

Underline indicates new text

[Brackets with bold font indicate text to be deleted] to differentiate it from pre-existing [bracketed text] that is to remain as is

Section 175.25. Advertising

(a) Definitions.

(1) Advertising and advertisement mean promotion and solicitation related to licensed real estate activity, including but not limited to, advertising via mail telephone, websites, e-mail, electronic bulletin boards, business cards, signs, billboards, and flyers. Advertising and advertisement shall not include commentary made by a duly licensed real estate salesperson, real estate associate broker or real estate broker that is not related to promoting licensed real estate activity.

(2) Team means two or more persons, one of whom must be an associate real estate broker or real estate salesperson, associated with the same real estate brokerage who hold themselves out or operate as a team.

(3) Real estate brokerage means a real estate company represented by a real estate broker.

(4) Logo means a graphic mark used to identify a real estate broker, associate broker, salesperson or team, but not a photograph of a real estate broker, associate broker, salesperson or team contained in an advertisement.

(5) Property means real property or shares of stock in a cooperative corporation.

(b) Placement of advertisements.

(1) Only a real estate broker is permitted to place or cause to be published advertisements related to the sale or lease of property. Advertisements placed or caused to be published by an associate real estate broker, a real estate salesperson or a team for the sale or lease of property listed with or represented by a real estate broker are not permitted except where the property is listed with or represented by the real estate broker with whom the associate real estate broker, real estate salesperson or team placing the ad is associated and said real estate broker approved placement of the advertisement.

(2) Authorization

(i) No property shall be advertised unless the real estate broker has obtained authorization for such advertisement from the owner of the property or as hereinafter provided.

(ii) Real estate brokers shall not advertise property that is subject to an exclusive listing held by another real estate broker without the permission of the listing broker.

(iii) Proprietary information. Photographs of property that are posted on a real estate broker's website shall not be used or reproduced without written permission from the copyright holder of such photographs.

(c) Content of advertisements.

(1) Name of real estate broker. Advertisements shall indicate that the advertiser is a real estate broker or provide the name of the real estate broker or real estate brokerage and either:

(i) the full address of the real estate broker or real estate brokerage or,

(ii) the telephone number of the real estate broker or brokerage.

(2) Name of associated licensees. The advertisement may include the names of one or more associate real estate brokers or real estate salespersons associated with the real estate broker or brokerage placing the advertisement. Where an advertisement includes the name of an associate broker, real estate salesperson or a team, the name of the real estate broker and/or real estate brokerage must also be printed in the advertisement.

(3) Nicknames. Real estate brokers, associate real estate brokers, and real estate salespersons shall advertise using the name under which said real estate broker, associate real estate broker or real estate salesperson is licensed with the Department of State. A nickname may be used in an advertisement provided that the full-licensed name is listed clearly and conspicuously.

(4) License type. Except as provided in subdivision (d) of this section, advertisements shall correctly and accurately state the type of license held by the real estate broker, associate real estate broker or real estate salesperson named in the advertisement. Licensees may abbreviate the type of license held, provided that such abbreviation is not misleading. The use of the titles, "sales associate", "licensed sales agent" or simply "broker" is prohibited. Real estate brokers, associate real estate brokers or real estate salespersons who have additional titles or designations are permitted to advertise such titles or designations.

(5) Contact information. An associate real estate broker, real estate salesperson or team may provide additional contact information, such as a post office box, in an advertisement.

(6) Home offices. A residence may be used as an office provided that it is properly licensed by the Department of State.

(7) Telephone numbers. Notwithstanding paragraph (1) of this subdivision, a real estate broker, associate broker, real estate salesperson or team may provide telephone numbers other than that of the brokerage in an advertisement, provided that the advertisement clearly identifies the type of such other telephone number as desk, home, cell phone, or otherwise.

(8) Logos. A real estate team, associate real estate broker or real estate salesperson may use a logo different from that of the real estate broker or real estate brokerage with whom they are associated, provided that the name or logo of the real estate broker or real estate brokerage is also printed in the advertisement.

(9) Property description. Advertisements shall include an honest and accurate description

of the property to be sold or leased. All advertisements that state the advertised property is in the vicinity of a geographical area or territorial subdivision shall include as part of such advertisement the name of the geographical area or territorial subdivision in which such property is actually located. Use by real estate brokers, associate real estate brokers and real estate salespersons of a name to describe an area that would be misleading to the public is prohibited.

