

SENATE FILE NO. SF0119

Real estate brokers and salesmen revisions-2.

Sponsored by: Senator(s) Johnson and Representative(s)
Miller

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 definitions; and providing for an effective date.

5

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

7

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

1 (iii), (iv), (d) and (f), 33-28-111(a)(intro), (v),
2 (vi)(intro), (A), (ix), (xiii) through (xix), (xxiii),
3 (xxv) through (xvii), (xxix)(intro) and (A), 33-28-114(a),
4 33-28-115, 33-28-117, 33-28-118(a) through (e), 33-28-119,
5 33-28-121, 33-28-122, 33-28-123, 33-28-201(b),
6 33-28-202(a), (c) and (d)(intro), 33-28-204, 33-28-302(a),
7 (b), (c), (e), (f), (h)(intro), (i), (iii)(intro), (j),
8 (k), (n), (p) and (q), 33-28-303(f) and (g),
9 33-28-305(b)(ii)(J) and 33-28-306(a)(intro) are amended to
10 read:

11

12 **33-28-101. Short title; license required.**

13

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

24

1 **33-28-102. Definitions.**

2

3 (b) As used in this act:

4

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

7

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

12

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

17

18 (iv) "Associate broker" means an individual who
19 has qualified as a broker under this act, is licensed under
20 a responsible broker and does not have supervisory
21 responsibilities;

22

1 (v) "Branch office" means any office of a
2 responsible broker other than his principal place of
3 business;

4
5 (vi) "Broker" means any person licensed under
6 this act including associate brokers and responsible
7 brokers. "Broker" does not include a salesman;

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

13
14 (viii) "Buyer's agent" means a licensee who is
15 authorized to represent and act on behalf of the buyer in a
16 real estate transaction;

17
18 (ix) "Commission" means the Wyoming real estate
19 commission;

20
21 (x) "Compensation" means any money, item of
22 value or payment which is provided, promised or expected
23 for the performance of any real estate activity;

24

1 (xi) "Cooperative transaction" means any real
2 estate transaction in which licensees from more than one
3 (1) real estate company participate, regardless of agency
4 representation;

5
6 (xii) "Customer" means a party to a real estate
7 transaction who has established no intermediary or agency
8 relationship with any licensee involved in the transaction;

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

21
22 (xiv) "Designated licensee" means a licensee who
23 is designated in writing by a responsible broker to serve

1 as an agent for a seller or a buyer or as an intermediary
2 in a real estate transaction;

3

4 (xv) "Distance education course" means a course
5 where instruction takes place when the teacher and the
6 student are not in a traditional classroom setting and are
7 separated by distance or time;

8

9 (xvi) "Equivalent coverage" means insurance
10 coverage obtained independently of the group program
11 available through the insurer under contract with the
12 commission and subject to the provisions of this act;

13

14 (xvii) "Errors and omissions insurance" means
15 professional liability insurance which provides insurance
16 coverage to active licensees for errors and omissions made
17 during the course of real estate transactions subject to
18 the coverages, limitations and exclusions of the specific
19 policy;

20

21 (xviii) "Expired license" means a license for
22 which the license period has expired;

23

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

5
6 (xx) "Funds holder" means a third party other
7 than a responsible broker or real estate company who holds
8 items of value in trust for the parties to a real estate
9 transaction;

10
11 (xxi) "Grace period" means January 1 to March 1
12 of each year during which an expired license may be
13 renewed;

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

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

23

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

4
5 (xxv) "In-house real estate transaction" means a
6 real estate transaction in which the buyer and the seller
7 have an agency, intermediary or customer relationship with
8 licensees from the same real estate company;

9
10 (xxvi) "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 (xxvii) "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 (xxviii) "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 (xxix) "Licensee" means any person issued a
2 license by the commission;

3

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

8

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

16

17 (xxxii) "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 (xxxiii) "Offeree" means a person to whom an
22 offer is made;

23

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

3

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

6

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

10

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

13

14 (xxxviii) "Person" means individuals,
15 corporations, partnerships, associations or other public or
16 private entities, foreign or domestic;

17

18 (xxxix) "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 (xl) "Proof of coverage" means a certificate of
2 insurance demonstrating coverage of a policy of insurance
3 equal to or exceeding the group coverage contracted for by
4 the commission;

