



## Bylaws Of The Berkshire County Board Of REALTORS®, Inc.

*Amended 2/2020*

### ARTICLE 1 - NAME

**Section 1.** The name of this organization shall be the Berkshire County Board of REALTORS®, Inc, hereafter referred to as the Board.

**Section 2.** Inclusion and retention of the Registered Collective Membership Mark REALTORS® in the name of the Board shall be governed by the Constitution and the Bylaws of the NATIONAL ASSOCIATION OF REALTORS®, as from time to time amended.

### ARTICLE II - OBJECTIVES

The objectives of the Board are as follows:

**Section 1.** To unite those engaged in the recognized branches of the real estate profession in this community for the purpose of exerting a beneficial influence upon the profession and related interests.

**Section 2.** To promote and maintain high standards of conduct in the real estate profession as expressed in the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®.

**Section 3.** To provide a unified medium for real estate owners and those engaged in the real estate profession whereby their interests may be safeguarded and advanced.

**Section 4.** To further the interest of home and other real property ownership.

**Section 5.** To unite those engaged in the real estate profession in this community with the MASSACHUSETTS ASSOCIATION OF REALTORS® and the NATIONAL ASSOCIATION OF REALTORS®, thereby furthering their own objectives throughout the state and nation, and obtaining the benefits and privileges of membership therein.

**Section 6.** To designate, for the benefit of the public, individuals authorized to use the terms REALTOR® and REALTORS® as licensed, prescribed and controlled by the NATIONAL ASSOCIATION OF REALTORS®.

### ARTICLE III - JURISDICTION

**Section 1.** The territorial jurisdiction of the Board as a member of the NATIONAL ASSOCIATION OF REALTORS® shall include Berkshire County, Massachusetts.

**Section 2.** Territorial jurisdiction is defined to mean:

- (A) The right and duty to control the use of the terms REALTOR® and REALTORS®, subject to the conditions set forth in these Bylaws and those of the NATIONAL ASSOCIATION OF REALTORS®, in return for which the Board agrees to protect and safeguard the property right of the NATIONAL ASSOCIATION in the terms.



## ARTICLE IV - MEMBERSHIP

**Section 1.** There shall be six classes of Members, as follows:

**(A) REALTOR® Members.** REALTOR® Members whether primary or secondary, shall be:

- (1) Individuals who, as sole proprietors, partners, corporate officers or branch office managers, are engaged actively in the real estate profession, including buying, selling, exchanging, renting or leasing, managing, appraising for others for compensation, counseling, building, developing or subdividing real estate, and who maintain or are associated with an established real estate office in the Commonwealth of Massachusetts or a state contiguous thereto. All persons who are partners in a partnership, or all officers in a corporation, who are actively engaged in the real estate profession within the Commonwealth of Massachusetts or a state contiguous thereto shall qualify for REALTOR® Membership only, and each is required to hold REALTOR® Membership (except as provided in the following paragraph) in a Board of Realtors within the State or a state contiguous thereto, unless otherwise qualified for Institute Affiliate Membership as described in Section (1.B) of Article IV.

In the case of a real estate firm, partnership or corporation whose business actively is substantially all commercial, only those principals actively engaged in the real estate business in connection with the same office, or any other offices within the jurisdiction of the Board in which one of the firms principals holds REALTOR® membership, shall be required to hold REALTOR® membership unless otherwise qualified for Institute Affiliate membership as described in Section 1B of Article 4.

- (2) Individuals who are engaged in the real estate profession other than as sole proprietors, partners, corporate officers, or branch office managers, and are associated with a REALTOR® Member and meet the qualifications set out in Article V.
- (3) Franchise REALTOR® Membership. Corporate officers (who may be licensed or unlicensed) of a real estate brokerage franchise organization with at least one hundred fifty (150) franchisees located within the United States, its insular possessions and the Commonwealth of Puerto Rico, elected to membership pursuant to the provision in the NAR Constitution and Bylaws. Such individuals shall enjoy all of the rights, privileges and obligations of REALTOR® membership (including compliance with the Code of Ethics) EXCEPT: obligations related to Board mandated education, meeting attendance, or indoctrination classes or other similar requirements; the right to use the term REALTOR® in connection with their franchise organization's name; the right to hold elective office in the local Board, State Association and National Association.
- (4) Primary and Secondary REALTOR® Members. An individual is a primary member if the Board pays State and National dues based on such Member. An individual is a secondary Member if State and National dues are remitted through another Board. One of the principals in a real estate firm must be a Designated REALTOR® Member of the Board in order for licensees affiliated with the firm to select the Board as their "primary" Board.
- (5) **Designated REALTOR® Members.** Each firm (or office in the case of firms with multiple office locations) shall designate in writing, one REALTOR® Member who shall be responsible for all duties and obligations of Membership including the obligation to arbitrate pursuant to Article 17 of the Code of Ethics and the payment of Board dues as established in Article X of the Bylaws. The "Designated REALTOR®" must be a sole proprietor, partner, corporate officer or branch office manager acting on behalf of the firm's principal(s) and must meet all other qualifications for REALTOR® Membership established in Article V, Section 2 of the Bylaws.

- (B) **Institute Affiliate Members.** Institute Affiliate Members shall be individuals who hold a professional designation awarded by an Institute, Society or Council affiliated with the NATIONAL ASSOCIATION OF REALTORS® that addresses a specialty area other than residential brokerage or individuals who otherwise hold a class of membership in such Institute, Society, or Council that confers the right to hold office. Any such individual, if otherwise eligible, may elect to hold REALTOR® membership, subject to payment of applicable dues for such membership.
- (C) **Affiliate Members.** Affiliate Members shall be real estate owners and other individuals or firms who, while not engaged in the real estate profession as defined in paragraphs A or B of this section, have interest requiring information concerning real estate, and are in sympathy with the objectives of the Board.
- Affiliate Membership shall also be granted to individuals licensed or certified to engage in real estate practice who, if otherwise eligible, do not elect to hold REALTOR® membership in the board, provided the applicant is engaged exclusively in a specialty of the real estate business other than brokerage of real property.
- (D) **Public Service Members.** Public Service Members shall be individuals who are engaged in the real estate profession as salaried employees of or affiliated with educational, public utility, governmental or other similar organizations, but are not engaged in the real estate profession on their own account or in association with an established real estate business.
- (E) **Honorary Members.** Honorary members shall be individuals not engaged in the real estate profession who have performed notable service for the real estate profession, for the Board, or for the public.
- (F) **Student Members.** Student Members shall be individuals who are seeking an undergraduate or graduate degree with a specialization or major in real estate at institutions of higher learning and who have completed at least two years of college and at least one college level course in real estate, but are not engaged in the real estate business on their own account or not associated with an established real estate office.

