

**South Carolina Real Estate
BIC/PMIC Supervision
Recommended Guidelines**



Table of Contents

Introduction	3
General Information	4
Section A: South Carolina Laws and Regulations.....	5
Section B: Considerations for Adequate Supervision	12
Summary.....	13
Section C: Recommended Guidelines for Adequate Supervision	14
(Comprehensive)	
Chapter 1 - Supervision	
1.1 Definition	15
1.2 Supervisory Responsibilities	15
1.3 Licensees.....	16
1.4 Role of BIC/PMIC	16
Chapter 2 – Adequate Supervision	
2.1 Definition	17
2.2 Factors of Adequate Supervision	17
2.3 Evidence of Adequate Supervision	18
2.4 Presence During Formal Complaint Hearings.....	18
Chapter 3 – Recommended Activities of Supervision	
3.1 Office Policies and Procedures	19
3.2 Advertising.....	21
3.3 Written Contracts and Agreements.....	22
3.4 Brokerage Relationships Disclosure.....	23
3.5 Records Retention and Management.....	23
3.6 Trust Funds	24
3.7 Licensee Activity	26
3.8 Unlicensed Activity	26
3.9 Corrective Action	27
Chapter 4 - Frequency of Supervision for Specified Activities	28
Chapter 5 - Other Recommendations for BICS/PMICS.....	29
Appendix	
A. Supervision Agreement	30
B. Corrective Action Form	31
C. List of Prohibited Activities.....	32
D. Supervised Licensee Questionnaire	33
E. Staff Meeting Agenda.....	34
F. Continuing Education Log.....	35
G. Diagram of Trust Fund Handling (Real Estate Sales)	36
H. Diagram of Trust Fund Handling (Property Management).....	37
I. South Carolina Laws and Regulations	38
Resources	54

Introduction

The following manual has been developed to provide guidelines for what the South Carolina Real Estate Commission (the Commission) considers adequate supervision. This manual is not intended to serve as a final and enforceable policy, but is a starting point for a Broker-in-charge (BIC)/Property Manager-in-charge (PMIC) to convey to licensed and unlicensed persons in the BIC's/PMIC's employ expectations for the day-to-day activities of the office and real estate practice. A BIC/PMIC may use any part of or this entire manual as a guide that brings him/her into compliance with the rule of adequate supervision. The manual is intended to serve as a model only, and the BIC/PMIC may choose to adopt any portion of it that is relevant to their brokerages or offices. The manual is not intended to be used as a policy and procedures manual.

The recommendations set forth in this guide are based upon a practical application of South Carolina laws, Commission rules, and customs, and are not intended to provide legal advice; rather it is intended only to provide general guidance and information. Laws, Commission rules, forms, customs, and requirements referenced in this manual may change. Neither the Commissioner, nor any division, officer or employee of the South Carolina Real Estate Commission warrants the accuracy, reliability, or timeliness of any information in this manual, and will not be responsible or liable for any loss, consequence, or damage resulting directly or indirectly from reliance on the accuracy, reliability, or timeliness of the information.

Information in this guide may have been derived from or repeated from other sources and may be applicable or not. The documents and materials found or referenced here may have been revised or replaced since the last printing of this manual. Any person or entity that relies on information obtained from this manual does so at their own risk. The user assumes the risk of verifying any materials used or relied upon herein. The BIC/PMIC is responsible for the acts of all licensees and other employees acting within the scope of their employment ([S.C. Code 40-57-30](#)).

The information in this manual should not be relied upon as specific legal guidance. Licensees are encouraged to consult with their legal counsel regarding the implementation of this guidance.

General Information

There are many laws and regulations that directly state or inherently imply the responsibility of a BIC and PMIC to oversee the operations of a brokerage firm and the activities of its licensed and unlicensed employees and/or contractors. Particularly, BICs and PMICs are responsible for the day-to-day management of the brokerage firm or office. This includes (but is not limited to) adequate supervision of all licensed and unlicensed employees/contractors [S.C. Code §§40-57-30\(7\) and \(30\)](#), and [40-57-135\(A\)](#).

It is required that every BIC/PMIC have at least one office open during normal business hours (S.C. Code [§40-57-135\(C\)\(1\)&\(2\)](#)). The Commission may consider a single BIC/PMIC for additional locations upon written request that acknowledges supervisory responsibilities for *each individual* office. Supervisory responsibilities cannot be delegated to another licensee, including team members or team leaders, except in the event of medical incapacitation or death of the BIC/PMIC and only for a maximum of six months (S.C. Code [§40-57-135\(C\)\(4\)](#)). Moreover, it is never acceptable for an unlicensed individual to supervise a licensed associate or property manager, or to conduct licensed acts (S.C. Code [§40-57-135\(A\)\(1\)](#)).

A responsible BIC/PMIC should keep track of who is working for the company, the license status of the affiliated licensees, and out of which office they are working. They should develop systems to monitor its policies, procedures, and rules. Failure to provide adequate supervision may create serious legal and financial consequences for consumers, and may result in disciplinary action against their supervisees as well as the BIC/PMIC's as real estate licensees. It is the desire of the Commission to provide resources and other assistance (such as this manual) to help BICs/PMICs satisfactorily achieve adequate supervision.

SECTION A

Summary of BIC/PMIC Requirements Under South Carolina Law

Highlights of BIC/PMIC Responsibilities According to SC Real Estate License Law				
		<i>S.C. Code Section</i>	<i>S.C. Code Section</i>	<i>S.C. Code Section</i>
1	Fully assume ALL RESPONSIBILITIES (for themselves and supervised licensees) to ensure compliance with the Real Estate Practice Act for ALL OFFICE LOCATIONS.	<i>40-57-60(C) Powers and duties of commission</i>	<i>40-57-135 (A)(1) Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees</i>	
2	Supervisory responsibilities cannot be delegated to team members or team leaders.	<i>40-57-360(A) Broker-in-charge responsible for team supervision</i>		
3	Maintain adequate, reasonable, and regular contact with all supervised licensees to ensure no violations of the Real Estate Practice Act, Chapter 1 of Title 40 of South Carolina Code of Laws, the Interstate Land Sales Practices Act, and Vacation Time Sharing Plans Act.	<i>40-57-135(A) Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees</i>		
4	Ensure valid and active license for all real estate brokers, associates, and/or property managers, and the completion of at least 10 hours of continuing education requirements every two years.	<i>40-57-20 Valid Licensure Requirement for Real Estate Brokers, Salespersons, and Property Managers</i>	<i>40-57-135(A)(6) Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees</i>	<i>40-57-340(A)(2) Conditions for license renewal; background checks</i>

5	Ensure unlicensed employees do not perform any of the duties prohibited by S.C. Code §40-57-135(K) or engage in unlicensed practice. For property management, specific activities an unlicensed employee may perform is found in S.C. Code §40-57-520(C)	40-57-135(K) Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees	40-57-520(C) Management of residential multiunit rental locations	
6	Ensure no commission or compensation is paid to an unlicensed individual for activities requiring a license under the Real Estate Practice Act, and that all compensation paid to supervised licensees for an activity requiring a real estate license is only paid by the licensee’s BIC or PMIC.	40-57-710(A)(12) Grounds for denial of issuance of license or for disciplinary action against licensee	40-57-135(B) Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees	
7	Maintain appropriate records for a minimum of 5 years and furnish the same to the Commission upon request.	40-57-135(D)(1) Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees		
8	Be available to the public, investigators, and inspectors during reasonable business hours.	40-57-135(A)(4), (C)(1) Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees		

9	Notify the Commission by mail within 10 days of any change in office name, address, email address, or phone number, and within 5 days when a BIC/PMIC becomes disassociated with the registered office.	40-57-135(A)(8) <i>Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees</i>	40-57-330(C) <i>Broker-in-charge license requirements; active broker or associate must be licensed under broker-in-charge</i>	40-57-510(H) <i>Manager or property manager-in-charge license</i>
10	Ensure the brokerage and supervised licensees do not engage in, represent others in, or assist others in the practice of wholesaling	40-57-350(L)(5) <i>Real estate brokerage firm duties to client; agency relationship; applicability of common law</i>		
11	Review and approve of all forms, including listing agreements, agency agreements, offers, sales contracts, purchase contracts, leases, options, contract addenda, or other contractual or disclosure documents routinely used by the real estate brokerage firm and ensure supervised licensees do not enter into any Unfair Real Estate Service Agreements as set forth in S.C. Code §27-28-10 et seq.	40-57-370(B) <i>Duty of licensee to provide disclosure of brokerage relationships; exceptions</i>	40-57-135(A)(2) <i>Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees</i>	27-28-10 et seq. Prohibition of Unfair Real Estate Service Agreements Act
12	Have a written office policy that includes ALL ITEMS set forth in S.C. Code §350(B), including the types of real estate brokerage relationships in which supervised licensees may engage.	40-57-135(A)(5) <i>Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees</i>	40-57-350(B) <i>Real estate brokerage firm duties to client; agency relationship; applicability of common law</i>	
13	Ensure the brokerage only acts as a disclosed dual agent with the prior informed and written consent of all parties (40-57-350(I)). If supervised licensees reporting to different BICS within a	40-57-350(I) <i>Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping;</i>		

