

1 6/13/2007

2
3 Mark-up Copy

4
5 Summary:

6
7 Change to (a) (3) (B) implements Act 263 of 2007 regarding the experience requirement
8 to qualify for a broker license. The Commission may now accept experience considered
9 to be real estate related to meet the broker experience requirement in lieu of holding an
10 active salesperson license.

11
12 Change to (a) (5) and (b) (4) deletes the requirement to obtain three signatures on the
13 application that attest to the applicant's reputation for honesty, trustworthiness, and
14 integrity, and have known the applicant for at least one (1) year. This is no longer needed
15 since the Commission requires Criminal Background checks.

16
17 Changes to (g) implements Act 53 of 2007 allowing Applicants to sit for the real estate
18 exam prior to the Commission receiving the criminal background check.

19
20 **4.1 Applications; education; experience.**

21
22 Applicants for original licensure as a broker or salesperson must apply on forms
23 provided by the Commission, pay the application fee established by these regulations,
24 and meet the following requirements:

25 (a) Broker applicants must provide proof of the following:

26 (1) Attainment of the age of majority, which proof may consist of a birth certificate or
27 copy thereof, driver's license, or other document or proof of age which is satisfactory to
28 the Commission;

29 (2) Successful completion within thirty six (36) months immediately preceding the
30 date of the application of a course or courses of instruction in real estate principles,
31 license law, and Commission regulations by actual classroom attendance or completion
32 of approved distance education courses for not less than sixty (60) classroom hours.
33 Applicants who are retaking only one part of the examination pursuant to Regulation 4.2
34 (c), shall remain subject to the requirement which was in effect at the time the applicant
35 passed the other part of the examination. Proof of completion of such education
36 requirement shall consist of the original certificate(s), or certified copies thereof, from the
37 school or organization or other documentation satisfactory to the Commission;

38
39
40 (3)(A) Service by the applicant of an active bona fide apprenticeship by holding a valid
41 real estate salesperson's license issued by the Commission, or by holding a valid real
42 estate salesperson's license or broker's license issued by the appropriate licensing agency
43 of another state, for a period of not less than twenty four (24) months within the previous
44 forty eight (48) month period immediately preceding the date of application, which proof
45 may consist of the official license records of the Commission or certified copies of
46 licensure records of the appropriate licensing agency of another state, or such other
47 documentation as the Commission deems satisfactory;

1
2
3 (B) However, pursuant to Section § 17-42-303 (b)(2) the Commission may waive
4 such experience requirement for a real estate broker applicant who has held an active real
5 estate broker's license for a period of not less than eighteen (18) months or who has
6 experience acceptable to the commission in a field considered real estate related for a
7 period of not less than twenty-four months within the previous forty-eight-month period
8 immediately preceding the date of application. Each request for such waiver shall be in
9 writing and shall include such proof as necessary to establish the applicant's eligibility
10 for the waiver. Such proof may consist of the official license records of the Commission,
11 certified copies of license records of the appropriate licensing agency of another state, or
12 such other documentation as the Commission deems satisfactory;

13 (4) The applicant's affidavit that he/she has no record of unprofessional conduct;

14
15 (5) Any other information or documents required by the Commission.

16 (b) Salesperson applicants must provide proof of the following:

17 (1) Attainment of the age of majority, which proof may consist of a birth certificate or
18 copy thereof, driver's license, or other document or proof of age which is satisfactory to
19 the Commission;

20 (2) Successful completion of a course or courses of instruction in real estate by actual
21 classroom attendance or completion of approved correspondence courses of not less than
22 sixty (60) classroom hours, of which at least thirty (30) hours must be in the basic
23 principles of real estate; which proof shall consist of the original certificate(s), or certified
24 copies thereof, from the school or other organization or other documentation satisfactory
25 to the Commission;

26 (3) The applicant's affidavit that he/she has no record of unprofessional conduct;

27
28 (5) Any other information or documents required by the Commission.

