CHAPTER 104
REAL ESTATE REGULATIONS

Article 1. Scope of Regulations.
Article 2. Licenses.
Article 3. Disciplinary Actions.
Article 4. Fees.

ARTICLE 1
SCOPE OF REGULATIONS

§ 104101. Engaging In Business or Acting without License: Enforcement.
§ 104102. Real Estate Broker Defined.
§ 104103. Real Estate Salesperson Defined.
§ 104104. Real Estate Salesperson Further Defined.
§ 104105. Division Inapplicable to Persons Dealing with Person=s Own Property.
§ 104106. One Act Constitute Doing Business as Licensee.
§ 104107. One Act: Securing Promissory Notes.
§ 104108. *Lease or Leasing* Includes Any Lease.
§ 104109. Proof Needed Before Bringing Action for Compensation.
§ 104110. Employment of Unlicensed Persons Prohibited.
§ 104111. Paying or Compensating Person Not a Licensee.
§ 104112. Acting as Broker or Salesperson without License: Punishment.
§ 104113. Publication of False Statement: Prohibited.
§ 104114. Requirements of Publications of Offerings, etc.
§ 104115. Information to Seller & Purchaser.
§ 104116. Delivery of Agreement of Authority.
§ 104117. Rental or Rental Information.
§ 104118. Report on Assistance to Licensees in Filing Applications for Territorial or Federal Lands.
§ 104119. Power of Commissioner to Prescribe Information in Assistance Agreements.
§ 104120. Trust Accounts.
§ 104121. Trust Accounts: Penalty.

§ 104101. Engaging In Business or Acting without License: Enforcement.

It is unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesperson within Guam without first obtaining a real estate license from the Department.

The Commissioner may prefer a complaint for a violation of this Section before the Superior Court, and the Commissioner and deputies or assistants may assist in presenting the facts at the trial.

It is the duty of the Attorney General to prosecute all violations of this Section.

SOURCE: GC § 58130.

NOTE: The Real Estate Law was enacted by P.L. 11-65, (June 30, 1971), as Sections 57000 through 57226. The Editor of the 1079 Government Code of Guam renumbered the sections from 58000 through 58226 because the prior series was already occupied at the time of enactment.

§ 104102. Real Estate Broker Defined.

(a) *Broker* means an individual, other than a salesperson, who, for another and for compensation:

(1) Sells, exchanges, purchases, rents or leases real estate;

(2) Offers to sell, exchange, purchase rent or lease real estate;

(3) Negotiates, offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;

(4) Lists, offers, attempts or agrees to list real estate for sale, lease or exchange;

(5) Auctions, offers, attempts or agrees to auction real estate;

(6) Buys, sells, offers to buy or sell or otherwise deals in options on real estate;

(7) Collects, offers, attempts or agrees to collect rent for the use of real estate;

(8) Advertises or holds himself out as being engaged in the business of buying, selling, exchanging, renting or leasing real estate;

(9) Assists or directs in the procuring of prospects calculated to result in the sale, exchange, leasing or rental of real estate;

(10) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;

(11) Engages in the business of charging an advance fee in connection with any contract whereby he undertakes to promote the sale of real estate either through its listing in a publication issued for such purpose or for referral of information concerning such real estate to brokers or both;

(12) Assists or directs in the procurement of, or arrangement for, mortgage financing on real property while not acting in the capacity of a licensed mortgagee or his agent, or of a mortgagee or his agent who is authorized to make real property loans under state or Federal authority and supervision;

(13) Performing any of the foregoing acts as an employee of, or on behalf of, the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

(b) After the effective date of this Act [P.L. 13-162], it shall be unlawful for any person, directly or indirectly, to engage in or conduct, or to advertise or hold himself out as engaging in or conducting the business or acting in the capacity of a real estate broker, associate broker or real estate salesperson within this Territory without first obtaining a license as such broker, associate broker or salesperson, as provided in this Act, unless he is exempted from obtaining a license under Subsection (d) of this Section.

(c) Any person who, directly or indirectly for another, with the intention or upon the promise of receiving any valuable consideration, offers, attempts or agrees to perform, or performs any single act described in Subsection (a) of this Chapter, whether as a part of a transaction, or as an entire transaction, shall be deemed a broker, associate broker or salesperson within the meaning of this Division. The commission of a single such act by a person required to be licensed under this Division and not so licensed shall constitute a violation of this Division.

(d) Except as to the requirements with respect to the subdivision of land, the provisions of this Division shall not apply to:

(1) Any person, partnership or corporation who as owner or lessor shall perform any of the acts described in Subsection (a) of this Act with reference to property owned or leased by them, or to the regular employees thereof, with respect to the property so owned or leased, where such acts are performed in the regular course of or as an incident to the management, sale or other disposition of such property and the investment therein; provided, that such regular employees shall not perform any of the acts described in Subsection (a) of this Act in connection with a vocation of selling or leasing any real estate or the improvements thereon; provided, that this provision shall not apply to any person, partnership or corporation in the business of purchasing unimproved land for development and subdivision purposes;

(2) An attorney in fact under a duly executed and recorded power of attorney to convey real estate from the owner or lessor or the services rendered by any attorney- at-law in the performance of his duty as such attorney at law;

(3) Any person acting as receiver, trustee in bankruptcy, administrator, executor or guardian, or while acting under a court order or under the authority of a will or of a trust instrument;

(4) Any person acting as the resident manager for the owner or an employee acting as the resident manager for a broker managing an apartment building, duplex, apartment complex or court, when such resident manager resides on the premises and is engaged in the leasing of property in connection with his employment;

(5) Any officer or employee of a Federal agency in the conduct of his official duties;

(6) Any officer or employee of the Territory government or any political subdivision thereof performing his official duties;

(7) Any multiple listing service wholly owned by a non-profit organization or association or real estate brokers;

(8) Any non-profit referral system or organization of real estate brokers for the purpose of referrals of prospects for the sale or listing of real estate.

SOURCE: GC § 58131; R/R by P.L. 13-162:6. The Compiler has changed *Act* to either *Section* or *Division* as is appropriate in the context. Because P.L. 13-162 was amending the entire Division of Real Estate Regulation, it is clear that *Act* refers to more than just this Chapter. Likewise, where *Act* follows reference to a subsection, which occurs only in the context of a *Section*, the term, *Section* is used. Clearly, the original drafters were mixing references to P.L. 16-162 and references to a model act from which the Public Law was modeled.

§ 104103. Real Estate ~~Salesperson~~ Salesperson Defined.

A *real estate salesperson* within the meaning of this Division is a natural person who, for a compensation or in expectation of a compensation , is employed by a licensed real estate broker to sell, or offer for sale, or to list, or to buy, or to offer to buy, or to negotiate the purchase or sale or exchange of real estate, or to solicit the prospective purchasers of real estate, or to solicit borrowers or lenders for or negotiate a loan on real estate, or to lease, or to negotiate the sale, purchase or exchange of leases, or offer to lease, rent or place for rent, any real estate, or improvements thereon, or to assist or offer to assist another or others in filing an application for the purchase or lease of, or in locating or entering upon, lands owned by the Territory or Federal Government.

SOURCE: GC § 58132.

§ 104104. Real Estate ~~Salesperson~~ Salesperson Further Defined.

A *real estate salesperson* within the meaning of this Division includes a natural person who for compensation is employed by a licensed real estate broker to sell a promissory note secured by a lien on real property, unless such note is sold to an underwriter or is one of a series of notes.

SOURCE: GC § 58133.

§ 104105. Division Inapplicable to Persons Dealing with Person's Own Property.

Anyone who directly performs any of the acts within the scope of this Division with reference to his own property or, in the case of a corporation which, through its regular officers receiving no special compensation therefor, performs any of the acts with reference to the corporation's own property. The exemption granted hereunder shall not however, extend to any person, natural or legal, who is engaged in the buying, selling, leasing or development of real property of its own. Such a person shall be subject to all applicable provisions of this Division.

SOURCE: GC § 58134; repealed by P.L. 13-162:1. Similar provisions of former section contained in § 104102. However, this § 104105 section was enacted as an amendment to GC § 58134 by P.L. 13-191:3 after the repeal of the original Section.

§ 104106. One Act Constitute Doing Business as Licensee.

One act of buying or selling real estate of or for another for a compensation or in expectation of a compensation, or offering for another to buy or sell or exchange real estate, or negotiating the purchase or sale or exchange of, or listing or soliciting prospective purchasers of real estate, or soliciting borrowers or lenders for or negotiating a loan on or leasing or renting or placing for rent real estate, or collecting rent therefrom, or, as other than an officer or employee of the Territory or Federal Government, assisting or offering to assist another or others, for compensation or in expectation of compensation, in filing an application for the purchase or lease of, or in locating or entering upon, lands owned by the Territory or Federal Government, constitutes the person performing such act a real estate broker or real estate salesperson within the meaning of this Division.

