



Vermont Real Estate Commission NEWSLETTER - September 2006

Office Of Professional Regulation
Heritage Building - 81 River Street,
Montpelier, VT 05609-1104
<http://www.vtprofessionals.org>

Phone: (802)828-3228 Fax: (802)828-2368

Deborah L. Markowitz, Secretary of State
William A. Dalton, Deputy Secretary of State
Christopher D. Winters, Director, Office of Professional Regulations

COMMISSION

The Commission is comprised of an attorney, three brokers (one must be a Non-Realtor), one salesperson and two consumer members. The members of the Commission are as follows:

Susan (Sam) A. Matthews, Salesperson Member, of East Montpelier, Vermont, Chair

Gloria Rice, Attorney Member of Montpelier, Vermont, Secretary

Elizabeth Wilkel, Broker Member of Walden, Vermont

Maretta Hostetler, Broker Member of Alburg, Vermont

Tara Dowden, Public Member of Manchester Center, Vermont, Vice Chair

Claire Porter, Public Member of East Corinth, Vermont

Herb Beggs, Non-realtor Broker of Manchester Center, Vermont

STAFF AND CONTACT INFORMATION

Rita Knapp, Commission Administrator
Phone: (802)828-2808
E-mail: rknapp@sec.state.vt.us

Judith Griffen, Administrative Assistant
Phone: (802)828-3228
E-mail: jgriffen@sec.state.vt.us

AGENCY DISCLOSURE

At the Commission's last meeting on July 27, 2006, Rule 4.3(d) and Agency Disclosure was discussed. Following that discussion the Commission determined that listing agents are required to provide an agency disclosure to the seller at the time of the listing.

The original intent of the rule was to require agency disclosure and the Commission is returning to that interpretation. Brokers will need to insure that all licensees listing property include the agency disclosure. This will now become an item of interest for future inspection visits.

CHAIR'S CORNER

The past several months have been busy for the Real Estate Commission. We have welcomed a new member, Herb

Beggs as the non-realtor member. Herb has served on the Commission in years past and we welcome his return and thank him for his commitment of time and interest.

Most recently, the Commission has turned its attention to a complete review of the Rules of the Real Estate Commission. Updates are being made to comply with the new requirements to obtain a real estate license as well as the new educational requirements to renew a license.

Many additional topics are currently under discussion and include:

- Mandatory education/certification for Buyers Agents
- Mandatory Sellers' Property Information Reports
- Refinement of the Agency Disclosure Form and definition of 'first substantial contact'
- Disputed deposits and their requirements

The Commission welcomes input from all licensees on these topics as well as any other issues. Please feel free to contact us via the Office of Professional Regulation, Heritage Building, 81 River Street, Montpelier 05609-1104 or contact the Commission's administrative assistant, Judith Griffen at: jgriffen@sec.state.vt.us

Of note: It has been brought to the attention of the Commission that a number of licensees are in violation of the State of Vermont signage laws. Please remember that there are limits on the size of signs, information content, as well as the number and placement of signs along roadways and on property.

On a final note, we will be bidding farewell to Ted McKnight, the Unit Administrator for the Real Estate Commission on August 7, 2006. Ted has decided to leave state government and retire. He has served the Commission well for over 10 years and we are sorry to see him leave. Nevertheless, we wish Ted all the best in his retirement and thank him for his dedication and commitment to the Commission.

ADMINISTRATOR'S COMMENTS

In August 2006 I will end my career as the Administrator for the Vermont Real Estate Commission and retire. There have been some significant changes since I took the position in January 1996, ten plus years ago and there are many things that have changed little over that time.

As highlighted in the newsletter our 40 hour pre-licensing course has been implemented over this past year. This one significant change took more time and energy to implement than we could have imagined. It was also the one event that brought real estate licensure in Vermont to a level comparable to most other states and jurisdictions, as we lagged far behind when salespersons took no education and brokers only eight hours.

Another area which has changed significantly is our continuing education program. In 1996 licensee's were required to only take four (4) hours of education every two years. It was increased to eight (8) for salespersons and twelve (12) for brokers for a number of renewals. At the same time as the hours were increased there was a requirement for a mandated four (4) hour course each renewal cycle on a subject determined by the Commission. This has given us the opportunity to make sure all licensees renewing their licenses have had courses on Professional Conduct, Agency, Fair Housing and Taxation and most recently everyone completed a course in Environmental Issues. This has been a great opportunity for the Commission to select subject matter for a course and know that all the licensees have been exposed to it.

