

Implementing the New Broker Supervision Rules – Part One

BY RICK STAFF

The new broker supervision rules provide a new framework under which a real estate company must assign its supervision duties to individuals holding broker licenses. The process of assigning the company's supervision duties is called "delegation." This article provides guidance on the delegation process to assist companies in complying with this new requirement. The full text of RL 17 outlining the other responsibilities of supervising brokers – including contract review – can be found at: www.legis.state.wi.us/rsb/code/rl/rl017.pdf.

The revised law includes the following delegation requirements:

- A broker/employer may delegate the duty to supervise licensed employees to one or more supervising brokers.
- A broker/employer may delegate different elements of the supervisory duties for licensees employed by the broker/employer to more than one supervising broker. For example, a company may assign one broker located at company headquarters the duty of reviewing all contracts and other file documents for the entire company. Other brokers may be assigned as the contact for agents working in a certain geographical area, including those working in a branch office, in satellite offices, or from home. The key is flexibility. As company "office" structures become more fluid and flexible, the Department of Regulation and Licensing (DRL) has provided companies with the needed flexibility to address the various "office" models used in the industry.
- Delegation under this section shall:
 1. Be written and signed by or on behalf of the delegating broker/employer.
 2. Identify the duty delegated.
 3. Be signed by the supervising broker to whom the delegation is made.

BROKER Pointer

A broker/employer shall supervise the activities of any licensee employed by the broker/employer. Supervision includes but is not limited to the reasonable review of all listing contracts, offers to purchase, trust account records and other documents and records related to transactions as well as providing all licensees reasonable access to a supervising broker for purposes of consultation regarding real estate practice issues.

The ultimate goal is that anyone who cares – a real estate company, the company's supervising brokers, the company's agents, the public, or DRL audit or enforcement staff – should be able to readily identify which broker is responsible for supervising the services conducted by any individual agent. The DRL has built a great deal of flexibility into these new rules. While many offices will maintain the "branch office" model with one broker assigned to supervise all the agents assigned to that branch, many other companies will take a more creative approach.

What kind of written delegation is required?

There is no standard form. Ultimately, the document used to identify the supervising brokers, their duties, and the agents being supervised will

be signed by someone on behalf of the company and by the supervising broker. A copy should be given to the agents and may be used to fulfill other duties (see RL 17.08(1)) such as:

- “Broker/employers shall provide all licensed employees with a written statement of procedures under which the office and employees shall operate with respect to handling leases, listing contracts, offers to purchase and other documents relating to transactions.
- “Broker/employers shall notify all employed licensees where a copy of the rules of the department maintained under s. RL 24.16 may be obtained.”

The DRL Code Book is located on-line at www.wra.org/Legal/index.asp?.

In many companies the form will be structured as a list of agents assigned to an office location. The form will identify the supervising broker for that location. Once signed by a company representative and the supervising broker it could be filed away – of course the agents in that location should be notified if the content of the form varies from information previously provided to those agents.

In other companies where things are a bit less traditional, a spreadsheet with the company roster and columns identifying the names of the brokers assigned to review contracts,

answer practice questions, and perform other duties may be prepared. Again the form needs to be signed on behalf of the company and all of the individuals named as supervising brokers.

We are not offering a sample form because each company does things a bit differently and each company needs to find the easiest way given the company structure, current documents, etc., to document the information in writing. If you have any questions, please do not hesitate to contact the Legal Hotline for assistance in preparing your “delegation” forms.