

Chapter 308-124C WAC

REAL ESTATE—RECORDS AND RESPONSIBILITIES

WAC

LICENSE RESPONSIBILITIES

| | |
|--------------|--|
| 308-124C-105 | Required records. |
| 308-124C-110 | Accuracy and accessibility of records. |
| 308-124C-115 | Suit or complaint notification. |
| 308-124C-125 | Designated broker responsibilities. |
| 308-124C-130 | Branch manager responsibilities. |
| 308-124C-135 | Managing broker responsibilities. |
| 308-124C-137 | Managing broker delegated responsibilities. |
| 308-124C-140 | Broker responsibilities. |
| 308-124C-145 | Broker responsibilities (with less than two years experience). |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

| | |
|--------------|--|
| 308-124C-010 | Licensee's responsibilities. [Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02. WSR 99-03-042, § 308-124C-010, filed 1/14/99, effective 2/14/99. Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124C-010, filed 11/15/90, effective 12/16/90; WSR 87-20-091 (Order PM 683), § 308-124C-010, filed 10/7/87; WSR 81-05-016 (Order RE 128), § 308-124C-010, filed 2/10/81; Order RE 114, § 308-124C-010, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041. |
| 308-124C-020 | Required records. [Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124C-020, filed 11/15/90, effective 12/16/90; WSR 86-06-011 (Order 138R), § 308-124C-020, filed 2/21/86; WSR 85-21-035 (Order 136R), § 308-124C-020, filed 10/11/85; WSR 82-17-039 (Order 130), § 308-124C-020, filed 8/13/82; Order RE 114, § 308-124C-020, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041. |
| 308-124C-030 | Accuracy and accessibility of records. [Statutory Authority: RCW 18.85.040(1). WSR 04-07-151, § 308-124C-030, filed 3/23/04, effective 4/23/04. Statutory Authority: RCW 18.85.040. WSR 98-01-107, § 308-124C-030, filed 12/17/97, effective 1/17/98; WSR 87-20-091 (Order PM 683), § 308-124C-030, filed 10/7/87; WSR 82-17-039 (Order 130), § 308-124C-030, filed 8/13/82; Order RE 120, § 308-124C-030, filed 9/20/77; Order RE 114, § 308-124C-030, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041. |
| 308-124C-040 | Suit or complaint notification. [Statutory Authority: RCW 18.85.040. WSR 90-01-043, § 308-124C-040, filed 12/14/89, effective 1/14/90; WSR 87-20-091 (Order PM 683), § 308-124C-040, filed 10/7/87; Order RE 114, § 308-124C-040, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041. |
| 308-124C-050 | Home inspector referrals. [Statutory Authority: RCW 18.85.040(1) and 18.85.035. WSR 09-02-026, § 308-124C-050, filed 12/30/08, effective 1/30/09.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041. |

LICENSE RESPONSIBILITIES

WAC 308-124C-105 Required records. The designated broker is required to keep the following on behalf of the firm:

- (1) Trust account records:
 - (a) Duplicate receipt book or cash receipts journal recording all receipts;

(7/1/13)

(b) Sequentially numbered, nonduplicative checks with check register, cash disbursements journal or check stubs;

(c) Validated duplicate bank deposit slips or daily verified bank deposit;

(d) Client's accounting ledger summarizing all moneys received and all moneys disbursed for each real estate or business opportunity transaction or each property management account, contract or mortgage collection account;

(e) In conjunction with (d) of this subsection, separate ledger sheets for each tenant (including security deposit), lessee, vendee or mortgagor; for automated systems, the ledger sheets may be a computer generated printout which contains required entrees;

(f) Reconciled bank statements and canceled checks for all trust bank accounts.

(2) Other records:

(a) An accurate, up-to-date log of all agreements or contracts for brokerages services submitted by the firm's affiliated licensees.

(b) A legible copy of the transaction or contracts for brokerage services shall be retained in each participating real estate firm's files.