	<p>brokerage are shared, then ensure a disclosed dual agency agreement is signed by all relevant parties. Ensure designated and dual agency agreements are signed by all relevant parties when required by law.</p>	<p><i>management agreements; unlicensed employees</i></p>		
<p>14</p>	<p>Ensure that: all supervised licensees prepare all offers and counteroffers in writing, have them dated and signed by the offerors, and promptly present them to the offerees or the offerees' representative; all changes or modifications during negotiations are in writing and initialed and dated by both parties before proceeding with the transaction; all of the terms and conditions of the transaction are included in the offer to purchase; if a written acceptance is obtained that true, executed copies are promptly delivered to all parties; rejected offers are communicated via a Commission-approved offer rejection form with licensees' signature within 48 hours of rejection; any real estate purchase listed with brokerage has made their true position clearly known in writing to all parties; other than those specifically exempted by S.C. Code §40-57-135(I)(10), no agreement regarding residential real estate is in effect for greater than one year if any criteria listed in S.C. Code §40-57-135(I)(9) are applicable; ensure any residential or commercial management</p>	<p>40-57-135(I)(4)(c), (I)(5), (I)(7) Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees</p>		

	agreement is written and contains the criteria listed in S.C. Code §40-57-135(I)(J).			
15	Ensure no provision of law relating to the freedom of a buyer or seller to choose an attorney, insurance agent, title insurance agent, or another service provider to facilitate the real estate transaction is violated.	40-57-710(A)(13) <i>Grounds for denial of issuance of license or for disciplinary action against licensee</i>		
16	Establish and maintain control of and responsibility for an active trust account, and instruct employees and supervised licensees on the proper handling of trust funds.	40-57-136 (A)(1), A(4) <i>Trust accounts; disputes; records</i>		
17	Ensure that any check or statement issued in connection with a real estate trust account reflects the title and designation of the trust account as described in S.C. Code §40-57-136(A)(1).	40-57-136 (A)(5) <i>Trust accounts; disputes; records</i>		
18	Ensure accurate and complete records are maintained for real estate trust accounts.	40-57-136 (B)(1) <i>Trust accounts; disputes; records</i>		
19	Ensure full accounting of all trust funds, including a journal or accounting system that records the chronological sequence in which funds are received and disbursed (real estate) and a separate record for each tenant with specific identifying information and	40-57-136 (F) <i>Trust accounts; disputes; records</i>		

	an owner's ledger for all properties (property management).			
20	Keep a general ledger identifying security deposits, and a monthly reconciliation of each account.	40-57-136 (F) <i>Trust accounts; disputes; records</i>		
21	Ensure that there is no comingling of trust funds and the BIC or PMIC's own money except as allowed by S.C. Code §40-57-136(B)(3).	40-57-136 (B)(3) <i>Trust accounts; disputes; records</i>		
22	Ensure licensees always deliver trust funds to BIC/PMIC within 1 business day of receipt; trust funds are disbursed in accordance with the contract.	40-57-136 (B)(4) <i>Trust accounts; disputes; records</i>		
23	Deposit trust funds appropriately as required by S.C. Code §40-57-136(C) and (D), including identifying the buyer or tenant.	40-57-136 (C) and (D) <i>Trust accounts; disputes; records</i>		
24	For interest-bearing real estate trust accounts where BIC/PMIC will retain the interest, all depositors or owners of the trust funds are informed of their right to ownership of the interest.	40-57-136 (G)(1) <i>Trust accounts; disputes; records</i>		
25	Ensure that all funds held outside of the brokerage firm are timely and properly delivered as stated in the contract.	40-57-136 (H) <i>Trust accounts; disputes; records</i>		
26	Ensure that: you appear for an interview with an investigator or inspector of the Commission unless you have due cause to not appear; make all records required to be maintained under the Real Estate Practice Act available to the Commission for inspection and copying upon request of an investigator or inspector of the commission; appear at	40-57-710(A)(25),(B) <i>Grounds for denial of issuance of license or for disciplinary action against licensee</i>		

	any formal complaint hearing involving your supervised licensees.			
27	For BICs/PMICs that engage in vacation rental transactions under S.C. Code §27-50-210 et seq., ensure: the use of a written vacation rental agreement for all vacation rentals; any terms regarding advanced payments, such as security deposits, rent, and other fees, are stated in the vacation rental agreement; that each owner under contract with the rental management company is informed of the owner's obligations under the Vacation Rental Act.	27-50-240(A),(B),(D) <i>Vacation rental agreements; evidence of acceptance; trust accounts; advance payments; rental management company responsibilities</i>		

SECTION B

Considerations for Adequate Supervision

This section is a list of key elements identified by the Commission as essential for adequate supervision of licensees. It also outlines critical areas that require attention to ensure adequate supervision. For comprehensive recommendations pertaining to each highlighted point, refer to Section B.

Summary

The Commission considers adequate supervision to mean sufficient guidance and oversight that is fair and sensible based on the operations characteristics of the brokerage firm or office, considered by determining the:

- Number of licensees affiliated with the BIC/PMIC;
- Number of offices maintained;
- Normal and routine working days and hours;
- Type of real estate activities of the firm or office.

Factors of Consideration

Some elements that contribute to adequate supervision include:

- Office Policies and Procedures
- Compliance
- BIC/PMIC Availability
- Training and Education for Licensees
- Clarification of Licensed and Unlicensed Activities

Critical Areas of Supervision

The Commission has identified nine areas deemed most critical to ensure adequate supervision of licensees:

- Office Policies and Procedures [S.C. Code 40-57-135\(A\)\(5\)](#) and [S.C. Code 40-57-350](#)
- Advertising (**BICs**) [S.C. Code 40-57-135\(E\)](#)
- Written Contracts and Agreements [S.C. Code 40-57-135\(A\)\(2\)](#)
- Brokerage Relationships Disclosure (**BICs**) [S.C. Code 40-57-350](#)
- Records Retention and Management [S.C. Code 40-57-135](#)
- Trust Funds [S.C. Code 40-57-136](#)
- Licensee Activity
- Unlicensed Activity
- Corrective A

SECTION C

Recommended Guidelines for Adequate Supervision (Comprehensive)

This section provides an overview of the supervisory duties and additional obligations for Brokers-in-Charge and Property Managers-in-Charge as mandated by Chapter 57 of the South Carolina Code of Laws and Chapter 105 of the South Carolina Code of Regulations, along with detailed recommendations from the Commission regarding adequate supervision.

Chapter 1

Supervision

1.1 Definition

For the purposes of this manual, supervision is defined as protective oversight, monitoring, reviewing, educating, and directing the work of a supervised licensee to ensure compliance with [S.C. Code Chapter 57](#) and [S.C. Code of Regulations Chapter 105](#), and competency in the practice of real estate, including property management. It means direction and review by the broker-in-charge or property manager-in-charge of professional real estate activities undertaken by licensees and employees/contractors associated with that office.

1.2 Supervisory Responsibilities of Brokers-in-charge/Property Managers-in-charge

The definitions of broker-in-charge (BIC) and property manager-in-charge (PMIC) include supervisory responsibilities and, in accordance with [S.C. Code 40-57-30](#), are as follows:

- Broker-in-Charge

(7) Broker-in-charge means the sole broker designated by the commission to have responsibility over the actions of all supervised licensees. A broker-in-charge is responsible for:

(a) the day-to-day management of the brokerage firm;

(b) the control and liability for a real estate trust account; and

(c) ensuring compliance with all applicable laws and regulations.

******The authority granted to the broker-in-charge cannot be assigned or designated to another licensee, including team members or team leaders.***

- Property Manager-in-Charge

(30) Property manager-in-charge means a property manager who is designated as having the responsibility over the actions of supervised licensees and also the responsibility and control over and liability for real estate trust accounts. A property manager-in-charge is responsible for the day-to-day management of the office for which the property manager-in-charge is registered with the commission and is responsible for ensuring compliance with all applicable laws and regulations.

1.3 Licensees

A BIC/PMIC is responsible for managing one or more of the following:

- Supervised Licensees, as defined in [S.C. Code 40-57-30](#):
 - (39) A supervised licensee means a licensee affiliated with and under the supervision of a broker-in-charge or property manager-in-charge.
 - (40) Team means two or more supervised licensees working together as a single unit within an office established with the commission and supervised by a broker-in-charge.
- Employee: Other unlicensed staff

1.4 Role of BIC/PMIC

The BIC/PMIC is integral to protecting real estate consumers in South Carolina. Real-time, hands-on experience and expertise gained from directly working within the real estate industry is critical in helping develop the competence of the State's real estate workforce.

The BIC/PMIC shall offer guidance, support, assessment of performance, recommendations for the supervised licensee's continuing development toward competency in the practice of real estate, advice, and suggestions of specific actions; assist in exploring various continuing education opportunities; share knowledge of real estate industry updates; and challenge discrepancies in the supervised licensees' work.

The BIC/PMIC shall:

- Ensure the supervised licensees' familiarity with important literature in the real estate industry.
- Ensure the supervised licensee is in compliance with all applicable laws and regulations.
- Model effective professionalism at all times.

Note: The exercise of adequate supervision should not be construed as or deemed to create the existence of an employer-employee relationship between the BIC/PMIC and the supervised licensee to alter the status of an independent contractor.

Chapter 2

Adequate Supervision

2.1 Definition

All supervised licensees must practice under adequate supervision ([S.C. 40-57-135\(A\)\(1\)](#)). Adequate supervision means sufficient guidance and oversight that is fair and sensible based on the operations characteristics of the brokerage firm or office, considered by determining the:

- Number of licensees affiliated with the BIC/PMIC;
- Number of offices maintained; Please note that a BIC/PMIC may maintain one or more offices at different locations and has the option to serve as *the* BIC/PMIC for multiple locations so long as it is in writing with the Commission (Section 40-57-135(C)(2)). It is important that the BIC/PMIC keep in mind his/her responsibility for *all* of their affiliated licensees' activities. The farther away an office is located, the more challenging it will be to ensure that its licensees are in compliance. While not a requirement, the Commission recommends supervisors maintain offices within a maximum 100-mile radius of each other;
- Normal and routine working days and hours;
- Type of real estate activities of the firm or office.

Adequate supervision is achieved either directly or indirectly. Some activities require more or less of each kind, while other activities may use either one at the discretion of the BIC/PMIC and based on the operation characteristics of the firm.

2.2 Factors of Adequate Supervision

Factors to be considered in determining whether supervision is adequate should include, but are not limited to, the following:

Office Procedures and Policies

- A written company policy that identifies and describes the types of real estate brokerage relationships in which supervised licensees may engage, including teams and limited function referral offices.

Compliance

- Reasonable steps to ensure all supervised licensees have an active and current license, and are operating in accordance with the provisions of this chapter, applicable regulations, and all other relevant state and federal laws.

Availability

- Availability to all supervised licensees at reasonable times (established office hours) to review, discuss, and approve all documents, (including leases, contracts, brokerage agreements, and advertising) as may affect the firm's clients and business.
- Adequate, reasonable, and regular contact with supervised licensees engaged in real estate transactions so as to prevent or curtail practices by a licensee which would violate federal and/or state laws and regulations.

Training and Education

- Availability of training opportunities.
- Frequency of mandatory and voluntary training and education sessions.

Licensed and Unlicensed Activities

- Reasonable steps to ensure only licensees undertake activities requiring a license.
- Reasonable steps to ensure unlicensed employees/contractors have a clear understanding of activities not permitted.

2.3 Evidence of Adequate Supervision

The Commission may take disciplinary action against a supervised licensee who violates a provision of or regulation based on this Chapter, and may request evidence that the BIC/PMIC has done due diligence in ensuring that the licensee remains in compliance.

Supporting evidence of adequate supervision of a supervised licensee (or employee/contractor) may include (but is not limited to):

- Records of attendance at group or individual meetings;
- Signed and/or initialed acknowledgements of policies, procedures, document review, etc.;
- Copies of active licenses, continuing education certificates, etc.

