~

~~Is authorized by the Wyoming insurance department to do business in Wyoming as an insurance carrier for the policy term;~~

~~Is and will remain qualified and authorized by the Wyoming insurance department to write policies of errors and omissions insurance in Wyoming for the policy term;~~

~~After competitive bidding, has been notified by the commission that it is the successful bidder for the group plan to provide the errors and omissions insurance as specified in the act;~~

~~Has entered into a contract to provide group errors and omissions plan in conformity with the contract, the act, applicable rules of the commission and other applicable law;~~

~~Will collect premiums; maintain records and report names of those insured and a record of claims to the commission on a timely basis.~~

~~—— (zz) "Real estate" means leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or non freehold, and whether the real estate is situated in this state or elsewhere but shall not apply to nor include mineral lands, rights or leases;~~

~~—— (aaa) "Real estate activity" occurs when an individual for another and for compensation:~~

~~Sells, exchanges, purchases, rents, manages or leases real estate;~~

~~Offers to sell, exchange, purchase, rent, manage or lease real estate;~~

~~Negotiates, offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;~~

~~Lists, offers, attempts or agrees to list real estate for sale, lease or exchange;~~

~~Auctions, offers, attempts or agrees to auction real estate;~~

~~Collects, offers, attempts or agrees to collect rent for the use of real estate;~~

~~Advertises or holds himself out as being engaged in the business of buying, selling, exchanging, auctioning, renting or leasing real estate;~~

~~Engages in the business of charging an advance fee in connection with any contract undertaken to promote the sale, auction or lease of real estate either~~

~~through its listing in a publication issued for that purpose or for referral of information concerning the real estate to brokers;~~

~~Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;~~

~~Assists or directs in the procuring of prospects calculated to result in the sale, exchange, lease or rental of real estate;~~

~~Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, lease or rental of real estate; or Deals in time shares;~~

~~——(bbb) "Real estate company" means a business entity including a firm, company, corporation, partnership, sole proprietorship or other entity which is licensed to conduct real estate activity;~~

~~——(ccc) "Real estate transaction" or "transaction" means any real estate activity under this section;~~

~~——(ddd) "Regular employee" means an individual who is employed by an owner of real estate on a salaried basis or paid wages which are not performance based, is subject to income tax withholding and FICA and whose duties are performed in the ordinary course of the owner's business or the management or operation of the owner's investments;~~

~~——(eee) "Responsible broker" means an individual who has an active broker's license and who is responsible for the supervision of the activities of licensees associated with the real estate company or a broker who operates a single license office;~~

~~——(fff) "Retroactive date" means the date when the first real estate errors and omissions coverage was effective insuring the named insured on a claims made basis and since which time the insured has been continuously insured;~~

~~——(ggg) "Salesman" means an individual who has qualified as a salesman under the act and is licensed under a responsible broker;~~

~~——(hhh) "Seller" means a person who is attempting to sell or exchange real estate and includes a landlord as that term is commonly used in the rental, leasing or management of real estate;~~

~~——(jjj) "Seller's agent" means a licensee who is authorized to represent and act for the seller in a real estate transaction;~~

~~——(kkk) "Short term rental" means the rental of real estate for thirty-one (31) days or less;~~

~~——(mmm) "Single limit liability" means the maximum limit payable, per licensee, for damages arising out of the same error, omission or wrongful act;~~

~~——(nnn) "Subagent" means a licensee authorized to represent and act on behalf of a real estate company in performing real estate activity for a principal. A subagent shall owe the same obligations and responsibilities to the principal as a responsible broker;~~

~~_____ (ooo) "Surrendered license" means a license that has been voluntarily terminated or surrendered by a licensee who, at the time of the voluntary termination or surrender, was under investigation or named in a formal administrative complaint and the surrender has been accepted by the commission;~~

~~_____ (ppp) "Suspended license" means a license that has been temporarily suspended by the issuing authority;~~

~~_____ (qqq) "Time share" means any arrangement, whether by membership agreement, lease, rental agreement, license, use agreement or other means, whereby the purchaser receives a right to use or a freehold interest in accommodations, facilities or other real estate for a specific period of time during any given year, but not necessarily for consecutive years, and which extends for a period of more than one (1) year;~~

~~_____ (rrr) "Transaction manager" means a licensee designated in writing by the responsible broker to supervise a transaction. The transaction manager shall not be involved in the transaction and shall have the duties of an intermediary while supervising the transaction;~~

~~_____ (sss) "Written listing agreement" means any real estate employment agreement, including without limitation a buyer's brokerage agreement, a seller's listing contract and a property management contract. The authority created under a written listing agreement may not be assigned to another person without the written consent of all parties to the agreement;~~

~~_____ (ttt) "The act" means W.S. 33-28-101 through 33-28-401~~

Section 2. Professional and occupational licensure of military spouses.

The Commission shall use the guidelines in W.S. 33-1-116 in determining licensure of military spouses and military service members.

Section 3. Qualification for a license.

(a) Salesman applicants shall submit:

(i) Completed application form with appropriate fees;

(ii) Fingerprint cards;

(iii) Recent snapshot or photograph;

(iv) Proof of legal presence in the United States;

(v) A copy of the Wyoming passing score(s) report;

(vi) If a non-resident, Service of Process forms;

(vii) Evidence of completing, within one year prior to the date of application, of salesman course I and salesman course II which shall meet the curriculum established and published by the Commission. Salesman course II may not be taken by correspondence or online.

(A) An original applicant for a license shall be required to show proof of completion of the pre-license salesman course I (state and national portions), salesman course II and pass the appropriate examination before applying for a real estate license. These requirements may be accomplished in any order.

(B) In lieu of actual clock hours of education for salesman course I (state and national portions), an applicant may challenge an approved course by satisfactorily passing the approved course examination and submitting certification.

(viii) Proof of errors and omissions insurance as described in W.S. 33-28-401 and Chapter 8 of these Commission rules.

(b) Associate broker applicants shall submit:

(i) Evidence that they have been actively engaged in real estate activity as a licensed salesman for two (2) of the four (4) years immediately preceding the application or proof that they have a degree in real estate as defined in W.S. 33-28-102(b)(xii);

(ii) Completed application form with appropriate fees;

(iii) Fingerprint cards;

(iv) Recent snapshot or photograph;

(v) Proof of legal presence in the United States;

(vi) If a nonresident, signed Service of Process forms provided by the Commission;

(vii) Proof of errors and omissions insurance as described in W.S. 33-28-401 and Chapter 8 of the Commission rules;

(viii) Evidence of completing, within one year prior to the date of application, of broker course I and broker course II which shall meet the curriculum established and published by the Commission. Broker Course II may not be taken by correspondence or online;

(A) An original applicant for license shall be required to show proof of completion of the pre-license broker course I (state and national portions),

broker course II and pass the appropriate examination before applying for a real estate license. These requirements may be accomplished in any order.

(B) In lieu of actual clock hours of education for broker course I (state and national portions), an applicant may challenge an approved course by satisfactorily passing the approved course examination portions and submitting certification.

