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Occupational Licensing Review Program

Date: October 1, 2026

Subject: Louisiana Real Estate Commission
Proposed Amendments to LAC 46:LXVII.101 *et seq.*

I. SUMMARY

The Louisiana Real Estate Commission (the “**Commission**”) proposes amending LAC 46:LXVII.101 *et seq.* (the “**Proposed Amendments**”) relative to its administrative rules.

The Commission published a Notice of Intent to promulgate the Proposed Amendments on April 20, 2026.¹ The Commission invited public comments on the Proposed Amendments through May 20, 2026, and held a public hearing on May 28, 2026. No written or oral public comments were received.²

Licensing and continuing education requirements are barriers to market entry and the Proposed Amendments to §§ 303, 1503, 4701, 5303, 5319, 5501, 5513, and 5531 are therefore properly considered occupational regulations with reasonably foreseeable anticompetitive effects.³

Pursuant to La. R.S. 49:260, the Commission submitted the Proposed Amendments to the Louisiana Department of Justice’s Occupational Licensing Review Program (the “**OLRP**”) on June 10, 2026. The OLRP invited public comments on the Proposed Amendments from June 12, 2026 through June 25, 2026, and received no comments.

On October 6, 2026, the OLRP requested clarification concerning certain Proposed Amendments. The Commission responded with the clarifications on October 7, 2026.

The OLRP has the statutory authority to review the substance of each proposed occupational regulation submitted to ensure compliance with clearly articulated state policy and adherence to

¹ Louisiana Register, Vol. 52, No. 4, at pgs. 591-616

² Id. at 616

³ La. R.S.49:260(G)(4)

applicable state law.⁴ An occupational regulation is a “rule defined in the Administrative Procedure Act that has reasonably foreseeable anticompetitive effects. Any license, permit, or regulation established by a ... Commission not composed of a controlling number of active market participants is excluded.”⁵ Anticompetitive behavior is an act, or series of acts, that have the effect of harming the market or the process of competition among businesses, or a tendency to reduce or eliminate competition, with no legitimate business purpose.⁶

The Louisiana Administrative Procedure Act (the “***Louisiana APA***”) defines a rule as any agency statement, guide, or requirement of general applicability that implements or interprets substantive law or policy, or that prescribes agency procedures or practices, excluding statements governing only internal agency management, declaratory rulings or orders, and provisions adopting, increasing, or decreasing fees.⁷ The term includes provisions establishing fines, penalties, preferential status, or licensure or certification criteria, as well as the amendment of an existing rule. A rule may be generally applicable, even if it applies only to an identifiable class or a limited geographical area.

As set forth below, the OLRP has determined several of the Commission’s Proposed Amendments to 46:LXVII.101 *et seq.* do not constitute occupational regulations with any reasonably foreseeable anticompetitive effects. The OLRP further determined that the Proposed Amendments to §§ 303, 1503, 4701, 5303, 5319, 5501, 5513, and 5531 constitute occupational regulations with reasonably foreseeable anticompetitive effects and are within the Commission’s statutory authority and adhere to clearly articulated state policy.

Accordingly, the OLRP approves the Proposed Amendments to 46:LXVII.101 *et seq.* The Commission may therefore proceed with promulgation of the Proposed Amendments as drafted in accordance with the Louisiana APA.

II. ANALYSIS

The Commission is authorized to promulgate rules in accordance with the Louisiana APA (La. R.S. 49:950 *et seq.*) and the Louisiana Real Estate License Law (La. R.S. 37:1430 *et seq.*). The Louisiana Legislature finds it vitally important to the public health, interest, and welfare to protect Louisiana citizens, their residences, and other property by reasonably regulating the licensure of persons performing real estate activity in the state.⁸ The Commission has been granted authority to adopt all necessary rules and bylaws for the administration and enforcement of the Louisiana Real Estate License Law.⁹ The Commission is further authorized to: (i) regulate the issuance of real estate licenses, registrations, and certificates,¹⁰ (ii) censure licensees, registrants, and

⁴ La. R.S.49:260(D)(2)

⁵ LSA-R.S. 49:260(G)(4)

⁶ Black’s Law Dictionary, 12th Edition p. 116

⁷ La. R.S. 49:951(8).

⁸ La. R.S. 37:1435.1(B)(1)

⁹ La. R.S. 37:1435(C)(1)

¹⁰ La. R.S. 37:1435(A)(1)

certificate holders,¹¹ (iii) suspend or revoke licenses, registrations, and certificates,¹² and (iv) impose additional continuing education requirements on licensees, registrants, or certificate holders.¹³

A. Technical, Organizational, and Duplicative Changes

The Commission proposes amending §§101, 301, 307, 503, 505, 507, 701, 901, 907, 1501, 1507, 1801, 1803, 1805, 1901, 1905, 1907, 1911, 2101, 2301, 2503, 2509, 2511, 2605, 2607, 2703, 2705, 2709, 2711, 2713, 2715, 2717, 2719, 3601, 3701, 3703, 3705, 3801, 3900, 3901, 3903, 3905, 3907, 4101, 4105, 4111, 4113, 4301, 4901, 4903, 4905, 5103, 5301, 5305, 5307, 5309, 5311, 5313, 5315, 5317, 5321, 5323, 5325, 5327, 5329, 5331, 5333, 5503, 5505, 5507, 5509, 5515, 5517, 5519, 5521, 5523, 5527, 5529, 5537, 5539, 5701, 5703, 5705, 5707, 5709, 5711, 5715, 5717, 5719, 5721, 5723, 5725, and 5727.

The Proposed Amendments to these rules (i) make several non-substantive, typographical revisions, (ii) add references to headings for clarity, (iii) relocate provisions and sections throughout the rules to improve clarity, readability, and organization, (iv) remove unnecessary and duplicative provisions already reflected elsewhere in the Commission's rules, statutes, or the APA, (v) repeal outdated provisions that are no longer applicable, (vi) revise legal citations, and (vii) update and include hyperlinks to the United States Environmental Protection Agency and the Louisiana Real Estate Commission.

Under the statutory authority described above, the Commission may make technical changes to improve clarity and organization and repeal duplicative or outdated provisions.

Several of the Proposed Amendments concern matters traditionally associated with occupational regulations, including examination and educational requirements, licensure, certification and registration requirements, fees, and disciplinary actions.

However, these Proposed Amendments do not impose new substantive requirements for licensure, education, supervision, discipline, or professional practice. Rather, these Proposed Amendments simplify existing provisions, remove obsolete or duplicative requirements, relocate provisions and sections throughout the rules, conform the rules to existing statutory authority, or eliminate provisions that are redundant of the Louisiana APA or existing statutes.

Accordingly, these Proposed Amendments do not create new barriers to entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260. Therefore, the Commission may proceed with promulgation of these Proposed Amendments in accordance with the Louisiana APA without further modification.

