

**RULES
OF
THE TENNESSEE REAL ESTATE COMMISSION**

**CHAPTER 1260-02
RULES OF CONDUCT**

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1260-02-.01 SUPERVISION OF AFFILIATE BROKERS.

- (1) No licensee shall engage in any real estate activity in any office unless there is a principal broker who devotes his full time to the management of such office.
- (2) A licensee may be engaged only by a principal broker who is:
 - (a) Engaged primarily in the real estate business; and
 - (b) Accessible during normal daytime working hours.

Authority: T.C.A. §§ 62-13-203 and 62-13-312(b)(15). **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed April 17, 1985; effective May 17, 1985. Amendment filed November 21, 1988; effective January 5, 1989. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed July 31, 2006; effective October 14, 2006. Amendments filed January 24, 2017; effective April 24, 2017.

1260-02-.02 TERMINATION OF AFFILIATION.

- (1) Any licensee or principal broker wishing to terminate the licensee's affiliation with a firm shall submit to the Commission a completed Transfer, Release and Change of Status Form (TREC Form 1) or submit the required information through an online submission. If the request is made using the TREC Form 1, the form must be hand-delivered, faxed, mailed, or e-mailed to the Commission to be effective. The principal broker's supervisory responsibility for the future acts of the licensee shall terminate upon the Commission's receipt of the release form or online submission. The principal broker shall retain a copy of the executed form or confirmation of online submission, whichever is applicable.

(Rule 1260-02-.02, continued)

- (2) Within ten (10) days after the date of release, the licensee shall complete the required administrative measures for either change of affiliation or retirement. The licensee shall not engage in any activities defined in § 62-13-102 until a change of affiliation is received and processed by the Commission.
- (3) With regard to firm transfer requests that are completed through an online submission, the Commission recognizes the transfer of an affiliated licensee to a new firm as having been completed at the time that said transfer request is completed online and the transfer confirmation is printed only if the following conditions are met:
 - (a) Prior to the submission of the online transfer request, the principal broker who is receiving the affiliated licensee into his or her firm has verified that the affiliated licensee has an active Tennessee license and current errors and omissions insurance; and
 - (b) The online submission is complete, the submission contains an electronic signature, and payment has been received. If the electronic submission is not complete, does not have an electronic signature, or payment has not been received then the transfer shall not be considered by the Commission to be a valid transfer and the affiliated licensee will be placed into broker release status.
- (4) When a licensee terminates his affiliation with a firm, he shall neither take nor use any property listings or buyer representation agreements secured through the firm, unless specifically authorized by the principal broker in writing.
- (5) Upon demand by a licensee for his release from a firm, it shall be promptly granted by the principal broker and the principal broker shall return the license to the licensee. If the licensee cannot be located then the principal broker may return the license to the Commission.
- (6) If the principal broker is deceased or physically unable to sign the release, or refuses to sign a release, the licensee requesting termination of affiliation must submit to the Commission a notarized Affidavit for Release.
- (7) If the affiliated licensee is deceased or physically unable to sign a release or make an online submission, or refuses to sign a release or make an online submission, the principal broker requesting termination of affiliation must submit to the Commission a completed TREC Form 1 or make an online submission.
- (8) The Commission will not intervene in the settlement of debts, loans, draws, or commission disputes between firms, brokers and/or affiliates.

Authority: T.C.A. §§ 62-13-203 and 62-13-310. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed September 13, 1989; effective October 28, 1989. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed March 16, 2010; effective June 14, 2010. Amendment filed July 20, 2015; effective October 18, 2015. Amendments filed October 18, 2016; effective January 16, 2017.

1260-02-.03 OFFICES.

- (1) Signs. Each licensed real estate firm shall conspicuously display on the outside of the firm's place of business a sign which contains the name of the real estate firm as registered with the Commission.
- (2) Zoning. An application for a license or change of location shall be accompanied by a written certification (from the proper governmental authority) of compliance with zoning

(Rule 1260-02-.03, continued)

laws and ordinances.

(3) Branch Offices.

(a) For purposes of T.C.A. § 62-13-309(d), a licensee is deemed to maintain a "branch" if the licensee:

1. Advertises the office in any manner for the purpose of attracting the public;
2. Has a mail drop at the office which is registered with and served by the United States Postal Service; or
3. Invites or solicits telephone calls to the office (by such means as advertising or listing in a telephone directory).