29 (c) (1) Effective January 1, 2006, the Commission may require each original applicant
30 for a salesperson or broker license, including nonresident applicants applying pursuant to
31 Arkansas Code Ann. § 17-42-305, using forms furnished by and pursuant to instructions
32 provided by the Commission to apply for a state and federal criminal background check
33 to be conducted by the Identification Bureau of the Department of Arkansas State Police
34 and Federal Bureau of Investigation pursuant to Arkansas Code Ann. § 17-42-315.

35 (2) "Criminal background check" means a state and nation-wide criminal records
36 check conducted by the Arkansas State Police and Federal Bureau of Investigation,
37 including the taking of fingerprints.

38 (3) Each such applicant shall submit, prior to or with the Application for Real Estate
39 Examination, the form furnished by the Commission authorizing the release of the
40 applicant's criminal background check report to the Commission and shall pay any
41 applicable fees, associated with the State and Federal criminal background checks,
42 pursuant to written instructions provided by the Commission. The release form shall
43 authorize the Identification Bureau of the Arkansas State Police to forward all criminal
44 history information obtained concerning the applicant in regard to any offense referred to
45 in Arkansas Code Ann. § 17-42-315 to the Commission.

1 (4) The criminal background check shall be completed within six months
2 immediately preceding the date the Application for Real Estate License Examination is
3 received in the Commission's office, and if not, the application shall be returned to the
4 applicant.

5 (5) Upon request and proof of identification satisfactory to the Commission
6 the Commission may make the report of any criminal information available to the
7 applicant who is the subject of the report and shall provide the applicant a reasonable
8 time to challenge the accuracy or completeness of the information therein, through the
9 State Identification Bureau pursuant to Arkansas Code Ann. § 12-12-211 and Arkansas
10 Crime Information Center Regulation 7(F).

11 (6) Should an applicant challenge his/her conviction report, he/she shall notify the
12 Commission in writing. After receipt of such notice, the Commission shall not determine
13 whether an applicant is qualified for the license applied for until the applicant has had
14 reasonable opportunity to challenge said conviction report and shall not process the
15 application until the challenge of said report is resolved by the State Identification Bureau
16 and/or Arkansas Crime Information Center. The applicant shall notify the Identification
17 Bureau to forward to the Commission changes in the applicant's report as a result of any
18 such challenge.

19 (7) Except as provided in Arkansas Code Ann. § 17-42-315 (g), no person shall
20 receive or hold a license issued by the Commission if the person has been convicted by
21 any court in the State of Arkansas or of any similar offense by a court in another state or
22 of any similar offense by a federal court of an offense identified in Ark. Code Ann. § 17-
23 41-315 (f).

24 (8) After a hearing the Commission may waive a conviction identified in the
25 preceding paragraph, upon application of the applicant, pursuant to the provisions of Ark.
26 Code Ann. § 17-42-315 (g).

27 (d) All classroom hours required by Regulation 4.1(a) and (b) shall be conducted by:

28 (1) An accredited postsecondary school wherever situated; or

29 (2) A school or organization licensed by the State Board of Private Career Education.

30 (3) A school or organization approved by a real estate licensing jurisdiction deemed
31 equivalent by the Commission.

32 (e) The course or courses of instruction requirements of Regulation 4.1(a) and (b) may
33 be satisfied by successful completion of such distance education courses as the
34 Commission may by regulation require, giving due consideration to the number of hours
35 necessary to provide instruction in basic competencies required for a broker's license or
36 salesperson's license, as the case may be, and to the advice and recommendations of the
37 State Board of Private Career Education.

38 (f) Both broker and salesperson applicants shall also answer all questions and provide
39 all information requested on the examination application, and shall provide such other
40 information or documentation as the Commission may require.

41 (g) Applicants that have provided all requirements of Regulation 4.1, may sit for the
42 real estate examination, provided that a state and federal criminal background check, as
43 required by ACA § 17-42-315, has been sent to the Identification Bureau of the
44 Department of Arkansas State Police for a state and federal criminal background check.
45 However no license shall be issued upon successful completion of the examination, until

1 receipt and approval by the Commission of the state and federal criminal back ground
2 check.

