

# THE UPDATE

ALABAMA REAL ESTATE  
**COMMISSION**  
 EMPOWER, CONNECT, AND EDUCATE

## Welcome New Commissioner **EMMETTE BARRAN**

The Alabama Real Estate Commission is proud to welcome new Commissioner **Emmette Barran** from Decatur, Alabama. He was appointed by the governor and confirmed by the Alabama Senate to represent the fifth Congressional District. His term is effective through September 30, 2022.



Commissioner Barran has held a real estate license since 1996 with Gateway Commercial Brokerage, Inc. (a family-owned real estate company since 1958). He has assisted families and businesses in helping to liquidate their properties. He has completed transactions with various owners and tenants such as Compass Bank, Regions Bank, Family Security Credit Union, WW Grainger, Aaron's Rent to Own, Big Lots and Morgan County.

His skills and ability to create unique solutions for owners show in his track record of consummating the most complicated real estate transactions. He specializes in marketing commercial property and development of retail strip centers. He has also played a strategic role in the redevelopment of Downtown Decatur.



Along with bringing new restaurants to the area such as Mellow Mushroom and Moe's Barbeque, Commissioner Barran has been instrumental in bringing the first luxury loft apartments (307 Second) to the area.

Commissioner Barran is a graduate of Auburn University with a Bachelor of Business Administration in Finance. He has earned the Certified Commercial Investment Member (CCIM) and Certified Property Manager (CPM) designa-



tions and is a member of International Council of Shopping Centers (ICSC). He currently serves on Decatur General Foundation, Calhoun Community College Foundation, Decatur City Planning Commission and Decatur Downtown Redevelopment Authority.

Commissioner Barran is married to Jill Barran and they have four children, Shine, Rivers, Clay and Ocie. He is active in the community and a member of First Bible Church in Decatur, Alabama.

Commissioner Barran joins current commission members **Reid Cummings** (District 1), **Danny Sharp** (District 2), **Carole Harrison** (District 3), Chairman **Nancy Wright** (District 4), Vice Chairman **Bill Watts** (District 6), **Cindy Denney** (District 7); **Clif Miller** (Industry Member-at-Large); and **Vaughn Poe** (Consumer Member-at-Large).

## THE UPDATE IN THIS ISSUE

- **FROM THE DIRECTOR**
  - Is Your Real Estate License Enough? ..... 2
  - Why Do I Need a Home Builders License? ..... 2
  - Alabama Board of Heating, Air Conditioning & Refrigeration Contractors ..... 3
  - The Plumbers and Gas Fitters Examining Board ..... 3
- **EDUCATION CORNER**
  - Checking CE Credit is Now Easier! ..... 4
- **LICENSING REVIEW**
  - Temporary Salespersons Who Complete the 30-Hour Post License Course... You're Not Finished ..... 4
- From the Commission Archives and History ..... 5
- **DISCIPLINARY ACTIONS TAKEN** ..... 6
- Other Administrative Actions (June - September 2017) ..... 7
- **BRIEFLY LEGAL**
  - Quick Thoughts on Estimated Closing Statements (net sheets) .. 7



# Is Your Real Estate License Enough?

*As real estate licensees, you all know the laws and rules that govern our industry under the Alabama Real Estate License Law.*

*Jamie A. Durham, General Counsel, Home Builders Licensure Board; Jeffrey Becraft, Deputy Director, Alabama Board of Heating, Air Conditioning & Refrigeration Contractors; and David Wilcox, Executive Director, The Plumbers and Gas Fitters Examining Board have provided articles below that outline what is required by you as a real estate licensee, as it pertains to performing duties that fall under the jurisdiction of their respective boards.*

*Please carefully read the following articles. As you undertake repair projects that may involve these services, please be aware of the regulations as they pertain to each board. If you have questions, you can contact the Home Builders Licensure Board, the Alabama Board of Heating, Air Conditioning & Refrigeration Contractors and/or the Plumbers and Gas Fitters Examining Board. Contact information is included in the articles.*

## Why Do I Need a Home Builders License?

By Jamie A. Durham, General Counsel, Home Builders Licensure Board

The Home Builders Licensure law was enacted to ensure that consumers are protected from poor workmanship that could compromise the various systems of a home and endanger the health, safety, and welfare of the occupant. This law, just like those regulating the plumbing, HVAC, electrical, real estate, and other professions, focuses on ensuring that the individual or business is competent and qualified before undertaking the task of improvement, remodeling or repair to a residential structure.

