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## Section

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20:69:03:16 Office management.

20:69:03:17 Commission split -- Out-of-state.

20:69:03:18 Transferred.

20:69:03:19 Advance compensation.

20:69:03:20 ~~Replacement of license — License displayed~~ Repealed.

20:69:03:21 Reciprocal agreements.

20:69:03:22 Nonresident licensee as applicant -- Certificate of licensure required.

20:69:03:22.01 Nonresident licensee -- Renewal of license on active status -- Certificate of licensure required.

20:69:03:23 Supervising broker to be licensed in South Dakota.

20:69:03:24 South Dakota resident licensed as salesperson by examination in another state -- Requirements for obtaining a broker associate license in South Dakota.

20:69:03:25 Nonresident salesperson licensed in South Dakota -- Time to qualify for broker associate upon establishing residency in state.

20:69:03:26 Fees -- Certification of licensure, additional license, duplicate license, and transfer of license.

20:69:03:27 Late renewal fee.

**20:69:03:20. Replacement of license -- License displayed.** ~~If a license is lost, misplaced, stolen, or destroyed, the licensee shall immediately report that fact to the commission in writing. Upon the commission's receipt of a statement by the licensee, the commission may issue a duplicate of the original license. The only license that can be displayed is the original or a duplicate issued by the commission~~ Repealed.

**Source:** 1 SDR 33, effective January 1, 1975; 10 SDR 54, effective December 5, 1983; 12 SDR 102, effective December 22, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 100, effective January 10, 1989; 18 SDR 101, effective December 17, 1991; transferred from § 20:56:12:20, 20 SDR 18, effective August 16, 1993; 35 SDR 305, effective July 1, 2009.

~~General Authority: SDCL 36-21A-89(2).~~

~~Law Implemented: SDCL 36-21A-51, 36-21A-52.~~

**20:69:03:26.** Fees -- Certification of licensure, additional license, duplicate license, and transfer of license. Fees include the following:

- (1) For each certification of licensure, \$15;
- (2) For each additional license, a biennial fee of \$30;
- (3) For each license included in a statement of registration to change an office or place of business, \$15; and
- (4) For each license included in a statement of registration to change association with a responsible broker, \$15; and
- ~~(5) For each duplicate license, if the original license is lost or destroyed, \$15.~~

**Source:** 34 SDR 323, effective July 3, 2008.

**General Authority:** SDCL 36-21A-60.

**Law Implemented:** SDCL 36-21A-60.

## **CHAPTER 20:69:06**

### **REAL ESTATE AUCTIONEER LICENSES**

#### Section

- 20:69:06:01 Transferred.
- 20:69:06:01.01 Definitions.
- 20:69:06:02 Auctioneers -- License required.
- 20:69:06:03 ~~Qualifications of applicants~~ Repealed.
- 20:69:06:04 Duties of auctioneer.
- 20:69:06:05 Listings to be in writing.
- 20:69:06:06 Auction advertisements.
- 20:69:06:07 Auction sale procedure.
- 20:69:06:07.01 Auction with reserve sale procedure.
- 20:69:06:07.02 Absolute auction sale procedure.
- 20:69:06:07.03 Secured party or lien holder not prohibited from bidding at an absolute auction --  
Conditions.
- 20:69:06:07.04 Internet auction sale procedure.
- 20:69:06:08 Auctioneer to maintain records.
- 20:69:06:09 Certain acts prohibited.
- 20:69:06:10 Rules applicable to real estate brokers, broker associates, and salespersons.

**20:69:06:03. Qualifications of applicants.** ~~An applicant for a real estate auctioneer's license, in addition to the other requirements in SDCL chapter 36-21A, shall furnish evidence of completion of 116 classroom hours within the two years before the date of application in a course on the principles and practices of real estate Repealed.~~

**Source:** 1 SDR 33, effective January 1, 1975; 2 SDR 7, effective July 30, 1975, and omitted as a temporary rule; readopted and transferred from § 20:56:12:08, 20 SDR 18, effective August 16, 1993; 23 SDR 110, effective January 9, 1997; 29 SDR 48, effective October 10, 2002; 35 SDR 305, effective July 1, 2009.

~~—— **General Authority:** SDCL 36-21A-89(7).~~

~~—— **Law Implemented:** SDCL 36-21A-89(7).~~

**20:69:06:09. Certain acts prohibited.** Prohibited acts include the following:

- (1) Knowingly receiving or using a rafter bid, puffing of a bid, or any type of bid rigging such as utilizing the services of a shill; or
- (2) ~~Knowingly permitting an unlicensed individual to call or take bids in an auction sale;~~

(3) Knowingly misleading or creating a false impression among the seller, buyer, or bidders in the advertising, conduct, and closing of an auction.

**Source:** 5 SDR 12, effective August 14, 1978; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 100, effective January 10, 1989; transferred from § 20:56:12:24, 20 SDR 18, effective August 16, 1993; 37 SDR 112, effective December 8, 2010.

**General Authority:** SDCL 36-21A-89(7).

**Law Implemented:** SDCL 36-21A-1, 36-21A-6, 36-21A-27, 36-21A-47, 36-21A-68, 36-21A-71, 36-21A-72.

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these three statutes do not appear to state any policy that this rule is implementing. Only statutes that state the policy being implemented by the rule should appear here. See page 5 of drafting manual  
CHAPTER 20:69:13

## TIME-SHARE AGENTS

### Section

- 20:69:13:01 Definition of time-share agent.
- 20:69:13:02 Time-share agents -- License required.
- 20:69:13:03 OPC exempt from licensing.
- 20:69:13:04 Persons and organizations exempt from licensing or examination.
- 20:69:13:05 Application.
- 20:69:13:06 Application fee.
- 20:69:13:07 Repealed.
- 20:69:13:08 Grounds for denial of license.
- 20:69:13:09 Examination.