3 (h) All applications expire one (1) year after the date of the application or upon
4 successful completion of the examination, whichever first occurs. Provided, however
5 that the application of an applicant who takes and passes either part of the examination
6 within one (1) year from the date of his application shall not expire until the six (6)
7 months allowed for retaking the failed portion pursuant to Regulation 4.2(c) has expired.

8 (i) Application fees are non-refundable.

9
10

1 6/13/2007

2
3 Mark-up Copy

4
5 Summary:

6
7 Changes to (c) implements Act 53 of 2007 which allows the Commission to extend the
8 90 day period after passing the real estate exam to apply for a license, if the criminal
9 background check has not been received by the Commission.

10
11
12
13 **4.3 Examinations; application procedure; time requirements.**

14
15 (a) The Commission shall announce from time to time the dates and locations of
16 examinations. All applications should be received in the Commission office at least ten
17 (10) days before the examination for which the applicant desires to sit. However,
18 regardless of the date on which the application is received by the Commission, it shall be
19 processed as expeditiously as possible under the circumstances. Once the application is
20 processed, the Commission will send to the applicant a "Certificate of Examination
21 Eligibility." The certificate will include instructions for making examination reservations
22 and will be required for admission at the test center.

23 (b) An examination fee which shall equal the actual cost of the examination as
24 established by the testing service engaged by the Commission will be collected at the test
25 center. The examination fee shall be made payable to the testing service unless the
26 applicant is otherwise notified by the Commission. The examination fee shall be charged
27 each time an applicant applies to take an examination and is non-refundable.

28 (c) An applicant shall receive notice upon passing the examination. Each successful
29 broker and salesperson applicant shall pay to the Commission, within ninety (90) days
30 from the date of the successful completion of the examination, the appropriate license fee
31 and recovery fund fee. However, the payment of the recovery fund fee shall be waived
32 for any successful applicant who has previously paid such fee. If a successful applicant
33 shall fail to pay the prescribed fee(s) within ninety (90) days following the date of the
34 examination, the examination results shall be null and void, and the applicant shall be
35 required to make new application and retake the examination, as an original applicant. If
36 the Federal criminal background check has not been received by the commission within
37 ninety (90) days of the date of the examination, the date may be extended by the
38 commission until receipt of the Federal criminal background check.

1
2
3 6/13/2007

4
5 Mark-up Copy

6
7 Summary:

8
9
10 The change to (a) deletes the requirement to include the words “Branch” or “Branch
11 Office” on the office signs at a Branch location. However, the name of the firm as
12 previously approved by the Commission must still be displayed

13
14
15 **7.4 Branch office.**

16
17 (a) All branch offices shall have and display a real estate sign and a duplicate principal
18 broker’s license. Principal Brokers who wish to open a branch office shall furnish the
19 Commission a photograph of the branch office sign as previously approved by the
20 Commission bearing the name of the company. If licensees are to be licensed at that
21 branch office, an executive broker shall be designated by the principal broker, to be in
22 charge of the branch office. Such executive broker shall be responsible for any licensee
23 licensed with such branch office pursuant to a written designation of responsibility filed
24 by the principal broker with the Commission on a form provided by the Commission
25 consistent with Regulation 10.4(a)(1), and shall not be gainfully employed or engaged in
26 any non-real estate related field pursuant to Regulation 10.4(e).

27 (b) If such branch office, maintains its own trust account or separate escrow agent the
28 principal broker shall be responsible and accountable for any and all trust funds received
29 by the branch office and any and all deposits to or disbursements from the trust account.
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

1 6/13/2007

2
3 Mark-up Copy

4
5 Summary:

6
7
8 Change adds a provision that outlines requirements that a principal broker or designated
9 executive broker, who does not have any ownership interest in the firm, must follow if
10 terminated by the firm's owner or designee.

11
12
13 **7.5 Termination or transfer.**

14
15 (a) Within seven (7) days after the employment or association of a licensee with a
16 principal broker ends, such principal broker shall notify the Commission of such
17 termination and return to the Commission the license and pocket card of the terminated
18 licensee. Such notification shall automatically inactivate the license. Immediately upon
19 termination, the terminated licensee shall deliver to the principal broker his/her pocket
20 card.

