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Executive Orders

EXECUTIVE ORDER NO. 91

WHEREAS, it is essential to the general welfare of the State that Louisiana's system of legal justice maintain an attitude of fairness to all, regardless of their economic condition; and

WHEREAS, Section 13 of Article I of the Louisiana Constitution of 1974 provides that any person arrested or detained is entitled to counsel and shall be provided with counsel if indigent; and

WHEREAS, the Declaration of Rights of the Louisiana Constitution in Article I, Section 13 also provides that the Legislature shall provide a uniform system for securing and compensating qualified counsel for indigents; and

WHEREAS, it is of critical importance that a uniform system for securing and compensating qualified counsel for indigents be established; and

WHEREAS, it is necessary that such a uniform plan be developed, giving consideration to the practices now employed in the various areas of the State, to the funding of such a system and its organization.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of Louisiana, it is ordered as follows:

Section 1.

(a) There is hereby established the Governor's Commission on a Uniform Indigent Defense System (hereinafter referred to as the Commission).

(b) The Commission shall be composed of 13 members including the President and President-elect of the Louisiana Bar Association and 11 other members, all attorneys at law, appointed by the Governor, in such a manner that there shall be at least one appointee who is an elector from each congressional district. The President of the Louisiana Bar Association shall be Chairman of the Commission and the President-elect shall be Secretary.

Section 2.

The Commission shall:

(a) Conduct such research and prepare such

studies as are necessary to devise and formulate a proposed uniform indigent defense system. To this end, the Commission is authorized to hold hearings, employ necessary personnel, and do all other things necessary to accomplish the purpose for which it was created.

(b) Prepare and present to the Governor recommendations, together with the draft of proposed legislation to accomplish its recommendations, for a proposed uniform indigent defense system which will conform to Article I, Section 13 of the 1974 Constitution.

Section 3.

The Commission is authorized to request the use of personnel, services, and facilities of the Louisiana Legislative Council, the Louisiana State Law Institute, and such counsel, assistance, personnel, facilities, and advice as may be obtained from other public and private sources, including but not necessarily restricted to business, labor, and private research agencies, individuals, or organizations.

Section 4.

The Commission is authorized to receive grants, donations, or gifts of money or services from public or private persons and entities to be utilized to accomplish the purpose for which it is created.

Section 5.

All who may be in a position to do so are requested to furnish the Commission information pertinent to its work and otherwise to facilitate the Commission's work.

Section 6.

The members of the Commission shall receive the same per diem and travel allowance in the performance of their duties as are provided for members of the Legislature, and the compensation of the members and personnel of the Commission, lawful allowance therefor, and other necessary expenses arising in connection with the work of the Commission shall be paid from such moneys as may be available therefor.

Section 7.

The Commission, at its discretion, may transmit to the Governor such preliminary or interim report, or reports, as it may deem appropriate. It shall transmit its final report and recommendations, together with the draft of proposed legislation to accomplish its recommendations, to the Governor not later than March 31,

1976. The Commission shall terminate not later than 30 days after the submission of its final report to the Governor.

mmmmmmmn IN WITNESS WHEREOF, I have here-
unto set my hand officially and caused
to be affixed the Great Seal of the State
of Louisiana, at the Capitol, in the City
of Baton Rouge, on this 10th day of
September, A.D., 1975.

EDWIN EDWARDS
Governor of Louisiana

EXECUTIVE ORDER NO. 92

SUBJECT: Cooperation of All State Agencies in Energy Conservation

WHEREAS, the Natural Resources and Energy Act of 1973 (Act 16) provides for the control of natural resources and energy to effect the conservation thereof by the prevention of waste, wasteful use, and wasteful utilization thereof and the resultant economic waste by providing for a comprehensive energy policy for the State of Louisiana; and

WHEREAS, for the purposes thereof to provide for the establishment of the Division of Natural Resources and Energy within the Department of Conservation in order to consolidate and merge functions exercised by the State in relation to energy into the Office of the Commissioner of Conservation; and

WHEREAS, the Commissioner of Conservation shall regulate the use, end use, production, transportation, conservation, sale, and price of the State's energy resources, and among other things, provide for the equitable distribution of energy supplies to the residents and the commercial and industrial users of these energy supplies; and

WHEREAS, the Commissioner of Conservation has formulated an Energy Conservation Program Guide for Commercial Buildings which will include the use of energy in all State-owned and State-leased buildings; and

WHEREAS, the coordination and leadership combining both public and private interests on a Statewide level is essential to assist the Commissioner of Conservation in carrying out the mandates set forth in the aforementioned Act 16 and in particular the full cooperation of the directors of all State agencies with the inclusion of all State employees;

NOW, THEREFORE, I, EDWIN EDWARDS, by virtue of the authority vested in me as Governor of the State of Louisiana, pursuant to the Constitution, and applicable statutes of the State of Louisiana, in order to promote energy conservation and assist the Commissioner of Conservation in the execution of aforementioned duties and responsibilities and to provide the necessary example for the citizens of this State to diligently pursue a program of energy conservation in all sectors of energy utilization, do order as follows:

All State agencies and employees thereof will cooperate to the fullest extent possible in the implementation of the State Energy Conservation Program Guide established by the Commissioner of Conservation for all State-owned and State-leased buildings and all other energy conservation programs established by the Commissioner of Conservation by authority granted to him under the Natural Resources and Energy Act of 1975 (Act 16), all of which are being monitored by the Office of the Commissioner of Conservation.

IN WITNESS WHEREOF, I have here-
unto set my hand officially and caused
to be affixed the Great Seal of the State
of Louisiana, at the Capitol, in the City
of Baton Rouge, on this the 10th day of
September, A.D., 1975.

EDWIN EDWARDS
Governor of Louisiana

EXECUTIVE ORDER NO. 93

Section 1 (b) of Executive Order No. 91 issued by me on September 10, 1975, is hereby amended as follows:

Section 1.