You already hold a real estate license, and you're not building houses, so why do you need a home builders license? The answer is, you don't, unless...you are undertaking repairs and improvements to property either on behalf of clients or as a property manager that exceed \$10,000.00. Here's what the law says:

*Anyone who contracts, or offers to contract, to perform residential construction, including remodeling, renovation, repair, re-improvement, and new construction, when the total cost of the job, including materials, labor, supervision, overhead, and profit, exceeds \$10,000.00, is required by law to hold a home builders license. Anyone who contracts, or offers to contract, to superintend, manage, assist, or provide consultation to a homeowner regarding the residential construction, including remodeling, renovation, repair,*

*re-improvement, and new construction of a residence, when the total cost of the job, including materials, labor, supervision, overhead, and profit, exceeds \$10,000.00, is required to hold a home builders license. (Please see Alabama Code Section 34-14A-2(10) for the complete definition of residential home builder.)*



What that means for you as a licensee of the Alabama Real Estate Commission is that if the total cost of the project a client asks you to perform, supervise, manage, or provide assistance or consultation on exceeds \$10,000.00, you will need to hire a licensed home builder or hold a home builders license yourself in order to complete the project.

However, licensed real estate agents are not required to hold a license when the work they are performing is within the scope of their license. (Alabama Code Section 34-14A-6(4).)

The scope of your license is what you can lawfully do under a real estate license, and is set out in the statute governing your real estate license. (Alabama Code Section 34-27-30.)

A recently adopted regulation (Ala. Admin. Code r. 790-X-1-.03) further addresses actions that are within the scope of the real estate license, specifically rental leasing and/or property management services. The new regulation states that a real estate licensee can lawfully coordinate physical maintenance and repairs for real property under rental or lease management agreement as long as the physical maintenance and repairs do not require licensure by any other agency or board. If the physical maintenance and/or repair to a property exceeds \$10,000.00, you will need to hire a licensed home builder or hold the license yourself.

The home builders licensure law also provides an exemption for homeowners who are building, improving, or reimproving a house for their own use and enjoyment, and specifically not for sale. Proof of sale, or offering for sale, of the residence within twelve months of substantial completion is presumptive evidence that the residence was built for the purpose of sale, which makes the homeowners unlicensed builders. However, *the exemption is for the homeowner only.* The Alabama Court of Civil

Appeals has ruled that the homeowner exemption applies to the homeowner only, not to anyone else whose work meets the definitions set out above. (See *Hooks v. Pickens*, 940 So.2d 1029 (Ala. Civ.App. 2006).)

Why does a real estate licensee need a home builders license? So they can undertake the repair, improvement, reimprovement, or remodeling of a residence requested by a client and totaling over \$10,000.00, without violating the law.

Contact the Home Builders Licensure Board at 334-242-2230, visit the Board's website at [www.hblb.alabama.gov](http://www.hblb.alabama.gov), or send a written request to the Board at 445 Herron Street, Montgomery Alabama, 36104 to request an application packet.

## Alabama Board of Heating, Air Conditioning & Refrigeration Contractors

By Jeffrey Becraft, Deputy Director

*Code of Alabama, 1975*, Section 34-31-18 through Section 34-31-35, states that it is unlawful to perform any installation, service, or repair on a heating and air conditioning system, or commercial refrigeration equipment without holding the proper certification by the Alabama



Board of Heating, Air Conditioning & Refrigeration Contractors. This includes changing out thermostats, changing air filters, duct cleaning, and coil cleaning.

Many real estate property management companies who do business in the State of Alabama are unaware of the requirements for servicing and installing heating and air conditioning units on properties they do not own. Section 440-X-3-.02(2) of the Alabama Board of Heating, Air Conditioning & Refrigeration Contractors Rules and Regulations requires real estate property management companies who manage property owned by others to hold a certification by the Board if they perform

heating, air conditioning, and/or commercial refrigeration installation, service, or repair work on those properties.

The Board considers the cleaning of duct work and filter changing as servicing a heating and air conditioning system. If the real estate property management company only performs filter changing services, they must be certified by the Board. You can find more information regarding duct cleaning and filter changing in Section 440-X-3-.01(3) of the Board's Rules and Regulations.

To review the Board's law, rules and regulations, please visit us online at [hacr.alabama.gov](http://hacr.alabama.gov) or contact us at 866-855-1912.