(ix) Associate Broker applicants with a degree in real estate shall also provide:

(A) A certificate of completion for broker course II;

(B) A copy of the Wyoming passing score(s) report for the state and national broker examination.

(c) Responsible broker applicants shall:

(i) Meet all requirements for an associate broker's license;

(ii) Provide evidence they have been actively engaged in real estate activity as a salesman or associate broker for two (2) of the four (4) years immediately preceding the application;

(iii) Provide proof of Wyoming trust account(s) or funds holder agreement(s);

(iv) Beginning January 1, 2013, submit proof of completion of a Commission approved broker management course taken no more than two (2) years prior to the application.

(d) An applicant who holds a prior felony conviction may be considered for certification twelve (12) months after all sentencing/parole/probation/requirements have been completed.

Section 4. Registration and examination required; failure to pass.

(a) Every person desiring to become licensed shall register for the appropriate examination on a form provided by the testing service.

(b) Registrants for an exam shall have reached the age of majority.

(c) Each registrant is required to take an appropriate examination and attain a scaled score of at least seventy-five (75) percent on each applicable section of the examination.

(d) Any person who registers for the examination shall select a date for taking the examination. The selected date may be changed only by submitting another fee and registration or as allowed by the testing service.

(e) Failure to take the examination on the scheduled date will result in cancellation of the registration and no refund of the examination fee will be made.

(f) A notice to a registrant that he has received a passing score does not constitute a license to engage in real estate activity. Licenses are issued only pursuant to filing the appropriate application for a license, paying all required fees and Commission approval of such application.

(g) No application for a license will be accepted until the registrant has taken and passed all applicable portions of the examination.

(h) Any registrant who takes the examination and does not attain a passing score, on a portion, shall reregister and pay the appropriate fee if they wish to retake the failed portion. Registrants passing one portion of the examination are only required to retake the portion they failed; partial examinations shall be taken within six (6) months after registrant's last test failure date. Registrants required to take more than one portion of the examination who do not pass all portions of the examination within six (6) months shall retake the entire examination.

(j) After official notification in writing from the testing service to the registrant that he has successfully passed all the appropriate portions examination, the registrant shall within ninety (90) days of the most recent notice date, file the appropriate application for a license with all the required accompaniments. Failure to file an application for a license and proof of required education within the ninety (90) day period will cancel the application and all scores will be terminated.

(k) The Commission, upon proper certification, will accept the uniform portion of the examination as having been successfully passed by any person seeking a license in Wyoming who received a like-license in the applicant's licensing jurisdiction, provided that such like-license is currently valid and in good standing.

(i) Certification shall state when the applicant received his original license, the status of the license, and if there has been any disciplinary action taken against the licensee, and that the licensee has served actively for two (2) of the (4) years immediately preceding the application as a like-licensed real estate salesman or associate broker.

(m) Original licenses will be issued for the balance of the year. They will expire on December 31 of the year in which issued. Renewal license will be issued for 3-year durations. They will expire on December 31 of the third year. No prorating of license fees can be made.

Section 5. Transfers, inactive licenses.

(a) Notice of transfer of license from the sponsorship of one responsible broker to another shall be indicated on a transfer form provided by the Commission, and shall be accompanied by a transfer fee.

(b) When a real estate license has been returned to the Commission, the former licensee shall not perform any real estate activity.

(c) A licensee may request the Commission to hold his license for not more than thirty (30) days on a hold for transfer basis until proper request for reissue has been made, after which time the license will automatically become inactive. A licensee whose license is inactive or on hold for transfer shall not perform any real estate activity.

(d) A licensee whose license is held by the Commission on an inactive or hold for transfer basis during the renewal period shall apply for renewal of such inactive license and pay the regular fee.

(i) A licensee whose license is on inactive status may not engage in any real estate activity.

Section 6. Real Estate Companies.

(a) Real estate company licenses will be issued to the responsible broker for a real estate company engaged in real estate activity upon verification by the Secretary of State of Wyoming that the real estate company is in good standing.

(b) The responsible broker shall be an officer, partner or manager, or hold an ownership interest in the real estate company.

(c) The following documents are necessary before issuing a responsible broker's license to a real estate company engaged in real estate activity:

(i) A properly executed application and fee;

(ii) A copy of the documents establishing company organization;

(iii) A copy of the bylaws of the corporation; or the operating agreement for the real estate company;

(iv) A copy of the meeting minutes of the corporation; partnership, limited liability company, or other entity indicating the name of the responsible broker.

~~CHAPTER 3
FEES~~

~~Section 1. Fees.~~

~~(a) The following nonrefundable and non-prorated fees shall be charged by the real estate commission:~~

(i) Examination fee	\$140
(ii) Each original broker's license	\$200
(iii) Each original business entity (except sole proprietorships)	\$200
(iv) Each original associate broker's license	\$200
(ix) Duplicate license (lost original)	\$20
(x) Duplicate pocket card (lost original)	\$20
(xi) Broker 3 yr. renewal license	\$250
(xii) Business entity 3 yr. renewal license (except sole proprietorships)	\$250
(xiii) Associate broker 3 yr. renewal license	\$250
(xiv) Salesman 3 yr. renewal license	\$250
(xv) Branch office 3 yr. renewal license	\$200
(xvi) Recovery fund (W.S. 33-28-201(b))	\$20
(xvii) Late renewal fee	\$75
(xviii) Continuing education course application fee	\$50
(v) Each original salesman's license	\$100
(vi) Each branch office license	\$100
(vii) Each business address change	\$25
(viii) Each transfer, i.e., change of sponsoring broker, etc.	\$30
(ix) Administrative fee for group program errors and omissions	\$15

CHAPTER 2
FEEES

Section 1. Fees.

(a) The following nonrefundable and non-prorated fees shall be charged by the real estate commission:

- (i) Examination fee\$140
- (ii) Each original broker/salesman license\$300
- (iii) Each original business entity/branch office license
(except sole proprietorships).....\$300
- (iv) Duplicate license (lost original).....\$20
- (v) Broker/Salesman 3 year renewal license\$350
- (vi) Business entity/Branch office 3 year renewal license
(except sole proprietorships).....\$350
- (vii) Recovery fund (W.S. 33-28-201(b)).....\$20
- (viii) Late renewal fee.....\$75
- (ix) Continuing education course application fee\$50
- (x) Each business change of address\$25
- (xi) Each transfer/active status request/name change\$30
- (xii) Admin fee for group program errors and omissions\$15
- (xiii) Certified License History\$10
- (xiv) Certified copies of documents\$10

CHAPTER 34 FORMS

Section 1. Minimum requirements, forms.

(a) A responsible broker or licensee acting on his behalf shall, at the time of signing, deliver a hard or electronic copy of any document to the party or parties executing the same when such instrument has been prepared by the responsible broker or licensee acting on his behalf or under his supervision, or is within his control, including but not limited to instruments relating to the employment of the responsible broker or licensee acting on his behalf, the listing of real estate, the consummation of a lease, purchase, sale or exchange of property, or to any other type of real estate transaction in which he participates as a responsible broker or licensee acting on behalf of the responsible broker. It is the responsibility of the responsible broker or licensee acting on his behalf to prepare sufficient copies of such instruments in order that the above may be accomplished.