5
6 (xli) "Property management" means the act of
7 management for compensation of real estate for another,
8 including collection of rents, maintenance of the real
9 property and accounting of fees received for another;

10
11 (xlii) "Qualified insurance carrier" means an
12 insurance carrier that:

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

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

23

1 (C) Is and will remain qualified and
2 authorized by the Wyoming insurance department to write
3 policies of errors and omissions insurance in Wyoming for
4 the policy term;

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

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

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

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

1

2

(xliv) "Real estate activity" occurs when an individual for another and for compensation:

3

4

5

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

6

7

8

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

9

10

11

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

12

13

14

15

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

16

17

18

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

19

20

21

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

22

23

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; or

23
24 (N) Deals in time shares.

1

2 (xlv) "Real estate company" means a business
3 entity including a firm, company, corporation, partnership,
4 sole proprietorship or other entity which is licensed to
5 conduct real estate activity;

6

7 (xlvi) "Real estate transaction" or
8 "transaction" means any real estate activity under this
9 section;

10

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

18

19 (xlviii) "Responsible broker" means an
20 individual who has an active broker's license and who is
21 responsible for the supervision of the activities of
22 licensees associated with the real estate company or a
23 broker who operates a single license office;

24

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

6
7 (l) "Salesman" means an individual who has
8 qualified as a salesman under this act and is licensed
9 under a responsible broker;

10
11 (li) "Seller" means a person who is attempting
12 to sell or exchange real property and includes a landlord
13 as that term is commonly used in the rental, leasing or
14 management of real property;

15
16 (lii) "Seller's agent" means a licensee who is
17 authorized to represent and act for the seller in a real
18 estate transaction;

19
20 (liii) "Short term rental" means the rental of
21 real property for thirty-one (31) days or less;

22

1 (liv) "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 (lv) "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 (lvi) "Surrendered license" means a license that
12 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 (lvii) "Suspended license" means a license that
19 has been temporarily suspended by the issuing authority;

20
21 (lviii) "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 other real property for a
2 specific period of time during any given year, but not
3 necessarily for consecutive years, and which extends for a
4 period of more than one (1) year;

5
6 (lix) "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 involved in the transaction and shall have the duties of
10 an intermediary while supervising the transaction;

11
12 (lx) "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 (lxi) "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 individual is a licensee;

10

11 (iv) Any officer or employee of a federal agency
12 in the conduct of his official duties, unless that
13 individual 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 individual 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 real property in connection with his
2 employment, unless that individual 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 (f) The commission shall adopt a seal, including the
22 words Wyoming Real Estate Commission, Office of the
23 Commission by which the acts of the commission shall be
24 authenticated. Copies of all records and papers in the

1 office of the commission, certified by the signature of the
2 director and the seal of the commission, shall be received
3 in evidence in all cases equally and with like effect as
4 the originals. ~~The presence of three (3) members of the~~
5 ~~commission shall constitute a quorum. In the absence of the~~
6 ~~chairman, the member of the commission present who is~~
7 ~~senior in time of service shall serve as presiding officer.~~
8 ~~The action of the majority of the members of the commission~~
9 ~~shall be deemed the action of the commission.~~

10
11 (g) All fees collected by the commission shall be
12 deposited in the state treasury. The state treasurer shall
13 deposit the fees to the credit of the real estate ~~board~~
14 commission account. Disbursements from the account shall
15 not exceed the monies credited to it.

16
17 (h) The presence of three (3) members of the
18 commission shall constitute a quorum. In the absence of the
19 chairman, the member of the commission present who is
20 senior in time of service shall serve as the presiding
21 officer. The action of the majority of the members of the
22 commission shall be deemed the action of the commission.

23

1 33-28-106. Application for license; qualifications;
2 sworn statement; commission approval of course of study;
3 statement of broker; denial of license; issuing licenses.

4
5 (a) Any person desiring to act as a ~~real-estate~~
6 ~~broker, associate broker or real estate salesman~~ licensee
7 shall file an application for a license with the
8 commission. The application shall be in the form and detail
9 as the commission shall prescribe and the individual
10 applicant shall provide to the commission fingerprints and
11 other information necessary for a criminal history record
12 background check as provided in W.S. 7-19-201(a).