## ARTICLE V - QUALIFICATION AND ELECTION

**Section 1. Application.** An application for membership shall be made in such manner and form as may be prescribed by the Board of Directors and made available to anyone requesting it. The application form shall contain among the statement to be signed by the applicant:

- (a) that the applicant agrees as a condition of membership to thoroughly familiarize themselves with the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, the Constitutions, Bylaws, and Rules and Regulations of the Board, the State and National Associations, and if elected a member, will abide by the Constitutions, Bylaws and Rules and Regulation of the Board, State and National Associations, and if a REALTOR®, will abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® including the obligation to arbitrate controversies arising out of real estate transactions as specified by Article 17 of the Code of Ethics, and as further specified in the *Code of Ethics and Arbitration Manual* of the NATIONAL ASSOCIATION OF REALTORS®, as from time to time amended, and
- (b) that the applicant consents that the Board, through its Membership Committee or otherwise, may invite and receive information and comment about the applicant from any Member or other persons, and that the applicant agrees that any information and comment furnished to the Board by any person in response to the invitation shall be conclusively deemed to be privileged and not form the basis of any action for slander, libel, or defamation of character. The applicant shall, with the form of application, have access to a copy of the Bylaws, Constitution, Rules and Regulations, and Code of Ethics referred to above.

**Section 2. Qualification.**

- (a) Applicants for REALTOR® Membership who are either sole proprietors, partners, corporate officers or branch office managers of a real estate firm shall supply evidence satisfactory to the Membership Committee that they are actively engaged in the real estate profession; maintain a current valid real estate brokers or salespersons license or is licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property; has a place of business within the Commonwealth of Massachusetts or a state contiguous thereto (unless a secondary member); has no record of recent or pending bankruptcy\*; has no record of official sanctions involving unprofessional conduct\*\*; shall complete a course of instruction covering the Bylaws and Rules and Regulations of the Board, the Bylaws of the State Association and the Constitution and Bylaws and the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, and shall pass such reasonable and nondiscriminatory written examination therein as may be required by the Committee, and shall agree that if elected to membership, they will abide by such Constitution, Bylaws, Rules and Regulations, and Code of Ethics.

\* No recent or pending bankruptcy is intended to mean that the applicant or any real estate firm in which the applicant is a sole proprietor, general partner, corporate officer, or branch office manager, is not involved in any pending bankruptcy or insolvency proceedings or, has not been adjudged bankrupt in the past three (3) years. If a bankruptcy proceeding as described above exists, membership may not be rejected unless the Board establishes that its interests and those of its members and the public could not be adequately protected by requiring that the bankrupt applicant pay cash in advance for Board and MLS fees for up to one (1) year from the date that membership is approved or from the date that the applicant is discharged from bankruptcy (whichever is later). In the event that an existing member initiates bankruptcy proceedings, the member may be placed on a "cash basis" from the date that bankruptcy is initiated until one (1) year from the date that the member has been discharged from bankruptcy.

\*\* No record of official sanctions involving unprofessional conduct is intended to mean that the Board may only consider:

- (a) judgments within the past three (3) years of violations of (1) civil rights laws; (2) real estate license laws; (3) or other laws prohibiting unprofessional conduct against the applicant rendered by the courts or other lawful authorities.
- (b) criminal convictions if (1) the crime was punishable by death or imprisonment in excess of one year under the law under which the applicant was convicted, and (2) no more than ten years have elapsed since the date of the conviction or the release of the applicant from the confinement imposed for that conviction, whichever is the later date. (Amended 5/07)
- (b) Individuals who are actively engaged in the real estate profession other than as a sole proprietor, partner, corporate officer or branch office manager, in order to qualify for Realtor® Membership, shall at the time of application be associated either as an employee of or as an independent contractor with a Designated Realtor® member of the Board, or a Designated Realtor® Member of another Board if a secondary member, and must maintain a current valid real estate broker's or salesperson's license or be licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and has no record of official sanctions involving unprofessional conduct, shall complete a course of instruction covering the Bylaws and rules and regulations of the Board, the Bylaws of the State Association, and the Constitution and Bylaws and Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, and shall pass such reasonable and nondiscriminatory written examinations thereon as may be required by the membership committee, and shall agree in writing that if elected to membership he/she will abide by such Constitution, Bylaws, rules and regulations, and the Code of Ethics (amended 5/07)

- (c) The Board will also consider the following in determining an applicants qualification for REALTOR® Member:
- 1) All final findings of Code of Ethics violations and violations of other membership duties in any other Association in the past three (3) years.
  - 2) Pending ethics complaints or hearings
  - 3) Unsatisfied discipline pending
  - 4) Pending Arbitration requests or hearings
  - 5) Unpaid Arbitration awards or unpaid financial obligations to any other association or any other association MLS.
  - 6) Any misuse of the term REALTOR® or REALTORS® in the name of the applicant's firm.
- (d) "Provisional" membership may be granted in instances where ethics complaints or arbitration requests (or hearings) are pending in other associations or where the applicant for membership has unsatisfied discipline pending in another association (except for violations of the Code of Ethics; See Article V, Section 2(a) NOTE 2) provided all other qualifications for membership have been satisfied. Associations may reconsider the membership status of such individuals when all pending ethics and arbitration matters (and related discipline) have been resolved or if such matters are not resolved within six months from the date that provisional membership is approved. Provisional members shall be considered REALTORS® and shall be subject to all of the same privileges and obligations of REALTOR® membership. If a member resigns from another association with an ethics complaint or arbitration request pending, the association may condition membership on the applicant's certification that he/she will submit to the pending ethics or arbitration proceeding (in accordance with the established procedures of the association to which the applicant has made application) and will abide by the decision of the hearing panel.

**Section 3. Election.** The procedure for election to membership shall be as follows:

- a) The chief executive officer (or duly authorized designee) shall determine whether the applicant is applying for the appropriate class of membership. Applicants for REALTOR® membership may be granted provisional membership immediately upon submission of a completed application form and remittance of applicable Board dues and any application fee. Provisional members shall be considered REALTORS® and shall be subject to all of the same privileges and obligations of membership. Provisional membership is granted subject to final review of the application by the board of directors.
- b) If the board of directors determines that the individual does not meet all of the qualifications for membership as established in the Board's Bylaws, or, if the individual does not satisfy all of the requirements of membership (for example, completion of a mandatory orientation program) within \_\_\_\_\_ days from the Board's receipt of their application, membership may, at the discretion of the board of directors, be terminated. In such instances, dues shall be returned to the individual less a prorated amount to cover the number of days that the individual received Board services and any application fee. The board of directors shall vote on the applicant's eligibility for membership. If the applicant receives a majority vote of the board of directors, he/she shall be declared elected to membership and shall be advised by written notice.
- c) The board of directors may not reject an application without providing the applicant with advance notice of the findings, an opportunity to appear before the board of directors, to call witnesses on his/her behalf, to be represented by legal counsel, and to make such statements as he/she deems relevant. The board of directors may also have counsel present. The board of directors shall require that written minutes be made of any hearing before it or may electronically or mechanically record the proceedings.
- d) If the board of directors determines that the applicant should be rejected, it shall record its reasons with the chief staff executive (or duly authorized designee). If the board of directors believes that denial of membership to the applicant may become the basis of litigation and a claim of damage by the applicant,

it may specify that denial shall become effective upon entry in a suit by the Board for a declaratory judgment by a court of competent jurisdiction of a final judgment declaring that the rejection violates no rights of the applicant. (Adopted 1/98, Amended 1/05)

#### **Section 4. New member Code of Ethics Orientation.**

Applicants for REALTOR® membership and provisional members shall complete an orientation program on the Code of Ethics of not less than 2 hours and 30 minutes of instructional time. This requirement does not apply to applicants for REALTOR® membership who have completed comparable orientation in another association, provided that REALTOR® membership has been continuous or that any break in membership has been for one (1) year or less.