¹¹ La. R.S. 37:1435(A)(2)

¹² La. R.S. 37:1435(A)(3)

¹³ La. R.S. 37:1435(A)(4)

B. Substantive Amendments without Reasonably Foreseeable Anticompetitive Effects

Each discussion below addresses the substantive and accompanying technical amendments to one section. The Commission's general rulemaking authority to adopt all necessary rules and bylaws for the administration and enforcement of the Louisiana Real Estate License Law¹⁴ applies throughout; more specific authority is identified where relevant. The technical revisions improve clarity, readability, and organization without imposing substantive requirements. Likewise repealing provisions that duplicate existing statutes or rules leave the underlying requirements unchanged. For the reasons stated in the individual analyses, these amendments do not constitute occupational regulations with reasonably foreseeable anticompetitive effects under La. R.S. 49:260. Accordingly, the Commission may proceed with promulgation in accordance with the Louisiana APA without further approval from the OLRP.

1. Proposed LAC 46:LXVII.103-Open Meetings Via Electronic Means; Disability

The Commission proposes adding §103 to authorize the Commission to conduct open meetings via electronic means in accordance with La. R.S. 42:17.2 and 42:17.2.1 and provide for participation by individuals with disabilities. Each public body that has the capability to allow any member of the public with a disability recognized by the Americans with Disabilities Act, or a designated caregiver of such a person, to participate in its meetings via teleconference or video conference shall adopt rules, regulations, and procedures to regulate and facilitate participation via teleconference or video conference.¹⁵ Accordingly, the Commission is authorized to conduct open meetings electronically and provide electronic participation options for individuals with disabilities.

The Proposed Amendment addresses the accommodations for individuals with disabilities to participate in open meetings and does not impact licensure, market participation, or competition. Therefore, it does not constitute an occupational regulation with any anticompetitive effects.

2. Proposed LAC 46:LXVII.305-Documentation

The Commission proposes amending §305 to repeal the provision requiring proof of experience for broker eligibility and make technical changes. The Commission states the existing provision conflicts with La. R.S. 37:1437(C)(1)(a).

The current rule requires documentation of four years as an active real estate licensee, including two years immediately before application. La. R.S. 37:1437(C)(1)(a) specifies the experience period without the "active" qualifier and separately requires at least 150 hours of approved instruction, or its equivalent, in real estate courses approved by the Commission. The statutory eligibility requirements remain in effect after repeal of the separate documentation provision. Additionally, the Commission proposes several non-substantive, typographical revisions throughout the rule to improve clarity, readability, and organization.

While licensing requirements may function as barriers to market participation, the Proposed Amendment does not create or expand the experience requirement for licensure. Rather, the

¹⁴ La. R.S. 37:1435(C)(1)

¹⁵ La. R.S. 42:14(E)(1)

Proposed Amendment removes the experience documentation requirement from the Commission's administrative rules while leaving the statutory experience and education requirement in effect. Accordingly, the Proposed Amendment does not impact licensure, market participation, or competition, and does not constitute an occupational regulation with any anticompetitive effects.

3. Proposed LAC 46:LXVII.501-Authorization; Effectiveness

The Proposed Amendment to §501 repeals the requirement that the Commission provide an applicant with a license information bulletin that contains the examination procedures established by the Commission and the designated national testing service. The Commission is authorized to make all necessary rules and regulations governing the time, place, and method of conducting such examinations.¹⁶ The Commission contends that the requirement to provide a license information bulletin is outdated. Applicants may currently access the Commission's rules and regulations¹⁷ and the testing center's candidate handbook¹⁸ through their respective websites.

While examination requirements may function as barriers to market entry, the Proposed Amendment merely removes an outdated administrative requirement without altering substantive examination requirements. Furthermore, the relevant examination information remains publicly available to applicants through online resources.

Therefore, because the Proposed Amendment does not create or modify licensure, education, supervision, discipline, or professional practice requirements, it does not constitute an occupational regulation with any reasonably foreseeable anticompetitive effects.

4. Proposed LAC 46:LXVII.705-Returned Checks

The Commission proposes amending §705 to require written notice, rather than certified mail notice, when a financial institution returns a person's check for any reason. The proposal also makes technical and wording changes.

While fees may function as barriers to market entry as they impose financial obligations on individuals seeking to obtain or remain in a profession, the Proposed Amendment does not establish or modify a fee. Rather, it changes the method in which the Commission notifies a person whose check has been returned. Therefore, the Proposed Amendment does not impact licensure, market participation, or competition, and does not constitute an occupational regulation with any anticompetitive effects.

5. Proposed LAC 46:LXVII.1505-Purchase or Acquisition of Agencies; Notice Requirements

The Commission proposes amending §1505 to (i) change the written notice deadline to the Commission from no later than the fifth working day to within seven days after the date of acquisition, (ii) remove provisions made obsolete due to digital or electronic licenses, (iii) repeal

¹⁶ La. R.S. 37:1440(A)

¹⁷ [Laws & Rules | LREC](#)

¹⁸ [Louisiana Real Estate and Appraisers Candidate Handbook](#)

current Subsections (E) and (F) as duplicative of La. R.S. 37:1441, and (iv) make technical changes.

The current rule requires the sponsoring broker for the acquired real estate brokerage company to return the licenses of all sponsored licensees to the Commission no later than the fifth working day following the acquisition. The Commission asserts that the requirement to return licenses is obsolete due to digital/electronic licenses.

While the change in the notification deadline may have a minimal impact on the amount of time a sponsoring or qualifying broker must notify the Commission, the Proposed Amendment does not create or expand licensing requirements, impact market participation or restrict competition. Therefore, it does not constitute an occupational regulation with any anticompetitive effects.

6. Proposed LAC 46:LXVII.1701-Relinquishment of Business-Related Property and Data

The Commission proposes amending §1701 to clarify that a violation of this rule constitutes a violation of the Commission's rules which may be enforced through routine compliance procedures and to make technical changes.

The current rule provides that a sponsoring broker who alleges the failure of a former sponsored licensee to comply with 1701(A) must submit a signed written report to the Commission and provide a copy of the report to the licensee.

The Commission is authorized to adopt all necessary rules and bylaws for the administration and enforcement of the Louisiana Real Estate License Law.¹⁹ The Commission is further authorized to censure a licensee, registrant, or certificate holder or conditionally or unconditionally suspend or revoke any license, registration, or certificate.²⁰ Accordingly, the Commission possesses the statutory authority to identify and establish violations that justify disciplinary actions.

While disciplinary standards may impact market participation by subjecting licensees to fines, suspension, or revocation, the Proposed Amendment does not establish or expand on the violations that may be subject to disciplinary actions. Rather, the Proposed Amendment clarifies that a violation of §1701 constitutes a violation of the Commission's rules. Therefore, the Proposed Amendment does not create new barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

7. Proposed LAC 46:LXVII.1703-Financial Obligations; Commissions and Dues; Disputes

The Proposed Amendment to §1703 repeals Subsection B to remove the provision prohibiting employment disputes or disputes concerning financial obligations, commissions, or dues from serving as a basis for a sponsoring broker's failure to return a license or registration to the

¹⁹ La. R.S. 37:1435(C)(1)

²⁰ La. R.S. 37:1455(A)

Commission. The Commission asserts that the requirement is obsolete due to digital/electronic licensing.