21 (b) The license of a licensee terminated under Regulation 7.5(a) may be transferred to
22 another firm, after the license and pocket card have been returned to the Commission, by
23 the licensee's filing with the Commission a transfer application signed by the new
24 principal broker. Such transfer application must be accompanied by (1) a statement that
25 the licensee is not taking any listings, management contracts, appraisals, lease
26 agreements, or copies of any such documents, or any other pertinent information
27 belonging to the former principal broker or firm, and (2) a transfer fee. At the time the
28 transfer application and the accompanying items are filed, a temporary interim license
29 may be issued.

30 (c) If an actively licensed broker or salesperson does not wish to continue to engage in
31 the real estate business, such broker or salesperson shall return any license and pocket
32 card in his/her possession to his/her principal broker who shall then return these items to
33 the Commission for inactive status. A broker who closes his/her firm shall remove all
34 signs reflecting the company name and shall return all licenses and pocket cards issued to
35 the principal broker to the Commission office for inactive status. If a real estate firm
36 shall close its office, any real estate salesperson licensed with such principal broker shall
37 be entitled to transfer to a new principal broker upon compliance with the appropriate
38 provisions of the Arkansas Real Estate License Law and Commission regulations.

39 (d) If the principal broker is deceased, unavailable, or for any reason unwilling or
40 unable to act, then the licensee has the responsibility to notify the Commission in writing
41 of the termination or transfer and of returning the pocket card and license.

42 (e) A principal broker of a real estate firm or designated executive broker of a branch
43 office, who has no ownership interest in the firm, who is terminated by the firm's owner
44 or designee, shall notify the Commission in writing immediately upon termination. The
45 written notification must include a statement that the principal broker or branch office
46 designated executive broker has been terminated by the owner of the firm or designee,
47 and that the terminated principal broker or executive broker is relinquishing his/her

1 responsibilities as principal broker or branch office designated broker effective the
2 termination date. The respective broker license and pocket card must be returned with the
3 written notification.

4 If the real estate firm or branch office is not closing, and another principal broker or
5 branch office designated broker is not immediately available to assume responsibilities of
6 the real estate firm or branch office, the owner of the real estate firm may request in
7 writing that the Commission permit the real estate firm to continue operating pursuant to
8 Regulation 7.7.

9 If the owner of the real estate firm closes the firm and ceases to do business and
10 maintain an office, the principal broker shall notify the commission in writing of said
11 closing, return all licenses and pocket cards to the commission and comply with
12 Regulation 10.7(c).

13 A principal broker or branch office designated executive broker who has been
14 terminated by the real estate firm owner or designee of a real estate firm that is not
15 closing, and who does not notify the commission in writing, relinquish responsibilities as
16 principal broker or designated branch office executive broker, and return his/her broker
17 license and pocket card to the commission, shall be presumed to be in violation of A.C.A
18 § 17-42-311 and subject to appropriate sanctions.

19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

1 6/13/2007

2
3 Mark-up Copy

4
5 Summary:

6
7 Change to (a)(2) deletes recordkeeping requirement for Brokers to identify
8 licensees for whose activities they are responsible, for within the firm.

9
10 Change to (d)(2) clarifies closing responsibility of the Principal Broker (PB), Designated
11 Executive Broker (DEB), or their assigned licensee. The change also strongly
12 recommends that the PB, DEB, or assigned licensee advise the client to obtain an insured
13 closing letter.

14
15 **10.4 Broker responsibilities; executive brokers; part-time brokers.**

16
17 (a) (1) A principal broker is generally responsible for all business conducted by the
18 broker's firm and for all of the real estate activities of all of those licensed under or
19 associated with the principal broker. A principal broker may delegate supervisory
20 responsibility to another broker by designating such broker as an "executive broker." The
21 executive broker may sign offer and acceptance forms as supervising broker and can be
22 responsible for instructing and supervising salespersons and/or brokers for whom the
23 executive broker is responsible. The executive broker may also be delegated
24 responsibility by the principal broker for administrative procedures required by the
25 Commission, such as signing transfer applications.

26 (2) For each executive broker so designated, the principal broker must complete
27 and file with the Commission an appropriate designation form signed by both the
28 principal broker and the designated executive broker. The designation of an executive
29 broker is effective when filed with the Commission.

