

SENATE FILE NO. SF0096

Real estate brokers and salespersons.

Sponsored by: Senator(s) Pappas, Coe and Kinskey and
Representative(s) Brown, Walters and
Zwonitzer

A BILL

for

1 AN ACT relating to professions and occupations; conforming
2 real estate brokers and salespersons licensing and
3 authority provisions to current practice; authorizing
4 responsible brokers to supervise multiple business
5 entities; requiring disclosure of licensee relationships;
6 regulating marketing and advertising; allowing transactions
7 without signed acknowledgment of relationship disclosures;
8 conforming terminology; and providing for an effective
9 date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 33-28-102(b)(iv), (vi), (xxix),
14 (xlv)(H), (xlv), (xlix) and (li), 33-28-103(a)(vi),
15 33-28-105(c)(iii) and (d), 33-28-106(c)(ii), (f)(intro) and

1 (n) (ii), 33-28-107(a), 33-28-108, 33-28-109,
2 33-28-110(b) (iv) and (d) (intro), 33-28-111(a) (intro), (ix),
3 (xvi), (xvii), (xxix) (A) and by creating a new subparagraph
4 (D), 33-28-115, 33-28-118(e), 33-28-119(a) and (d) through
5 (g), 33-28-122(a) (intro) and (i), 33-28-123, 33-28-202(a),
6 33-28-204, 33-28-302(a), (h) (iii), (iv) and (j),
7 33-28-305(g), 33-28-306(b), 33-28-308(a) through (d) and
8 (f) through (h) and 33-28-310 by creating a new subsection
9 (e) are amended to read:

10

11 CHAPTER 28

12 REAL ESTATE BROKERS AND SALESPERSONS

13

14 **33-28-102. Definitions.**

15

16 (b) As used in this act:

17

18 (iv) "Associate broker" means an individual who
19 has qualified as ~~a~~an associate broker under this act, is
20 licensed by the commission under a responsible broker and
21 does not have supervisory responsibilities;

22

1 (vi) "Branch office" means any office location
2 of a real estate company that is separate from a principal
3 office and supervised by a responsible broker; ~~other than~~
4 ~~his principal place of business;~~

5
6 (xxix) "License" means the document issued by
7 the commission certifying that the person named by the
8 person's legal name on the document had fulfilled all
9 requirements for licensure under this act;

10
11 (xlv) "Real estate activity" occurs when an
12 individual for another and for compensation performs any
13 one or more of the following:

14
15 (H) Engages in the business of charging an
16 advance fee in connection with any contract undertaken to
17 promote the sale, auction or lease of real estate either
18 through its listing in a publication issued for that
19 purpose or for referral of information concerning the real
20 estate to responsible brokers, associate brokers and
21 salespersons;

22

1 (xlvi) "Real estate company" means a domestic or
2 foreign business entity ~~including a firm, company,~~
3 ~~corporation, partnership, sole proprietorship or other~~
4 ~~entity which is~~ that is authorized to conduct business in
5 Wyoming and licensed by the commission to conduct real
6 estate activity;

7
8 (xlix) "Responsible broker" means an individual
9 who has an active responsible broker's license and who is
10 responsible for the supervision of the activities of
11 licensees associated with the real estate company or a
12 responsible broker who operates a single license office or
13 sole proprietorship;

14
15 (li) "~~Salesman~~ Salesperson" means an individual
16 who has qualified as a ~~salesman~~ salesperson under this act
17 and is licensed by the commission under a responsible
18 broker;

19
20 **33-28-103. Exemptions.**

21
22 (a) The provisions of this act shall not apply to:
23

1 (vi) Any person or employee acting as the
2 resident manager for the owner or an employee acting as the
3 resident manager for a responsible broker managing an
4 apartment building, duplex, apartment complex or court,
5 when the resident manager resides on the premises and is
6 engaged in the leasing of real estate in connection with
7 his employment, unless that individual is a licensee; or
8