Failure to satisfy this requirement within 180 days of the date of application will result of denial of the membership application.

#### **Section 5. Continuing Member Code of Ethics Training.**

Effective January 1, 2019, through December 31, 2021, and for successive two-year periods thereafter, each REALTOR® member of the association (with the exception of REALTOR® members granted REALTOR® Emeritus status by the National Association) shall be required to complete ethics training of not less than two (2) hours and thirty (30) minutes of instructional time. The requirement will be satisfied upon presentation of documentation that the member has completed a course of instruction conducted by this or another REALTOR association, the State Association of REALTORS®, or the NATIONAL ASSOCIATION OF REALTORS® which meets the learning objectives and minimum criteria established by the NATIONAL ASSOCIATION OF REALTORS® from time to time. REALTOR® members who have completed training as a requirement of membership in another association and REALTOR® members who have completed the New Member Code of Ethics Orientation during any three (3) year cycle shall not be required to complete additional ethics training until a new three (3) year cycle commences.

Failure to satisfy the required periodic ethics training shall be considered a violation of a membership duty. Failure to meet the requirement in any three (3) year cycle will result in suspension of membership for the first two months (January and February) of the year following the end of any three (3) year cycle or until the requirement is met, whichever occurs sooner. On March 1 of that year, the membership of a member who is still suspended as of that date will be automatically terminated. (Amended February 2020)

#### **Section 6. Designated REALTOR® Legal Liability Training**

All current Designated REALTOR® members of the Berkshire County Board of REALTORS® shall, no later than December 31st, 2008, be required to demonstrate that they have completed six (6) hours of instruction geared exclusively to Brokerage ownership and management issues related to risk reduction and any policies or laws that might result in a significant legal vulnerability or liability to the organization and its members.

Within six (6) months of the date of membership approval, each new Designated REALTOR® shall henceforth be required to demonstrate that they have completed six (6) hours of instruction of instruction geared exclusively to Brokerage ownership and management issues related to risk reduction and any policies or laws that might result in a significant legal vulnerability or liability to the organization and its members.

This requirement will be considered satisfied upon presentation of evidence that the member has completed an educational program conducted by this Board or any other recognized educational institution which, in the opinion of the Board of Directors, is an adequate substitute for the training programs conducted by the Board.

*NOTE: Any education requirement must comply with Interpretation No. 37 of Article I, Section 2, Bylaws, NATIONAL ASSOCIATION OF REALTORS®.*

### **Section 7. Status Changes.**

(a) A REALTOR® who changes the conditions under which they hold membership shall be required to provide written notification to the Board within thirty (30) days. A REALTOR® (non-principal) who becomes a principal in the firm with which they have been licensed or, alternatively, becomes a principal in a new firm which will be comprised of REALTOR® principals may be required to satisfy any previously unsatisfied membership requirements applicable to REALTOR® (principal) Members but shall, during the period of transition from one status of membership to another, be subject to all of the privileges and obligations of a REALTOR® (principal). If the REALTOR® (non-principal) does not satisfy the requirements established in these Bylaws for the category of membership to which they have transferred within thirty (30) days of the date they advised the Board of their change in status, their new membership application will terminate automatically unless otherwise so directed by the Board of Directors.

A REALTOR® who is transferring their license from one firm comprised of REALTOR® principals to another firm comprised of REALTOR® principals shall be subject to all of the privileges and obligations of membership during the period of transition. If the transfer is not completed within thirty (30) days of the date the board is advised of the disaffiliation with the current firm, membership will terminate automatically unless otherwise so directed by the Board of Directors.

The Board of Directors, at its discretion, may waive any qualification which the applicant has already fulfilled in accordance with the Board's Bylaws.

(b) Any application fee related to a change in membership status shall be reduced by an amount equal to any application fee previously paid by the applicant.

(c) Dues shall be prorated from the first day of the month in which the member is notified of election by the Board of Directors and shall be based on the new membership status for the remainder of the year. (Amended 1/05)

## **ARTICLE VI - PRIVILEGES AND OBLIGATIONS**

**Section 1.** The privileges and obligations of members, in addition to those otherwise provided in these Bylaws, shall be specified in this Article.

**Section 2.** Any Member of the Board may be reprimanded, fined, placed on probation, suspended, or expelled by the Board of Directors for a violation of these Bylaws and Board Rules and Regulations consistent with these Bylaws, after a hearing as provided in the *Code of Ethics and Arbitration Manual* of the NATIONAL ASSOCIATION OF REALTORS®. Although Members other than REALTORS® are not subject to the Code of Ethics nor its enforcement by the Board, such Members are encouraged to abide by the principles established in the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, and to conduct their business and professional practices accordingly. Further, Members other than REALTORS® may, upon recommendation of the Membership Committee, or upon recommendation by a hearing panel of the Professional Standards Committee, be subject to discipline as described above, for any conduct, which in the opinion of the Board of Directors, applied on a nondiscriminatory basis, reflects adversely on the terms REALTOR® or REALTORS®, and the real estate industry, or for conduct that is inconsistent with or adverse to the objectives and purposes of the local Board, the State Association, and the NATIONAL ASSOCIATION OF REALTORS®.

**Section 3.** Any REALTOR® member of the Board may be disciplined by the Board of Directors for violations of the Code of Ethics or other duties of membership, after a hearing as described in the Code of Ethics and Arbitration manual of the NATIONAL ASSOCIATION OF REALTORS®, provided that the discipline imposed is consistent with the discipline authorized by the Professional Standards Committee of the NATIONAL ASSOCIATION OF REALTORS® as set forth in the Code of Ethics and Arbitration manual of the NATIONAL ASSOCIATION OF REALTORS®.

**Section 4. Resignations.** Resignations of members shall become effective when received in writing by the Board of Directors provided, however, that if any Member submitting the resignation is indebted to the Board for dues, fees, fines or other assessments of the Board or any of its services, departments, divisions or subsidiaries, the Board may condition the right of the resigning Member to reapply for membership upon payment in full of all such monies owed.