## The Plumbers and Gas Fitters Examining Board

By David Wilcox, Executive Director

The State of Alabama Plumbers and Gas Fitters Examining Board certifies and registers over 14,000 individuals annually. We register over 4,000 companies, 5,600 apprentices, 3,000 journeymen, and 5,000 master craftsmen. In addition, the Board also certifies medical gas fitters.

The plumbing and gas fitting industry is primarily regulated by *Alabama Code* Section 34, Chapter 37. During the 2015 legislative session, this section of the *Alabama Code* underwent major changes that clarified and strengthened the law. In 2016, several of the Board's administrative rules were updated to better fit the recent law change. Some of these changes focus primarily on property ownership and may directly affect the real estate industry. For

instance, Section 34-37-15 addresses work permitted without Board certification or registration. In this section, it states that individuals that are employed by a property owner as a maintenance technician may perform plumbing work on or about the property without certification or registration. However, if the property is managed by a separate entity, the exemption does not extend to the managing party. The managing party would be expected to either contract with a certified plumber or gas fitter or become a registered contractor with the Board.

We certainly appreciate the relationship we have always enjoyed with the real estate community. However, we understand that there has been some confusion within the real estate industry where maintenance and repair of sys-



tems is concerned. If there are ever any questions or any way we can assist please do not hesitate to email or call the Board directly.

The Plumbers and Gas Fitters Examining Board can be contacted by email at [staff@pgfb.alabama.gov](mailto:staff@pgfb.alabama.gov) or phone at 205-945-4857. The website can also be viewed at [pgfb.state.al.us](http://pgfb.state.al.us).



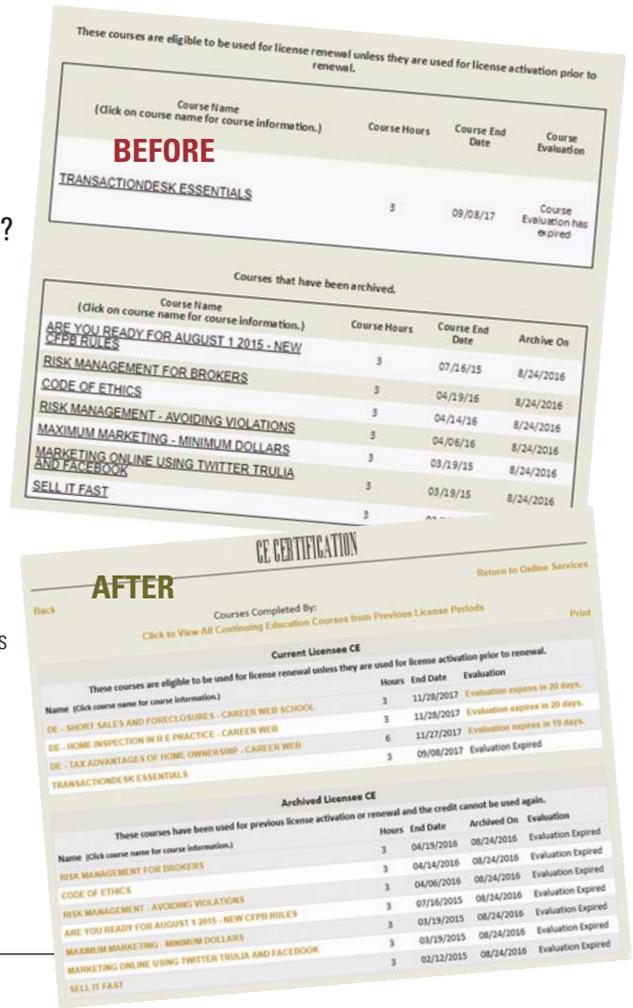
## Checking CE Credit is Now Easier!

Have you tried to check your CE (Continuing Education) credit on the Commission’s website and had trouble “interpreting the foreign language” or “solving the puzzle” to get the information you desired? No longer! The Commission’s Education and IT team members have worked together to improve the course credit information that is provided.

There are 3 main points to identify:

- 1. The initial view is easier to understand.** The listings of current CE courses and archived CE courses are better labeled and include an explanation letting the licensee know how the listed courses can be used.
- 2. Course information is now better organized.** After clicking a course name, the course information is now better organized and easier to read.
- 3. Courses taken in previous license periods.** Not only can you see the courses recently archived after the most recent license activation or renewal, but a link can now be selected to see all CE courses taken in previous license periods.