9 **33-28-105. Creation of commission; membership; terms;
10 removal; chairman; powers and duties; director and duties
11 thereof; other employees; compensation; disposition of
12 fees.**
13

14 (c) The commission shall employ a director. The
15 director is subject to the rules and regulations of the
16 human resources division of the department of
17 administration and information. The director's salary shall
18 be paid from the real estate commission account specified
19 in subsection (g) of this section. The duties of the
20 director shall include the following:
21

1 (iii) Issue real estate responsible broker, ~~and~~
2 ~~salesman~~ associate broker, salesperson and real estate
3 company licenses;

4
5 (d) The commission shall employ other ~~employees~~ staff
6 members to assist in the discharge of the duties imposed
7 upon it by this act and shall prescribe the duties and fix
8 the compensation of its ~~employees~~ staff members, subject to
9 the rules and regulations of the human resources division
10 of the department of administration and information. The
11 office of the commission shall be maintained in Cheyenne
12 and all files, records and property of the commission shall
13 at all times remain in the Cheyenne office. No ~~employee of~~
14 ~~the~~ commission staff member may be a paid employee of any
15 real estate association, ~~or group of real estate dealers or~~
16 ~~brokers~~ real estate company or real estate licensee.

17
18 **33-28-106. Application for license; qualifications;**
19 **sworn statement; commission approval of course of study;**
20 **statement of responsible broker; denial of license; issuing**
21 **licenses.**

1 (c) Each applicant for a responsible broker's license
2 shall:

3
4 (ii) Have first served actively for two (2) of
5 the four (4) years immediately preceding the application as
6 a real estate ~~salesman~~salesperson or associate broker; and

7
8 (f) Each applicant for a ~~salesman's~~salesperson's
9 license shall:

10
11 (n) Each individual applicant for an associate
12 broker's license shall:

13
14 (ii) Have first served actively for two (2) of
15 the four (4) years immediately preceding the application as
16 a ~~salesman~~salesperson or shall furnish to the commission
17 proof indicating that ~~he~~the applicant holds a degree in
18 real estate from an accredited university or college; and

19
20 **33-28-107. Examinations; responsible broker,**
21 **associate broker and salesperson's licenses.**

22

1 (a) In addition to proof of honesty, trustworthiness
2 and good reputation, each applicant desiring to become
3 licensed as a real estate responsible broker, associate
4 broker or a real estate ~~salesman~~salesperson shall execute
5 and file an application for examination upon a form
6 prescribed by the commission and shall pass a written
7 examination prepared by or under the supervision of the
8 commission. The examination shall be given at times and at
9 places within the state as the commission shall prescribe.
10 The examination for a ~~salesman's~~salesperson's license
11 shall include business ethics, composition, arithmetic,
12 elementary principles of land economics and appraisal, a
13 general knowledge of the statutes of this state relating to
14 deeds, mortgages, contracts of sale, agency ~~and brokerage,~~
15 and the provisions of this act. The ~~examination~~
16 examinations for ~~a~~responsible broker and associate
17 broker's ~~license~~licenses shall be of a more exacting
18 nature and scope and more stringent than the examination
19 for a ~~salesman's~~salesperson's license.

20

21 **33-28-108. Fees.**

22

1 Pursuant to W.S. 33-1-201, the commission shall establish
2 fees for examinations, original licenses, modified
3 licenses, renewals, certifications, change of place of
4 business, and transfers. ~~and duplicate licenses.~~ The fees
5 shall be used to pay the expense of maintaining and
6 operating the office of the commission and the enforcement
7 of this act.