**Section 5.** If a Member resigns from the Board or otherwise causes membership to terminate with an ethics complaint pending, the complaint shall be processed until the decision of the Board with respect to disposition of the complaint is final by this Board (if respondent does not hold membership in any other association) or by any other association in which the respondent continues to hold membership. If an ethics respondent resigns or otherwise causes membership in all Board to terminate before an ethics complaint is filed alleging unethical conduct occurred while the respondent was a REALTOR®, the complaint, once filed, shall be processed until the decision of the association with respect to disposition of the complaint is final. In any instance where an ethics hearing is held subsequent to an ethics respondent's resignation or membership termination, any discipline ratified by the Board of Directors shall be held in abeyance until such time as the respondent rejoins an association of REALTORS®.

- (a) if the Member resigns or otherwise causes membership to terminate, the duty to submit to Arbitration (or to mediation if required by the Board) continues in effect even after membership lapses or is terminated, provided the dispute arose when the former member was a REALTOR®. (Amended 1/00 and 11/11)
- (b) without having complied with an award in arbitration, the Board of Directors may condition any reapplication of the former Member upon his promise to pay the award, plus any costs that have previously been established as due and payable by the former Member, provided that the award has not, in the meanwhile, been otherwise satisfied.

**Section 6. REALTOR® Members.** REALTOR® Members, whether primary or secondary, in good standing, whose financial obligations to the Board are paid in full shall be entitled to vote and to hold elective office in the Board; may use the terms REALTOR® and REALTORS®, and have the primary responsibility to safeguard and promote the standards, interests, and welfare of the Board and the real estate profession.

- (a) If a REALTOR® Member is a sole proprietor in a firm, a partner in a partnership, or an officer in a corporation and is suspended or expelled, the firm, partnership, corporation shall not use the terms REALTOR® or REALTORS® in connection with its business during the period of suspension, or until re-admission to REALTOR® Membership, or unless connection with the firm, partnership or corporation is severed, whichever may apply.
- (b) The membership of all other principals, partners or corporate officers shall suspend or terminate during the period of suspension of the disciplined member, or until readmission of the disciplined member, or unless connection of the discipline member with the firm, partnership or corporation is severed, whichever may apply.
- (c) Further, the membership of REALTORS® other than principals who are employed by or affiliated as independent contractors with the disciplined Member shall suspend or terminate during the period of suspension of the disciplined Member or until readmission of the disciplined Member or until connection of the disciplined Member with the firm, partnership or corporation is severed, or unless the REALTOR®



Member (non-principal) elects to sever their connection with the REALTOR® and affiliates with another REALTOR® Member in good standing in the Board, whichever may apply. If a REALTOR® Member who is other than a principal in a firm, partnership or corporation is suspended or expelled, the use of the terms REALTOR® or REALTORS® by the firm, partnership, or corporation shall not be affected.

- (d) In any action taken against a REALTOR® Member for suspension or expulsion under Section 6 hereof, notice of such action shall be given to all REALTORS® employed by or affiliated as independent contractors with such REALTOR® Member and they shall be advised that the provisions in Article VI, Section 6(a) shall apply.

**Section 7. Institute Affiliate Members.** Institute Affiliate Members shall have such rights and privileges and be subject to such obligations as are prescribed by the Board of Directors in compliance with the Constitution and Bylaws of the NATIONAL ASSOCIATION OF REALTORS®.

**Section 8. Affiliate Members.** Affiliate Members shall have such privileges and rights and be subject to such obligations as may be prescribed by the Board of Directors.

**Section 9. Public Service Members.** Public Service Members shall have such privileges and rights and be subject to such obligations as may be prescribed by the Board of Directors.

**Section 10. Honorary Members.** Honorary Members shall receive no rights except the right to attend meetings and participate in discussions, and shall have no obligations imposed on them.

**Section 11. Student Members.** Student Members shall have such privileges and rights and shall be subject to such obligations as may be prescribed by the Board of Directors.

**Section 12. Certification by REALTOR®.** “Designated” REALTOR® Members of the Board shall certify to the Board during the month of October on a form provided by the Board, a complete listing of all individuals licensed or certified with the REALTOR® firm(s), and shall designate a primary Board for each individual who holds membership. Designated REALTORS® shall also identify any non-member licensees in the REALTOR’S® office(s) and if Designated REALTOR® dues have been paid to another Board based on said non-member licensees, the Designated REALTOR® shall identify the Board to which dues have been remitted. These declarations shall be used for purposes of calculating dues under Article X, Section 2(a) of the Bylaws, “Designated” REALTOR® Members shall also notify the Board of any additional individual(s) licensed or certified with the firm(s) within seven (7) days of the date of affiliation or severance of the individual.

**Section 13. Harassment.** Any member of the association may be reprimanded, placed on probation, suspended or expelled for harassment of an association or MLS employee or Association Officer or Director or candidate for election as an officer or director or for harassment of any member during an association function or on association’s premises after an investigation in accordance with the procedures of the association. As used in this Section, harassment means any verbal or physical conduct including threatening or obscene language, unwelcome sexual advances, stalking, actions including strikes, shoves, kicks, or other similar physical contact, or threats to do the same, or any other conduct with the purpose or effect of unreasonably interfering with an individual's work performance by creating a hostile, intimidating or offensive work environment. The decision of the appropriate disciplinary action to be taken shall be made by the investigatory team comprised of the President, and President-elect and/or Vice President and one member of the Board of Directors selected by the highest ranking officer not named in the complaint, upon consultation with legal counsel for the association. Disciplinary action may include any sanction authorized in the association’s Code of Ethics and Arbitration Manual. If the complaint names the President, President-Elect or Vice President, they may not participate in the proceedings and shall be replaced by the Immediate Past President or, alternatively, by another member of the Board of Directors selected by the highest ranking officer not named in the complaint.

## **ARTICLE VII - PROFESSIONAL STANDARDS AND ARBITRATION**

**Section 1.** The responsibility of the Board and of Board Members relating to the enforcement of the Code of Ethics, the disciplining of Members, the arbitration of disputes, and the organization and procedures incident thereto, shall be governed by the *Code of Ethics and Arbitration Manual* of the NATIONAL ASSOCIATION OF REALTORS®, as from time to time amended, which by this reference is made a part of these Bylaws, provided, however, that any provision deemed inconsistent with state law shall be deleted or amended to comply with state law..

**Section 2.** It shall be the duty and responsibility of every REALTOR® Member of this Board to abide by the Constitution and Bylaws and the Rules and Regulations of the Board, the Constitution and Bylaws of the State Association, the Constitution and Bylaws of the NATIONAL ASSOCIATION OF REALTORS®, and to abide by the Code of Ethics of The NATIONAL ASSOCIATION OF REALTORS®, including the duty to mediate and arbitrate controversies arising out of real estate transactions as specified by Article 17 of the Code of Ethics, and as further defined and in accordance with the procedures set forth in the *Code of Ethics and Arbitration Manual* of this Board as from time to time amended.

**Section 3. Discipline of REALTOR Members:** Any REALTOR® member of the association may be disciplined by the board of directors for violations of the Code of Ethics or other duties of membership, after a hearing as described in the Code of Ethics and Arbitration Manual of the association, provided that the discipline imposed is consistent with the discipline authorized by the Professional Standards Committee of the NATIONAL ASSOCIATION OF REALTORS® as set forth in the Code of Ethics and Arbitration Manual of the National Association.