13
14 (b) Licenses shall be granted only to persons who
15 bear a good reputation for honesty, trustworthiness,
16 integrity and competence to transact the business of a
17 ~~broker, associate broker or salesman~~ licensee in a manner
18 which will safeguard the interests of the public, and only
19 after satisfactory proof of the individual applicant's
20 qualifications has been presented to the commission.
21 ~~including a criminal history record background check as~~
22 ~~provided in W.S. 7-19-201(a).~~

23

1 (c) Each applicant for a responsible broker's license
2 shall:

3

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

10

11 (iii) Submit other evidence through the
12 application or otherwise, as the commission deems desirable
13 with due regard to the paramount interests of the public,
14 as to the honesty, truthfulness, integrity and competency
15 of the individual applicant.

16

17 (d) Every ~~officer of a corporation~~ member of a real
18 estate company acting as a responsible broker for ~~the~~
19 ~~corporation and every member of an association or~~
20 ~~partnership acting as a broker for that association or~~
21 ~~partnership~~ that real estate company who engages in ~~the any~~
22 real estate ~~business activity~~ shall obtain a responsible
23 broker's license.

24

1 (e) Every applicant for a responsible broker's or
2 associate broker's license shall ~~furnish a sworn statement~~
3 ~~setting forth state~~:

4
5 (i) The name of the ~~person, firm, partnership,~~
6 ~~association or corporation~~ real estate company with which
7 he will be associated in the business of real estate;

8
9 (iii) The period of time, if any, which ~~the~~
10 ~~applicant~~ he has been engaged in the real estate business;

11
12 (vi) ~~A statement that the applicant~~ That he has
13 or has not been refused a real estate license in this or
14 any other state;

15
16 (vii) ~~A statement that the applicant's~~ That his
17 real estate license has or has not been revoked in this or
18 any other state;

19
20 (viii) Evidence that ~~the applicant~~ he has
21 completed not less than sixty (60) cumulative class hours
22 in a course of study approved by the commission, given by
23 instructors approved by the commission and has

1 satisfactorily passed an examination covering material
2 taught in each course. ~~The commission shall:~~

3

4 (f) Each applicant for a salesman's license shall :
5 ~~have reached the age of majority. The application for a~~
6 ~~salesman's license shall be accompanied by a written~~
7 ~~statement by the broker in whose service the applicant is~~
8 ~~about to enter stating:~~

9

10 (viii) Have reached the age of majority;

11

12 (ix) Submit other evidence as the commission
13 deems desirable with due regard to the paramount interests
14 of the public as to the honesty, truthfulness, integrity
15 and competency of the individual applicant;

16

17 (x) Furnish the name of the real estate company
18 with which he will be associated in the business of real
19 estate;

20

21 (xi) Furnish the period of time, if any, that he
22 has been engaged in the real estate business;

23

24 (xii) Furnish his present address;

1

2

(xiii) Furnish the name and address of his
previous employer;

4

5

(xiv) Furnish a statement that he has or has not
been refused a real estate license in this or any other
state;

8

9

(xv) Furnish a statement that his real estate
license has or has not been revoked in this or any other
state;

12

13

(xvi) Furnish evidence that he has completed not
less than thirty (30) class hours in a course of study
approved by the commission, given by instructors approved
by the commission and has satisfactorily passed an
examination covering material taught in each course;

18

19

(xvii) Include a statement by the responsible
broker in whose service the applicant is about to enter
stating:

22

23

(A) The name and address of the responsible
broker's real estate company;

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(B) That in his opinion the applicant is honest, truthful and recommends the license be granted to the applicant;

(C) That the responsible broker will actively supervise and train the applicant during the period the requested license remains in effect.

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

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

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

(n) Each individual applicant for an associate broker's license shall:

1 (i) Have reached the age of majority;

2

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

8

9 (iii) Submit other evidence through the
10 application or otherwise, as the commission deems desirable
11 with due regard to the paramount interests of the public as
12 to the honesty, truthfulness, integrity and competency of
13 the individual applicant.