8
9 **33-28-109. Responsible broker to establish a real**
10 **estate company, maintain fixed principal office; change of**
11 **address; branch offices; restrictions on associate brokers**
12 **and salespersons.**

13
14 (a) Each resident responsible broker shall lawfully
15 establish at least one (1) but no more than three (3) real
16 estate companies or sole proprietorships within Wyoming and
17 acquire a license for each real estate company or sole
18 proprietorship. Each resident responsible broker shall
19 maintain a fixed principal office for each company or sole
20 proprietorship within this state. The address of ~~the~~ each
21 office shall be designated on all licenses associated with
22 the office and no license issued under this act shall
23 authorize the licensee to transact real estate activity at

1 any other address except a licensed branch office. In case
2 of removal from ~~the~~a designated address, the responsible
3 broker shall ~~make application~~apply to the commission
4 before the removal designating the new location of ~~his~~an
5 office and paying the required fee, whereupon the
6 commission shall issue a license for the new location for
7 the unexpired period if the new location complies with the
8 terms of this act.

9
10 (b) ~~If a responsible broker maintains more than one~~
11 ~~(1) place of business within the state, a branch office~~A
12 responsible broker may conduct business from a branch
13 office. A branch office shall use the same trade name or
14 business name as the licensed real estate company. A
15 company license shall be issued to the responsible broker
16 for each branch office ~~so maintained by him~~the responsible
17 broker maintains. Every branch office shall be under the
18 direction and supervision of the responsible broker. A
19 responsible broker requesting a branch office license shall
20 also, in addition to the branch office application, submit
21 a plan of supervision for the branch office for approval by
22 the commission.

23

1 (c) An associate broker or ~~salesman~~salesperson shall
2 not be associated or engaged under contract to any other
3 responsible broker than is designated upon the license
4 issued to the associate broker or ~~salesman~~salesperson.
5 Upon termination of an associate broker's or ~~salesman's~~
6 salesperson's association or contractual relationship, his
7 responsible broker shall immediately notify the commission
8 for cancellation of the associate broker's or ~~salesman's~~
9 salesperson's license. Whenever a licensed associate broker
10 or ~~salesman~~salesperson desires to change his contractual
11 relationship from one (1) responsible broker to another, he
12 shall notify the commission promptly in writing of the
13 facts attendant thereon and pay the required fee. Upon
14 application, the commission shall issue a new license under
15 the new responsible broker. No associate broker or ~~salesman~~
16 salesperson shall directly or indirectly associate himself
17 with a responsible broker until he has been issued a
18 license to do so with that responsible broker.

19

20 (d) No more than one (1) license to conduct real
21 estate activity shall be issued to any ~~salesman~~responsible
22 broker, associate broker or salesperson to be in effect at

1 one (1) time except as provided in subsection (a) of this
2 section.

3
4 **33-28-110. Unlawful to compensate unlicensed person;**
5 **licensing of like-licensed nonresidents; service of process**
6 **on nonresidents.**

7
8 (b) A nonresident may be issued a Wyoming responsible
9 broker's license if:

10
11 (iv) The ~~broker~~ individual furnishes the
12 commission a statement under seal of the commission of his
13 home state evidencing that he is an active licensed
14 responsible broker, or an equivalent, in good standing and
15 has no complaints pending against him in his home state.

16
17 (d) A nonresident may be issued a Wyoming associate
18 broker or ~~salesman~~ salesperson license if:

19
20 **33-28-111. Censure of licensee and suspension or**
21 **revocation of license; grounds.**

1 (a) The commission shall upon a written sworn
2 complaint or may upon its own motion investigate the
3 actions of any licensee conducting real estate advertising,
4 self promotion as a licensee or real estate activity
5 regarding real estate located in Wyoming, impose an
6 administrative fine not to exceed two thousand five hundred
7 dollars (\$2,500.00) for each separate offense and may
8 censure a licensee, place a licensee on probation and set
9 the terms of probation, suspend or revoke any license
10 issued under this act for any of the following:

11

12 (ix) If a responsible broker, failing to
13 supervise the activities of his associate broker or
14 ~~salesman~~ salesperson;