(c) A transaction folder containing all agreements, receipts, contracts, documents, leases, closing statements and material correspondence for each real estate or business opportunity transaction, and for each rental, lease, contract or mortgage collection account.

(d) All required records shall be maintained at one location where the firm is licensed. This location may be the main or any branch office.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124C-105, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-105, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-110 Accuracy and accessibility of records. (1) Accuracy. All required real estate records shall be accurate, posted and kept up to date.

(2) Location. All required real estate records shall be kept at an address where the real estate firm is licensed to maintain a real estate office. Transactions that have been closed for at least one year can be maintained at one central facility located in Washington. Transactions not stored at the firm location must be available upon demand of the department and maintained in a manner to be readily retrievable. A listing of all transactions must be maintained at the firm's licensed office for all the transactions stored at the remote facility. All records shall be retained and available for inspection by the director or the director's authorized representative for a minimum of three years.

(3) Alternative storage. Records may be stored on permanent storage media, such as optical disk or microfilm, or other storage media, provided the retrieval process does not permit modification of the documents. Retrieval must be possible.

[Ch. 308-124C WAC p. 1]

sible at the firm's licensed office and allow for viewing and printing the document in its original form. The permanent media storage shall be nonerasable and prevent changes to the stored documents or records. The designated broker must maintain equipment at firm's location in good repair to allow viewing and printing upon demand by the department. The storage media must be indexed to allow for immediate retrieval of all documents.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-110, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-115 Suit or complaint notification.

Every licensee shall, within twenty days after service or knowledge thereof, notify the real estate program of the following:

(1) Any criminal complaint, information, indictment, or conviction (including a plea of guilty or nolo contendere) in which the licensee is named as a defendant.

(2) Entry of a civil court order, verdict, or judgment, against the licensee in any court of competent jurisdiction in which the subject matter therein involves any real estate or business-related activity by the licensee. Notification is required regardless of any pending appeal.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-115, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-125 Designated broker responsibilities. Designated broker responsibilities include, but are not limited to:

(1) Assuring all real estate brokerage services in which he/she participated are in accordance with chapters 18.85, 18.86, 18.235 RCW and the rules promulgated thereunder.

(2) Cooperating with the department in an investigation, audit or licensing matter.

(3) Ensuring accessibility of the firm's offices and records to the director's authorized representatives, and ensure that copies of required records are made available upon demand.

(4) Ensuring monthly reconciliation of trust bank accounts are completed, up-to-date and accurate.

(5) Ensuring monthly trial balances are completed, accurate and up-to-date.

(6) Ensuring that the trial balance and the reconciliation show the account(s) are in balance.

(7) Ensuring policies or procedures are in place to account for safe handling of customer or client funds or property.

(8) Maintaining up-to-date written assignments of delegations of managing brokers and branch manager duties. The delegation agreement(s) must be signed by all parties to the agreement. Delegations must:

(a) Only be made to managing brokers licensed to the firm.

(b) Address duties of record maintenance, advertising, trust accounting, safe handling of customer/client funds and property, authority to bind, review of contracts, modify or terminate brokerage service contracts on behalf of the firm, supervision of brokers and managing brokers, and heighten supervision of brokers that are licensed for less than two years.

(c) Address hiring, transferring and releasing licensees to or from the firm.

(9) Maintaining, implementing and following a written policy that addresses:

(a) Procedures for referring a home inspector to buyers or sellers. The policy will address the consumer's right to freely pick a home inspector of the buyer's or seller's choice and prevent any collusion between the home inspector and a real estate licensee. If a licensee refers a home inspector to a buyer or seller with whom they have or have had a relationship including, but not limited to, a business or familial relationship, then full disclosure of the relationship must be provided in writing prior to the buyer or seller using the services of the home inspector.

(b) Levels of supervision of all brokers, managing brokers and branch managers of the firm.