(b) The Commission shall be composed of fifteen members including the President and President-elect of the Louisiana Bar Association and thirteen other members, all attorneys at law, appointed by the Governor, in such a manner that there shall be at least one appointee who is an elector from each Congressional district. The President of the Louisiana Bar Association shall be Chairman of the Commission and the President-elect shall be Secretary.

IN WITNESS WHEREOF, I have here-
unto set my hand officially and caused
to be affixed the Great Seal of the State

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of September, A.D., 1975.

EDWIN EDWARDS

Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

State Board of Elementary and Secondary Education

At its meeting on September 1, 1975, the State Board of Elementary and Secondary Education adopted the following rule, effective immediately:

An applicant seeking certification under Bulletin 746 (as revised in 1964) after September 1, 1975, may have his or her records reviewed for this purpose until September 1, 1976. During this time period, certification may be granted according to the 1964 standards only if the applicant completed the appropriate requirements prior to September 1, 1975.

In such cases, the Bureau of Higher Education and Teacher Certification shall evaluate teachers' records for the specific area of certification requested.

The necessity for this rule is the urgent need for teaching personnel in the schools to compile their records of courses taken and to submit them for an evaluation to the State Department of Education. On September 1, 1975, a deadline passed for the completion of older certification requirements. The careers of numerous individuals would be vitally affected should the Board not permit a certain period of time for individuals to prove they had completed the older certification requirements by September 1, 1975.

This action was taken in accordance with the emergency provision of the Administrative Procedures Act, R. S. 49:953B.

Earl Ingram
Director

DECLARATION OF EMERGENCY

Louisiana Health and Human Resources Administration

Division of Family Services

The Louisiana Health and Human Resources Administration, Division of Family Services has been notified by the Regional Office of the Department of Health, Education and Welfare, that Louisiana is not in compliance with Federal regulations in allowing an exclusion for the cost of divorce in an Aid to Families with Dependent Children (AFDC) recipient's grant computation when the recipient has other income. The Federal regulation citation is Section 233.20 (a) (3) (ii) (a), Part 233, Chapter II, Title 45 of the Code of Federal Regulations, as reported in the Federal Register, Wednesday, March 19, 1975, Vol. 40, No. 54, page 12507.

Because of the Federal mandate, the Louisiana Health and Human Resources Administration has deleted the above income exclusion, effective September 22, 1975, under an emergency rule. In situations where an allowance is currently being made, it shall be discontinued when the divorce is paid for or at the time of next redetermination, whichever comes first. This action was taken pursuant to R.S. 49:953B and R.S. 49:966C. Copies of the emergency rule are available for public examination at the offices of the Louisiana Health and Human Resources Administration, Division of Family Services, Room 201, 755 North Riverside, Baton Rouge, Louisiana.

William H. Stewart, M.D.
Commissioner

DECLARATION OF EMERGENCY

Louisiana Real Estate Commission

Emergency Rules Effective September 17, 1975

1. Licenses; examination; fees
2. Remittance of fees
3. Credit report
4. Term of license
5. Renewal of license
6. Delinquent renewal of license
7. Veterans waiver
8. Transfer of salesman license
9. Broker's acknowledgment of salesman's broker application
10. Trade name restrictions

11. Broker/salesman; concurrent license prohibition
12. Termination of salesman affiliation with broker
13. Advertising
14. Escrow account
15. Salesman change of address
16. Broker change of address
17. Multiple representation
18. Disclosure of licensee ownership in property
19. Representation through listing broker
20. Substitute contract prohibition
21. Prohibition on payment to unlicensed individuals
22. Duty to report legal actions
23. Maintenance of broker records
24. Investigations
25. Duty of broker to inform salesman
26. Registration of out-of-state land development
27. Complaints
28. Broker-broker affiliation
29. Corporations and partnerships
30. Issuance of bond
31. Cancellation of bond
32. Reinstatement of bond-license cancellation
33. Definition of broker
34. Real estate school definition
35. Certification of real estate school
36. Application and renewal of Certificate of Registration
37. Exemption from Certificate of Registration
38. Instructor certification
39. Instructor qualifications
40. Course information reporting
41. Course Certificate of Completion
42. Advertising by real estate schools
43. Investigation of schools
44. Deceased broker: continuation of business

1. Applications for broker or salesman licenses, accompanied by a license fee and separate examination fee, are required to be received by the Commission at least eleven days prior to the date of examination in order to obtain the required examination admittance authorization. Official admittance authorization must be presented to the examination monitor before an examination will be administered to any applicant.

A. Salesman and broker examinations shall be held monthly excluding January and December.

B. Applicants who fail to pass the initial examination will be allowed to take a second examination at any subsequent regular examination period provided that they remit a new examination fee and obtain official examination admittance authorization.

C. Applicants who fail to pass the second examination shall have their applications and license fees returned by the Commission. Those applicants who fail to pass the second examination shall be allowed to take additional examination(s) at any subsequent regular examination period not less than six months beyond the date of their last examination failure, provided that they resubmit their application, license fee, new examination fee and obtain official examination admittance authorization.

D. Applicants who, for any reason, are disqualified on an examination may retake said examination at any subsequent regular examination period provided that they remit a new examination fee and obtain official examination admittance authorization.

E. Applicants are not allowed to possess or utilize any reference material, slide rules, protractors, tables, or computers during examinations.

F. Examinations will be administered only at designated examination centers, on the prescribed date and at the prescribed time as shown on admittance authorization, and only after all of the requirements of this section have been met.

2. Any check presented as a fee under this section which is returned unpaid by the payor's bank shall be cause for suspension, revocation, or denial of renewal of license.

A. Examination fees shall be submitted by separate remittance and shall be submitted in the form of a certified check, cashier's check, bank or U.S. postal money order payable to the Louisiana Real Estate Commission. Examination fees shall not be combined with the payment of any other fees remitted pursuant to this section.

3. Applicant for broker's license shall furnish to the Commission a current credit and character report obtained from a recognized credit reporting agency. The report required herein must be received by the Commission before the applicant's application will be processed.