2.4 Presence During Formal Complaint Hearings

In accordance with [S.C. Code Ann. §40-57-710\(B\)](#), should disciplinary action be brought against licensees, the BIC or PMIC will be notified of the complaint. The supervising BIC or PMIC is required to attend the disciplinary hearing before the Commission. Failure to attend may result in disciplinary action against the BIC or PMIC unless good cause is shown.

Chapter 3

Recommended Activities of Supervision

3.1 Office Policies and Procedures (S.C. Code 40-57-135(A)(5); 40-57-350)

All brokerage firms and property management offices must adopt a written policy. For brokerage firms, this policy *must* include all of the listed requirements in [S.C. Code 40-57-350 \(B\)](#). Additionally, the following section outlines recommended subject matter that should be included to provide the most effective procedures and instructions for licensees:

1. Orientation for new licensees and unlicensed employees
2. Employees (benefits, insurance, time off, holidays, salary and wage, performance review, etc.)
3. Equal Opportunity Employer
4. Employment or Independent Contractor contract
 - a) The BIC/PMIC should have a written agreement with all affiliated licensees that clearly identifies the relationship type (employee or independent contractor)
 - b) The contract should address:
 - i. Terms
 - ii. Compensation and Commission
 - iii. Termination
 - iv. Licensee selling, purchasing, or leasing personally-owned real property
 - v. Board/Association membership
5. Scheduled meetings attendance requirements
6. Continuing education and trainings attendance requirements
7. Licensing requirements (renewals, continuing education, background checks)
8. Compensation and commission
 - a) Costs of recovering any commissions and who pays
 - b) Referral and finder's fees
 - c) Division of forfeited earnest money deposit
 - d) Only BIC or PMIC shall pay licensees
 - e) No fees paid to unlicensed persons or entities
 - f) How bonuses are to be paid and divided
 - g) Shared commissions
 - h) Deferred commissions
 - i) Commission disputes
 - j) Compensation after termination
9. Fiduciary duties and responsibilities

10. Transaction flow process and requirements (necessary documents e.g., listing agreements, brokerage relationship forms, etc.)
11. Duties to clients and customers
12. Administrative Procedures:
 - a) Prospecting
 - b) Sales
 - c) Lease purchase
 - d) Receipt and disbursement of checks
 - e) Property management agreements with terms
 - f) Tenant screening
 - g) Application fees/security deposits
 - h) Move-in/move-out inspections
 - i) Repair requests
 - j) Eviction process
 - k) Disclosures (agency relationship, material facts or defects, property condition, lead-based paint, landlord and tenant, etc)
 - l) Closing
 - m) Forfeiture and return of earnest money or items
 - n) Advertising and solicitation
 - o) Teams and groups
 - p) Signs (content requirements, who provides them, when to place and remove)
13. Crisis management
14. Harassment
15. Discrimination
16. Professional Conduct
17. Personal safety procedures/requirements
18. Data Security
19. Identification of contact persons for questions/concerns
20. Termination
21. Other

The BIC/PMIC will:

- Develop, review, and distribute a written company policy (for BICS, this includes all of the requirements listed in [S.C. Code 40-57-350\(B\)](#)) and any additional policies and procedures as determined by the brokerage firm or property management company to each supervised licensee upon affiliation;
- Provide an acknowledgement of receipt and understanding of the office policies and procedures to be signed by each supervised licensee;

- Periodically review policies and procedures (as frequently as desired, but at least once annually) either with individual licensees or as a group;
- For each review, provide an acknowledgement to be signed and dated by each licensee.

The licensee will:

- Review the policies and procedures with the BIC/PMIC;
- Return all signed and dated acknowledgements to the BIC/PMIC (may request a copy for personal records).

3.2 Advertising (S.C. Code 40-57-135(E)) (BICs)

Licensees are prohibited from publishing any false statement or misrepresentation concerning real estate, a trade in real estate, or the provision of real estate services.

Advertising rules mandate written authorization for licensees not associated with the listing brokerage firm to advertise real estate owned by another; a distinction between advertising and marketing real property from that of contractual positions; and clear identification of the full name of the affiliated real estate brokerage firm, along with other requirements.

Written policies should address the following:

1. Definition of advertising
2. Forms of advertising (newspaper, Internet, social media, billboards, etc.)
3. Personal vs. professional social media
4. Advertising distribution methods
5. General mandated rules for advertising on the local, state, and federal levels
6. Brokerage approval process
7. Client solicitation and consent
8. Team advertising
9. Self-promotion and marketing
10. Responsibility for costs related to advertising

The BIC will:

- Review for the following before placement of advertisement:
 - Fair Housing compliance;
 - Compliance with state and federal regulations;

- A written listing agreement between the property owner and the real estate brokerage firm when the advertisement is of a real estate transaction involving real estate owned, in whole or in part, by another person;
 - Visibility of full name of the real estate brokerage firm with which the licensee is employed and supervised;
 - Inclusion of a link from the advertisement to the homepage of the brokerage firm or property management company if advertising on the Internet, websites, blogs, social media, and other electronic media;
 - Clear identification of the franchisee or holder of the trade name (where applicable)
 - Clear visibility of the licensee's license status in a personal transaction involving the purchase, sale, exchange, rental, lease, or auction of real estate in the advertising or marketing in any media.
- Either:
 - Document approval
 - Deny with reasons and required revisions via form (see Appendix) or email; repeat review and approval/denial until revisions are satisfactory

The licensee will:

- Make necessary revisions
- Resubmit for review and approval
- Repeat until advertisement meets all requirements

3.3 Written Contracts and Agreements

Reviewing forms routinely used by licensees helps eliminate errors in mathematical calculations and contract provisions, and ensure completeness and accuracy. [S.C. Code 40-57-135\(A\)\(2\)](#) mandates that BIC/PMICs do so for all forms of listing agreements, agency agreements, offers, counteroffers, sales contracts, purchase contracts, leases, options, contract addenda, or other contractual or disclosure documents.

The BIC/PMIC will:

- Determine and communicate a specified timeframe that supervised licensees should submit forms for review, and expected turnaround time;
- Review all submitted forms;
- Either:
 - Approve appropriate form(s) with initials and/or signature, and date

- Deny appropriate form(s) with documented reasons and required revisions; repeat review and approval/denial until revisions are satisfactory.

The licensee will:

- Submit forms for review within timeframe specified by BIC/PMIC.

3.4 Brokerage Relationships Disclosure (BICs)

It is important to clearly establish and disclose the relationship type of the real estate brokerage firm with the customer or client at the first practical opportunity. It is the Commission's position that when the licensee and consumer move from casual conversation to a meaningful conversation regarding selling or buying motives and objectives, the licensee must provide an explanation of the firm's agency relationships and the Disclosure of Brokerage Relationships form before moving forward with showing properties and any other real estate activities. The written policy should address:

1. Permitted brokerage relationship with customer or client
2. Agency disclosure form
3. Protecting confidential client data
4. Conflict of interest issues
5. Changes in agency relationships
6. Termination of agency

The BIC will:

- Review the different agency relationships with licensee;
- Provide acknowledgement form to be signed and dated.

The licensee will:

- Review and return signed and dated acknowledgement to the BIC/PMIC (may request a copy for personal records).

3.5 Records Retention and Management (S.C. Code 40-57-135)

Brokers-in-charge and Property Managers-in-charge must maintain certain records for a minimum of five years ([40-57-135\(D\)](#)). Records may be kept electronically as long as backup copies are also stored in a different location. To limit risk and protect the public, it is beneficial to establish a system for retaining and managing records. Written policies might address plans for the following:

1. Records retention schedule for appropriate maintenance and secure destruction upon expiration of the time period. The required records include: leases; contracts of sale and

any addenda; listing contracts or buying agency agreements; transaction broker agreements; option contracts; property management agreements; and residential property disclosure forms.

2. Data privacy and security policies for the protection of personal information to avoid a breach of consumer's personal identifiable information (such as SSN, driver's license, personal contact information, or financial information). Explanation on what and how personal identifying information should be obtained, stored, shared, encrypted, redacted and destroyed. Any paper records containing the aforementioned personal information should be kept in a locked cabinet or room to prevent theft.
3. Disaster recovery procedures in the event of a disaster, e.g., fire, water damage, natural disaster, computer hardware crash, etc. It is important to back up data regularly and keep it stored at a remote location or taken off site. Transaction files that are in hard copy form should be maintained in one location within the office.
4. Company Acquisition – Continuity of Record Retention. The office policy should include a plan for storage and/or transfer of records in the event the brokerage is sold, merged into another company, or otherwise discontinued business.

The BIC/PMIC will:

- Review the record retention and management plan with licensees, and provide acknowledgement form to be signed and dated;
- Obtain copies of all required documents, electronically or hard copy form (BIC/PMIC's discretion) from licensees.

The licensee will:

- Review and return signed and dated acknowledgement to the BIC/PMIC (may request a copy for personal records).
- Make copies of all required documents, electronically or hard copy form at the BIC/PMIC's discretion.

3.6 Trust Funds

South Carolina Real Estate Trust Account Guidelines:

Trust funds are funds received by a licensee on behalf of another person in the course of performing any real estate activity. These funds do not belong to the licensee but are being held

for the benefit of others. A trust account is simply a bank account into which trust funds (and only trust funds) are deposited. It must be separate from a business or personal account and must provide for withdrawal of the funds. By depositing trust funds in a designated trust account and keeping accurate records that identify each depositor, the funds are protected from being frozen or attached by lienholders should the licensee become involved in legal action, become incapacitated or die. Furthermore, by placing these funds in a separate account, licensees are less likely to confuse the trust funds with personal or business funds and inadvertently use monies belonging to others for personal or business purposes. The requirement to establish and maintain a real estate trust account pertains to each individual licensed as a broker-in-charge (BIC) or property manager-in-charge (PMIC) who holds the funds of others.

Additionally, pursuant to S.C. Code 40-57-136(H), if trust funds are held outside of a brokerage firm, the licensee is still required to ensure that the funds are properly delivered to the trust fund agent. The broker in charge or property manager in charge must maintain control and responsibility for the account if their company is taking possession of the funds. The broker in charge or property manager in charge also must be responsible for the maintenance of records relating to the accounts, all related transactions, and the monthly reconciliation of the accounts. If lawyers are responsible for the money or property of clients of third parties, they are governed by Rule 1.15 of the Rules of Professional Conduct, which addresses the safekeeping of the money and property, and South Carolina Appellate Court Rule 417, which addresses the required record keeping.

The basic requirements for this State's trust accounts are to:

1. Include all information required by South Carolina Real Estate License Law.
2. Identify exact amount in the account at all times.
3. Identify ownership of funds in the account, by amount, at all times.
4. Provide a consistent and logical record of the account.

