

SENATE FILE NO. SF0056

Real estate brokers and salesmen revisions.

Sponsored by: Senator(s) Johnson

A BILL

for

1 AN ACT relating to real estate brokers and salesmen; making  
2 general revisions throughout the Real Estate License Act;  
3 amending and repealing provisions as required; providing  
4 requirements for a broker's price opinion; providing  
5 definitions; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

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9       **Section 1.** W.S. 33-28-101, 33-28-102 by creating a  
10 new subsection (b), 33-28-103(a)(iii) through (vi),  
11 33-28-104, 33-28-105(a), (c)(intro), (v), (e) and (g),  
12 33-28-106(a), (b), (c)(intro), (ii), (d), (e)(intro), (i),  
13 (viii)(intro), (f)(intro), (i), (iii), (vi)(intro), (g)(i),  
14 (k) and by creating a new subsection (n), 33-28-107(b),  
15 33-28-108, 33-28-109(a) through (c), 33-28-110(a),  
16 (b)(intro), (i), (iii), (iv), (d) and (f),  
17 33-28-111(a)(intro), (v), (vi)(intro), (A), (ix), (xiii)

1 through (xvii), (xix), (xxiii), (xxv) through (xvii),  
2 (xxix)(intro), (A) and (c), 33-28-114(a), 33-28-115,  
3 33-28-117, 33-28-118(a) through (e), 33-28-119, 33-28-121,  
4 33-28-122, 33-28-123, 33-28-201(b), 33-28-202(a), (c) and  
5 (d)(intro), 33-28-204, 33-28-302(a), (b), (c), (f),  
6 (h)(intro), (i), (j), (k), (n), (p) and (q), 33-28-303(f)  
7 and (g), 33-28-305(b)(ii)(J) and 33-28-306(a)(intro) are  
8 amended to read:

9

10 **33-28-101. Short title; license required.**

11

12 This act shall be known and may be cited as the "Real  
13 Estate License Act." ~~of 1971". From and after the effective~~  
14 ~~date of this act~~ It is unlawful for any person to engage in  
15 or conduct, directly or indirectly, or to advertise or hold  
16 himself out as engaging in ~~or conducting the business,~~ real  
17 estate activity or acting in the capacity of a ~~real estate~~  
18 responsible broker, associate broker or ~~a real estate~~  
19 salesman within this state without first obtaining a  
20 license as ~~a broker, associate broker or salesman,~~ as  
21 provided in this act.

22

23 **33-28-102. Definitions.**

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1       (b) As used in this act:

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3               (i) "Active license" means a real estate license  
4 that has not been inactivated, suspended or revoked;

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6               (ii) "Advance fee" means a fee claimed, charged  
7 or received for a listing, advertisement or offer to sell  
8 or lease property issued primarily for promoting the sale  
9 or lease of real estate;

10

11               (iii) "Aggregate limit" means a provision in an  
12 insurance contract limiting the maximum liability of an  
13 insurer for a series of losses in a given time period, such  
14 as the policy term;

15

16               (iv) "Associate broker" means an individual who  
17 has qualified as a broker under this act but is licensed  
18 under, is associated with and represents a real estate  
19 company;

20

21               (v) "Branch office" means any office of a  
22 responsible broker other than his principal place of  
23 business;

24

1           (vi) "Broker" means any person licensed under  
2 this act including associate brokers and responsible  
3 brokers. "Broker" does not include a salesman;

4  
5           (vii) "Buyer" means a person attempting to  
6 acquire real property and includes a tenant as that term is  
7 commonly used in the rental, leasing or management of real  
8 property;

9  
10          (viii) "Buyer's agent" means a licensee who is  
11 authorized to represent and act on behalf of the buyer in a  
12 real estate transaction;

13  
14          (ix) "Commission" means the Wyoming real estate  
15 commission;

16  
17          (x) "Compensation" means any money, item of  
18 value or payment which is provided, promised or expected  
19 for the performance of any real estate activity;

20  
21          (xi) "Cooperative transaction" means any real  
22 estate transaction in which more than one (1) responsible  
23 broker participates, regardless of agency representation;

24

1           (xii) "Customer" means a party to a real estate  
2 transaction who has established no intermediary or agency  
3 relationship with any licensee involved in the transaction;  
4

5           (xiii) "Degree in real estate" means a degree  
6 from an accredited degree granting college or university,  
7 including a junior or community college, with a major  
8 course of study in real estate. A degree under this section  
9 shall at minimum require the successful completion of four  
10 (4) core courses of real estate principles and practices,  
11 real estate law, real estate appraisal and real estate  
12 finance, plus at least two (2) additional real estate  
13 related courses. These courses shall total at least  
14 eighteen (18) or more semester hours or twenty-seven (27)  
15 quarter hours;  
16

17           (xiv) "Designated licensee" means a licensee who  
18 is designated in writing by a responsible broker to serve  
19 as an agent or intermediary for a seller or a buyer in a  
20 real estate transaction;  
21

22           (xv) "Distance education course" means a course  
23 where instruction takes place when the teacher and the

1 student are not in a traditional classroom setting and are  
2 separated by distance or time;

3

4 (xvi) "Equivalent coverage" means insurance  
5 coverage obtained independently of the group program  
6 available through the insurer under contract with the  
7 commission and subject to the provisions of this act;

8

9 (xvii) "Errors and omissions insurance" means  
10 professional liability insurance which provides insurance  
11 coverage to active licensees for errors and omissions made  
12 during the course of real estate transactions subject to  
13 the coverages, limitations and exclusions of the specific  
14 policy;

15

16 (xviii) "Expired license" means a license for  
17 which the license period has expired;

18

19 (xix) "Extended reporting period" means a  
20 designated period of time after a claims-made policy has  
21 expired during which a claim may be made and coverage  
22 obtained as if the claim was made during the policy period;

23

1           (xx) "Firm name" means the name of a licensed  
2 business, company, corporation, entity, partnership, sole  
3 proprietorship or other entity as recorded by the  
4 commission;

5  
6           (xxi) "Funds holder" means a third party who  
7 holds items of value in trust for the parties to a real  
8 estate transaction;

9  
10           (xxii) "Grace period" means January 1 to March 1  
11 of each year;

12  
13           (xxiii) "Group program" means an insurance  
14 policy from an insurance provider selected by the  
15 commission through the competitive process as specified in  
16 this act;

17  
18           (xxiv) "Inactive license" means a license that  
19 has been placed on inactive status at the request of the  
20 licensee and is not expired, terminated, suspended or  
21 revoked;

22

1           (xxv) "Individual coverage" means insurance  
2 coverage other than coverage from the group program which  
3 meets the requirements of the commission;  
4

5           (xxvi) "In-house real estate transaction" means  
6 a real estate transaction in which the buyer and the seller  
7 have an agency or intermediary relationship with licensees  
8 from the same firm;  
9

