

Mississippi Secretary of State
700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Mississippi Real Estate Commission		CONTACT PERSON Robert E. Praytor		TELEPHONE NUMBER (601)321-6970	
ADDRESS 4780 I-55 North, LeFleur's Bluff Tower, Suite 300		CITY Jackson		STATE MS	ZIP 39211
EMAIL rpraytor@mrec.state.ms.us	SUBMIT DATE 08/01/17	Name or number of rule(s): Part 1601 Chapter 3 Rule 3.5			

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal:

Real Estate Teams are becoming permanent fixtures in today's real estate environment and the majority of the state had no specific rules by which to govern Teams until recently. The rules are based on the need for a designated Team Leader, more recognition of the Team concept to the consumers and the need for regulation of the day-to-day operations of Teams in conjunction with Principal Brokers.

Specific legal authority authorizing the promulgation of rule: 73-35-18 (3).

List all rules repealed, amended, or suspended by the proposed rule: 3.5

ORAL PROCEEDING:

- ☐ An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____
- ☒ Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

- ☒ Economic impact statement not required for this rule. ☐ Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately upon filing _____ Other (specify): _____	Action proposed: _____ <input checked="" type="checkbox"/> New rule(s) _____ Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed final effective date: _____ <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____	Date Proposed Rule Filed: _____ Action taken: _____ Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: _____ 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Robert E. Praytor, Administrator

Signature of person authorized to file rules: Robert E. Praytor

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
<div style="border: 1px solid black; height: 100px; width: 100%;"></div> Accepted for filing by _____	<div style="border: 1px solid black; padding: 10px; text-align: center;"> FILED AUG 01 2017 MISSISSIPPI SECRETARY OF STATE </div> Accepted for filing by <u>#22890</u> <u>[Signature]</u>	<div style="border: 1px solid black; height: 100px; width: 100%;"></div> Accepted for filing by _____

The entire text of the Rule including the text of any rule being amended or changed is attached.

Rule 3.5 Real Estate Teams or Groups

- A. A "Team or Group" shall mean a collective name used by two or more active real estate licensees who represent themselves to the public as being part of a single entity which is organized with the written approval of a Principal Broker to perform licensable real estate activity. To qualify as a "Real Estate Team or Group" the active real estate licensees must be working together and each must (a) work under the direct supervision of the same Principal Broker, (b) work together on real estate transactions to provide real estate brokerage services, (c) must represent themselves to the public as being part of a Team or Group, (d) must be designated by a specific team or group name, and (e) must conduct all real estate activity from the primary office or branch office where their individual licenses are displayed.
- B. All Principal Brokers must have specific information on each Team operating within their Brokerage and must register each Team with the Real Estate Commission on forms provided for that purpose; to include a detailed list indicating all approved Team names, the name of the Team Leader, the name of the individual Team members and the name of any unlicensed employee(s) of the Team. The working list(s) should indicate the dates that Team members are added to or deleted from any Team and should enable the Principal Broker and/or the Real Estate Commission to determine Team membership at any point in time. Adjustments to a Team should be filed with the Real Estate Commission within ten (10) working day of any change and should be on forms provided by the Commission.
- C. All teams must appoint a Team Leader, who will be a Broker Associate with a minimum of one years' real estate experience, and will have supervisory responsibility (under the supervision of the Principal Broker) over the Team members. The Team Leader may be subject to disciplinary action for violations of the Mississippi Real Estate Brokers Act by Team members under their supervision.
- D. A Team Name may, with the written approval of the Principal Broker and the Team Leader, be used in any type of advertising. Any individual whose name is displayed in any advertisement must be an active licensee who is sponsored by the Principal Broker. All advertising must fully comply with the guidelines established in MREC Administrative Rule 3.3. Principal Brokers and Team Leaders must confirm that the name of the Principal Broker or the Brokerage Firm and their telephone number is prominently displayed on all advertising. The name of the Team must be situated near the name of the Brokerage Firm and shall be identified with the same sized or smaller print as that of the Brokerage.
- E. Neither team names nor team advertising should suggest that the team is an independent real estate brokerage. Team names must not include terms such as (a) real estate brokerage, (b) realty, (c) real estate, or (d) company.

Source: Miss. Code Ann. §§ 73-35-3 (4); 73-35-18 (3); 73-35-21 (d)

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ADDRESS 4780 I-55 North, LeFleur's Bluff Tower, Suite 300		CITY Jackson	STATE MS	ZIP 39211
EMAIL rpraytor@mrec.state.ms.us	SUBMIT DATE 08/01/17	Name or number of rule(s): Part 1601 Chapter 3 Rule 3.3		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal:

The proposed changes are due to tremendous increases in technology, social media and the printed word which allows real estate professionals to "advertise" their product and services over hundreds of platforms which did not exist a few years ago. This has necessitated some specificity in our advertising rule and requires some adjustments to explain what is advertising and how it may be done legally.

Specific legal authority authorizing the promulgation of rule: 73-35-18 (3).

List all rules repealed, amended, or suspended by the proposed rule: 3.3

ORAL PROCEEDING:

☐ An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____

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Printed name and Title of person authorized to file rules: Robert E. Praytor, Administrator

Signature of person authorized to file rules: *Robert E. Praytor*

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The entire text of the Rule including the text of any rule being amended or changed is attached.

Rule 3.3 Advertising

- A. "Advertising" means the use of any oral, written, visual, printed or electronically generated advertisement by a real estate licensee or other person on behalf of a real estate licensee.

"Advertisement" means any oral, written, visual, printed or electronic media advertisement and encompasses any correspondence, mailing, newsletter, brochure, business card, for sale or for lease signage or sign rider, promotional items, automobile signage, telephone directory listing, radio and television broadcasts, telephone solicitation and electronic media to include e-mails, text messaging, public blogs, social media-networking websites, and/or internet displays.