Note: Refer to the SC Real Estate Trust Account Guidelines for more detailed instructions on trust accounts. <https://llr.sc.gov/re/RECPDF/TrustAccountBook.PDF>

The BIC/PMIC will:

- Review the trust fund policy and provide acknowledgement form to be signed and dated
- Follow up with licensed licensees daily and weekly to ensure receipt of all trust funds (see Appendices G & H)
- Deposit funds within 48 hours of receipt (S.C. Code Section 40-57-136(B)(4); 40-57-136(C)(1)(a); 40-57-136(D)(1)(a)).

The licensee will:

- Review and return signed and dated acknowledgement to the BIC/PMIC (may request a copy for personal records);
- Turn in all trust funds received in connection with a real estate transaction in which the licensee is engaged to BIC/PMIC no later than the following business day. Security deposits and rent received by a licensee who is directly employed by the owner of rental property may be deposited in trust account within 48 hours of receipt or acceptance of lease;
- Promptly respond to BIC/PMIC inquiries of receipt and submission of all trust funds.

3.7 Licensee Activity

The BIC/PMIC is responsible for the activities of all licensees, including ensuring that licensees maintain an active license and provide the Commission with contact information updates.

The BIC/PMIC will:

- Verify licensees' active license status either through the [Commission's Licensee Lookup](#) or retention of copies of licenses;
- Create, provide, and review a checklist of renewal requirements (including continuing education hours (if applicable) and renewal background checks (see [Commission website](#) for dates) to be signed and dated;
- Create, provide, and review requirements for contact updates to the Commission (including 30-day timeframe; necessary information (residential address, mailing address, email address, and telephone number)) to be signed and dated;

The licensee will:

- Provide license to BIC/PMIC to make a copy;
- Complete continuing education courses and log (BICs);
- Update contact information to the Commission as necessary.

3.8 Unlicensed Activity

A BIC/PMIC must ensure that no unlicensed person connected to the brokerage or property management office engages in the practice of real estate, and take steps to address any conduct that may constitute a breach of licensing requirements.

The BIC/PMIC will:

- Provide and review with unlicensed employees and contractors a list of non-permissible activities as outlined in [S.C. Code 40-57-135\(K\)](#);

- Provide and review with unlicensed employees/contractors a list of activities that constitute the practice of real estate and would require licensure. Permitted duties related to management of residential multiunit rental location can be found in [40-57-520\(C\)](#);
- Provide an acknowledgement of receipt and understanding of non-permissible and permissible activities to be signed by each unlicensed employee.

The unlicensed employee/contractor will:

Review and return signed and dated acknowledgement to the BIC/PMIC (may request a copy for personal records).

3.9 Corrective Action

The purpose of corrective action is to address a supervised licensee’s performance or conduct issues. Corrective action shall be delivered by the BIC/PMIC with the goal of correcting unacceptable licensee performance or conduct. Failure of a licensee to comply with corrective action to resolve the issue may result in the BIC/PMIC reporting to the Commission and/or termination.

The BIC/PMIC will:

- Address the issue to be corrected with the licensee, in detail, either both verbally and written, or only written communication (Appendix B);
- Determine and discuss the corrective action necessary to resolve the issue;
- Provide acknowledgement of corrective measure for signatures of both/all parties.

The licensee will:

- Review and return signed and dated acknowledgement to the BIC/PMIC (may request a copy for personal records);
- Adhere to rules and regulations in the office policy;
- Adhere to determined corrective actions.

Chapter 4

Frequency of Supervision for Specified Activities

Daily

- Review of documents
- Ensure all monies received
- Review of new advertisements (MLS listings, ads, etc.)

Weekly

- Supervised Licensee questionnaire (Appendix E)

Monthly

- Reminding licensees up for renewal of 10 hours of continuing education
- Continuing Education Log (Appendix G)
- Staff meeting

Annual

- Verification of all licensees' active license status
- Renewal reminders
- Background check reminders for applicable licensees ([visit Commission website for more information](#))

Chapter 5

Other Recommendations for BIC/PMICs

- Orientation for new supervised licensees and unlicensed employees
- Develop competent associates, brokers, and property managers
 - Set the standards
 - Plan to move the licensee towards a goal by using benchmarks with which you can measure progress
 - Evaluate to improve performance, discuss the performance from time to time.
 - Plan for the future
- Problem Solve
 - Define problem and obtain facts needed to determine course of action
 - Implement the solution and follow-up
- Create checklists
 - Licensed vs. Unlicensed Duties and Permissible Activities
- Annual calendar reminders
 - License renewal dates
 - Continuing education deadlines
 - Background checks
- Develop a written supervision agreement
- Consider Errors and Omissions (E&O) insurance to mitigate firm's risks. This is especially true in firms which recruit inexperienced licensees.

Appendix A

Sample Supervision Agreement Template

Name of Firm: _____

Name of BIC/PMIC: _____

Title of BIC/PMIC: _____

Name of Licensee: _____

Title of Licensee: _____

Purpose of Supervision: Protective oversight, monitoring, reviewing, educating, and directing the work of a supervised licensee to ensure compliance with SC Code Chapter 57 and SC Code of Regulations Chapter 105, and competency in real estate brokerage or property management.

Role of BIC/PMIC: The BIC/PMIC shall offer guidance, support, assessment of performance, recommendations for the supervised licensee's continuing development toward competency as a real estate associate, advice, and suggestions of specific actions; assist in exploring various continuous education opportunities; share knowledge of real estate industry updates; and challenge discrepancies in the supervised licensees' work.

Responsibilities and expectations:

- Meet at least once every _____ week(s) for at least one hour for the purpose of supervision.
- Agree to take part in open and honest discussion of the licensee's work.
- Pose and respond to challenging questions with regard to action, progress, and outcomes.
- Identify, recognize, and track good practice, which can be transferred or built upon.
- Discuss contributions and issues that may arise.
- Identify the licensee's professional learning and development needs and plan participation in ongoing training opportunities.
- Ensure that each supervision meeting is recorded in writing including key points discussed and decisions on any actions required. Such records will be stored safely and confidentially, kept up to date, and be available for audit when required.
- Follow up to ensure any actions agreed are implemented and recorded.

BIC/PMIC: _____ Date _____

Licensee: _____ Date _____

Appendix B

Sample Corrective Action Record Template

Date: _____

Licensee: _____

BIC/PMIC: _____

Warning:

BIC/PMIC Remarks:

Licensee Remarks:

Action To Be Taken:

Licensee Signature _____ Date _____

BIC/PMIC Signature _____ Date _____

Appendix C

Sample List of Prohibited Activities *

Licensees

- Wholesaling
- Permitting unlicensed individuals to perform activities requiring licensure
- Receive compensation from any other BIC/PMIC for which the license is issued
- Conduct real estate business under another name or address other than the one for which the license is issued

Use of Showing Agents

Unlicensed Employees

- Discuss, negotiate, or explain a contract, listing agreement, buyer agency agreement, lease, agreement, property management agreement, or other real estate document;
- Vary or deviate from the rental price or other terms and conditions previously established by the owner or licensee when supplying relevant information concerning the rental of property;
- Approve applications or leases or settle or arrange the terms and conditions of a lease;
- Indicate to the public that the unlicensed individual is in a position of authority which has the managerial responsibility of the rental property;
- Conduct or host an open house or manage an on-site sale or leasing office;
- Show real property for sale other than vacant units in a multifamily building;
- Answer questions regarding company listings, title, financing, and closing issues, except for information that is otherwise publicly available;
- Be paid solely on the basis of real estate activity including, but not limited to, a percentage of commission or an amount based on the listing or sales compensation or commission;
- Negotiate or agree to compensation or commission including, but not limited to, commission splits, management fees, or referral fees on behalf of a licensee; or
- Engage in an activity requiring a real estate license as required and defined by S.C. Code Title 40, Chapter 57.

*Note: This sample list is only for demonstration of a possible format for BICs/PMIC. **THIS IS NOT A COMPREHENSIVE LIST.** Supervisors should ensure compliance with current laws and regulations and should routinely check the South Carolina Real Estate Commission website or seek their own legal counsel for further clarification.

Appendix D

Sample Supervised Licensee Questionnaire

Licensee Name: _____

Date: _____

- Did you receive any funds this week? Yes No

- If Yes, from whom and for what purpose?

- Have you turned in all trust funds received, or made all necessary deposits?

- Yes No

- If No, please do so immediately and provide the reason.

- Did you or someone you personally know seek to purchase real estate listed with this firm? Yes No

- If Yes, did you make your position as a licensed associate or broker of this firm clearly known in writing to all parties involved? Yes No
Provide copies of the acknowledgement or provide explanation as to why this was not done.

- Have you submitted all documents for review to the BIC/PMIC? Yes No

- If No, please do so immediately and provide the reason.