SOURCE: GC § 58135.

§ 104107. One Act: Securing Promissory Notes.

One act, for a compensation, of selling or offering to sell, buying or offering to buy, or negotiating the purchase or sale or exchange of a promissory note secured by a lien on real property, when such note is not sold to an underwriter or is not one of a series of notes, constitutes the person making such offer, sale, purchase or exchange a real estate broker or real estate salesperson within the meaning of this Division.

SOURCE: GC § 58136.

§ 104108. *Lease or Leasing* Includes Any Lease.

When a lease or leasing is referred to in this Article, it includes any lease, whether such lease is the sole transaction involved, or the principal or an incidental part of the transaction involved.

SOURCE: GC § 58137.

§ 104109. Proof Needed Before Bringing Action for Compensation.

No person engaged in the business or acting in the capacity of a real estate broker or a real estate salesperson within Guam shall bring or maintain any action in the courts of Guam for the collection of compensation for the performance of any of the acts mentioned in this Article without alleging and

proving that he was a duly licensed real estate broker or real estate salesperson at the time the alleged cause of action arose.

SOURCE: GC § 58138.

CROSS-REFERENCES: See 11 GCA '70103 for further restriction on bringing action if one does not have a Business License.

§ 104110. Employment of Unlicensed Persons Prohibited.

It is unlawful for any licensed real estate broker to employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this Chapter who is not a licensed real estate broker, or a real estate salesperson licensed under the broker employing or compensating him; *provided*, however, that a licensed real estate broker may pay a commission to a broker or another territory or state.

No real estate salesperson shall be employed by or accept compensation from any person other than the broker under whom he is at the time licensed.

It is unlawful for any licensed real estate salesperson to pay any compensation for performing any of the acts within the scope of this Chapter to any real estate licensee except through the broker under whom he is at the time licensed.

For a violation of any of the provisions of this section, the Commissioner may temporarily suspend or permanently revoke the license of the real estate licensee, in accordance with the provisions of this Division relating to hearings.

SOURCE: GC § 58139.

§ 104111. Paying or Compensating Person Not a Licensee.

It is a violation, punishable by a fine of not exceeding $50 for each offense, for any person whether obligor, escrow holder or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this Chapter, who is not known to be or who does not present evidence to such payer that he is a regularly licensed real estate broker at the time such compensation is earned.

For violation of any of the provisions of this section, the Commissioner may temporarily suspend or permanently revoke the license of the real estate licensee in accordance with the provisions of this Division relating to Hearings.

SOURCE: GC 58140; amended by P.L. 13-187:261.

§ 104112. Acting as Broker or Salesperson without License: Punishment.

Any person acting as a real estate broker or real estate salesperson without a license or who advertises using words indicating that he is a real estate broker without being so licensed shall, upon conviction thereof, if a natural person, be guilty of a petty misdemeanor; or if a corporation, be guilty of a violation and subject to a fine not to exceed Five Thousand Dollars ($5,000).

SOURCE: GC § 58141; amended by P.L. 13-187:262.

§ 104113. Publication of False Statement: Prohibited.

Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circularization of any false statement or representation concerning any land or subdivision thereof, offered for sale or lease, or, if the land is owned by the Territory or Federal government, which such person offers to assist another or others to file an application for the purchase or lease of, or to locate or enter upon, and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any said land or subdivision, contains any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or causes the same to be issued, circulated, published or distributed, or who, in any other respect, wilfully violates or fails to comply with any of the provisions of this Section, or who in any other respect wilfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the Commissioner under this Section, is guilty of a felony, and shall be punished by a fine not exceeding Twenty-Five Thousand Dollars ($25,000), or by imprisonment, and, if a real estate licensee, he shall be given a hearing by a Commissioner for a suspension or revocation of his license, as provided in the provisions of this Title relating to hearings. The Attorney General shall prosecute all violations of the provisions of this Section.

SOURCE: GC § 58142; amended by P.L. 13-187:263 and P.L. 13-191:2.

§ 104114. Requirements of Publications of Offerings, etc.

Each advertisement or other statement which is published by a real estate broker or salesperson offering to assist persons to file applications for the purchase or lease of, or to locate or to enter upon, lands owned by the

Territory or Federal Government shall, when published, indicate the name of the broker for whom it is published and state that he is licensed as a real estate broker by the Territory of Guam.

SOURCE: GC § 58143.

§ 104115. Information to Seller & Purchaser.

Within one month after the closing of a transaction in which title to real property is conveyed from a seller to a purchaser through a licensed real estate broker, such broker shall inform or cause the information to be given to the seller and purchaser in writing of the selling price thereof and in the event an exchange or real property is involved, such information shall include a description of said property and amount of added money consideration, if any. If the transaction is closed through escrow and the escrow holder renders a closing statement which reveals such information, that shall be deemed compliance with this section on the part of the broker.

SOURCE: GC § 58114.

§ 104116. Delivery of Agreement of Authority.

When a licensee prepares or has prepared an agreement authorizing or employing such licensee to perform any of the acts for which he is required to hold a license, or when such licensee secures the signature of any person to any contract pertaining to such services or transactions, he shall deliver a copy of the agreement to the person signing it at the time the signature is obtained.

SOURCE: GC § 58145.

§ 104117. Rental or Rental Information.

Every real estate licensee who attempts to negotiate a rental or who furnishes rental information to a prospective tenant for a fee paid by said prospective tenant shall give every such prospective tenant a contract or receipt, and in such contract or receipt shall undertake to repay any amount over and above the sum of $10 service charge to the prospective tenant if the prospective tenant does not obtain a rental. A demand from the prospective tenant for the return of the fee, or any part of it, shall be made within 10 days following the final day on which the real estate licensee has contracted to perform services to the prospective tenant. In the event that rental information is not current or accurate in regard to the type of rental desired, the full fee shall be repaid to the tenant. Such contract or receipt shall also conform to the regulations adopted by the Commissioner in order to effect

disclosure of material information regarding the service to be provided to the prospective tenant.

SOURCE: GC ' 58146.

§ 104118. Report on Assistance to Licensees in Filing Applications for Territorial or Federal Lands.

Any real estate broker who assists another or others, or whose real estate salesmen assist another or others, for a compensation, in filing an application for the purchase or lease of, or in locating or entering upon, lands owned by the Territory or Federal Government shall report to the Commissioner the names and addresses of all persons he or his salesmen have assisted in filing applications for land owned by the Territory or Federal Government and the amount of compensation received from such persons. The report shall be filed quarterly within 10 days after the end of each calendar quarter.

SOURCE: GC § 58147.

§ 104119. Power of Commissioner to Prescribe Information in Assistance Agreements.

The Commissioner may prescribe by regulation the information which shall be contained in contracts or other agreements by a real estate broker, or a real estate salesperson, to assist another or others in filing an application for the purchase or lease of, or in locating or entering upon, lands owned by the Territory or Federal Government, including, but not limited to, information with regard to the services agreed to be performed and information with regard to the hazards which may prevent the person to be assisted in filing an application with the territory or Federal Government from ever receiving any Territorial or Federal Land under the application.

SOURCE: GC § 58148.

§ 104120. Trust Accounts.

(a) Each broker shall maintain a separate bank checking account in this Territory which shall be designated a trust account in which all down payments, earnest money deposits, or other trust funds received by him, his associate brokers or his salesmen on behalf of his principal or any other person shall be deposited.

(b) Each broker shall notify the Commissioner of the name of the bank or banks in which the trust account is maintained and also the name of the account on forms provided therefore.

(c) Each broker shall authorize the Commissioner to examine such trust account by a duly authorized representative of the Commissioner. Such examination shall be made at such times as the Commissioner may direct.

(d) A broker may maintain more than one trust account if the Commission is advised of such account as required in Subsection (b) of this Section.

(e) In the event a branch office maintains a separate trust account, a separate bookkeeping system shall be maintained by the branch office.

(f) A broker shall not be entitled to any part of the earnest money or other money paid to him in connection with any real estate transaction as part or all of his commission or fee until the transaction has been consummated or terminated, unless agreed in writing by all parties to the transaction.

SOURCE: GC § 58149 added by P.L. 13-162:9. Error in previous publication - omission of subsections (b) through (f) - corrected in 2000 Update.

§ 104121. Trust Accounts: Penalty.

Each broker, associate broker, or salesperson that violates the provisions of § 104120 of this Chapter, or commingles funds that should be in trust funds with other funds, or fails to deposit into a trust account any down payment, earnest money deposit, or other funds that should be held within a trust account, *shall* pay a penalty of One Hundred Dollars ($100.00) for each violation.

SOURCE: Added by P.L. 29-002:V:I:70 (May 18, 2007).