- B. A broker shall advertise in the name in which the license is issued. A broker may use a descriptive term after the broker's name to indicate the occupation in which engaged, for example, "realty", "real estate" or "property management". If advertising in any other form, a partnership, trade name, association, company or corporation license must be obtained prior to advertising in that manner.

All advertising must be under the direct supervision and in the name of the Principal Broker or in the name of the real estate Brokerage Firm and must prominently display the name of the Principal Broker or the name of the Brokerage Firm in such a manner that it is conspicuous, discernible and easily identifiable by a member of the public.

Principal Brokers are required to verify and determine that their name or the name of the Brokerage Firm is prominently displayed on all advertising and that the name of any real estate licensee or any approved real estate Team or Group is situated near the name of the Brokerage Firm. The Broker or the Brokerage Firm must be identified by using the same size or larger print as that of a Licensee or a Team in all advertising. All advertising must include the telephone number of the Principal Broker or the Brokerage Firm.

- C. No Principal Broker or licensee sponsored by said broker shall in any way advertise property or place a sign on any such property offering the property for sale or rent without first obtaining the written authorization to do so by all owners of the property or by any appointed person or entity who also has full authority to convey the property.
- D. When a licensee is advertising their own property for sale, purchase or exchange which is not listed with a broker, the licensee must indicate that he or she is licensed. The disclosure of licensee's status must be made in all forms of advertising enumerated in Rule 3.3 (A), including the "for sale" sign.

In addition to disclosing their licensed status in all advertisements, licensees are required to disclose their licensed status on all real estate contracts in which they have an ownership interest.

A licensee shall not advertise to sell, buy, exchange, auction, rent or lease property in a manner indicating that the offer to sell, buy, exchange, auction, rent, or lease such property is being made by a private party who is not engaged in the real estate business. No advertisement shall be inserted by a licensee in any publication where only a post office box number, telephone number, e-mail address or street address appears. Every licensee, when advertising real estate in any publication, shall indicate that the party advertising is licensed in real estate; whether on active or inactive status.

Source: Miss. Code Ann. §§ 73-35-35

Rule 3.3 Advertising

- A. ~~The use of any copyrighted term or insignia on stationery, office signs, or in advertising by any licensee not authorized to do so, will be considered as "substantial misrepresentation" and cause for refusal, suspension, or revocation of the license.~~

~~A licensee shall not advertise to sell, buy, exchange, auction, rent or lease property in a manner indicating that the offer to sell, buy, exchange, auction, rent, or lease such property is being made by a private party not engaged in the real estate business. No advertisement shall be inserted by a licensee in any publication where only a post office box number, telephone number, or street address appears. Every licensee, when advertising real estate in any publication, shall indicate that the party advertising is licensed in real estate. All advertising must be under the direct supervision and in the name of the responsible broker or in the name of the real estate firm. "Advertising" means the use of any oral, written, visual, printed or electronically generated advertisement by a real estate licensee or other person on behalf of a real estate licensee.~~

- B. ~~When a licensee is advertising their own property for sale, purchase or exchange which is not listed with a broker, the licensee must indicate that he or she is licensed. The disclosure of licensee's status must be made in all forms of advertising, including the "for sale" sign. A broker shall advertise in the name in which the license is issued. A broker may use a descriptive term after the broker's name to indicate the occupation in which engaged, for example, "realty", "real estate" or "property management". If advertising in any other form, a partnership, trade name, association, company or corporation license must be obtained prior to advertising in that manner.~~

~~All advertising must be under the direct supervision and in the name of the Principal Broker or in the name of the real estate Brokerage Firm and must prominently display the name of the Principal Broker or the name of the Brokerage Firm in such a manner that it is conspicuous, discernible and easily identifiable by a member of the public.~~

~~Principal Brokers are required to verify and determine that their name or the name of the Brokerage Firm is prominently displayed on all advertising and that the name of any real estate licensee or any approved real estate Team or Group is situated near the name of the Brokerage Firm. The Broker or the Brokerage Firm must be identified by using the same size or larger print as that of a Licensee or a Team in all advertising. All advertising must include the telephone number of the Principal Broker or the Brokerage Firm.~~

- C. ~~In addition to disclosing their licensed status in advertisements, licensees are required to disclose their licensed status on all contracts for real estate in which they have an ownership interest.~~

~~A broker shall advertise in the name in which the license is issued. A broker may use a descriptive term after the broker's name to indicate the occupation in which engaged, for example, "realty", "real estate", "property management". If advertising in any other form, a partnership, trade name, association, company or corporation license must be obtained~~

prior to advertising in that manner.—No Principal Broker or licensee sponsored by said broker shall in any way advertise property or place a sign on any such property offering the property for sale or rent without first obtaining the written authorization to do so by all owners of the property or by any appointed person or entity who also has full authority to convey the property.

- D. When a licensee is advertising their own property for sale, purchase or exchange which is not listed with a broker, the licensee must indicate that he or she is licensed. The disclosure of licensee's status must be made in all forms of advertising enumerated in Rule 3.3 (A), including the "for sale" sign.

In addition to disclosing their licensed status in all advertisements, licensees are required to disclose their licensed status on all real estate contracts in which they have an ownership interest.

A licensee shall not advertise to sell, buy, exchange, auction, rent or lease property in a manner indicating that the offer to sell, buy, exchange, auction, rent, or lease such property is being made by a private party who is not engaged in the real estate business. No advertisement shall be inserted by a licensee in any publication where only a post office box number, telephone number, e-mail address or street address appears. Every licensee, when advertising real estate in any publication, shall indicate that the party advertising is licensed in real estate; whether on active or inactive status.

Source: Miss. Code Ann. §§ 73-35-35