(b) Model Homes and Modular Units. A model home may be utilized in a subdivision or on a commercial lot and a modular unit may be utilized in subdivisions which are under construction for purposes of soliciting business and will not be required to be licensed as a branch office as long as the model home or modular unit meets the following requirements:

1. The model home or modular unit location and/or telephone number is only advertised in conjunction with advertising the main firm office and such advertising complies with the statutes, rules and regulations of the Commission;
2. The model home or modular unit does not have a mail drop;
3. The model home or modular unit is not the sole sales office for the firm;
4. The model home or modular unit is not utilized to allow unlicensed activity by individuals in performing any of the acts requiring licensure under T.C.A. § 62-13-101, et seq.; and
5. The principal broker of the main firm office shall adequately supervise licensees operating from model homes or modular units as required by T.C.A. § 62-13-312 and any rules promulgated thereunder.

Authority: T.C.A. §§ 62-13-203, 62-13-309 and 62-13-312. **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 3, 1977; effective December 5, 1977. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed April 30, 1987; effective July 29, 1987. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed October 1, 1988; effective December 15, 1998. Amendment filed July 31, 2006; effective October 14, 2006.

1260-02-.04 TELEPHONE ANSWERING SERVICES. No broker shall post his license at a telephone answering service, nor shall any broker conduct the major part of his real estate by or through a telephone answering service; however, reasonable use of a telephone answering service by a broker is permitted.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980.

1260-02-.05 POST OFFICE BOXES. Use of a post office box as a business location is prohibited. However, a post office box may be included in a business address for the purpose of receiving mail.

(Rule 1260-02-.05, continued)

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984.

1260-02-.06 REPEALED.

Authority: T.C.A. § 63-13-203. **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 3, 1977; effective December 5, 1977. Amendment filed September 13, 1978; effective October 30, 1978. Repealed and refiled March 3, 1980; effective April 27, 1980. Repeal filed September 16, 1987; effective October 31, 1987. Amendment filed November 21, 1988; effective January 5, 1989.

1260-02-.07 “NET PRICE” LISTING. No broker or affiliate broker shall accept or enter a listing based on a “net price” (i.e., a price excluding the customary commission and expenses associated with the sale).

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repealed and refiled March 3, 1980; effective April 27, 1980.

1260-02-.08 OFFERS TO PURCHASE. A broker or affiliate broker promptly shall tender every written offer to purchase or sell obtained on a property until a contract is signed by all parties. Upon obtaining a proper acceptance of an offer to purchase, or any counteroffer, a broker or affiliate broker promptly shall deliver true executed copies of same, signed by the seller, to both the purchaser and the seller. Brokers and affiliate brokers shall make certain that all of the terms and conditions of the real estate transaction are included in the contract to purchase. In the event an offer is rejected, the broker or affiliate broker shall request the seller to note the rejection on the offer and return the same to the offeror or the offeror’s agent.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed September 16, 1987; effective October 31, 1987. Amendment filed September 13, 1989; effective October 28, 1989. Amendment filed July 31, 2006; effective October 14, 2006.

1260-02-.09 MANAGING ESCROW OR TRUSTEE ACCOUNTS.

- (1) Definitions: for purposes of this rule, the following definitions are applicable:
 - (a) “Commingling” is defined as the act of a licensee maintaining funds belonging to others in the same bank account that contains his or her personal or business funds.
 - (b) “Trust money” is defined as either of the following:
 1. Money belonging to others received by a licensee who is acting as an agent or facilitator in a real estate transaction; or
 2. Any money held by a licensee who acts as the temporary custodian of funds belonging to others.
- (2) Each principal broker shall maintain a separate escrow or trustee account for the purpose of holding any trust money which may be received in his fiduciary capacity.
- (3) An affiliated broker shall pay over to the principal broker with whom he is affiliated all trust money immediately upon receipt.