4. Real estate license fees shall cover a period of one calendar year beginning January 1 and expiring December 31. Fees remitted for licenses issued for a portion of a year shall not be prorated. Credit allowances or refunds for any unlicensed portion of the license shall not be allowed.

5. All renewal applications shall be submitted for receipt by the Commission by October 15 in order for licenses to be issued in proper statutory time. The responsibility for timely submission of renewal applications rests solely with each individual licensee. Failure to timely submit applications for renewal shall be cause for suspension of license.
 - A. Salesmen's licenses shall be renewed subsequent to renewal of their sponsoring broker's license.
 - B. Salesmen's renewal applications shall be signed by the sponsoring broker and submitted to the Commission together with the renewal fee.
6. Applications for renewal of delinquent licenses shall be accepted by the Commission only during the calendar year following the last date on which applicant held a valid license. Formerly licensed brokers or salesmen who are not eligible for renewal shall apply for licenses as initial applicants.
 - A. Examination requirements shall apply to all applicants who are not eligible for renewal.
 - B. Applicants who have been previously licensed but who have not been licensed during any of the three calendar years immediately preceding their date of application are subject to all educational requirements of initial applicants.
 - C. Applicants who were previously licensed at least two consecutive years during three calendar years immediately preceding the date of application may obtain a waiver of all or part of the educational requirements at the discretion of the Commission.
7. Licensees who are inducted into military service, or those military personnel licensees who are transferred out-of-state shall, upon notifying of their honorable discharge and furnishing appropriate evidence thereof, be entitled to renewal of their licenses, without penalty, provided their request is furnished within six months following their discharge.
 - A. The provisions of this section extend to the spouses of the persons described hereinabove who were licensed at the time of such induction or transfer.
8. In accordance with R.S. 37:1442, all requests for transfer of salesmen licenses from one sponsoring broker to another shall be signed by the new sponsoring broker and forwarded to the Commission with the required transfer fee. Additionally, any broker who returns a salesman's license to the Commission for transfer or cancellation shall sign and forward to the Commission one copy of the letter by which said broker notifies a salesman that his license has been returned to the Commission.
 - A. Transfer fees are forfeited by the transferor upon receipt thereof by the Commission. Any additional or amended request for transfer shall be accompanied by a separate transfer fee.
 - B. Transfer fees are waived in the event that the transfer is due to the death of a sponsoring broker.
9. Salesmen who apply for brokers' licenses shall obtain the written acknowledgment of such action from their sponsoring broker. The acknowledgment may be submitted under separate cover or affixed to the applicant's application; in either case the application will not be processed until the acknowledgment is received by the Commission.
 - A. The subject acknowledgment shall be given by the sponsoring broker, without qualification, within ten days following broker's receipt of written request therefor.
 - B. Failure of a broker to acknowledge an application, in accordance with the provisions of this section, shall be cause for the suspension or revocation of license.
 - C. The provisions of this section shall not apply to an applicant for broker's license who is not a salesman at the time of submitting an application but otherwise meets the requirements for a broker's license.
10. Not more than one brokers license shall be issued in the same or substantially similar name.
 - A. No surname shall appear on an individual brokers license except that of the said broker.
 - B. No surname shall appear in the name of a corporation or partnership license which is to be issued unless such surname is that of an active broker who owns a substantial interest in the said corporation or partnership.
11. Broker and salesman licenses shall not be issued nor held concurrently.
12. A salesman shall, upon termination of business

relationship with a sponsoring broker, forthwith turn over to such broker any and all listing information, contracts, keys, and other property obtained during said business relationship whether such information was originally given by, or copied from the records of such broker, or otherwise acquired by the salesman during the business relationship with said broker.

- A. The requirement of this section must be complied with before a salesman's license will be transferred.
- B. Brokers who allege the failure of a salesman to comply with the requirements of this section shall furnish a detailed documented report of the alleged violation to the Commission concurrently when submitting the salesman's license to the Commission in accordance with R.S. 37:1442. Brokers who fail to comply with the requirements of this section shall be deemed to have waived the provisions thereof.

13. Advertising

- A. All advertising of property by real estate brokers shall be stated in the exact name as shown on their real estate broker's license.
 - 1. Brokers shall have the actual authority of the owner of any property before they represent or advertise the said property in any way.
 - 2. All advertising by real estate brokers shall be a clear, concise, true, and up-to-date representation of the thing advertised.
 - 3. All advertising, whether printed, radio, television, display or, of any other nature, must contain the name and telephone number of the advertising broker. The name and telephone number of salesmen and/or broker-affiliates may appear in advertising of the sponsoring broker, however, it must be displayed in a manner distinctively subordinate to that of the sponsoring broker.
 - 4. No advertisement shall be made by telephone number alone.
- B. A licensed broker or salesman offering property in which such licensee owns an interest shall state in any advertisement that the owner is a licensed real estate agent.

- C. No real estate broker shall offer or advertise to the public the service of "free appraisal" unless said broker is fully qualified and/or certified in the field of real estate appraisal by competent authority. Any real estate broker who, nevertheless, advertises or offers the service of "free appraisal" shall furnish a complete written copy of each appraisal that is requested in response to such offer or advertisement.

- 14. Immediately upon becoming licensed, each broker shall open and maintain an escrow (trust) account into which they shall deposit all monies, including rentals or other things of value received in trust on behalf of clients.

- A. The escrow (trust) account required by this section shall be established as a separate account in a bank in the parish in which the broker's main office is located except under circumstances where requirements of the parties dictate a different parish.

- 1. In the discretion of the broker a separate escrow (trust) account may be opened and maintained for the collection and management of rentals.

