

# Chapter 308-124C WAC

## REAL ESTATE—RECORDS AND RESPONSIBILITIES

### WAC

308-124C-010	Licensee's responsibilities.
308-124C-020	Required records.
308-124C-030	Accuracy and accessibility of records.
308-124C-040	Suit or complaint notification.
308-124C-050	Home inspector referrals.

#### **WAC 308-124C-010 Licensee's responsibilities.** (1)

The real estate broker shall be responsible for the custody, safety and correctness of entries of all required real estate records. The broker retains this responsibility even though another person or persons may be assigned by the broker the duties of preparation, custody or recording.

(2) It is the responsibility of each and every licensee to obtain a copy of and be knowledgeable of and keep current with the rules implementing chapter 18.85 RCW.

(3) It is the responsibility of each and every licensee to keep the director informed of his or her current mailing address.

(4) It is the broker's responsibility to ensure accessibility of their offices and records to auditors of the department. The broker shall provide copies of required records upon demand by the director or the director's authorized representative.

[Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02, 99-03-042, § 308-124C-010, filed 1/14/99, effective 2/14/99. Statutory Authority: RCW 18.85.040, 90-23-039, § 308-124C-010, filed 11/15/90, effective 12/16/90; 87-20-091 (Order PM 683), § 308-124C-010, filed 10/7/87; 81-05-016 (Order RE 128), § 308-124C-010, filed 2/10/81; Order RE 114, § 308-124C-010, filed 7/2/75.]

**WAC 308-124C-020 Required records.** The minimum real estate records the real estate broker shall be required to keep are as follows:

(1) Bank trust account records:

(a) Duplicate receipt book or cash receipts journal recording all receipts;

(b) Prenumbered checks with check register, cash disbursements journal or check stubs;

(c) Validated duplicate bank deposit slips;

(d) Client's accounting ledger summarizing all moneys received and all moneys disbursed for each real estate or business opportunity transaction or each property management account, contract or mortgage collection account;

(e) In conjunction with (d) of this subsection, separate ledger sheets for each tenant (including security deposit), lessee, vendee or mortgagor; for automated systems, the ledger sheets may be a computer generated printout which contains required entrees;

(f) Reconciled bank statements and cancelled checks for all trust bank accounts.

(2) Other records:

(a) A transaction folder containing all agreements, contracts, documents, leases, closing statements and correspondence for each real estate or business opportunity transaction,

and for each rental, lease, contract or mortgage collection account;

(b) The original lease document may be maintained "on-site" for those brokers who utilize the services of a resident manager: Provided, That a source document is maintained at the brokers office which contains the name and address of the tenant; address of the leased premises, if different from the tenant's address; duration of the lease; rental amount; the amount(s) of any and all deposits made by the tenant and the purpose of said deposits; the location where said deposits are being held; and any modification of the terms of the original lease document;

(c) The original lease document may be maintained at a branch office: Provided, That a source document is maintained at the main office which contains the information filled in the blank spaces by the tenant and property manager;

(d) All required records shall be maintained at one location where the broker is licensed. This location may be the main or any branch office. (c) and (d) of this subsection address property management records being maintained "on-site." For sales transactions, a copy of the earnest money agreement, a copy of the final settlement statement, and any addenda related to the accounting or disposition of client funds shall be at the same location where the trust bank account records are maintained.

[Statutory Authority: RCW 18.85.040, 90-23-039, § 308-124C-020, filed 11/15/90, effective 12/16/90; 86-06-011 (Order 138R), § 308-124C-020, filed 2/21/86; 85-21-035 (Order 136R), § 308-124C-020, filed 10/11/85; 82-17-039 (Order 130), § 308-124C-020, filed 8/13/82; Order RE 114, § 308-124C-020, filed 7/2/75.]

**WAC 308-124C-030 Accuracy and accessibility of records.** (1) Accuracy. All required real estate records shall be accurate, posted and kept up to date.

