



**KOSCIUSKO BOARD OF
REALTORS®, INC.**

BYLAWS

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March 2018

BYLAWS OF THE KOSCIUSKO BOARD OF REALTORS®, Inc.

NAR Approved March 29, 2018>

ARTICLE I: NAME

Section 1. Name: The name of this organization shall be the KOSCIUSKO BOARD OF REALTORS®, Incorporated, hereinafter to as the “Board.”

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

ARTICLE II: OBJECTIVES

The objectives of the Board are:

Section 1. To unite those engaged in the recognized branches of the real estate profession for the purpose of exerting a beneficial influence upon the professional 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 interests of the home and other property ownership.

Section 5. To unite those engaged in the real estate profession in this community with the INDIANA 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 REALTOR® Associate 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 be within the County of Kosciusko, State of Indiana.

Section 2. Territorial jurisdiction is defined as mean:

- a. The right and duty to control the use of the terms REALTORS® 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 rights 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 state of Indiana 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 state or a state contiguous thereto shall qualify for REALTOR® Membership only, and each is required to hold REALTOR® Membership in a Board of REALTOR® with in the state or a state contiguous thereto. Unless otherwise qualified for Institute Affiliate Membership as described in Section 1(b) of Article IV REALTOR® Members may obtain membership in a “secondary” Board in another state.

In the case of a real estate firm, partnership, or corporation, whose business activity 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 firm’s principals holds REALTOR® membership, shall be required to hold REALTOR® membership unless otherwise qualified for Institute Affiliate Membership as described in Section 1(b) of Article IV, (Amended 1/01).

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. 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 provisions in the NAR Constitution and Bylaws. Such individuals shall enjoy all of the rights, privileges and obligations of REALTORS® 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 REALTORS® 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 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 Member. 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 address 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® or REALTOR-ASSOCIATE® 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 interests requiring information concerning real estate, and are in sympathy with the objectives of the Board.
- d. Public Service Members. Public Service Members shall be individuals who are interested in the real estate profession as 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 Member. Honorary Members shall be individuals who have retired from the active real estate profession and/or who have performed notable service for the real estate profession. Honorary Members may also be individuals not engaged in the real estate profession who have performed notable service for the Board, or for the public.
- f. Student Member. 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 profession on their own account or not associated with an established real estate office.
- g. Emeritus Member. A REALTOR® Member who has held membership in the National Association as a REALTOR®, REALTOR-ASSOCIATE®, or both, for a cumulative period of forty (40) years, upon certification by the Board of Directors shall be designated "REALTOR® EMERITUS." An individual who has been affiliated with a firm comprised of REALTOR® members for forty (40) years or more, but who was ineligible for REALTOR® or REALTOR-ASSOCIATE® membership for any portion of that time on the basis of sex, national origin, marital status or other basis now prohibited by the Bylaws of the National Association shall be eligible for REALTOR® Emeritus status. (Amended 08/12)

Privileges of REALTOR® Members

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

Obligation of REALTOR® Members

It shall be the duty and responsibility of every REALTOR® member of this association to abide by the Constitution and Bylaws and the rules and regulations of the association, 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 arbitrate controversies arising out of real estate transaction 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 association, as from time to time amended.

ARTICLE V: QUALIFICATION AND ELECTION

Section 1. Application.

- a. 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 statements to be signed by the applicant (1) that applicant agrees as a condition to membership to thoroughly familiarize himself/herself with the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, the Constitution, Bylaws, and Rules and Regulations of the Board, the State and National Associations, and if elected a Member, will abide by the Constitutions and Bylaws and Rules and Regulations of the Board, State and National Associations, and if a REALTOR® Member will abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTOR® including the obligation to arbitrate controversies arising out of real estate transactions as specified by Article 17 of the Code of Ethics, and a further specified in the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS® as from time to time amended, and (2) that applicant consents that the association, through its Membership Committee or otherwise, may invite and receive information and comment about applicant from any Member or other persons, and that applicant agrees that any information and comment furnished to the association 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 copy of the Bylaws, Constitution, Rules and Regulations, and Code of Ethics referred to above.