**Section 4. Enforcement of the Code:** The responsibility of the association and of association members relating to the enforcement of the Code of Ethics, the disciplining of members, and the arbitration of disputes, and the organization and procedures incident thereto, shall be governed by the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS®, as amended from time to time, which is by this reference incorporated into these Bylaws, provided, however, that any provision deemed inconsistent with state law shall be deleted or amended to comply with state law.

## ARTICLE VIII - USE OF THE TERMS REALTOR® AND REALTORS®

Inclusion and retention of the Registered Collective Membership Mark REALTORS® in the name of the association shall be governed by the Constitution and Bylaws of the NATIONAL ASSOCIATION OF REALTORS® as from time to time amended.

**Section 1.** Use of the terms REALTOR® and REALTORS® by Members shall, at all times, be subject to the provisions of the Constitution and Bylaws of the NATIONAL ASSOCIATION OF REALTORS® and to the Rules and Regulations prescribed by its Board of Directors. The Board shall have the authority to control, jointly and in full cooperation with the NATIONAL ASSOCIATION OF REALTORS®, use of the terms within its jurisdiction. Any misuse of the terms by members is a violation of a membership duty and may subject members to disciplinary action by the Board of directors after a hearing is provided for in the Board's Code of Ethics and Arbitration Manual.

**Section 2.** REALTOR® Members of the Board shall have the privilege of using the terms REALTOR® and REALTORS® in connection with their places of business within the Commonwealth of Massachusetts or a state contiguous thereto, so long as they remain REALTOR® Members in good standing. No other class of members shall have this privilege.

**Section 3.** A REALTOR® Member who is a principal of a real estate firm, partnership, or corporation may use the terms REALTOR® and REALTORS® only if all the principals of such firm, partnership, or corporation are actively engaged in the real estate profession within the Commonwealth of Massachusetts or a state contiguous

thereto are REALTOR® Members of the Board or Institute Affiliate Members as described in Section 1(b) of Article IV.

A. In the case of a REALTOR® member who is a principal of a real estate firm, partnership or corporation whose business activity is substantially all commercial, the right to use the term REALTOR® or REALTORS® shall be limited to office locations in which a principal, partner, corporate officer or branch office manager of the firm, partnership or corporation holds REALTOR® membership. If a firm, partnership or corporation operates additional places of business in which no principal, partner, corporate officer or branch office manager holds REALTOR® membership the term REALTOR® or REALTORS® may not be used in any reference to those additional places of business

**Section 4.** Institute Affiliate Members shall not use the terms REALTOR® or REALTORS®, nor the imprint of the emblem seal of the NATIONAL ASSOCIATION OF REALTORS®.

## **ARTICLE IX - STATE AND NATIONAL MEMBERSHIP**

**Section 1.** The Board shall be a member of the NATIONAL ASSOCIATION OF REALTORS® and the Massachusetts Association of REALTORS®. By reason of the board's Membership, each REALTOR® Member of the Member Board shall be entitled to membership in the NATIONAL ASSOCIATION OF REALTORS® and the Massachusetts Association of REALTORS® without further payment of dues. The Board shall continue as a member of the State and National Association, unless by a majority vote of all of its REALTOR® Members, decision is made to withdraw, in which case the State and National Associations shall be notified as least one month in advance of the date designated for the termination of such membership.

**Section 2.** The Board recognizes the exclusive property rights of the NATIONAL ASSOCIATION OF REALTORS® in the terms REALTOR® and REALTORS®. The Board shall discontinue use of the terms in any form in its name, upon ceasing to be a Member of the National Association, or upon a determination by the Board of Directors of the National Association that it has violated the conditions imposed upon the terms.

**Section 3.** The Board adopts the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® and agrees to enforce the Code among its REALTOR® Members. The Board and all of its members agree to abide by the Constitution, Bylaws, Rules and Regulations, and policies of the National Association and the Massachusetts State Association of REALTORS®.

## **ARTICLE X - DUES AND ASSESSMENTS**

**Section 1. Application Fee.** The Board of Directors may adopt an application fee for REALTOR® Membership in a reasonable amount, not exceeding three times the amount of the annual dues for REALTOR® membership which shall be required to accompany each application for REALTOR® membership, and which shall become the property of the Board upon final approval of the application.

**Section 2. The annual dues of Members shall be as follows:**

- (a) **Designated REALTOR® Members** The annual dues of each Designated REALTOR® Member shall be in such amount as established annually by the Board of Directors, plus an additional amount to be established annually by the Board of Directors times the number of real estate salesperson and licensed or certified appraisers who (1) are employed by or affiliated as independent contractors, or who are otherwise directly or indirectly licensed with such REALTOR® Member and (2) are not REALTOR® Members of any Board in the state or contiguous state thereto or Institute Affiliate Members of the Board. In calculating the dues payable to the Board by a Designated REALTOR® Member, non-member licensees as defined in Section 2(a)(1) of this Article shall not be included in the computation of dues if the DR has paid dues based on said non-member licensees in another Board in the state or contiguous

state thereto, provided the Designated REALTOR® notifies the Board in writing of the identity of the Board to which dues have been remitted. In the case of a Designated REALTOR® member in a firm, partnership or corporation whose business is substantially all commercial, any assessments for non-member licensees shall be limited to licensees affiliated with the Designated REALTOR® (as defined in 1 and 2 of this paragraph) in the office where the Designated REALTOR® holds membership and any other offices of the firm located within the jurisdiction of this board.

- 1) For the purpose of this Section, a REALTOR® Member of a Member Board shall be held to be any Member who has a place or places of business within the state or a state contiguous thereof and who, as a principal, partner, corporate officer, or branch office manager of a real estate firm, partnership, or corporation, is actively engaged in the real estate profession as defined in Article III, Section 1, of the Constitution of the NATIONAL ASSOCIATION OF REALTORS®. An individual shall be deemed to be licensed with a REALTOR® if the license of the individual is held by the REALTOR®, or by any broker who is licensed with a REALTOR®, or by any entity in which the REALTOR® has direct or indirect ownership interest and which is engaged in other aspects of the real estate business (except as provided for in Section 2 (a) (1) hereof) provided that such licensee is not otherwise included in the computation of dues payable by the principal, partner, corporate officer or branch office manager of the entity.

A REALTOR® with a direct or indirect ownership interest in an entity engaged exclusively in soliciting and/or referring clients and customers to the REALTOR® for consideration on a substantially exclusive basis shall annually file with the association on a form approved by the association a list of the licensees affiliated with that entity and shall certify that all of the licensees affiliated with the entity are solely engaged in referring clients and customers and are not engaged in listing, selling, leasing, renting, managing, counseling or appraising real property. The individuals disclosed on such form shall not be deemed to be licensed with the REALTOR® filing the form for purposes of this Section and shall not be included in calculating the annual dues of the Designated REALTOR®. Designated REALTORS shall notify the association within three (3) days of any change in status of licensees in a referral firm.