(i) Nothing herein shall be construed to permit the licensee to withhold such delivery in order to obtain other signatures on such instrument, or for any other reason.

(ii) Readily available and properly indexed copies of all unrecorded documents shall be retained by the responsible broker for 7 years.

(b) The responsible broker or licensee acting on his behalf shall prepare the purchase offer and acceptance form, exchange contract form or other inducement document form for the voluntary transfer of freehold or non-freehold real estate to include but not be limited to:

(i) The name and address of the real estate company.

(ii) The date of offer by offeror.

(iii) Real estate description that will adequately identify the real estate.

(iv) Enumerated and described personal property included in the transaction may be referenced by addendum.

(v) Total amount of purchase price. For a lease or rental agreement, the total amount of rent payments, if applicable, or the periodic rate.

(vi) Total amount and type of earnest money deposit, damage, security or other deposits and any understanding for the return of all or part of the deposits.

(vii) Complete and accurate description of all contractual conditions including balance of purchase price, rent or lease payments or management fees and terms or conditions of payment.

(viii) Date of actual or constructive possession and assignment of leases or referenced to closing date.

(ix) Specified date of closing.

(x) Date that offering document expires.

(xi) Signature of responsible broker or his agent upon receipt of monies or other valuable property coming into his possession which belongs to others.

(xii) Date of acceptance of offer by offeree.

(xiii) All changes made to an offer or counter-offer ~~must~~shall be dated and initialed by all parties to the contract. (xiv) When an offeror makes an offer which is accepted by the offeree, the licensee interacting with the offeree ~~must~~shall immediately notify the offeror or the licensee interacting with the offeror of the acceptance.

(xiv) If contract terms are amended or extended, a written agreement form to amend or extend ~~must~~shall be prepared and shall be signed by all parties to the transaction.

(xv) All offers presented by a licensee and rejected by the offeree shall be so rejected in writing upon the offer form presented. The licensee shall deliver a copy of such offer with the written rejection thereon to the offeror or the licensee working with the offeror.

(A) Should an offeree authorize the licensee to reject on his behalf or refuse to execute a written rejection, the licensee shall, by a written, signed statement, verify the date of offeree's oral notification to the licensee of rejection of such offer.

(xvi) A copy of the acknowledged disclosures as required by W.S. 33-28-306 and 33-28-308(f).

(c) Cooperating responsible brokers or licensees acting on their behalf shall present offers and shall negotiate only through the listing responsible broker or licensees acting on his behalf unless the listing responsible broker gives written consent to contact the principal. All offers shall be presented as expeditiously as possible.

(d) A responsible broker shall ensure that his agents comply with minimum ~~commission~~Commission requirements when preparing contracts and obtaining signatures.

CHAPTER 45
RENEWALS - EDUCATION

Section 1. License renewals – Education requirements.

(a) Licenses expire at midnight December 31. Those licensees who fail to renew by the December 31 deadline shall have an additional 60 days to renew by paying a \$75 late renewal fee in addition to the fee required for renewal. All applications for renewal shall be postmarked on or before December 31 or within the 60-day grace period ending on or before March 1. Licenses not renewed by December 31 lapse and the licensee shall not perform or engage in real estate activity until renewed.

(b) All licensees are required to complete and show proof of at least forty-five (45) hours of continuing education during each three (3) year renewal period. Twenty-four (24) hours of continuing education hours ~~must~~shall be obtained through satisfactory completion of specific courses selected by the ~~commission~~Commission and posted on the ~~commission~~Commission web site as “required courses”. The remaining hours may be obtained through satisfactory completion of other “elective” courses approved by the ~~commission~~Commission.

(i) An inactive licensee will not have to furnish proof of continuing education until such time as licensee requests the activation of an inactive license.

(ii) Licensed individuals instructing ~~commission~~Commission approved courses may submit said class for continuing education hours toward their renewal.

(iii) Licensees may submit the following courses physically attended in another state for “elective” continuing education:

(A) Any course in real estate, or a directly related area, approved by the ~~commission~~Commission or by any real estate regulatory body in any state or province or having a current ARELLO certification which is not less than three (3) clock hours.

(B) Any course in real estate, or a directly related area, offered by any institution accredited by a regional accrediting agency which is recognized by the Office of Education of the United States Department of Health, Education and Welfare.

(iv) Distance education and online courses ~~must~~shall have been approved by the ~~Commission~~Commission.

(c) A responsible broker who renews a license which expires in 2012 or thereafter is required to complete a ~~commission~~Commission approved broker management course during each licensing period in addition to the continuing education required in section 1 (b) above.

(i) An approved broker management course ~~must~~shall be:

(A) Rated an eight (8) hour course.

(B) Cover the learning objectives posted on the ~~commission~~Commission website.

(C) Meet all other requirements of this chapter.

(d) An approved broker management course can be used for elective continuing education credit by licensees not using it as a requirement for becoming a responsible broker or renewing a responsible broker's license.

(e) Courses may not be taken for continuing education credit more than once during any renewal cycle.

Section 2. CE approval.

(a) Prior to offering elective real estate continuing education courses, a course provider desiring course approval by the ~~commission~~Commission shall make application on forms prescribed by the ~~commission~~Commission which require information concerning course(s) offered, course outlines, examination(s), instructor(s) and pay the appropriate application fee.

(b) The following will be used in determining whether to approve a course;

(i) The course ~~must~~shall be at least three (3) clock hours in duration;

(ii) Standards:

(A) If the course deals with real estate, or a directly related area, and it is approved by any real estate regulatory body in any state or province and has a current ARELLO certification, the course will be favorably considered.

(B) If the course deals with real estate, or a directly related area, and is offered by any institution accredited by a regional accrediting agency which is recognized by the Office of Education of the United States Department of Health, Education and Welfare, the course will be favorably considered.

(C) Courses falling into the following categories will also be considered:

(I) Real estate ethics;

(II) Real estate law, contract law, agency, real estate licensing law;

(III) Legislative issues that influence real estate practice including both pending and recent legislation and rules/rule making;

(IV) Real estate market measurement and evaluation, including site evaluations, market data, and feasibility studies;

(V) Real estate brokerage management and supervision;

(VI) Real estate mathematics;

(VII) Real property management;

(VIII) Real property exchange;

(IX) Real estate securities and syndication;

(X) Estate building and portfolio management;

(XI) Accounting and taxation as applied to real property;

(XII) Land development, land use planning and zoning, construction, energy conservation in building;

(XII) Antitrust;

(XIV) Fair housing, affirmative marketing, Americans with Disabilities Act;

(XV) Real estate financing, including mortgages and other financing techniques;

(XVI) Real estate investment;

(XVII) Real estate appraising;

XVIII) Real estate inspections;

(XIX) Timeshares, condominiums and cooperatives;

(XX) Real estate environmental issues and hazards, including lead-based paint, underground storage tanks, radon, etc.;

(XXI) Water rights;

(XXII) Negotiation skills;

(iii) Other Topics. Upon written request, the ~~commission~~Commission may also approve any other topic that directly relates to real estate practice and that directly contributes to the accomplishment of the primary purpose of raising the standards of practice.