14

15 (o) The commission shall:

16

17 (i) Approve courses that cover real estate
18 principles, real estate law, real estate finance and
19 related topics;

20

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

24

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

3

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

7

8 **33-28-107. Examinations; salesmen's and brokers'**
9 **licenses.**

10

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

16

17 **33-28-108. Fees.**

18

19 Pursuant to W.S. 33-1-201, the commission shall establish
20 fees for examinations, original licenses, renewals,
21 certifications, change of place of business, transfers, and
22 duplicate licenses. ~~and duplicate pocket cards.~~ The fees
23 shall be used to pay the expense of maintaining and

1 operating the office of the commission and the enforcement
2 of this act.

3

4 **33-28-109. Responsible broker to maintain fixed**
5 **office; change of address; branch offices; restrictions on**
6 **associate brokers and salesmen.**

7

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

1

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

13

14 (c) An associate broker or salesman shall not be
15 associated or engaged under contract to any other
16 responsible broker than is designated upon the license
17 issued to the associate broker or salesman. Upon
18 termination of an associate broker's or salesman's
19 association or contractual relationship, ~~he shall surrender~~
20 ~~his pocket card to his~~ responsible broker ~~who shall return~~
21 ~~his license and pocket card to~~ shall immediately notify the
22 commission for cancellation of the associate broker's or
23 salesman's license. Whenever a licensed associate broker or
24 salesman desires to change his ~~broker or~~ contractual

1 relationship from one (1) licensed-responsible broker to
2 another, he shall notify the commission promptly in writing
3 of the facts attendant thereon and pay the required fee.
4 Upon application, the commission shall issue a new license
5 and pocket card under the new responsible broker. No
6 associate broker or salesman shall directly or indirectly
7 associate himself with a responsible broker until he has
8 been issued a license to do so with that responsible
9 broker.

10

11 **33-28-110. Unlawful to compensate unlicensed person;**
12 **licensing of like-licensed nonresidents; service of process**
13 **on nonresidents.**

14

15 (a) It is unlawful for any licensed-responsible
16 broker to compensate any person who is not a licensed
17 broker, associate broker or salesman licensee associated
18 with his real estate company or a responsible broker for
19 another real estate company for performing any of the acts
20 regulated by this act real estate activity provided,
21 however, that a licensed-responsible broker may pay a
22 commission to a licensed broker of another state if the
23 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 or
15 lessor has ~~a written outstanding contract~~ an outstanding
16 written agreement in connection with the real property
17 ~~granting an exclusive right to sell to~~ with another
18 responsible broker;

19

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

21

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

24

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 or other valuable~~
22 ~~consideration~~ compensation by an associate broker or
23 salesman from anyone other than his ~~employing~~ responsible
24 broker;

1

2

(xviii) Acting for more than one (1) party in a transaction without the ~~knowledge~~ written acknowledgement of all parties for whom the licensee acts;

5

6

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

9

10

11

12

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

13

14

15

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

16

17

18

19

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

20

21

22

23

(xxvii) Failing to deposit all financial instruments in an escrow or ~~trustee~~ trust account within one (1) banking day in a financial institution in this

1 state, unless each person with an interest in the funds has
2 agreed otherwise in writing;

3

4 (xxix) If a responsible broker:

5

6 (A) Failing to deliver to the seller
7 parties in every real estate transaction at the time the
8 transaction is closed a complete, detailed closing
9 statement showing all of the receipts and disbursements
10 handled by the ~~broker~~ licensees in his office for the
11 ~~seller~~ parties unless a clear and accurate accounting is
12 furnished by ~~an escrow agent~~ another broker or a funds
13 holder;

14

15 **33-28-114. Conducting business without license**
16 **prohibited; penalties; civil liability.**

17

18 (a) Any ~~person acting as a broker, associate broker~~
19 ~~or salesman~~ individual performing real estate activity
20 without first obtaining a license is guilty of a
21 misdemeanor and upon conviction shall be punished by a fine
22 of not more than ~~one thousand dollars (\$1,000.00)~~ five
23 thousand dollars (\$5,000.00) or by imprisonment in the
24 county jail for a term not to exceed six (6) months. Upon

1 conviction of a subsequent violation the ~~person~~individual
2 shall be punished by a fine of not more than ~~one thousand~~
3 ~~dollars (\$1,000.00)~~five thousand dollars (\$5,000.00) or by
4 imprisonment in the county jail for a term not to exceed
5 one (1) year or both. If a corporation, partnership or
6 association is convicted it shall be punished by a fine of
7 not more than five thousand dollars (\$5,000.00).