Preliminary instructors can see their Instructor CE in the revised format as well. Log in to see your CE credit and/or provide a course evaluation today. By the way, a course evaluation is requested but it is not required, so CE credit is not affected if the course evaluation expires. Enjoy taking CE courses and seeing the revised information on our website.



## Temporary Salespersons Who Complete the 30-Hour Post License Course... You’re Not Finished

As the name implies, a temporary salesperson’s license does not last forever. The license shall be valid only for a period of one year following the first day of the month after its issuance. The license can be active for the first six months of issuance. Therefore, a temporary salesperson’s license issued on June 17, 2017 can be active until December 31, 2017 and will expire on June 30, 2018. You must complete all requirements and have your original (permanent) salesperson’s license issued within the one-year period of receiving your temporary salesperson license to remain continuously licensed. To do this **you must complete the 30-hour post license course and submit the original salesperson’s application**

**with the appropriate fee**, before the expiration date. Using the example listed above, to maintain an active license, all requirements would have to be met by December 31, 2017 or the temporary license will be placed on inactive status by the Commission. The licensee would then have until June 30, 2018, while inactive, to complete the requirements and have the original salesperson’s license issued. Failure to do this will result in a lapsed license. When a license lapses it is no longer useable. Any license beyond this point will have to be earned all over again, starting with the preliminary education process.

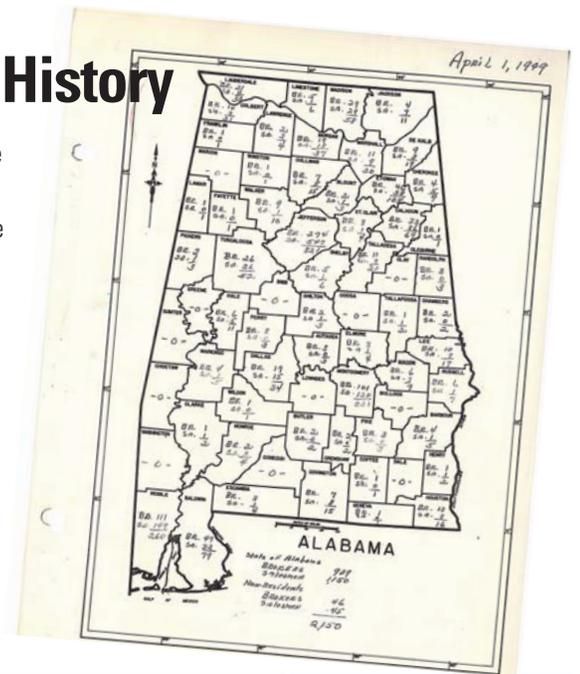
*(Continued on page 8.)*

# From the Commission Archives and History

We went back in our time machine (aka file cabinets) and found a map showing the number of active brokers and salespersons who were in Alabama as of April 1, 1949. Needless to say, we have come a long way. In 1949, there were less than 2,100 active brokers and salespersons in the state and more than 90 active non-resident (now known as reciprocal) licensees. Today, there are more than 15,000 active brokers and salespersons and more than 2,400 active reciprocal licensees...and counting!

Check out the map and chart and see how your county stacked up in 1949 compared to 2017.

**Note:** The 2017 numbers are as of November 2, 2017. Inactive licensees are not included in the 2017 column. There was no inactive status in 1949. Inactive status was added to the law in 1983. As of November 2, 2017 there were more than 1,500 inactive brokers and more than 5,500 inactive salespersons, including reciprocals.



County	1949		2017	
	Brokers	Salespersons	Brokers	Salespersons
Autauga	3	0	47	97
Baldwin	47	32	666	1025
Barbour	4	1	21	22
Bibb	0	0	12	11
Blount	2	1	17	61
Bullock	0	0	8	5
Butler	2	0	5	11
Calhoun	33	36	60	157
Chambers	2	0	9	30
Cherokee	4	5	13	6
Chilton	2	1	27	52
Choctaw	0	0	5	5
Clarke	1	1	21	12
Clay	0	0	6	11
Cleburne	1	0	2	14
Coffee	1	0	39	96
Colbert	14	7	45	73
Conecuh	0	0	1	4
Coosa	0	0	2	10
Covington	7	8	25	37
Crenshaw	2	0	7	4
Cullman	7	8	85	126
Dale	0	0	20	30
Dallas	19	15	27	34
DeKalb	9	8	45	30
Elmore	3	1	91	179
Escambia	3	1	13	15
Etowah	46	58	65	105
Fayette	1	0	4	3
Franklin	1	0	17	10
Geneva	1	0	16	9
Greene	0	0	2	5
Hale	6	5	9	13
Henry	1	1	12	20
Houston	13	3	82	179