(Rule 1260-02-.09, continued)

- (4) Principal brokers are responsible at all times for trust money accepted by them or their affiliated brokers, in accordance with the terms of the contract.
- (5) Where a contract authorizes a principal broker to place trust money in an escrow or trustee account, the principal broker shall clearly specify in the contract:
 - (a) The terms and conditions for disbursement of the trust money; and
 - (b) The name and address of the person or firm who will actually hold the trust money.
- (6) Where a contract authorizes an individual or entity other than the principal broker to hold trust money, the principal broker will be relieved of responsibility for the trust money upon receipt of the trust money by the specified escrow agent.
- (7) A principal broker may properly disburse trust money:
 - (a) Upon a reasonable interpretation of the contract which authorizes him to hold the trust money;
 - (b) Upon securing a written agreement which is signed by all parties having an interest in such and is separate from the contract which authorizes him to hold the trust money;
 - (c) At the closing of the transaction;
 - (d) Upon the rejection of an offer to purchase, sell, rent, lease, exchange or option real estate;
 - (e) Upon the withdrawal of an offer not yet accepted to purchase, sell, rent, lease, exchange or option real estate;
 - (f) Upon filing an interpleader action in a court of competent jurisdiction; or
 - (g) Upon the order of a court of competent jurisdiction.
- (8) Trust money shall be disbursed in a proper manner without unreasonable delay.
- (9) Absent a demonstration of a compelling reason, earnest money shall be disbursed, interpleaded, or turned over to an attorney with instructions to interplead the funds within twenty-one (21) calendar days from the date of receipt of a written request for disbursement.
- (10) No postdated check shall be accepted for payment of trust money unless otherwise provided in the offer.
- (11) Trust money shall be deposited into an escrow or trustee account promptly upon acceptance of the offer unless the offer contains a statement such as "Trust money to be deposited by:".
- (12) In addition to the escrow or trustee account referenced in paragraph (2), all trust money received and held which relates to the lease of property must be held in one (1) or more separate escrow or trustee accounts.
- (13) Commingling of funds contained within firm accounts is expressly prohibited.
- (14) Interest-bearing escrow or trustee accounts are neither required nor prohibited by the Commission. If utilized, however, the following provisions shall be observed:

(Rule 1260-02-.09, continued)

- (a) At the time of contract execution, the licensee shall disclose to the payor that his or her deposit will be placed in an interest-bearing escrow or trustee account, and the licensee and the payor shall execute a written agreement indicating the manner of disposition of any interest earned;
- (b) As a depositor of the trust money, the licensee does not own the trust money or interest earned thereon until properly disbursed to the licensee; and
- (c) The licensee shall keep a detailed and accurate accounting of the precise sum of the interest earned for each separate deposit.

Authority: T.C.A. §§ 62-13-203 and 62-13-321. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed September 30, 1980; effective December 15, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed April 17, 1985; effective May 17, 1985. Amendment filed March 16, 2010; effective June 14, 2010. Amendment filed July 20, 2015; effective October 18, 2015.

1260-02-10 CLOSING STATEMENTS. If a broker acts as closing agent he shall provide copies of the closing documents to each customer or client.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed October 1, 1998; effective December 15, 1998.

1260-02-11 PERSONAL INTEREST.

- (1) No broker or affiliate broker shall, either directly or indirectly through a third party, purchase for himself or attempt to purchase or acquire any interest in or option to purchase property listed with him or with his company, or property regarding which he or his company has been approached by the owner to act as broker, without first making a full disclosure of his true position to the owner of the property or to any prospective purchaser for which he has acted for as a client or customer. After acquiring any such personal interest, either directly or indirectly, the broker or affiliate broker shall make a full disclosure of his true position to prospective purchasers who tender offers to buy the property.
- (2) All licensees shall identify themselves as a licensee when buying or selling property for themselves.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed October 1, 1998; effective December 15, 1998.

1260-02-12 ADVERTISING.

- (1) All advertising, regardless of its nature and the medium in which it appears, which promotes either a licensee or the sale or lease of real property, shall conform to the requirements of this rule. The term "advertising," for purposes of this rule, in addition to traditional print, radio, and television advertising, also includes, but is not limited to, sources of communication available to the public such as signs, flyers, letterheads, e-mail signatures, websites, social media communications, and video or audio recordings transmitted through internet or broadcast streaming. Advertising does not include promotional materials that advertise a licensee such as hats, pens, notepads, t-shirts, name tags, business cards, and the sponsorship of charitable and community events.
- (2) For purposes of this rule, the term "firm name" shall mean either of the following:

(Rule 1260-02-.12, continued)