Because real estate licenses are now issued and maintained electronically, the requirement that a sponsoring broker return licenses is no longer necessary. Therefore, the Proposed Amendment removes a requirement that has become obsolete and does not create new barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects and is not considered an occupational regulation within the meaning of La. R.S. 49:260.

8. Proposed LAC 46:LXVII.1903-Team and Group Sponsorship; Leaders

The Commission proposes amending §1903 to (i) repeal the requirement that team or group members conduct all real estate activities from the office or branch office where their individual license is held, when applicable, (ii) incorporate provisions relocated from §1907, and (iii) make technical changes.

The repeal provides greater flexibility in how team and group members conduct real estate activities while eliminating a requirement that may no longer reflect current business or industry practices. Thus, the Proposed Amendment does not create new barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects and is not an occupational regulation within the meaning of La. R.S. 49:260.

9. Proposed LAC 46:LXVII.1909- Team Advertising

The Commission proposes amending §1909 to require that a sponsoring broker approve team or group advertising on all real estate advertising prior to use and to make technical changes.

While the Proposed Amendment may create an additional procedural step before an advertisement may be used, it does not create new barriers to market entry, restrict competition, or reduce consumer choice. Thus, the Proposed Amendment is a rule governing real estate activities and does not constitute an occupational regulation with any reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

10. Proposed LAC 46:LXVII.2501-Disclosures and Representation

The Commission proposes amending §2501 to (i) repeal an outdated provision which provides that an agreement between brokers permitting the sharing of property data through web services such as IDX or VOW does not constitute advertising, (ii) repeal provisions duplicative of the Commission's administrative rules, and (iii) make technical changes.

The prior written approval requirement helps protect consumers from false or misleading advertising. The Proposed Amendment to §2501 does not impose or expand, modify, or eliminate licensure qualifications, scope of practice requirements, fees, renewal standards, disciplinary criteria, or enforcement thresholds applicable to regulated individuals or entities. Thus, the Proposed Amendment is a rule governing real estate activities and does not constitute an

occupational regulation with any reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

11. Proposed LAC 46:LXVII.2505-Accuracy in Advertising

The Proposed Amendment to §2505 clarifies that no real estate advertising may be misleading or inaccurate in any manner and makes technical changes. By promoting accuracy and transparency in real estate advertising, the Proposed Amendments help ensure consumers make informed decisions when evaluating real estate properties. However, the amendment to §2505 does not create any new barriers to market entry, restrict competition, reduce consumer choice or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260. Therefore, because the Proposed Amendment does not constitute an occupational regulation.

12. Proposed LAC 46:LXVII.2507-Advertisements of Residential Property; Date Requirement

The Commission proposes amending § 2507 to (i) require all advertisements for the sale or lease of residential real estate to indicate the month and year in which the advertisement was posted, printed, published, or distributed, (ii) remove the phrase “printed or published in the newspapers, real estate trade publications and magazines and brochures” from the rule, and (iii) make technical changes. The Commission contends that the addition of “posted” to the rule is intended to encompass online advertising.

By requiring the month and year in which the advertisement is posted to be included, consumers are provided with information regarding the currency of the listing or offer, which may help consumers make informed decisions. Additionally, the removal of references to specific print publications updates the rule to reflect changes to the manner in which real estate advertisements are created and disseminated.

Therefore, because the Proposed Amendment does not create or modify licensure, education, supervision, discipline, or professional practice requirements, it does not constitute an occupational regulation with any reasonably foreseeable anticompetitive effects.

13. Proposed LAC 46:LXVII.2515-Internet Advertising

The Commission proposes amending §2515 to (i) update the outdated references to communications on the “internet” to include communications made “via any electronic means,” (ii) repeal duplicative subsections, and (iii) require identifying information at least once in the communication or advertisement rather than on each webpage, and (iv) make technical changes.

The amendments update the scope of electronic advertising and reduce repetitive disclosure requirements. By updating and modernizing the language applicable to all advertisements by any electronic means, the Proposed Amendment is consistent with the Commission’s public protection interest. The Proposed Amendment ensures the rules governing all electronic advertisements are accurate, reliable, and provide consumers with the identifying information necessary to make informed decisions when engaging with real estate brokers and their services. The Proposed

Amendments are rules governing advertising activity for real estate broker advertising or marketing on the internet and in print publications and do not create new barriers to market entry, restrict competition, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

14. Proposed LAC 46:LXVII.2601-Definitions

The Proposed Amendment to §2601 repeals the current definitions of the terms “property management” and “property manager” and provides that those terms have the meanings set forth in La. R.S. 37:1431 and makes minor non-substantive typographical changes.

Because the Proposed Amendment merely revises these commonly used terms to align with the applicable statutory definitions, it does not create new barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260. Therefore, the Proposed Amendment does not constitute an occupational regulation.

15. Proposed LAC 46:LXVII.2603-Property Management; Written Authorization

The Commission proposes amending §2603 to require that salespersons and associate brokers conduct property management subject to the prior written authorization of his or her sponsoring broker and to make minor non-substantive typographical changes.

While the Proposed Amendment may create an additional procedural step for salespersons and associate brokers, it does not create new barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260. Therefore, the Proposed Amendment does not constitute an occupational regulation.

16. Proposed LAC 46:LXVII.2609 – Exemptions

The Commission proposes to repeal §2609 in its entirety and asserts that this rule contradicts La. R.S. 37:1438(A)(1) which independently establishes the applicable ownership-related exemptions. This repeal does not eliminate exemptions the Legislature has granted or require exempt owners or their qualifying representatives to obtain a license. The proposal does not enlarge or limit the licensed market, exclude statutorily exempt participants, create new barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260. Therefore, the Proposed Amendment does not constitute an occupational regulation.

17. Proposed LAC 46:LXVII.2701-Escrow and Trust Accounts; Requirements

The Commission proposes amending §2701 to (i) remove references to “resident brokers” and replace them with “any real estate broker,” (ii) prohibit a salesperson from maintaining custody of client funds, (iii) and make technical changes.

The Commission is authorized to require all real estate licensees and registered timeshare developers to deposit all monies or things of value received on behalf of clients in a separate

banking account or accounts in a legally chartered financial institution.²¹ Accordingly, the Commission is authorized to replace references to “resident broker” with “real estate broker,” prohibit a salesperson from maintaining custody of client funds, and make non-substantive typographical revisions.

Separate escrow and trust account requirements applicable to nonresident brokers remain in place. Replacing “resident brokers” with “any real estate broker” clarifies the terminology without independently adding an account requirement beyond the existing framework. Moreover, La. R.S. 37:1455(A)(17) already requires sponsored licensees to place entrusted funds in their licensed broker’s custody as soon after receipt as practicable. The Proposed Amendment incorporates an existing statutory obligation rather than imposing an additional licensing qualification.²²

Thus, the Proposed Amendment is a rule governing real estate activities and does not constitute an occupational regulation with any reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

18. Proposed LAC 46:LXVII.2707-Branch Office Accounts

The Commission proposes amending §2707 to clarify that a broker may open an additional sales escrow account, rental trust checking account, and security deposit trust account for each branch office they sponsor and make technical changes.