- B. Monies received in trust on behalf of clients are not assets of the broker and shall not be commingled with personal or business funds of the broker; however, a broker may deposit and keep a sum not to exceed \$100.00 in said account from his personal funds, which sum shall be specifically identified and deposited to cover bank service charges related to said escrow (trust) account. Failure to comply with the requirements of this subsection shall be construed as prima facie evidence of fraud.
- C. Applicants for brokers' licenses shall execute an affidavit authorizing and empowering the Commission or its representative to examine and/or inspect their escrow (trust) accounts.
- D. Brokers shall execute a separate escrow (trust) account affidavit upon opening any new or additional escrow (trust) account. Affidavits required by this subsection shall be submitted to and received by the Commission within ten days following the opening of such account.
- E. Monies received and deposited in escrow (trust) accounts shall be removed and/or disbursed therefrom only upon:

- B. Bond restrictions
- C. License fee
- D. Term, suspension, and posting of license
- E. Contracts
- F. Inspection of premises and books of cotton buyer

A copy of the complete rules and regulations may be obtained by writing the Louisiana Department of Agriculture, Grain Division, 2843 Victoria Drive, Baton Rouge, La. 70805.

All interested persons will be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing.

Dave L. Pearce
Commissioner

NOTICE OF INTENT

Board of Trustees for State Colleges and Universities

In accordance with the laws of the State of Louisiana and with reference to the provisions of Title 30 of the Louisiana Revised Statutes of 1950 as amended, a public hearing will be held in the Moss Library Building on the City Park Campus of Delgado College in New Orleans, Louisiana beginning at 9:00 a.m., November 14, 1975.

At such hearing, the Board will consider its bylaws and policies and procedures governing the institutions operating under the authority of the Board and specifically:

- 1. Part 1, Bylaws.
- 2. Part 2, Operating Policies and Procedures.
- 3. Part 3, Building Use, Capital Outlay and Construction.
- 4. Part 4, Educational Programs, Policies and Procedures.
- 5. Part 5, General Administration Policies and Procedures.

- 6. Part 6, Financial Policies and Procedures.
- 7. Part 7, Faculty and Staff Personnel Policies and Procedures.
- 8. Part 8, Student Personnel Policies and Procedures.
- 9. Part 9, Athletic Program, Policies and Procedures.
- 10. Part 10, Insurance, Accidents, Safety Policies and Procedures.

The Board of Trustees for State Colleges and Universities will accept written comments until 5:00 p.m., Monday, November 10, 1975, at the following address:

Board of Trustees for State
Colleges and Universities
P. O. Box 44307, Capitol Station
Baton Rouge, Louisiana 70804

The public is made aware of the above proposed policies and procedures in compliance with R.S. 49:951-966.

All interested persons will be afforded reasonable opportunity to submit data, views, comments or arguments at the regular November Board meeting.

Bill Junkin
Executive Director

NOTICE OF INTENT

Governor's Consumer Protection Division

The Director of the Governor's Consumer Protection Division hereby gives notice of his intention to amend Title 2 of the Consumer Protection Rules and Regulations to reflect changes in the Administrative Procedures Act (Act 730 of 1975), subject to the approval of the Consumer Protection Advisory Board and the Attorney General, on November 10, 1975, at 5:00 p.m. at the Division's Office in Suite 1218, Capital Bank Center, 1885 Wooddale Boulevard, Baton Rouge, Louisiana 70806.

Any interested person may submit, orally or in writing, his views, arguments, data, or reasons in support of or in opposition to this intended adoption of amendments to the rules and regulations by personally

visiting the above office during its normal office hours from 8:30 a.m. to 5:00 p.m. on any day not a legal holiday or day of the weekend, from now until the above time and date of taking the intended action, and submitting same.

Charles W. Tapp
Director

NOTICE OF INTENT

State Board of Elementary and Secondary Education

Notice is hereby given that the State Board of Elementary and Secondary Education intends to consider at its regular November meeting the adoption of policy changes relative to the following areas: 1) designation of the State Board of Elementary and Secondary Education as the primary agency to receive, supervise, and control Federal funds authorized and appropriated for the purpose of comprehensive state-wide planning and evaluation under Title V of the Elementary and Secondary Education Act of 1965, 2) a resolution on special education as follows:

Resolved: that the Board of Elementary and Secondary Education's philosophy of special education is that of providing a least restrictive alternative program for all handicapped children, e.g., mainstreaming.

The removal of handicapped children from the regular education environment should occur only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Local school systems are urged and requested to design and implement flexible programs for handicapped children which will lead to both normalization and individualization, and thus avoid or minimize labeling and categorizing. Such flexible programming will insure that the child receives the special attention that he needs without disassociating him from his peers in the regular classroom.

It is to be understood that the Board's intentions are to provide sufficient resource and itinerant teachers without affecting the pupil-teacher ratio in the regular class. Keeping handicapped children in the public school and in the mainstream culture gives their "normal" peers an opportunity to learn about

and accept individual differences. Special education should be an integral part of the regular school program in order to guarantee that right by law of all handicapped children to an equal educational opportunity and enable them to become productive and functioning members of society at large.

3) the fundamental structure of the minimum foundation formula, 4) new certification requirements for school psychologists, school social workers, education specialists, and speech and hearing therapists, and 5) general policy on vocational-technical programs and Federal appropriations.

The State Board of Elementary and Secondary Education will accept written comments until 5:00 p.m. November 4 at the following address:

State Board of Elementary
and Secondary Education
P. O. Box 44064, Capitol Station
Baton Rouge, Louisiana 70804

The public is made aware of the consideration of the above rule change proposal in compliance with R.S. 49:951 et seq.

All interested persons will be afforded reasonable opportunity to submit data, views, comments, or arguments at the regular November Board meeting.

Earl Ingram
Director

NOTICE OF INTENT

Commission on Fire Fighting Personnel Standards and Education

The Commission on Fire Fighting Personnel Standards and Education will meet at 10:00 a.m., November 4, 1975, in the Conference Room of the Shreveport Fire Prevention Bureau, Shreveport City Hall, to consider adoption of the following proposals:

1. Rules and procedures;
2. Approved subjects for certified Fire Fighter I training;
3. Performance objective evaluation requirements for becoming a Commission-certified Fire Fighter I.

paid by the subdivider in the manner provided for initial registration.