Appendix E

Sample Group Meeting Agenda

ABC Realty Team Meeting

Agenda
February 1, 2025

- **BIC/PMIC Updates**
 - New Laws
 - Housekeeping Items
 - New team members

- **Roundtable Agent Updates**
 - Sales
 - New Leases

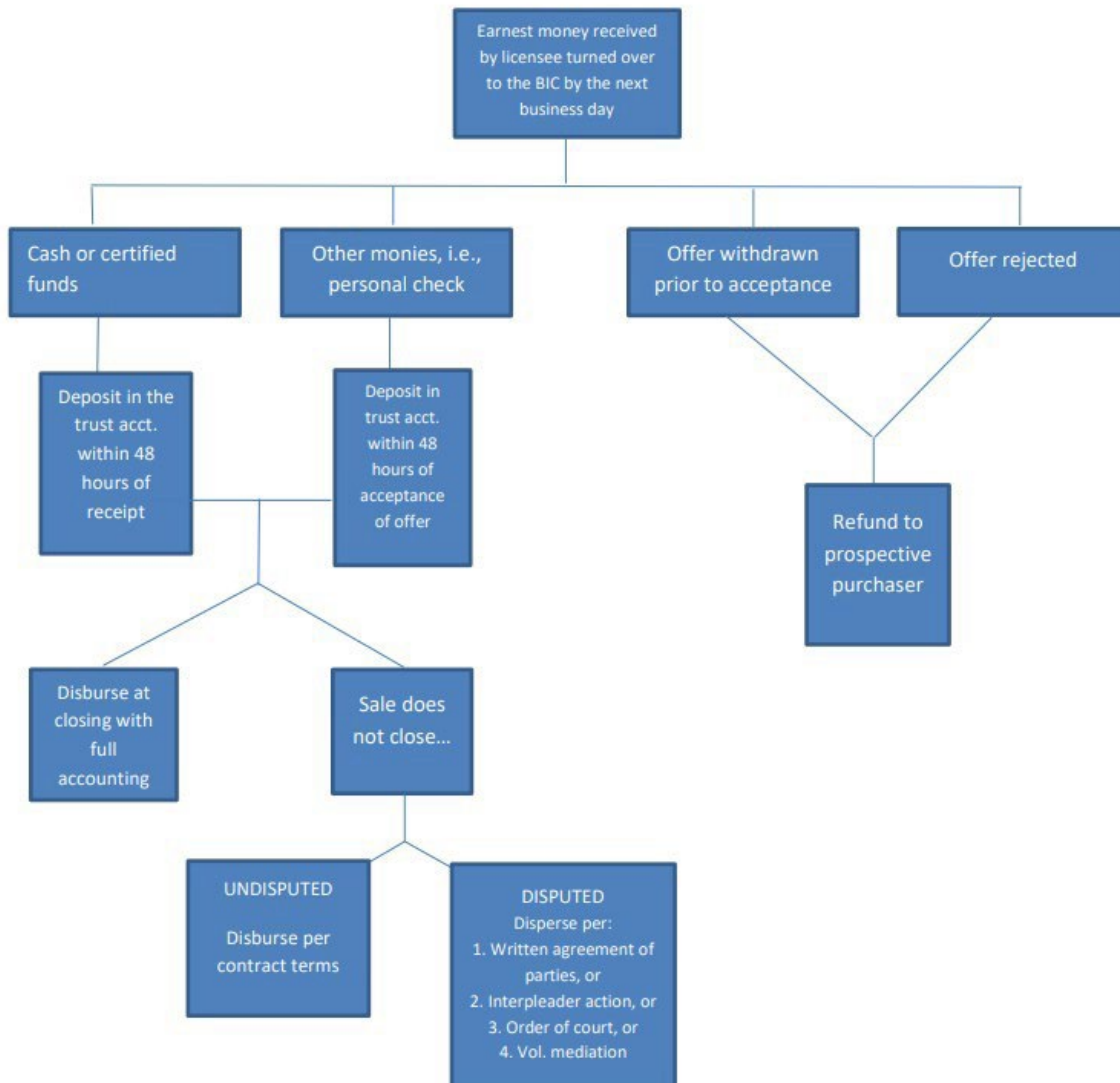
- **Expert Lesson OR Policy Review**
 - Etiquette for showings, closing a deal, etc.
 - OR review sections of office policies and procedures as a refresher

- **Recognitions and Team Building**
 - Most Closings in 2024

Appendix G

HANDLING OF TRUST FUNDS FOR REAL ESTATE SALES

(From the SC Real Estate Trust Account Guidelines, pg. 12)

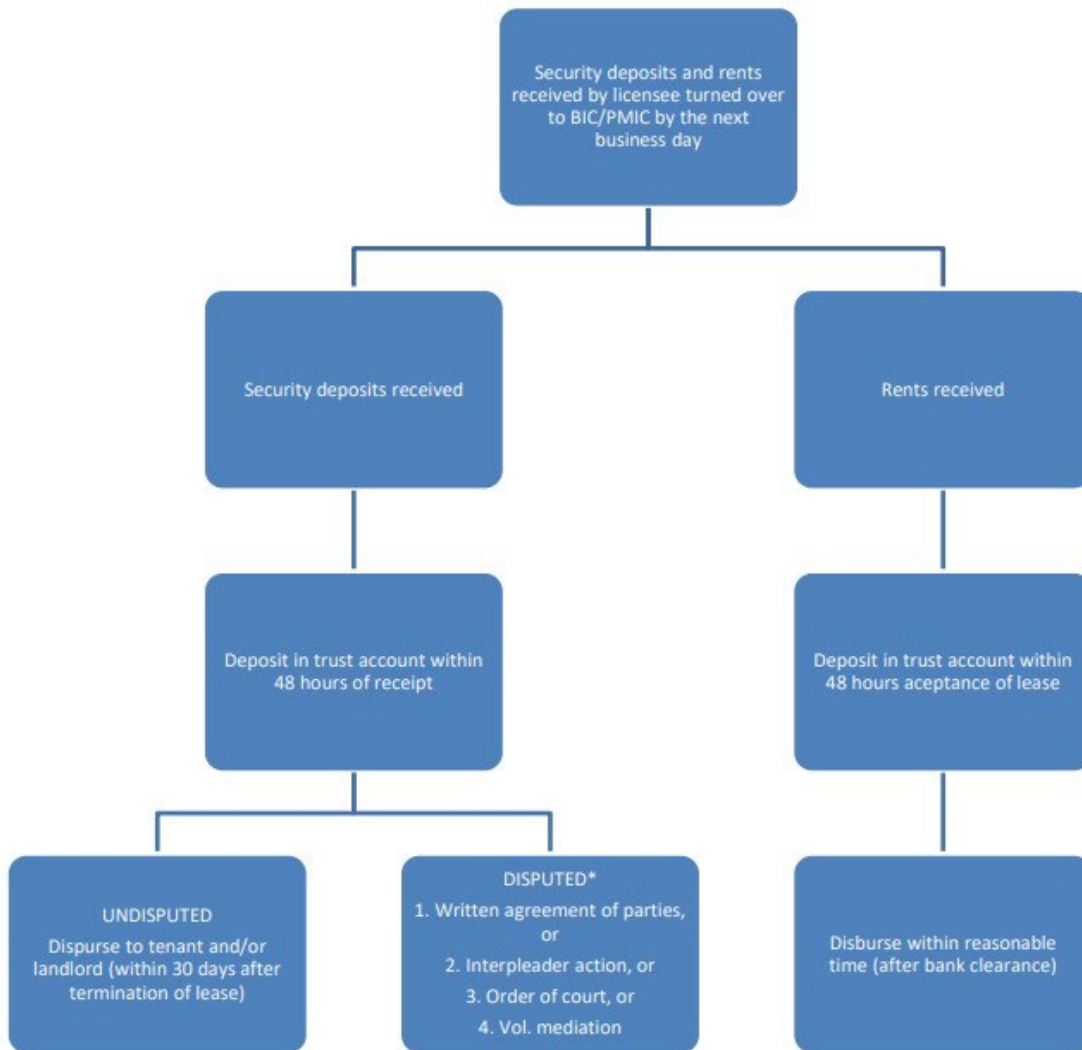


Appendix H

HANDLING OF TRUST FUNDS FOR PROPERTY MANAGEMENT

(From the SC Real Estate Trust Account Guidelines, pg. 13)

HANDLING OF TRUST FUNDS FOR PROPERTY MANAGEMENT



*Although the law refers to earnest money disputes only, the Commission recommends the same course of action for disputed security deposits.

Appendix I

Definitions

S.C. Code 40-57-30

For purposes of this chapter:

(1) **"Active license"** means a license that has been issued for the current period and authorizes the licensee to practice in this State.

(2) **"Agency relationship"** means a legally binding relationship created in writing between a real estate brokerage firm and its client.

(3) **"Agent"** means one authorized and empowered by a written agency agreement to perform actions for a client. A real estate brokerage firm is the agent of a buyer, seller, landlord, or tenant, and the real estate brokerage firm's "supervised licensees" are its subagents.

(4) **"Alternative name"** means a first name, other than the licensee's legal first name, that is registered with the commission and used by the licensee for marketing purposes.

(5) **"Associate" means a supervised licensee who:**

- (a) meets experience and education requirements;
- (b) passes both the state and national portions of the examination for an associate license; and
- (c) engages in or participates in an activity included in the definition of "broker" for a fee, salary, commission, or other valuable consideration, or with the intent or expectation of receiving compensation.

(6) **"Broker"** means a supervised licensee who has met the experience and education requirements and has passed both the state and national portions of the examination for a broker license and who, for a fee, salary, commission, referral fee, or other valuable consideration, or who, with the intent or expectation of receiving compensation:

- (a) negotiates or attempts to negotiate the listing, sale, purchase, exchange, lease, or other disposition of real estate or the improvements to the real estate;
- (b) auctions or offers to auction real estate in accordance with Section 40-6-250;
- (c) for a fee or valuable consideration solicits a referral;
- (d) offers services as a real estate consultant, counselor, or transaction manager;
- (e) offers to act as a subagent of a real estate brokerage firm representing a client in a real estate transaction; or
- (f) advertises or otherwise represents to the public as being engaged in any of the foregoing activities.

(7) **"Broker-in-charge"** means the sole broker designated by the commission to have responsibility over the actions of all supervised licensees. A broker-in-charge is responsible for:

- (a) the day-to-day management of the brokerage firm;
- (b) the control and liability for a real estate trust account; and
- (c) ensuring compliance with all applicable laws and regulations.

The authority granted to the broker-in-charge cannot be assigned or designated to another licensee.

(8) "Buyer agency" means a form of agency in which a real estate brokerage firm represents the buyer in an agency capacity as defined in this chapter.

(9) "Canceled license" means a license that is invalidated, can no longer be reinstated or renewed, and requires an individual seeking to be licensed again after cancellation of his prior license to reapply and meet current licensure requirements.

(10) "Client" means a person who enters a written agreement establishing an agency relationship with a real estate brokerage firm through its broker-in-charge, a property manager-in-charge, or a supervised licensee.

(11) "Commission" means the South Carolina Real Estate Commission and its members, who are charged by law with the responsibility of licensing or otherwise regulating the practice of real estate in the State of South Carolina.

(12) "Conversion" means to use trust funds for a purpose other than the purpose for which they are held. Conversion is a breach of trust and is a crime as provided by law.

(13) "Customer" means a buyer, seller, landlord, or tenant who uses the services of a real estate licensee but does not establish an agency relationship through a written agency agreement with the licensee's real estate brokerage firm.

(14) "Department" means the Department of Labor, Licensing and Regulation.

(15) "Designated agency" means a form of agency in which two clients represented by a real estate brokerage firm in the same transaction may be given almost equivalent treatment as a single agency.

(16) "Dual agency" means a form of agency in which a real estate brokerage firm with two clients in the same transaction gives limited agency services.

(17) "Email" means a system for sending and receiving a message electronically over a computer network and a message sent or received by the system.

(18) "Formal complaint" means a formal written complaint charging misconduct by a licensee in violation of this chapter, regulations promulgated under this chapter, Chapter 1, Title 40, or any other provision of law.

