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Chapter RL 16

APPROVED FORMS AND LEGAL ADVICE

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Note: Chapter RL 16 as it existed on March 31, 1986 was repealed and a new chapter RL 16 was created, effective April 1, 1986.

RL 16.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 452.05 (1) (b), 452.07, and 452.14 (3) (m), Stats.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; correction made under s. 13.93 (2m) (b) 7, Stats., Register, May, 1988, No. 389.

RL 16.02 Definitions. (1) “Approved form” means a contractual or conveyance form which is either prepared and approved by the department, pursuant to s. 452.05 (1) (b), Stats., or approved in s. RL 16.03.

(2) “Exclusive agency listing” means a written listing agreement containing all of the elements of an exclusive right to sell listing, except that the owner retains the right to sell the property himself or herself without owing the listing broker a commission.

(3) “Exclusive right to sell listing” means a written listing agreement appointing a broker the exclusive agent for the sale of property for a specific period of time, and which entitles the listing broker to a commission if the property is sold by the owner, by the broker or by anyone else.

(4) “Open listing” means a written listing agreement, which may be given to any number of brokers, with the first broker to secure a buyer under the terms of the listing agreement earning the commission.

(5) “Use a form” means to complete a contractual or conveyance form by filling in the blanks or modifying printed provisions on a form for the purpose of accomplishing the intent of a party in a specific real estate transaction.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; r. (2), renum. (3) to be (5), cr. (2) to (4), Register, July, 1998, No. 511, eff. 8-1-98.

RL 16.03 Approved forms. (1) In addition to forms prepared and approved by the department pursuant to s. 452.05 (1) (b), Stats., the department approves the following for use by brokers:

(a) Forms prepared and approved by the state bar of Wisconsin for deeds, mortgages, mortgage notes, truth-in-lending disclosures, land contracts, release of mortgage, satisfaction of mortgage, assignment of mortgage and assignment of land contract;

(b) Uniform commercial code forms: 1, 2, 3, 4, 11, 410, 411, 430, 445, 450 and 451;

(c) Contractual forms for the sale, purchase or rental of real estate or a business opportunity located in another state, if the contractual forms are those which licensees may legally and customarily use for such transactions in the state where the real estate or business opportunity is located.

(d) Forms prepared by governmental agencies for use in programs administered by them under authority provided by law.

(e) Forms to be used for a property management agreement between a broker and a landlord, prepared by the broker entering into the agreement, the broker’s attorney, or the landlord, that contain provisions relating to leasing, managing, marketing and overall management of the landlord’s property.

(2) In addition to forms prepared and approved by the department pursuant to s. 452.05 (1) (b), Stats., the department grants

approval of the forms in sub. (1) (c), (d) and (e) for use by salespersons.

Note: Copies of most approved forms are available from various business supply stores and forms printers throughout the state of Wisconsin. Forms prepared by governmental agencies for use in programs administered by those agencies, and approved by the department, are available from those agencies. Contractual forms which have been prepared by the department and are currently approved by the department are the following: WB-1 Residential Listing Contract – Exclusive Right To Sell WB-2 Farm Listing Contract – Exclusive Right To Sell WB-3 Vacant Land Listing Contract – Exclusive Right To Sell WB-4 Residential Condominium Listing Contract – Exclusive Right To Sell WB-5 Commercial Listing Contract – Exclusive Right To Sell WB-6 Business Listing Contract – Exclusive Right To Sell WB-11 Residential Offer To Purchase WB-12 Farm Offer To Purchase WB-13 Vacant Land Offer To Purchase WB-14 Residential Condominium Offer To Purchase WB-15 Commercial Offer To Purchase WB-16 Business Offer To Purchase WB-24 Option To Purchase WB-25 Bill of Sale WB-26 Timeshare Contract (Sale by Developer) WB-27 Timeshare Contract (Resale by Non-Developer) WB-36 Buyer Agency Agreement WB-37 Exclusive Listing Contract For Lease of Residential Property WB-42 Amendment To Listing Contract WB-43 Amendment To Contract of Sale/Notice Relating to Contract of Sale WB-44 Counter-Offer WB-45 Cancellation Agreement and Mutual Release WB-46 Multiple Counter-Offer WB-47 Amendment to Buyer Agency Contract

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; cr. (1) (d), am. (2), Register, June, 1988, No. 390, eff. 7-1-88; cr. (1) (e), am. (2), Register, January, 1992, No. 433, eff. 2-1-92; am. (1) (a), Register, July, 1992, No. 439, eff. 8-1-92.

RL 16.04 When to utilize approved forms. (1) Except as provided in subs. (2) and (3), a licensee shall use approved forms when acting as an agent or a party in a real estate or business opportunity transaction.