Section 2. Qualification

- a. An applicant for REALTOR® Membership who is a sole proprietor, partner, corporate officer, or branch office manager of a real estate firm shall supply evidence satisfactory to the Board of Directors that he is actively engaged in the real estate profession, and maintains a current, valid real estate broker's 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 state 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 **, agrees to 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 examination thereon as may be required by the Board, and shall agree that if elected to membership, he will abide by such Constitution, Bylaws, Rules and Regulations, and Code of Ethics.

NOTE 2: Article IV, Section 2 of the NAR Bylaws prohibits Member Boards from knowingly granting REALTOR® or REALTOR-ASSOCIATE® membership to any applicant who has an unfulfilled sanction pending which was imposed by another Board or Association of REALTORS® for violation of the Code of Ethics. (Adopted 1/01)

- b. Individuals who are actively engaged in the real estate profession other than as sole proprietors, partners, corporate officers, or branch office managers in order to qualify for REALTOR® Membership, shall at the time of application, be associated either as an employee 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 license or be licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, 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 Board of Directors and shall agree in writing that if elected to membership he will abide by such Constitution, Bylaws, Rules and Regulations, and the Code of Ethics.
- c. The Board/Association will also consider the following in determining an applicant's qualifications for REALTOR® membership:
 - 1. All findings of Code of Ethics violations and violations of other membership duties in any other association within 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 association MLS.
 - 6. Any misuse of the term REALTOR® or REALTORS® in the name of the applicant's firm.

"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 pending 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. (Amended 1/01)

Section 3. Election

The procedure for election to membership shall be as follows:

- a. The chief staff executive (or duly authorized designee) shall determine whether the applicant is applying for the appropriate class of membership. If the association has adopted provisional membership, applicants for REALTOR® membership may be granted provisional membership immediately upon submission of a completed application form and remittance of applicable association 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 association's Bylaws, or, if the individual does not satisfy all of the requirements of membership (for example, completion of mandatory orientation program) within 1 year from the association'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 association 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 any 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 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 application should be rejected, it shall record its reasons with the chief staff executive (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 association for a declaratory judgment by a court of competent jurisdiction of a final judgment declaring that the rejection violates no right of the applicant. (Adopted 1/98, Amended 1/05, 11/16)

Section 4. New Member and Membership Status Changes.

- a. Dues shall be prorated from the first day of the quarter 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. A previous member will be considered as new member if there is a lapse of membership of over (1) year. 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. A REALTOR® who changes the conditions under which he holds 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 he has been licensed or, alternatively, becomes a principal in a new firm which will be comprised of REALTOR® principals may require 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 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® (or REALTOR-ASSOCIATE®, where applicable) 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 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.

- c. 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.

Section 5. REALTOR® Code of Ethics Training

Effective January 1, 2017, through December 31, 2018, 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. This requirement will be satisfied upon presentation of documentation that the member has completed a course of instruction conducted by this or another association, the State Association of REALTORS®, the National Association of REALTOR®, or any other recognized educational institution or provider which meets the learning objectives and minimum criteria established by the National Association of REALTOR® 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 two (2) year cycle shall not be required to complete additional ethics training until a new two (2) year cycle commences.

Failure to satisfy the required ethics training shall be considered a violation of a membership duty. Failure to meet the requirement in any two (2) year cycle will result in suspension of membership for the first two month (January and February) of the year following the end of any two (2) 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 automatically be terminated. (Adopted 1/01, Amended 11/08, Amended 11/16)

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.

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 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. Required attendance at one orientation class for a new REALTOR® of Kosciusko Board of REALTORS® within twelve (12) months of admittance to the Board. Said Orientation classes are given annually, date to be specified by the committee and applicants so notified and applicants agree that if elected to membership, will abide by the Constitution, Bylaws, Rules and Regulations of the Board, the State and National Associations and will abide by the Code of Ethics of the National Association of Realtors®. If new REALTOR® does not fulfill this obligation of attending the Orientation class within specified time, Board membership will be suspended until this obligation is met.