(10) Guaranteed Profits. Advertisements shall not guarantee future profits from any real estate activity.

(d) Additional requirements and exceptions.

(1) Classified Advertisements. Classified and multi-property advertisements shall indicate that the advertiser is a real estate broker or brokerage; or provide the name of the real estate broker or real estate brokerage. Classified and multi-property advertisements may omit the license type of any associate real estate broker or real estate salesperson named in the advertisement.

(2) Business cards. Notwithstanding subdivision (c) of this section, business cards must contain the business address of the licensee, license type, and the name of the real estate broker or real estate brokerage with whom the associate real estate broker or real estate salesperson is associated. All business cards must also contain the office telephone number for the associate real estate broker, real estate salesperson or team.

(3) Web-based advertising.

(i) Websites created and maintained by associate real estate brokers, real estate salespersons and teams are permitted, provided that said associate real estate brokers, real estate salespersons and teams are duly authorized by their supervising real estate broker to create and maintain such websites and such websites remain subject to the supervision of the real estate broker with whom the licensees are associated while the website is live.

(ii) Every page of such a website, including any page that displays multiple properties or property search results, shall include the information required by these rules and regulations. In addition, a link to the broker or brokerage website with whom the associate broker, salesperson or team is associated is required on the homepage of the associate broker, salesperson or team website unless the broker or brokerage does not have a website.

(4) E-mail. An initial e-mail from a real estate broker, associate real estate broker, real estate salesperson or team to a client or potential client shall provide the information required by these rules and regulations. Such information may be omitted from subsequent e-mail communications to the same recipient.

(5) For-Sale Signs. Notwithstanding paragraph (c)(1) of this section, unless otherwise prohibited by local law, any property listed through a real estate broker must be advertised as such, and any signage placed upon such property soliciting the sale or lease of the property must identify the representative broker or brokerage.

(6) Advertisements referencing property not listed with broker. **[Any advertisement that references or includes information about a property that is not listed with the advertising broker or was not sold by the advertising broker shall prominently display the following disclaimer: “This advertisement does not suggest that the broker has a listing in this property or properties or that any property is currently available.” Such advertisement:**

(i) shall not suggest, directly or indirectly, that the advertising broker was involved in the transaction; and

(ii) shall not refer to property currently listed with another broker absent consent provided pursuant to subparagraph (b)(2)(ii) of this section.]

(i) No real estate broker, associate real estate broker, or real estate salesperson shall advertise in any manner or make reference to in any advertisement property that is subject to an exclusive listing agreement of another broker, without authorization from the exclusive listing broker. Such advertisements must clearly and conspicuously disclose the name of the exclusive listing broker immediately after one of the following phrases: “Listing Provided by [insert name of the exclusive listing broker]”, “Listing by [insert name of exclusive listing broker]”, “Listing Broker Contact [insert name of exclusive listing broker]”, “Listing of [insert name of exclusive listing broker]”, “Listing Provided Courtesy of [insert name of exclusive listing broker]”, “Listing Courtesy of [insert name of exclusive listing broker]”, or “Listing Agent Contact [insert name of exclusive listing broker]”.

(ii) Any real estate broker, associate real estate broker, or real estate salesperson that pays a third-party for advertising involving a property that is subject to an exclusive listing agreement of another broker must, in addition to the requirements in subparagraph (i), include in any advertisement that provides the advertising broker’s name words to disclose that the advertisement is a paid advertisement, using at a minimum the word “advertisement” immediately following the real estate broker, associate real estate broker, or real estate salesperson’s name.

(e) Teams.

(1) Team name. Team names shall either:

(i) include the full licensed name of the real estate brokers, associate brokers or real estate salespersons who are part of said team; or

(ii) if the names are not included, the team name must be immediately followed by “at/of [full name of the broker/brokerage].”

Team names shall use the term “team.” The use of any other terms besides “team,” such as “associate,” “realty” or “group” is prohibited. The use of the name of a non-licensed individual in a team name is prohibited. **[For 12 months after the adoption of this regulation, teams that have changed their name to comply with this provision shall be entitled to state in advertisements under their new name that they were ‘formerly known as’ their prior**

team name.]

(2) Unlicensed team members. If any unlicensed individuals are named in advertising for a team, the advertisement must clearly and conspicuously state which individuals are real estate licensees and which ones are not.