10           (xxvii) "Interest in a transaction" means any  
11 advantage, benefit or profit, other than an agreed upon  
12 commission, which may be realized by a licensee as the  
13 result of a purchase, sale or lease of real property;  
14

15           (xxviii) "Intermediary" means a licensee who  
16 assists one (1) or more parties throughout a contemplated  
17 real estate transaction without acting as an agent or  
18 advocate for any party to the transaction;  
19

20           (xxix) "License" means the document issued by  
21 the commission certifying that the person named on the  
22 document had fulfilled all requirements for licensure under  
23 this act;  
24



1           (xxx) "Licensee" means any individual or real  
2 estate company that holds a license issued by the  
3 commission;

4  
5           (xxxi) "Like-license" means a license from  
6 another jurisdiction which is at an equivalent level of  
7 experience and responsibility as a comparable Wyoming  
8 license;

9  
10           (xxxii) "Material to the transaction" means  
11 having importance, relevance or consequence to a person  
12 making a decision regarding real estate. "Material to the  
13 transaction" does not include psychological considerations  
14 including health issues or crimes which have occurred on  
15 the property;

16  
17           (xxxiii) "Offer" means any inducement,  
18 solicitation or attempt to encourage a person to acquire an  
19 interest in real estate which is made for gain or profit;

20  
21           (xxxiv) "Offeree" means a person to whom an  
22 offer is made;

23

1           (xxxv) "Offeror" means the person making an  
2 offer;

3

4           (xxxvi) "Office" means a broker's place of  
5 business where records are maintained;

6

7           (xxxvii) "Option" is a right that an owner may  
8 give to another to purchase or lease the owner's property  
9 at a specific price;

10

11           (xxxviii) "Owner" means a person with a right to  
12 convey an ownership or leasehold interest in real estate;

13

14           (xxxix) "Person" means individuals,  
15 corporations, partnerships or associations, foreign or  
16 domestic;

17

18           (xl) "Prior acts coverage" means insurance  
19 coverage for any claim made during a current policy period  
20 when the act or acts causing the claim or injuries for  
21 which the claim is made occurred prior to the inception of  
22 the current policy period;

23

1           (xli) "Proof of coverage" means a certificate of  
2 insurance;

3

4           (xlii) "Property manager" means a person who for  
5 compensation manages real estate, including collection of  
6 rents, maintenance of the property and accounting of fees  
7 received for another;

8

9           (xliii) "Qualified insurance carrier" means an  
10 insurance carrier that:

11

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

17

18           (B) Is authorized by the Wyoming insurance  
19 department to do business in Wyoming as an insurance  
20 carrier for the policy term;

21

22           (C) Is and will remain qualified and  
23 authorized by the Wyoming insurance department to write

1 policies of errors and omissions insurance in Wyoming for  
2 the policy term;

3

4 (D) After competitive bidding, has been  
5 notified by the commission that it is the successful bidder  
6 for the group plan to provide the errors and omissions  
7 insurance as specified in this act;

8

9 (E) Has entered into a contract to provide  
10 group errors and omissions plan in conformity with the  
11 contract, this act, applicable rules of the commission and  
12 other applicable law;

13

14 (F) Will collect premiums, maintain records  
15 and report names of those insured and a record of claims to  
16 the commission on a timely basis;

17

18 (xliv) "Real estate" means leaseholds, as well  
19 as any other interest or estate in land, whether corporeal,  
20 incorporeal, freehold or nonfreehold, and whether the real  
21 estate is situated in this state or elsewhere but shall not  
22 apply to nor include mineral lands, rights or leases;

23

1           (xlv) "Real estate activity" occurs when an  
2 individual for another and for compensation:

3

4           (A) Sells, exchanges, purchases, rents,  
5 manages or leases real estate;

6

7           (B) Offers to sell, exchange, purchase,  
8 rent, manage or lease real estate;

9

10           (C) Negotiates, offers, attempts or agrees  
11 to negotiate the sale, exchange, purchase, rental or  
12 leasing of real estate;

13

14           (D) Lists, offers, attempts or agrees to  
15 list real estate for sale, lease or exchange;

16

17           (E) Auctions, offers, attempts or agrees to  
18 auction real estate;

19

20           (F) Collects, offers, attempts or agrees to  
21 collect rent for the use of real estate;

22

1                   (G) Advertises or holds himself out as  
2 being engaged in the business of buying, selling,  
3 exchanging, renting or leasing real estate;

4  
5                   (H) Engages in the business of charging an  
6 advance fee in connection with any contract undertaken to  
7 promote the sale or lease of real estate either through its  
8 listing in a publication issued for that purpose or for  
9 referral of information concerning the real estate to  
10 brokers;

11  
12                   (J) Buys, sells, offers to buy or sell or  
13 otherwise deals in options on real estate or improvements  
14 thereon;

15  
16                   (K) Assists or directs in the procuring of  
17 prospects calculated to result in the sale, exchange, lease  
18 or rental of real estate;

19  
20                   (M) Assists or directs in the negotiation  
21 of any transaction calculated or intended to result in the  
22 sale, exchange, lease or rental of real estate;

23  
24                   (N) Issues a broker's price opinion; or

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(O) Deals in time shares.

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

(xlviii) "Real estate transaction" or "transaction" means any real estate activity under this section;

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

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

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

(li) "Salesman" means an individual who has qualified as a salesman under this act and is licensed under and represents a licensed real estate company;

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

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

(liv) "Short term rental" means the rental of real property for thirty-one (31) days or less;



1           (lv) "Single-limit liability" means the maximum  
2 limit payable, per licensee, for damages arising out of the  
3 same error, omission or wrongful act;

4  
5           (lvi) "Subagent" means a licensee authorized to  
6 represent and act on behalf of a real estate company in  
7 performing real estate activity for a principal. A  
8 subagent shall owe the same obligations and  
9 responsibilities to the principal as a responsible broker;

10  
11           (lvii) "Surrendered license" means a license  
12 that has been voluntarily terminated or surrendered by a  
13 licensee who, at the time of the voluntary termination or  
14 surrender, was under investigation or named in a formal  
15 administrative complaint and the surrender has been  
16 accepted by the commission;

17  
18           (lviii) "Suspended license" means a license that  
19 has been temporarily suspended by the issuing authority;

20  
21           (lix) "Time share" means any arrangement,  
22 whether by membership agreement, lease, rental agreement,  
23 license, use agreement or other means, whereby the  
24 purchaser receives a right to use or a freehold interest in

1 accommodations, facilities or property for a specific  
2 period of time during any given year, but not necessarily  
3 for consecutive years, and which extends for a period of  
4 more than one (1) year;

5  
6 (lx) "Transaction manager" means a licensee  
7 designated in writing by the responsible broker to  
8 supervise a transaction. The transaction manager shall not  
9 be an agent in the transaction and shall have the duties of  
10 an intermediary while supervising the transaction;

11  
12 (lxi) "Written listing agreement" means any real  
13 estate employment agreement, including without limitation a  
14 buyer's brokerage agreement, a seller's listing contract  
15 and a property management contract. The authority created  
16 under a written listing agreement may not be assigned to  
17 another person without the written consent of all parties  
18 to the agreement;

19  
20 (lxii) "This act" means W.S. 33-28-101 through  
21 33-28-401.

