

Risk Management Self Review

Manual and Assessment Tool

- Improve Performance
- Streamline Systems
- Document Operations
- Reduce Risks
- Train Staff



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ASSOCIATION OF
REALTORS®**

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General Risk Management Policies

Risk Management Policies

1. Do salespeople handle their own complaints or do they refer them to a third party in your office?

Handle their own complaints

Handled by someone else Who?

Name: _____ Title: _____

2. Do your salespeople know to whom complaints should be directed?

Yes No

If yes, how is this made known? _____

3. How are complaints documented?

4. Do you have company legal counsel who can be consulted as needed?

Yes No Name of legal counsel: _____

Who is authorized to contact legal counsel?

_____ Title: _____

_____ Title: _____

_____ Title: _____

_____ Title: _____

5. Who determines when the insurance carrier or insurance agent is notified of a claim or possible claim?

_____ Title: _____

6. Do you do a periodic internal audit of files and documents to determine whether office policies are being followed and that documents being used are current versions and properly completed? Yes No

Name of person(s) responsible for internal audit: _____

Title: _____

If not an internal audit, then how do you check to make sure that the current version of documents are used and properly completed? _____

7. How often do you have training sessions to update agents on matters of concern?
 Weekly Bi-Monthly Monthly Quarterly other _____

Is attendance mandatory?

Yes No

How do those not in attendance receive this training?

8. Do you have a document retention/destruction policy?

Yes No

Who is responsible for document retention?

Name: _____ Title: _____

Is the policy in writing?

Yes No

Does it provide for retention of documents for at least the five-year limitations period for regulatory action under the Real Estate License Act?

Yes No

Does it provide for not destroying documents if an investigation or lawsuit is ongoing?

Yes No

Does it cover documents (including emails) in electronic form?

Yes No

Insurance Issues

IAR-endorsed errors and omissions liability insurance program:

Capital Professional Insurance Managers, Inc. www.cpim.com – 800-438-2746

Errors and Omissions (E & O) Insurance

1. Do you have E & O coverage? Yes No

2. When does your E & O coverage expire? Date: _____

Does someone have the renewal date calendared as a reminder? Yes No
Who? _____ Title: _____

3. What is your deductible? _____
Are defense costs included in the deductible? Yes No

4. What are the limits of coverage?

5. Does it cover your salespeople? Yes No

If not, do they have their own coverage? Yes No

Have they provided evidence of insurance to you? Yes No

6. Does your E & O coverage provide coverage, defense cost or liability for the following types of claims?

Fair Housing and Discrimination	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Antitrust	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lockbox	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Property Management	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Pollution and Environmental Hazards	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Agent Owned Properties	<input type="checkbox"/> Yes	<input type="checkbox"/> No

7. What are the exclusions?

Commercial General Liability

1. Does your company have a commercial general liability (“CGL”) policy?

Yes No

Is it an extended CGL policy (covers incidents away from the office, such as at an open house)?

Yes No

2. What is the expiration date? _____

3. What are the limits of liability?

4. What is the deductible? _____

5. Do you have coverage for items such as:

Employment practices claims Yes No

Injuries away from the office (open house) Yes No

Other Insurance Coverages You May Need

1. Do you have Workers Compensation

for staff (employees) Yes No

for unlicensed personal assistants Yes No

for licensed personal assistants who are employees Yes No

2. Do you have insurance coverage for important documents? Yes No

3. Automobile

damage to vehicles Yes No

liability Yes No

4. Do your sales agents have the required auto insurance? Yes No

How do you check whether this insurance has been obtained by your sales agents and is up-to-date?

Office Policy

A sample office policy is available at:

http://www.illinoisrealtor.org/files/licenselaw/sample_office_policy_manual.doc

1. Do you have an office policy? Yes No

2. When was the last time your office policy was updated? _____
When did you last review your office policy? _____
Who is responsible for keeping the office policy up to date?
_____ Title: _____

3. Does your office policy, or a separate policy, cover the following:
 - a. Equal opportunity Yes No
 - b. Sexual harassment Yes No
 - c. Fair housing Yes No
 - d. Risk management or reduction Yes No
 - e. Antitrust Yes No
 - f. Listing procedures Yes No
 - g. Sales meetings Yes No
 - h. E-mail, Internet and social media usage Yes No
 - i. Advertising Yes No
 - j. Commissions and fees Yes No
 - k. Expense reimbursement Yes No
 - l. Use of personal assistants Yes No
 - m. Independent contractor/employment agreements Yes No
 - n. Confidentiality of client information Yes No
 - o. Office agency policies Yes No

 - p. No-Call policy Yes No
 - q. Forms to be used by agents Yes No
 - r. Handling subpoenas, summonses and inquiries from regulatory authorities Yes No
 - s. General office policies and procedures (hours, access, smoking, etc.) Yes No
 - t. Agent safety Yes No
 - u. Agent training requirements Yes No
 - v. Teams and how they operate within the office Yes No
 - w. Use of unlicensed personnel Yes No

- x. Use of affiliated settlement service providers Yes No
- y. Supervision of sponsored licenses Yes No
- z. Presentation of offers and counter offers Yes No

4. Are your agents required to acknowledge receipt and review of the office policy?
 Yes No

5. Are your agents asked to acknowledge that they will abide by your office policy?
 Yes No

6. How and when is the office policy made available to your agents?

How and when are they advised of updates to or amendments of your office policy?