- (a) The entire name of the real estate firm as licensed with the Commission; or
 - (b) The d/b/a name, if applicable, of the real estate firm as licensed with the Commission.
- (3) General Principles
- (a) No licensee shall advertise to sell, purchase, exchange, rent, or lease property in a manner indicating that the licensee is not engaged in the real estate business.
 - (b) All advertising shall be under the direct supervision of the principal broker and shall list the firm name and the firm telephone number as listed on file with the Commission. The firm name must appear in letters the same size or larger than those spelling out the name of a licensee or the name of any team, group or similar entity:
 - (c) Any advertising which refers to an individual licensee must list that individual licensee's name as licensed with the Commission.
 - (d) No licensee shall post a sign in any location advertising property for sale, purchase, exchange, rent or lease, without written authorization from the owner of the advertised property or the owner's agent.
 - (e) No licensee shall advertise property listed by another licensee without written authorization from the property owner. Written authorization must be evidenced by a statement on the listing agreement or any other written statement signed by the owner.
 - (f) No licensee shall advertise in a false, misleading, or deceptive manner. False, misleading, and/or deceptive advertising includes, but is not limited to, the following:
 - 1. Any licensee advertising that includes only the franchise name without including the firm name;
 - 2. Licensees who hold themselves out as a team, group, or similar entity within a firm who advertise themselves utilizing terms such as "Real Estate," "Real Estate Brokerage," "Realty," "Company," "Corporation," "LLC," "Corp.," "Inc.," "Associates," or other similar terms that would lead the public to believe that those licensees are offering real estate brokerage services independent of the firm and principal broker; or
 - 3. Any webpage that contains a link to an unlicensed entity's website where said entity is engaged or appears to be engaged in activities which require licensure by the Commission.
- (4) Advertising for Franchise or Cooperative Advertising Groups
- (a) Any licensee using a franchise trade name or advertising as a member of a cooperative group shall clearly and unmistakably indicate in the advertisement his name, firm name and firm telephone number (all as registered with the Tennessee Real Estate Commission) adjacent to any specific properties advertised for sale or lease in any media.
 - (b) Any licensee using a franchise trade name on business cards, contracts, or other documents relating to real estate transactions shall clearly and unmistakably indicate his name, firm name, and firm telephone number (all as registered with the Commission).

(Rule 1260-02-.12, continued)

(5) Internet Advertising: In addition to all other advertising guidelines within this rule, the following requirements shall also apply with respect to internet advertising by licensees:

- (a) The firm name and the firm telephone number listed on file with the Commission must conspicuously appear on each page of the website.
- (b) Each page of a website which displays listings from an outside database of available properties must include a statement that some or all of the listings may not belong to the firm whose website is being visited.
- (c) Listing information must be kept current and accurate. This requirement shall apply to "First Generation" advertising as it is placed by the licensee and does not refer to such advertising that may be syndicated or aggregated advertising of the original by third parties outside of the licensee's control and ability to monitor.

(6) Social Media Advertising

- (a) For the purpose of this rule, "social media" means internet-based applications or platforms that allow the public to create and share content and information. Examples include, but are not limited to: Facebook, Twitter, Instagram and LinkedIn.
- (b) With regards to social media advertising by licensees, the firm name and firm telephone number listed on file with the Commission must be no more than one click away from the viewable page.
- (c) Listing information must be kept current and accurate. This requirement shall apply to "First Generation" advertising as it is placed by the licensee and does not refer to such advertising that may be syndicated or aggregated advertising of the original by third parties outside of the licensee's control and ability to monitor.

(7) Guarantees, Claims and Offers

- (a) Unsubstantiated selling claims and misleading statements or inferences are strictly prohibited.
- (b) Any offer, guaranty, warranty or the like, made to induce an individual to enter into an agency relationship or contract, must be made in writing and must disclose all pertinent details on the face of such offer or advertisement.

Authority: T.C.A. §§ 62-13-203, 62-13-301, 62-13-310(b), and 62-13-312 **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed April 17, 1985; effective May 17, 1985. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed March 24, 1994; effective June 7, 1994. Amendment filed October 1, 1998; effective December 15, 1998. Amendment filed July 31, 2006; effective October 14, 2006. Amendment filed March 16, 2010; effective June 14, 2010. Amendment filed July 20, 2015; effective October 18, 2015. Amendments filed March 24, 2017; effective June 22, 2017.