Section 3. 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 not inconsistent with these Bylaws, after a hearing as provided in the Code of Ethics Arbitration Manual of the Board. 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 conduct their business and professional practices accordingly. Furthermore, Members other than REALTORS® may, upon recommendation of the Board of Directors, 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 purpose of the local Board, the State Association, and the NATIONAL ASSOCIATION OF REALTORS®.

Section 4. 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 Board, providing 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 5. If a member resigns or otherwise causes membership to terminate with an ethics complaint pending, the complaint shall be process until the decision of the association with respect to disposition of the complaint is final by this association (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 Boards 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 ethic 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 a member resigns or otherwise causes membership to terminate, the duty to submit to arbitration (or to mediation if required by the association) continues in effect even after membership lapses or is terminated, provided that the dispute arose while the former member was a REALTOR®. (Amended 1/00 and 11/11)

Section 6. REALTOR® Members.

- a. REALTOR® Members, whether primary or secondary, in good standing whose financial obligation 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®, which use shall be subject to the provisions of Article VIII; and have the primary responsibility to safeguard and promote the standards, interests, and welfare of the Board and the real estate profession.
- b. If a REALTOR® Member is a principal in a firm, partnership, or corporation and is suspended or expelled, the firm, partnership, or corporation shall not use the terms REALTOR® or REALTORS® in connection with its business during the period of suspension or until readmission to REALTOR® Membership, or unless connection with the firm, partnership, or corporation is severed, whichever may apply. The membership of all other principals, partners, or corporation 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 disciplined Member with the firm, partnership, or corporation is severed, whichever may apply. Further, the membership of REALTORS® other than principals who are employed by or affiliated as independent contractors with the disciplined Member shall be suspend or terminate during the period of suspension o the disciplined Member or until readmission of the disciplined Member or until connection of the disciplined Member with the firm, partnership, or corporation is served, or unless the REALTOR® Member (non-principal) elects to sever his connection with the REALTOR® and affiliate 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® and REALTORS® by the firm, partnership, or corporation shall not be affected.
- c. In any action taken against a REALTOR® Member for suspension or expulsion under Section 7 (b) 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 7 (b) shall apply.

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

NOTE: Local associations establish the rights and privileges to be conferred on Institute Affiliate Members except that no Institute Affiliate Member may be granted the right to use the term REALTOR®, REALTOR®-Associate, or the REALTOR® logo; to serve as President of the local association; or to be a participant in the local association's Multiple Listing Service.

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

Section 9. Public Service Members. Public Service Members shall have rights and privileges and be subject to obligation prescribed by the Board of Directors.

Section 10. Honorary Members. Honorary Members shall confer only the right to attend meetings and participate in discussions.

Section 11. Student Members. Student Members shall have rights and privileges and be subject to obligation prescribed by the Board of Directors.

Section 12. Emeritus Members. Emeritus Members shall have rights and privileges and be subject to obligation prescribed by the Board of Directors.

Section 13. Certification by REALTOR® “Designated” REALTOR® Members of the Board shall certify to the Board during the month of September on a form provided by the Board, a complete listing of all individuals licensed or certified in the REALTOR®’S office(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 after Article X, Section 2(a) of the Bylaws. “Designated” REALTOR® Member shall also notify the Board of any additional individual(s) licensed or certified with the firm(s) within thirty (30) days of the date of affiliation or severance of the individual.

Section 14. Sexual 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 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 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 investigator team comprised of the President, the 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.”

NOTE: Suggested procedures for processing complaints of harassment are available online at: <http://www.REALTOR.org/mempolweb.nsf/pages/HarassmentProcedure?OpenDocement>.