- F. Neither the subdivider or any representative of the subdivider shall in any manner refer to the Commission or any member or employee thereof in selling, offering for sale, advertising or otherwise promoting the sale, mortgage, or lease of such real estate, nor make any representation whatsoever that such real estate has been inspected, approved, endorsed, or in any way recommended by the Commission or any Louisiana official, department, or employee.
 - G. The Commission shall have the power to withdraw any registration and/or issue a cease and desist order to any subdivider subject to these rules and regulations, upon determination that any Federal or State law or Commission rule has been or is about to be violated.
27. Complaints involving violation of the Louisiana Real Estate Licensing Law and/or the rules and regulations of the Commission shall be signed by the complainant or his legal representative before any action thereon will be taken by the Commission.
28. Brokers are permitted to become affiliated with another broker, including broker corporations or partnerships, provided that all requirements of individual broker licenses are maintained. In cases where an individual broker becomes affiliated, on an exclusive basis, with another broker, whether individual, partnership, or corporation, the provisions of Rule 29 A, B, C, and D shall nevertheless apply to such individual brokers.
29. A real estate broker's license shall not be granted to a corporation or partnership unless said corporation or partnership designates only one qualifying broker who shall own a substantial interest in and shall represent the said corporation or partnership. The qualifying broker shall sign the bond and/or continuation certificate and application for the corporation or partnership and all applications for the salesman. All directors and officers of a broker corporation or partnership who actively participate in the real estate business of said corporation or partnership shall be licensed as an individual real estate broker. Upon termination of the qualifying broker's affiliation with the broker corporation or partnership, for any reason, the qualifying broker shall immediately notify the Commission and the broker corporation or partnership shall name a new qualifying broker and notify the Commission within ten days thereof. Every person who acts as a

salesman for such corporation or partnership shall be licensed as a real estate salesman.

- A. Corporations or partnerships that elect to become licensed as a real estate broker are subject to all requirements of the Louisiana Real Estate License Law and/or rules and regulations of the Commission that are imposed upon individual broker licensees.
- B. All brokers who become affiliated with a broker corporation or partnership on an exclusive basis shall notify the Commission immediately prior to beginning or terminating such relationship and indicate the effective date of impending change. The notification required by this section shall be accompanied by delivery of the broker's license of the individual to the Commission which shall inscribe or remove the identity of the subject corporation or partnership on the said license and immediately return it to the licensee.
- C. All brokers who are affiliated with a broker corporation or partnership, on an exclusive basis, the identity of which is inscribed on the face of their license, shall be exempt from the requirement of maintaining an escrow (trust) account as otherwise required in the law or the rules and regulations of the Commission. The waiver provided herein must be specifically claimed by the broker and approved by the Commission.
- D. Pursuant to R.S. 37:1447, each corporation or partnership, through its qualifying broker, and each individual licensed broker, other than the qualifying broker, that is affiliated with said corporation or partnership, shall furnish a separate surety bond in favor of the Governor.
- E. Upon dissolution of a corporation or partnership, the qualifying broker shall return the corporation or partnership broker's license to the Commission, accompanied by all salesmen's licenses held by the broker corporation or partnership, within ten days following the date of corporation or partnership dissolution.
- F. Exemption: The provisions of this section which require a qualifying broker to own a substantial interest in the broker corporation or partnership shall be waived in those cases where ownership of stock in such corporations or partnerships, licensed prior to September 1, 1974, is precluded. The waiver outlined by this

subsection must be claimed by licensees and approved by the Commission in connection with renewal of licenses for 1975 and thereafter.

30. Companies that issue bonds required by R.S. 37:1447, shall issue same in the identical name as set forth in applicant's application. Additionally, said companies shall provide a notarized power of attorney giving specific authority for named individual(s) to execute such bonds on behalf of that company.

A. The power of attorney required by this section shall be furnished either directly to the Commission in "blanket" form or individually to the recipient of the bond. In the latter case it shall be the obligation of said recipient to attach the individual power of attorney and submit same with the appropriate application.

B. Applications which do not comply with the requirements of this section shall be returned to the sender.

31. Bonding companies shall not be permitted to cancel a broker's bond for:

A. Non-payment of premium

B. Suspension of license

32. Bonding companies shall obtain the approval of any bond cancellation from the Commission. Cancellation of broker's bond for any reason shall result in automatic indefinite suspension of the broker's license effective on the date of cancellation of the bond provided, however, that licenses subject to suspension pursuant to this section shall remain in full force and effect if a new bond is obtained and submitted by the broker and received by the Commission within ten days prior to the effective date of scheduled cancellation of bond. Notification by bonding company of approved cancellation of the bond shall be provided to the broker, by certified mail not less than ten days prior to the date that said cancellation is to become effective.

A. Informational copies of the said notification and proof of receipt by the broker shall be furnished to the Commission by the bonding company before any cancellation will be processed.

B. Reinstatement of licenses suspended under this

section shall require the approval of the Commission and shall be applied for by:

1. A petition to the Commission setting forth justification for the reinstatement.

2. New bond.

3. Current Character-Credit Report.

C. Licenses suspended under this section shall be automatically revoked if not reinstated during the license year in which the suspension became effective.

33. Real estate brokers, in accordance with R.S. 37:1431, shall include all persons, whether operating as individuals, corporations, or partnerships, who are engaged in the business of charging an advance fee in connection with any activity whereby the said persons undertake primarily to promote the rental, leasing, sale, or exchange of real estate through the listing of such real estate in a publication or list which is designed, compiled, issued and/or distributed primarily for such purpose.

34. A real estate school includes any authorized place or institution which is open to the public for the instruction or training of individuals to engage in the practice of real estate. All real estate schools shall satisfy the requirements of R.S. 37:1438.3 and R.S. 37:1438.4, and the rules and regulations of the Commission.

35. No person shall operate a real estate school from which the Commission will accept a Certificate of Completion unless he complies with the requirements of the Commission and holds a Certificate of Registration in good standing issued by the Commission.