7. Do you provide training to your agents regarding your office policy?
 Yes No

If yes, how often and how is training provided? _____

Agreements and Forms

A sample sponsoring broker/salesperson contract is available at:

<http://www.illinoisrealtor.org/Member/memberservices/forms.asp>

A. Independent Contractor (IC) Agreement

1. When was your form last updated? _____

Who is responsible for keeping the form updated?

Name: _____ Title: _____

2. Do you have signed IC or employment agreements in a file for all sponsored licensees?

Yes No

3. Do you need to amend any existing IC or employment agreements with agents?

Yes No

4. Do the agreements deal with:

supervision Yes No

duties Yes No

compensation Yes No

duration (can be "at will") Yes No

termination (required by Real Estate License Law Rules) Yes No

5. Does your IC agreement cover compensation on termination?

Yes No

What about transactions that close after termination?

Yes No

6. Do you provide copies to your agents?

Yes No

B. Listing/Marketing Agreements and Buyer Representation Agreements

Various forms are available for download at:

<http://www.illinoisrealtor.org/Member/memberservices/forms.asp>

1. When were these forms last updated? _____
Who is responsible for keeping them up-to-date?
Name: _____ Title: _____
2. Do you use form agreements or do you modify forms to fit the business of your company?
 form agreements
 modify to fit the business
3. If you use forms provided by other groups, when did you last check to see if the forms had been revised by that group? _____
4. Are all exclusive brokerage agreements in writing?
 Yes No
5. Do all exclusive brokerage agreements contain “minimum services” provisions?
 Yes No
6. Does the brokerage agreement include the broker and seller’s name, list or rental price, identification of the property, an agreed amount of compensation, and duties of the broker?
 Yes No
7. Does the brokerage agreement include a defined date of termination with no condition for an automatic extension?
 Yes No
8. Is the brokerage agreement dated and signed by all owners of the property and the broker?
 Yes No
9. Does the brokerage agreement include the required anti-discrimination clause?
 Yes No
10. If the listing agreement provides that, in the event of a default by the buyer, the broker’s commission or fees will be paid out of the earnest money first, with the remainder of the earnest money paid to the seller, does the provision appear in letters larger than those generally used in the listing agreement?

Yes No

11. If there is a change in the listing price, who ensures that a written consent is received from the seller prior to changing the list price in the MLS?

Name: _____

Title: _____

12. Who ensures that any interest, either direct or indirect, of a licensee in the property that is being bought or sold, is disclosed to all parties in the transaction?

Name: _____ Title: _____

C. Agency Disclosure Forms

Sample agency disclosure forms are available for download at:

<http://www.illinoisrealtor.org/Member/memberservices/forms.asp>

1. When were they last updated? _____

Who is responsible for keeping them up-to-date?

Name: _____ Title: _____

2. Do they include recent changes in the Real Estate License Act? Yes No

3. Are agents trained on the use of the forms? Yes No

4. How do you check compliance on use of the forms?

D. Purchase Contract

1. Do you use the form commonly used in the community? Yes No

2. Has it recently been updated? Yes No

Who is responsible for keeping it up-to-date?

Name: _____ Title: _____

3. How are your agents trained on the use of the form?

How often?

Confidentiality

Agency Compliance Manuals are available for download at:

<http://www.illinoisrealtor.org/Member/memberservices/forms.asp>

1. Do you have a policy concerning confidentiality of client information in transaction files?
 Yes No

How is this policy disseminated to your sponsored licensees and staff?

Is there any review mechanism to determine if the policy is followed?

Yes No

If yes, what? _____

2. If a licensee has a question on a transaction, with whom do they discuss the question?

Name: _____ Title: _____

Does the person answering the question actively sell?

Yes No

If yes, is there an alternate person to discuss questions with if they are involved in the transaction?

Yes No

How do you maintain the confidentiality of information disclosed?

