

## STATE OF SOUTH DAKOTA CLASS SPECIFICATION

**Class Title: Real Estate Compliance Auditor**

**Class Code: 10185**  
**Pay Grade: GI**

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### **A. Purpose:**

Conducts on-site reviews of licensees' transaction files and audits of trust and custodial accounts to protect the public interest in real estate transactions; and conducts investigations of complaints against licensees to provide accurate investigative reports in order for the Real Estate Commission to make informed decisions about appropriate actions.

### **B. Distinguishing Feature:**

Real Estate Compliance Auditors ensure procedures used by real estate licensees in real estate transactions are proper, adequate, and in compliance with appropriate laws and rules.

### **C. Functions:**

*(These are examples only; any one position may not include all of the listed examples nor do the listed examples include all functions which may be found in positions of this class.)*

1. Reviews closed transaction files kept by real estate licensees to ensure the files are complete and in compliance with applicable real estate laws and department policies and procedures.
  - a. Schedules biennial reviews weeks in advance within an assigned area.
  - b. Reviews all documents in transaction files to determine if they are the documents required for the transactions, or are substantively similar and meet department regulations if substitutes, and to ensure they are complete and legitimate.
  - c. Reviews by mail transactions of out-of-state licensees doing business in the state.
    - i. Monitors virtual office web sites where licensees reside in a different state and conduct business through the web site.
    - ii. Inquires about license status and notifies the Commission of unlicensed activities.
  - d. Ensures licensees have documentation proving they have disclosed their responsibilities and obligations under the law to their clients.
  - e. Audits trust accounts to make sure licensees are accountable for and can identify money they have received individually from buyers or renters by auditing check books, bank accounts, and ledgers.
  - f. Compiles review findings into the computer database specific to the licensee, creating an ongoing permanent record.
  - g. Meets with licensees or responsible brokers to discuss review findings.
    - i. Makes licensees aware of inequities.
    - ii. Provides advice and direction on correcting problems.
  - h. Prepares a final written report of review findings for the licensee and broker and to become part of the licensee's record with the Commission.
2. Investigates complaints against real estate licensees to verify the reliability of the issues and collect information from all stakeholders in order to provide the Commission with a basis for decision-making.
  - a. Initiates a tracking file in the database when completed forms are filed with the Commission and issued to the licensee for response.

- b. Arranges and conducts interviews with complainants, witnesses, attorneys, licensees, and all other parties involved, diffuses emotions when needed, and collects facts and evidence.
  - c. Reviews complaints, responses, investigative notes, and evidence to determine non-compliance with license laws and rules.
  - d. Creates detailed investigative reports, noting actions of the licensee, noting violations of laws, and with supporting documents and exhibits.
  - e. Presents the reports to the Commission, the director, and the legal counsel who determine whether to dismiss the case, treat it informally, or take it before an administrative judge.
  - f. Testifies before the Commission or in court.
  - g. Attends depositions from stakeholders who are not able to appear in court, at the request of the Commission's legal counsel.
  - h. Continues tracking all stages until the case is completed.
  - i. Attends advanced training in investigation and investigative reporting.
3. Carries out the development, maintenance, and implementation of real estate laws and procedures.
    - a. Provides education and training on laws, policies, and procedures to new licensees, and to anyone else needing assistance.
    - b. Identifies areas of uncertainty in the laws and provides key data to assist in writing new or revising existing laws.
    - c. Interprets and applies the laws to those required to register with the Commission in order to do business in the state such as condominiums, timeshares, and subdivisions.
    - d. Adapts procedures to new ways of doing business in real estate such as property management and rentals, virtual offices, live and on-line auctions, etc.
    - e. Creates new forms for new industry practices so that licensees will have correct information on pertinent items that should appear in required documentation.
  4. Interacts with licensees to encourage them to contact the Commission with concerns and questions and attends local realtor board meetings and conventions held by related groups.
  5. Performs other work as assigned.

#### **D. Reporting Relationships:**

Reports to the Executive Director of the South Dakota Real Estate Commission. Does not supervise but routinely provides education and training to licensees regarding trust accounting methods and real estate transactions.

#### **E. Challenges and Problems:**

Challenged to apply state laws and rules to industry practices that may change with urban growth and changes in the economy. This is challenging because the real estate industry encompasses a wide variety of real estate transactions including typical sales, real estate auctions including live and on-line auctions, property management, rental management, short sales and foreclosures, mobile home sales, commercial brokerage, website businesses, etc.; all of which may require compliance with different rules and procedures. It is up to the incumbent to evaluate and determine whether or not there is compliance and to facilitate resolution to problems found which may include providing research and supporting information for necessary changes in laws and procedures. Further challenged to conduct thorough investigations of complaints against licensees. This is challenging because of the legal ramifications attached,

the amount of time and extra auditing required, and the extensive number of complaints in all stages of completion which must be tracked meticulously.

Problems resolved include adapting to changes in how licensees operate their businesses which in turn requires incumbents to change how they accomplish their work; making licensees aware of inequities in their practices and assisting them to make appropriate corrections; completing impartial investigations; continually providing interpretation of laws and rules to licensees; evaluating the impact of changes in laws and rules and developing solutions to unexpected issues.

#### **F. Decision-making Authority:**

Decisions include whether or not procedures used by licensees in real estate transactions are proper, adequate, and in compliance with laws and rules; which law violations to apply to non-compliant licensees; contents of investigative reports and exhibits; recommendations for citation and/or commission complaint filings from audit exceptions or trust account discrepancies.

Decisions referred include recommendations for actions to be taken for audit violations.

#### **G. Contact with Others:**

Daily contact with licensees to review their files and explain review findings, assist them in correcting inequities, and explain real estate laws and rules; with consumers to give them the information they need to register with the Commission and to answer questions about real estate laws; with developers and their attorneys to give them specific direction in how to do business in the state under the jurisdiction of the Commission; and with legal counsel to verify investigative reports, make recommendations for changes in laws, and for interpretation of laws in unusual situations.

#### **H. Working Conditions:**

Works in a typical office environment. Extensive travel is required.

#### **I. Knowledge, Skills and Abilities:**

Knowledge of:

- real estate laws and rules;
- industry practices and trends;
- legal terms as they apply to documents used in land and property sales and purchases such as liens, mortgages, contracts, deeds, etc.;
- investigative techniques and practices;
- database management, on-line applications, extensive computer use and potential;
- bookkeeping and/or banking procedures.

Ability to:

- plan and conduct accurate and complete reviews of multiple and various transaction types;
- gather, analyze, and appraise facts without bias;
- deal tactfully with others and diffuse emotional episodes during investigations;
- communicate review and investigative findings and other information clearly and concisely, orally and in writing.