8

9 **33-28-115. Unlicensed person may not maintain action**
10 **for fee.**

11

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

22

23 **33-28-117. Directory of licensees.**

24

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

8

9 **33-28-118. License renewals; continuing education;**
10 **payment of fees; effect of failure to renew; inactive**
11 **status.**

12

13 (a) Licenses issued under this act may be renewed for
14 successive three (3) year periods. ~~Application for renewal~~
15 ~~of any license issued prior to this act shall be made~~
16 ~~before December 31, 1983. Thereafter the application shall~~
17 ~~be made before December 31 of the third year of the license~~
18 ~~period.~~ The commission may establish a grace period for
19 license renewal not to exceed sixty (60) days. The
20 commission may establish a late fee for license renewal not
21 to exceed seventy-five dollars (\$75.00).

22

23 (b) ~~Effective December 31, 1983,~~ The commission may
24 adopt rules and regulations providing for mandatory

1 continuing education allocable over each three (3) year
2 period not to exceed sixty (60) hours.

3

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

17

18 (d) Any licensee whose license has ~~been cancelled for~~
19 ~~failure to renew~~ expired as provided in this section after
20 the grace period has ended, shall comply with all
21 requirements of a new applicant, including writing the
22 appropriate examination, before a license will be reissued.

23

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

9

10 **33-28-119. Advertising; licensing under one name;
11 trade names; advertisement of licensees.**

12

13 (a) Every real estate ~~broker~~licensee, when
14 advertising or promoting his real estate ~~brokerage business~~
15 activities, shall use the real estate company name under
16 which he is licensed and shall use no slogans or
17 phraseology in a manner which would indicate or suggest to
18 the public that real property may be listed or is being
19 offered for sale, exchange, lease or rent by a private
20 party not licensed by the commission.

21

22 (b) No ~~real estate broker licensed under this act~~
23 licensee shall insert in any publication an advertisement
24 which lists only a post office box number, telephone number

1 or street address without including the real estate company
2 name under which he is licensed.

3

4 (c) No person, ~~corporation, partnership or~~
5 ~~association, domestic or foreign,~~ shall act or advertise as
6 a ~~real estate broker or salesman~~ licensee in this state by
7 use of letterheads, billboards, radio or television
8 announcements or any other media of advertising, without
9 first obtaining a ~~real estate broker's or salesman's~~
10 license from the commission.

11

12 (d) Except as provided in subsection (e) of this
13 section, no person shall be licensed ~~as a real estate~~
14 ~~broker or a real estate salesman~~ under more than one (1)
15 real estate company name, and no person shall conduct or
16 promote a real estate brokerage business except under the
17 real estate company name under which the person or
18 brokerage business is licensed.

19

20 (e) A trade name, with the permission of the owner of
21 the trade name, may be used concurrently with the licensed
22 name of the ~~broker~~ real estate company in the promotion or
23 conduct of the ~~licensed~~ responsible broker's business. The
24 ~~broker's licensed~~ real estate company name shall be

1 displayed in a conspicuous manner that may be readily
2 identified by the general public.

3

4 (f) A licensed responsible broker shall not advertise
5 the sale, purchase, exchange or lease of real property,
6 whether owned by him or not, without including in the
7 advertisement the real estate company name under which he
8 is licensed.

9

10 (g) A licensed associate broker or salesman shall not
11 advertise the sale, purchase, exchange or lease of real
12 property, whether owned by him or not, without including in
13 the advertisement the name of the ~~broker~~ real estate
14 company with whom he is associated and licensed and the
15 name under which he is licensed.

16

17 (h) A licensee shall not advertise the sale,
18 purchase, exchange or lease of real property owned by the
19 licensee unless the advertisement includes the fact that an
20 owner of the property is a real estate licensee.

21

22 (j) If a licensee uses his individual name in
23 advertising, the first and last name shall be included. A
24 common shortened spelling of the first name of the licensee

1 is permitted. The use of a nickname is permitted if the
2 nickname is reflected on the license.