(c) Review of all brokerage service contracts involving any broker of the firm licensed for less than two years. Review must be completed by the designated broker or their delegated managing broker within five business days of mutual acceptance. Documented proof of review shall be maintained at the firm's record locations.

(10) Ensuring that all persons performing real estate brokerage services on behalf of the firm and the firm itself are appropriately licensed.

(11) Ensuring affiliated licensees submit their transaction documents to the designated broker, branch manager or delegated managing broker within two business days of mutual acceptance.

(12) Being knowledgeable of chapters 18.85, 18.86, and 18.235 RCW and their related rules.

(13) Within five business days provide the department with a closing firm affidavit when closing the firm.

(14) Within five business days ensure that all brokerage services contracts are either terminated or transferred to another licensed real estate firm with the parties' written authorization.

(15) Within five business days notify all parties to pending brokerage service transaction(s) that the real estate firm is closing and that the firm will either:

(a) Transfer the pending transaction documents, with the parties' written authorization(s) to another real estate firm; or

(b) Ensure the transaction(s) are completed without any new licensable activity.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124C-125, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.041 and 18.85.035. WSR 12-02-065, § 308-124C-125, filed 1/3/12, effective 2/3/12. Statutory Authority: RCW 18.85.041 (1), (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-125, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-125, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-130 Branch manager responsibilities. Branch manager responsibilities include, but are not limited to:

(1) Assuring all real estate brokerage services in which he/she participated are in accordance with chapters 18.85, 18.86, 18.235 RCW and the rules promulgated thereunder.

(2) Cooperating with the department in an investigation, audit or licensing matter.

(3) Ensuring accessibility of the firm's offices and records to the director's authorized representatives, and

ensuring that copies of required records are made available upon demand.

(4) Being knowledgeable of chapters 18.85, 18.86, and 18.235 RCW and their related rules.

(5) Ensuring all persons employed, contracted or representing the firm at the branch location are appropriately licensed.

(6) Overseeing of the branch licensees, employees and contractors.

(7) Ensuring affiliated licensees are submitting their transaction documents to the designated broker or delegated managing broker within two business days of mutual acceptance.

(8) Hiring, transferring and releasing licensees to and from the branch.

(9) Overseeing all activity within the branch office including supervision of brokers and managing brokers, and heightened supervision of brokers licensed for less than two years.

(10) If delegated - Client/customer funds or property:

(a) Ensuring monthly reconciliation of trust bank accounts are completed, up-to-date and accurate.

(b) Ensuring monthly trial balances are completed, accurate and up-to-date.

(c) Ensuring that the trail balance and the reconciliation show the account(s) are in balance.

(d) Ensuring safe handling of customer/client funds and property.

(e) Ensuring policies or procedures are in place to account for safe handling of customer or client funds or property.

(11) If delegated - Other duties:

(a) Record maintenance.

(b) Proper and legal advertising.

(c) Review of contracts.

(d) Modify or terminate brokerage service contracts on behalf of the firm.

(e) Following and implementing the designated brokers written policy:

(i) On referral of home inspectors.

(ii) Addressing levels of supervision of all brokers and managing brokers.

(iii) That includes a review of all brokerage service contracts involving any broker licensed for less than two years. Review must be completed within five business days of mutual acceptance. Documented proof of review shall be maintained at the firm's record locations.

[Statutory Authority: RCW 18.85.041 (1), (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-130, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-130, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-135 Managing broker responsibilities. Managing broker responsibilities include, but are not limited to:

(1) Assuring all real estate brokerage services in which he/she participated are in accordance with chapters 18.85, 18.86, 18.235 RCW and the rules promulgated thereunder.

(2) Cooperating with the department in an investigation, audit or licensing matter.

(3) Being knowledgeable of chapters 18.85, 18.86, and 18.235 RCW and their related rules.

(4) Keeping the real estate program informed of his or her current mailing address.

(5) Following the designated broker's written policy on referral of home inspectors.