ARTICLE 2
REAL ESTATE LICENSES

§ 104201. Broker"s Real Estate License Application.
§ 104202. Original Licenses to U.S. Citizens Only.
§ 104203. Condition Precedent to Issuance of Original Real Estate Broker's License.

§ 103204. Application for Salesperson's License.
§ 104205. Requirement of Other Proof Before Authorizing License; Hearing.
§ 104206. Written Examination.
§ 104207. Original Real Estate Licenses: Term.
§ 104208. Continuing Education Requirement for Broker=s Renewal
§ 104209. Continuing Education Requirement for Salesperson Renewal.
§ 104210. [Repealed].
§ 104211. Substitution of Continuing Education Requirement.
§ 104212. Limited Real Estate Salesperson's License: Issuance: Requirements.
§ 104213. Same: Rights and Limitations Under Limited License.
§ 104214. Waiver of Examination.
§ 104215. Right to Continue Operating Under Existing License.
§ 104216. Persons to Whom Issuance of Restricted License Is Authorized.
§ 104217. Same: Methods of Restriction.
§ 104218. Same: Rights Conferred: Revocation: Necessity Forbearing.
§ 104219. Same: Requiring Filing of Bond.
§ 104220. License Authority Limited to Persons Licensed.
§ 104221. Corporation and Partnership Licenses.
§ 104222. Same: Officer or Member Licensed Only to Act for Corporation or Partnership.
§ 104223. Issuance of License Under Fictitious Name.
§ 104224. Display and Possession of Licenses.
§ 104225. Return and Cancellation of Salesperson's License Upon withdrawal from Broker's Employ: Reinstatement.
§ 104226. Reinstatement of License After End of Service In Public Office.
§ 104227. Inactivation of License.
§ 104228. Maintenance of Place of Business.
§ 104229. Additional Licenses for Branch Offices.
§ 104230. Signs: Requirement for: Regulations.
§ 104231. Suspension or Revocation of License for Violation of Provisions.

§ 104201. Broker's License Application.

~~Application for license as a real estate broker shall be made in writing to the Commissioner.~~ All applications for a real estate broker's license shall be made in writing, signed by the applicant, and notarized. The completed application shall be submitted to the Real Estate Commissioner for approval and shall be accompanied by the original real estate broker's license fee and by the recommendation of two real estate owners on Guam, certifying that the applicant is honest, truthful and of good reputation, and recommending that a real estate broker's license be granted to him.

SOURCE: GC § 58150.

§ 104202. Original Licenses ~~to U.S. Citizens Only~~. General Requirements

The Commissioner shall not grant an original real estate broker's or salesperson license to any person who is under the age of eighteen (18) years, does not have a highschool diploma or equivalent, and is not a citizen of the United States. This section shall not affect the rights of a non-citizen now (6/30/72) holding a real estate ~~broker's~~ license to renewal or reinstatement of his license in accordance with the provisions of this Chapter.

SOURCE: GC § 58151.

§ 104203. Condition Precedent to Issuance of Original Real Estate Broker's License.

~~The Real Estate Commission *shall not* issue a real estate broker's license to any person who has *not* held an~~ All applicants for an original broker's license must have held an active unencumbered Guam original real estate ~~salesperson's~~ salesperson license for at least three (3~~) two (2)~~ years prior to the date of his or her application for the broker's license, or an active unencumbered real estate broker or real estate salesperson license for at least three (3) years in another state with an equivalent real estate licensing law as determined by the Guam Real Estate Commission. ~~and during such time was *not* actively engaged in the business of real estate salesperson on Guam and has *not* passed the appropriate examination and satisfied the other requirements of the Article.~~

Requirement of Other Proof Before Authorizing License; Pre-Licensing Education

All applicants must provide evidence of the successful completion of fifteen (15) hours of related real estate courses in the following areas: Real Estate Practice (3 hours); Legal Aspects of Real Estate (3 hours); Real Estate Finance (3 hours); Real Estate Appraisal (3 hours); and Real Estate Economics or General Accounting (3 hours).

Evidence of related college level courses completed within two (2) years of the application for a real estate broker's license may be applied to the fifteen (15) hours of related real estate courses with the approval of the Real Estate Commissioner.

Requirement of Other Proof Before Authorizing License; Practical Experience

All applicants must provide satisfactory evidence of completing ten (10) residential or commercial sales transactions; ten (10) residential or commercial rental transactions; and three (3) land sales transactions during the three (3) year period prior to application. The Real Estate Commissioner shall have the authority to amend the number of transactions subject to the nature of the transactions and experience of applicant.

Requirement of Other Proof Before Authorizing License; 30 Hour Pre-Licensing Course

All applicants must complete a 30-hour Real Estate Broker pre-licensing course before the date of the examination. Pre-licensing courses may not be used towards license renewal after the licensee obtains his/her initial license.

Requirement of Other Proof Before Authorizing License; Failure to apply for license

The 30-hour real estate pre-licensing course and the 15 hours of related real estate courses shall be valid for one (1) year from the date of course completion. Failure to apply for a real estate license within one (1) year from the date of course completion will result in the requirement for the applicant to re-take and complete the above-mentioned courses.

Requirement of Other Proof Before Authorizing License; Pre-Licensing Examination

All applicants for an original broker's license shall take and successfully

pass the Guam Real Estate Licensing Examination.

Requirement of Other Proof Before Authorizing License; Governmental Clearances

All applications for a broker's license shall include a current (within 30-days) police clearance report.

All applications for a broker's license shall include current tax clearances from the Guam Department of Revenue and Taxation to include Income Tax, Gross Receipts Tax, and Collections.

Requirement of Other Proof Before Authorizing License; Trust Account

All applications for a broker's license shall include evidence of an established Trust Account in the name of the broker or brokerage firm.

Requirement of Other Proof Before Authorizing License; Corporate or Partnership Resolution

All corporate or partnership applicants must provide a duly prepared and executed Corporate or Partnership Resolution designating the applicant as the Principal Broker for the corporation or partnership.

SOURCE: GC § 58152. R/R by P.L. 25-21:2. Amended by P.L. 30-129:3 (Apr. 2, 2010).

§ 104204. Application for ~~Salesperson's~~ Original Salesperson License. ~~Application for License As a Real Estate Salesperson Salesperson Shall Be Made In Writing to the Commissioner.~~

~~The applications shall be signed by the applicant, and shall be accompanied by the real estate salesperson's license fee; and by the recommendation of the broker, who is to be the applicant's employer, certifying that the applicant is honest, truthful and of good reputation and evidence of satisfactory completion of the basic real estate fundamental course prescribed and approved by the Commissioner, of at least thirty (30) classroom hours, or its~~

~~equivalent.~~

A salesperson is licensed to act on behalf of a broker, and may not act as a real estate agent independently. A salesperson may only work for one broker on Guam at any given time.

All applications for an original real estate salesperson license shall be made in writing, signed by the applicant, and notarized. The completed application shall be submitted to the Real Estate Commissioner for approval. The application shall be accompanied by the real estate salesperson license fee, and by the recommendation of the broker, who is to be the applicant's employer, certifying that the applicant is honest, truthful and of good reputation.

Requirement of Other Proof Before Authorizing License; Pre-Licensing Education

All applicants must provide evidence of the successful completion of twelve (12) hours of related real estate courses in the following areas: Real Estate Ethics (3 hours); Real Estate Agency (3 hours); Real Estate Disclosure (3 hours); and Fair Housing (3 hours).

Evidence of related college level courses completed within 2 years of application for a real estate license may be applied to the 12 hours of the related real estate courses requirement with the approval of the Real Estate Commissioner.

Requirement of Other Proof Before Authorizing License; 30-hour Pre-Licensing Course

All applicants must complete an approved 30-hour salesperson pre-licensing course before the date of the examination. Pre-licensing courses may not be used towards license renewal after the licensee obtains his/her initial license.

Requirement of Other Proof Before Authorizing License; Failure to apply for license

The 30-hour pre-licensing course and the 12 hours of related real estate courses shall be valid for one (1) year from the date of course completion. Failure to apply for a real estate license within one (1) year from the date of course completion will result in the requirement for the applicant to re-take

and complete the above-mentioned courses.

Requirement of Other Proof Before Authorizing License; Pre-Licensing Examination

All applicants for an original salesperson license shall take and successfully pass the Guam Real Estate Licensing Examination.

Requirement of Other Proof Before Authorizing License; Governmental Clearances

All applications for a salesperson license shall include a current (within 30-days) police clearance report.

All applications for a salesperson license shall include current tax clearances from the Guam Department of Revenue and Taxation to include Income Tax, Gross Receipts Tax, and Collections.

§ 104205. Requirement of Other Proof Before Authorizing License; Hearing.