A. No Certificate of Registration shall be issued to any broker-applicant whose courses are designed and primarily intended for instruction of that same broker-applicant's future salesman or broker affiliates.

36. An applicant for a Certificate of Registration to operate a real estate school shall file an application with the Commission in such form as the Commission may prescribe.

A. Certificates of Registration issued or renewed under this Chapter shall be valid for a maximum of one year and shall expire on June 30th next following such issue or renewal.

- B. Applications for issue or renewal of Certificates of Registration shall be submitted not later than May 15th of each year.
 - C. Failure to submit a timely application for renewal of a Certificate of Registration shall automatically suspend such Certificate on July 1 and any continued activities by a real estate school subsequent to such suspension shall be deemed a violation of these rules and regulations and penalties as provided in R.S. 37:1458 shall apply.
 - D. Any application for Certificates of Registration which is submitted subsequent to suspension under paragraph C herein, shall be treated as an initial application.
 - E. Real estate schools must conduct a minimum of two approved real estate courses per year and provide evidence thereof to the Commission with each application for renewal of Certificate of Registration.
 - F. Real estate schools shall not schedule courses which will begin during a specific Certificate of Registration period and which will terminate at a time thereafter unless renewal of the said Certificate of Registration has been applied for and approved by the Commission prior to the date that such courses are scheduled to begin.
37. The Commission will issue a Certificate of Registration for each school which complies with the Louisiana Real Estate License Law and the rules and regulations of the Commission.
- A. All Louisiana state and private colleges and universities where a real estate course is given in a regular curriculum are exempt from filing and obtaining a Certificate of Registration.
38. No person shall act as an instructor at a real estate school and no real estate school shall hire or permit any person to act as an instructor at a real estate school unless that person has obtained a Certificate of Registration from the Commission.
- A. The provisions of this rule do not extend to guest lecturers.
39. The Commission may issue a Certificate of Registration as instructor in a real estate school to a person who applies to the Commission in such form as the Commission may prescribe and possesses at least one of the following qualifications:
- A. A bachelor's degree with a major in real estate from an accredited college or university.
 - B. A bachelor's degree from an accredited college or university and at least two years experience in real estate brokerage.
 - C. A real estate broker licensed in Louisiana with a minimum of five years active experience in real estate brokerage.
 - D. Two years experience as a qualified instructor or professor in real estate at an accredited college or university.
 - E. Possess other special qualifications which in the opinion of the Commission, constitute the equivalent of one or any combination of the listed instructor qualifications.
40. Approved real estate schools, with the exception of the Louisiana colleges and universities, shall designate their courses as Real Estate I (30 hour statutory requirement for salesmen), Real Estate II and III (balance of 90 hour statutory requirement for brokers).
- A. In order to initially qualify and thereafter to maintain good standing, all schools shall furnish to the Commission:
 1. The name of each instructor and a detailed copy of each course curriculum, including allocation of hours of classroom instruction to each topic.
 2. Tuition rates, time and location for course(s) offered.
 3. Date of beginning and completion of said course(s).
 4. A notarized list certifying the name of all persons enrolling in course(s).
 5. A notarized list of those persons satisfactorily completing course(s) also certifying that the named students personally attended the minimum required statutory classroom instruction and passed a comprehensive final examination.
 6. A copy of the final examination for course(s).
 - B. The information required by subparagraphs 1,

2, 3, and 4 shall be furnished within ten days following the date of beginning course(s). The information required by subparagraphs 5 and 6 shall be furnished within ten days following the date of completion of course(s).

41. In accordance with the provisions of R.S. 37:1438.3 and 1438.4, all schools shall provide an individual Certificate of Completion to all students upon successful completion of statutory course and attendance requirements.

A. All Certificates of Completion shall bear the original signature of the head instructor of the school.

B. Certificates required by this section shall be attached by applicants to their initial or renewal application and submitted to the Commission.

1. Individuals who have undertaken course(s) approved by the Commission for university or college credit and desire to apply for a real estate license shall obtain a certified extract of their transcript from their university or college registrar indicating the title and number of the course(s), date of completion and final grade and submit same to the Commission in lieu of the required Certificate of Completion.

C. No Certificate of Completion will be accepted from any real estate school that is not in good standing with the Commission on the date that such Certificate of Completion is issued.

42. Advertising by approved real estate schools shall be clear, concise and accurately represent the facilities and charges which it offers.

A. All schools shall publish the name(s) of the course instructor(s) in advance of registration.

B. In cases where it is impossible to determine the name of course instructors in advance of registration, the school shall not collect any fee until the date on which the course actually begins or the date that the identity of the instructor is published whichever comes first.

43. In accordance with the provisions of R.S. 37:1453, the Commission may upon its own motion and shall upon receipt of a verified complaint in writing of any person, investigate the actions and records of any real estate school that holds a Certificate of Registration.

44. In accordance with R.S. 37:1460, the licensee who is selected to assume the position of a deceased broker for the purpose of completing the pending business of the broker, shall notify the Commission of said appointment with ten days.

A. In the exceptional case where 180 days is not sufficient to complete the pending business of the deceased broker, the Commission may grant an extension of time where justified.

B. In those cases where it is necessary to appoint a licensee that was not a salesman or broker-affiliate of the deceased broker, the appointee shall be a broker.

Alvin J. Unick
Director

Rules

RULE

Louisiana Health and Human Resources Administration

(Editor's Note: The following rule was adopted by the Health and Human Resources Administration, on September 9, 1975, to be effective on October 20, 1975.)

As a result of the public hearing held at 10:00 a.m. on September 9, 1975, the following amendment was adopted to the rules and regulations for Emergency Medical Services, Medical Transportation Services Program, for the State of Louisiana by the Commissioner, Louisiana Health and Human Resources Administration.

Section VIII of the rules and regulations adopted on December 19, 1974 is amended by adding the following:

Section VIII

Exemptions

F. The use by any employer of any vehicle, aircraft, or marine craft for the purpose of transporting employees who become sick, in-

jured, wounded, or otherwise incapacitated in the course of their employment from job site to an appropriate medical facility.