(6) Being appropriately licensed.

(7) Delivering transaction documents and brokerage service contracts to designated broker or delegated managing broker within two business days of mutual acceptance.

(8) Following licensing laws and rules regarding:

(a) Safe handling of customer/client funds and property.

(b) Timely delivery of customer/client funds or property.

(c) Proper and legal advertising.

(d) Modifying or terminating brokerage service contract on behalf of the firm.

[Statutory Authority: RCW 18.85.041 (1), (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-135, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-135, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-137 Managing broker delegated responsibilities. If delegated by the designated broker, the managing brokers responsibilities include, but are not limited to, ensuring:

(1) Monthly reconciliation of trust bank accounts are completed, up-to-date and accurate.

(2) Monthly trial balances are completed, accurate and up-to-date.

(3) Trial balance and the reconciliation show the account(s) are in balance.

(4) Policies or procedures are in place to account for safe handling of customer or client funds or property.

(5) Required records are maintained and up-to-date.

(6) Advertising is proper and legal.

(7) Timely review of contracts.

(8) Brokerage service contracts are modified or terminated appropriately on behalf of the firm.

(9) Persons employed, contracted or representing the firm that the managing broker has delegated authority to supervise are appropriately licensed.

(10) Brokers and managing brokers submit their transaction documents to the designated broker or delegated managing broker within two business days of mutual acceptance.

(11) Proper and adequate supervision of brokers and managing brokers, and heighten supervision of brokers that are licensed for less than two years.

(12) Accessibility of the firm's offices and records to the director's authorized representatives, and must ensure that copies of required records are made available upon demand.

(13) All affiliated licensees are following the designated brokers written policy on:

(a) Referral of home inspectors.

(b) Levels of supervision for all brokers and managing brokers.

(c) Review of all brokerage service contracts involving any broker licensed for less than two years. Review must be completed within five business days of mutual acceptance. Documented proof of review shall be maintained by the firm at their record locations.

[Statutory Authority: RCW 18.85.041 (1), 18.85.041 (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-137, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-137, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-140 Broker responsibilities. Broker responsibilities include, but are not limited to:

(1) Assuring all real estate brokerage services in which he/she participated are in accordance with chapters 18.85, 18.86, 18.235 RCW and the rules promulgated thereunder.

(2) Cooperating with the department in an investigation, audit or licensing matter.

(3) Being knowledgeable of chapters 18.85, 18.86, and 18.235 RCW and their related rules.

(4) Keeping the real estate program informed of his or her current mailing address.

(5) Following the designated broker's written policy on referral of home inspectors.

(6) Being appropriately licensed.

(7) Delivering transaction documents and brokerage service contracts to designated broker or delegated managing broker within two business days of mutual acceptance.

(8) Following licensing laws and rules regarding:

(a) Safe handling of customer/client funds and property.

(b) Timely delivery of customer/client funds or property.

(c) Proper and legal advertising.

(d) Modifying or terminating brokerage service contracts on behalf of the firm.

[Statutory Authority: RCW 18.85.041 (1), (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-140, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-140, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-145 Broker responsibilities (with less than two years experience). Broker responsibilities (with less than two years experience) include, but are not limited to:

(1) All the responsibilities listed in WAC 308-124C-140.

(2) Being subject to a heightened degree of supervision for the initial two years of licensing which includes:

(a) Participating in all required reviews of real estate brokerage agreements and services by the designated broker or appointed managing broker.

(b) Submitting evidence of completion of department required clock hour education courses to the designated broker or appointed managing broker.

(c) Securing advice or assistance from the designated broker or appointed managing broker when offering brokerage services beyond the broker's level of expertise.

(d) Timely submission of brokerage service contracts, documents and funds to the appropriate managing broker or designated broker in accordance with designated broker's document and contract review policy.

[Statutory Authority: RCW 18.85.041 (1), (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-145, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-145, filed 3/1/10, effective 7/1/10.]