The Commissioner may require such other proof as the Commissioner may deem advisable concerning the honesty, truthfulness and good reputation of any applicant for a real estate license, or of the officers of any corporation, or of the members of any co-partnership making such application, before authorizing the issuance of a real estate license. For this purpose the Commissioner may call a hearing in accordance with the provisions of this Division relating to hearings.

Should the Real Estate Commissioner decide to deny the license application, the applicant will be entitled to a hearing with the Real Estate Commission to offer arguments in support of his or her request for issuance of a license.

All criminal felony convictions and pending criminal felony charges must be disclosed on the license application. Failure to disclose any criminal convictions or pending criminal convictions (felony or misdemeanor) will be grounds for immediate denial of an individual's real estate license application. In the event that an undisclosed criminal felony conviction or pending criminal felony charge was discovered subsequent to issuing a real estate license, the Real Estate Commissioner shall have the authority to revoke the license. In the event that a licensee is convicted of a criminal

felony charge subsequent to obtaining his or her license, the Real Estate Commissioner shall have the authority to revoke the license.

SOURCE: GC § 58154. R/R by P.L. 25-21:4.

§ 104206. Written Examination.

~~In addition to the proof of honesty, truthfulness and good reputation required of any applicant for a real estate license, the Commissioner shall ascertain by written examination that the applicant, and in case of a co-partnership or corporation applicant, for a real estate broker's license that each officer, agent or member thereof through whom it proposes to act as a real estate licensee, has:~~

~~(a) appropriate knowledge of the English language, including reading, writing, and spelling and of elementary arithmetic;~~

~~(b) a fair understanding of the rudimentary principles of real estate conveyancing, the general purposes and general legal effects of deeds, mortgages, land contracts of sale and leases, and of the elementary principles of land economics and appraisals;~~

~~(c) a general and fair understanding of the obligations between principal and agent, of the principles of real estate practice and the canons of business ethics pertaining thereto, as well as the provisions of the Title 21 of the Guam Code Annotated, relating to real estate; *and*~~

~~(d) have satisfactorily completed a real estate course prescribed and approved by the Commissioner of at least thirty (30) classroom hours, or its equivalent, of instructions in a real estate school certified by the Commissioner.~~

All applicants for an original salesperson or broker's real estate license shall take and successfully pass a written examination approved by the Real Estate Commissioner.

The written examination will provide evidence of appropriate knowledge of the English language; a fair understanding of the rudimentary principles of real estate, finance, economics, and appraisal; and a general understanding of agency, ethics, and real estate business practice.

The real estate licensing examination will consist of two parts: the Uniform portion consisting of 100 questions on general real estate terms, concepts,

and practices; and the State portion consisting of 30 questions on specific laws and business concepts related to practicing real estate of Guam.

Applicants need to pass both parts of the licensing exam. Each part will be graded individually and given a corresponding score. The passing score is 75% for each part of the exam.

Candidates who pass one section of the examination but fail the other section need retake only the failed section, as long as the candidate retakes the failed section within one (1) year of the date of the first passed section. Candidates who have not passed both sections of the examination within one (1) year of the first passed section must retake both sections. Candidates may retake the test as many times as needed during the one-year period, subject to paying all appropriate fees.

Written Examination; Time frame to apply for license

Upon successful completion of the real estate license examination, an applicant has one year to file a license application with the Real Estate Commissioner. In the event that the applicant does not file an application within one year, the applicant will need to retake all required pre-licensing courses and successfully pass the real estate license exam.

Written Examination; Real Estate Commissioner's Right to Amend

From time to time, the Real Estate Commissioner may determine and authorize that the real estate examination be amended to reflect current real estate conditions, laws, and practices.

SOURCE: R/R by P.L. 25-21:5.

§ 104207. Original Real Estate Licenses: Term

All original real estate licenses issued by the Commissioner shall be for a period of two (2) years from the date of approval, or until December 31st of the next even-numbered year, whichever is sooner, and the holder thereof shall ~~*not*~~ not become eligible for a renewal real estate license until one has successfully completed the Continuing Education Requirement outlined in § ~~104209~~ 104208 of this Chapter.

SOURCE: GC § 58156. R/R by P.L. 25-21:6.

§ 104208. Continuing Education Requirement for Salesperson and Broker's License Renewal.

~~(a) Any time prior to renewal of an original broker's license, the broker must satisfactorily furnish the evidence of successful completion of an additional ninety (90) classroom hours of study selected among the following:~~

Prior to license renewal, a real estate licensee shall provide proof of having attended and successfully completed twenty (20) hours of continuing education courses approved by the Real Estate Commissioner during the two-year period preceding the application for renewal. The required continuing education hours include eight (8) hours for a designated core course approved by the Real Estate Commissioner, which may be offered in a two-part format or as an eight (8) hour core course, and twelve (12) hours of elective credit hours.

Of these twenty (20) credit hours, a licensee must complete the designated Core Course required by the Real Estate Commissioner and six (6) two (2) hour elective courses. The elective courses must include one real estate ethics course and may include study in any of the following areas. Real Estate Finance; Real Estate; Economics; Legal Aspects of Real Estate; Real Estate Office Administration; General Accounting; Business Law; Escrow; Mortgage Loan Brokering and Lending; Computer Applications in Real Estate; Common Interest Developments; Land use regulations; Real Estate development; Environmental regulations; Survey; Appraisal; Agency; Fair Housing; Disclosure; Contracts; Taxation; Construction and Land Development; Real Estate Sales and Marketing; and any other course approved by the Real Estate Commissioner

Licensees must ensure that they do not repeat any elective courses during any three (3) consecutive renewal periods except for the required ethics course. Credit will not be given for repeat courses, except for the required ethics course.

(b) ~~Of the ninety (90) classroom hours, eighteen (18) classroom hours~~

~~must be in the consumer protection area of study:~~

~~(1) land use regulation;~~

~~(2) consumer disclosure;~~

~~(3) agency relationship;~~

~~(4) fair practices;~~

~~(5) environmental regulation and considerations;~~

~~(6) taxation (real estate transaction); and~~

~~(7) probate.~~

(c) ~~Thereafter, all brokers' renewal *shall* be for a period of four (4) years, with a continuing education requirement of sixteen (16) hours every two (2) years. Should the broker acquire more than the sixteen (16) hours during the two (2) year period, the excess hours may be credited to future renewal requirements.~~

(d) ~~Any of the ninety (90) classroom hours of study as outlined in this Section may be fulfilled by the completion of courses approved by the Guam Association of Realtors.~~

SOURCE: GC § 58157. R/R by P.L. 25-21:7. Amended by P.L. 30-129:4 (Apr. 2, 2010).

~~§ 104209. Continuing Education Requirement for Salesperson Renewal.~~

~~Any time prior to renewal of an original license the salesperson must satisfactorily furnish evidence of successful completion of an additional forty-five (45) classroom hours of study in § 104208 (a)(1) or (2). Thereafter, all salesperson renewals should be for a period of four (4) years with a continuing education requirement of twelve (12) hours every two (2) years. Should a salesperson acquire more than the minimum of twelve (12) hours during the two (2) year period, the excess hours may be credited to future renewal requirements.~~

SOURCE: GC § 58158. R/R by P.L. 25-21:8.

Renewal Term for Real Estate ~~Salesperson and Broker's~~ License

All renewal real estate licenses issued by the Commissioner shall be for a period of two (2) years and the holder thereof shall ~~*not*~~ not become eligible for a subsequent renewal real estate license until one has successfully completed the Continuing Education Requirement outlined in § ~~104209~~

104208 of this Chapter.

All real estate broker and salesperson licenses, including corporations, partnerships, LLCs or LLPs, and sole proprietors must be renewed by the prescribed deadline prior to December 31st of each even-numbered year (e.g. 2008, 2010, etc.). Licenses that are not renewed prior to the expiration date will be automatically placed on inactive status on the following January 1st of the odd-numbered year (e.g. January 1, 2009, 2011, etc.).

~~§ 104210. [Repealed].~~

~~**SOURCE:** GC § 58159. R/R by P.L. 25-21:9. Repealed by P.L. 30-129:5 (Apr. 2, 2010~~).

§ 104211. Substitution of Continuing Education Requirement.

The Real Estate Commissioner may allow for substitution of the clock hour requirements, if the Commissioner makes a determination that the individual is otherwise and similarly qualified by reason of completion of equivalent educational coursework in any accredited institution of higher learning or any degree granting accredited institution. Equivalent educational coursework must be in areas related to the practice of real estate and shall include courses in real estate, business, finance, marketing, and development, all of which shall be reviewed and approved by the Real Estate Commissioner.