3

4 **33-28-121. Temporary licenses to complete affairs of**
5 **deceased brokers.**

6

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

17

18 **33-28-122. Responsible broker's trust accounts;**
19 **disposition of interest; commingling with personal funds**
20 **prohibited; disputed deposits; cooperative transactions.**

21

22 (a) Every responsible broker licensed in this state
23 shall:

24

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

12
13 (ii) Notify the real estate commission on forms
14 it prescribes of the name of the financial institution in
15 which a trust account is maintained and the name of the
16 account. If the responsible broker uses a ~~closing agent~~
17 funds holder and deposits monies with ~~this agent~~ the funds
18 holder, his intention to use a ~~closing agent~~ funds holder
19 and the fund holder's name shall be disclosed to all
20 parties to any contract, purchase agreement, lease or lease
21 agreement negotiated by him. The responsible broker shall
22 identify all funds holders used by the broker and notify
23 the real estate commission in writing that he uses a

1 ~~closing agent~~ and deposits monies with the ~~agent~~ funds
2 holder;

3

4 (iii) Permit the commission or its
5 representative to examine the responsible broker's trust
6 ~~account~~ accounting records;

7

8 (iv) Upon cancellation of his license for any
9 reason, maintain the ~~escrow~~ trust account until all
10 deposits have been properly disbursed.

11

12 (b) If a responsible broker's branch office maintains
13 a separate trust account, the office shall maintain a
14 separate bookkeeping system.

15

16 (c) A trust account maintained by a responsible
17 broker under this section may be interest bearing or
18 noninterest bearing. Any interest accrued on any deposit in
19 a trust account shall be paid out as agreed in writing by
20 all persons having an interest in the deposit. In the
21 absence of a written agreement among all persons having an
22 interest in the deposit, at the time all or any portion of
23 any deposit is withdrawn and paid out, all interest accrued
24 upon the funds withdrawn and paid out shall also be

1 withdrawn and paid out to the person from whom the trust
2 funds were received; provided, if the funds are required to
3 be disbursed to more than one (1) person, each person
4 entitled to receive any portion of the deposit shall also
5 be paid a portion of the interest in the same proportion as
6 the funds withdrawn and paid out to each person bears to
7 the total deposit.

8

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

14

15 (e) No responsible broker shall permit an advance
16 payment of funds belonging to others to be deposited in the
17 responsible broker's personal account or be commingled with
18 his personal funds. It will not be considered commingling
19 if, when establishing the trust account, the responsible
20 broker deposits some of his funds to keep the account open
21 or to avoid charges for a minimum balance, so long as that
22 deposit is identified at the time of deposit. No
23 responsible broker shall use deposits in a trust account

1 for a purpose other than the transaction for which they
2 were provided.

3

4 (f) In the event of a dispute over the return or
5 forfeiture of any deposit held by ~~the listing~~ a responsible
6 broker, the ~~listing~~ responsible broker ~~may~~ shall continue
7 to hold the deposit in ~~his~~ a trust account until he has a
8 written release from the parties consenting to ~~this~~ its
9 disposition, ~~or~~ until a civil action is filed or the
10 responsible broker interpleads all parties, at which time
11 it may be paid to the court.

12

13 (g) Unless otherwise agreed by all parties to the
14 contract, in a cooperative transaction, in which ~~one~~ (1)
15 the responsible broker ~~holds an exclusive right to sell or~~
16 ~~an exclusive agency on a property and the selling broker~~
17 working with a buyer receives cash or a check as earnest
18 money, ~~or according to a contract,~~ the ~~selling~~ responsible
19 broker shall deliver the contract and the ~~earnest money~~
20 cash or check to the ~~listing~~ responsible broker working
21 with the seller who shall deposit the cash or check in his
22 trust account. If the ~~selling~~ responsible broker working
23 with a buyer receives a promissory note, or thing of value,
24 the note or thing of value shall be delivered with the

1 contract to the ~~listing broker to be held by the listing~~
2 responsible broker working with the seller, who shall hold
3 the note or thing of value.