Teams

A brochure discussing teams is available for download at:

<http://www.illinoisrealtor.org/Member/memberservices/forms.asp>

1. Do sponsored licensees in your company form teams? Yes No
2. Are all team members sponsored by your company? Yes No
3. Are all licensed team members compensated by your company and not by the team leader? Yes No
4. Does your company have an agreement with the team leader? Yes No

Does it cover the following items?

Compensating team members Yes No

Filing of necessary tax forms Yes No

Benefit issues? Yes No

Are any members of the team employees? Yes No

Who pays withholding taxes?

Name: _____ Title: _____

Does the employer keep track of hours for Fair Labor Standards Act (overtime) issues? Yes No

5. Does the team advertise in your company name?

Yes No

6. Does the team advertise in its own name?

Yes No

If yes, has your company filed for a dba in the team name with DFPR and the Secretary of State or other appropriate entities?

Yes No

Licensed Assistants

A Personal Assistants Manual is available for purchase at:

<http://www.illinoisrealtor.org/Member/memberservices/forms.asp>

1. Does anyone in the company utilize the services of a licensed assistant?
 Yes No
2. Does the sponsoring broker have a written agreement with each licensed assistant?
 Yes No
3. Are all licensed assistants compensated by the sponsoring broker only?
 Yes No

Unlicensed Assistants

1. Does anyone in the company utilize the services of an unlicensed assistant?
 Yes No
2. Is the unlicensed assistant aware of what activities they can and cannot perform according to the Real Estate License Act?
 Yes No
3. Are all unlicensed assistants treated as employees as generally required by law?
 Yes No

Escrow

1. Does your company collect, hold or maintain earnest monies and security deposits in escrow? Yes No

If yes, who is responsible for making sure all funds are deposited in a timely manner?
Name: _____ Title: _____
2. If yes, who is responsible for the escrow account bookkeeping functions?
Name: _____ Title: _____
3. Are these people aware of all current escrow laws and the rules in the Real Estate License Act? Yes No

Company Licensure Issues

1. Is the company a:
 sole proprietorship corporation partnership limited liability company
2. If a sole proprietorship, did the broker register the assumed business name (dba), if any, in each county in which the assumed business name is used?
 Yes No
3. If a corporation, partnership or limited liability company, did the company register its assumed business name with the Secretary of State's Office?
 Yes No
4. Was a copy of the filing or certificate submitted to the Real Estate Licensing Section of the Division of Professional Regulation?
 Yes No

Complete #5 - #7 if the company is a corporation.

5. Does the person or entity that acts as an Illinois corporation maintain an Illinois charter issued by the Illinois Secretary of State?
 Yes No
6. Are all corporate officers who actively participate in real estate activities licensed as real estate brokers?
 Yes No
7. If no, have all unlicensed officers submitted an affidavit of non-participation to the Real Estate Licensing Section of the Division of Professional Regulation?
 Yes No

Complete #8 - #10 if the company is a partnership or a limited liability partnership.

6. Is an Illinois letter of approval, issued by the Illinois Secretary of State, on file?
 Yes No
7. Are all general partners licensed as real estate brokers?
 Yes No
8. If no, have all unlicensed general partners submitted an affidavit of non-participation to the Real Estate Licensing Section of the Division of Professional Regulation?

Complete #11 - #13 if the company is a limited liability company.

9. Does the limited liability company maintain an Illinois Organization (status), issued by the Illinois Secretary of State?
 Yes No
10. Are all managers licensed as real estate brokers?
 Yes No
11. If no, have all unlicensed members submitted an affidavit of non-participation to the Real Estate Licensing Section of the Division of Professional Regulation?
 Yes No

Advertising

1. Who is responsible for all print advertising?
Name: _____ Title: _____
2. Who reviews Internet advertising for accuracy to determine if it is current and for compliance with rules of the Real Estate License Act?
Name: _____ Title: _____
3. Do sponsored licensees use social media to promote or market properties?
 Yes No
If yes, who checks for compliance with the Real Estate License Act?

4. If a franchise, is the franchise name in all advertising?
 Yes No

License Law Issues

- 1. Is the real estate office located in a separate and distinct area, away from any retail or financial business establishment?
 Yes No

- 2. Is there an identification sign conspicuously displayed on the outside of the broker's place of business?
 Yes No

- 3. Are all licensure certificates available for review?
 Yes No

- 4. Does anyone check periodically to make sure all sponsored licensees are licensed?
 Yes No
If yes, who? Name: _____ Title: _____

- 5. Is the company properly licensed?
 Yes No
Who is responsible for making sure the company license(s) is up to date?
Name: _____ Title: _____

- 6. Do you update your sponsored licensees as to changes in the Real Estate License Act and rules?
 Yes No

- 7. Do you check files to make sure Real Estate License Act required forms are distributed?
 Yes No

- 8. What action is taken to ensure future compliance?

Form completed by: _____

Date completed: _____