ARTICLE VII: PROFESSIONAL STANDARDS AND ARBITRATIONS

Section 1. 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 by this reference is incorporated into these bylaws, provided however, that any provision deemed inconsistent with state law shall be deleted or amended to comply with state law. By agreement with the Indiana Association of REALTORS®, the Kosciusko Board of REALTORS® will refer all professional standards matters, including ethics complaints, and arbitration and mediation requests (and other matters requiring a hearing), to the Indiana Association of REALTORS® for handling and disposition. This includes the ability of the Indiana Association of REALTORS® to discipline REALTORS, including, but not limited to, fines, suspension or expulsion of the member for the Kosciusko Board of REALTORS®. (adopted 01/01/14)

Section 2. It shall be the duty and responsibility of every REALTOR® member of this association to abide by the Constitution and Bylaws and the rules and regulations of the association, 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 association, as from time to time amended. (adopted 01/01/14)

Section 3. 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 of 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 fourth in the Code of Ethics and Arbitration Manual.

ARTICLE VIII: USE OF THE TERMS - REALTOR® Trademark

Section 1. 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. 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 Board of Directors after a hearing as provided for in the association's Code of Ethics and Arbitration Manual. (Amended 06/2006)

Section 2. REALTOR® Members of the Board shall have the privilege of using the terms REALTORS® in connection with their places of business within the state or 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 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 who are actively engaged in the real estate profession within the state or state contiguous thereto are REALTOR® Members of the Board of Institute Affiliate Members as described in Section 1(b) or 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. (Amended 1/01)

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

ARTICLE IX: STATE AND NATIONAL MEMBERSHIPS

Section 1. The Board shall be a Member of the NATIONAL ASSOCIATION OF REALTORS® and the INDIANA 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 INDIANA ASSOCIATION OF REALTORS® without further payment of dues. The Board shall continue as a Member of the State and National Association, unless by majority vote of all its REALTOR® Board Members, decision is made to withdraw, in which case the State and National Associations shall be notified at least one month in advance of the date designated for 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 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 Indiana Association of REALTORS®.

ARTICLE X: DUES AND ASSESSMENTS

Section 1. Application Fees. The Board of Directors have adopted an Application/Orientation fee, TBD by the Kosciusko Board of Directors, for new REALTOR® Membership not exceeding three (3) times the amount of the annual dues for REALTOR® membership which shall be required to accompany each application for Membership and which shall become the property of the Board upon final approval of the application.

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

- a. REALTOR® Members. The annual dues of each Designated REALTOR® Member shall \$ be determined by the Kosciusko Board of Directors. The determined dues plus an amount equal to those dues times the number of real estate brokers 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 a state contiguous thereto Institute Affiliate Members of the Board. In calculating the dues payable to the Board by the Designated REALTOR® Member, non-member licensees as defined in (1) and (2) of this paragraph shall not be included in the computation of dues if the Designated REALTOR® has paid dues based on said non-member licensees in another Board in the state or a state contiguous 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 activity is substantially all commercial, any assessments for non-members 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. *(Amended 1/01)

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 thereto 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 the REALTOR® if the license of the individual is held by the REALTOR®, or by any broker who is licensed with the REALTOR®, or by any entity in which the REALTOR® has a direct or indirect ownership interest and which is engaged in soliciting and/or referring clients or customers to the REALTOR® or his firm on a substantially exclusive basis or which is engaged in other aspects for 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 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, 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®.

Membership dues shall be prorated for any licensee included on a certification form submitted to the association 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.

- b. The annual dues of REALTOR® Members other than the Designated REALTOR® shall be determined by the Kosciusko 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 due to the National Association for Institute Affiliate Members (\$75.00). The National Association shall credit \$25.00 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 \$25.00 amount will be credited to the COB, unless the Institute Affiliate Member directs that the dues be distributed to the other board. The National Association shall also credit \$25.00 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.