4

5 **33-28-123. Retention of records.**

6

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

14

15 **33-28-201. Real estate recovery account created;**
16 **funding of account; no liability of state.**

17

18 (b) ~~Beginning January 1, 1984,~~ Every person obtaining
19 or renewing a ~~real estate broker's, associate broker's or~~
20 ~~salesman's~~ license shall pay an additional fee of twenty
21 dollars (\$20.00) which shall be deposited in the real
22 estate recovery fund account. When the balance of the real
23 estate recovery fund account reaches twenty thousand
24 dollars (\$20,000.00) one-half (1/2) of the fee shall be

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

7

8 **33-28-202. Real estate recovery account created;**
9 **payments; pro rata distribution when account insufficient;**
10 **service of process; joinder of account.**

11

12 (a) If any person obtains a final judgment in any
13 court of competent jurisdiction against any ~~real estate~~
14 ~~broker or real estate salesman licensed under this act~~
15 licensee on the grounds of fraud, willful
16 misrepresentation, deceit or conversion of trust funds
17 arising directly out of any transaction ~~occurring after~~
18 ~~December 31, 1983~~ which occurred when the ~~broker, associate~~
19 ~~broker or salesman~~ licensee was licensed and in which the
20 ~~broker, associate broker or salesman performed acts for~~
21 ~~which a real estate license is required~~ licensee performed
22 any real estate activity, that person, within one (1) year
23 of termination of all proceedings, including appeals, may
24 file with the commission a verified petition in the court

1 in which the judgment was entered for an order directing
2 payment out of the real estate recovery account in the
3 amount of actual damages included in the judgment and
4 unpaid, and that a writ of execution has been returned
5 unsatisfied, but for not more than ~~four thousand dollars~~
6 ~~(\$4,000.00)~~ ten thousand dollars (\$10,000.00).

7
8 (c) Any ~~real estate broker, associate broker or real~~
9 ~~estate salesman who is licensed or renews his license under~~
10 ~~W.S. 33-28-108 after December 31, 1983, and upon whom~~
11 ~~personal service~~ licensee who cannot personally be ~~made~~
12 served with a copy of a summons and complaint through
13 reasonable diligence, shall be deemed to have appointed the
14 director of the commission as his agent for service of
15 process for purposes of actions filed against him pursuant
16 to subsection (a) of this section. Service of process
17 pursuant to subsection (b) of this section shall be made
18 under the Wyoming Rules of Civil Procedure.

19
20 (d) In lieu of the petition under subsection (a) of
21 this section for an order directing payment out of the real
22 estate recovery account, a person filing an action against
23 a ~~licensed real estate broker, associate broker or salesman~~
24 licensee of a type described in subsection (a) of this

1 section may join the real estate recovery account as a
2 limited third party defendant and have judgment rendered
3 directly against the account in the amount provided in
4 subsection (a) of this section provided:

5

6 **33-28-204. Suspension of licenses following payment**
7 **from account; reinstatement.**

8

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

22

23 **33-28-302. Relationships between licensees and the**
24 **public.**

1

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

12

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

18

19 (c) When engaged in any ~~of the activities enumerated~~
20 ~~in W.S. 33-28-102(a)(iii)~~ real estate activity, a licensee
21 may act as a subagent with the duties and responsibilities
22 set forth in W.S. 33-28-303(g) only pursuant to a written
23 agreement between the seller and the seller's agent
24 authorizing an offer of subagency to other responsible

1 brokers, or as an intermediary with the seller or buyer,
2 ~~which~~ pursuant to a written agreement that discloses the
3 duties and responsibilities set forth in W.S. 33-28-305.

4
5 (e) A licensee may work with a single party in
6 separate transactions pursuant to different relationships,
7 ~~including~~ for example, selling one (1) property as a
8 seller's agent and working with that seller in buying
9 another property as an intermediary or buyer's agent, ~~or~~
10 ~~subagent,~~ if the licensee complies with this article in
11 establishing a separate relationship in writing for each
12 transaction.

13
14 (f) A licensee may complete real estate forms and
15 shall explain to the parties the effects thereof if the
16 licensee is performing ~~the activities enumerated or~~
17 ~~referred to in W.S. 33-28-102(a)(iii)~~ real estate
18 activities in the transaction in which the forms are to be
19 used.