Guam-licensed real estate salespersons and brokers who hold current real estate licenses in the United States that are recognized by the respective governmental agencies in that state, who intend to renew their Guam license, may request a determination of equivalency for the elective course hours of the continuing education requirement. The continuing education equivalency shall be based on the successful completion of the continuing education requirements in the other state or jurisdiction prior to submission of the license renewal application. Approval of the continuing education equivalency shall be subject to the real estate licensee completing the commissioner-designated core courses.

SOURCE: GC § 58160. R/R by P.L. 25-21:10.

~~§ 104212. Limited Real Estate Salesperson's License: Issuance: Requirements.~~

~~Upon the making of a written application and the payment of the fee for a limited real estate salesperson's license, the Commissioner may issue the license to the applicant before completing his investigation into the applicant's honesty. truthfulness and good reputation when the applicant has demonstrated by written examination that he has (i) appropriate knowledge of the English language, including reading, writing and spelling, and of elementary arithmetic, and (ii) a fair understanding of the obligations between principal and agent and the provisions of this Division relating to real estate.~~

~~**SOURCE:** GC § 58161.~~

~~§ 104213. Same: Rights and Limitations Under Limited License.~~

~~A limited real estate salesperson's license does not confer any property right in the privileges to be exercised thereunder, and the Commissioner may revoke or suspend such license without a hearing. Such license shall be issued for a period not to exceed one hundred twenty (120) days. Such license shall not be renewed; and it shall not be transferred without the consent of the Commissioner. The holder of a limited real estate salesperson's license may not sign any contract or agreement on behalf of the broker with whom he is employed.~~

~~**SOURCE:** GC § 58162.~~

~~**NOTE:** In the context of limited real estate licenses, the restrictions contained within this section and the express lack of a property right in this license, it seem certain that the Legislature intended to also restrict the transferability of these limited licenses to the Commissioner=s direction. The original public law, P.L. 11-65, does not contain the word not. Pursuant to the authority of the Compiler under 1 GCA § 1605(7) to correct manifest typographical errors, the Compiler has inserted not in this section to conform with the obvious intent.~~

§ 104214. Waiver of Examination.

~~The Commissioner may, in his discretion, waive the examination of any applicant for a real estate broker's license who held an unrevoked or unsuspended renewal real estate broker's license, within the one-year period immediately preceding the date of the application for such renewal license, as individual broker, an officer of a corporation or a member of a copartnership.~~

~~The Commissioner may, in his discretion, waive the examination of any applicant for a real estate salesperson's license who held an unrevoked or unsuspended renewal real estate salesperson's license, within the one-year period immediately preceding the date of the application for such renewal license.~~

The Commissioner may, in his or her discretion, waive the uniform portion of the licensing examination for any applicant who holds an unrevoked or unsuspended real estate broker's or salesperson license in another jurisdiction at the time of their application for a Guam real estate salesperson or broker's license.

All applicants with an unrevoked or unsuspended real estate broker's or salesperson license in another jurisdiction shall be required to take the state portion of the Guam real estate licensing exam, with no exceptions being made for a waiver of this portion of the exam.

SOURCE: GC § 58163.

§ 104215. Right to Continue Operating Under Existing License.

An application on the form prescribed by the Commissioner for the renewal of a license, filed before midnight of the last day of the period for which a previous renewal license was issued, or midnight of the expiration date of an original license under which the bolder has been notified that he is eligible for a renewal license, accompanied by the applicable renewal fee, entitles the applicant to continue operating under his existing license after its specified expiration date, if not previously suspended or revoked, and until such date as he is notified in writing that the application has been granted or denied.

SOURCE: GC § 58164.

~~§ 104216. Persons to Whom Issuance of Restricted License Is Authorized.~~

~~The Commissioner may issue a restricted license to a person who is applying for a license under this Chapter, who has met the examination and experience requirements, but who has been found by the Commissioner after a hearing not to have made a satisfactory showing that be meets all of the~~

~~other requirements for the license applied for, where such failure would justify the denial of the license applied for.~~

~~**SOURCE:** GC § 58165.~~

~~§ 104217. Same: Methods of Restriction.~~

~~A restricted license issued pursuant to § 104216 as the Commissioner in his discretion finds advisable in the public interest may be restricted:~~

~~(a) By term.~~

~~(b) To employment by a particular real estate broker, if a salesperson.~~

~~(c) By conditions to be observed in the exercise of the privileges granted.~~

~~**SOURCE:** GC § 58166.~~

~~§ 104218. Same: Rights Conferred: Revocation: Necessity Forbearing.~~

~~A restricted license issued pursuant to § 104216 does not confer any property right in the privileges to be exercised thereunder, and the bolder of a restricted license does not have the right to renewal of such license.~~

~~The Commissioner may without hearing issue an order suspending the licensee's right to further exercise any privileges granted under a restricted license pending final determination made after formal hearing.~~

~~**SOURCE:** GC § 58167.~~

~~§ 104219. Same: Requiring Filing of Bond.~~

~~As one of the conditions to the issuance of a restricted license authorized by § 104216 the Commissioner may require the filing of surety bonds in such form and condition as be may require in respect to the restricted licensee for the protection of persons or classes of persons with whom said licensee may deal.~~

~~**SOURCE:** GC § 58168.~~

§ 104220. License Authority Limited to Persons Licensed.

No real estate license gives authority to do any act specified in this Chapter to any person, other than the person to whom the license is issued.

SOURCE: GC § 58168.

§ 104221. Corporation and Partnership Licenses.

When a real estate license is issued to a corporation, if it desires any of its officers other than the officer designated by it pursuant to ' 58213, to act under its license as a real estate broker, it shall procure an additional license to so employ each of such additional officers. When a real estate license is granted to a co-partnership, if it desires any of its members other than the one or ones through whom it is already licensed to act as a real estate broker, it shall procure an additional license to so employ each of such additional members.

SOURCE: GC § 58170.

§ 104222. Same: Officer or Member Licensed Only to Act for Corporation or Partnership.

Each officer of a corporation through whom it is licensed to act as a real estate broker, and each member of a co-partnership through whom it is licensed to act as a real estate broker, is, while so employed under such license, a licensed real estate broker, but licensed only to act as such for and on behalf of the corporation or the co-partnership, as officer or member, respectively. Not withstanding the above, a broker may act in the capacity of a Cemetery Broker for another corporation or co-partnership subject to the requirements established for a Cemetery Broker.

Licensees may not hold multiple real estate licenses on Guam, however, nothing in these provisions shall prevent licensees from holding real estate licenses in other states while holding a valid Guam real estate license.

SOURCE: GC § 58171.

§ 104223. Issuance of License Under Fictitious Name.

Every person applying for a license under this Chapter who desires to have such license issued under a fictitious name shall file with his application a certified copy of the entry of the Director made pursuant to the provisions of 18 GCA Chapter 26 (Fictitious Names).

SOURCE: GC § 58172.

§ 104224. Display and Possession of Licenses.

The real estate licenses of both broker and salesperson shall be prominently displayed in the office of the real estate broker.

The real estate ~~salesperson's~~ salesperson license shall remain in the possession of the licensed real estate broker employer until canceled or until the ~~salesperson~~ salesperson leaves the employ of the broker.

SOURCE: GC § 58173.

§ 104225. Return and Cancellation of ~~Salesperson's~~ Salesperson License Upon Withdrawal From Broker's Employ: Reinstatement.

Immediately upon the real estate ~~salesperson's~~ salesperson's withdrawal from the employ of the real estate broker, the real estate broker shall return the real estate salesperson's license to the Commissioner for cancellation. A license canceled but not suspended or revoked may be reinstated at any time during the period for which the license was issued, upon receipt of application therefor and the fee for the reinstatement of his license.

SOURCE: GC § 58174.

§ 104226. Reinstatement of License After End of Service In Public Office.

When the holder of a real estate broker's or ~~salesperson's~~ salesperson's license relinquishes his license to assume an office in the territorial or Federal government, he may have it reinstated at any time within six (6) months of termination of his service in office upon payment of the appropriate renewal fee.

SOURCE: GC § 58175.

§ 104227. Inactivation of License.

~~A licensed real estate broker or salesperson may request that his license be inactivated. The Commissioner shall thereupon issue to such person an inactive license certificate. This inactive license certificate may consist of the license itself with an endorsement stating that it is inactive and does not permit the holder to transact business under it.~~

~~An inactive license which is not suspended or revoked may be reinstated at any time during the period for which the license was issued, and may he renewed each four (4) year period upon the making of application therefor and the payment of the appropriate fee.~~

~~The holder of an inactive broker license need not maintain a place of business or a sign as required by ' § 104228 and 104230.~~

~~The holder of an inactive license shall not be entitled to act in any capacity for which the license is required until the license has been reinstated.~~

A licensed real estate broker or salesperson may request that his or her license be placed on inactive status. Such request shall be in writing from the broker or the salesperson's broker and shall indicate the reason for requesting that the license be placed on inactive status. The Real Estate Commissioner shall provide the licensee with an endorsement on his or her license stating that it is inactive and does not permit the holder to transact business under it. The holder of an inactive license shall not be entitled to act in any capacity for which the license is required until the license has been re-instated.