(c) The course provider requesting approval of a course shall apply for approval at least sixty (60) days before conducting the proposed course.

(d) A course provider which offers a course approved for continuing education shall notify the ~~commission~~Commission if there is a substantial change in the approved offering, which changes ~~must~~shall be approved by the ~~commission~~Commission prior to implementation.

(e) Staff may approve courses which clearly meet the requirements of Chapter 5, Section 2(b).

(f) Distance education courses ~~must~~shall be certified by the Association of Real Estate License Law Officials (ARELLO) or be specifically approved by the ~~commission~~Commission (i.e., ~~commission~~Commission owned distance education courses). Proof ~~must~~shall be supplied that the student completed the course within one (1) year of the date of enrollment.

(g) Elective continuing education course approval expires two (2) years from the date of approval.

(h) A Wyoming Real Estate ~~Commission~~Commission member may monitor any class and the course fee will be waived. That member will not receive continuing education credit for attending such class.

(j) If the ~~commission~~Commission determines a course of study previously approved no longer meets the prescribed standards, a written notice of withdrawal of approval shall be given stating the reasons for the withdrawal. The withdrawal becomes effective twenty (20) days from the date of notice unless the person or entity giving the course files a written request for a hearing with the ~~commission~~Commission before the withdrawal becomes effective. If a request for a hearing is filed, the withdrawal of approval will not become effective unless ordered by the ~~commission~~Commission within ninety (90) days after the hearing.

(k) The ~~commission~~Commission ~~must~~shall be notified of each offering to include date, place, and time.

(m) The course location ~~must~~shall meet ADA requirements.

(n) Records of attendance and course evaluation forms ~~must~~shall be submitted to the ~~commission~~Commission by the course provider within ten (10) days after the course and maintained by the course provider for five (5) years and ~~must~~shall indicate:

- (i) The name of each participant.
- (ii) The hours and dates each licensee attended the course.
- (iii) The title and description of the course attended.
- (iv) The name of the instructor.

(o) The course provider ~~must~~shall certify that the licensee attended at least ninety (90) percent of the approved course hours of instruction.

(i) Should an approved instructor feel that a student is disrupting the class, he, at his discretion, may ask the student to leave.

(p) Actual clock hours are required to award credit to a student. No credit will be given for only taking an examination.

(q) A course evaluation form ~~must~~shall be provided to each participant at the end of each course for submission to the ~~commission~~Commission.

(r) The course provider ~~must~~shall agree to participate in the ~~commission~~Commission's education electronic tracking system and enter information within ten (10) days of the offering.

(s) A clock hour is at least 50 minutes of instructional time per hour.

Section 3. Instructor qualifications.

(a) Those who instruct a ~~commission~~Commission approved education course shall meet at least one of the following qualifications, unless granted a special exception by the ~~commission~~Commission:

(i) Completion of an instructor training certification course of not less than four (4) hours within the last three (3) years.

(ii) Five (5) years of current experience in the subject instructed.

(b) Those who instruct required continuing education courses or ~~commission~~Commission developed courses shall agree to the conditions stated in (a) above and below unless granted a special exception by the ~~commission~~Commission:

(i) Participate in the maintenance and updating of the required course or ~~commission~~Commission developed courses as needed;

(ii) Achieve favorable evaluations following a ~~commission~~Commission audit of the instructor teaching the required or ~~commission~~Commission developed course;

(iii) Agree that discipline of an instructor's real estate license may be a basis for denial or suspension of that instructor's approval.

(iv) Agree any new material an instructor wants to teach mustshall first be approved by the commissionCommission and, if approved, the material will be disbursed by the commissionCommission staff to all approved instructors to be included in the course outline.

(A) The commissionCommission may continue to provide recent consent orders for instructors to utilize at the instructors discretion.

(v) A pre-license instructor may take the salesman license exam only once every two years.

(c) Instructors shall not promote products during instructional hours. This includes specific verbal reference, print media or product display in the course delivery area.

(d) Instructors mustshall audit a commissionCommission developed course prior to obtaining approval to instruct said course or obtain special permission from the commissionCommission.

(e) Printed handouts of commissionCommission sponsored courses will be provided to instructors. If the instructor chooses to expand the course outline, the additional information mustshall be approved by the commissionCommission, and the instructor will have to bear the costs of printing the new handouts.

CHAPTER 56
BROKERS' TRUST ACCOUNTS

Section 1. Broker's trust accounts.

(a) All "money belonging to others" accepted by the responsible broker shall be deposited with a funds holder or in a bank, financial institution or other recognized depository in this state in a trust account separate from money belonging to the responsible broker. A banking trust account may be any type of checking, demand, passbook, or statement account insured by an agency of the United States government. The name of each trust account shall be identified by the word "trust" or "escrow". The account shall be maintained in the name of the responsible broker.

(b) "Money belonging to others" which is received by the responsible broker or licensees or employees acting on his behalf includes but is not limited to money received in connection with property management contracts; rent or lease contracts; advance fee contracts; or money belonging to others received for future investment or other purposes.

(c) If the responsible broker does business as a real estate company, such account shall be maintained in the name of the responsible broker acting for such real estate company and in the name of the real estate company. The name of the responsible broker is to be followed by the words "responsible broker".

(d) Each "trust" bank account heading shall include a label identifying the purpose/type of such account, i.e. "sales trust," "security deposit escrow," "property management trust."

(e) Unless otherwise permitted by other subsections of this rule, all money belonging to others shall be deposited accounting to the purpose of the transaction in separate types of escrow accounts. For example, sales escrow deposits separated from property management deposits separated from security deposits as follows:

For example:

Line 1 – XYZ Realty
Line 2 – John Doe, Responsible Broker
Line 3 – Meadows Homeowners' Association Escrow Account

(i) The responsible broker ~~must~~shall be able to withdraw money from such trust account without the benefit of a cosigner. Other authorized signatures of licensed or unlicensed people may also appear on the account.

(ii) Money belonging to others shall not be invested in any type of account or security or certificate of deposit which has a fixed term for maturity unless the written consent of all parties to the transaction has been secured.

(iii) Money held in a trust account which is due and payable to the responsible broker shall be withdrawn promptly. Monies earned by licensees affiliated with a responsible broker may not be paid directly from the responsible broker's trust account.

(iv) All money belonging to others in the form of cash or check received shall be deposited directly into the listing responsible broker's trust account or with the responsible broker's funds holder by the listing responsible broker, not later than the first banking day after receipt unless all persons having an interest in the funds have agreed otherwise in writing.

(v) When trust funds are held by a funds holder, the responsible broker shall obtain a receipt showing the date and the amount of the funds transferred to the funds holder.

