

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**039 REAL ESTATE COMMISSION**

**Chapter 400: AGENCY/DESIGNATED BROKER RESPONSIBILITIES**

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**Summary:** This chapter details requirements of maintaining a real estate brokerage agency and establishes the specific supervisory responsibilities of the designated broker.

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**ADOPTED RULE**

The Commission amended Section 1 of Chapter 400 as shown in the attached page. No other part of Chapter 400 was affected by this action.

STATUTORY AUTHORITY: 32 MRSA §§13065 and 13279

EFFECTIVE DATE:

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION****039 REAL ESTATE COMMISSION****Chapter 400: AGENCY/DESIGNATED BROKER RESPONSIBILITIES**

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**Summary:** This chapter details requirements of maintaining a real estate brokerage agency and establishes the specific supervisory responsibilities of the designated broker.

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**1. Responsibilities of Designated Broker**

## 1. Generally

The designated broker shall supervise the activities of affiliated licensees, the activities of unlicensed persons affiliated with the real estate brokerage agency and the operation of the real estate brokerage agency. The supervision includes, at a minimum, the establishment of policies and procedures that enable the designated broker to review, manage and oversee the following:

- A. The real estate transactions performed by an affiliated licensee;
- B. Documents that may have a material effect upon the rights or obligations of a party to a real estate transaction;
- C. The filing, storage and maintenance of such documents;
- D. The handling of money received by the real estate brokerage agency for the parties to a real estate transaction;
- E. The advertising of any service for which a real estate license is required;
- F. The familiarization by the affiliated licensee with the requirements of federal and state law governing real estate transactions;
- G. The dissemination, in a timely manner, to affiliated licensees of all regulatory information received by the real estate brokerage agency pertaining to the practice of real estate brokerage;
- H. The registration of any domain name for a web site in order to promote real estate brokerage services or the sale or purchase of real estate through the agency; and
- I. The development or uploading to the internet of a web site that promotes real estate brokerage services or the sale or purchase of real estate through the agency.

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**039 REAL ESTATE COMMISSION**

**Chapter 410: MINIMUM STANDARDS OF PRACTICE**

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**Summary:** This chapter clarifies and establishes standards for practicing real estate brokerage.

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**ADOPTED RULE**

The Commission amended Sections 1 and 13 of Chapter 410 as shown in the attached pages. No other part of Chapter 410 was affected by this action.

STATUTORY AUTHORITY: 32 MRSA §§13065 and 13279

EFFECTIVE DATE:

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION****039 REAL ESTATE COMMISSION****Chapter 410: MINIMUM STANDARDS OF PRACTICE**

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**Summary:** This chapter clarifies and establishes standards for practicing real estate brokerage.

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## 1. Advertising

## 1. Definitions

As used in the Commission's rules, unless the context otherwise indicates, the following terms have the following meanings:

- A. Advertise. "Advertise," "advertising" and "advertisement" include all forms of representation, promotion and solicitation disseminated in any manner and by any means of communication for any purpose related to real estate brokerage activity, including, at a minimum, advertising the sale or purchase of real estate or promotion of real estate brokerage services conducted by mail, telephone, the Internet, the World Wide Web, E-mail, electronic bulletin board or other similar electronic common carrier systems, business cards, signs, television, radio, magazines, newspapers, and telephonic greetings or answering machine messages.
- B. Contact information. "Contact information" means information as to how the public can contact the real estate brokerage agency either by phone or in person at the agency's place of business as licensed by the Commission.
- C. Prominent. "Prominent" means standing out so as to be seen easily; conspicuous; particularly noticeable.

## 4-A. Advertising by Real Estate Brokerage Agencies

Real estate brokerage advertisements must contain the trade name and contact information of the real estate brokerage agency as licensed by the Commission. The trade name and contact information of the agency must be prominently displayed or presented.

In addition, the designated broker may authorize an advertisement that includes the name, telephone number, slogan, logotype or photo of an affiliated licensee or group or team of affiliated licensees as part of the brokerage services being offered by the real estate brokerage agency. The affiliated licensee or group or team of affiliated licensees may not independently engage in real estate brokerage.

## 5. Written Permission of Owner Required to Advertise

A real estate brokerage agency or its affiliated licensees shall not advertise any real estate for sale without first obtaining the written permission of the owner or the owner's authorized representative.

6. Advertising of Exclusive Listing Held by Another Agency

A real estate brokerage agency or its affiliated licensees shall not publish or cause to be published an advertisement that makes reference to the availability of real estate which is exclusively listed for sale by another real estate brokerage agency unless the licensee obtains the prior written consent of the designated broker who has been authorized by the owner to provide consent.

7. Deception and Misrepresentation Prohibited

Advertising must be free from deception and shall not misrepresent the condition of the real estate, terms of the sale or purchase, real estate brokerage agency policies, or real estate brokerage services.

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**13. Licensee's Duty**

1. Keep the Designated Broker Informed

An affiliated licensee shall keep the designated broker fully informed of all activities conducted on behalf of the agency and shall notify the designated broker of any other activities that might impact on the responsibilities of the designated broker as required under Chapter 400, Section 1 of the Commission's rules.

2. Provide Documents to Designated Broker

An affiliated licensee must provide originals or true copies of all real estate brokerage documents and records prepared in a real estate transaction as listed in Chapter 400, Section 3 of the Commission's rules to the designated broker within 5 calendar days after execution of the document or record.

3. Domain Names and Web Sites

An affiliated licensee may not directly or indirectly, through himself or others—

- register a domain name for a web site, or
- develop or upload to the internet a web site,

that promotes real estate brokerage services or the sale or purchase of real estate through the agency with whom the licensee is affiliated without the consent of the designated broker.

Any web site developed or uploaded under this Section must comply with the advertising requirements contained in Chapter 410, Section 1.