

Top VREB Violations

Beware of these most common Real Estate Board violations by licensees. You'll notice one common theme: escrow funds. Violations involving escrow funds continue to be some of the most frequently violated regulations for real estate licensees. Brokers, make sure you have policies in your office policy manual and provide education to prevent you and your licensees from engaging in any of these common offenses.

1. Failing to disclose in a timely manner to the licensee's client all material facts related to the property or concerning the transaction when failure to disclose would be a violation of ordinary care. *See 18 V.A.C. 135-20-300.4*

Make sure you represent your client's interests by disclosing all material facts related to the property or transaction. Remember, you are their representative, so help them by making sure they remain informed about the property and transaction!

2. Failing to provide in a timely manner to all principals to the transaction written notice of any material changes to the transaction. *See 18 V.A.C. 135-20-310*

Not only do you need to make sure that you represent your client's interests, but you must inform all principals to the transaction of any material changes – this includes the party that you do not represent. This includes informing the parties if the earnest money deposit is not deposited in a timely manner.

3. Failing to safeguard the interests of the public by not submitting documents to the broker in a timely manner, including earnest money deposits. *See 18 V.A.C. 135-20-260.11.g*

Licensees must remember to turn in all documents, such as contracts, listing agreements, and earnest money deposits, for which the broker has oversight responsibility. This ensures that your broker can carry out his or her oversight responsibilities. Brokers need to have policies about when documents must be turned in, and practices on how exactly to carry out these duties. Make sure they are detailed in your office policy manual.

4. Failing to notify the Real Estate Board in writing within 30 days of pleading guilty or no contest or being convicted or found guilty of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony. *See 18 V.A.C. 135-20-260.7*

The Board must be notified in these cases to ensure that it continues to protect the interests of the public.

5. Failing to disclose to an actual or prospective buyer or seller who is not the client of the licensee and who is not represented by another licensee the person whom the licensee represents pursuant to a brokerage agreement. *See 18 V.A.C. 135-20-220*

Upon a substantive discussion about a specific property or property, the licensee must disclose who he or she represents when speaking with an actual or prospective buyer or seller who is not his or her client and who is not represented by another licensee. The disclosure must be in writing and Virginia REALTORS® has a form that you can provide to comply with this requirement. Make sure your brokerage relationship is clear from the start of any conversation to avoid creating this issue.

6. Failing to include the complete terms and conditions of the real estate transaction. See 18 V.A.C. 135-20-300.6

Licensees must include the complete terms in any real estate transaction, including any lease, property management agreement, or offer to purchase. Failure to do so is considered to be misrepresentation and/or omission on the part of the licensee. Using standard forms is a great way to ensure that you are complying with this requirement, but also make sure to carefully consider any necessary addenda or additional language from the standard clause library.

7. Allowing unsupervised access to a home without the owner's authorization. See 18 V.A.C. 135-20-260.11.i

Licensees must not allow unsupervised access to a home without the owner's authorization. Make sure you do not exceed the scope of what the owner has authorized when showing his or her property. Develop practices of not allowing individuals into houses by themselves unless you have written authorization from the owner.

8. Knowingly providing the broker with an earnest money deposit check from an account with insufficient funds. See 18 V.A.C. 135-20-260.11.k

Licensees must not present a check that they know is from an account with insufficient funds. If your client has indicated that the account from where the check will draw does not have insufficient funds, speak with your broker. You may need to amend the contract to ensure that there are not other escrow violations.

9. Representing that you have received the earnest money deposit check when you have not or when you have received a check you know is worthless. See 18 V.A.C. 135-20-12.h

Licensees must not represent that you have received an earnest money deposit check when you have not, or when you know the check is worthless. Watch for this in the contract and do not indicate that the buyer has provided the earnest money deposit check when he or she has not yet provided it to you.

10. Failing to deposit earnest money deposit into an escrow account. See 18 V.A.C. 135-20-180.B.1.a

Brokers holding escrowed funds for a transaction must deposit the funds by the fifth business banking day following ratification, unless otherwise agreed to in writing by the principals to the

transaction. It is critical for licensees to turn in the earnest money deposit checks in a timely manner. Make sure you have policies and instructions for licensees so they can comply with these timelines.