1260-02-.13 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 3, 1980; effective April 27, 1980. Repeal filed September 16, 1987; effective October 31, 1987.

1260-02-.14 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.15 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Amendment filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.16 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.17 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Rule Amendment filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.18 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.19 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.20 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.21 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.22 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.23 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.24 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.25 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.26 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.27 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule filed September 13, 1978; effective October 30, 1978. Repealed: filed March 3, 1980; effective April 27, 1980.

1260-02-.28 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.29 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.30 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.31 REPEALED.

Authority: T.C.A. § 62-1309. **Administrative History:** Original rule filed November 14, 1978; effective December 29, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.32 CIVIL PENALTIES.

- (1) The Commission may, in a lawful proceeding against any person required to be licensed by the Commission, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty for each separate violation of a statute, rule, or order pertaining to the Commission with the following schedule:

Violation	Penalty
T.C.A. § 62-13-103(b)	\$ 50 ---- 1000
T.C.A. § 62-13-301	50 ---- 1000
T.C.A. § 62-13-312(b)	
(1)	250 ---- 1000
(2)	200 ---- 1000
(3)	300 ---- 1000
(4)	100 ---- 1000
(5)	300 ---- 1000

(Rule 1260-02-.32, continued)

	(6)	200 ---- 1000
	(7)	300 ---- 1000
	(8)	100 ---- 1000
	(9)	200 ---- 1000
	(10)	300 ---- 1000
	(11)	250 ---- 1000
	(12)	300 ---- 1000
	(13)	300 ---- 1000
	(14)	50 ---- 1000
	(15)	250 ---- 1000
	(16)	250 ---- 1000
	(17)	200 ---- 1000
	(18)	250 ---- 1000
	(19)	250 ---- 1000
	(20)	200 ---- 1000
	(21)	100 ---- 1000
T.C.A. § 62-25-103(a)		50 ---- 1000
T.C.A. § 62-25-107(b)		
	(1)	250 ---- 1000
	(2)	250 ---- 1000
	(3)	300 ---- 1000
	(4)	50 ---- 1000
T.C.A. § 66-32-121(f)		
	(1)	250 ---- 1000
	(2)	100 ---- 1000
	(3)	200 ---- 1000
	(4)	300 ---- 1000
	(5)	250 ---- 1000
	(6)	250 ---- 1000
	(7)	400 ---- 1000
	(8)	350 ---- 1000
	(9)	400 ---- 1000
	(10)	250 ---- 1000
Any Commission Rule or Order		50 ---- 1000

- (2) With respect to any person required to be licensed by the Commission as a real estate broker who is not licensed, the Commission may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Violation	Penalty
T.C.A. § 62-13-102	\$1000
T.C.A. § 62-13-103	\$1000
T.C.A. § 62-13-105	\$1000
T.C.A. § 62-13-109	\$1000
T.C.A. § 62-13-110	\$1000
T.C.A. § 62-13-301	\$1000
T.C.A. § 62-13-312	\$1000

- (3) Each day of a continued violation may constitute a separate violation.
- (4) In determining the amount of a civil penalty, the Commission may consider such factors as the following:
- (a) Whether the amount imposed will be a substantial economic deterrent to the violation;
 - (b) The circumstances leading to the violation;

(Rule 1260-02-.32, continued)

- (c) The severity of the violation and the risk of harm to the public;
- (d) The economic benefits gained by the violator as a result of non-compliance; and
- (e) The interest of the public.

Authority: T.C.A. §§ 56-1-308 and 62-13-203. **Administrative History:** New rule filed June 4, 1985; effective July 4, 1985. Amendment filed September 13, 1989; effective October 28, 1989. Amendment filed October 15, 1990; effective November 29, 1990. Amendment filed October 1, 1998; effective December 15, 1998. Repeal and new rule filed December 3, 2012; effective March 3, 2013.

1260-02-.33 GIFTS AND PRIZES.