15

16 (xvi) Engaging in real estate activity as an
17 associate broker or ~~salesman~~ salesperson involving the
18 representing or attempt to represent a responsible broker
19 other than his responsible broker or a real estate company
20 other than the real estate company under which he is
21 licensed;

22

1 (xvii) Accepting compensation by an associate
2 broker or ~~salesman~~salesperson from anyone other than his
3 responsible broker;

4
5 (xxix) If a responsible broker:

6
7 (A) Failing to deliver to the parties in
8 every real estate transaction at the time the transaction
9 is closed a complete, detailed closing statement showing
10 all of the receipts and disbursements handled by the
11 licensees in his office for the parties unless a clear and
12 accurate accounting is furnished by another ~~broker~~real
13 estate licensee or a funds holder;

14
15 (D) Failing to disclose, in every real
16 estate transaction, the names of all real estate companies
17 for which a responsible broker holds a license.

18
19 **33-28-115. Unlicensed person may not maintain action**
20 **for fee.**

21
22 No action or suit shall be instituted, nor recovery be had,
23 in any court of this state by any person for compensation

1 for any real estate activity unless the person was licensed
2 by the commission under this act at the time of engaging in
3 real estate activity.

4
5 **33-28-118. License renewals; continuing education;**
6 **payment of fees; effect of failure to renew; inactive**
7 **status.**

8
9 (e) Any real estate associate broker or salesman
10 salesperson who is not employed by or associated with a
11 responsible broker, or any responsible broker who desires
12 to become inactive, may renew his license in an inactive
13 status prior to the renewal deadline established in this
14 section, by submitting the renewal fee together with a
15 completed renewal application on which he has noted his
16 present inactive status.

17
18 **33-28-119. Advertising; licensing under one name;**
19 **trade names; advertisement of licensees.**

20
21 (a) Every real estate licensee, when promoting
22 himself as a licensee, advertising or promoting his real
23 estate activities, shall use the real estate company name

1 under which he is licensed by the commission and shall use
2 no slogans or phraseology in a manner which would indicate
3 or suggest to the public that real estate may be listed or
4 is being offered for sale, exchange, lease or rent by a
5 private party not licensed by the commission.

6
7 (d) ~~Except as provided in subsection (c) of this~~
8 ~~section, no person shall be licensed under more than one~~
9 ~~(1) real estate company name, and~~ No person shall conduct
10 or promote a real estate ~~brokerage business except under~~
11 company other than the real estate company ~~name~~ under which
12 the person or ~~brokerage business~~ company is licensed by the
13 commission.

14
15 (e) A trade name, with the permission of the owner of
16 the trade name, may be used concurrently with the licensed
17 name of the real estate company in the promotion or conduct
18 of the responsible broker's business. On promotional
19 materials the real estate company name shall be displayed
20 in a conspicuous manner that the general public may ~~be~~
21 ~~readily identified by the general public~~ easily identify,
22 as prescribed in commission rules.

23

1 (f) A licensed responsible broker shall not advertise
2 the sale, purchase, exchange or lease of real estate,
3 unless owned by him, without including in the advertisement
4 the real estate company name under which he is licensed by
5 the commission.

6
7 (g) A licensed associate broker or salesman
8 salesperson shall not advertise the sale, purchase,
9 exchange or lease of real estate, unless owned by him,
10 without including in the advertisement the ~~name of the~~ real
11 estate company ~~with whom he is associated~~ name under which
12 he is licensed by the commission.