The exemption for any licensee included on the certification form shall automatically be revoked upon the individual being engaged in real estate licensed activities (listing, selling, leasing, renting, managing, counseling or appraising real property) other than referrals and dues for the current fiscal year shall be payable.

Membership dues shall be prorated for any licensee included on a certification form submitted to the Board who during the same calendar year applies for REALTOR® or REALTOR-ASSOCIATE® membership in the association. However, membership dues shall not be prorated if the licensee held REALTOR® or REALTOR-ASSOCIATE® membership during the preceding calendar year. (Amended 5/16)

- (b) **REALTOR® Members.** The annual dues of each REALTOR® Member other than the designated REALTOR® shall be established annually by the Board of Directors.

**(c) Institute Affiliate Members.** *The annual dues of each Institute Affiliate member shall be as established in Article II of the Bylaws of the NATIONAL ASSOCIATION OF REALTORS®.*

**NOTE:** *The Institutes, Societies, and Councils of the National Association shall be responsible for collecting and remitting dues to the National Association for Institute Affiliate members (\$105). The National Association shall credit \$35 to the account of a local association for each Institute Affiliate Member whose office address is within the assigned territorial jurisdiction of that association, provided, however, if the office location is also within the territorial jurisdiction of a Commercial Overlay Board (COB), the \$35 amount will be credited to the COB, unless the Institute Affiliate member directs that the dues be distributed to the other association. The National Association shall also credit \$35 to the account of state*

*associations for each Institute Affiliate member whose office address is located within the territorial jurisdiction of the state association. Local and state associations may not establish any additional entrance, initiation fees or dues for Institute Affiliate members, but may provide service packages to which Institute Affiliate members may voluntarily subscribe. (Amended 11/2013)*

- (d) **Affiliate Members.** The annual dues of each Affiliate Member shall be established annually by the Board of Directors.
- (e) **Public Service Members.** The annual dues of each Public Service Member shall be established by the Board of Directors.
- (f) **Honorary Members.** Dues payable, if any, shall be at the discretion of the Board of Directors.
- (g) **Student Members.** Dues payable, if any, shall be at the discretion of the Board of Directors.

**Section 3. Dues Payable.** Dues for all Members shall be payable annually in advance on the first day of December. Dues for new members shall be computed from the date of application and granting of provisional membership.

- (a) In the event a sales licensee or licensed certified appraiser who holds REALTOR® membership is dropped for non-payment of Board dues, and the licensee remains with the designated REALTOR®'s firm, the dues obligation of the "Designated" REALTOR® (as set forth in Article X, Section 2a) will be increased to reflect the addition of a non-Member licensee. Dues shall be calculated from the first day of the current fiscal year and are payable within 30 days of the notice of termination.

**Section 4. Non-payment of Financial Obligations.** If dues, fees fines, or other assessments including amounts owed to the Board or the Board's Multiple Listing Service are not paid within one month after due date, the non-paying Member is subject to suspension at the discretion of the Board of Directors. Two months after due date, membership of the non-paying Member may be terminated at the discretion of the Board of Directors. Three months after due date, membership of the non-paying Member shall be automatically terminated unless within that time the amount due is paid. However, no action shall be taken to suspend or expel a Member for nonpayment of disputed amounts until the accuracy of the amount owed has been confirmed by the Board of Directors. A former Member who has had his membership terminated for nonpayment of dues, fees, fines or other assessments duly levied in accordance with the provisions of these Bylaws or the provisions of other Rules and Regulations of the Board or any of its services, departments divisions or subsidiaries may apply for reinstatement in the manner prescribed for new applicants for membership, after making payment in full of all accounts due as of the date of termination.

**Section 5. Deposit.** Deposits and expenditures of funds shall be in accordance with policies established by the Board of Directors.

**Section 6. Expenditures.** The Board of Directors shall administer the finances of the Board, but shall not incur any obligation in excess of the available cash on hand without authorization by vote of a majority of all the REALTOR® Members present and qualified to vote at any meeting at which a quorum is present.

**Section 7. Dues and Assessments.** All dues, fees fines, assessments or other or financial obligations to the Board or Board Multiple Listing Service shall be noticed to the delinquent member, in writing, setting forth the amount owed and due date. The dues of REALTOR® Members who are REALTOR® Emeriti (as recognized by the National Association), Past Presidents and past Treasurers of the National Association or recipients of the Distinguished Service Award shall be as determined by the Board of Directors. (Amended 12/2013)

## **ARTICLE XI - OFFICERS AND DIRECTORS**

**Section 1. Officers.** The elected officers of the Board shall be: a President, a President Elect, a Vice President, and a Secretary / Treasurer. All officers shall be elected for terms of one year.

**Section 2. Duties of Officers.** The duties of the officers shall be such as their titles, by general usage would indicate, and such as may be assigned to them by the Board of Directors. It shall be the particular duty of the Secretary to keep the records of the Board and to carry on all necessary correspondence with the NATIONAL ASSOCIATION OF REALTORS® and the Massachusetts Association of REALTORS®.

**Section 3. Board of Directors.** The governing body of the Board shall be a Board of Directors consisting of the Elected Officers, its immediate past President, six (6) REALTOR Directors elected for a term of two years with staggered expiration dates, and the Multiple Listing Service President. Directors shall be balanced between the three council regions. State Directors, while not members of the Board of Directors, shall be invited to attend the meetings. (Amended October 2013)

**Section 4. Election of Officers.**

- (a) At least two (2) months before the annual election, a Nominating Committee of five (5) REALTOR® Members shall be appointed by the President with the approval of the Board of Directors. The Nominating Committee shall select one candidate for each office and one candidate for each place to be filled on the Board of Directors. The report of the Nominating Committee shall be mailed or where permitted by state law, electronically transmitted to each Member eligible to vote at least three (3) weeks preceding the election. Additional candidates for the offices to be filled may be placed in nomination by petition signed by at least ten (10%) percent of the REALTOR® Members eligible to vote. The petition shall be filed with the Chief Executive Officer at least two (2) weeks before the election. The Chief Executive Officer shall send notice of such additional nominations to all Members eligible to vote before the election.
- (b) The election of officers and directors shall take place at the annual meeting. Elections shall be by ballot and all votes shall be cast in person. The ballot shall contain the names of all candidates and offices for which they are nominated.

**Section 5. Vacancies.** Vacancies among the Officers and the Board of Directors shall be filled by the Board of Directors until the next annual election.

**Section 6. Removal of Officers and Directors.** In the event that an Officer or Director is deemed to be incapable of fulfilling the duties for which elected, but will not resign from office voluntarily, the Officer or Director may be removed from office under the following procedure:

- (a) A petition requiring the removal of an Officer or Director and signed by not less than one third of the voting membership or a majority of all Directors shall be filed with the President, or if the President is the subject of the petition, with the next-ranking officer, and shall specifically set forth the reasons the individual is deemed to be disqualified from further service.
- (b) Upon receipt of the petition, and not less than twenty (20) days or more than forty-five (45) days thereafter, a special meeting of the voting membership of the Board shall be held, and the sole business of the meeting shall be to consider the charge against the Officer or Director, and to render a decision on such petition.
- (c) The special meeting shall be noticed to all voting Members at least ten (10) days prior to the meeting, and shall be conducted by the President of the Board unless the President's continued service in office is being considered at the meeting. In such case, the next-ranking officer will conduct the meeting of

the hearing by the Members. Provided a quorum is present, a three-fourths vote of Members present and voting shall be required for removal from office.