- (1) A licensee may offer a gift, prize, or other valuable consideration as an inducement to the purchase, listing, or lease of real estate only if the offer is made:
 - (a) Under the sponsorship and with the approval of the firm with whom the licensee is affiliated; and
 - (b) In writing, signed by the licensee, with disclosure of all pertinent details, including but not limited to:
 - 1. Accurate specifications of the gift, prize, or other valuable consideration offered;
 - 2. Fair market value;
 - 3. The time and place of delivery; and
 - 4. Any requirements which must be satisfied by the prospective purchaser or lessor.

Authority: T.C.A. §§ 62-13-203 and 62-13-203(b). **Administrative History:** New rule filed September 16, 1987; effective October 31, 1987. Amendment filed October 1, 1998; effective December 15, 1998. Amendment filed December 3, 2007; effective February 16, 2008.

1260-02-.34 INTERPLEADER FORM.

Actions in the nature of interpleader, in which the value of money which is the subject of the action does not exceed the jurisdictional limit of General Sessions Court, may be filed in General Sessions Court pursuant to T.C.A. § 16-15-731. The following form may be used, as appropriate, alone, or in conjunction with forms currently used by the General Sessions Court in which the action is to be filed.

(Rule 1260-02-.34, continued)

IN THE GENERAL SESSIONS COURT OF
_____ COUNTY, TENNESSEE

Plaintiff

General Sessions No. _____

v.

Defendant

Defendant

PETITION TO INTERPLEAD FUNDS

STATE OF TENNESSEE
COUNTY OF _____

_____, being duly sworn, deposes and says:

I

_____, the defendant, resides at _____, in the above-named county, and the mailing address of the defendant is _____.

II

_____, the defendant, resides at _____, in the above-named county and the mailing address of the defendant is _____.

III

The Plaintiff has custody or possession of money in the amount of \$_____, held pursuant to the following:

IV

Plaintiff has no interest in this money. The defendants claim or may claim be entitled to such money; the defendant's claims to the money are adverse.

V

The plaintiff deposits herewith into the court \$_____ which equals the amount of such money to be invested in accordance with the order of the court and will abide with the judgment of the court as to the final disposition thereof, and therefore, requests to be dismissed from this action.

Subscribed to and sworn before me this _____ day of _____, 19____.

NOTARY PUBLIC

My commission expires _____

ORDER

To each of the within named defendants:

(Rule 1260-02-.34, continued)

You are hereby directed to appear and answer the foregoing claim and to have with you all books, papers, and witnesses needed by you to establish your claim to such money. This matter shall be heard on the ____ day of _____, 19____, at ____ o'clock ____ m.

Be advised that failure to appear may result in a judgment adverse to your interests which would determine or foreclose your claim to the above-described money as well as the disposition thereof, and for the costs of this action.

Enter this the ____ day of _____, 19____.

Authority: T.C.A. §§ 62-13-203 and 16-15-731. **Administrative History:** New rule filed November 21, 1988; effective January 5, 1989. Amendment filed March 24, 1994; effective June 7, 1994.

1260-02-.35 REPEALED.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule filed October 15, 1990; effective November 29, 1990. Amendment filed November 4, 1991; effective December 20, 1991. Amendment filed March 24, 1994; effective June 7, 1994. Amendment filed October 1, 1998; effective December 15, 1998.

1260-02-.36 EXCLUSIVE BUYER REPRESENTATION AGREEMENTS.

An exclusive buyer representation agreement is an agreement in which a licensee is engaged to represent a buyer in the purchase of a property to the exclusion of all other licensees. When entering into any such agreement a licensee must advise and confirm in writing to such buyer the following:

- (1) That the buyer should make all arrangements to view or inspect a property through the licensee and should not directly contact other licensees;
- (2) That the buyer should immediately inform any other licensee the buyer may come into contact with (for example, at an open house) that he or she is represented by the licensee; and
- (3) Whether the buyer will owe a commission in the event the buyer purchases a property without the assistance of the licensee through another licensee or directly from an owner.

Authority: T.C.A. §§ 62-13-203, 62-13-401, 62-13-402, 62-13-404 and 62-13-405. **Administrative History:** New rule filed July 31, 2006; effective October 14, 2006.

1260-02-.37 SEPTIC SYSTEM INSPECTION LETTERS. A licensee preparing an offer to buy shall provide in the offer and make the buyer aware that, for a fee, a septic system inspection letter is available through the Tennessee Department of Environment and Conservation, Division of Ground Water Protection.