20
21 (h) If a real estate ~~brokerage firm~~ company has more
22 than one (1) licensee, the responsible broker and any
23 licensee associated with or engaged by that responsible
24 broker may be designated to work with the seller or the

1 buyer as a designated ~~agent~~licensee. For an in-house real
2 estate transaction, the designated ~~agent~~licensee shall be:

3

4 (i) A responsible broker;

5

6 (iii) A salesman under the direct supervision of
7 a responsible broker, and the responsible broker is not:

8

9 (j) Licensees employed or engaged by the same
10 responsible broker may be designated ~~agents~~licensees for
11 different buyers or sellers in the same transaction. If
12 the responsible broker is representing a buyer or a seller
13 in an in-house transaction, the responsible broker shall
14 immediately appoint a transaction manager unless the other
15 licensee is an associate broker. The simultaneous
16 designations shall not constitute dual agency or require
17 the responsible broker or licensee to act as an
18 intermediary unless otherwise required by this article. A
19 responsible broker or transaction manager shall have access
20 to all necessary information but shall be prohibited from
21 sharing any confidential information of any party to the
22 transaction that the responsible broker or transaction
23 manager may learn in the process of supervising the
24 licensees or the transaction.

1

2 (k) A licensee may work as an agent for the seller
3 treating the buyer as a customer or as an agent for the
4 buyer treating the seller as a customer but not as an agent
5 for both the seller and the buyer. A licensee may be
6 designated to work as an intermediary for both the seller
7 and the buyer in the same transaction pursuant to W.S.
8 33-28-307. The applicable designated relationship shall be
9 disclosed in writing to the seller and buyer at the
10 earliest reasonable opportunity. A designated agent
11 licensee is not precluded from working with a buyer or
12 seller in a real estate transaction solely because the
13 agent~~—~~licensee was precluded from representing that person
14 in an earlier separate real estate transaction.

15

16 (n) Nothing in this section shall be construed to
17 limit the responsible broker's responsibility to supervise
18 licensees associated with the responsible broker or firm
19 real estate company or to shield the responsible broker
20 from vicarious liability.

21

22 (p) A customer relationship shall exist between a
23 licensee and any party to a real estate transaction unless
24 a single agency or intermediary relationship is established

1 through a written agreement between the licensee and the
2 party or parties. When a buyer or seller ~~is represented by~~
3 ~~another~~ has a written listing agreement with a licensee, ~~a~~
4 another licensee may work with the other buyer or seller as
5 a customer, having no written agreement, agency or
6 intermediary relationship with ~~either~~ any party. A
7 licensee shall not owe any duty of confidentiality to a
8 customer.

9

10 (q) Proprietary ownership interest of ~~listings~~
11 written listing agreements shall be vested in the
12 responsible broker.

13

14 **33-28-303. Seller's agent engaged by seller.**

15

16 (f) A seller may agree in writing with a seller's
17 agent to extend an offer of subagency to other responsible
18 brokers to cooperate in selling the real property.

19

20 (g) Any responsible broker acting as a subagent on
21 the seller's behalf shall have the obligations and
22 responsibilities set forth in subsections (a) through (e)
23 of this section.

24

1 **33-28-305. Intermediary.**

2

3 (b) A licensee engaged as an intermediary shall owe
4 to each party with whom the intermediary has contracted the
5 following duties and obligations:

6

7 (ii) To exercise reasonable skill and care as an
8 intermediary, including:

9

10 (J) Disclosing to any prospective seller
11 all adverse material facts actually known by the
12 intermediary, including but not limited to adverse material
13 facts pertaining to the buyer's financial ability to
14 perform the terms of the transaction; ~~and the buyer's~~
15 ~~intent to occupy the property as a principal residence;~~ and

16

17 **33-28-306. Relationship disclosures.**

18

19 (a) For purposes of this section, open house
20 showings, preliminary conversations and requests for
21 factual information do not constitute discussions or
22 arrangements incidental to a sale, purchase, exchange or
23 lease of real property. Prior to engaging in any
24 discussion or arrangement incidental to a sale, purchase,

1 exchange or lease ~~option~~of real property, and, prior to
2 entering into any written agreement, with a buyer or
3 seller, a licensee shall make a written disclosure of
4 applicable agency, intermediary or customer relationships
5 which shall contain at a minimum the following:

6

7 **Section 2.** W.S. 33-28-102(a), 33-28-106(e)(viii)(A)
8 through (D) and (f)(i) through (vii)(vii), 33-28-110(c),
9 (g), (h) and (j), 33-28-111(a)(xxix)(B), 33-28-301,
10 33-28-305(f)(iv) and 33-28-401(f) are repealed.

11

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

13

14

(END)