**Section 7. Chief Staff Executive.** There shall be a Chief Staff Executive, appointed by the Board of Directors, who shall be the chief administrative officer of the Board. The Chief Staff Executive shall have the authority to hire, supervise, evaluate and terminate other staff, if any, and shall perform such other duties as prescribed by the Board of Directors.

## ARTICLE XII - MEETINGS

**Section 1. Annual Meetings.** The annual meeting of the Board shall be held during October of each year. The date, place, and hour shall be designated by the Board of Directors.

**Section 2. Meetings of Directors.** The Board of Directors shall designate a regular time and place of meeting. Absence from three (3) regular meetings without an excuse deemed valid by the Board of Directors shall be construed as resignation there from.

**Section 3. Other Meetings.** Meetings of the Members may be held at such other times as the President or the Board of Directors may determine, or upon the written request of at least ten percent of the REALTOR® Members.

**Section 4. Notice of Meetings.** Written notice shall be given to every member entitled to participate in the meeting at least one week preceding all meetings. If a special meeting, it shall be accompanied by a statement of the purpose of the meeting.

**Section 5. Quorum.** A quorum for the transaction of business shall consist of twenty percent (20%) of the REALTOR® Members.

**Section 6. Electronic Transaction of Business.** To the fullest extent permitted by law, the Board of Directors or membership may conduct business by electronic means.

**Section 7. Action Without Meeting** Unless specifically prohibited by the articles of incorporation, any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting for the action so taken, shall be signed by all the directors. The consent shall be evidenced by one or more written approvals, each of which sets forth the action taken and bears the signature of one or more directors. All the approvals evidencing the consent shall be delivered to the chief staff executive to be filed in the corporate records. The action taken shall be effective when all the directors have approved the consent unless the consent specifies a different effective date. (Adopted 1/05)

## ARTICLE XIII - COMMITTEES

**Section 1. Standing Committees.** The President shall appoint from among the REALTOR® Members, subject to confirmation by the Board of Directors, the following standing Committees: Professional Standards and Grievance

The President may appoint from among the REALTOR® Members, subject to confirmation by the Board of Directors, the following additional committees, as needed: Finance, Legislative, Public Relations, Membership, REALTOR Protection, Education, Equal Opportunity, RPAC Fundraising, International, Commercial, Affordable Housing, Community Service, REALTOR of the Year, Strategic Planning and Administrative)

**Section 2. Special Committees.** The President shall appoint, subject to confirmation by the Board of Directors, such special committees, as deemed necessary.

**Section 3. Organization.** All committees shall be of such size and shall have such duties, functions, and powers as may be assigned to them by the President or the Board of Directors, except as otherwise provided in these Bylaws. Committee chairpersons will be appointed by the President of the Berkshire County Board of REALTORS®, and whenever possible will be selected from past committee members. All actions of any committees shall be subject to the approval of the Board of Directors of the Berkshire County Board of REALTORS®.

**Section 4. President.** The president shall be an *ex-officio* member of all standing committees and shall be notified of their meetings.

**Section 5. Action without Meeting.** Any committee may act by unanimous consent in writing without a meeting. The consent shall be evidenced by one or more written approvals, each of which sets forth the action taken and bears the signature of one or more of the members of the committee. (Adopted 1/05)

**Section 6. Attendance by Electronic Communication Method.** Members of a committee may participate in any meeting through the use of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall be at the discretion of the President and shall constitute presence at the meeting.

## ARTICLE XIV - FISCAL AND ELECTIVE YEAR.

**Section 1.** The fiscal and elective year of the Board shall be the calendar year.

## ARTICLE XV - RULES OF ORDER

**Section 1.** Robert's Rules of Order, latest edition, shall be recognized as the authority governing the meetings of the Board and its Board of Directors and committees in all instances wherein its provisions do not conflict with these Bylaws.

## ARTICLE XVI - AMENDMENTS

**Section 1.** These Bylaws may be amended by majority vote of the REALTOR® Members present and qualified to vote at any meeting at which a quorum is present, provided the substance of such proposed amendment or amendments shall be plainly stated in the call for the meeting, except that the Board of Directors may, at any regular or special meeting of the Board of Directors at which a quorum is present, approve amendments to the Bylaws which are mandated by NAR policy. Article IX may be amended only by a majority vote of all REALTOR® Members.

**Section 2.** The Board of Directors shall formulate and electronically transmit all proposed amendments to these Bylaws for consideration by the Membership to each Member eligible to vote at least one (1) week prior to the time of the meeting.

**Section 3.** Any REALTOR member in good standing may submit proposed amendments to these Bylaws for consideration by the Board of Directors. Should the Board of Directors choose not to place the suggested amendments on the agenda for consideration at the annual or special meeting, they can be added to the agenda by petition signed by at least ten (10%) percent of the REALTOR® Members eligible to vote. The petition shall be filed with the Chief Executive Officer at least two (2) weeks prior to the time of the meeting and notice of the



substance of such proposed amendment or amendments shall be transmitted to all Members eligible to vote at least one (1) week time prior to the time of the meeting.

**Section 4.** Amendments to these Bylaws affecting the admission or qualification of REALTOR® Members and Institute Affiliate Members, for use of the terms REALTOR® and REALTORS®, or any alteration in the territorial jurisdiction of the Board shall become effective upon their approval by the Board of Directors of the National Association.

## ARTICLE XVII - DISSOLUTION

**Section 1.** Upon the dissolution of this Board, the Board of Directors, after providing for the payment of all obligations, shall distribute any remaining assets to the Massachusetts Association of REALTORS® or, within its discretion, to any other non-profit tax exempt organization.

## ARTICLE XVIII - SUBSIDIARY MULTIPLE LISTING SERVICE CORPORATION

**Section 1. Authority.** The Board of REALTORS® shall maintain for the use of its Members a Multiple Listing Service, which shall be a lawful corporation of the Commonwealth of Massachusetts, and the stock of which shall be owned by this Board of REALTORS®.

**Section 2. Purpose.** A Multiple Listing Service is a means by which authorized Participants make blanket unilateral offers of compensation to other Participants (acting as subagents, buyer agents, or in other agency or nonagency capacities defined by law); by which cooperation among participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as a procuring cause of the sale (or lease).

**Section 3. Governing Documents.** The Board of Directors shall cause any Multiple Listing Service established by it pursuant to this Article to conform its corporate Charter, Constitution, Bylaws, Rules, Regulations, Policies, Practices, and Procedures to the Constitution, Bylaws, Rules, Regulations and Policies of the NATIONAL ASSOCIATION OF REALTORS®.