(19) "Inactive license" means the official temporary cessation of a licensee's authorization to practice real estate upon the licensee providing notice to the commission that the person does not intend to practice real estate brokerage, is no longer supervised by a South Carolina-licensed broker-in-charge or property manager-in-charge, or has stepped down as the broker-in-charge or property manager-in-charge from a brokerage or property management office.

(20) "Incompetency" means the failure of a licensee to demonstrate and apply the knowledge, skill, and care that is ordinarily possessed and exercised by other licensees of the same licensure status and required by the generally accepted standards of the profession. Charges of incompetence may be based upon a single act of incompetence or upon a course of conduct or series of acts or omissions that extend over a period of time and that, taken as a whole, demonstrate incompetence.

(21) "Lapsed license" means the termination of a person's authorization to practice under this chapter due to the person's failure to renew his license within the renewal period but before the license is canceled.

(22) "Letter of caution" means a written caution or warning about past or future conduct issued when it is determined that only minor misconduct not warranting discipline has been committed. The issuance of a letter of caution is not a form of discipline and does not constitute a finding of misconduct unless the letter of caution specifically states that misconduct has been committed. While nondisciplinary, the fact that a letter of caution has been issued may be considered in a subsequent disciplinary proceeding.

(23) "Licensee" means an individual currently licensed under this chapter.

(24) "Limited-function referral office" means a brokerage where the office policy allows only the placement of referrals through the broker-in-charge.

(25) "Material adverse fact" means:

- (a) a condition or occurrence that is generally recognized as:
 - (i) significantly and adversely affecting the value of the real estate;
 - (ii) significantly reducing the structural integrity of improvements to real estate; or
 - (iii) presenting a significant health risk to occupants of the real estate; or
- (b) information that indicates that a party to a transaction is not able to or does not intend to meet an obligation under a contract or agreement made concerning the transaction.

(26) "Ministerial act" means an act performed by a licensee not involving an exercise of discretion or judgment of a licensee on behalf of a person who is not a client and that assists the nonclient to consummate a real estate transaction.

(27) **"Office"** means the office location where a broker-in-charge or a property manager-in-charge is licensed to conduct real estate business.

(28) **"Personal trust account"** means an escrow account or demand deposit bank account properly designated and titled to include the words "trust" or "escrow" that is established and maintained by a licensee to safeguard funds belonging to parties to a real estate transaction when the transaction involves the licensee's personal real estate and the real estate is not managed or listed through a real estate brokerage firm.

(29) **"Property manager"** means a supervised licensee who meets educational requirements and passes the examination for a property manager license, and who will for a fee, salary, commission, other valuable consideration or with the intent or expectation of receiving compensation:

- (a) negotiate or attempt to negotiate the rental or leasing of real estate or improvements to the real estate;
- (b) list or offer to list and provide a service in connection with the leasing or rental of real estate or improvements to the real estate; or
- (c) advertise or otherwise represent to the public as being engaged in an activity in subitems (a) and (b).

(30) **"Property manager-in-charge"** means a property manager who is designated as having the responsibility over the actions of supervised licensees and also the responsibility and control over and liability for real estate trust accounts. A property manager-in-charge is responsible for the day-to-day management of the office for which the property manager-in-charge is registered with the commission and is responsible for ensuring compliance with all applicable laws and regulations.

(31) **"Real estate"** means land, buildings, and other appurtenances, including all interests in land, whether corporeal, incorporeal, freehold, or nonfreehold, whether the real estate is within or outside of the boundaries of this State.

(32) **"Real estate brokerage"** means the aspect of the real estate business that involves activities relative to property management or a real estate sale, exchange, purchase, lease, or other disposition.

(33) **"Real estate brokerage firm"** means a real estate company engaged in the business of real estate brokerage.

(34) **"Real estate transaction"** means an activity involving the sale, purchase, exchange, lease, or other disposition of real estate.

(35) **"Residential real estate"** means real estate which is used primarily for personal, family, or household purposes and is improved by one to four dwelling units.

(36) **"Seller agency"** means a form of agency in which a real estate brokerage firm represents the seller in an agency capacity as defined in this chapter.

(37) **"Subagent"** means an agent of an agent. A "supervised licensee" is a subagent of the real estate brokerage firm if the firm is an agent of a buyer, seller, landlord, or tenant.

(38) **"Substantive contact"** means contact in which a discussion or dialogue between the consumer and the supervised licensee or broker-in-charge moves from casual introductory talk to a meaningful conversation regarding the selling or buying motives or objectives of the seller or buyer, financial qualifications, and other confidential information that if disclosed could harm the consumer's bargaining position.

(39) **"Supervised licensee"** means a licensee affiliated with and under the supervision of a broker-in-charge or property manager-in-charge.

(40) **"Team"** means two or more supervised licensees working together as a single unit within an office established with the commission and supervised by a broker-in-charge.

(41) **"Trust account"** means an escrow account or properly designated demand deposit bank account that is:

- (a) properly designated and titled to include the word "trust" or "escrow"; and
- (b) established and maintained by a broker-in-charge or a property manager-in-charge to safeguard funds belonging to parties to a real estate transaction.

(42) **"Trust funds"** means funds received on behalf of another person by a licensee in the course of performing a real estate activity.

(43) **"Transaction broker"** means a real estate brokerage firm that provides customer service to a buyer, a seller, or both in a real estate transaction. A transaction broker may be a single agent of a party in a transaction giving the other party customer service. A transaction broker also may facilitate a transaction without representing either party.

(44) **"Wholesaling"** means having a contractual interest in purchasing residential real estate from a property owner, then marketing the property for sale to a different buyer prior to taking legal ownership of the property. Advertising or marketing real estate owned by another individual or entity with the expectation of compensation falls under the definition of "broker" and requires licensure. "Wholesaling" does not refer to the assigning or offering to assign a contractual right to purchase residential real estate.

SC Real Estate License Law

BROKERS-IN-CHARGE AND PROPERTY MANAGERS-IN-CHARGE

SECTION 40-57-135. Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees.

(A) A broker-in-charge or property manager-in-charge shall:

(1) adequately supervise employees or supervised licensees to ensure their compliance with this chapter;

(2) review and approve all forms of listing agreements, agency agreements, offers, sale contracts, purchase contracts, leases, options, contract addenda, or other contractual or disclosure documents routinely used by the real estate brokerage firm;

(3) maintain adequate, reasonable, and regular contact with supervised licensees engaged in real estate transactions so as to prevent or curtail practices by a licensee which would violate any provision of this chapter, Chapter 1, Title 40, the Interstate Land Sales Practices Act, or the Vacation Time Sharing Plans Act;

(4) be available to the public during business hours in order to discuss or resolve complaints and disputes that arise during the course of real estate transactions in which the broker-in-charge or property manager-in-charge or a supervised licensee is involved;

(5) establish and maintain a written office policy in accordance with Sections 40-57-135(l)(2)(a) and 40-57-360 and any requirements promulgated in regulations and make that policy readily accessible to supervised licensees;

(6) ensure that all supervised licensees have an active real estate license;

(7) establish and maintain control of and responsibility for an active trust account when in possession of trust funds belonging to others resulting from a real estate transaction; and

(8) notify the commission by mail within ten days of any change of office name, address, email address, or telephone number.

(B) A supervised licensee may not receive compensation from an activity requiring a real estate license from an entity or person other than the one for which the license is issued. A supervised licensee may form a business entity allowing the licensee's broker-in-charge or property manager-in-charge to pay fees or commissions to that entity if the principals in that entity hold an active real estate license.

(C)(1) A licensed broker-in-charge or property manager-in-charge shall establish and maintain a specific office location which must be accessible by the public, investigators, and inspectors during reasonable business hours.

(2) A broker-in-charge or property manager-in-charge may maintain one or more offices at different locations. Each office must be managed by a broker-in-charge or property manager-in-charge who is licensed for that real estate brokerage firm's location. The same person may request to be licensed as broker-in-charge or property manager-in-charge of more than one office if the broker-in-charge or property manager-in-charge making the request acknowledges in writing that the applicant understands the duties and can fully assume the responsibility to ensure compliance with this chapter.

(3) A licensee may not conduct real estate business under another name or at an address other than the one for which his license is issued. Alternative names may be utilized following confirmation of registration of the name with the commission.

(4) In the event of the medical incapacitation of a broker-in-charge or property manager-in-charge which precludes him from carrying out the duties of a broker-in-charge or property manager-in-charge as required in this chapter, or in the event of the death of a broker-in-charge or a property manager-in-charge, the department may permit a supervised licensee to act as broker-in-charge or property manager-in-charge for up to six months.

(D)(1) A broker-in-charge or property manager-in-charge shall for a minimum of five years maintain and furnish to the commission upon request a written copy, when applicable, of a:

- (a) lease;
- (b) contract of sale and any addenda;
- (c) listing contract or buyer agency agreement;
- (d) transaction broker agreement;
- (e) option contract;
- (f) property management agreement; and
- (g) residential property disclosure form.

(2) These records may be maintained electronically as long as a backup copy is stored in a separate, off-site location including, but not limited to, electronic and Internet, cloud-based storage systems.

(E)(1) A licensee may not advertise, market, or offer to conduct a real estate transaction involving real estate owned, in whole or in part, by another person without first obtaining a written listing agreement between the property owner and the real estate brokerage firm with whom the licensee is associated. However, the signature of the owner of real estate is not required for a sublease agreement involving real estate if the lease allows for subletting. Licensees not associated with the listing brokerage firm may advertise real estate owned, in whole or in part, by another person only if they have written authorization from the listing brokerage firm and acknowledge the listing brokerage firm in the advertisement in a clear and conspicuous way. Authorization may be contained and obtained from the owner through the listing agreement.

The advertising and marketing of real property is to be distinguished from the advertising and marketing of a contractual position in a sales agreement to purchase real estate. An advertisement that markets a contractual position to acquire real property from a person with either equitable or legal title and does not imply, suggest, or purport to sell, advertise, or market the underlying real property is permissible under this section.

(2) When advertising his real estate services or marketing real estate owned, in whole or in part, by another person in any medium, a licensee clearly must:

- (a) Identify the full name of the real estate brokerage firm with which the licensee is employed and supervised in accordance with regulations.
- (b) If advertising on the Internet or in another electronic media, the above requirements may be met by including a link from the advertisement to the homepage of the brokerage firm or property management company.

(3) If a real estate brokerage firm operates under a trade or franchise name, the identity of the franchisee or holder of the trade name clearly must be revealed.

(F)(1) A licensee clearly shall reveal his license status in a personal transaction involving the purchase, sale, exchange, rental, lease, or auction of real estate:

- (a) at first substantive contact with a consumer;
- (b) in advertising or marketing in any media; and
- (c) in bold, underlined, capital letters on the first page of a contract for the purchase, sale, exchange, rental, or lease of real property.

