

Chapter 308-124I WAC

REAL ESTATE—AUDIT/INVESTIGATION PROCEDURES

WAC

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WAC 308-124I-010 Purpose. (1) The director regulates the practice of real estate brokerage for the safety of consumers. Real estate purchases and sales are frequently the largest financial transactions in a consumer's lifetime.

(2) A real estate license is a privilege granted by the state to those persons meeting licensing requirements, maintaining required records, and complying with all laws governing the practice of real estate, including cooperation with an audit/investigation of a licensee's real estate brokerage activities.

(3) The standard of practice for real estate licensees is that of an attorney when completing real estate brokerage transaction documents for consumers.

(4) The director utilizes two primary methods of enforcement regarding the practice of real estate brokerage:

(a) Audits; and

(b) Investigations.

(5) These rules are designed to promote efficiency in conducting audits and investigations and to give licensees notice of what is required of them with respect to audits, investigations, and producing records to the department.

[Statutory Authority: RCW 18.85.041 and 18.85.361. 11-09-017, § 308-124I-010, filed 4/12/11, effective 5/13/11.]

WAC 308-124I-020 Recordkeeping. (1) Licensees are required to create and maintain records of their real estate brokerage activities for the regulatory purpose of this chapter.

(2) Records must be maintained by the licensee and made available to the director for three years from the conclusion of the related services or transaction.

(3) Licensees have no privacy interest in the records they are required to maintain by statute or rule.

[Statutory Authority: RCW 18.85.041 and 18.85.361. 11-09-017, § 308-124I-020, filed 4/12/11, effective 5/13/11.]

WAC 308-124I-030 Licensee statements and explanations. (1) During the course of an investigation or audit, licensees may be required to provide written statements, and/or explanations.

(2) A request for a written statement or explanation can only be issued by an authorized representative of the director, such as an investigator, auditor, program staff, or other designee.

[Statutory Authority: RCW 18.85.041 and 18.85.361. 11-09-017, § 308-124I-030, filed 4/12/11, effective 5/13/11.]

(4/12/11)

WAC 308-124I-040 Review of complaints of unprofessional conduct. (1) Complaints are reviewed to determine if the allegations in the complaint describe an apparent violation of the laws the department administers. Staff may perform some fact-finding for the purposes of determining whether the complaint likely has merit. Even if the complaint is deemed to have merit, the department may decide not to investigate it for reasons such as the gravity of the alleged violation or the resources and priorities of the department.

(2) Department-initiated complaints will be referred to the investigation or audit section. If the complaint is deemed to merit further review, it will be assigned to an investigator or auditor.

(3) During the course of an investigation or audit, if the department's auditor or investigator discovers evidence of additional violations outside the allegations of the complaint, the auditor or investigator may investigate and request records and detailed explanations from the licensee regarding those additional violations.

[Statutory Authority: RCW 18.85.041 and 18.85.361. 11-09-017, § 308-124I-040, filed 4/12/11, effective 5/13/11.]

WAC 308-124I-050 Audits. (1) Real estate firms are subject to routine audits. Routine audits are scheduled approximately every three years.

(2) Audits will be conducted at the location the real estate firm is licensed to conduct real estate brokerage activity or a facility chosen by the department.

(3) All requests for records will be issued by an authorized representative of the director, such as auditors, investigators, program staff or other designee.

(4) An audit can be initiated at any time based upon the results of the previous audit or complaint.

(5) Audits are not scheduled, but they are normally done between the hours of 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding state holidays. An auditor may not forcibly enter a licensed business location unless accompanied by law enforcement personnel pursuant to a valid search warrant. Licensees are advised that refusal to permit access may result in disciplinary action under chapters 18.85 and 18.235 RCW.

(6) An auditor may appear at a licensed business location, unannounced, during the hours described above. A licensee may be required to produce to the auditor at that time all records the licensee is required to keep by the statutes and rules governing licensees. Licensees are advised that refusal to permit access may result in disciplinary action under chapters 18.85 and 18.235 RCW.

(7) The department may not charge for the cost of routine audits to the licensee. Audit costs may be charged to the licensee pursuant to RCW 18.235.110(2) when the department has audited pursuant to a complaint, violations have

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been found, and the director has issued an order imposing any of the sanctions described in RCW 18.235.110(1).

(8) An auditor and licensee may mutually agree to complete or continue an audit outside the time and date limitations.

[Statutory Authority: RCW 18.85.041 and 18.85.361. 11-09-017, § 308-124I-050, filed 4/12/11, effective 5/13/11.]

WAC 308-124I-060 Investigations. (1) All requests for records will be issued by an authorized representative of the director, such as auditors, investigators, program staff, or other designee.

(2) Requests for records, documents or detailed explanations shall be in writing, by regular mail, facsimile, electronic mail, or in person pursuant to an investigation.

(3) The investigator will not request documents or explanations by telephone unless the telephone request is followed by a request in writing. In the case of a request for records or documents, a licensee will not be charged for failure to cooperate with the department unless the investigator has made a written request for records or documents that the licensee is required to keep, and has described the records or documents with sufficient specificity to notify the licensee of what records or documents are being sought.

(4) An investigator may inspect a licensee's licensed business location and records without a warrant pursuant to an investigation approved or assigned by the director or designee between the hours of 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding state holidays, or during the hours of an appointment agreed to with the licensee. Licensees are advised that refusal to permit access may result in disciplinary action under chapters 18.85 and 18.235 RCW. An investigator may not forcibly enter a licensed business location unless accompanied by law enforcement personnel pursuant to a valid search warrant.

[Statutory Authority: RCW 18.85.041 and 18.85.361. 11-09-017, § 308-124I-060, filed 4/12/11, effective 5/13/11.]