(A) The broker, for each funds holder account maintained, shall also maintain a recordkeeping system in his place of business, consisting of at least the following: Date Received/Paid, Check number, Amount, Buyer, Seller, Escrow Agent, Date Delivered, Description of the real estate, Disposition of Transaction.

(vi) The responsible broker, for all money belonging to others, shall also maintain a recordkeeping system in his place of business consisting of at least the following:

(A) A journal mustshall show the chronological sequence in which funds are received and disbursed. For funds received, the journal mustshall include the date, the name of the party who is giving the money, the name of the principal, address or description of the real estate, the amount. For disbursements, the journal mustshall also include the date, check number, amount, payee, principal, and the address or description of the real estate. The journal mustshall include a current running balance.

(B) A transaction ledger mustshall show the receipts and disbursements as they affect a particular transaction between buyer and seller or landlord and tenant, etc. The transaction ledger mustshall include the names of both parties to the transaction, the dates and amounts received, and the address and description of the real estate. When funds are disbursed, the date, payee, check number, and amount mustshall be shown.

(C) The responsible broker shall reconcile trust account journals and ledger liabilities monthly. The bank reconciliation shall prove agreement on the date

of reconciliation by (1) the cash balance showing in the account journal; (2) the sum of the cash balances for all ledgers; and (3) the corresponding bank account balance. This worksheet ~~must~~shall be maintained in hard copy form for later inspection and list each beneficiary's ledger balance on the date of reconciliation. The responsible broker is not required to reconcile any trust account when no banking activity has occurred.

(D) Separate trust account journals ~~must~~shall be reconciled with the related bank statement monthly.

(f) Money belonging to one beneficiary shall not be used for the benefit of another beneficiary.

(g) Any instrument or equity or thing of value taken in lieu of cash shall be held by the listing responsible broker except as otherwise agreed to by all parties to the transaction.

(h) A nonresident responsible broker licensed in Wyoming engaged in real estate activity in this state shall maintain such separate trust accounts with a Wyoming funds holder or in a bank or recognized depository in Wyoming.

(j) A responsible broker is not limited to the number of separate trust accounts or funds holder accounts he may maintain for money belonging to others.

(k) When money is collected by a responsible broker for performance or services or for the expenses of performing such services, or for advertising expenses in regard to the sale of real estate, and such money is collected before the advertising or services have been performed, such responsible broker shall deposit such money with a funds holder or in a trust account. No money may be withdrawn from such principal's funds, except for actual expenses paid on behalf of the principal, until the responsible broker has fully performed the services for which the principal contracted. A full and itemized accounting ~~must~~shall be furnished the principal within twenty (20) days of any withdrawal of such principal's funds from such principal's account.

Section 2. Audits.

(a) The ~~commission~~Commission may audit the responsible broker's records of his trust accounts and the responsible broker's records of monies deposited with his funds holders to assure compliance with ~~commission~~Commission rules and statutes.

CHAPTER ~~67~~
REGULATORY ENFORCEMENT GROUNDS

Section 1. Regulatory enforcement grounds. The ~~commission~~Commission may take disciplinary action, which includes an administrative fine, censure, probation, suspension, or revocation, including a combination thereof, with respect to a licensee, for any of the following acts or conduct:

(a) Against a licensee and/or licensee's responsible broker for:

(i) Violating or failing to comply with any rule of the ~~commission~~Commission or provision of the act;

(ii) Participating in real estate activity while a license is on inactive status;

(iii) Representing that a particular form or sales ~~commission~~Commission rate has been approved by the ~~commission~~Commission;

(iv) Violation or assisting in the violation of local, state or federal law or regulation;

(v) Using a form which does not describe the actual real estate transaction;

(vi) Making any false promise which influences, persuades, or induces action by another relating to a real estate transaction;

(vii) Failing to account for or to remit any moneys or documents coming into his possession which belong to others;

(viii) Commingling the money or property of others with his own;

(ix) Permitting the use of his license as a responsible broker to enable anyone to operate a real estate company without actual participations therein and control thereof by the responsible broker;

(x) Failing to provide information requested by the ~~commission~~Commission relative to a complaint, investigation, or audit which could indicate a violation of the act;

(xi) Failing to disclose matters know to the licensee which are material to the real estate transaction;

(xii) Failing to notify sub-agents, multiple listing service or other interested parties when agency or non-agency has been terminated. Notice to multiple listing services shall constitute notice to all members thereof;

(xiii) Failing to remove signs and/or lock boxes after termination of a listing; continuing to advertise real estate which is no longer listed;

(xiv) Advertising and promoting another real estate company's or broker's listings without written permission;

(xv) Failing to pay a fine imposed or comply with all requirements of a ~~commission~~Commission settlement agreement, stipulation and order;

(xvi) Compensating any unlicensed person for performing the services of a licensee for any real estate activity except:

(A) Anyone arranging non-consecutive short-term rentals.

(xvii) Failing to obtain and maintain errors and omissions insurance and provide proof of insurance to the ~~commission~~Commission.

(b) Unless approved by the ~~commission~~Commission, the voluntary surrender, expiration or lapse of a license by a licensee does not prevent the ~~commission~~Commission from proceeding with its investigation of a complaint and taking appropriate disciplinary action against a licensee.

Section 2. Suspension/revocation requirements.

(a) When a responsible broker's license is suspended or revoked, he shall return his license and the licenses of his associate brokers and salesmen to the office of the ~~commission~~Commission.

(i) Licensees affiliated with a responsible broker who have had their license suspended or revoked may not perform any real estate activity until they have transferred to a new responsible broker.

(b) When an associate broker or salesman license has been suspended or revoked, the licensee ~~must~~shall surrender his license to the responsible broker who shall return the license to the ~~commission~~Commission.

Section 3. Unlawful compensation; disputes between licensees.

(a) The ~~commission~~Commission shall not entertain complaints between licensees regarding disputes concerning matters of compensation, the earning, splitting or the non-payment thereof.

(b) A responsible broker may compensate an unlicensed or inactive person for real estate activity performed if the person was actively licensed and under the responsible broker's supervision at the time the real estate activity was performed.

(c) W.S. 33-28-110 (a) does not apply to incentives offered or paid to persons, who on their own behalf, engage the services of a licensee to assist them with the sale or purchase of real estate, provided those persons do not perform any real estate activity. Advertising and/or paying such incentives does not violate any provision of the act or rule or regulation of the ~~commission~~Commission.

(d) A licensee may pay their personal assistant a salary directly. The responsible broker ~~must~~shall pay a licensed personal assistant if that personal assistant is to receive a percentage of any compensation.

(e) A responsible broker's payment of earned real estate ~~commission~~Commission to a corporation or LLC which is solely owned by a licensee working under the responsible broker shall not be considered a violation of W.S. 33-28-111(a)(xxiii), "compensating any unlicensed person." Any agreement between the responsible broker and the corporation or LLC does not relieve the responsible broker of the obligation to supervise the licensee or any other requirement of the act or ~~commission~~Commission rules.