13
14 **33-28-122. Responsible broker's trust accounts;**
15 **disposition of interest; commingling with personal funds**
16 **prohibited; disputed deposits; cooperative transactions.**

17
18 (a) Every responsible broker licensed by the
19 commission in this state shall comply with the following
20 provisions for each licensed real estate company he
21 supervises:

1 (i) Maintain ~~a separate~~an account in a
2 financial institution in this state designated as a trust
3 or escrow account in which all down payments, earnest money
4 deposits, advance listing fees or other trust funds
5 received by him, his associate brokers or his ~~salesmen~~
6 salespersons on behalf of a principal or any other person
7 shall be deposited unless all persons having an interest in
8 the funds have agreed otherwise in writing. The account
9 shall permit immediate withdrawal of the funds deposited
10 therein. In lieu of maintaining a trust or escrow account
11 under this paragraph, a responsible broker may use a funds
12 holder;

13

14 **33-28-123. Retention of records.**

15

16 Every responsible broker licensed by the commission in this
17 state shall keep and maintain a full set of records of
18 every real estate transaction in which he participates on
19 behalf of or to assist any party to the transaction. The
20 records shall be maintained not less than seven (7) years
21 from the latest date on which the real estate company
22 participated in the transaction.

23

1 **33-28-202. Real estate recovery account created;**
2 **payments; pro rata distribution when account insufficient;**
3 **service of process; joinder of account.**

4
5 (a) If any person obtains a final judgment in any
6 court of competent jurisdiction against any licensee on the
7 grounds of fraud, willful misrepresentation, deceit or
8 conversion of trust funds arising directly out of any
9 transaction which occurred when the licensee was licensed
10 by the commission and in which the licensee performed any
11 real estate activity, that person, within one (1) year of
12 termination of all proceedings, including appeals, may file
13 with the commission a verified petition in the court in
14 which the judgment was entered for an order directing
15 payment out of the real estate recovery account in the
16 amount of actual damages included in the judgment and
17 unpaid, and that a writ of execution has been returned
18 unsatisfied, but for not more than ten thousand dollars
19 (\$10,000.00).

20
21 **33-28-204. Suspension of licenses following payment**
22 **from account; reinstatement.**

1 If the commission is required to make any payment from the
2 real estate recovery account in settlement of a claim or
3 toward the satisfaction of a judgment, the commission shall
4 immediately suspend the judgment debtor's license. The
5 judgment debtor shall not be licensed by the commission or
6 have his license reinstated by the commission until he has
7 repaid in full the amount paid from the real estate
8 recovery account with interest thereon of eighteen percent
9 (18%) per annum. Repayment under this section shall not
10 prohibit the commission from acting in accordance with W.S.
11 33-28-111. A discharge in bankruptcy shall not relieve a
12 person from the disabilities and penalties of the section.

13

14 ARTICLE 3

15 BROKER RELATIONSHIPS

16

17 **33-28-302. Relationships between licensees and the**
18 **public.**

19

20 (a) A responsible broker shall not be required to
21 offer or engage in more than one (1) of the ~~brokerage~~
22 broker relationships. When engaged in any real estate
23 activity, a licensee, with permission of ~~his~~ the licensee's

1 responsible broker, may act in any real estate transaction
2 as an agent or intermediary or may work with the seller or
3 buyer as a customer. The licensee's duties and obligations
4 arising from that relationship shall be disclosed to the
5 seller or buyer pursuant to this article.

6
7 (h) If a real estate company has more than one (1)
8 licensee, the responsible broker and any licensee
9 associated with or engaged by that responsible broker may
10 be designated to work with the seller or the buyer as a
11 designated licensee. For an in-house real estate
12 transaction, the designated licensee shall be:

13
14 (iii) A ~~salesman~~salesperson under the direct
15 supervision of a responsible broker, and the responsible
16 broker is not a party to the real estate transaction; or

17
18 (iv) A ~~salesman~~salesperson who is under the
19 direct supervision of a transaction manager.