22  
23 **33-28-103. Exemptions.**

24

1 (a) The provisions of this act shall not apply to:

2

3 (iii) Any individual acting as receiver, trustee  
4 in bankruptcy, administrator, executor, or guardian, or  
5 while acting under a court order or under the authority of  
6 a will or of a trust instrument or as a witness in any  
7 judicial proceeding or other proceeding conducted by the  
8 state or any governmental subdivision or agency unless that  
9 person is a licensee;

10

11 (iv) Any officer or employee of a federal agency  
12 in the conduct of his official duties, unless that person  
13 is a licensee;

14

15 (v) Any officer or employee of the state  
16 government or any political subdivision thereof performing  
17 his official duties, unless that person is a licensee;

18

19 (vi) Any person or employee acting as the  
20 resident manager for the owner or an employee acting as the  
21 resident manager for a broker managing an apartment  
22 building, duplex, apartment complex or court, when the  
23 resident manager resides on the premises and is engaged in

1 the leasing of property in connection with his employment,  
2 unless that person is a licensee; or

3

4 **33-28-104. Acts constituting person as licensee.**

5

6 Any person who, for another, with the intention or upon the  
7 promise of receiving ~~any valuable consideration~~  
8 compensation offers, attempts or agrees to perform, or  
9 performs any single act ~~defined in W.S. 33-28-102(a)(iii)~~  
10 of real estate activity, whether as a part of a transaction  
11 or as the entire transaction shall be deemed to be acting  
12 as a ~~broker, associate broker or salesman~~ licensee within  
13 the meaning of this act.

14

15 **33-28-105. Creation of commission; membership; terms;**  
16 **removal; chairman; powers and duties; director and duties**  
17 **thereof; other employees; compensation; disposition of**  
18 **fees.**

19

20 (a) The Wyoming real estate commission is created to  
21 consist of five (5) commissioners, each of whom shall be a  
22 citizen of Wyoming, appointed by the governor with the  
23 advice and consent of the senate. Not less than three (3)  
24 or more than four (4) of the membership shall have been

1 engaged in business as ~~an active salesperson or broker~~ a  
2 licensee in Wyoming for at least five (5) years immediately  
3 preceding appointment. No more than one (1) commissioner  
4 shall be appointed from the same county to serve at the  
5 same time. The term of the members of the commission shall  
6 be for three (3) years and until their successors are  
7 appointed and qualified. Members appointed to fill  
8 vacancies shall be appointed in accordance with W.S.  
9 28-12-101, and no member shall be appointed to succeed  
10 himself for more than one (1) full term. The governor may  
11 remove any commission member as provided in W.S. 9-1-202.  
12 The commission at its first meeting held after September 1  
13 of each year shall select a chairman to serve for the  
14 following year. The commission has the power to regulate  
15 the issuance of licenses, to revoke or suspend licenses  
16 issued under this act, to censure licensees and may do all  
17 things necessary and proper to carry out the provisions of  
18 this act. The commission may, from time to time, promulgate  
19 and amend necessary and reasonable rules and regulations  
20 for these purposes. ~~Effective July 1, 1979,~~ Appointments  
21 and terms shall be in accordance with W.S. 28-12-101  
22 through 28-12-103.

23

1           (c) The commission shall employ a director. The  
2 director is subject to the rules and regulations of the  
3 human resources division of the department of  
4 administration and information. The director's salary shall  
5 be paid from the real estate ~~board~~commission account  
6 specified in subsection (g) of this section. The duties of  
7 the director shall include the following:

8

9           (v) Assist the commission with examinations to  
10 be given applicants for real estate ~~broker and salesman~~  
11 licenses, and to conduct the examinations at the direction  
12 of the commission;

13

14           (e) Each member of the commission shall receive ~~as~~  
15 compensation from the real estate ~~board~~commission account  
16 for each day actually spent on his official duties  
17 including per diem and mileage allowance as allowed ~~to~~for  
18 state employees and salary in the amount provided by W.S.  
19 28-5-101(d) for the performance of official duties.

20

21           (g) All fees collected by the commission shall be  
22 deposited in the state treasury. The state treasurer shall  
23 deposit the fees to the credit of the real estate ~~board~~

1 commission account. Disbursements from the account shall  
2 not exceed the monies credited to it.

3

4 **33-28-106. Application for license; qualifications;**  
5 **sworn statement; commission approval of course of study;**  
6 **statement of broker; denial of license; issuing licenses.**

7

8 (a) Any person desiring to act as a ~~real-estate~~  
9 ~~broker, associate broker or real-estate salesman~~ licensee  
10 shall file an application for a license with the  
11 commission. The application shall be in the form and detail  
12 as the commission shall prescribe and the applicant shall  
13 provide to the commission fingerprints and other  
14 information necessary for a criminal history record  
15 background check as provided in W.S. 7-19-201(a).

16

17 (b) Licenses shall be granted only to persons who  
18 bear a good reputation for honesty, trustworthiness,  
19 integrity and competence to transact the business of a  
20 ~~broker, associate broker or salesman~~ licensee in a manner  
21 which will safeguard the interests of the public, and only  
22 after satisfactory proof of the applicant's qualifications  
23 has been presented to the commission including a criminal

1 history record background check as provided in W.S.  
2 7-19-201(a).

3

4 (c) Each applicant for a responsible broker's or  
5 associate broker's license shall:

6

7 (ii) Have first served actively for two (2) of  
8 the four (4) years immediately preceding the application as  
9 a real estate salesman or shall furnish to the commission  
10 proof indicating that the applicant holds a degree in real  
11 estate from an accredited university or college; and

12

13 (d) Every officer of a corporation acting as a  
14 responsible broker for the corporation and every member of  
15 ~~an association or partnership~~ a real estate company acting  
16 as a responsible broker for that ~~association or partnership~~  
17 real estate company who engages in the real estate business  
18 shall obtain a responsible broker's license.