CHAPTER 78
ERRORS AND OMISSIONS INSURANCE

Section 1. Every Wyoming licensee shall provide proof of errors and omissions insurance which meets the criteria established by these rules.

Section 2. Definitions. The definitions in ~~Chapter 1, section 2~~ W.S. 33-28-102 apply.

Section 3 Insurance required. An applicant for issuance of a license on active status, a licensee renewing a license, or an inactive licensee activating a license ~~must~~shall submit proof of insurance coverage through the group plan or through certification of equivalent coverage.

Section 4. Minimum standards. The group policy obtained by the ~~commission~~Commission shall provide to each individual licensee, at a minimum, the following terms of coverage:

(a) Not less than one hundred thousand dollars single-limit liability coverage for each licensee per occurrence or claim made, not including costs for investigation or defense;

(b) An annual aggregate limit of not less than five hundred thousand dollars per licensee;

(c) A deductible amount for each occurrence of not more than one thousand dollars for single-limit liability coverage and one thousand dollars maximum additional deductible for defense and investigation;

(d) An extended reporting provision of ninety days and an option to purchase an additional three years extended reporting provision for a premium not to exceed two hundred percent of the premium charged for the last year of the terminating coverage;

(e) Coverage under this section for covered acts in any state, United States territory, or Canada in which a covered individual, domiciled in Wyoming, holds a license;

(f) A conformity endorsement allowing a Wyoming resident licensee to meet the errors and omissions insurance requirement for an active license in another group mandated state without the need to purchase separate coverage in that state;

(g) Stacking of benefits;

(h) Proration of premiums for coverage that is purchased during the course of a calendar year but with no provision for refunds of unearned premiums;

(j) The ability of a licensee, upon payment of an additional premium, to obtain higher or excess coverage or to purchase additional coverages from the group carrier as may be determined by the carrier;

(k) The coverage is individual and license-specific and will cover the licensee regardless of changes in employing broker; and

(m) Prior acts coverage shall be offered to licensees with continuous past coverage.

Section 5. Exceptions to coverage.

(a) Except as provided in this section, coverage may not exclude claims brought against the insured licensee arising out of an act or failure to act by the licensee when performing a professional service for which a real estate license is required. Coverage may limit or exclude claims brought against a licensee which arise as follows:

(i) Out of claims or suits made or brought by any insured person against any other insured person within the same firm or from compensation disputes between licensees;

(ii) Out of loss assumed under contract or agreement, except for liability the insured would have had in the absence of such agreements;

(iii) From any criminal, dishonest, actual fraud, or willful act or omission. This exclusion does not apply to any insured person who did not personally participate in committing such an act or omission and who, upon having knowledge of the act or omission, reported it;

(iv) From unlawful discrimination committed by or for the insured person;

(v) From fines or penalties imposed by law;

(vi) From failure to maintain any type or amount of insurance for managed property;

(vii) From bodily injury, personal injury, advertising injury, or property damage;

(viii) From related business activities for which a license is not required under this chapter;

(ix) From involvement in any real estate investment contract or syndication as a partner, joint venture, or underwriter;

(x) From hazardous materials, nuclear materials, or pollutants;

(xi) From prior wrongful acts;

(xii) From management or sale of property in which the insured or spouse has more than a ten percent financial or ownership interest. This exclusion does not apply for one year from the date a property is acquired under a guaranteed sale listing contract if the property is listed for sale during that entire period;

(xiii) From any violation of the Securities Act of 1933, as amended through July 1, 1993, or the Securities Exchange Act of 1934, as amended through July 1, 1993, or any state blue sky or securities law or similar state or federal statutes; or

(xiv) Other standard exclusions that are typical in the professional liability insurance industry may be permitted, subject to the approval of the Wyoming Real Estate ~~Commission~~Commission.

Section 6. Group policy approval requirements.

(a) Any group policy to be issued ~~must~~shall conform to the standards and practices of the insurance industry and be approved by the Wyoming insurance department.

(b) The administrative fee the ~~commission~~Commission shall charge and collect as outlined in W.S. §-33-28-401 may be waived by the ~~Commission~~Commission if the total number of licensees enrolled in the group program is less than two thousand (2,000).

Section 7. Equivalent coverage.

(a) An active licensee who chooses the option of obtaining errors and omissions insurance independently from a carrier other than the group carrier under contract with the ~~commission~~Commission ~~must~~shall show evidence of coverage by providing certification of coverage on a form prescribed by the ~~commission~~Commission. The form ~~must~~shall show proof that the licensee has coverage in compliance with the minimum standards established by section 9. The form ~~must~~shall be signed by an authorized representative of the insurance company and ~~must~~shall contain a cancellation notification clause as required by section 10.

Section 8. Standards for equivalent coverage.

(a) Licensees or applicants may obtain errors and omissions coverage independent of the group plan from any insurance carrier subject to the following terms and conditions:

(i) The insurance carrier is licensed and authorized by the Wyoming insurance department to write policies of errors and omissions insurance in this state and is in conformance with all Wyoming statutes.

(ii) The insurance provider maintains an A.M. Best rating of "B" or better and Financial size category of class VI or higher.

(iii) The policy, at a minimum, complies with all relevant conditions set forth in this rule and the insurance carrier so certifies in an affidavit issued to the insured licensee or applicant in a form specified by the ~~commission~~Commission and agrees to immediately notify the ~~commission~~Commission of any cancellation or lapse in coverage. Independent coverage ~~must~~shall provide, at a minimum, the following:

(A) The contract and policy are in conformance with all relevant Wyoming statutory requirements.

(B) Coverage includes all acts for which a real estate license is required, except those illegal, fraudulent or other acts which are normally excluded from such coverage.

(C) Coverage cannot be canceled by the insurance provider except for nonpayment of premiums or fraud.

(D) Coverage is for not less than \$100,000 for each licensed individual and entity per covered claim, regardless of the number of licensees or entities to which a settlement or claim may apply, with an annual aggregate limit of not less than \$500,000 per licensed individual and entity.

(E) Payment of claims by the provider shall be on a first dollar basis and the provider shall look to the insured for payment of any deductible.

(F) The ability of a licensee, upon payment of an additional premium to obtain an extended reporting period of not less than 365 days.

(G) That the provider of the independent policy has executed an affidavit in a form or manner specified by the ~~commission~~Commission attesting that the independent policy is in force and, at a minimum, complies with all relevant conditions set forth herein and that the provider will immediately notify the ~~commission~~Commission in writing of any cancellation or lapse in coverage of any independent policy.

(b) Licensees or applicants who obtain equivalent coverage and wish to be on active status ~~must~~shall present the affidavit referred to in subsection (iii) of this section to the ~~commission~~Commission:

(i) When renewing an active license, no later than at the time of renewal;

or

(ii) Upon any request for reinstatement or activation of a license; or

(iii) Upon application for an active license.