An inactive license may be re-instated at any time during the period for which the license was issued, and may be renewed upon the licensee's ability to furnish the Real Estate Commission with evidence of successful completion of twenty (20) hours of continuing education classroom hours. Of these twenty (20) credit hours, eight (8) hours must include the designated Core Course required by the Real Estate Commission, while the remaining twelve (12) hours must include electives in any of the following areas.

The holder of an inactive broker license is not required to maintain a physical place of business.

SOURCE: GC § 58176.

§ 104228. Maintenance of Place of Business.

Every licensed real estate broker shall have and maintain a definite place of business in the Territory of Guam which shall serve as his office for the transaction of business. This office shall be the place where his license is displayed and where personal consultations with clients are held.

Notice in writing shall be given the Commissioner of change of business location of a real estate broker, whereupon the Commissioner shall issue a new license for the unexpired period.

No real estate license authorizes the licensee to do business except from the location stipulated in the real estate license.

SOURCE: GC § 58177.

§ 104229. Additional Licenses for Branch Offices.

~~If the applicant for a real estate broker's license maintains more than one place of business within the territory he shall apply for and procure an additional license for each branch office so maintained by him. Every such application shall state the name of the person and the location of the place or places of business for which such license is desired. The Commissioner may determine whether or not a real estate broker is doing a real estate brokerage business at or from any particular location which requires him to have a branch office license.~~

If the applicant for a real estate broker's license maintains more than one place of business within the territory he or she shall apply for and procure an additional license for each branch office so maintained by them.

All branch offices must have a Managing Broker in charge, who must register with the Real Estate Commissioner.

Every such application shall state the name of the person and the location of the place or places of business for which such license is desired. The Commissioner may determine whether or not a real estate broker is doing a real estate brokerage business at or from any particular location, which requires him to have a branch office license.

SOURCE: GC § 58178.

§ 104230. Signs: Requirement for: Regulations.

Each real estate broker shall erect and maintain a sign in a conspicuous place on the premises to indicate that he is a licensed real estate broker and his name shall be clearly shown thereon. The size and place of the sign shall conform to regulations that may be adopted by the Commissioner.

SOURCE: GC § 58179.

~~§ 104231. Suspension or Revocation of License for Violation of Provisions.~~

~~for a violation of any of the provisions of ' § 104214, 104215, 104218, and 104230, the Commissioner may temporarily suspend or permanently~~

~~revoke the license of the real estate licensee in accordance with the provisions of this Division relating to hearing.~~

SOURCE: GC § 58180.

Surety Bond:

All real estate brokers shall obtain a surety bond in the amount of _____during the period of their license from a duly licensed Guam insurance company.

Cemetery Broker License

A cemetery broker license is a restricted real estate license in that the broker may only act in his or her capacity as it relates to cemetery property and interment services. A cemetery broker may not engage in any other real estate activity normally associated with a standard real estate broker's license.

Cemetery Broker Defined:

Broker means an individual, other than a salesperson, who, for another and for compensation:

1) Sells, exchanges, purchases, rents or leases cemetery property and interment services;

(2) Offers to sell, exchange, purchase rent or lease cemetery property and interment services;

(3) Negotiates, offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or leasing of cemetery property and interment services;

(4) Lists, offers, attempts or agrees to list cemetery property and interment services for sale, lease or exchange;

(5) Collects, offers, attempts or agrees to collect rent for the use of cemetery property and interment services;

(6) Advertises or holds himself out as being engaged in the business of buying, selling, exchanging, renting or leasing cemetery property and interment services.

Cemetery Salesperson License:

A cemetery salesperson license is a restricted real estate license in that the salesperson may only act in his or her capacity as it relates to cemetery property and interment services. A cemetery salesperson may not engage in any other real estate activity normally associated with a standard real estate salesperson license.

Cemetery Salesperson Defined:

A cemetery salesperson is a natural person who, for a compensation or in expectation of a compensation, is employed by a licensed cemetery broker or a corporation which employs a cemetery broker, to sell, or offer for sale, or to list, or to buy, or to offer to buy, or to negotiate the purchase or sale or exchange of cemetery property and interment services, or to solicit the prospective purchasers of cemetery property and interment services.

Cemetery License: General Requirements: Broker

All applicants for a Cemetery Brokers license shall be a US citizen and Guam resident for the past 5 years, and shall meet the following requirements:

1) Submit a completed, signed, and notarized application with passport picture
2) Provide satisfactory evidence of a working knowledge of the cemetery business on Guam for two years prior to submitting an application, to include knowledge in:
    a) Legal requirements and procedures for offering cemetery property, merchandise, and services;
    b) Knowledge of terms, conditions, legal requirements, and charges itemized in cemetery contracts;

c) Knowledge of legal requirements regarding cemetery interment rights, sales, and transfers;
d) Knowledge of legal requirements regarding the disposition and interment of human remains to include obtaining interment authorizations, verifying rights of interment, and coordinating interments;
e) Knowledge of legal requirements regarding dis-interment of human remains;
f) Knowledge of legal requirements regarding property ownership documents, interment records, and general reporting regulations; and
g) Knowledge of general broker operations and sales management.

3) Provide evidence of successfully completing a real estate ethics course approved by the Real Estate Commissioner within 2 years prior to submitting an application
4) Provide a police and court clearance within 30 days of submitting an application
5) Provide a Corporate Resolution appointing the individual as the Corporate Cemetery Broker (In the event that the applicant is applying for a Corporate Broker's License)
6) Provide the Articles and ByLaws of the corporation for which the applicant is applying for a Corporate Cemetery License (In the event that the applicant is applying for a Corporate Broker's License)
7) Provide evidence of a trust account(s)
8) Provide evidence of building ownership or copy of lease as appropriate
9) Provide evidence of tax clearance (GRT's, Income, and Collections)

Cemetery Broker License: Term

The original Cemetery Broker license shall be two (2) years from the date of

approval, or until December 31st of the next even-numbered year, whichever is sooner, and shall be renewed every two (2) years thereafter.

Cemetery Broker License: Fee

The original Cemetery Broker's license fee shall be Three Hundred Dollars (300.00). The renewal Cemetery Broker's fee shall be Five Hundred Dollars ($500.00).

Cemetery Broker: Trust Account

Each company that engages a Cemetery Broker shall maintain a separate bank checking account in this Territory which shall be designated a trust account in which all down payments, earnest money deposits, or other trust funds received by him, his associate brokers or his salesmen on behalf of his principal or any other person shall be deposited. Each broker shall authorize the Commissioner to examine such trust account by a duly authorized representative of the Commissioner. Such examination shall be made at such times as the Commissioner may direct.

Cemetery License: General Requirements: Salesperson

All applicants for a Cemetery Salesperson license shall be a US citizen and Guam resident for the past 3 years, and shall meet the following requirements:

1) Submit a completed, signed, and notarized application with passport picture
2) Provide evidence of successfully completing a real estate ethics course approved by the Real Estate Commissioner within 2 years prior to submitting an application

3) Provide evidence of successfully completing an 8-hour training course conducted by the Cemetery Broker for whom he or she will be working for
4) Provide a police and court clearance within 30 days of submitting an application
5) Provide evidence of tax clearance (Income, GRT's, Collections)

Cemetery Salesperson License: Term

The original Cemetery Salesperson license shall be two (2) years from the date of approval, or until December 31st of the next even-numbered year, whichever is sooner, and shall be renewed every two (2) years thereafter.

License Renewal:

All cemetery broker and salesperson licenses, including corporations, partnerships, LLCs or LLPs, and sole proprietors must be renewed by the prescribed deadline prior to December 31st of each even-numbered year (e.g. 2008, 2010, etc.). Licenses that are not renewed prior to the expiration date will be automatically placed on inactive status on the following January 1st of the odd-numbered year (e.g. January 1, 2009, 2011, etc.).

Cemetery Salesperson License: Fee

The original Cemetery Salesperson license fee shall be One Hundred Dollars ($100.00). The renewal Cemetery Broker's fee shall be Two Hundred Dollars ($200.00).

Continuing Education

All cemetery broker and salesperson license renewals are subject to the licensee taking and completing a three (3) hour ethics course approved by the Real Estate Commissioner.

Engaging in Business Without a License:

It is unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a cemetery broker or a cemetery salesperson without first obtaining a cemetery real estate license from the Division. The commission of a single such act by a person required to be licensed under this Division and not so licensed shall constitute a violation of this Division.

