

193E—11.6(543B) Rebates and inducements.

11.6(1) A licensee cannot pay a commission, any part of a commission, or valuable consideration to an unlicensed third party for performing brokerage functions or engaging in any activity that needs a real estate license. Referral fees or finder's fees paid to unlicensed third parties for performing brokerage activities, or engaging in any activity that needs a real estate license, are barred.

11.6(2) In a brokerage agreement, the broker is principal party to the contract. The broker may, with proper disclosure, pay a portion of the commission earned to an unlicensed seller, landlord, buyer, or tenant that is a principal party to the brokerage agreement. This will be deemed a reduction in the amount of the earned commission.

11.6(3) A licensee may present a gratuitous gift, such as flowers or a door knocker, to the buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease. The permission and disclosure criteria of rule 193E—11.3(543B) do not apply as long as any client relationship has terminated.

11.6(4) A licensee may present free gifts, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease, prior to that party's signing a contract to purchase or lease and not promised or offered as an inducement to buy or lease. It is the licensee's responsibility to ensure that the promotion is in compliance with other Iowa laws, such as gaming regulations. The permission and disclosure criteria of rule 193E—11.3(543B) do not apply as long as no client relationship has been established with the buyer or lessee.

11.6(5) The offering by a licensee of a free gift, prize, money, or other valuable consideration as an inducement is free from deception and does not serve to distort the true value of the real estate service being promoted.

11.6(6) A licensee may make donations to a charity, or other not-for-profit organization, for each listing or closing, or both, that the licensee has during a specific time period. The receiving entity may be selected by the licensee or by a party to the transaction. The contribution may be in the name of the licensee or in the name of a party to the transaction. Contributions are permissible only if the following conditions are met:

- a.* There are no limitations placed on the payment;
- b.* The donation is for a specific amount;
- c.* The receiving entity does not act or participate in any manner that would need a license;
- d.* The licensee exercises reasonable care to ensure that the organization or fund is a bona fide nonprofit;
- e.* The licensee exercises reasonable care to ensure that the promotional materials clearly explain the terms under which the donation will be made; and
- f.* All necessary disclosures are made.

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