(2) Trust funds received in a licensee's personal rental or transaction must be deposited in the licensee's personal trust account and may not be deposited in the real estate brokerage firm's trust account unless the real property is managed, listed, or owned by the real estate brokerage firm.

(G) No licensee, either directly or indirectly, may buy for his own account or for a corporation or another business in which he holds an interest or for a close relative, real estate listed with him or real estate for which he has been approached by the seller or prospective buyer to act as agent, without first making his true position clearly known in writing to all parties involved. Upon request of the department, the licensee shall provide evidence of having made this disclosure.

(H) With regard to offers to purchase real estate, a licensee shall:

- (1) upon receipt, prepare all offers in writing and promptly present them to the seller;
- (2) upon obtaining a written acceptance of an offer, promptly deliver true, executed copies to all parties;
- (3) ensure that all of the terms and conditions of the transaction are included in the offer to purchase; and
- (4) ensure that changes or modifications made during negotiations are in writing and initialed and dated by both parties before proceeding with the transaction.

(I)(1) A licensee shall properly complete an agency agreement, transaction broker agreement, offer, and counteroffer.

(2) A listing or buyer's representation agreement must be in writing and must set forth all material terms of the parties' agency relationship including, but not limited to:

- (a) a description of the agent's duties or services to be performed for the client including, but not limited to, an explanation of the office policy regarding dual agency, designated agency, and transaction brokerage if offered by the real estate brokerage firm;
- (b) the amount of compensation to be paid if a flat fee or the method to be used in calculating the amount of compensation to be paid;
- (c) an explanation of how and when compensation is earned;
- (d) an explanation of how compensation will be divided among participating or cooperating brokers, if applicable;
- (e) the amount of retainer fees, deposits, or any other money collected before the agent's performance of a service on behalf of the client and an explanation of conditions, if any, in which such monies are refundable or payable to or on behalf of the client;
- (f) the duration of the agency relationship, setting forth specific dates for the beginning and ending of the relationship;
- (g) the signatures of all parties;

(h) a listing agreement or buyer's representation agreement clearly must state that it terminates on the definite expiration date unless a written extension is signed;

(i) a listing agreement or buyer's representation agreement clearly must state, if applicable, that it is either an "exclusive agency" listing or buyer's representation agreement or "exclusive right to represent" listing contract or "exclusive right to represent" buyer's representation contract;

(j) a listing agreement or buyer's representation agreement must clearly specify an exception or variation in an amount of commission to be paid and circumstances that would apply;

(k) a copy of the listing or buyer's representation agreement must be given to the seller or buyer at the time of, or directly following, signing; and

(l) a buyer's representation agreement must provide an adequate property description of the type of property of interest to the buyer and a price or price range for property of interest to the buyer. A listing agreement must have a legal description of the listed property or a description sufficient to identify the listed property and state the price of the listed property.

(3) If there are no clients involved in the transaction, a real estate brokerage firm acting as a transaction broker shall complete a compensation agreement to be signed by the agent and the compensating party. This agreement must contain the amount of the compensation and identify the party responsible for payment.

(4) The broker-in-charge shall ensure that supervised licensees prepare all offers and counteroffers in writing, have them dated and signed by the offerors, and promptly present them to the offerees or the offerees' representative and ensure that:

(a) changes or modifications made during negotiations are in writing and initialed and dated by both parties before proceeding with the transaction;

(b) all of the terms and conditions of the transaction are included in the offer to purchase; and

(c) if supervised licensees obtain a written acceptance of an offer or counteroffer, true, executed copies will be promptly delivered to all parties.

(5) If an offer is rejected without counter, an offer rejection form, promulgated by the commission, signed by the licensee affirming presentation of the offer must be provided to the offeror by the licensee within forty-eight hours of rejection, whether the agent of the buyer, the seller, or if acting as a transaction broker.

(6) An offer and counteroffer may be communicated by use of a fax or other secure electronic means including, but not limited to, the Internet, and the signatures, initials, and handwritten or typewritten modifications to the foregoing documents are considered valid and binding upon the parties as if the original signatures, initials, and handwritten, or typewritten modifications were present on the documents in the handwriting of each party.

(7) If a licensee wishes to purchase real estate listed with his brokerage firm, the broker-in-charge shall ensure that the licensee shall first make his true position clearly known in writing to all parties involved. Upon request of the commission, the broker-in-charge shall provide evidence of the licensee having made this disclosure, including:

(a) purchases made directly or indirectly by the licensee;

(b) purchases made for the licensee's own account or for a corporation or another business in which the licensee holds an interest or purchases made for a close relative; and

(c) real estate for which the licensee has been approached by the seller or prospective buyer to act as agent.

(8) In order for a real estate brokerage firm to claim a fee for the sale of a listed property to a supervised licensee, a separate written agreement signed by the seller client must acknowledge the purchaser as a licensee affiliated with the real estate brokerage firm and recognize the right of the seller to not pay the brokerage fee.

(9) An agreement regarding residential real estate that is to be in effect for greater than one year and either expressly or impliedly purports to do any of the following is unenforceable and is considered to be done in bad faith, and a licensee involved in such an agreement is subject to disciplinary action by the commission:

(a) the agreement runs with the land or binds future owners or heirs of the residential real estate;

(b) the agreement allows for assignment of the right to provide service without notice to and consent of the owner of residential real estate; or

(c) the agreement creates a lien, encumbrance, or other real property security interest, or is otherwise recorded.

(10) The following are not prohibited by subsection (9) and remain enforceable:

(a) a home warranty or other type of similar product that covers the cost of maintenance of a major housing system, such as plumbing or electrical wiring, for a fixed period;

(b) an insurance contract;

(c) an option or right of refusal to purchase the residential real estate;

(d) a declaration created in the formation of a homeowners association or similar organization;

(e) a maintenance or repair agreement entered by a homeowners association or similar organization;

(f) a mortgage loan or a commitment to make or receive a mortgage loan;

(g) a security agreement under the Uniform Commercial Code relating to the sale or rental of personal property or fixtures; or

(h) water, sewer, electrical, telephone, cable, or other regulated utility service providers.

(J) A real estate brokerage firm shall manage residential and commercial real estate under a written management agreement that shall set forth, at a minimum:

(1) the names and signatures of authorized parties to the agreement;

(2) the property identification;

(3) the method of compensation to the licensee;

(4) that a management agreement may not contain an automatic renewal clause or provision unless the management agreement also contains a clause or provision that allows either party to cancel the management agreement for any cause or no cause with thirty days' notice after the original definite expiration date;

(5) compensation for a future lease renewal by tenants, and if included, the contract must contain a clause in underlined capital letters on the first page providing for such future compensation; and

(6) terms and conditions of tenant rental or lease arrangements. However, a management agreement may not contain a provision binding the property under a future listing agreement if the property is to be sold in the future, in which case a separate listing agreement is required.

(K) For all types of real estate transactions, including leases and sales, an unlicensed employee of the owner or an unlicensed individual working under the supervision of a broker-in-charge or a property manager-in-charge may not:

- (1) discuss, negotiate, or explain a contract, listing agreement, buyer agency agreement, lease, agreement, property management agreement, or other real estate document;
- (2) vary or deviate from the rental price or other terms and conditions previously established by the owner or licensee when supplying relevant information concerning the rental of property;
- (3) approve applications or leases or settle or arrange the terms and conditions of a lease;
- (4) indicate to the public that the unlicensed individual is in a position of authority which has the managerial responsibility of the rental property;
- (5) conduct or host an open house or manage an on-site sales or leasing office;
- (6) show real property for sale other than vacant units in a multifamily building;
- (7) answer questions regarding company listings, title, financing, and closing issues, except for information that is otherwise publicly available;
- (8) be paid solely on the basis of real estate activity including, but not limited to, a percentage of commission or an amount based on the listing or sales compensation or commission;
- (9) negotiate or agree to compensation or commission including, but not limited to, commission splits, management fees, or referral fees on behalf of a licensee; or
- (10) engage in an activity requiring a real estate license as required and defined by this chapter.

(L) A licensee is not required to maintain records of communication that are not designed to be retained or to create a permanent record such as text messages, instant messaging system-formatted messages, voicemail, voice recordings, or social media posts.

BROKERS-IN-CHARGE

SECTION 40-57-350. Real estate brokerage firm duties to client; agency relationship; applicability of common law.

(A) A real estate brokerage firm that provides services through an agency agreement for a client is bound by the duties of loyalty, obedience, disclosure, confidentiality, reasonable care, diligence, and accounting as set forth in this chapter. Pursuant to the aforementioned duties owed to a client, a real estate brokerage firm and its subagents are prohibited from engaging in, representing others in, or assisting others in the practice of wholesaling. The following are the permissible brokerage relationships a real estate brokerage firm may establish:

- (1) seller agency;
- (2) buyer agency;
- (3) disclosed dual agency;
- (4) designated agency; or
- (5) transaction brokerage.

(B) The broker-in-charge of a real estate brokerage firm shall adopt a written company policy that identifies and describes the types of real estate brokerage relationships in which supervised licensees may engage, including teams and limited function referral offices. The written policy must include:

- (1) the real estate brokerage firm's policy regarding cooperation with transaction brokers, or both buyer agents, and transaction brokers, and whether the broker offers compensation to these licensees;
- (2) the scope of services provided to the real estate brokerage firm's clients;
- (3) the scope of services provided to the real estate brokerage firm's customers;
- (4) when and how supervised licensees shall explain and disclose their brokerage relationships with an interested party to a potential transaction. The explanation and disclosure shall always comply with the minimum requirements set forth in this chapter;
- (5) when and how a supervised licensee shall explain the potential for the licensee to later act as a disclosed dual agent, designated agent, or transaction broker in specific transactions, as permitted by this chapter; and
- (6) the real estate brokerage firm's policy on compliance with state and federal fair housing laws.

S.C. Code §40-57-350 has additional sections that are not reprinted here. Those additional sections set forth specific requirements related to the different types of agency that can be entered into with a client. Section G, in particular, discusses a licensee's requirement to treat all parties honestly and to not knowingly give false or misleading information.

SECTION 40-57-360. Broker-in-charge responsible for team supervision.

Section effective until May 15, 2027.

(A) The broker-in-charge must be responsible for supervising the team and all licensed members of the team. The broker-in-charge may not delegate supervisory responsibilities to the team members or team leader. Written office policy of the broker-in-charge shall address team relationships in which associated licensees may engage.

(B) The team may act as disclosed dual agents only and with the prior informed and written consent of all parties and as addressed in the broker-in-charge's written office policy.