(c) Applicants for a license, activation, renewal and reinstatement shall certify compliance with this rule on forms or in a manner prescribed by the ~~commission~~Commission. Any active licensee who so certifies and fails to obtain errors and omissions coverage or to provide proof of continuous coverage, either through the group carrier or directly to the ~~commission~~Commission, shall be placed on inactive status:

(i) Immediately, if certification of current insurance coverage is not provided to the ~~commission~~Commission; or,

(ii) Immediately upon the expiration of any current insurance when certification of continued coverage is not provided.

Section 9. Time for filing certification of equivalent coverage. Certification of equivalent coverage ~~must~~shall be filed with the ~~commission~~Commission by 5 p.m. on the date of expiration of coverage. If the certification is not filed on time, the ~~commission~~Commission shall place the license on inactive status on that date.

Section 10. Nonpayment of premium. If a licensee's insurance company or group plan notifies the ~~commission~~Commission that a licensee has not paid a premium, the ~~commission~~Commission shall place that license on inactive status as of the date of termination of coverage.

Section 11. Surrender of license for failure to provide proof of insurance.

(a) When a licensee receives notice of being placed on inactive status for failure to provide proof of insurance, the licensee shall immediately surrender the license to the ~~commission~~Commission.

Section 12. Notification required for cancellation.

(a) If insurance under equivalent coverage is to lapse or not be renewed, the providing company ~~must~~shall notify the real estate ~~commission~~Commission of the intent to lapse or not to renew, a minimum of thirty (30) days before the expiration date of the term.

Section 13. Proof of insurance required to activate license.

(a) A licensee whose license has been placed on inactive status for failure to

provide proof of insurance may not conduct any activities for which a license is required until proof of insurance has been provided to the ~~commission~~Commission and the license has been activated. The license shall be considered active as of the effective date of the insurance.

Section 14. Authenticity of coverage.

(a) A licensee may not willfully or knowingly cause or allow a certificate of coverage to be filed with the ~~commission~~Commission that is false, fraudulent, or misleading.

CHAPTER 89
WYOMING REAL ESTATE ~~COMMISSION~~COMMISSION

APPLICATION REVIEW, COMPLAINTS AND HEARING PROCEDURES

Section 1. Application Review Process.

(a) Upon receipt of a completed application, the ~~Commission~~Commission office shall review the application and, if it is complete and there are no known grounds for denial of the license requested, issue the license. If there are known grounds for denial, the ~~Commission~~Commission office shall forward the application to the Application Review Committee (ARC).

(b) The ARC shall review the application and all other information available and following the review may:

(i) Approve the application if the applicant meets all requirements; or

(ii) If there are questions as to whether denial is appropriate, forward the application and the ARC report to the Assistant Attorney General assigned to the ~~Commission~~Commission for prosecution for review.

(c) If, after review, and following consultation with the Assistant Attorney General, the ARC concludes that grounds exist to recommend denial of an application:

(i) A preliminary denial letter shall be sent to applicant. The letter shall:

(A) State the basis for the denial including relevant statutes and rules; and

(B) Advise the applicant of the right to request reconsideration.

(ii) If the applicant fails to request reconsideration in writing within thirty (30) days of the date of the preliminary denial letter, the preliminary denial becomes final.

(iii) If the applicant requests reconsideration within thirty (30) days, a reconsideration conference shall be held with the ARC, the Assistant Attorney General, and the applicant.

(iv) Following a reconsideration conference, the ARC shall either approve or deny the application and notify the applicant.

(v) If denied, the applicant ~~must~~shall submit a written request for a hearing before the ~~Commission~~Commission within thirty (30) days of the date of the denial letter or the denial is final.

Section 2. Application Denial Hearings.

(d) Application denial hearings

_____ (ai) An application denial hearing is a formal contested case hearing conducted pursuant to the Wyoming Administrative Procedure Act ~~following applicable provisions of the formal hearing procedures established later in this Chapter.~~

~~(b) The hearing is to be conducted in the presence of a quorum of the commission, with a hearing officer presiding.~~

_____ (iie) The applicant has the burden of proving that he/she meets all requirements for the license requested.

~~_____ (e) The ARC may attend hearings, but shall not take part in the consideration of any contested case.~~

Section 23. Complaints.

(a) A disciplinary action is initiated against a licensee by submitting a sworn written complaint to the ~~Commission~~Commission office. A complaint concerning an alleged violation of the Act or ~~Commission~~Commission Rules may be submitted by any person or entity, a ~~Commission~~Commission member, or a member of the ~~Commission~~Commission staff. The sworn written complaint should provide as much of the following information as may be available and applicable:

(i) The name and address of the complainant;

(ii) The name, address, place of employment, and telephone number of the licensee against whom the charges are made;

(iii) The specific conduct alleged to constitute the violation;

(iv) The name and address of any other witnesses; and

(v) The signature of the complainant.

Section 34. Review of Sworn Written Complaint.

(a) Sworn written complaints shall be referred to an Liaison Commission Member

(LCM) selected by Commission staff from a rotating schedule. License holders against whom charges are made will be advised of the investigation, the name of the LCM, and the nature of the complaint.

~~sent to the licensee complained against and be referred to the investigator for the commission, the Assistant Attorney General, and a Liaison commission Member (LCM) selected by commission staff. The LCM, following consultation with the investigator and the assistant attorney general, shall determine whether the complaint merits further investigation. If the complaint does not evidence conduct which violates the Act or Commission Rules, it does not merit further investigation and the LCM shall dismiss it. If the complaint merits further investigation, the licensee against whom the complaint was filed will be advised of the investigation, the names of the LCM and the investigator, and the nature of the complaint, and given an opportunity to respond to the complaint.~~

(i) The LCM shall not take part in the consideration of any contested case.

(ii) The LCM shall not, by this rule, be barred from attending any disciplinary hearing.

Section 45. Investigations and Commission Action. ~~The investigator for the commission shall investigate those sworn written complaints received which the LCM has determined merit further investigation. LCM and Commission staff shall investigate those written complaints received which merit further investigation.~~

(a) Upon completion of the investigation, the investigator for the ~~commission~~Commission shall prepare an investigative report and submit it to the LCM.

(i) The report shall include:

(A) The findings;

(B) A list of statutes and/or ~~commission~~Commission rules believed to have been violated; and

(C) Any relevant additional information and/or documentation.

(b) The LCM shall review the investigative report, forward the report and his/her recommendations to the Assistant Attorney General assigned to the ~~commission~~Commission for prosecution, and consult with the Assistant Attorney General.

(c) Following consultation with the Assistant Attorney General, the LCM may:

(i) Send the notice required by section 65;

(ii) Prepare and file a formal petition and notice of hearing setting the matter for a contested case hearing before the ~~commission~~Commission;

(iii) Recommend the ~~commission~~Commission accept an offer of conditional terms for settlement, which may include educational courses;

(iv) Recommend the Commission ~~D~~dismiss the complaint.

(d) The ~~commission~~Commission may resolve a complaint at any time by:

(i) Accepting a voluntary surrender of a license;

(ii) Accepting conditional terms for settlement;

(iii) Dismissal.