In 1995, just before I arrived, the Commission completed a major rewrite of the rules. We have been operating under those rules for ten years and now some of the rules need updating because they have been changed by legislation and some of the rules need improvement because of lessons learned from our experience with disciplinary cases and other issues brought before the Commission. The Commission has begun the review process as again updating of the rules is one of the areas that will always need attention.

I have had the pleasure to work with many fine Commission members during my tenure. I want to thank each and everyone of the Commission members for their support and the countless hours they have donated to the real estate industry. When I first started I had the pleasure of working with inspector Harold Whipple for eight months before he retired in August 1996. He was an invaluable resource to me during my first year and I owe him a great deal for what he did for the profession in Vermont and for my education.

In closing I want to thank all the licensees for making this a very interesting and challenging opportunity for me. Following a 25 year Air Force career with moving around the world every couple of years, it has been very interesting staying in one place long enough to see the evolution of real estate licensing law and being a part of it.

Many thanks to all of you that I have had the opportunity to meet through the Real Estate Commission. It has been a wonderful experience that I will always remember. Change is inevitable and I look forward to it.

REAL ESTATE COMMISSION WEBSITE

- <http://www.vtprofessionals.org>

Please note that all licensing, exam information and other regularly requested materials, as well as this and previous newsletters, can be found on this site. Please inform others who may benefit from this information.

As of September 1, 2006:

Type of license	Resident	Non-Resident	Total
Brokers	1,082	166	1,248
Salesperson	1,193	125	1,318
Company	378	52	430

REQUIREMENTS CHANGE:

Pre-Licensing Education:

-Effective January 1, 2006 a 40 hour pre-licensing course is required for licensure as a salesperson or broker. Prior to this there was NO education requirement for a salesperson and only 8 hours required for broker. Since the legislation was approved in 2005, the Commission has met with education providers, reviewed pre-licensing curriculum from ME, NH and NY to develop the pre-licensing courses. A great deal of time and energy was required to get the courses developed and approved over the last year.

-Some of the problems we are facing include evaluating licensees from other states seeking endorsement in Vermont. They must show they have had at least 40 hours of pre-licensing education in the state that they are currently licensed. Otherwise, they are required to take the 40 hour course.

Testing:

-Applicants for salesperson and broker must complete a 40 hour pre-licensing course before testing. Applicants who have a license in another jurisdiction must show proof that they have completed at least 40 hours of pre-licensing education in their jurisdiction and must also complete a Vermont laws course.

Vermont Real Estate test candidates are required to show proof at the test site of "course completion"(a 40 hour pre-licensing sales course or a 40 hour pre-licensing brokers course) before testing. If the candidate is coming from out-of-state and taking just the state portion of the test, they are required to show proof of completion of either the sales or broker state laws course.

License Reinstatement:

-The Vermont Real Estate Commission implemented legislation in July 1, 2005 which required licensees with expired licenses for more than 5 years to take a pre-licensing education course and retest.

-There is now a six (6) month window between July 1, 2006 and December 31, 2006 where those with expired licenses for more than five years can reactivate their license by taking either the test or the course. On January 1, 2007 that statute change sunsets and both the test and course will be required.

Continuing Education:

-CE requirements have increased to 16 hours for brokers and salesperson for the renewal in 2008. Previously salespeople were required 8 hours of CE and brokers 12.

-The Commission also increased the credit for Distance Education from 4 to 8 hours per renewal cycle. Now 50% of the CE can be taken by Distance Education.

-We have always required ARELLO certification of Distance Education courses. We have now established a new requirement for the distance education providers, which require them to provide a person with the Vermont Broker or Vermont Attorney license to be available by telephone to answer course content questions.

Laws: Amendments effective July 1, 2006, applicable to all professions.

3 V.S.A. § 127 is amended to read:

§ 127. UNAUTHORIZED PRACTICE

(a) When the office receives a complaint of unauthorized practice, the director shall refer the complaint to the appropriate board for investigation.

(b) A person practicing a regulated profession without authority may, upon the complaint of the attorney general or a state’s attorney or an attorney assigned by the office of professional regulation, be enjoined there from by the superior court where the violation occurred or the Washington County superior court and may be assessed a civil penalty of not more than \$1,000.00. The attorney general or an attorney assigned by the office of professional regulation may elect to bring an action seeking only a civil penalty of not more than \$1,000.00 for practicing a regulated profession without authority before the board having regulatory authority over the profession.