While the Proposed Amendment establishes and clarifies the rules governing the operation of broker accounts and the responsibilities of sponsoring brokers, it does not create new barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

19. Proposed LAC 46:LXVII.2708-Signatory Rights on Accounts

The Commission proposes amending §2708 to clarify that the sponsoring or qualifying broker shall be the primary account holder and signatory on each account and is directly responsible for account violations and to make technical changes.

Accordingly, while the Proposed Amendment establishes and clarifies the rule governing the operation of broker accounts and the responsibilities of sponsoring and qualifying brokers, it does not create new barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

20. Proposed LAC 46:LXVII.2721- Transfer of Trust Funds; Sale or Acquisition of Brokerage Company

The Commission proposes amending §2721 to (i) change from five days to seven days after acquisition the deadline for submitting a letter jointly signed by the acquired and acquiring companies’ sponsoring brokers certifying the transfer of all escrow and trust funds, (ii) correct an incorrect legal citation, and (iii) make technical changes.

²¹ La. R.S. 37:1435(F)

²² La. R.S. 37:1455(A)(17)

While the change in the notification deadline may have minimal impact on the amount of time a sponsoring or qualifying broker has to deliver to the jointly signed letter to the Commission, the Proposed Amendment does not create or expand licensing requirements. Therefore, the Proposed Amendment does not impact licensure, market participation, or competition, and does not constitute an occupational regulation with any anticompetitive effects.

21. Proposed LAC 46:LXVII.2901-Escrow Disputes; Notice; Time Limits

The Commission proposes amending §2901 to require the broker holding disputed funds in a sales escrow account to provide written notice to all parties and licensees involved in the transaction within 10 days after the broker knows or reasonably should know of the dispute. Within 20 days after the date of that written notice, the broker must take one of the actions listed in the rule. The proposal also makes technical changes.

While the Proposed Amendment promotes timely notice and resolution of disputes involving escrow funds, it does not create any new barriers to market entry, restrict competition, or reduce consumer choice. Accordingly, the Proposed Amendment is a rule governing the practice of real estate and is not an occupational regulation with any reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

22. Proposed LAC 46:LXVII.3101-Reporting; Change of Contact Information

The Commission proposes amending §3101 to clarify that licensees are required to report changes in business and residence addresses.

The Commission has been granted authority to adopt all necessary rules and bylaws for the administration and enforcement of the Louisiana Real Estate License Law.²³ As such, the Commission is authorized to require licensees to report changes in their addresses.

The current rule requires licensees to report changes to their mailing, physical, or email addresses only to the Commission. The proposed amendment expands this to include business addresses of licensees. While the Proposed Amendment expands an existing administrative requirement to aid the Commission in maintaining accurate licensee records, it does not create new barriers to market entry, restrict competition, or reduce consumer choice.

Therefore, it does not constitute an occupational regulation with any reasonably foreseeable anticompetitive effects.

23. Proposed LAC 46:LXVII.3501-Licensee as Principal in a Real Estate Transaction

The Commission proposes amending §3501 to require disclosure of license status when a licensee acts as a principal in a real estate transaction and to make technical changes.

While the Proposed Amendment may impose a disclosure requirement to aid in promoting transparency and safety in transactions, it does not create new barriers to market entry, restrict competition, or reduce consumer choice. Accordingly, the Proposed Amendment is a rule

²³ La. R.S. 37:1435(C)(1)

governing the practice of real estate and is not an occupational regulation with any reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

24. Proposed LAC 46:LXVII.3503-Buyer Broker Compensation

The Proposed Amendment to §3503 requires buyer broker compensation to be disclosed as required by the Louisiana Real Estate License Law. The Commission asserts that the Proposed Amendment is necessary considering nationally relevant antitrust litigation and related matters.

The current rule provides that buyer broker compensation may not be included as part of closing costs paid by the seller unless it is disclosed in a written offer, accepted by the seller, and states the specific amount to be paid.

Act 690 of the 2024 Regular Session of the Legislature enacted La. R.S. 37: 1448.4, which requires a buyer agreement to state the broker's compensation or its method of calculation and permits the agreement to provide that sources of broker compensation may include, but are not limited to, funds from a buyer, seller, a listing agent, or any combination thereof.

While the Proposed Amendment aligns the administrative rule with the statutory requirement regarding buyer broker compensation, it does not create new barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

25. Proposed LAC 46:LXVII.3909-Broker's Authority to Reject Offers or Counteroffers

The Proposed Amendment to §3909 requires written authorization for a listing broker to reject offers or counteroffers and makes technical changes.

While the Proposed Amendment establishes a procedural step before a broker acts on behalf of a seller, it does not create new barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

26. Proposed LAC 46:LXVII.5101-Out-of-State Broker Cooperation

The Commission proposes amending §5101 to (i) remove the requirement to provide the Commission a separate cooperative endeavor agreement (“*CEA*”) for each real estate transaction, (ii) clarify that any compensation shall be paid through the Louisiana broker but the split with an out-of-state broker is fully negotiable and must be reduced to writing, and (iii) make technical changes.

Under the Proposed Amendment, multiple transactions could be included in one CEA and notice to the Commission. Accordingly, the Commission is authorized to not require a separate CEA notification for each real estate transaction, clarify that any compensation must be paid through

the Louisiana broker, but the split with an out-of-state broker must remain fully negotiable and reduced to writing, and make technical changes.²⁴

The Proposed Amendment is likely to ease an administrative requirement imposed on Louisiana brokers when cooperating with an out-of-state broker regarding property located in Louisiana. It does not alter substantive licensing requirements or impose additional barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

27. Proposed LAC 46:LXVII.5105-Jurisdiction over Out-of-State Activities

The Commission proposes amending §5105 to (i) require licensees, registrants, and certificate holders to notify the Commission, in writing, within 10 days of any sanction imposed by another jurisdiction and (ii) make technical changes. Specifically, the Proposed Amendment replaces a certified or registered mail or hand delivery notice requirement with a written notice requirement.

The amendment changes the delivery method for an existing reporting requirement without expanding the reportable sanctions or adding qualifications and is a rule governing the administrative practice and does not produce any reasonably foreseeable anticompetitive effects.

28. Proposed LAC 46:LXVII. 5335-Certificates of Completion

The Commission proposes amending this section to specify that the school must be certified and in good standing on the date the course is completed by students, update certificate wording, and make technical changes. The Commission has authority to establish rules to certify, regulate, and discipline real estate schools in this state.²⁵

The amendment clarifies a certification condition rather than adding instructional hours or student qualifications. It does not impose additional barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

29. Proposed LAC 46:LXVI.5337-Course Schedules and Attendance; Reporting

The proposal revises the course-schedule and attendance-report terminology, requires a schedule report for each course, and retains submission at least 10 days before delivery and attendance reporting within 30 days after completion. These revisions clarify existing reporting obligations and do not add a credential, instructional-hour requirement, or restriction on course offerings or otherwise produce reasonably foreseeable anticompetitive effects.