30 (3) Designation of one or more executive brokers does not absolve the principal
31 broker of general responsibility for the conduct of all real estate business conducted by
32 the principal broker's firm, and the principal broker is specifically responsible for the
33 activities of all executive brokers.

34 (b) Principal brokers and executive brokers have the duty and responsibility to instruct
35 those brokers and salespersons licensed under them with regard to the fundamentals of
36 real estate practice and the ethics of the profession, and to keep them informed and
37 abreast of all changes and developments pertaining to the Arkansas Real Estate License
38 Law and Commission regulations. They shall also exercise strict supervision of the real
39 estate activities of all those licensed under them and for whom they have supervisory
40 responsibility.

41 (c) Whether or not a principal broker or executive broker has discharged these
42 responsibilities for those licensed under him/her will depend on various factors and
43 circumstances, including, without limitation, the following:

- 44 (1) Frequency and manner of contact and communication;
45 (2) Type and frequency of educational and instructional activities;
46 (3) Method and frequency of monitoring real estate activities.

1 (d) (1) The preparation of instruments in connection with a real estate rental or sale and
2 the closing of a sale by a licensee must be performed by or under the specific supervision
3 of the principal broker.

4 (2) If the principal broker or designated executive broker or their assigned licensee,
5 closes a transaction or selects a third party to close the transaction, it is the responsibility
6 of the principal broker or designated executive broker to ensure that the real estate
7 closing conducted on behalf of the principal broker's or designated executive broker's
8 client(s) is conducted in accordance with the agreement of the buyer and seller. If the
9 buyer and/or seller selects a third party to close the transaction the principal broker or
10 designated executive broker, or their assigned licensee, must provide written closing
11 instructions, on behalf of their client(s), to the third party closing the transaction, and
12 review the client's closing statement, if reasonably available, to insure that the closing is
13 conducted in accordance with the agreement of their client. It is strongly recommended
14 that the principal broker, designated executive broker, or assigned licensee advise the
15 client to obtain, an insured closing or protection letter or similar assurance.

16 (e) No broker who is gainfully employed, or who is engaged in a non-real estate related
17 field, may employ any licensee to work under the broker's license issued to such broker.
18 A broker who is employed or who is engaged in any field other than real estate will be
19 presumed to be gainfully employed or engaged in a non-real estate related field. This
20 presumption may be overcome by proof that such employment or engagement is (1) in a
21 real estate related field, and (2) conducted in the same office as the broker's real estate
22 business.

23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41 6/13/2007

42
43 Mark-up Copy

44
45 Summary:

46
47 The change to (b)(3) implements Act 263 of 2007 which clarifies that records can be

1 maintained by electronic format.

2
3 **10.7 Handling of funds; maintenance of records.**
4

5 (a) (1) A licensee shall immediately deliver to the principal broker any money or other
6 consideration received in connection with a real estate transaction which belongs to
7 others, such as escrow or trust funds, clients' moneys, earnest moneys, rents, advance
8 fees, deposits, etc.

9 (2) A broker shall deposit all advance fees in the broker's trust account and shall
10 disburse such funds only in accordance with the terms of a written agreement signed by
11 the owner of the funds. If such written agreement is not received within a reasonable
12 time after payment of the advance fee, the fee shall be refunded to the owner.

13 (3) "Advance fee" means any fee charged for services to be paid in advance of the
14 rendering of such services, including, without limitation, any fee charged for listing,
15 advertising, or offering for sale or lease any real property.

16 (b) (1) Each principal broker shall maintain complete records of all real estate business
17 handled by that firm. Separate files for each real estate transaction conducted by the firm
18 shall be maintained and shall contain signed copies of any of the following documents
19 which were prepared in connection with the transaction: (i) listing contract, (ii) agency
20 contract, (iii) offers, (iv) offer and acceptance contracts and (v) closing statements, along
21 with any additional documents as may be necessary to make a complete record of each
22 transaction.

23 (2) Each principal broker shall maintain complete records pertaining to property
24 managed for others. Such records shall include all contracts, financial transactions,
25 receipts, statements, repair estimates and other documents relating to management of the
26 property.