Hearings shall be conducted in the same manner as disciplinary hearings. A civil penalty imposed by a board or administrative law officer under this subsection shall be deposited in the professional regulatory fee fund established in section 124 of this title for the purpose of providing education and training for board members and advisor appointees. The director shall detail in the annual report receipts and expenses from these civil penalties.

(c) In addition to other provisions of law, unauthorized practice shall be punishable by a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both. Prosecution may occur upon the complaint of the attorney general or a state’s attorney or an attorney assigned by

the office of professional regulation under this section and shall not act as a bar to civil or administrative proceedings involving the same conduct.

(d) A person practicing a licensed profession without authority shall not institute any proceedings in this state for the enforcement of any right or obligation if at the time of the creation of the right or obligation ~~the unlicensed person~~ was acting without authority.

~~(d)~~(e) The provisions of this section shall be in addition to any other remedies or penalties for unauthorized practice established by law.

3 V.S.A. § 129(a) is amended to read:

(a) In addition to any other provisions of law, a board may exercise the following powers:

* * *

(5) Discipline any licensee or refuse to license any person who has had a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for an offense conduct which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct.

* * *

(12) ~~Treat as incomplete any license application submitted with a check subsequently returned for insufficient funds~~ Waive or modify continuing education requirements for persons on active duty in the United States armed forces.

Sec. 4. 3 V.S.A. § 129a(a) is amended to read:

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct.

When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items, or any combination of items, whether or not the conduct at issue was committed within or outside the state, shall constitute unprofessional conduct:

* * *

(11) Failing to report to the office a conviction of any felony or any offense related to the practice of the profession in a Vermont district court, a Vermont superior court, a federal court, or a court outside Vermont within 30 days.

* * *

Amendments specific to Real Estate:

* * **Real Estate Brokers and Salespersons** * * *

26 V.S.A. § 2293(e) is added to read:

(e) Notwithstanding subsection (c) of this section, a person who held a valid license in good standing under this chapter may apply for reinstatement of a license pursuant to subsections (a) and (b) of this section after successfully completing either the course of instruction or the examination required under this chapter.

SUNSET

26 V.S.A. § 2293(e) (six-month window for former real estate brokers and salespersons to be relicensed) is repealed on January 1, 2007.

Basics of The State Sign Law For Real Estate Agents

- * A sign advertising the sale or lease of real estate shall not have an area of more than six square feet, including the panel and frame.
- * Signs must be on the premises of the property that is for sale
- * For sale signs on trees or painted on rocks are not permitted
- * No signs indicating "Sale Pending", "sale under contract", or "Sold" signs are permitted.
- * Notice from officials to remove a sign requires "immediate" action, unless notified otherwise.
- * No signs of any type are permitted within the state highway right of way.
- * Temporary signs announcing a real estate auction are limited to no more than two weeks in duration.
- * Permitted on-premise signs shall not extend more than 25 feet above ground level or, if sign is attached to or is part of a building, no more than 10 feet above the roof of the building.
- * Signs may not interfere in any way with safety of the movement of traffic.
- * Signs advertising the property, after the sale has closed, are not permitted.
- * Signs must be maintained in good repair Local Zoning Bylaws may also apply in addition to above.
- * Individual Condo and PUD Rules & Regulations often contain specific sign limitations as well.

RENEWAL FORMS – WHO SIGNS:

There was a lot of confusion during the 2006 renewal cycle regarding who should be signing the renewal forms. The principal broker should be signing only the renewal forms for the licensees in the main office and the renewal forms for the brokers in charge of each branch office. The principal broker should **not** sign the licensees' forms from the branch offices. The broker in charge is the only person who can sign the renewal forms for the licensees in each branch office.

DISCIPLINARY ACTIONS:

(These orders can be found at www.vtprofessionals.org .)

Real Estate Broker - On February 24, 2006 the Commission issued a reprimand. The Broker broke a door to gain access when showing a property.

Real Estate Broker -On March 31, 2006 The Commission revoked his license. The Broker did not answer the charges against him and was found, in a default hearing to have committed unprofessional conduct.

Real Estate Salesperson - On May 1, 2006 the Commission reprimanded and fined his license. On May 1, 2006, the Salesperson stipulated to a reprimand and an administrative fee of \$300 for failing to provide an agency disclosure.

All Education Providers Lists Can Be Downloaded Off Our Website At http://vtprofessionals.org/opr1/real_estate/

**Vermont Real Estate Commission
Secretary of State's Office
Office of Professional Regulation
81 River Street, Heritage Bldg.
Montpelier, VT 05609-1104**