30. Proposed LAC 46:LXVII.5511-Record Keeping

The Proposed Amendment to §5511 removes a reference to the cost of duplicate copies of course-completion records and makes technical changes. The current rule permits the real estate education vendor to determine any fee associated with providing duplicate copies of their course completion records. Further, the Commission proposes requiring all records be maintained in a readily

²⁴ La. R.S. 37:1435(C)(1)

²⁵ La. R.S. 37:1460

available electronic format. Previously, it was required that all records be maintained in a readily available format that does not prohibit, delay, or otherwise impeded inspection.

The Commission has authority to regulate continuing education vendors under La. R.S. 37:1460(B). Accordingly, the Commission is authorized to remove the cost of copies for course completion records, set the format for records, and make technical changes.

While the Proposed Amendment may reduce a protentional financial burden on students who need additional copies of their course completion records and changes the record format, it does not create new barriers to market entry, restrict competition, reduce consumer choice, restrict continuing education vendor participation, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260.

31. Proposed LAC 46:LXVII. 5525 – Course Approval; Applications and Procedures; Expiration; Renewal

The Commission proposes amending this section to reduce the decision period from 45 calendar days after receipt to 30 calendar days after successful completion and make technical changes. The proposal also reorganizes course classification and application provisions and clarifies course-renewal and education-credit wording.

Application processing periods may affect a qualified applicant's timely entry into the marketplace. The shorter decision period may facilitate timely entry, although the changed triggering event does not guarantee shorter overall processing time. The existing rule permits delays for incomplete applications or additional information. This requirement is imposed on the Commission and does not itself add a substantive qualification.

Because the Proposed Amendment does not alter substantive licensing requirements or impose additional barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260, it does not constitute an occupational regulation.

32. Proposed LAC 46:LXVII.5533 Methods of Instruction

The Proposed Amendment to §5533 removes correspondence-course references as outdated, uses the applicable "distance education" definition, corrects citations, and reorganizes course approval, certification, examination, grading, and completion provisions. The Commission states that correspondence courses are no longer certifiable by the Association of Real Estate License Law Officials (ARELLO). The Commission has the statutory authority to establish standards for course content and delivery.²⁶ Removal of unavailable and outdated course references does not alter substantive licensing requirements or impose additional barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260. Therefore, it does not constitute an occupational regulation.

²⁶ La. R.S. 37:1460(A)

33. Proposed LAC 46:LXVII.5535 Certificates of Completion

The Commission proposes amending §5535 to require issuance of certificates of completion upon course completion and update the identifying information and delivery method terminology. The Commission has the authority to regulate continuing education requirements.²⁷ Timely issuance of certificates enables students to demonstrate completed instruction to the Commission. The proposed amendment to §5535 does not add course hours, examinations, or new credentials, restrict provider or student access to credit, alter substantive licensing requirements, impose additional barriers to market entry, restrict competition, reduce consumer choice, or otherwise produce reasonably foreseeable anticompetitive effects within the meaning of La. R.S. 49:260. Therefore, it does not constitute an occupational regulation.

C. Occupational Regulations with Reasonably Foreseeable Anticompetitive Effects

The accompanying technical and typographical revisions to the below amendments improve clarity, readability, and organization without altering substantive requirements. Likewise, repealing provisions that merely duplicate existing statutes or rules leaves the underlying requirements unchanged.

1. Proposed LAC 46:LXVII.303-Sponsorship; Broker Responsibility

The Commission proposes amending §303 to (i) provide that the Commission will not issue a license to an applicant who has not successfully completed a criminal history record information check, (ii) repeal Subsection D as duplicative of La. R.S. 37:1431(3), (iii) clarify the meaning of “broker responsibility,” and (iv) make technical changes.

The Commission is authorized to adopt all necessary rules and bylaws for the administration and enforcement of the Louisiana Real Estate License Law,²⁸ including the regulation of the issuance of real estate licenses, registrations, and certificates.²⁹ Additionally, the Commission is authorized to request and obtain state and national criminal history record information from the Louisiana Bureau of Criminal Identification and Information of the Louisiana State Police and the FBI regarding each applicant.³⁰ Accordingly, the Commission has the authority to clarify the background-check requirement, repeal duplicative provisions, and make non-substantive typographical revisions.

While criminal background requirements may function as barriers to market entry by reducing the pool of applicants who may be eligible for licensure, they serve an important public protection function by vetting individuals who are entrusted by the public with access to their homes or other properties, financial information, and personally identifiable information.

La. R.S. 37:1435.1(E)(3) already requires every real estate salesperson or broker seeking licensure to consent to and pay the costs of a background check, subject to the statute’s applicability provisions. The proposal expressly conditions issuance on successful completion of that check. It

²⁷ La R.S. 37:1435; La. R.S. 37:1460(B)

²⁸ La. R.S. 37:1435(C)(1)

²⁹ La. R.S. 37:1435(A)(1)

³⁰ La. R.S. 37:1435.1(B)(2)(a)

therefore incorporates an existing statutory requirement rather than imposing an additional licensing requirement.

The OLRP finds that the Proposed Amendment to §303 is within the Commission’s statutory authority and adheres to clearly articulated state policy. Therefore, the Commission may promulgate this rule in accordance with the Louisiana APA.

2. Proposed LAC 46:LXVII.1503- Fee Exemptions

The Commission proposes amending §1503 to make technical changes and eliminate reference to the “delinquent renewal fee” exemption when a request for license transfer is submitted within 60 days of (i) the sponsoring broker dying, (ii) the sponsoring broker failing to renew his license, (iii) the license of the sponsoring being suspended or revoked, (iii) the license of the sponsoring broker transferred to inactive status, or (v) the sponsoring broker’s election to discontinue the sponsorship of a licensee.

The Commission has the statutory authority to adopt all necessary rules and bylaws for the administration and enforcement of the Louisiana Real Estate License Law.³¹ The Commission is further authorized to charge a delinquent fee, in addition to the renewal fee, if a license is not renewed by September thirtieth of the applicable license or registration period and outlines the applicable delinquent renewal fee active or inactive licensees.³² Additionally, La. R.S. 37:1443(5) establishes a fee schedule for transfer fees applicable to: (i) transfers from active status to inactive status, (ii) transfers from inactive status to active status, and (iii) all other transfers. Accordingly, the Commission is within its authority to make non-substantive typographical revisions and remove the delinquent renewal fee exemption for licensees requesting a transfer under the specified circumstances.

Additionally, while licensing fees may function as barriers to market entry because they impose a financial obligation on those seeking to enter or remain in a profession, the Proposed Amendment does not create a new licensing fee. Rather, it removes a procedural fee exemption applicable in a narrow set of circumstances involving the status or conduct of a sponsoring broker. The underlying renewal and delinquency fees remain unchanged. Any fee consequences resulting from removing the exemption only applies when an existing licensee fails to renew timely and subsequently seeks a transfer under the specified circumstances.