(C) Team members must conduct all real estate brokerage activities from their commission-established office under the supervision of a broker-in-charge.

(D) Team advertising must contain the team name and the full name of the real estate brokerage firm displayed in a conspicuous way.

(E) No team may imply that the team is a separate entity from the brokerage firm of its employment. Team names may not include the terms "realty", "real estate", "realtors", or similar terms suggesting a brokerage.

(F) The team, and any and all team members, must display and promote that they are directly connected to the brokerage firm under which the team works. The brokerage firm name under which the team works is to be displayed prominently and visibly in a meaningful and conspicuous way on all methods of advertising.

(G) The commission may promulgate regulations regarding the creation and operation of real estate teams.

Section effective May 15, 2027.

(A) The broker-in-charge must be responsible for supervising the team and all licensed members of the team. The broker-in-charge may not delegate supervisory responsibilities to the team members or team leader. Written office policy of the broker-in-charge shall address team relationships in which supervised licensees may engage.

(B) The team may act as disclosed dual agents only and with the prior informed and written consent of all parties and as addressed in the broker-in-charge's written office policy.

(C) Team members must conduct all real estate brokerage activities from their commission-established office under the supervision of a broker-in-charge.

(D) All team advertising and marketing must contain the full name of the real estate brokerage firm and all team members must display and promote that they are directly connected to the brokerage firm under which the team works. In all team advertising and marketing, the team name may not be more than twice the size, prominence, or frequency of the full name of the brokerage firm.

(E) No team may imply that the team is a separate entity from the brokerage firm of its employment. Team names must end in [team name] team at [name of real estate brokerage firm].

(F) The commission may promulgate regulations regarding the creation and operation of real estate teams, including requiring the registration of team names on a form prescribed by the commission.

PROPERTY MANAGERS-IN-CHARGE

SECTION 40-57-520. Management of residential multiunit rental locations.

(A) The management of each residential multiunit rental location must be provided by an on-site licensee or an off-site licensee if there is no on-site staff.

(B) The commission may permit multiple multiunit rental property locations to be managed by one licensee.

(C) An unlicensed employee of the owner of a multiunit rental property or an unlicensed individual who works under the supervision of a licensee is permitted to perform only the following duties:

- (1) maintenance;
- (2) clerical or administrative support;
- (3) collection of rents that are made payable to the owner or real estate company;
- (4) showing rental units to prospective tenants;
- (5) furnishing published information;
- (6) providing applications and lease forms; and
- (7) receiving applications and leases for submission to the owner or the licensee for approval.

BROKERS-IN-CHARGE AND PROPERTY MANAGERS-IN-CHARGE

SECTION 40-57-710. Grounds for denial of issuance of license or for disciplinary action against licensee.

(A) In addition to Section 40-1-110, the commission may deny issuance of a license to an applicant or may take disciplinary action against a licensee who:

- (1) makes a substantial misrepresentation on an application for a real estate license;
- (2) makes a substantial misrepresentation involving a real estate transaction;
- (3) makes false promises likely to influence, persuade, or induce;
- (4) pursues a continued and flagrant course of misrepresentation or makes false and misleading promises through any medium of advertising or otherwise;
- (5) in the practice of real estate, demonstrates bad faith, dishonesty, untrustworthiness, or incompetency in a manner as to endanger the interest of the public;
- (6) represents a real estate broker other than the broker-in-charge or property manager-in-charge with whom they are licensed;
- (7) guarantees or authorizes and permits a supervised licensee to guarantee future profits from the resale of real estate;
- (8) makes a dual set of contracts, written or otherwise, by stating a sales price other than the actual sales price;
- (9) is convicted of violating the federal and state fair housing laws, forgery, embezzlement, breach of trust, larceny, obtaining money or property under false pretense, extortion, fraud, conspiracy to defraud, or any other crime involving the theft or taking of the property belonging to another, or has been convicted of a felony sex-related, felony drug-related, felony real estate-related, felony financial, or felony violent offense, or pleading guilty or nolo contendere to such an offense in a court of competent jurisdiction of this State, another state, or a federal court;
- (10) fails to report to the commission in writing by certified mail, within ten days, notice of conviction of a crime provided in item (9);
- (11) fails, within a reasonable time, to account for or to remit trust funds coming into his possession which belong to others;
- (12) pays a commission or compensation to an unlicensed individual for activities requiring a license under this chapter. Notwithstanding this section, a licensee may not pay or offer to pay a referral fee or finder's fee to an unlicensed individual who is not a party in the real estate sales or rental transaction;
- (13) violates a provision of law relating to the freedom of a buyer or seller to choose an attorney, insurance agent, title insurance agent, or another service provider to facilitate the real estate transaction;
- (14) fails to disclose in accordance with Section 40-57-370 the party or parties for whom the licensee will be acting as an agent in a real estate transaction, if any;
- (15) receives compensation in a real estate transaction or directly resulting from a real estate transaction from more than one party except with the full knowledge and written disclosure to all parties;
- (16) represents more than one party in a real estate transaction without the full written knowledge and consent of all parties;

- (17) acts as an undisclosed principal in a real estate transaction;
- (18) accepts deposit money which is to be delivered to the licensee's principal in a real estate transaction without informing the payor and having the payor acknowledge in writing who will hold the money received by the licensee;
- (19) issues a check in connection with his real estate business which is returned for insufficient funds or closed account;
- (20) fails to disclose in accordance with Section 40-57-350 a known material fact concerning a real estate transaction;
- (21) violates a provision of this chapter or a regulation promulgated under this chapter;
- (22) violates a rule or order of the commission;
- (23) knowingly gives false information to an investigator or inspector;
- (24) engages in a practice or takes action inconsistent with the agency relationship that other real estate licensees have established with their clients;
- (25) fails to make all records required to be maintained under this chapter available to the commission for inspection and copying by the commission upon request of an investigator or inspector of the commission, fails to appear for an interview with an investigator or inspector of the commission without due cause, or provides false information upon direct inquiry by the investigator or inspector;
- (26) fails to promptly submit all offers and counteroffers in a real estate sales transaction;
- (27) fails to provide current contact information to the commission;
- (28) allows or creates an unreasonable delay in the closing of a transaction or act in a manner which causes failure or termination of a transaction due solely to a dispute among participating licensees concerning the division of a commission; or
- (29) fails to disclose civil judgments brought on grounds of fraud, misrepresentation, or deceit.

(B) If after an investigation, charges of a violation are brought against a licensee, the broker-in-charge or property manager-in-charge must be notified of the charges. In the event a supervised licensee is noticed for a formal complaint hearing or otherwise appears before the commission to resolve the charges, the broker-in-charge or property manager-in-charge of record during the events in question must also attend the hearing. Unless the broker-in-charge or property manager-in-charge can show good cause as to why he failed to appear, the absence may result in the broker-in-charge or property manager-in-charge facing disciplinary action at the discretion of the commission.

SECTION 40-57-720. Investigations; restraining orders; surrender of license; disciplinary action; report to be posted.

(A) An investigation must be conducted in accordance with Section 40-1-80 and must be performed by investigators who have completed one hundred hours of training in programs that are approved by the commission and provide instruction on real estate principles, state statutory and regulatory law, and investigative techniques.

(B) A cease and desist order, restraining order, or an action seeking injunctive relief must be obtained in accordance with Sections 40-1-100 and 40-1-210.

(C)(1) The department shall conclude its investigation within one hundred fifty days from receipt of the complaint or seek a waiver of this period from the commission upon a showing of due diligence and extenuating circumstances.

(2) A hearing on the charges must be at the time and place designated by the commission and must be conducted in accordance with the Administrative Procedures Act.

(3) The commission shall render a decision and shall serve, within ninety days, notice, in writing, of the commission's decision to the licensee charged. The commission also shall state in the notice the date upon which the ruling or decision becomes effective.

(4) The department shall maintain a public docket or other permanent record in which must be recorded all orders, consent orders, or stipulated settlements.

(D) A licensee may voluntarily surrender his license in accordance with Section 40-1-150.

(E)(1) The commission may impose disciplinary action in accordance with Section 40-1-120.

(2) Upon determination by the commission that one or more of the grounds for discipline exists, the commission may impose a fine of not more than ten thousand dollars for each violation and as provided in Section 40-1-120. The commission may recover the costs of the investigation and the prosecution as provided in Section 40-1-170.

(3) Nothing in this section prevents a licensee from voluntarily entering into a consent order with the commission wherein violations are not contested and sanctions are accepted.

(F) The department annually shall post a report that provides the data for the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days.

SECTION 40-57-725. Penalties.

(A) The department may refer any reports of violations of this chapter and Article 1, Chapter 1 of this title or any reports of violations of regulations promulgated under this chapter directly to the commission or may issue administrative citations and cease and desist orders in person or by certified mail and may assess administrative penalties against any individual or entity, including unlicensed individuals, for violations of this chapter as specified by the commission.

(B) Administrative penalties authorized under this section are separate from and in addition to all other remedies, either civil or criminal.

(C) Administrative penalties assessed pursuant to this section may not exceed the following limits:

(1) for a first violation of a particular provision of this chapter or Article 1, Chapter 1 of this title, or any commission regulation, not more than a five-hundred-dollar penalty;

(2) for the second of two violations of the same or substantially similar provision in a five-year period, not more than a one-thousand-dollar penalty; and

(3) for the third or subsequent violation of the same or substantially similar provision in a five-year period, not more than a ten-thousand-dollar penalty.

(D) An individual or entity assessed administrative penalties may appeal those penalties to the commission within ten days of receipt of the citation. If an appeal is filed, the department shall schedule a hearing before the commission, which shall make a determination in the matter. If no appeal is filed, the citation is deemed a final order and the administrative penalties must be paid within thirty days of receipt of the citation.

Resources

- **National Association of REALTORS (NAR)**
 - Forms: <https://www.nar.realtor/forms/forms-for-realtors>
 - Federal Issues: <https://www.nar.realtor/advocacy>
 - Avoid losing/endangering license: <https://www.nar.realtor/magazine/real-estate-news/law-and-ethics/ten-ways-to-lose-or-at-least-endanger-your-license>

- **South Carolina Real Estate Commission**
 - <https://llr.sc.gov/re/>
 - Commission-Approved Forms and Resources: <https://llr.sc.gov/re/resources.aspx>
 - Trust Account Guidelines: <https://llr.sc.gov/re/RECPDF/TrustAccountBook.PDF>
 - FAQs: <https://llr.sc.gov/re/FAQ.aspx>

- **South Carolina Realtors**
 - <https://screaltors.org/nar-lawsuit-settlement-scr-fags-and-resources/>