19

20 (e) Every applicant for a responsible broker's or  
21 associate broker's license shall furnish a sworn statement  
22 setting forth:

23



1           (i) The name of the ~~person, firm, partnership,~~  
2 ~~association or corporation~~ real estate company with which  
3 he will be associated in the business of real estate;

4  
5           (viii) Evidence that the applicant has completed  
6 not less than sixty (60) cumulative class hours in a course  
7 of study approved by the commission, given by instructors  
8 approved by the commission and has satisfactorily passed an  
9 examination covering material taught in each course. ~~The~~  
10 ~~commission shall:~~

11  
12          (f) Each applicant for a salesman's license shall  
13 have reached the age of majority. The application for a  
14 salesman's license shall be accompanied by a written  
15 statement by the responsible broker in whose service the  
16 applicant is about to enter stating:

17  
18           (i) The name and place of business of the  
19 responsible broker; ~~making the statement;~~

20  
21           (iii) The responsible broker will actively  
22 supervise and train the applicant during the period the  
23 requested license remains in effect;

24

1           (vi) The applicant has completed not less than  
2 thirty (30) class hours in a course of study approved by  
3 the commission, given by instructors approved by the  
4 commission and has satisfactorily passed an examination  
5 covering material taught in each course. ~~The commission~~  
6 ~~shall:~~

7  
8           (g) The commission may consider prior revocation,  
9 conduct or conviction in its determination of whether to  
10 grant the applicant a license if the applicant:

11  
12           (i) Has been fined or disciplined or had his  
13 real estate license revoked, ~~on a prior occasion~~ suspended,  
14 censured or placed on probation in any jurisdiction;

15  
16           (k) The commission shall issue ~~to each broker and to~~  
17 ~~each salesman licensee a license and pocket card~~ licenses  
18 in a form and size as the commission shall prescribe.

19  
20           (n) The commission shall:

21  
22           (i) Approve courses that cover real estate  
23 principles, real estate law, real estate finance and  
24 related topics;

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(ii) Promulgate rules and regulations to provide a process for challenging a course in lieu of evidence of completion of class hours;

(iii) Publish a list of approved real estate courses and keep the list updated annually;

(iv) On request, evaluate a specific course or courses which are not on the approved list and approve or disapprove the course.

**33-28-107. Examinations; salesmen's and brokers' licenses.**

(b) No applicant shall engage in ~~the~~ real estate ~~business either as a broker or salesman~~ activity until he has satisfactorily passed the examination, complied with the other requirements of this act and until a license has been issued to him.

**33-28-108. Fees.**

1 Pursuant to W.S. 33-1-201, the commission shall establish  
2 fees for examinations, original licenses, renewals,  
3 certifications, change of place of business, transfers, and  
4 duplicate licenses. ~~and duplicate pocket cards.~~ The fees  
5 shall be used to pay the expense of maintaining and  
6 operating the office of the commission and the enforcement  
7 of this act.

8

9 **33-28-109. Responsible broker to maintain fixed**  
10 **office; change of address; branch offices; restrictions on**  
11 **associate brokers and salesmen.**

12

13 (a) Each resident ~~licensed~~ responsible broker shall  
14 maintain a fixed office within this state. ~~The original~~  
15 ~~license as broker and the original license of each salesman~~  
16 ~~associated with or under contract to the broker shall be~~  
17 ~~prominently displayed in the office.~~ The address of the  
18 office shall be designated ~~in the broker's license~~ on all  
19 licenses associated with the office and no license issued  
20 under this act shall authorize the licensee to transact  
21 real estate ~~business~~ activity at any other address except a  
22 licensed branch office. In case of removal from the  
23 designated address, the licensee shall make application to  
24 the commission before the removal ~~or within ten (10) days~~

1 ~~thereafter,~~ designating the new location of his office and  
2 paying the required fee, whereupon the commission shall  
3 issue a license for the new location for the unexpired  
4 period if the new location complies with the terms of this  
5 act.

6  
7 (b) If a responsible broker maintains more than one  
8 (1) place of business within the state, a branch office  
9 license shall be issued to the responsible broker for each  
10 branch office so maintained by him. ~~and the branch office~~  
11 ~~license shall be displayed conspicuously in each branch~~  
12 ~~office.~~ Every branch office shall be under the direction  
13 and supervision of ~~a licensed~~ the responsible broker. A  
14 responsible broker requesting a branch office license shall  
15 also, in addition to the branch office application, submit  
16 a plan of supervision for the branch office.

17  
18 (c) An associate broker or salesman shall not be  
19 associated or engaged under contract to any other  
20 responsible broker than is designated upon the license  
21 issued to the associate broker or salesman. Upon  
22 termination of an associate broker's or salesman's  
23 association or contractual relationship, ~~he shall surrender~~  
24 ~~his pocket card to~~ his responsible broker ~~who shall return~~

1 ~~his license and pocket card to~~ shall immediately notify the  
2 commission for cancellation of the associate broker's or  
3 salesman's license. Whenever a licensed associate broker or  
4 salesman desires to change his broker or contractual  
5 relationship from one ~~licensed~~ responsible broker to  
6 another, he shall notify the commission promptly in writing  
7 of the facts attendant thereon and pay the required fee.  
8 The commission shall issue a new license. ~~and pocket card.~~  
9 No associate broker or salesman shall directly or  
10 indirectly associate himself with a responsible broker  
11 until he has been issued a license to do so with that  
12 responsible broker.

13

14 **33-28-110. Unlawful to compensate unlicensed person;**  
15 **licensing of like-licensed nonresidents; service of process**  
16 **on nonresidents.**

17

18 (a) It is unlawful for any ~~licensed~~ responsible  
19 broker to compensate any person who is not a licensed  
20 responsible broker, associate broker or salesman for  
21 performing any of the acts regulated by this act provided,  
22 however, that a ~~licensed~~ responsible broker may pay a  
23 commission to a licensed broker of another state if the  
24 nonresident broker does not conduct ~~in this state any of~~

1 ~~the negotiations for which a commission~~ any real estate  
2 activity in this state for which compensation is paid.

3  
4 (b) A nonresident may be issued a ~~nonresident~~ Wyoming  
5 responsible broker's license if:

6  
7 (i) The individual ~~is a licensed broker~~ holds a  
8 like-license in his home state;

9  
10 (iii) The individual meets all the other  
11 requirements of this act and rules and regulations of the  
12 commission; and

13  
14 (iv) ~~The individual's home state has entered~~  
15 ~~into a reciprocal agreement with the commission relating to~~  
16 ~~the issuance of reciprocal licenses.~~ The broker furnishes  
17 the commission a statement under seal of the commission of  
18 his home state evidencing that he is an active licensed  
19 broker in good standing and has no complaints pending  
20 against him in his home state.

21  
22 (d) A nonresident ~~salesman employed by or associated~~  
23 ~~with a broker holding a nonresident broker's license~~ may be  
24 ~~issued a nonresident salesman's license~~ under the

1 ~~nonresident broker if he submits to the commission a~~  
2 ~~statement under the seal of the commission of the state in~~  
3 ~~which he is licensed evidencing that he is an active~~  
4 ~~licensed salesman in good standing and with no complaints~~  
5 ~~pending against him in his home state.~~ may be issued a  
6 Wyoming associate broker or salesman license if:

7  
8 (i) The individual holds a like-license in his  
9 home state;

10  
11 (ii) The individual is actively engaged in the  
12 real estate business in his home state;

13  
14 (iii) The individual meets all the other  
15 requirements of this act and rules and regulations of the  
16 commission; and

17  
18 (iv) The individual furnishes the commission a  
19 statement under seal of the commission of his home state  
20 evidencing that he holds an active license in good standing  
21 and has no complaints pending against him in his home  
22 state.