Furthermore, timely renewal of licensure serves the public interest by ensuring that individuals who continue to engage in regulated real estate activities are subject to the Commission’s regulatory and disciplinary oversight. Maintaining current licensure also provides the public with a means of identifying individuals who are authorized to engage in regulated activities and have satisfied the education, training, and other licensing requirements established to protect the public. Removal of the delinquent renewal fee is likely to incentivize licensees to timely renew their licenses, thereby adhering to the Commission’s clearly articulated state policy.

³¹ La. R.S. 37:1435(C)(1)

³² La. R.S. 37:1443(4)

The OLRP finds that the Proposed Amendment to §1503 is within the Commission's statutory authority and adheres to clearly articulated state policy. Therefore, the Commission may promulgate this rule in accordance with the Louisiana APA.

3. Proposed LAC 46:LXVII.4701-Military Service; License Renewal Exception

The Proposed Amendments to §4701 update the title, address active military service, and place the military-spouse provision in a separate subsection. Proposed §4701(A) also changes the deadline for penalty-free renewal from six months following discharge to 180 days after license expiration. Proposed §4701(B) removes the requirement that the spouse have been licensed at the time of induction or transfer. The Proposed Amendment also makes technical changes.

La. R.S. 37:1435(C)(1) provides the Commission's general rulemaking authority. The amendments must also be consistent with La. R.S. 37:3652. La. R.S. 37:3652(C) independently preserves qualifying licenses, subject to payment of applicable renewal fees and completion of educational requirements within 180 days after release or discharge from active duty. La. R.S. 37:3652(A) and (B) address available fee and continuing education exemptions during service and their limits in the year of release or discharge.

In its October 7 response, the Commission explained that the rule is intended to supplement La. R.S. 37:3652, allowing statutory protection plus an additional 180 days after the subsequent annual license expiration. The Commission also described Subsection B as a separate, broader accommodation for military spouses, rather than a restatement of the statute's relocation and documentation conditions. Therefore, the Commission is extending renewal relief rather than shortening the statutory discharge-based period and operates alongside, supplements, and preserves the statutory protections. The amendment gives military personnel and their spouses additional time to complete renewal requirements and does not add a barrier to continued practice, thereby reducing a restriction on continued practice.

In accordance with La. R.S. 37:1435(C)(1), the Commission is within its authority to provide military personnel with an additional 180 days after the license expiration to apply for renewal, the requirement that the spouse have been licensed at the time of induction or transfer and make to make non-substantive typographical revisions.

Although renewal requirements may impede continued practice when a licensee cannot satisfy them, the Proposed Amendments reduce that burden by allowing additional time without eliminating the underlying licensing requirements. Military personnel must still comply with applicable statutory requirements, including renewal fees and required education. The broader military-spouse accommodation extends relief to additional families. These changes have a procompetitive effect by supporting continued workforce participation and improving the public's access to licensed professionals.

The OLRP finds that the Proposed Amendment to §4701 is within the Commission's statutory authority and adheres to clearly articulated state policy. Therefore, the Commission may promulgate this rule in accordance with the Louisiana APA.

4. Proposed LAC 46:LXVII.5303- Certifications; Applications and Procedures

The Proposed Amendments to §5303 reorganize the application requirements, require written approval or denial, and shorten the decision period from 45 calendar days after receipt to 30 days after successful completion. The existing rule already permits delays for incomplete applications or additional information, the completion-based trigger does not appear to impose a new substantive qualification. These procedural changes have no apparent reasonably foreseeable anticompetitive effects.

The Proposed Amendment also replaces the existing felony language in the causes for denial with the phrase “any other felony” and removes terminology regarding “moral turpitude.” This does not newly expand felony coverage as a cause for denial of certification. Removing “moral turpitude” conforms to La. R.S. §37:2950(C), and the mandatory cross-reference limits conviction-based denial to convictions directly related to the occupation, with consideration of the statutory factors, including the offense, occupational duties, elapsed time, circumstances, and rehabilitation. These conforming changes do not create a new competitive restriction.

Proposed B(1) extends conviction-based denial to an owner or controlling member of an applicant entity, removes “moral turpitude,” and expressly requires compliance with La. R.S. 37:2950. The addition of owners and controlling members, however, expands the persons whose convictions may prevent an entity from obtaining certification and therefore has reasonably foreseeable anticompetitive effects.

The Commission clarified that “controlling member” will be interpreted by its ordinary meaning and the Proposed Amendment does not contemplate a specific ownership percentage. The Commission also stated the Proposed Amendment, in part, was to clarify that a “school” cannot commit a crime, rather the individual applicant applying for school certification. Pursuant to La. R.S. 37:1435(C)(2), the Commission is ensuring the applicant meets the standards and qualifications required to conduct the operations of a real estate school in a manner that safeguards the public.

Additionally, the Proposed Amendment adds professional-license or certification suspension to the existing revocation ground. This addition creates a new potential basis for excluding applicants and constitutes an occupational regulation under La. R.S. 49:260(G)(4).

The Commission confirmed that real estate license suspensions and revocations would be the primary focus; however, the suspension or revocation of an unrelated license may still be considered in the Commission’s discretion for the same underlying reasons that could relate back to other grounds upon which the Commission could deny an application or impose discipline regarding the fitness to operate a real estate school. Thus, the Proposed Amendment is likely to have an anticompetitive effect.

Moreover, the Commission stated, “real estate schools are responsible for administering tests, use instructors, report education courses that other applicant and licensee-customers pay for and rely upon to get licensed or renewed themselves. Violations by real estate schools can impact the integrity of [the Commission’s] exams, impact the initial and continuing education of our

licensees, impact the integrity of [the Commission's] education transcript records for its licensees, etc." Thus, the Proposed Amendment serves the Commission's public protection purpose by safeguarding the quality of the education, test integrity, and industry practices. The Proposed Amendment is likely to promote competent services provided and reducing the risk of error or harm to the public.

The Commission is authorized to adopt all necessary rules and bylaws for the administration and enforcement of the Louisiana Real Estate License Law.³³ The Commission is further authorized to establish rules to certify, regulate, and discipline real estate schools in this state.³⁴ Accordingly, the Commission is within its authority to reduce the decision period from 45 calendar days after receipt to 30 calendar days, remove statutory conflicting references to "moral turpitude," add professional-license or certification suspension to the existing revocation ground, and make non-substantive typographical revisions. The OLRP finds that the Proposed Amendment to §5303 is within the Commission's statutory authority and adheres to clearly articulated state policy. Therefore, the Commission may promulgate this rule in accordance with the Louisiana APA.

5. Proposed LAC 46:LXVII.5319- Pre-License Instructors; Initial and Renewal Applications; Guest Lecturers

The proposed amendments to §5319 revise instructor qualifications, application procedures, denial grounds, consolidate existing renewal and guest-lecturer provisions, and make technical changes.