Section 65. Service of Notice and Opportunity to Show Compliance.

~~(a)~~ Prior to commencement of a formal hearing, the LCM shall give notice by mail to the licensee of the facts or conduct which warrants his/her intended action. The notice shall give the licensee an opportunity to show compliance with all lawful requirements for retention of the license within twenty (20) days of the mailing of the notice. Such notice shall be sent to the licensee's last known address both by certified mail with return receipt requested and by first class mail. ~~Service shall be deemed complete when mailed.~~

Section 76. Formal Hearing Procedures Prerequisites.

(a) Formal proceedings for a hearing before the ~~commission~~Commission regarding a denied application or an action against an applicant or licensee shall be commenced by notice of hearing for applicants or petition and notice of hearing for licensees, served in person, or by both certified mail and first class mail sent to the address last known by the ~~commission~~Commission at least thirty (30) days prior to the date set for the hearing. The petition and notice shall contain at least:

(i) The name and address of the applicant or licensee;

(ii) A statement, in ordinary and concise language, of the reasons for denial or the nature of the complaint filed with the ~~commission~~Commission, the facts upon which the denial or complaint is based, as well as the specific statute(s) or ~~commission~~Commission rules and regulations alleged to have been violated;

(iii) The time, place, and nature of the hearing;

(iv) That the hearing is being held pursuant to the authority provided by W.S. 33-28-106(g), (h), (j), or (m) (for application denials), 33-28-111 and 33-28-113; and

(v) That the applicant or licensee shall file an Answer or Notice of Appearance, which ~~must~~shall be received by the ~~commission~~Commission at least ten (10) working days prior to the date set for hearing, or the applicant or licensee will be in default.

~~**Section 8. Continuance.** For good cause shown, extensions and continuances may be granted or denied at the discretion of the commission or the hearing officer.~~

Section 97. Default. The ~~commission~~Commission may enter an order based on the allegations in a notice of hearing or petition and notice of hearing in any case where the applicant or licensee has not answered or appeared in writing ten (10) working days before the hearing, or in any case in which the applicant or licensee or his/her representative has not appeared at a scheduled hearing for which he had notice.

Section 108. Hearing Officer Contested Case Hearings.

~~The commission may appoint a hearing officer to take evidence at the hearing, or the chairperson or a commission member may serve as the hearing officer.~~ (a) The Office of Administrative Hearings shall act as the hearing officer and shall preside over the formal contested case hearing which shall be conducted pursuant to the Wyoming Administrative Procedure Act and the Office of Administrative Hearings' rule concerning contested case proceedings.

(b) At the Commission's discretion, contested case hearings shall either be conducted in the presence of a quorum of Commission members or a committee of one (1) or more Commission members.

(c) During the formal contested case hearing, Commission members may ask questions of the witnesses and/or the parties including their attorneys.

(d) A court reporter shall be present during the hearing and report the entire proceeding.

~~**Section 11. Discovery.** In all formal proceedings before the commission, discovery shall be afforded in accordance with the Wyoming Administrative Procedure Act.~~

Section 129. Subpoenas.

(a) A commission member or the hearing officer may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and shall have the power to administer oaths.

(b) Service of a subpoena must be made at the expense of the party applying for it and shall be made in the manner provided by law for service of subpoenas in civil actions.

| **Section 1310. Witnesses.**

(a) All persons testifying at any hearing before the commission shall be administered a standard oath or affirmation.

(b) No testimony will be received from a witness except under oath or affirmation.

(c) The party calling a witness shall bear the costs associated with his appearance.

(d) The commission and hearing officer shall have an opportunity to examine any witness.

| **Section 1411. Representation.**

(a) An applicant or licensee may represent himself or be represented by counsel, provided that such counsel is licensed to practice law in the State of Wyoming or is associated at the hearing with one or more attorneys licensed to practice law in the State of Wyoming.

(b) In any case before the commission, an appearance in person or the filing of an answer or other pleading by an attorney shall constitute an appearance of record by an attorney.

(c) A request for withdrawal from representation by an attorney shall be submitted to the commission in writing.

(d) The Assistant Attorney General assigned to the commission for prosecution shall present all matters in a contested case on behalf of the ARC or LCM.

| **Section 1512. Prehearing Conference.**

(a) The hearing officer may direct the parties to appear before him to consider:

(i) The simplification of the issues;

(ii) The necessity or desirability of amending the pleadings;

(iii) The possibility of obtaining admissions of fact and of documents to avoid unnecessary proof;

(iv) Formulating procedures to govern the hearing; or

(v) Such other matters as may aid in the presentation or disposition of the case.

(b) Prehearing conferences shall be conducted informally. An order will be prepared which recites the actions taken at the conference, amendments allowed, agreements of the parties, and the issues to be determined at the hearing.

Section 1613. Order of Procedure at Hearing. The hearing will be conducted in substantially the following order:

(a) Opening announcements are made by the hearing officer, including case name and docket number, the issue(s) to be considered, parties and counsel present, and subpoenas issued;

(b) Witnesses should be identified and sworn;

(c) Opening statements may be made at the discretion of the hearing officer. In cases of license denial, the applicant should go first. In disciplinary cases the LCM should go first;

(d) Presentation of Evidence. The order above will be followed with each party, the hearing officer, and the commission having the opportunity to cross-examine the witnesses. Rebuttal evidence may be presented;

(e) Exhibits offered in evidence by the applicant or the licensee will be marked with the letters of the alphabet. Those offered by the LCM will be marked numerically;

(f) Closing arguments may be made at the discretion of the hearing officer. Time may be limited, the order of presentation is as above, and brief rebuttal time may be allowed. The hearing and the evidence are then closed, unless reopened by the hearing officer for good cause shown.

Section 1714. Decisions.

(a) Proposed Decisions:

(i) At the discretion and direction of the ~~commission~~hearing officer, the parties may file proposed findings of fact, conclusions of law, and order after the hearing and before the deadline announced in the hearing's closing announcements.

(ii) At the discretion and direction of the ~~commission~~Commission, the hearing officer or the Assistant Attorney General assigned to advise the Commission

shall prepare proposed findings of fact, conclusions of law, and order following deliberations by the Commission or its committee.

(b) Final Decisions. Proposed decisions will be given consideration but are not binding upon the ~~eommission~~Commission. All final decisions will be issued by the ~~eommission~~Commission and shall be based exclusively upon the evidence in the record and matters officially noticed. All final decisions issued by the ~~eommission~~Commission shall be served to all parties by first class mail sent to their last known address.

Section 185. Appeals. A Petition for Judicial Review of the ~~eommission~~Commission decision may be filed in the district court in accordance with the Wyoming Rules of Appellate Procedure.

Section 169. Transcripts. If a Petition for Judicial Review is filed in the district court, the petitioner shall either arrange the preparation and pay for the transcript of the testimony, or reimburse the ~~eommission~~Commission for the cost of the transcript if previously prepared at ~~eommission~~Commission expense.