23



1 (f) Prior to being issued a license, every  
2 nonresident ~~broker~~licensee shall file with the commission  
3 a designation in writing which appoints the director of the  
4 commission to act as his licensed agent upon whom all  
5 judicial and other process or legal notices directed to the  
6 licensee may be served. Service upon the agent so  
7 designated shall be equivalent to personal service upon the  
8 licensee. Copies of the appointment, certified by the  
9 director of the commission, shall be received in evidence  
10 in any proceeding and shall be given the same force and  
11 effect as the original. In the written designation the  
12 licensee shall agree that any lawful process against the  
13 licensee which is served upon his appointed agent shall be  
14 of the same legal force and validity as if served upon the  
15 licensee, and that the authority of the agent shall  
16 continue in force so long as any liability of the licensee  
17 remains outstanding in this state. Upon the receipt of any  
18 process or notice, the director shall mail a copy of the  
19 same by certified mail, return receipt requested, to the  
20 last known business address of the licensee.

21

22 **33-28-111. Censure of licensee and suspension or**  
23 **revocation of license; grounds.**

24

1           (a) The commission shall upon a written sworn  
2 complaint or may upon its own motion investigate the  
3 actions of any ~~broker, associate broker or salesman,~~ person  
4 conducting real estate activity regarding real property  
5 located in Wyoming, impose an administrative fine not to  
6 exceed two thousand five hundred dollars (\$2,500.00) for  
7 each separate offense and may censure ~~the~~ a licensee, place  
8 ~~the~~ a licensee on probation and set the terms of probation,  
9 suspend or revoke any license issued under this act ~~and~~  
10 ~~impose an administrative fine~~ for any of the following:

11

12           (v) ~~Negotiating a sale, exchange or lease of~~  
13 ~~real estate~~ Conducting real estate activity directly with  
14 an owner or lessor if the licensee knows the owner has ~~a~~  
15 ~~written outstanding contract~~ an outstanding written  
16 agreement in connection with the property ~~granting an~~  
17 ~~exclusive right to sell to~~ with another responsible broker;

18

19           (vi) ~~Intentionally~~ Using advertising which:

20

21           (A) Is misleading or is inaccurate in any  
22 ~~material~~ material to the transaction; or

23

1           (ix) If a responsible broker, failing to  
2 supervise the activities of his associate broker or  
3 salesman;

4  
5           (xiii) Failing to submit all offers in writing  
6 to a seller, ~~if received prior to the written acceptance of~~  
7 ~~any offer~~ or buyer;

8  
9           (xiv) Commingling the money or other property of  
10 ~~the licensee's principals~~ others with his own;

11  
12           (xv) Accepting, giving or charging an  
13 undisclosed commission, rebate or direct or indirect profit  
14 on expenditures made for ~~a principal~~ others;

15  
16           (xvi) Engaging in real estate activity as an  
17 associate broker or salesman involving the representing or  
18 attempt to represent a ~~real estate~~ responsible broker other  
19 than his ~~licensed~~ responsible broker;

20  
21           (xvii) Accepting ~~a commission~~ compensation or  
22 other valuable consideration by an associate broker or  
23 salesman from anyone other than his ~~employing~~ responsible  
24 broker;

1

2 (xix) Guaranteeing or authorizing any person to  
3 guarantee future profits which may result from the resale  
4 of real ~~property~~ estate;

5

6 (xxiii) Compensating any unlicensed person for  
7 performing ~~the services of a broker, associate broker or~~  
8 ~~salesman~~ real estate activity;

9

10 (xxv) Failing to account for any monies or  
11 property ~~entrusted to licensee~~ received from others;

12

13 (xxvi) Failing to keep the funds of others in an  
14 escrow or trust account, unless each person with an  
15 interest in the funds has agreed otherwise in writing;

16

17 (xxvii) Failing to deposit all financial  
18 instruments in an escrow or ~~trustee~~ trust account within  
19 one (1) banking day in a financial institution in this  
20 state, unless each person with an interest in the funds has  
21 agreed otherwise in writing;

22

23 (xxix) If a responsible broker:

24

1 (A) Failing to deliver to the ~~seller~~  
2 parties in every real estate transaction at the time the  
3 transaction is closed a complete, detailed closing  
4 statement showing all of the receipts and disbursements  
5 handled by the ~~broker~~ licensee and each licensee in his  
6 office for the ~~seller~~ parties unless a clear and accurate  
7 accounting is furnished by ~~an escrow~~ another broker or a  
8 closing agent;

9  
10 (c) All administrative fines collected under this  
11 section shall be applied for the costs of hearing officers,  
12 court reporters, expert witnesses, other witnesses, travel  
13 and per diem expenses for commissioners and staff, facility  
14 rent and other costs incurred by the commission pursuant to  
15 this act. Any fines which have not been expended under  
16 this subsection at the end of each fiscal year shall be  
17 paid to the state treasurer to be credited to the public  
18 school fund of the county in which the violation occurred.

19  
20 **33-28-114. Conducting business without license**  
21 **prohibited; penalties; civil liability.**

22  
23 (a) Any person ~~acting as a broker, associate broker~~  
24 ~~or salesman~~ performing real estate activity without first

1 obtaining a license is guilty of a misdemeanor and upon  
2 conviction shall be punished by a fine of not more than ~~one~~  
3 ~~thousand dollars (\$1,000.00)~~ five thousand dollars  
4 (\$5,000.00) or by imprisonment in the county jail for a  
5 term not to exceed six (6) months. Upon conviction of a  
6 subsequent violation the person shall be punished by a fine  
7 of not more than ~~one thousand dollars (\$1,000.00)~~ five  
8 thousand dollars (\$5,000.00) or by imprisonment in the  
9 county jail for a term not to exceed one (1) year or both.  
10 If a corporation is convicted it shall be punished by a  
11 fine of not more than five thousand dollars (\$5,000.00).

12

13 **33-28-115. Unlicensed person may not maintain action**  
14 **for fee.**

15

16 No action or suit shall be instituted, nor recovery be had,  
17 in any court of this state by any person for compensation  
18 for any ~~act done or service rendered, which is prohibited~~  
19 ~~under this act to other than licensed brokers, licensed~~  
20 ~~associate brokers or licensed salesmen~~ real estate activity  
21 unless the person was licensed under this act at the time  
22 of ~~offering to perform any act or service or procuring any~~  
23 ~~promise to contract for the payment of compensation for any~~

1 ~~contemplated act or service~~ engaging in real estate  
2 activity.