The Commission is authorized to adopt all necessary rules and bylaws for the administration and enforcement of the Louisiana Real Estate License Law³⁵ including to establish rules to certify, regulate, and discipline real estate schools in this state.³⁶ Additionally, it is unlawful for any person or his agent to file with the Commission any notice, statement, or other document, required under the provisions of this Chapter which is false or contains any material misstatement of fact.³⁷

Accordingly, the Commission is within its authority to (i) reduce the decision period from 45 calendar days after receipt to 30 calendar days, (ii) remove statutory conflicting references to "moral turpitude," (iii) include material factual misstatements for the grounds for denial, (iv) replace the two years of experience "in real estate brokerage" with experience "as a licensed real estate broker," (v) include professional suspension for grounds for revocation, and (vi) make non-substantive typographical revisions.

The Proposed Amendment requires passing the examination and shortens the decision period from 45 calendar days after receipt to 30 calendar days after successful completion. Passing the examination and submitting results are already required, and the existing rule permits processing delays for incomplete applications. Accordingly, these changes appear procedural and procompetitive as they may allow for earlier market entry in certain circumstances.

³³ La. R.S. 37:1435(C)(1)

³⁴ La. R.S. 37:1460(A)

³⁵ La. R.S. 37:1435(C)(1)

³⁶ La. R.S. 37:1460

³⁷ La. R.S. 37:1454

Additionally, the proposed removal of “moral turpitude” as a grounds for denial of certification and the expressed compliance with La. R.S. 37:2950 merely conforms the Proposed Amendment to the statute’s prohibition against vague character terminology and its limitations on conviction-based exclusion and does not create a new competitive restriction.

Proposed §5319 (C)(2) replaces two years of experience “in real estate brokerage” with experience “as a licensed real estate broker.” These phrases are not necessarily equivalent: a salesperson may acquire some brokerage experience under a sponsoring broker without holding a broker’s license. The proposal therefore narrows this qualification pathway and has reasonably foreseeable anticompetitive effects, even though other pathways remain available.

By requiring a pre-license instructor, as one means of meeting the education requirement, to have in addition to a bachelor’s degree, at least two years of experience as a licensed real estate broker, the Proposed Amendment helps ensure that instructors have the requisite knowledge and practical experience to effectively teach those seeking licensure. Therefore, the Proposed Amendment ensures prospective licensees receive an adequate education necessary to provide safe and competent services to the public. Thus, any potential anticompetitive effect is balanced against the Commission’s public protection interest.

The proposed subsection F(2) broadens the express denial ground from a false statement of material fact to notices, statements, or documents that are false or contain material factual misstatements. This language closely follows La. R.S. 37:1454’s existing prohibition.

The Commission clarified that “immaterial errors, such as typos or minor/innocent date discrepancies, would not be reasonably interpreted as either ‘false’ or ‘material’ in such context” and eliminates any concerns that the amendment could exclude applicants for correctable errors unrelated to eligibility.

Additionally, the Proposed Amendment adds professional suspension to the existing revocation ground in §5319(F)(3), creating an additional potential basis for exclusion. This provision permits discretionary denial; it does not automatically disqualify every suspended applicant. La. 37:1437(B)(1) provides that the Commission shall grant licenses only to persons, partnerships, limited liability companies, associations, corporations, or other legal entities to transact the real estate activities in such a manner as to safeguard the interest of the public. Thus, the Proposed Amendment may have an anticompetitive effect.

The Commission explained that professional disciplinary history is a reasonable legitimate factor they use in considering whether a pre-license instructor has the qualifications and meets the standards to act as such. As an example, the Commission explained that past suspensions based on procedural failure to renew in another jurisdiction would not alone justify denial, while selling examination questions or falsely reporting student attendance could demonstrate relevant professional fitness. If the Commission sought to deny such an applicant, it would conduct a hearing in accordance with the APA accordingly.

Licensing requirements may function as barriers to market entry by impacting the pool of applicants eligible for licensure. However, the Proposed Amendment serves a public protection

purpose by allowing the Commission to consider whether an applicant's professional history bears on the applicant's fitness to engage in regulated real estate activities.

The OLRP finds that the Proposed Amendment to §5319 is within the Commission's statutory authority and adheres to clearly articulated state policy. Therefore, the Commission may promulgate this rule in accordance with the Louisiana APA.

6. Proposed LAC 46:LXVII.5501- Real Estate Education Vendor; Approval; Application and Procedures

The Commission proposes amending §5501 to (i) reduce the application processing time after 45-days after receipt to 30 days from successful completion, (ii) remove references to moral turpitude from the enumerated causes for denial of an application and replace it with "any other felony," (iii) add that a suspension of a professional license may serve as grounds for an application denial for a real estate education vendor, and (iv) make technical changes.

La. R.S. 37:1460(B) authorizes certification and regulation of continuing education vendors, and La. R.S. 37:1435(C)(2)(c) supports relevant applicant-fitness inquiries. La. R.S. 37:2950(C) prohibits vague or generic terms, including "moral turpitude" and "good character." The procedural and statutory-conforming changes do not themselves add a competitive restriction.³⁸

Licensing requirements may affect market entry by expanding or restricting the pool of eligible applicants. The 30-day processing period is an administrative requirement and does not alter licensing qualifications. However, adding suspension to the existing professional-license revocation ground, however, expands the circumstances in which vendor certification may be denied. This may restrict market entry and reduce the pool of eligible real estate education providers.

The Commission confirmed that current or completed suspensions in any profession may be considered, with the inquiry focused on conduct materially bearing on fitness to provide real estate education. Remote, unrelated, or cured matters may permit approval.

The potential anticompetitive effects are balanced against the Commission's public protection mandate. Certified vendors provide education to individuals seeking or maintaining real estate licensure. Considering relevant professional history helps ensure that providers meet appropriate professional standards and safeguards the quality of education offered to current and future licensees. The OLRP finds that the Proposed Amendment to §5501 is within the Commission's statutory authority and adheres to clearly articulated state policy. Therefore, the Commission may promulgate this rule in accordance with the Louisiana APA.

7. Proposed LAC 46:LXVII.5513-Post-Licensure and Continuing Education Instructors

The Commission proposes amending §5513 to (i) revise the authorization, application, and denial provisions for post-license and continuing education instructors, (ii) reduce the decision period

³⁸ La. R.S. 37:1460(B); La. R.S. 37:1435(C)(2)(c); La. R.S. 37:2950(C)

from 45 days after receipt to 30 days after an application is “successfully completed,” and (iii) make technical changes.

The Commission has the authority to adopt all necessary rules and bylaws for the administration and enforcement of the Louisiana Real Estate License Law,³⁹ including the regulation of the issuance of real estate licenses, registrations, and certificates.⁴⁰ Additionally, La. R.S. 37: 2950(C) provides that licensing boards shall not use vague or generic terms, including but not limited to the phrases “moral turpitude” and “good character.” Accordingly, it is within the Commission’s statutory authority to establish a 30-day processing period for applications and make technical changes.