- d. Affiliate Member. The annual dues of each Affiliate Member shall be determined by the Kosciusko Board of Directors.
- e. Public Service Member. The annual dues of each Public Service Member shall be determined by the Kosciusko Board of Directors.
- f. Honorary Members. Dues payable, if any, shall be determined by the Kosciusko Board of Directors.
- g. Student Members. Dues payable, if any, shall be determined by the Kosciusko Board of Directors.
- h. Membership Reinstatement Fee: If a member in good standing becomes inactive for more than 60 calendar days and then within one year of becoming inactive, decides to become active again, a \$100.00 fee will be charged for reinstatement.
- i. Emeritus Member: Upon approval by the Board of Directors of the National Association of REALTORS®, no further payment of dues is necessary to the National Association of REALTORS®. It is at the Indiana Association of REALTORS® discretion to waive the state dues. KBOR local dues are still payable but will be assessed at 50% the current yearly dues rate. The dues waiver does not take effect until the following 'dues season'; they are not pro-rated for the current year. For example, members approved as Emeritus mid-year would have their dues waived starting the following year since dues are due and owing by the local associations as of January 1 each year.

Section 3. Dues Payable. Dues for all Members will be billed no later than October 1st and shall be payable by December 1st. Dues received between December 2nd and December 15th will be assessed a \$100 fine. Dues shall be computed from the first day of the quarter in which a Member is notified of election and shall be prorated for the remainder of the year.

- a. In the event a sales licensee or licensed or certified appraiser who holds REALTOR® Membership is dropped for nonpayment of Board dues, and the individual remains with the designated REALTOR®'S firm, the dues obligation of the "designated" REALTOR® (as set forth in Article X, Section 2, a) 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. Nonpayment of Financial Obligations. If fees, fines or other assessments, including amounts owed to the Board are not paid within one (1) month after the due date, the nonpaying Member is subject to suspension at the discretion of the Board of Directors. Two (2) months after due date, membership of the nonpaying Member may be terminated at the discretion of the Board of Directors. Three (3) months after due date, membership of the nonpaying Member shall automatically terminate 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 Board of Directors had confirmed the accuracy of the amount owed.

- a. A former Member who has had his membership terminated for nonpayment of dues, fees, fines, or other assessments duly levied in accordance with Rules and Regulations of the Board or any of its services, departments, divisions, or subsidiaries may apply for reinstatement in manner prescribed for new applicants for membership, after making payment in full of all accounts due as of the date of termination.

Section 5. Deposits. All monies received by the Board for any purpose shall be deposited to the credit of the Board in a financial institution or institutions selected by resolution of the Board of Directors.

Section 6. Expenditures. The Board of Directors shall administer the day-to-day finances of the Board. Capital expenditures in excess of available cash may not be made unless authorized by the majority of the Board Members eligible to vote.

Section 7. Notice of Dues, Fees, Fines, Assessments and Other Financial Obligations of Members. All dues, fees, fines, assessments and other financial obligations to the Board shall be noticed to the delinquent Board Member in writing setting forth the amount owed and due date.

- a. Non renewal of membership dues by January 1st of each year – \$100.00 fine with automatic termination of services on January 1st until which dues are paid in full.
- b. All reservations made are paid reservations unless cancelled in advance.
- c. Any unpaid dues, fees, fines, assessments, and other financial obligations jeopardize the good standing of any member.
- d. Any bank returned checks for payment of any dues, fees, fines, assessment or other financial obligations will be charged back to the member. (adopted 08/12)

Section 8. Structure of Dues, Fees, Fines, Assessments, and Other Financial Obligations of Members. Change to structure of dues, fees, fines, assessments, and other financial obligations of Members may be amended by a majority vote of the Directors present and qualified to vote at which quorum is present.

ARTICLE XI: OFFICERS AND DIRECTORS

Section 1. Indemnity: Individual officers and Directors of the Board shall be indemnified from any liability arising from any actions of the Board. The Koscuisko Board of REALTORS® shall carry appropriate liability insurance to cover and all liability on behalf of individual Board Members.