(2) Location. All required real estate records shall be kept at an address where the real estate broker is licensed to maintain a real estate office, except physical records of transactions may be stored at one remote facility within the state of Washington. Only transactions that have been closed for at least one year can be maintained at the remote facility. Transactions stored at a different location must be available upon demand of the department and maintained in a manner to be readily retrievable. A listing of all transactions must be maintained at the broker's licensed office for all the transactions stored at the remote facility. All records shall be retained and available for inspection by the director or the director's authorized representative for a minimum of three years.

(3) Alternative storage. Records may be stored on permanent storage media, such as optical disk or microfilm, provided the retrieval process does not permit modification of the documents. Retrieval must be possible at the broker's licensed location and allow for viewing and printing the document in its original form. The permanent media storage shall be nonerasable and prevent changes to the stored documents

or records. The broker must maintain equipment at their licensed location in good repair to allow viewing and printing upon demand by the department. The storage media must be indexed to allow for immediate retrieval of all documents.

[Statutory Authority: RCW 18.85.040(1) and 18.85.035. 09-02-026, § 308-124C-050, filed 12/30/08, effective 1/30/09.]

(4) Responsibility for records. In the case of a corporate, limited liability company, limited liability partnership or partnership brokerage firm, the responsibility imposed by this section shall apply to both the corporation, limited liability company, limited liability partnership or partnership and the natural person designated and licensed to act as broker for the corporation, limited liability company, limited liability partnership or partnership. Prior to issuing a new license indicating a change of designated broker for a corporate, limited liability company, limited liability partnership or partnership licensee, the licensee must submit evidence that the requirements have been satisfied.

(5) Change of broker. A statement signed by both the outgoing designated broker and the incoming designated broker, listing all outstanding client trust liabilities, copies of trust account bank statements and the latest trust account reconciliations and certifying that funds in hand in the trust account maintained by the licensee are adequate to meet these client trust liabilities will satisfy this requirement. The incoming designated broker shall not be deemed responsible for any discrepancy identified in the statement, unless the incoming designated broker contracted to accept such responsibility.

[Statutory Authority: RCW 18.85.040(1). 04-07-151, § 308-124C-030, filed 3/23/04, effective 4/23/04. Statutory Authority: RCW 18.85.040. 98-01-107, § 308-124C-030, filed 12/17/97, effective 1/17/98; 87-20-091 (Order PM 683), § 308-124C-030, filed 10/7/87; 82-17-039 (Order 130), § 308-124C-030, filed 8/13/82; Order RE 120, § 308-124C-030, filed 9/20/77; Order RE 114, § 308-124C-030, filed 7/2/75.]

#### **WAC 308-124C-040 Suit or complaint notification.**

Every licensee shall, within twenty days after service or knowledge thereof, notify the real estate program manager of the following:

(1) Any criminal complaint, information, indictment, or conviction (including a plea of guilty or nolo contendere) in which the licensee is named as a defendant.

(2) Entry of a civil court order, verdict, or judgment, against the licensee in any court of competent jurisdiction in which the subject matter therein involves any real estate or business-related activity by the licensee. Notification is required regardless of any pending appeal.

[Statutory Authority: RCW 18.85.040. 90-01-043, § 308-124C-040, filed 12/14/89, effective 1/14/90; 87-20-091 (Order PM 683), § 308-124C-040, filed 10/7/87; Order RE 114, § 308-124C-040, filed 7/2/75.]

**WAC 308-124C-050 Home inspector referrals.** Each licensed designated broker will establish a written office policy that includes a procedure for referring home inspectors to buyers or sellers. The policy will address the consumer's right to freely pick a home inspector of the buyer's or seller's choice and prevent any collusion between the home inspector and a real estate licensee.

If a licensee refers a home inspector to a buyer or seller with whom they have or have had a relationship including, but not limited to, a business or familial relationship, then full disclosure of the relations must be provided in writing prior to the buyer or seller using the services of the home inspector.