**Section 4. Participation.** Any REALTOR® of this or any other Board who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in Multiple Listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto.\*\* However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service "membership" or "participation" unless they hold a current, valid real estate broker's license and offer or accept offer or accept compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "participation" or "membership" or any right of access to information developed by or published by a Board Multiple Listing Service where access to such information is prohibited by law. (Amended 12/08)

Note 1: The requirements of (1) no record of recent or pending bankruptcy; (2) no record of official sanctions involving unprofessional conduct; and (3) completion of a course of instruction on the MLS rules and regulations and computer training related to MLS information entry and retrieval may be deleted from this section at the option of each association. In states where law requires non-association members be admitted to the MLS of an

association of Realtors®, any limitations or restrictions imposed on participation or membership shall be no more stringent than permissible under the National Association’s membership qualification criteria. However, in states where non-association member access to the MLS is not a requirement of state law, associations may, at their discretion, establish additional qualifications for non-association member participation and membership in the MLS. (Revised 11/96)

Note 2: An association may also choose to have the membership committee consider the following when determining a nonmember applicant’s qualifications for MLS participation or membership:

- all final findings of Code of Ethics violations and violations of other membership duties in any other association within the past three (3) years
- pending ethics complaints (or hearings)
- unsatisfied discipline pending
- pending arbitration requests (or hearings)
- unpaid arbitration awards or unpaid financial obligations to any other association or association MLS M

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm 'offers or accepts cooperation and compensation' means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. “Actively” means on a continual and on-going basis during the operation of the Participant's real estate business. The “actively” requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law.

The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a Virtual Office Website (“VOW”) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a Participant or potential Participant “actively endeavors during the operation of its real estate business” to “offer or accept cooperation and compensation” only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied on a nondiscriminatory manner to all Participants and potential Participants. (Adopted 12/08)

**Section 5. Access to Comparable and Statistical Information.** Board Members who are actively engaged in real estate brokerage, management, mortgage financing, appraising land development or building, but who do not participate in the MLS, are nonetheless entitled to receive, by purchase or lease, information other than current listing information that is generated wholly or in part by the MLS, including “comparable” information, “sold” information, and statistical reports. This information is provided for the exclusive use of Board Members and individuals affiliated with Board Members, who are also engaged in the real estate business, and may not be transmitted, re-transmitted, or provided in any manner to any unauthorized individual, office or firm except as otherwise specified in the MLS Rules and Regulations. Board members who receive such information, either as a board service or through the Board’s MLS, are subject to the applicable provisions of the MLS Rules and Regulations whether they participate in the MLS or not.

**Section 6. Subscribers.** Subscribers (or users) of the MLS include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants.

## **ARTICLE XIX - LIABILITY**

**Section 1. Finances and Limitation of Liability.** All financial requests shall be subject to approval of the Berkshire County Board of REALTORS® after review by the Board's Finance Committee. The Berkshire County Board of REALTORS® shall not be liable for any acts, expenditures of commitments unless they have been approved by the Board of Directors in advance.

No member shall pursue or prosecute by action, suit or proceeding, civil or criminal, against the Berkshire County Board of REALTORS®, its officers and directors, or any person now or hereafter an officer, committee member or Director of the Board any claim based upon any act of said Board or said person relating to the business of the Board, and particularly any act of said Board or said person in advancing, suspending, expelling, or otherwise disciplining a member.

*(end)*

## **Policies Of The Berkshire County Board Of REALTORS®, Inc.**

*Amended 9/8/04*

### **TIMELINE FOR NEW MEMBER APPLICATION AND PAYMENT OF REALTOR® APPLICATION AND PRO-RATED DUES OR NOTIFICATION OF NEW LICENSEE AFFILIATION WITH MEMBER FIRM FOR DR NON-MEMBER ASSESSMENT**

All Designated REALTORS must report to the Berkshire County Board of REALTORS® the name of any real estate or appraisal licensee newly affiliated with their office and pay the pro-rated DR Non-Member Assessment fee within seven (7) days of affiliation. The DR Non-Member Assessment is waived if the licensee makes application to the REALTOR® organization within seven (7) days of affiliating with the DR.

Failure of a Designated REALTOR® to report a newly affiliated licensee and either (1) pay the pro-rated DR Non-Member Assessment or (2) ensure proper submission of an application for membership, within seven (7) days will be subject to a fine in the amount of \$1000 for the first offense, due and payable within seven (7) days or suspension of services will occur.

A second offense may result in the suspension of the member office from the Board and Multiple Listing Service.

### **HONORARY MEMBER**

If the Berkshire County Board of REALTORS Board of Directors wishes to acknowledge an individual for outstanding service to the association or to the industry, the Board may vote to give that individual an "Honorary Membership," which shall not include other membership rights or privileges. Honorary membership status at the Berkshire County Board of REALTORS does not extend to the Multiple Listing Service, nor does the membership allow use of the trademark, other than indication of membership held in the Berkshire County Board of REALTORS.

### **LIFETIME MEMBER**

The awarding of Lifetime Membership requires approval of the Board of Directors. The Board Office must receive the application at least three weeks in advance of the Annual Meeting in October in order to be effective for the following dues year. Once approved, the member is exempted from paying Local REALTOR Dues (he/she must still pay Massachusetts Association of REALTORS and NAR dues, unless an NAR Emeritus). Payment of state and national dues maintains full REALTOR membership and affords the membership user access (at standard rates) to the Multiple Listing Service as all active real estate licensees affiliated with member offices.

- REALTOR® Member in good standing of the Berkshire County Board of REALTORS, Inc.
- Thirty (30) years of accumulated Berkshire County Board of REALTORS, Inc. Membership
- Demonstration of past volunteerism for the Berkshire County Board of REALTORS, Inc.
- Completed Lifetime Member Application
- Send application with a copy of valid ID, showing proof of age, to the Berkshire County Board of REALTORS.

## **REALTOR® EMERTIUS**

Any person who has held membership in the National Association as a REALTOR® for a cumulative period of 40 years is eligible for REALTOR® Emeritus status. Upon approval by the Board of Directors of the National Association of REALTORS®, no further payment of dues is necessary to the National Association by the Member Association of which the REALTOR® Emeritus is a member.

- Have 40 years cumulative National Association of REALTORS® membership
- Complete NAR's REALTOR® Emeritus Application
- Send application with a copy of your Driver's License to the Berkshire County Board of REALTORS
- The Berkshire County Board of REALTORS will submit your application electronically to NAR

The dues waiver does not take effect until the following “dues season.” For example, members approved as Emeritus at the NAR MidYear or Annual meetings in 2012 would have their dues waived starting in 2013, as membership fees are due at the beginning of each year. REALTOR® Emeritus members are exempt from the Quadrennial Ethics Training requirement. Additional information and application requirements are available on NAR's website:  
[http://www.realtor.org/library/virtual\\_library/remeritus](http://www.realtor.org/library/virtual_library/remeritus)