The proposed §5513D(2) expands the application denial ground from a false statement of material fact to a notice, statement, or document that is false or contains a material misstatement. As discussed above, the Commission clarified that “immaterial errors, such as typos or minor/innocent date discrepancies, would not be reasonably interpreted as either ‘false’ or ‘material’ in such context.”

Proposed §5513D(3) adds suspension of a professional license or certification as a discretionary denial ground. Although denial is not automatic, this amendment expands the circumstances in which an applicant may be excluded from providing instruction.

The Commission clarified that when “a prior matter is remote, unrelated, or cured, the discretionary ‘may’ permits the Commission to approve the application; where it bears materially on fitness, the Commission may consider the underlying conduct.” This proposed change may have an anticompetitive effect by expanding the pool of applicants who may be denied certification for post-license and continuing education instructors.

By protecting students from instructors whose conduct demonstrates professional unfitness, the Proposed Amendment serves the Commission’s public protection interest. As an example, the Proposed Amendment may potentially protect students from being defrauded into paying for educational hours that are not approved or subsequently not provided and protects the public by ensuring that education is provided by qualified and trustworthy instructors. Considering the relevant conduct of applicants individually has a reasonable relationship to preventing harm to students and further the Commission’s public protection mission.

The OLRP finds that the Proposed Amendment to §5513 is within the Commission’s statutory authority and adheres to clearly articulated state policy. Therefore, the Commission may promulgate this rule in accordance with the Louisiana APA.

8. Proposed LAC 46:LXVII.5531-Mandatory Courses; “Train the Trainer” Instructor Workshop

The Commission proposes amending this section to (i) add that completion of a “Train the Trainer” instructor workshop shall be counted towards an individual’s annual continuing education

³⁹ La. R.S. 37:1435(C)(1)

⁴⁰ La. R.S. 37:1435(A)(1)

requirement for the year in which the instructor workshop is completed, (ii) clarify that a licensee shall not be credited for completion of an instructor development workshop during which only methods of teaching are included in the course, and (iii) make technical changes.

The current rule requires an annual four-hour continuing education course that all licensees must complete during each license period. La. R.S. 37:1437 provides that twelve hours of continuing education are required and a minimum of four of the required annual hours must be in subjects specified by the Commission. Additionally, the current rule requires that an instructor who presents the mandatory course must first complete the annual “Train the Trainer” instructor workshop developed for the applicable mandatory course topic.

The Commission has been granted authority to adopt all necessary rules and bylaws for the administration and enforcement of the Louisiana Real Estate License Law,⁴¹ including the regulation of the issuance of real estate licenses, registrations, and certificates.⁴² As such, the Commission is within its authority to count the completion of a “Train the Trainer” instructor workshop towards an individual’s annual education requirement and make technical changes.

Continuing education requirements may function as barriers to professional participation by imposing time and financial burdens on licensees. The annual instructor workshop already exists; the proposal adds a method of earning continuing education credit. This additional method reduces duplication and increases flexibility in meeting the annual requirement.

Limiting the new credit option to workshops that provide substantive instruction, rather than workshops focused solely on teaching methodology, ensures that licensees receive continuing education related to real estate activity. Accordingly, this limits the new benefit and defines the scope of the additional credit option rather than removing previously available credit.

The Proposed Amendment would help ensure licensees remain informed of applicable laws, regulations, and industry practices, thereby promoting competent services and reducing the risk of error or harm to the public. The OLRP finds that the Proposed Amendment to §5531 is within the Commission’s statutory authority and adheres to clearly articulated state policy. Therefore, the Commission may promulgate this rule in accordance with the Louisiana APA.

III. DETERMINATION

The Commission is authorized to promulgate rules in accordance with the Louisiana APA (La. R.S. 49:950 *et seq.*) and the Louisiana Real Estate License Law (La. R.S. 37:1430 *et seq.*). The Louisiana Legislature finds it is vitally important to the public health, interest, and welfare to protect Louisiana citizens, their residences, and other property by reasonably regulating the licensure of persons performing real estate activity in the state.⁴³ The Commission has been granted authority to adopt all necessary rules and bylaws for the administration and enforcement of the Louisiana Real Estate License Law.⁴⁴ The Commission is further authorized to: (i) regulate the issuance of real estate licenses, registrations, and certificates,⁴⁵ (ii) censure licensees, registrants,

⁴¹ La. R.S. 37:1435(C)(1)

⁴² La. R.S. 37:1435(A)(1)

⁴³ La. R.S. 37:1435.1(B)(1)

⁴⁴ La. R.S. 37:1435(C)(1)

⁴⁵ La. R.S. 37:1435(A)(1)

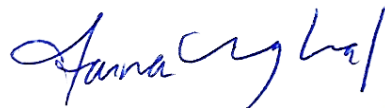
and certificate holders,⁴⁶ (iii) suspend or revoke licenses, registrations, and certificates,⁴⁷ and (iv) impose additional continuing education requirements on licensees, registrants, or certificate holders.⁴⁸

The OLRP has determined the Commission's Proposed Amendments to 46:LXVII. 101, 103, 301, 305, 307, 501, 503, 505, 507, 701, 705, 901, 907, 1501, 1505, 1507, 1701, 1703, 1801, 1803, 1805, 1901, 1903, 1905, 1907, 1909, 1911, 2101, 2301, 250, 2503, 2505, 2507, 2509, 2511, 2515, 2601, 2603, 2605, 2607, 2609, 2701, 2703, 2705, 2707, 2708, 2709, 2711, 2713, 2715, 2717, 2719, 2721, 2901, 3101, 3501, 3503, 3601, 3701, 3703, 3705, 3801, 3900, 3901, 3903, 3905, 3907, 3909, 4101, 4105, 4111, 4113, 4301, 4901, 4903, 4905, 5101, 5103, 5105, 5301, 5303, 5305, 5307, 5309, 5311, 5313, 5315, 5317, 5319, 5321, 5323, 5325, 5327, 5329, 5331, 5333, 5335, 5337, 5501, 5503, 5505, 5507, 5509, 5511, 5515, 5517, 5519, 5521, 5523, 5525, 5527, 5529, 5533, 5535, 5537, 5539, 5701, 5703, 5705, 5707, 5709, 5711, 5715, 5717, 5719, 5721, 5723, 5725, and 5727 do not constitute occupational regulations with any reasonably foreseeable anticompetitive effects. Therefore, the Commission may proceed with promulgation as drafted in accordance with the Louisiana APA without further input from the OLRP.

Lastly, the Proposed Amendments to §§ 303, 1503, 4701, 5303, 5319, 5501, 5513, and 5531 are occupational regulations under La. R.S. 49:260, are within the Commission's statutory authority, and adhere to clearly articulated state policy. Therefore, these Proposed Amendments are approved as submitted to the Attorney General and may be adopted by the Commission in accordance with the Louisiana APA.

OFFICE OF THE ATTORNEY GENERAL
OCCUPATIONAL LICENSING REVIEW PROGRAM

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⁴⁶ La. R.S. 37:1435(A)(2)

⁴⁷ La. R.S. 37:1435(A)(3)

⁴⁸ La. R.S. 37:1435(A)(4)