Section 2. Officers: The elected officers of the Board shall be as follows: President, a Vice President and a Secretary/Treasurer. The Secretary and Treasurer may be the same person. Each shall be elected for a term of one (1) year. Upon completion of each year of service; officers will be given an option to progress in their positions on the Board. i.e., The Secretary/Treasurer will progress to the position of Vice President; the next year Vice President to President of the Board of Directors. (adopted 08/12)

Section 3. 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 term by the Board of Directors. It shall be the particular duty of the Secretary/Treasurer or Executive Officer to keep the records of the Board and to carry on all necessary correspondence with the NATIONAL ASSOCIATION OF REALTORS® and the INDIANA BOARD OF REALTORS®.

Section 4. Board of Directors and Duties: The governing body of the Board shall be a Board of Directors consisting of elected officers and six (6) REALTOR® members, one (1) (non-voting) Affiliate member and Immediate Past President of the Board. Directors shall be elected to serve for terms of, four (4) years except that at organization one-third (1/3) of the elected Directors shall be elected for terms of one (1), two (2), and three (3) years respectively, or for lesser terms as may be deemed necessary to complete the first fiscal year. Thereafter, as many Directors shall be elected each year as are required to fill vacancies. The immediate Past President will serve a one-year term as a voting Director. Directors shall serve only two consecutive terms. Each Board Director shall be responsible for mentoring a board committee as available.

Section 5. Election of Officers and Directors:

- a. At least two (2) months before the annual election, a Nominating/Election Committee of no less than three (3) and no more than six (6) REALTOR® Members shall be appointed by the President with the approval of the Board of Directors. (The Nominating/Election Committee shall select at least one (1) candidate for each office and at least one (1) candidate for each place shall be filled on the Board of Directors.) The report of the Nominating/Election Committee shall be delivered to each Member eligible to vote at least three (3) weeks preceding the election. To be eligible run for: President, Vice President or Secretary/Treasurer a REALTOR® must be in good standing and have at minimum of one (1) year on the Board of Directors as a KBOR Director and (2) two years prior membership with a REALTOR® association.

Additional candidates for the offices to be filled may be placed in nomination by petition signed by at least twenty percent (20%) of the Members eligible to vote. The petition shall be filed with the Secretary or Executive Officer at least two (2) weeks before the election. The Secretary or 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 October meeting. Election shall be by ballot and all votes shall be cast in person. The ballots shall contain the names of all candidates and the officers for which they are nominated. Absentee ballots maybe cast in person at the KBOR office in the presence of a board representative during the two weeks prior to the election.
- c. The President, with the approval of the Board of Directors, shall appoint a Nominating/Election Committee of three (3) REALTOR® Members to conduct the election. In case of a tie vote, the issue shall be determined by lot.

Section 6. Vacancies: Vacancies among the Officers and the Board of Directors shall be filled by a simple majority vote of the Board of Directors to replace only the term of the vacancy.

Section 7. Removal of Officers or 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 (1/3) 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 disqualified from further service.
- b. Upon receipt of the petition, and not less than twenty (20) days or more that 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 (3/4) vote of Members present and voting shall be required for removal from office.

Section 8. Association Executive: Association Executive (A.E.) is an employee of the Kosciusko Board of REALTORS®.

ARTICLE XII: MEETINGS

Section 1. Annual Board of Director Meetings: A minimum of six monthly meetings* of the Board shall be held with the date, place and hour to be designated by the Board of Directors. (*adopted 01/01/15)

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

- a. Compensation to attended State Conferences: Each RPAC Chairperson, President and Vice President shall receive expense compensation as approved by the Board of Directors for attendance at State Committee meetings.

Section 3. Other Meetings: Meeting of the Members may be held at other times as the President or the Board of Directors may determine, or upon the written request of at least twenty-five percent (25%) of the Members eligible to vote.