27 (3) All records required by Regulation 10.7 shall be maintained by the principal
28 broker for three (3) years or such time as may be required by law, whichever is greater,
29 and shall be open to inspection by and made available to the investigative staff of the
30 Commission at the firm's office or other location designated by the Commission. All
31 records required by Regulation 10.7 may be maintained in an electronic form provided
32 that a copy of the records can be produced as required by this Regulation.

33 (c) When a real estate firm ceases to do business and to maintain an office, the last
34 principal broker remaining with the firm shall be responsible for all records of the firm,
35 including the firm's real estate trust account and transaction records, and at the time the
36 real estate firm's office is closed, the principal broker shall immediately notify the
37 Commission of the address and phone number of the place where those records are being
38 maintained. If for any reason that broker delivers custody or responsibility for those
39 records to another person or firm, he/she shall immediately notify the Commission of
40 such transfer and furnish the name, address and phone number of such person or firm.
41

1
2 6/13/2007

3
4 Mark-up Copy

5
6 Summary:

7
8 Change to (g) clarifies that when “both” seller and buyer have executed the real estate
9 contract, trust funds must be deposited within the 3 day period. Also adds a provision to
10 allow a PB, who receives trust funds to deposit the trust funds “pursuant to a written
11 agreement by the seller and buyer”.

12
13 **10.8 Trust funds; trust accounts.**

14
15 (a) "Trust funds" means and includes money or other things of value not belonging to
16 the principal broker but which are received by the principal broker or any of the principal
17 broker's licensees in connection with a real estate transaction or real estate activity,
18 including, without limitation, clients' moneys, earnest moneys, rents, advance fees,
19 deposits, etc. For purposes of the Arkansas Real Estate License Law and Commission
20 regulations, any funds deposited in a broker's trust account are presumed to be trust
21 funds.

22 (b) Except as provided in Regulation 10.8(d), a principal broker shall not commingle
23 trust funds with personal funds or other non-trust funds and shall not deposit or maintain
24 trust funds in a personal account or any kind of business account except a specifically
25 designated trust account.

26 (c) A principal broker who receives trust funds shall either maintain a separate trust
27 account or shall have an escrow agent for all such trust funds. The principal broker of the
28 firm shall be solely responsible and accountable for all trust funds received by the firm
29 and all deposits to or disbursements from the trust account. The principal broker shall
30 also be responsible and accountable for any funds delivered to an escrow agent selected
31 by the principal broker, but shall not be responsible for funds delivered to an escrow
32 agent selected by the parties. Except as authorized by Regulations 10.8(i) and 12.2, the
33 trust account shall be non-interest bearing. The name on the account shall include either
34 "trust" or "escrow" and must be located in an institution insured by either the FDIC or
35 some other insuring agency of the federal government.

36 (d) A principal broker may maintain the broker's own funds in a designated trust
37 account only when they are clearly identified as the broker's deposit and only for the
38 following purposes:

39 (1) If the bank in which the account is maintained designates a specific minimum
40 balance that must be maintained in order to keep the account open, the broker may
41 maintain that amount in the account designated as the broker's funds.

42 (2) If the bank in which the account is maintained requires a service charge to be
43 paid for the account, the broker may maintain a reasonable amount to cover that service
44 charge in the account in the broker's name, provided, however, that such amount shall not
45 exceed the total of six (6) months service charges.

46 (e) With regard to each separate trust account, the principal broker shall submit to the
47 Commission in writing the following:

- 1 (1) Name and number of the account.
- 2 (2) Name and address of the bank.
- 3 (3) Date the account was opened.

4 The principal broker shall keep the Commission informed at all times of the foregoing
5 details of each separate trust account.

6 (f) In addition to the requirements of Regulation 10.8(e), the principal broker shall
7 submit the same information in writing immediately upon any of the following events or
8 occurrences:

- 9 (1) Commission approval of real estate firm name.
- 10 (2) Change of real estate firm name.
- 11 (3) Designation of new principal broker.
- 12 (4) The account is changed in any respect or closed.