20
21 (j) Licensees employed or engaged by the same
22 responsible broker or across any companies the same
23 responsible broker supervises may be designated licensees

1 for different buyers or sellers in the same transaction.
2 If the responsible broker is representing a buyer or a
3 seller in an in-house transaction, the responsible broker
4 shall immediately appoint a transaction manager unless the
5 other licensee is an associate broker. If the responsible
6 broker is representing a buyer or seller in a transaction
7 involving two (2) or more companies the responsible broker
8 manages, he shall immediately appoint a transaction manager
9 for each real estate company unless the other licensee is
10 an associate broker. The responsible broker shall disclose
11 in every real estate transaction to all parties involved
12 the names of all real estate companies the responsible
13 broker supervises. The simultaneous designations shall not
14 constitute dual agency or require the responsible broker or
15 licensee to act as an intermediary unless otherwise
16 required by this article. A responsible broker or
17 transaction manager shall have access to all necessary
18 information but shall be prohibited from sharing any
19 confidential information of any party to the transaction
20 that the responsible broker or transaction manager may
21 learn in the process of supervising the licensees or the
22 transaction.

23

1 **33-28-305. Intermediary.**

2

3 (g) An intermediary may cooperate with other
4 responsible brokers but shall not engage any subagents.

5

6 **33-28-306. Relationship disclosures.**

7

8 (b) The written disclosure shall contain a signature
9 line for the buyer or seller to acknowledge receipt of the
10 disclosure. The disclosure and acknowledgment, by itself,
11 shall not constitute a contract or agreement with the
12 licensee. Until the buyer or seller executes such
13 acknowledgment, no representation agreement shall be
14 executed or valid- except, provided if a buyer or seller
15 refuses to sign the disclosure after presentation by the
16 licensee:

17

18 (i) The licensee may document the refusal with a
19 signed acknowledgement by the licensee and continue with
20 the transaction; and

21

22 (ii) The disclosure and acknowledgement shall be
23 attached to and may become incorporated into any written

1 agreements with the buyer or seller as prescribed in W.S.
2 33-28-302(b) and (c).

3
4 **33-28-308. Compensation.**

5
6 (a) In any real estate transaction, the responsible
7 broker's compensation may be paid by the seller, the buyer,
8 a third party, or by the sharing or splitting of
9 compensation between responsible brokers.

10
11 (b) Payment of compensation shall not be construed to
12 establish an agency relationship or intermediary
13 relationship between the responsible broker and the party
14 who paid the compensation.

15
16 (c) A seller may agree that an intermediary, buyer's
17 agent, subagent or a licensee working with a buyer as a
18 customer may share in the compensation paid by the seller
19 with another responsible broker.

20
21 (d) A buyer may agree that a seller's agent,
22 intermediary, subagent or a licensee working with a seller

1 as a customer may share in the compensation paid by the
2 buyer with another responsible broker.

3
4 (f) Prior to entering into a written agreement with
5 the seller and buyer, or prior to entering into a contract
6 to buy or sell, the responsible broker shall disclose in
7 writing to the seller and buyer to the transaction, the
8 agency, intermediary or customer relationships of all
9 parties, persons and entities paying compensation to the
10 responsible broker.

11
12 (g) A responsible broker may be compensated by more
13 than one (1) party for services in a transaction, if those
14 parties have consented in writing to the shared payment
15 prior to seller and buyer entering into a contract to buy
16 or sell.

17
18 (h) An agreement authorizing a responsible broker who
19 originally agreed in writing to act as an agent to a buyer
20 or seller with respect to a particular real estate
21 transaction to act instead as an intermediary to that
22 party, shall provide that the party agreeing to the new
23 relationship shall not be liable for any compensation

1 greater than the compensation the party would have been
2 liable to pay under the initial agreement. Any contract
3 provision in violation of this subsection is void and
4 unenforceable.

5
6 **33-28-310. Licensees working with buyers and sellers**
7 **as customers; duties; exceptions.**

8
9 (e) A licensee working with a buyer or seller who is
10 a customer shall provide the customer an agency disclosure.

11
12 **Section 2.** W.S. 33-28-102(b)(vii) is repealed.

13
14 **Section 3.** This act is effective July 1, 2017.

15
16 (END)