3  
4 **33-28-117. Directory of licensees.**

5  
6 The commission shall ~~annually publish~~ maintain and make  
7 publicly available a directory of licensees, including a  
8 list of licenses suspended and revoked which shall contain  
9 other data as the commission may determine to be in the  
10 interest of real estate licensees and the public. ~~The lists~~  
11 ~~shall be distributed to all licensed brokers without~~  
12 ~~charge.~~

13  
14 **33-28-118. License renewals; continuing education;**  
15 **payment of fees; effect of failure to renew; inactive**  
16 **status.**

17  
18 (a) Licenses issued under this act may be renewed for  
19 successive three (3) year periods. ~~Application for renewal~~  
20 ~~of any license issued prior to this act shall be made~~  
21 ~~before December 31, 1983. Thereafter the application shall~~  
22 ~~be made before December 31 of the third year of the license~~  
23 ~~period.~~ The commission may establish a grace period for  
24 license renewal not to exceed sixty (60) days. The

1 commission may establish a late fee for license renewal not  
2 to exceed seventy-five dollars (\$75.00).

3

4 (b) ~~Effective December 31, 1983,~~ The commission may  
5 adopt rules and regulations providing for mandatory  
6 continuing education allocable over each three (3) year  
7 period not to exceed sixty (60) hours.

8

9 (c) Failure to ~~remit~~ timely submit a complete renewal  
10 application including proof of required continuing  
11 education and renewal fees when due shall automatically  
12 ~~cancel~~ cause a license, ~~but otherwise the license shall~~  
13 ~~remain in full force and effect continuously from the date~~  
14 ~~of issuance, unless suspended or revoked by the commission~~  
15 ~~for just cause~~ to expire. Presentation of a check to the  
16 commission as a fee for either an original or renewal  
17 license or for examination for license, which is returned  
18 to the state treasurer unpaid, is cause for revocation or  
19 denial of license unless it is established that the  
20 dishonor of the check was not the fault of the applicant or  
21 licensee.

22

23 (d) Any licensee whose license has ~~been cancelled for~~  
24 ~~failure to renew~~ expired as provided in this section after



1 the grace period has ended, shall comply with all  
2 requirements of a new applicant, including writing the  
3 appropriate examination, before a license will be reissued.

4  
5 (e) Any real estate associate broker or salesman who  
6 is not employed by or associated with a responsible broker,  
7 or any responsible broker who desires to become inactive  
8 may renew his license in an inactive status prior to the  
9 renewal deadline established in this section, by submitting  
10 the renewal fee together with a completed renewal  
11 application on which he has noted his present inactive  
12 status.

13

14 **33-28-119. Advertising; licensing under one name;**  
15 **trade names; advertisement of associate brokers and**  
16 **salesmen.**

17

18 (a) Every real estate ~~broker~~licensee, when  
19 advertising or promoting his real estate brokerage  
20 business, shall use the firm name under which he is  
21 licensed and shall use no slogans or phraseology in a  
22 manner which would indicate or suggest to the public that  
23 real property may be listed or is being offered for sale,

1 exchange, lease or rent by a private party not licensed by  
2 the commission.

3

4 (b) No real estate ~~broker~~licensee licensed under  
5 this act shall insert in any publication an advertisement  
6 which lists only a post office box number, telephone number  
7 or street address without including the firm name.

8

9 (c) No person, corporation, partnership or  
10 association, domestic or foreign, shall act or advertise as  
11 a ~~real-estate~~responsible broker, associate broker or  
12 salesman in this state by use of letterheads, billboards,  
13 radio or television announcements or any other media of  
14 advertising, without first obtaining a ~~real-estate~~  
15 responsible brokers', associate broker's or salesman's  
16 license from the commission.

17

18 (d) Except as provided in subsection (e) of this  
19 section, no person shall be licensed as a ~~real-estate~~  
20 responsible broker, associate broker or a real estate  
21 salesman under more than one (1) firm name, and no person  
22 shall conduct or promote a real estate brokerage business  
23 except under the firm name under which the person or  
24 brokerage business is licensed.

1

2 (e) A trade name, with the permission of the owner of  
3 the trade name, may be used concurrently with the licensed  
4 name of the ~~broker~~real estate company in the promotion or  
5 conduct of the ~~licensed~~responsible broker's business. The  
6 ~~broker's licensed~~firm name shall be displayed in a  
7 conspicuous manner that may be readily identified by the  
8 general public.

9

10 (f) A licensed responsible broker shall not advertise  
11 the sale, purchase, exchange or lease of property, whether  
12 owned by him or not, without including in the advertisement  
13 the firm name under which he is licensed.

14

15 (g) A licensed associate broker or salesman shall not  
16 advertise the sale, purchase, exchange or lease of  
17 property, whether owned by him or not, without including in  
18 the advertisement the name of the responsible broker or  
19 firm name with whom he is associated and licensed and the  
20 name under which he is licensed.

21

22 (h) A licensee shall not advertise the sale,  
23 purchase, exchange or lease of property owned by the

1 licensee unless the advertisement includes the fact that an  
2 owner of the property is a real estate licensee.

3

4 (j) If a licensee uses his individual name in  
5 advertising, the first and last name shall be included. A  
6 common shortened spelling of the first name of the licensee  
7 is permitted. The use of a nickname is permitted if the  
8 name is reflected on the license.

9

10 **33-28-121. Temporary licenses to complete affairs of**  
11 **deceased brokers.**

12

13 In the event of the death of a licensed responsible broker  
14 who is the sole proprietor of a real estate business  
15 company, upon application by his personal representative,  
16 the director shall issue, without examination and for a  
17 specified period of time, a temporary license to the  
18 personal representative, or to a licensed individual  
19 designated by him and approved by the director. The license  
20 shall authorize the holder of the temporary license to  
21 continue to transact business for the sole purpose of  
22 completing the affairs of the deceased responsible broker.

23

1           33-28-122. Responsible broker's trust accounts;  
2 disposition of interest; commingling with personal funds  
3 prohibited; disputed deposits; cooperative transactions.

4  
5           (a) Every responsible broker licensed in this state  
6 shall:

7  
8           (i) Maintain a separate account in a financial  
9 institution in this state designated as a trust or escrow  
10 account in which all down payments, earnest money deposits,  
11 advance listing fees or other trust funds received by him,  
12 his associate brokers or his salesmen on behalf of a  
13 principal or any other person shall be deposited unless all  
14 persons having an interest in the funds have agreed  
15 otherwise in writing. The account shall permit immediate  
16 withdrawal of the funds deposited therein. In lieu of  
17 maintaining a trust or escrow account under this paragraph,  
18 a responsible broker may use a funds holder;

19  
20           (ii) Notify the real estate commission on forms  
21 it prescribes of the name of the financial institution in  
22 which a trust account is maintained and the name of the  
23 account. If the responsible broker uses a ~~closing agent~~  
24 funds holder and deposits monies with ~~this agent~~ the funds

1 holder, his intention to use a ~~closing agent~~ funds holder  
2 and the fund holder's name shall be disclosed to all  
3 parties to any contract, purchase agreement, lease or lease  
4 agreement negotiated by him. The responsible broker shall  
5 identify all funds holders used by the broker and notify  
6 the real estate commission in writing that he uses a  
7 ~~closing agent~~ and deposits monies with the ~~agent~~ funds  
8 holder;

9  
10 (iii) Permit the commission or its  
11 representative to examine the responsible broker's trust  
12 ~~account~~ accounting records;

13  
14 (iv) Upon cancellation of his license for any  
15 reason, maintain the ~~escrow~~ trust account until all  
16 deposits have been properly disbursed.