William H. Stewart, M.D.
Commissioner

RULES

Department of Highways

(Editor's Note: The following rules were adopted by the Department of Highways on September 17, 1975, to be effective on October 20, 1975.)

Policy, Procedure, and Control of Junkyards Along Interstate and Primary Systems

General

The rules and regulations contained in this manual shall apply to all junkyards located within 1,000 feet of the nearest edge of the right-of-way on all Interstate and Federal Aid Primary Highways in Louisiana. These rules do not apply to junkyards in zoned industrial areas, zoned by an authorized zoning commission or those which exist in an unzoned industrial area as defined by the Louisiana Department of Highways and which was approved by the Federal Highway Administration.

Authority

The applicable law authorizing the State to regulate the establishment of junkyards and authorizing the screening or removal of junkyards is R.S. 48:461 - 461.15 (Act 474 of 1966) and in particular Sections 461.9 through 461.15.

Organization

The provisions of the Beautification Act regarding junkyards will be carried out by the Traffic and Planning Division through its Beautification & Permits Unit. The Beautification sub-unit consists of one stenographer and one engineering specialist who heads up the sub-unit and is stationed in the central office. In addition, there are two engineering aids whose duties entail field investigation encompassing inventory, surveillance, site location review, and other designated duties. The Traffic and Planning Division, as the need arises, will rely on the services of other specialized sections of the Department for assistance in carrying out these provisions.

Program Priorities

Predicated on the assumption that adequate funding for initiating screening, relocation, or removal projects will be provided, the Department will attempt to first have illegal junkyards screened, relocated, or removed along the Interstate and Federal Aid Primary Highways. This will be followed by the screening, relocation, or removal of legally established non-conforming junkyards.

Inventory and Control

The Beautification and Permits Unit will have the responsibility of maintaining a current inventory of all junkyards, conducting a continuing surveillance program to discover illegally established or maintained junkyards, and to initiate procedures to obtain compliance with the Highway Beautification Act.

Legally Established Non-Conforming Junkyards

Junkyards which were in existence at the time of the passage of the State law in 1966 and which were not established in violation of any other law, ordinance, or valid regulatory standard, will be screened or removed on a site by site basis by the Department of Highways. In screening non-conforming junkyards, the Department's landscape architect in the Location and Design Section shall prepare the necessary plans which will be submitted to the Federal Highway Administration for approval.

Unlawful or Illegal Junkyards

Junkyards not lawfully established shall be screened or removed by the junk owner. If the junkyard is to be screened, detailed plans including a plan and profile view of the proposed screening in addition to a description of the materials to be used shall be submitted to the Louisiana Department of Highways, Post Office Box 44245, Capitol Station, Baton Rouge, Louisiana, 70804, Attention: Permit Section, for approval.

If the junkyard cannot be effectively screened, then the junkyard shall be removed at the junk owner's expense.

In either event a notification to the junk owner by certified mail will be sent by the Department advising him of the unlawful junkyard. The junk owner will then have thirty days in which to submit plans to the Department at the aforementioned address.

Upon written acceptance by the Department of the screening or removal plans, the junk owner will have ninety days in which to comply with the law.

Screening

A. Fences

1. The fencing shall be of suitable material and constructed so it will be capable of remaining erect.
2. The fencing shall be high enough to screen all junk and junked cars from view of the traveled way of the highway. Should the junk piles be increased in height, the height of the fence must also be increased.
3. The fence shall extend along the frontage of the junkyard and along the sides of the junkyard to a distance so that all junk and wrecked cars within one thousand feet will be screened from view of the traveled way of the highway. The fence shall be located on private property and will be maintained by the junkyard owner or operator. Should the fence become damaged, it must be repaired within thirty days.
4. The fence must be neat in appearance and of uniform color and height. If the fence is painted, it shall be of uniform color or neatly trimmed in another color. Distracting colors and designs will not be acceptable.
5. It is not necessary that the fence be solid. However, the open spaces must be small enough that the junk material is effectively screened.

B. Planting

1. If plantings are to be used for screening, they must be large enough and placed close enough to screen the junk and junked cars shortly after planting.
2. All plants must be of either the evergreen variety or bamboo in order to give year-round effective screening.
3. Plants must be located with the same stipulations as fences.
4. Except for extremely fast growing plants, the planting of young or sparse plants will not be allowed with the purpose that in time the screening will be acceptable.

5. Should the plants become diseased, die, or get damaged in any way so as to cause the junk not to be screened, they must be replanted within thirty days.

C. Natural Objects

1. Natural occurring woods, earth mounds, etc., may be utilized for screening if they are of a size such that the junk cannot be seen from the traveled way of the highway.
2. Natural objects may be used in conjunction with plantings, fences, or other appropriate objects to screen junkyards.

D. Other Appropriate Objects for Screening

Subject to prior approval by the Louisiana Department of Highways, other objects for screening such as buildings, houses, and occupied house trailers may be used entirely or in part to screen junkyards provided the objects are neat in appearance and properly maintained so as not to mar the natural beauty of the highway and its facilities.

Procedures Used in Determining the Practicality of Whether a Non-Conforming Junkyard Should Be Screened or Removed

An on-site inspection will be made of each location by the landscape architect of the Location and Design Section and a representative of the Right of Way Section to determine if the topography of the land will permit effective screening. If effective screening is possible, an economic survey will be conducted to determine the feasibility of screening versus removal. The final determination as to whether screening or removal will be effected is the responsibility of the Beautification and Permit engineer. After this decision has been made, the supporting data and justification shall be submitted to the Division engineer of the Federal Highway Administration on a project by project basis for review and approval.

If the Beautification and Permit engineer determines that the most feasible method for compliance with State law and policies is by the screening of a junkyard, it will then be the responsibility of a representative of the Right of Way Section to obtain permission for allowing the Department's contractor to enter land outside of highway right-of-way to effectively screen the junkyard.

