# WEST VIRGINIA CODE: §30-40-19

**§30-40-19. Refusal, suspension, or revocation of a license.**

(a) The commission may refuse a license for reasonable cause or revoke, suspend, or impose any other sanction against a licensee if the licensee:

(1) Obtains, renews, or attempts to obtain or renew a license, for himself, herself, or another, through the submission of any application or other writing that contains false, fraudulent, or misleading information;

(2) Makes any substantial misrepresentation;

(3) Makes any false promises or representations of a character likely to influence, persuade, or induce a person involved in a real estate transaction;

(4) Pursues a course of misrepresentation or makes false promises or representations through agents or any medium of advertising or otherwise;

(5) Uses misleading or false advertising;

(6) Uses any trade name or insignia of membership in any organization in which the licensee is not a member;

(7) Acts for more than one party in a transaction without the knowledge and written consent of all parties for whom he or she acts;

(8) Fails, within a reasonable time, to account for or to remit moneys or other assets coming into his or her possession, which belong to others;

(9) Commingles moneys belonging to others with his or her own funds;

(10) Advertises or displays a "for sale", "for rent", or other such sign on any property without an agency relationship being established or without the owner’s knowledge and written consent;

(11) Advertises any property on terms other than those authorized by the owner;

(12) Fails to disclose, on the notice of agency relationship form promulgated by the commission, whether the licensee represents the seller, buyer, or both;

(13) Fails to voluntarily furnish copies of the notice of agency relationship, listing contract, sale contract, lease contract, or any other contract to each party executing the same;

(14) Pays or receives any rebate, profit, compensation, commission, or other valuable

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consideration, resulting from a real estate transaction, to or from any person other than the licensee's principal: *Provided*, That this subsection may not be construed to prevent the sharing of compensation or other valuable consideration between licensed brokers;

(15) Induces any person to a contract to break the contract for the purpose of substituting a new contract with a third party;

(16) Accepts compensation as a salesperson or associate broker for any act specified in this article from any person other than his or her broker;

(17) Pays compensation to any person for acts or services performed either in violation of this article or the real estate licensure laws of any other jurisdiction;

(18) Pays compensation to any person knowing that they will pay a portion or all of that which is received, in a manner that would constitute a violation of this article if it were paid directly by a licensee of this state;

(19) Violates any provision of this article, any rule, or any order or final decision issued by the commission;

(20) Procures an attorney for any client or customer, or solicits legal business for any attorney-at-law;

(21) Engages in the unlawful or unauthorized practice of law as defined by the Supreme Court of Appeals of West Virginia;

(22) Commits or is a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or other device whereby any other person relies upon the word, representation, or conduct of the licensee;

(23) Continues in the capacity of, or accepts the services of, any broker, associate broker, or salesperson who is not properly licensed;

(24) Fails to disclose any information within his or her knowledge or to produce any document, book, or record in his or her possession for inspection of and copying by the commission or its duly authorized representatives;

(25) Accepts payment other than cash or its equivalent as earnest money or other deposit unless this fact is disclosed in the contract to which the deposit relates;

(26) Accepts, takes, or charges any undisclosed compensation on expenditures made by or on behalf of the licensee's principal;

(27) Discriminates against any person involved in a real estate transaction which is in violation of any federal or state anti-discrimination law, including any fair housing law;

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(28) Fails to preserve for five years following its consummation, records relating to any real estate transaction;

(29) Fails to maintain accurate records on the broker's trust fund account;

(30) If a broker, fails to supervise all associate brokers and salespersons affiliated with him or her;

(31) Breaches a fiduciary duty owed by a licensee to his or her principal in a real estate transaction;

(32) Directs any party to a real estate transaction in which the licensee is involved, to any lending institution for financing or to any affiliated business with the expectation of receiving a financial incentive, rebate, or other compensation, without first obtaining from his or her principal the signed acknowledgment of and consent to the receipt of the financial incentive, rebate, or other compensation: *Provided*, That this subsection may not be construed to prevent the sharing of compensation or other valuable consideration between licensed brokers;

(33) Represents to any lending institution, or other interested party either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(34) Fails to disclose to an owner the licensee's true position if he or she directly or indirectly through a third party, purchases for himself or herself or acquires or intends to acquire any interest in or any option to purchase the property;

(35) Lends a broker's license to any person, including a salesperson, or permits a salesperson to operate as a broker;

(36) Has been convicted in a court of competent jurisdiction in this or any other jurisdiction of forgery, embezzlement, obtaining money under false pretense, bribery, larceny, extortion, conspiracy to defraud, any other similar offense, a crime involving moral turpitude, or a felony;

(37) Engages in any act or conduct which constitutes or demonstrates bad faith, incompetency, untrustworthiness, or dishonest, fraudulent, or improper dealing;

(38) Induces any person to alter, modify, or change another licensee's fee or commission for brokerage services, without that licensee's prior written consent;

(39) Negotiates a real estate transaction directly with any person that is represented exclusively by another broker, unless the conduct is specifically authorized by the other broker;

(40) Obtains, negotiates, or attempts to obtain or negotiate a contract whereby the broker is

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entitled to a commission only to the extent that the sales price exceeds a given amount, commonly referred to as a net listing;

(41) Fails or refuses, on demand, to furnish copies of a document to a person whose signature is affixed to the document;

(42) In the case of an associate broker or salesperson, represents or attempts to represent a broker other than his or her employing broker;

(43) Fails to reduce a bona fide offer to writing;

(44) Guarantees, or authorizes or permits another licensee to guarantee, future profits which may result from a real estate transaction;

(45) Is disciplined by another jurisdiction if at least one of the grounds for that discipline is the same as or equivalent to one of the grounds for discipline in this article; or

(46) Engages in any other act or omission in violation of professional conduct requirements of licensees established by legislative rule of the commission.

(b) The provisions of this section shall be liberally construed in order to carry out the objectives and purposes of this article.

(c) As used in this section:

(1) The words "convicted in a court of competent jurisdiction" mean a plea of guilty or nolo contendere entered by a person or a verdict of guilt returned against a person at the conclusion of a trial;

(2) A certified copy of a conviction order entered in a court is sufficient evidence to demonstrate a person has been convicted in a court of competent jurisdiction.

(d) Every person licensed by the commission has an affirmative duty to report, in a timely manner, any known or observed violation of this article or the rules, orders, or final decisions of the commission.

(e) The revocation of a broker’s license shall automatically suspend the license of every associate broker and salesperson affiliated with the broker: *Provided*, That the commission shall issue a replacement license for any licensee so affected to a new broker, without charge, if a proper application is submitted to the commission during the same license term.

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