17  
18 (b) If a responsible broker's branch office maintains  
19 a separate trust account, the office shall maintain a  
20 separate bookkeeping system.

21  
22 (c) A trust account maintained by a responsible  
23 broker under this section may be interest bearing or  
24 noninterest bearing. Any interest accrued on any deposit in

1 a trust account shall be paid out as agreed in writing by  
2 all persons having an interest in the deposit. In the  
3 absence of a written agreement among all persons having an  
4 interest in the deposit, at the time all or any portion of  
5 any deposit is withdrawn and paid out, all interest accrued  
6 upon the funds withdrawn and paid out shall also be  
7 withdrawn and paid out to the person from whom the trust  
8 funds were received; provided, if the funds are required to  
9 be disbursed to more than one (1) person, each person  
10 entitled to receive any portion of the deposit shall also  
11 be paid a portion of the interest in the same proportion as  
12 the funds withdrawn and paid out to each person bears to  
13 the total deposit.

14

15 (d) A ~~broker~~licensee is not entitled to any part of  
16 the earnest money or other ~~money paid~~item of value given  
17 to him in connection with any real estate transaction as  
18 part or all of his commission or fee until the transaction  
19 has been consummated or terminated.

20

21 (e) No responsible broker shall permit an advance  
22 payment of funds belonging to others to be deposited in the  
23 responsible broker's personal account or be commingled with  
24 his personal funds. It will not be considered commingling

1 if, when establishing the trust account, the responsible  
2 broker deposits some of his funds to keep the account open  
3 or to avoid charges for a minimum balance, so long as that  
4 deposit is identified at the time of deposit. No  
5 responsible broker shall use deposits in a trust account  
6 for a purpose other than the transaction for which they  
7 were provided.

8

9 (f) In the event of a dispute over the return or  
10 forfeiture of any deposit held by the ~~listing~~-responsible  
11 broker, the ~~listing~~-responsible broker may continue to hold  
12 the deposit in ~~his~~-a trust account until he has a written  
13 release from the parties consenting to this disposition or  
14 until a civil action is filed, at which time it may be paid  
15 to the court.

16

17 (g) Unless otherwise agreed by all parties to the  
18 contract, in a cooperative transaction, in which ~~one~~-(1)  
19 the responsible broker ~~holds an exclusive right to sell or~~  
20 ~~an exclusive agency on a property and the selling broker~~  
21 working with a buyer receives cash or a check as earnest  
22 money, ~~or according to a contract,~~ the ~~selling~~-responsible  
23 broker shall deliver the contract and the earnest money to  
24 the ~~listing~~-responsible broker working with the seller who



1 shall deposit the cash or check in his trust account. If  
2 the ~~selling~~ broker working with a buyer receives a  
3 promissory note, or thing of value, the note or thing of  
4 value shall be delivered with the contract to the ~~listing~~  
5 broker working with the seller to be held by the ~~listing~~  
6 broker.

7

8 **33-28-123. Retention of records.**

9

10 Every responsible broker licensed in this state shall keep  
11 and maintain a full set of records of every real estate  
12 transaction in which he participates on behalf of or to  
13 assist any party to the transaction. The records shall be  
14 maintained not less than seven (7) years from the latest  
15 date on which the responsible broker participated in the  
16 transaction.

17

18 **33-28-201. Real estate recovery account created;**  
19 **funding of account; no liability of state.**

20

21 (b) ~~Beginning January 1, 1984,~~ Every person obtaining  
22 or renewing a ~~real estate broker's, associate broker's or~~  
23 ~~salesman's~~ license shall pay an additional fee of twenty  
24 dollars (\$20.00) which shall be deposited in the real

1 estate recovery fund account. When the balance of the real  
2 estate recovery fund account reaches twenty thousand  
3 dollars (\$20,000.00) one-half (1/2) of the fee shall be  
4 deposited in the real estate recovery fund account and  
5 one-half (1/2) of the fee shall be deposited in the  
6 educational fund account. When the real estate recovery  
7 fund account balance reaches fifty thousand dollars  
8 (\$50,000.00) all fees shall be deposited in the education  
9 fund account.

10

11 **33-28-202. Real estate recovery account created;**  
12 **payments; pro rata distribution when account insufficient;**  
13 **service of process; joinder of account.**

14

15 (a) If any person obtains a final judgment in any  
16 court of competent jurisdiction against any ~~real-estate~~  
17 ~~broker or real-estate salesman licensed under this act~~  
18 licensee on the grounds of fraud, willful  
19 misrepresentation, deceit or conversion of trust funds  
20 arising directly out of any transaction ~~occurring after~~  
21 ~~December 31, 1983~~ which occurred when the ~~broker, associate~~  
22 ~~broker or salesman~~ licensee was licensed and in which the  
23 ~~broker, associate broker or salesman performed acts for~~  
24 ~~which a real-estate license is required~~ licensee preformed

1 real estate activity, that person, within one (1) year of  
2 termination of all proceedings, including appeals, may file  
3 with the commission a verified petition in the court in  
4 which the judgment was entered for an order directing  
5 payment out of the real estate recovery account in the  
6 amount of actual damages included in the judgment and  
7 unpaid, and that a writ of execution has been returned  
8 unsatisfied, but for not more than ~~four thousand dollars~~  
9 ~~(\$4,000.00)~~ ten thousand dollars (\$10,000.00).

10

11 (c) Any ~~real estate broker, associate broker or real~~  
12 ~~estate salesman who is licensed or renews his license under~~  
13 ~~W.S. 33-28-108 after December 31, 1983, and~~ licensee upon  
14 whom personal service cannot be made with reasonable  
15 diligence shall be deemed to have appointed the director of  
16 the commission as his agent for service of process for  
17 purposes of actions filed against him pursuant to  
18 subsection (a) of this section. Service of process pursuant  
19 to subsection (b) of this section shall be made under the  
20 Wyoming Rules of Civil Procedure.

21

22 (d) In lieu of the petition under subsection (a) of  
23 this section for an order directing payment out of the real  
24 estate recovery account, a person filing an action against

1 a ~~licensed real estate broker, associate broker or salesman~~  
2 licensee of a type described in subsection (a) of this  
3 section may join the real estate recovery account as a  
4 limited third party defendant and have judgment rendered  
5 directly against the account in the amount provided in  
6 subsection (a) of this section provided:

7

8 **33-28-204. Suspension of licenses following payment**  
9 **from account; reinstatement.**

10

11 If the commission is required to make any payment from the  
12 real estate recovery account in settlement of a claim or  
13 toward the satisfaction of a judgment, the commission shall  
14 immediately suspend the judgment debtor's license. The  
15 judgment debtor shall not be licensed ~~as either a broker,~~  
16 ~~associate broker or salesman~~ or have his license reinstated  
17 until he has repaid in full the amount paid from the real  
18 estate recovery account with interest thereon of eighteen  
19 percent (18%) per annum. Repayment under this section shall  
20 not prohibit the commission from acting in accordance with  
21 W.S. 33-28-111. A discharge in bankruptcy shall not relieve  
22 a person from the disabilities and penalties of the  
23 section.