Programming and Authorization of Screening Projects

Whether the screening of a non-conforming junkyard is along an Interstate or a Federal Aid Primary Highway, the length of a given project will depend upon establishing terminal points of a control section with limitations to project size being imposed only by the number of, and cost of screening the junkyards.

The Beautification and Permit engineer will be responsible for determining the scope of a project. He will secure from the Project Control engineer the project number to be assigned and will provide the Location and Design Section a list of the junkyards to be screened, their inventory number, location, and validation of their legal status. The Location and Design Section will then furnish the Beautification and Permit engineer an estimated cost along with detailed plans and cross sections showing the type of screening.

The Federal Aid engineer of the Project Control Section will then request Federal participation by submitting to the Division engineer of the Federal Highway Administration the following information which will be supplied to him by the Beautification and Permit engineer.

1. The zoning and validation of the legal status of each junkyard on the project.
2. Plans or graphic displays indicating the location of the junkyard relative to the highway, the one thousand foot control lines, property ownership boundaries, the general location of the junk or scrap material, and any buildings, structures or improvements involved.
3. The type of screening, and adequately detailed plans and cross sections or other adequate graphic displays which illustrate the relationship of the motorist to the screen, and the material to be screened at critical points of view.
4. Estimated cost.

Relocation and/or Disposal

A. Valuation

This method of junkyard control will be used only as a last resort. Moving costs will be determined by an appraiser or consultant on the basis of information obtained from salvage yard operators, contract carriers, and any other reliable source. The junk owner will be given the opportunity to accompany the appraiser or consultant during his inspection. The maximum moving

cost will be that amount which is consistent with the most economical method of disposing of the junk material. All appraisals will be in accordance with State and Federal regulations.

B. Negotiations

Negotiations with the owner of property rights involved in the junkyard will be conducted by Right of Way personnel. Negotiations will include a thorough investigation of all claims for compensation made by either the junk owner, the landowner, or any other person. Formal written offers will be made. Such letters will set out the property rights to be acquired or damaged and the amount to be paid therefor. The time allowed for the removal of the junk and other personal property will be negotiated, but the ninety day notice process will be followed. Controls will be established to insure that the junk is not moved to any location which would violate the provisions of the Beautification Act, or any other law or ordinance.

C. Acquisition by Expropriation

If the written offer to any party which has a compensable interest is not accepted within a reasonable time, acquisition by expropriation to acquire the necessary property interest will be initiated by the State.

D. Programming and Authorization of Relocation or Disposal Projects

When a project is to be let for the relocation or disposal of non-conforming junkyards along Interstate and Federal Aid Primary Highways, the Beautification and Permit engineer will be responsible for determining the scope of the project. The length of a given project will depend upon the number and cost of relocation or disposal of the junkyards.

After obtaining a project number from the Project Control engineer, the Beautification and Permit engineer will provide the Right of Way Section with a list of the junkyards to be relocated or disposed of, their inventory number, location and validation of their legal status. The Right of Way Section will then furnish the Beautification and Permit engineer the junkyard owner, parcel numbers, location of replacement site, if applicable and the real property interest to be acquired in order to implement the control measures.

The Federal Aid engineer of the Project Control Section will then request Federal participation by submitting to the Division engineer of the Federal Highway Administration the following information

which will be supplied to him by the Beautification and Permit engineer.

1. The zoning and validation of the legal status of each junkyard on the project.
2. The control measures proposed for each junkyard including, where applicable, information relative to permanent disposal sites to be acquired by the State.
3. The real property interest to be acquired in order to implement the control measures.
4. Project and parcel numbers.
5. Landowner.
6. Junkyard inventory number.
7. Estimated cost.

Documentation

Documentation for Federal participation will be as prescribed in the most current Federal publications regarding junkyards. The Department will use before and after photographs on the junkyard site and the screened or relocated site.

Definitions

1. **National System of Interstate and Defense Highways and Interstate System** means the system presently defined in and designated, or as may hereafter be so designated, pursuant to Subsection (d) of Section 103, Title 23, United States Code.
2. **Federal-Aid Primary Highway** means any highway within that portion of the State Highway System as designated, or as may hereafter be so designated by the State, which has been approved by the Secretary of Transportation pursuant to Subsection (b) of Section 103, Title 23, United States Code.
3. **Main-Traveled Way** means the traveled way of the highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.
4. **Centerline of the Highway** means a line equidistance from the edge of the median separating the main-

traveled ways of a divided highway, or the centerline of the main-traveled way of a nondivided highway, or the centerline of each of the main-traveled ways of a divided highway separated by more than the normal median width or constructed on independent alignment.

5. **Maintain** means allow to exist.
6. **Landscaping** means planting and related work.
7. **Visible** means capable of being seen without visual aid by a person of normal visual acuity.
8. **Effective Screening** means the planting, architectural screen barrier, earth grading, inventory reduction, shifting of the storage area on the same property, and any combination of these that eliminates the visibility of the junk.
9. **Zoned Industrial Area** means those districts established by zoning authorities as being most appropriate for industry or manufacturing. A zone which simply permits certain industrial activities as an incident to the primary land use designation is not an industrial zone.
10. **Unzoned Industrial Area** means land occupied by the regularly used building, parking lot, storage, or processing area of an industrial activity, and that land within one thousand feet thereof which is (a) located on the same side of the highway as the principal part of said activity, and (b) not predominantly used for residential or commercial purposes, and (c) not zoned by State or local law, regulation, or ordinance.
11. **Industrial Activities for Purposes of Classifying Unzoned Industrial Areas** are those permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the State, or prohibited by said authority but generally recognized as industrial by other zoning authorities within the State, except that none of the following shall be considered industrial activities:
 - a) Outdoor advertising structures.
 - b) Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands.
 - c) Activities normally and regularly in operation less than three months of the year.
 - d) Transient or temporary activities.
 - e) Activities not visible from the traffic lanes of the main-traveled ways.