

**Title 20—DEPARTMENT OF COMMERCE
AND INSURANCE
Division 2250—Missouri Real Estate Commission
Chapter 8—Business Conduct and Practice**

PROPOSED AMENDMENT

20 CSR 2250-8.070 Advertising. The commissions is adding new section (5) and renumbering as necessary.

PURPOSE: This amendment enacts legislative changes effective August 28, 2021 that restricts real estate advertisement by unlicensed entities and use of certain terms that leads the general public to believe the unlicensed entity is a licensed real estate firm.

(5) No licensee or group of licensees shall advertise as a real estate company in any manner, or use any name, team name, or other term that could be construed by members of the public as the advertiser being a real estate partnership, company, brokerage, or business entity, unless the advertiser holds a valid appropriate entity license.

(A) Such terms include use of the words realty, brokerage, company, or other terms that may be construed as a real estate entity.

(B) The context of the advertisement or solicitation may be considered by the commission when determining whether a licensee has committed a violation. When the licensee's or group of licensee's name includes or incorporates the name of the broker/brokerage with whom the licensee or group of licensee's is currently affiliated, the use of the words realty, brokerage, or company in the licensee's fictitious name shall not constitute a violation of subsection (5)(A) above when these words are used to refer to or identify the licensee's affiliation with the broker/brokerage.

(C) A licensee or group of licensees that are not entities under Chapter 339, RSMo, who want to advertise with the licensee's or group's fictitious name, should file with the secretary of state a registered fictitious name that is owned by the broker/brokerage in which the licensee or group of licensees are affiliated. The registration of a fictitious name with the Missouri Secretary of State's Office does not exempt a licensee or group of licensees from the requirements of 20 CSR 2250-8.070(3) or subsection (5)(A) above.

[(5)](6) Guaranteed Sales.

(A) As used in this rule, the term guaranteed sales plan includes, but is not limited to:

[i)]1. [a]Any plan in which a seller's real estate is guaranteed to be sold,; or

[ii)]2. [a]Any plan where a licensee or anyone affiliated with a licensee will purchase a seller's real estate if it is not purchased by a third party in the specified period of a listing or within some other specified period of time.

(B) Any written advertisement by a licensee of a guaranteed sales plan shall include a statement advising the seller that if the seller is eligible, costs and conditions may apply and advising the seller to inquire of the licensee as to the terms of the guaranteed sales agreement. This information shall be set forth in print at least one-fourth (1/4) as large as the largest print in the advertisement.

(C) Any radio or television advertisement by a licensee of a guaranteed sales plan shall include a conspicuous statement advising if any conditions and limitations apply.

(D) Every guaranteed sales agreement must be in writing and contain all of the conditions and other terms under which the property is guaranteed to be sold or purchased, including the charges or other costs for the service or plan, the price for which the property will be sold or purchased, and the approximate net proceeds the seller may reasonably expect to receive.

AUTHORITY: sections 339.100 and 339.120, RSMo Supp. [2007] 2021. This rule originally filed as 4 CSR 250-8.070. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 16, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Real Estate Commission, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777, or via email at realestate@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.