24

1           **33-28-302. Relationships between licensees and the**  
2 **public.**

3  
4           (a) A responsible broker shall not be required to  
5 offer or engage in more than one (1) of the brokerage  
6 relationships. When engaged in any ~~of the activities~~  
7 ~~enumerated in W.S. 33-28-102(a)(iii)~~ real estate activity,  
8 a licensee, with permission of his responsible broker, may  
9 act in any real estate transaction as an agent or  
10 intermediary or may work with the seller or buyer as a  
11 customer. The licensee's duties and obligations arising  
12 from that relationship shall be disclosed to the seller or  
13 buyer pursuant to this article.

14  
15           (b) When engaged in any ~~of the activities enumerated~~  
16 ~~in W.S. 33-28-102(a)(iii)~~ real estate activity, a licensee  
17 may act as an agent only pursuant to a written agreement  
18 with the seller or buyer which discloses the duties and  
19 responsibilities set forth in W.S. 33-28-303 or 33-28-304.

20  
21           (c) When engaged in any ~~of the activities enumerated~~  
22 ~~in W.S. 33-28-102(a)(iii)~~ real estate activity, a licensee  
23 may act as a subagent with the duties and responsibilities  
24 set forth in W.S. 33-28-303(g) ~~7~~ only pursuant to a written

1 agreement between the seller and the seller's agent  
2 authorizing an offer of subagency to other responsible  
3 brokers, or as an intermediary with the seller or buyer,  
4 which written agreement discloses the duties and  
5 responsibilities set forth in W.S. 33-28-305.

6

7 (f) A licensee may complete real estate forms and  
8 shall explain to the parties the effects thereof if the  
9 licensee is performing ~~the activities enumerated or~~  
10 ~~referred to in W.S. 33-28-102(a)(iii)~~ real estate  
11 activities in the transaction in which the forms are to be  
12 used.

13

14 (h) If a real estate ~~brokerage firm~~ company has more  
15 than one (1) licensee, the responsible broker and any  
16 licensee associated with or engaged by that responsible  
17 broker may be designated to work with the seller or the  
18 buyer as a designated ~~agent~~ licensee. For an in-house real  
19 estate transaction, the designated ~~agent~~ licensee shall be:

20

21 (i) A responsible broker;

22

23 (j) Licensees employed or engaged by the same  
24 responsible broker may be designated ~~agents~~ licensees for

1 different buyers or sellers in the same transaction. If  
2 the responsible broker is representing a buyer or a seller  
3 in an in-house transaction, the responsible broker shall  
4 immediately appoint a transaction manager. The simultaneous  
5 designations shall not constitute dual agency or require  
6 the responsible broker or licensee to act as an  
7 intermediary unless otherwise required by this article. A  
8 responsible broker or transaction manager shall have access  
9 to all necessary information but shall be prohibited from  
10 sharing any confidential information of any party to the  
11 transaction that the responsible broker or transaction  
12 manager may learn in the process of supervising the  
13 licensees or the transaction.

14

15 (k) A licensee may work as an agent for the seller  
16 treating the buyer as a customer or as an agent for the  
17 buyer treating the seller as a customer but not as an agent  
18 for both the seller and the buyer. A licensee may be  
19 designated to work as an intermediary for both the seller  
20 and the buyer in the same transaction pursuant to W.S.  
21 33-28-307. The applicable designated relationship shall be  
22 disclosed in writing to the seller and buyer at the  
23 earliest reasonable opportunity. A designated agent  
24 licensee is not precluded from working with a buyer or

1 seller in a real estate transaction solely because the  
2 ~~agent~~licensee was precluded from representing that person  
3 in an earlier separate real estate transaction.

4

5 (n) Nothing in this section shall be construed to  
6 limit the responsible broker's responsibility to supervise  
7 licensees associated with the responsible broker or ~~firm~~  
8 real estate company or to shield the responsible broker  
9 from vicarious liability.

10

11 (p) A customer relationship shall exist between a  
12 licensee and any party to a real estate transaction unless  
13 a single agency or intermediary relationship is established  
14 through a written agreement between the licensee and the  
15 party or parties. When a buyer or seller ~~is represented by~~  
16 ~~another~~has a written listing agreement with a licensee, ~~a~~  
17 another licensee may work with the other buyer or seller as  
18 a customer, having no written agreement, agency or  
19 intermediary relationship with ~~either~~any party. A  
20 licensee shall not owe any duty of confidentiality to a  
21 customer.

22



1           (q) Proprietary ownership interest of listings  
2 written listing agreements shall be vested in the  
3 responsible broker.

4  
5           **33-28-303. Seller's agent engaged by seller.**

6  
7           (f) A seller may agree in writing with a seller's  
8 agent to extend an offer of subagency to other responsible  
9 brokers to cooperate in selling the property.

10  
11           (g) Any responsible broker acting as a subagent on  
12 the seller's behalf shall have the obligations and  
13 responsibilities set forth in subsections (a) through (e)  
14 of this section.

15  
16           **33-28-305. Intermediary.**

17  
18           (b) A licensee engaged as an intermediary shall owe  
19 to each party with whom the intermediary has contracted the  
20 following duties and obligations:

21  
22                   (ii) To exercise reasonable skill and care as an  
23 intermediary, including:

1 (J) Disclosing to any prospective seller  
2 all adverse material facts actually known by the  
3 intermediary, including but not limited to adverse material  
4 facts pertaining to the buyer's financial ability to  
5 perform the terms of the transaction; ~~and the buyer's~~  
6 ~~intent to occupy the property as a principal residence;~~ and  
7

8 **33-28-306. Relationship disclosures.**

9  
10 (a) For purposes of this section, open house  
11 showings, preliminary conversations and requests for  
12 factual information do not constitute discussions or  
13 arrangements incidental to a sale, purchase, exchange or  
14 lease. Prior to engaging in any discussion or arrangement  
15 incidental to a sale, purchase, exchange or lease, ~~option,~~  
16 ~~and,~~ prior to entering into any written agreement, with a  
17 buyer or seller, a licensee shall make a written disclosure  
18 of applicable agency, intermediary or customer  
19 relationships which shall contain at a minimum the  
20 following:  
21

22 **Section 2.** W.S. 33-28-102(a), 33-28-106(e)(viii)(A)  
23 through (D) and (f)(vi)(A) through (D), 33-28-110(c), (g),

1 (h) and (j), 33-28-111(a)(xxix)(B), 33-28-305(f)(iv) and  
2 33-28-401(f) are repealed.

3

4 **Section 3.** This act is effective July 1, 2011.

5

6

(END)