ARTICLE 3
DISCIPLINARY ACTIONS

§ 104301. Revocation or Suspension of Licenses.
§ 104302. Investigations: Grounds for Action.
§ 104303. Additional Grounds for License Suspension or Revocation.
§ 104304. Discipline when Judgment is for Fraud or Misrepresentation or Deceit.
§ 104305. Action on Commitment for or Adjudication of Insanity or Incompetency.
§ 104306. Broker to Report Dismissal of Salesperson.
§ 104307. Knowledge of Violation by Salesperson or Employee.
§ 104308. Denial, Suspension or Revocation of Officer=s or Partner=s License.
§ 104309. Conditions of License Reinstatement.
§ 104310. Inspection & Audit of Brokers & Salesmen.

§ 104301. Revocation or Suspension of Licenses.

Upon grounds provided in this Article and the other Articles of this Chapter, the license of any real estate licensee may be revoked or suspended in accordance with the provisions of this Chapter relating to hearings.

SOURCE: GC § 58181.

§ 104302. Investigations: Grounds for Action.

The Commissioner may, upon his own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any

person engaged in the business or acting in the capacity of a real estate licensee within Guam, and he may temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this Chapter has been guilty of any of the following:

(a) Making any substantial misrepresentation.

(b) Making any false promises of a character likely to influence, persuade or induce.

(c) A continued and flagrant course of misrepresentation or making of false promises through real estate agents or salesmen.

(d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.

(e) Commingling with is own money or properly the money or other property of others which is received and held by him.

(f) Claiming, demanding, or receiving a fee, compensation or commission under any exclusive agreement authorizing or employing a licensee to sell, buy or exchange real estate for compensation or commission where such agreement does not contain a definite, specified date of final and complete termination.

(g) The claiming or taking by licensee of any secret or undisclosed amount of compensation, commission, or profit or the failure of a licensee to reveal to the employer of such licensee the full amount of such licensee=s compensation, commission or profit under any agreement authorizing or employing such licensee to do any acts for which a license is required under this Chapter for compensation or commission prior to or coincident with the signing of an agreement evidencing the meeting of the minds of the contracting parties, regardless of the form of such agreement, whether evidenced by documents in an escrow or by any other or different procedure.

(h) The use by a licensee of any provision allowing the licensee the option to purchase in an agreement authorizing or employing such licensee to sell, buy or exchange real estate for compensation or commission, except when such licensee prior to or coincident with election to exercise such option to purchase reveals in writing to the employer the full amount of licensee=s profit and obtains the written consent of the employer approving the amount of such profit.

(i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

SOURCE: GC § 58182.

§ 104303. Additional Grounds for License Suspension or Revocation.

The Commissioner may suspend or revoke the license of any real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following:

(a) Procured, or attempted to procure, a real estate license for himself or any salesperson, by fraud, misrepresentation or deceit, or by making any material misstatement of fact in an application for a real estate license.

(b) Entered a plea of guilty of *nolo contendere* to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time of appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or setting aside the verdict of guilty, or dismissing the accusation or information.

(c) Knowingly, authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his business or any land or subdivision offered for sale.

(d) Willfully disregarded or violated any of the provisions of the Real Estate Law or the rules and regulations of the Commissioner for the administration and enforcement of the Real Estate Law.

(e) Willfully used the term *Realtor* or any trade name or insignia of membership in any real estate organization of which the licensee is not a member.

(f) Acted or conducted himself in a manner which would have warranted the denial of his application for a real estate license.

(g) Demonstrated negligence or incompetence in performing any act for which he is required to hold a license.

(h) If, as a broker licensee, failed to exercise reasonable supervision over the activities of his salesmen.

(i) Failed to pay when due a monetary penalty or forfeiture assessed by the Commissioner.

(j) Has used his employment by a governmental agency in a capacity giving access to records, other than public records, in such manner as to violate the confidential nature of such records.

(k) Any other conduct, whether of the same or of a different character than specified in this section, which constitutes fraud or dishonest dealing.

SOURCE: GC § 58183.

§ 104304. Discipline when Judgment is for Fraud or Misrepresentation or Deceit.

When a final judgment is obtained in a civil action against any real estate licensee upon grounds of fraud, misrepresentation, or deceit with reference to any transaction for which a license is required under this Division, the Commissioner may, after hearing in accordance with the provisions of this Division relating to hearings, suspend or revoke the license of such real estate licensee.

SOURCE: GC § 58184.

§ 104305. Action on Commitment for or Adjudication of Insanity or Incompetency.

The Commissioner may revoke or suspend the license of a real estate licensee committed or adjudged insane, mentally ill or incompetent under the laws of Guam or by any federal court of competent jurisdiction, at any time until a subsequent adjudication of competence or restoration to capacity.

SOURCE: GC § 58185.

§ 104306. Broker to Report Dismissal of Salesperson.

When any real estate salesperson is discharged by his employer for a violation of any of the provisions of this Article prescribing a ground for disciplinary action, a certified written statement of the facts with reference thereto shall be filed forthwith with the Commissioner by the employer and if the employer fails to notify the Commissioner as required by this section, the Commissioner may temporarily suspend or permanently revoke the real estate license of the employer, in accordance with the provisions of this Division relating to hearings.

SOURCE: GC § 58186.

§ 104307. Knowledge of Violation by Salesperson or Employee.

No violation of any of the provisions of this Division relating to real estate by any real estate salesperson or employee of any licensed real estate broker shall cause the revocation or suspension of the license of the employer of the salesperson or employee unless it appears on a hearing by the Commissioner that the employer has guilty knowledge of such violation.

SOURCE: GC § 58187.

§ 104308. Denial, Suspension or Revocation of Officer=s or Partner=s License.

The Commissioner may deny, suspend, or revoke the real estate license of a corporation as to any officer or agent acting under its license, and the real estate license of a copartnership as to any member acting under its license, without revoking the license of the corporation or of the copartnership.

SOURCE: GC § 58188.

§ 104309. Conditions of License Reinstatement.

As a condition to the reinstatement of a revoked or suspended license, the Commissioner may require the applicant to take and pass a qualifying examination.

SOURCE: GC § 58189.

§ 104310. Inspection & Audit of Brokers & Salesmen.

All records, books and accounts of a real estate broker or salesperson as defined in this Division whether or not actually so licensed shall, upon the appearance of sufficient cause, be subject to inspection and audit by the Commissioner or his designated representative.

SOURCE: GC § 58190.

ARTICLE 4
FEES

§ 104401. License Fees: Expiration Date.
§ 104402. License Renewals.
§ 104403. Definitions Of Limited Application.
§ 104404. Definitions: Original Real Estate Broker's License.

§ 104405. Definitions: Renewal Real Estate Broker's License.
§ 104406. Definitions: Original Real Estate Salesperson's License.
§ 104407. Definitions: Renewal Real Estate Salesperson's License.
§ 104408. Period of Effectiveness of Licenses.
§ 104409. Amount of Fees Fixed: Fee Not Refundable.
§ 104410. License Fee.
§ 104411. License Fee: When Payable: Failure of Examination: Additional Examination Fee.
§ 104412. Same: Restricted Broker's License Fee.
§ 104413. Renewal Broker's License Fee.
§ 104414. License Issued to Corporation: Effect: Fee for Other Officers.
§ 104415. Renewal License to Partnership: Rights Granted: Fee for Other Members.
§ 104416. Original Salesperson's License Fee.
§ 104417. Same: When Payable: Failure of Examination: Additional Fee.
§ 104418. Same: Restricted License Fee.
§ 104419. Renewal Salesperson's License Fee.
§ 104420. Limited Salesperson's License Fee.
§ 104421. Branch Office Broker's License Fee.
§ 104422. Change of Name or Address Fee.
§ 104423. Salesperson's License Transfer Fee.
§ 104424. Duplicate License Fee.
§ 104425. Reinstatement of License: Fee.
§ 104426. [Repealed]
§ 104427. Authorization for Appropriations.

§ 104401. License Fees: Expiration Date.

All real estate license fees shall be payable in advance of issuing the licenses and at the time of filing the application.

Unless otherwise provided, all licenses expire at midnight of the last day of the period for which issued.

SOURCE: GC § 58200.

§ 104402. License Renewals.

Notwithstanding any other provision of this Division, the holder of a renewal license who fails to renew it prior to the expiration of the period for

which it was issued and who has otherwise qualified for such license renewal, may renew it within ~~two~~ one year~~s~~ from such expiration upon proper application and the payment of a late renewal fee in an amount equal to one and one-half times the regular renewal fee.

Notwithstanding any other provision of this Division, if a person who is or has been licensed under the provisions of this Chapter complies with all of the requirements for a renewal license except that the application is not filed within the time prescribed, the Commissioner may issue an renewal license if he finds the delay was due to mistake, inadvertence, surprise or excusable neglect; *provided*, however, that any applicable late renewal fee shall be charged.

