

- in writing and the client subsequently employs the salesperson or broker.
- I.** A salesperson or broker shall exercise reasonable care in ensuring that the salesperson or broker obtains information material to a client's interests and relevant to the contemplated transaction and accurately communicates the information to the client. A salesperson or broker is not required to have expertise in subject areas other than those required to obtain the salesperson's or broker's license. A salesperson or broker shall take reasonable steps to assist a client in confirming the accuracy of information relevant to the transaction.
- J.** A salesperson or broker shall not:
1. Permit or facilitate occupancy in a person's real property by a third party without prior written authorization from the person; or
  2. Deliver possession prior to closing unless expressly instructed to do so by the owner of the property or property interest being transferred.
- K.** A salesperson or broker shall recommend to a client that the client seek appropriate counsel from insurance, legal, tax, and accounting professionals regarding the risks of pre-possession or post-possession of a property.

#### Historical Note

Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-27 renumbered without change as Section R4-28-1101 (Supp. 87-1). Section R4-28-1101 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 3640, effective August 6, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 506, effective March 5, 2005 (Supp. 05-1).

#### **R4-28-1102. Property Negotiations**

Except for owner listed properties, negotiations shall be conducted exclusively through the principal's broker or the broker's representative unless:

1. The principal waives this requirement in writing, and
2. No licensed representative of the broker is available for 24 hours.

#### Historical Note

Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-28 renumbered without change as Section R4-28-1102 (Supp. 87-1). Section R4-28-1102 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

#### **R4-28-1103. Broker Supervision and Control**

- A.** An employing broker and a designated broker shall exercise reasonable supervision and control over the activities of brokers, salespersons, and others in the employ of the broker. Reasonable supervision and control includes the establishment and enforcement of written policies, procedures, and systems to:
1. Review and manage:
    - a. Transactions requiring a salesperson's or broker's license; and
    - b. Use of disclosure forms and contracts and, if a real estate broker, real estate employment agreements under A.R.S. § 32-2151.02;
  2. Manage:
    - a. Filing, storing, and maintaining documents pertaining to transactions under subsection (A)(5)(a);
    - b. Handling of trust funds; and
    - c. Use of unlicensed assistants by a salesperson or broker;

3. Oversee delegation of authority to others to act on behalf of the broker;
  4. Familiarize salespersons and associate brokers with the requirements of federal, state, and local laws relating to the practice of real estate, or the sale of cemetery property or membership camping contracts; and
  5. Review and inspect:
    - a. Documents that may have a material effect upon the rights or obligations of a party to a transaction; and
    - b. Advertising and marketing by the broker and by salespersons, brokers, and others in the broker's employ.
- B.** A designated broker shall establish a system for monitoring compliance with statutes, rules, and the employing broker's policies, procedures, and systems.
- C.** A designated broker shall supervise associate brokers, salespersons, and employees of the employing broker and shall exercise reasonable supervision and control over activities by the employing broker for which a license is required.
- D.** An employing broker is responsible for the acts of all associate brokers, salespersons, and other employees acting within the scope of their employment.
- E.** A designated broker may use the services of employees to assist in administering the provisions of this Section but shall not relinquish overall responsibility for supervision and control of the acts of the employing broker's employees.
- F.** A designated broker who, upon learning of a violation of real estate statutes or rules by a salesperson or associate broker under the broker's supervision, immediately reports the violation to the Department is not subject to disciplinary action by the Department for failure to supervise the salesperson or broker.
- G.** If an employing broker maintains one office and employs a designated broker, no more than one other licensed person, and no more than one unlicensed person, the employing broker and designated broker are not required to develop and maintain written policies, procedures, and systems as described in subsection (A).

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 3640, effective August 6, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 506, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 1496, effective June 4, 2005 (Supp. 05-2).

### ARTICLE 12. DEVELOPMENTS

#### **R4-28-1201. Renumbered**

##### Historical Note

Adopted effective May 1, 1980 (Supp. 80-3). Amended subsection (B) effective June 9, 1982 (Supp. 82-3). Former Section R4-28-29 renumbered without change as Section R4-28-1201 (Supp. 87-1). Former Section R4-28-1201 renumbered to R4-28-B1205 by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

#### **R4-28-1202. Repealed**

##### Historical Note

Former Section R4-28-30 repealed effective May 1, 1980, new Section R4-28-30 adopted effective May 1, 1980 (Supp. 80-3). Amended effective March 13, 1981 (Supp. 81-2). Former Section R4-28-30 renumbered without change as Section R4-28-1202 (Supp. 87-1). Repealed effective February 28, 1995 (Supp. 95-1).