Section 4. Notice of Meetings: Written notice shall be given to every Member entitled to participate in the meeting at least one (1) week preceding all meetings. If a special meeting is called, a statement of the purpose of the meeting shall accompany it.

Section 5. Quorum: A quorum for the transaction of business shall consist of fifty percent (50%) of the Members eligible to vote.

ARTICLE XIII: COMMITTEES

Section 1. Standing Committee. The president shall appoint the Chairperson and the Co-chairperson from among the REALTOR® Members, subject to confirmation by the Board of Directors, the following standing committees:

- a. Golf Committee.
- b. REALTOR® and Affiliate of the Year Committee. Choose REALTOR® of the Year, and Affiliate of the Year. The immediate past REALTOR® of the Year shall act as Chairperson. Requests for nominees will be opened to the membership with the Committee making the final selections.
- c. RPAC Trustees. KBOR shall have three (3) RPAC Trustees appointed by the KBOR President and approved by the Board of Directors. Trustees shall be elected to serve for terms of two (2) years except that at organization of the Trustees, one-third (1/3) of the elected Trustees shall be elected for terms of one (1) and (2) two terms as may be deemed necessary to complete the first fiscal year. Thereafter, as many Trustees shall be elected each year as are required to fill vacancies. (09/15)

- d. Public Relations/Community Service/Scholarship Committee. It shall be the duty of the committee to secure news release in the newspapers and over the radio and TV stations; to promote such special events as REALTOR® Community Service. It shall be the duty of the Community Service/Scholarship Committee to improve the quality of life in local communities, through involvement with community residents and public service organizations and to enhance the REALTOR® image. In addition, to be involved in annual fundraisers to provide scholarships to be awarded to community high school seniors.
- e. Budget Committee.
- f. Education Committee.
- g. Social Committee. Plans annual social gathering.
- h. Nominating / Election Committee

All expenditures by committees that are over \$500.00 are to be approved by the KBOR Board of Directors.

Section 2. Special Committees/Task Forces. The President shall appoint, subject to confirmation by the Board of Directors, special committees or Task Forces as deemed necessary.

Section 3. Organization. All committees shall be of size and shall have duties, functions, and powers as assigned by the President or the Board of Directors except as otherwise provided in these Bylaws, for a term of one (1) year.

Section 4. President. The President shall be an ex-officio member of all standing committee and shall be noticed of their meetings.

Section 5. All committees shall report quarterly to the Board of Directors and annually to the Board in Writing.

ARTICLE XIV: FISCAL AND ELECTIVE YEAR

Section 1. The fiscal and elective years of the Board shall be January 1 to December 31.

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, 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 the majority vote of the 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 the National Association of REALTORS® policy.

Section 2. Notice of all meetings at which amendments are to be considered shall be provided to every member eligible to vote at least one (1) week prior to the meeting.

Section 3. Amendments to these Bylaws affecting the admission or qualification of REALTOR® and Institute Affiliate Members, the use of the terms REALTOR® and REALTORS®, or any alternative in the territorial jurisdiction of the Board shall become effective upon their approval as authorized by the Board of Directors of the National Association of REALTORS®.

ARTICLE XVII: DISSOLUTION

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

ARTICLE XVIII – MULTIPLE LISTING

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 state of Indiana, all the stock of which shall be owned by the 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 non-agency 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 procuring cause of 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, and policies, practices, and procedures at all times to the Constitution, Bylaws, Rules, Regulations, and Policies of the NATIONAL ASSOCIATION OF REALTORS®.

Section 4. Participation. Any REALTOR® Member of this or any other Board who is a principal, partner, corporate officer, or branch office manager acting on behalf of the 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 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 of Multiple Listing Service where access to such information is prohibited by law. (Adopted 11/08)

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 ongoing 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. (Adopted 11/08)

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 in a nondiscriminatory manner to all participants and potential participants. (Adopted 11/08)

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, all 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, retransmitted, 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. Subscribers also include affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers who are under the direct supervision of an MLS Participant or the Participant's licensed designee.