Authority: T.C.A. §§ 62-13-203 and 62-13-403. **Administrative History:** Original rule filed December 3, 2007; effective February 16, 2008.

1260-02-.38 DEATH OR EXTENDED ABSENCE OF PRINCIPAL BROKER.

- (1) The Commission must be notified within ten (10) days of the death, resignation, termination, or incapacity of a principal broker. In the event of an unexplained extended absence of a principal broker, the Commission must be notified within a reasonable time period. At the time of notification, a plan must be submitted which addresses the continuation of operations without a principal broker.

(Rule 1260-02-.38, continued)

- (2) The Commission may, in its discretion, based on the merits and circumstances of each case, permit a real estate firm to continue operating without a principal broker for a period of time not to exceed thirty (30) days from the date of death, resignation, termination, or incapacity of a principal broker, subject to conditions imposed by the Commission.
- (3) If, within the aforementioned thirty (30) day period, a real estate firm contacts the Commission demonstrating compliance with their initial approved plan and circumstances which require additional time to continue operating without a principal broker, the executive director shall have the authority to grant a thirty (30) day extension to the period originally allowed by the Commission. In the event that a thirty (30) day extension is granted, a new principal broker must be in place no later than the sixty-first (61st) day from the date of death, resignation, termination, or incapacity of a principal broker.

Authority: T.C.A. §§ 62-13-203 and 62-13-309. **Administrative History:** Original rule filed December 3, 2012; effective March 3, 2013.

1260-02-.39 COMMISSIONS EARNED BY AFFILIATED LICENSEES.

- (1) The commissions earned by an affiliated licensee while working under a principal broker can still be paid after one (1) or more of the following circumstances occur:
 - (a) The affiliated licensee transfers to a new broker;
 - (b) The affiliated licensee retires his or her license;
 - (c) The affiliated licensee is in broker release status;
 - (d) The affiliated licensee allows his or her license to expire; or
 - (e) The death of the affiliated licensee.

Authority: T.C.A. §§ 62-13-203 and 62-13-309. **Administrative History:** Original rule filed July 20, 2015; effective October 18, 2015.

1260-02-.40 ELECTRONIC RECORDS.

- (1) Pursuant to T.C.A. § 62-13-312(b)(6), real estate licensees must preserve records relating to any real estate transaction for three (3) years following the consummation of said real estate transaction. Real estate licensees may utilize electronic recordkeeping methods to comply with this requirement, provided that the following conditions are met:
 - (a) All documents required to be retained must be readily accessible in an organized format providing ease in document identification within twenty-four (24) hours of any request for inspection by representatives of the Commission.
 - (b) In order to ensure proper document retention, the principal broker of all real estate firms that use electronic recordkeeping methods must develop and utilize a retention schedule that safeguards the security, authenticity, and accuracy of the records for the entire required retention period and that also provides for the use of technology and hardware that ensures the accessibility of records in a readable format.

Authority: T.C.A. §§ 62-13-203 and 62-13-312. **Administrative History:** Original rule filed July 20, 2015; effective October 18, 2015.

1260-02-.41 LICENSEES WHO HOLD THEMSELVES OUT AS A TEAM, GROUP, OR SIMILAR ENTITY WITHIN A FIRM.

- (1) Licensees who hold themselves out as a team, group, or similar entity within a firm must be affiliated with the same licensed firm and shall not establish a physical location for said team, group, or similar entity within a firm that is separate from the physical location of record of the firm with which they are affiliated.
- (2) No licensees who hold themselves out as a team, group, or similar entity within a firm shall receive compensation from anyone other than their principal broker for the performance of any acts specified in T.C.A. Title 62, Chapter 13.
- (3) The principal broker shall not delegate his or her supervisory responsibilities to any licensees who hold themselves out as a team, group, or similar entity within a firm, as the principal broker remains ultimately responsible for oversight of all licensees within the principal broker's firm.
- (4) No licensees who hold themselves out as a team, group, or similar entity within a firm shall represent themselves as a separate entity from the licensed firm.
- (5) No licensees who hold themselves out as a team, group, or similar entity within a firm shall designate members as designated firm agents, as this remains a responsibility of the licensed firm's principal broker.

Authority: T.C.A. §§ 62-13-203 and 62-13-312. **Administrative History:** Original rule filed July 20, 2015; effective October 18, 2015.