(2) For those kinds of real estate or business opportunity transactions for which the department has not approved contractual forms a licensee, when acting as an agent or a party, may use contractual forms drafted by a party or an attorney, if the name of the drafter is imprinted on the form before use by a licensee. For the purpose of this subsection, a listing broker is a party to the listing contract transaction.

(3) A licensee may in any transaction where the licensee is acting as an agent, negotiate an agreement and permit the parties or an attorney for one or other of the parties to draft or prepare a contractual agreement which embodies all of the negotiated terms and conditions.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (1) to (3), cr. (2m) and (3m), Register, July, 1992, No. 439, eff. 8-1-92; am. (1) and (2), r. (2m) to (3m), renum. (4) to be (3) and am., Register, July, 1993, No. 451, eff. 8-1-93.

RL 16.05 Legal advice and practice of law. (1) A licensee may not give advice or opinions concerning the legal rights or obligations of parties to a transaction, the legal effect of a specific contract or conveyance, or the state of title to real estate.

(2) Notwithstanding sub. (1), a licensee may give a general explanation of the provisions in an approved form to the parties to a transaction at the time of completing the form or when delivering an approved form for the seller’s or buyer’s acceptance.

(3) A licensee may use approved forms only in those transactions in which the licensee is acting in a capacity as licensee or in which the licensee is a principal, and in either case the use of such forms is incidental to the real estate practice of the licensee.

(4) A licensee may not make a separate charge for completing an approved form in connection with a transaction.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

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RL 16.06 How to use approved forms. (1) A licensee who reproduces or arranges for printing a contractual form prepared and approved by the department pursuant to s. 452.05 (1) (b), Stats.:

(a) Shall assure that the numbering of lines, line contents and the lines appearing on each page are identical to those on the department's forms.

(b) May not reproduce the form in such a manner that optional provisions are left out and blank lines are filled in without any indication of where the optional provisions and blank lines occur on the department's form.

(c) Shall indicate that the form is reproduced by the licensee's firm, stating its address and telephone number at an appropriate place on the form.

(d) May not add additional blank lines or add additional lines containing textual content, or alter the format of the form in any other manner. "Alter the format" does not include modifying margins or font size consistent with par. (a). To add textual content or additional provisions, a licensee shall only fill in blank lines provided for that purpose on a form or add addenda containing additional or altered provisions as provided in subs. (4) and (5).

(e) Shall retain the department's approval statement and date in the upper left corner exactly as these appear on the department's form.

(f) Shall assure that the formatting of the form is substantially identical to that on the department's form.

(2) A licensee who reproduces or arranges for printing a form under s. RL 16.03 (1) (a) or (b) may not modify the form in any way.

(3) A licensee may cross out provisions on approved forms to reflect the agreement of a party to a transaction, provided that the deleted provisions remain legible.

(4) Except as provided in sub. (5), a licensee may use a pre-prepared addendum form and attach it to an approved form under the following circumstances:

(a) The addendum has been prepared by the broker or the broker's attorney; and

(b) The addendum is incorporated by reference into the approved form and the approved form and the addendum are properly related to one another; and

(c) The addendum relates to the blanks on an approved form; or alters or supplants optional provisions within an approved form.

(5) A licensee may use a pre-prepared addendum which supplants or alters the printed provisions of an approved form only if:

(a) The addendum has been drafted by an attorney who is identified on the addendum;

(b) There are no optional or multiple choice provisions in the addendum;

(c) There are no blanks or fill-in provisions in the addendum except for spaces for the signatures of the parties and those items required under par. (d); and,

(d) The addendum is incorporated by reference into the approved form and the approved form and the addendum are properly related to one another.

(6) A licensee may alter an approved exclusive-right-to-sell listing contract to create an exclusive agency listing or an open listing.

(7) A licensee shall use the latest approved version of an approved form.

(8) A licensee shall use approved forms and prepare addenda in such a manner as to adequately accomplish the contractual intent of the person for whom the licensee uses the forms and prepares the addenda.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (4), Register, June, 1988, No. 390, eff. 7-1-88; am. (4), Register, July, 1993, No. 451, eff. 8-1-93; cr. (1) (f), Register, August, 1994, No. 464, eff. 9-1-94; r. and recr. (4), Register, July, 1998, No. 511, eff. 8-1-98; **EmR0811: emerg. am. (1) (a), (b) and (d), eff. 4-16-08; CR 08-040: am. (1) (a), (b) and (d) Register October 2008 No. 634, eff. 11-1-08**

RL 16.07 Violation of this chapter. A licensee who violates this chapter demonstrates, for purposes of s. 452.14 (3) (i), Stats., incompetency to act as a real estate licensee in a manner that safeguards the interests of the public and violates s. 452.14 (3) (m), Stats.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. Register, July, 1998, No. 511, eff. 8-1-98.