SOURCE: GC § 58201.

§ 104403. Definitions of Limited Application.

The definitions contained in this Article are solely for the purposes of this Article.

SOURCE: GC § 58202.

§ 104404. Definitions: Original Real Estate Broker's License.

An *original real estate broker's license* is a real estate license issued to a person who did not have a renewal real estate broker's license within the one- year period immediately preceding the date of the application for such license, or who had failed to become eligible for a renewal license under a previous original real estate broker's license.

SOURCE: GC § 58203.

§ 104405. Definitions: Renewal Real Estate Broker's License.

A *renewal real estate broker's license* is a real estate license issued to a person who had a renewal real estate broker's license, unrevoked or unsuspended, within the one-year period immediately preceding the date of the application for such renewal license, or who had become eligible for a renewal license, during the preceding three (3) months, under an original real estate broker's license.

§ 104406. Definitions: Original Real Estate Salesperson's License.

An *original real estate salesperson's license* is a real estate license issued to a person who did not have a renewal real estate salesperson's license within the one-year period immediately preceding the date of the

application for such license, or who had failed to become eligible for a renewal license under a previous original real estate salesperson's license.

SOURCE: GC § 58205.

§ 104407. Definitions: Renewal Real Estate Salesperson's License.

A *renewal real estate salesperson's license* is a real estate license issued to a person (1) who had a renewal real estate salesperson's license or a renewal broker's license unrevoked or unsuspended within the one-year period immediately preceding the date of the application for such renewal license, or (2) who had become eligible for a renewal license during the preceding three (3) months under an original real estate salesperson's license, or (3) who had failed to qualify for a renewal real estate broker's license during the preceding three (3) months under an original real estate broker's license, but who has satisfied all the requirements for a renewal salesperson's license pursuant to the provisions of § 104208.

SOURCE: GC § 58206.

§ 104408. Period of Effectiveness of Licenses.

All renewal real estate broker's licenses and renewal real estate ~~salesperson's~~ saleperson's licenses shall he issued for periods of ~~four (4)~~ two (2) years.

SOURCE: GC ' 58207.

§ 104409. Amount of Fees Fixed: Fee Not Refundable.

The amount of the real estate fees prescribed for a license under this Chapter is that fixed by the following provisions of this Article. No part of any fee paid in accordance with the provisions of this Chapter is refundable. It is deemed earned by the department upon its receipt.

SOURCE: GC § 58208.

§ 104410. License Fee.

The original real estate broker's license fee is ~~Two~~ Three Hundred Dollars ($300.00) for a two (2) year period from the date of approval, or until December 31st of the next even-numbered year, whichever is sooner. In the event that the original license is obtained in an even numbered year, the fee shall be $150.00.

SOURCE: GC § 58209. Amended by P.L. 29-002:V:I:71 (May 18, 2007).

§ 104411. License Fee: When Payable: Failure of Examination: Additional Examination Fee.

The original real estate broker's license fee is payable at the time of the filing of an application for an original real estate broker's license.

If the applicant fails to pass the required written examination, he may be permitted to take another examination upon filing a request to the Department and upon the payment of a fee which *shall* be determined by the Director and which *shall* consist of the actual examination cost including costs to administer the examination. *If* an applicant fails to qualify for an original real estate broker's license within three (3) years from the date of filing his application, said application *shall* thereupon lapse and *no* further proceedings thereon shall be taken

SOURCE: GC § 58210. Amended by P.L. 29-002:V:I:72 (May 18, 2007).

~~**§ 104412. Same: Restricted Broker's License Fee.**~~

~~The restricted broker's license fee is One Hundred Dollars ($100.00) for a one (1) year period.~~

~~**SOURCE:** GC § 58211. Amended by P.L. 29-002:V:I:73 (May 18, 2007).~~

§ 104413. Renewal Broker's License Fee.

The renewal real estate broker's license fee is ~~Four~~ Five Hundred Dollars ~~($400.00)~~ $500.00 for a ~~four (4)~~ two (2) year period.

SOURCE: GC § 58212. Amended by P.L. 29-002:V:I:74 (May 18, 2007).

§ 104414. License Issued to Corporation: Effect: Fee for Other Officers.

If the licensee is a corporation, the license issued to it entitles one officer thereof, on behalf of the corporation, to engage in the business of real estate broker without the payment of any further fee, such officer to be designated in the application of the corporation for a license. for each officer other than the officer so designated, through whom it engages in the business of real estate broker, the appropriate original or renewal fee is to be paid in addition to the fee paid by the corporation.

SOURCE: GC § 58213.

§ 104415. Renewal License to Partnership: Rights Granted: Fee for Other Members.

If the licensee is a copartnership, the license issued to it entitles one member only of the copartnership to engage on behalf of the copartnership in the business of real estate broker, which member shall be designated in the application of the copartnership for a license. for each other member of the copartnership who on behalf of the copartnership engages in the business of real estate broker the appropriate original or renewal fee is to be paid in addition to the fee paid by the copartnership.

SOURCE: GC § 58214.

§ 104416. Original Salesperson's License Fee.

The original real estate salesperson's license fee is Two Hundred Dollars ($200.00) for a two (2) year period from the date of approval, or until December 31st of the next even-numbered year, whichever is sooner. In the event that the original license is obtained in an even numbered year, the fee shall be $100.00.

SOURCE: GC ' 58215. Amended by P.L. 29-002:V:I:75 (May 18, 2007).

§ 104417. Same: When Payable: Failure of Examination: Additional Fee.

An original real estate salesperson's license fee is payable on filing an application for an original real estate salesperson's license. *If* the applicant fails to pass the required written examination, he may be permitted to take another examination upon filing a request to the Department and upon the payment of a fee which *shall* be determined by the Director and which *shall* consist of the actual examination cost, including costs to administer the examination. *If* an applicant fails to qualify for an original real estate salesperson's license within three (3) years from the date of filing his application, said application *shall* thereupon lapse and no further proceedings thereon *shall* be taken.

SOURCE: GC § 58216. Amended by P.L. 29-002:V:I:76 (May 18, 2007).

~~**§ 104418. Same: Restricted License Fee.**~~

~~The restricted salesperson's license fee is Fifty Dollars ($50.00) for a one (1) year period.~~

SOURCE: GC § 58217. Amended by P.L. 29-002:V:I:77 (May 18, 2007).

§ 104419. Renewal Salesperson's License Fee.

The renewal real estate salesperson's license fee is ~~Two~~ Three Hundred Dollars ($300.00) for a ~~four (4)~~ two (2) year period.

SOURCE: GC § 58218. Amended by P.L. 29-002:V:I:78 (May 18, 2007).

§ 104420. Limited Salesperson's License Fee.

~~The limited real estate salesperson's license fee is Fifty Dollars ($50.00) for a one hundred twenty (120) day period~~.

SOURCE: GC § 58219. Amended by P.L. 29-002:V:I:79 (May 18, 2007).

§ 104421. Branch Office Broker's License Fee.

For a branch office broker's license the fee is ~~Fifty Dollars ($50.00).~~ One Hundred Dollars ($100.00).

SOURCE: GC § 58220. Amended by P.L. 29-002:V:I:80 (May 18, 2007).

§ 104422. Change of Name or Address Fee.

For change of name or of address of license on the records of the Department, the fee is Twenty-five Dollars ($25.00).

SOURCE: GC § 58221. Amended by P.L. 29-002:V:I:81 (May 18, 2007).

§ 104423. Salesperson's License Transfer Fee.

For transfer of a salesperson's license on change of employer, the fee is Twenty-five Dollars ($25.00).

SOURCE: GC § 58222. Amended by P.L. 29-002:V:I:82 (May 18, 2007).

§ 104424. Duplicate License Fee.

For a duplicate license the fee is Twenty-five Dollars ($25.00).

SOURCE: GC § 58223. Amended by P.L. 29-002:V:I:83 (May 18, 2007).

§ 104425. Reinstatement of License: Fee.

For reinstatement of a license within a licensing period or at the time of renewal the fee is Twenty-five Dollars ($25.00).

As used in this Section, *reinstatement of a license* means the re-issuance of a canceled or inactivated real estate broker's license or the re-issuance of a real estate salesperson's license, which was canceled or inactivated during the period for which it was issued upon the salesperson's withdrawal from the employ of a real estate broker.

SOURCE: GC § 58224. Amended by P.L. 29-002:V:I:84 (May 18, 2007).

§ 104426. [Repealed]

SOURCE: GC § 582245. Repealed by P.L. 29-002:V:I:85 (May 18, 2007).

§ 104427. Authorization for Appropriations.

There are hereby authorized to be appropriated such sums as are necessary for the implementation of the provisions of this Act.

SOURCE: GC § 58226.