13 (g) (1) No later than three (3) days following the execution of a real estate contract by
14 both seller and buyer, all trust funds delivered to the principal broker, shall be either
15 deposited in the trust account, delivered to an escrow agent, or deposited pursuant to a
16 written agreement by the seller and buyer. All other funds delivered to the broker pending
17 performance of any act shall be, no later than three (3) days, either deposited in the trust
18 account, delivered to an escrow agent, or deposited pursuant to a written agreement by
19 the seller and buyer. Should the third (3rd) day be a Saturday, Sunday, or legal holiday,
20 then the third (3rd) day is extended to the next day which is not a Saturday, Sunday, or
21 legal holiday. The broker shall maintain an accounting of all funds delivered to the
22 broker and shall keep a signed receipt for any funds the broker delivers to an escrow
23 agent. The broker remains responsible for the funds if the broker selected the escrow
24 agent, but not if the parties selected the escrow agent. A broker shall at all times keep
25 detailed records of all funds coming into the broker's possession and all disbursements
26 made by the broker.

27 (2) All trust account bank statements shall be reconciled in writing at least monthly
28 and balanced to the total amount of trust funds deposited in the account which have not
29 been disbursed. Copies of such reconciliations shall be kept by the broker for at least
30 three (3) years or for such time as may be required by law, whichever is greater.

31 (3) All trust fund records, including bank reconciliations, shall be open to
32 inspection by and made available to the investigative staff of the Commission at the
33 firm's office or other location designated by the Commission.

34 (h) (1) All security deposits made under a rental or lease agreement shall be deposited
35 in the principal broker's trust account, including those deposits made on property owned
36 by any licensee licensed under the principal broker unless the licensee who owns the
37 property has a written agreement with the tenant providing that the licensee may keep the
38 security deposit in the licensee's separate account. A copy of any such agreement shall
39 be furnished to the principal broker by the licensee.

40 (2) Provided, however, that a principal broker shall not be responsible for the
41 failure of those licensed under such principal broker to comply with Regulation
42 10.8(h)(1) as long as the principal broker is in compliance with Regulation 10.4.

43 (i) Nothing in this Regulation 10.8 shall be deemed to prohibit a broker from
44 maintaining certain funds or deposits in particular transactions in an interest-bearing
45 account when required to do so by law or valid regulation of any governmental agency,
46 nor shall it prohibit a broker from maintaining an interest-bearing account while

1 participating in the Interest on Real Estate Brokers' Trust Account program authorized by
2 Section 24 of Act 690 of 1993 [A.C.A. §17-42-601 et seq.] and Regulations 12.1 and
3 12.2.

4

5

1 6/13/2007

2
3 Mark-up Copy

4
5 Summary:

6
7 Change to (b) requires signatures of both listing and selling supervising brokers and
8 licensees on the real estate contract.

9
10 **10.12 Offers and acceptances.**

11
12 (a) All offers received on a specific property shall promptly be presented to the seller
13 by the listing firm or other licensee designated by an authorized representative of the
14 listing firm.

15
16 (b) Every offer received must be signed by the licensee who receives it and by that
17 licensee's supervising broker. Every acceptance must be signed by the listing licensee and
18 that licensee's supervising broker . (It is desirable for the supervising brokers of the
19 selling licensee and listing licensee to review and sign each real estate contract before it
20 is submitted to the seller, although that is not always possible. However, such supervising
21 brokers shall review and sign the real estate contract as soon as possible after it is
22 received, and, in all cases, prior to closing.)

23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47 6/13/2007

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

Mark-up Copy

Summary:

No longer applicable.

6/13/2007

Mark-up Copy

Summary:

Change clarifies that the Commission can grant a written extension to complete post license education.

11.1 Requests for waiver or extension.

1
2
3
4
5
6
7
8
9

Each request for a waiver of the continuing education requirement under A.C.A. § 17-42-501(b) or extension of time to complete post license education requirement, shall be in writing and shall be supported by clear and convincing evidence. The Commission shall acknowledge each such request and shall announce its decision in writing. If the waiver or extension is granted, the Commission may impose such terms and conditions as it deems appropriate.