- 20:69:13:10 Authorization to take examination.
- 20:69:13:11 Repealed.
- 20:69:13:12 Administration of examination.
- 20:69:13:13 Cheating on examination.
- 20:69:13:14 Results of examination.
- 20:69:13:14.01 Rights to passing score.
- 20:69:13:15 Biennial renewal fee.
- 20:69:13:16 Cancellation of license upon failure to pay fee.
- 20:69:13:17 ~~Replacement of license and change of address~~ Repealed.
- 20:69:13:18 Trust account requirements.
- 20:69:13:19 Office requirements.
- 20:69:13:20 Auditing.
- 20:69:13:21 Real estate law applicable.
- 20:69:13:22 Supervising agent.

**20:69:13:17. Replacement of license and change of address.** ~~If an original license or certificate of renewal was lost, misplaced, stolen, or destroyed, the licensee shall report that fact to the commission in writing. Upon the commission's receipt of the statement by the licensee, the commission may issue a duplicate license or certificate of renewal. Fees for duplicate licenses, for licenses for each additional office, or for change of address are the same as those set forth in § 20:69:03:26~~ Repealed.

Source: 10 SDR 68, effective January 1, 1984; 12 SDR 102, effective December 22, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 101, effective December 17, 1991; transferred from § 20:56:21:19, August 16, 1993; 34 SDR 323, effective July 3, 2008.

— ~~General Authority:~~ SDCL 36-21A-60, 36-21A-89, 43-15B-6.

— ~~Law Implemented:~~ SDCL 36-21A-60, 36-21A-47, 43-15B-6, 43-15B-7.

20:69:12:01. <sup>AS</sup> ~~Definitions.~~ Terms used in this chapter mean:

(1) "Agent" or "time-share agent," <sup>time-share agent</sup> ~~means a limited licensee~~ licensed by the commission under <sup>bad citation</sup> ~~chapter 20:56:21;~~

→ SDCL chapter 36-21

(2) "Commission," means the South Dakota Real Estate Commission;

(3) "Developer," means a person in the business of creating a time-share project or in the business of selling its own time-share in a project;

(4) "Facility," means a ~~structure~~, <sup>what's the difference?</sup> service, or property, whether improved or unimproved, made available to the purchaser for <sup>isn't this the same as saying non-commercial use?</sup> recreational, social, family, or personal use, <sup>of a time-share plan or time-share unit</sup>

(5) "Invitee," means an individual who is contacted and invited or encouraged to attend a time-share sales presentation;



(6) "Material change," means a change of circumstance that ~~would make~~ <sup>makes any</sup> the information provided in the disclosure statement misleading to purchasers or that affects the rights and obligations of a purchaser or a prospective purchaser of a time-share unit, such as change in the nature of the time-share plan; change in the period of time usage of the unit; and change in terms and increase in the amounts of underlying encumbrances; <sup>associated with</sup> <sup>plan or time-share</sup> <sup>examples should be avoided</sup> <sup>See page 7 of drafting manual</sup>

(7) "Multiple location time-share plan," means a time-share plan that includes time-share units located both in this state and in another state or country;

(8) "Outside public contact" or "OPC," means an individual who contacts invitees but <sup>neither engages</sup> <sup>nor performs</sup> <sup>on behalf of a</sup> ~~does not engage~~ in the sale of time-share interests or perform any other activity ~~done by an~~ <sup>registrant</sup> agent;

<sup>terms like this should be avoided. See page 8 of drafting manual.</sup>  
(9) "Preexisting time-share unit," means a time-share unit ~~in existence before July 1, 1983~~, in which the <sup>identified</sup> ~~actual~~ receipt of possession, occupancy, or right of use of the unit was obtained by the purchaser or user before July 1, 1983, evidenced by tenancy in common, sale, deed, membership agreement, lease, rental agreement, license, use agreement, or security; or a time-share unit which has been explicitly provided for in a project instrument or in a declaration or other instrument describing a time-share plan for a property and recorded in the state before July 1, 1983;

(10) "Registrant," means a <sup>person</sup> ~~developer, agent, or plan manager~~ who is required to file with the commission;

Can this definition be removed? It only appears in 20:69:12:23-24.  
Both of these sections look like they are ripe for repeal.

(11) "Responsible managing employee" or "RME," means the individual employed by a registrant who is responsible for the direct management of the registrant's time-share units or time-share plans;

*What is "direct" management? Consider removing this word*

(12) "State," means the state of South Dakota;

(13) "Supplementary disclosure statement," means an amended disclosure statement filed when there has been a material change ~~in the information provided in the original disclosure statement;~~

*What's the distinction between these two terms?*

(14) "Time-share operation," means a business ~~or operation~~ which, for compensation, solicits or encourages others to attend a time-share sales presentation or to contract with an agent or developer; creates a time-share plan; sells time-share units; sells or offers to sell an interest in a time-share plan for a developer; or undertakes the duties, responsibilities, and obligations of managing a time-share plan;

(15) "Time-share ~~unit~~," means the time interval for right to use or occupy;

(16) "Unit," means <sup>a</sup> the physical condominium ~~or campground space~~.

*? What is a non-physical condominium?*

**Source:** 10 SDR 68, effective January 1, 1984; 10 SDR 121, amended May 17, 1984, retroactively effective January 1, 1984; 12 SDR 102, effective December 22, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; transferred from § 20:56:20:01, August 16, 1993.

**General Authority:** SDCL 36-21A-89, 43-15B-6.

**Law Implemented:** SDCL 36-21A-47, 43-15B-1, 43-15B-3, 43-15B-6.

**Cross-Reference:** Limited time-sharing licenses, ch 20:69:13.