County	1949		2017	
	Brokers	Salespersons	Brokers	Salespersons
Jackson	4	7	29	26
Jefferson	274	547	1104	2385
Lamar	1	0	5	1
Lauderdale	21	11	113	166
Lawrence	2	2	6	18
Lee	10	7	181	303
Limestone	5	1	79	130
Lowndes	0	0	2	9
Macon	6	3	10	5
Madison	29	29	652	1158
Marengo	4	1	11	12
Marion	0	0	9	16
Marshall	11	9	89	108
Mobile	111	149	494	795
Monroe	2	2	16	11
Montgomery	101	120	362	487
Morgan	19	18	97	192
Perry	3	0	1	2
Pickens	2	1	9	6
Pike	3	0	26	30
Randolph	3	0	20	26
Russell	6	1	30	58
St. Clair	3	1	55	140
Shelby	5	1	178	458
Sumter	0	0	10	8
Talladega	11	9	33	52
Tallapoosa	1	1	51	76
Tuscaloosa	26	26	209	328
Walker	9	1	44	102
Washington	0	0	4	8
Wilcox	1	0	4	5
Winston	1	0	19	15
<b>TOTAL</b>	<b>909</b>	<b>1139</b>	<b>5478</b>	<b>9637</b>



# DISCIPLINARY ACTIONS

*Penalties for violations of the Real Estate License Law and Commission rules vary depending upon the particular facts and circumstances present in each case. Due to space limitations in the Update, a complete description of the facts cannot be reported below.*

## DISPOSITION

The below were found guilty of violating Section 34-27-36(a)(16) for presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn.

### **Marilyn Dumpson**

**License No. 000109156**

Salesperson; Tuscaloosa, Alabama

Date of Hearing: July 27, 2017

**Fined \$250**

### **Amanda McAuley**

**License No. 000075290-1**

Salesperson; Fairhope, Alabama

Date of Hearing: July 27, 2017

**Fined \$250**

## DISPOSITION

The below were found guilty of violating Section 34-27-36(a)(8)(b) for failing to properly deposit and account for, at all times, funds belonging to or being held for others; guilty of violating Section 34-27-36(a)(19) by failing to comply with Rule 790-X-3-.03(1) which states "the deposit and accounting for at all times of all funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama shall require that the qualifying broker be a customer of the financial institution holding all accounts and the qualifying broker shall be one of the persons with authority to deposit and withdraw funds and to write or make checks necessary on all such accounts"; guilty of violating Section 34-27-36(a)(19) by failing to comply with Rule 790-X-3-.03(4) which states "... In cases where a successor qualifying broker is to provide



these services, the first broker shall provide a complete accounting of the funds and shall transfer the funds to the successor broker. The qualifying broker who is currently providing services to the owner shall be responsible to the public and to the commission for all funds"; and guilty of violating Section 34-27-36(a)(17) by establishing an association, by employment, with an unlicensed person who is expected or required to act as a licensee, or aiding, abetting, or conspiring with a person to circumvent the requirements of Section 34-27-36 of Alabama License Law.

### **Sara Nicole Thompson**

**License No. 000102301**

Qualifying Broker; Prattville, Alabama

Date of Hearing: August 24, 2017

**Fined \$7,500**

### **Madison Andy Hawkins III**

**License No. 000072642**

Associate Broker; Pell City, Alabama

Date of Hearing: August 24, 2017

**Fined \$10,000**

## DISPOSITION

The below were found guilty of violating Section 34-27-36(a)(19) for failing to notify

the Commission within ten days of the institution of a civil suit against him which related to a real estate transaction in violation of Section 34-27-31(j); guilty of violating Section 34-27-36(a)(23)b. by having a settlement in the matter of a civil suit and failing to notify the Commission of the disposition of the case; guilty of violating Section 34-27-36(a)23b. by having a final money judgment rendered against him which resulted from an act or omission in the pursuit of real estate brokerage activities or involving the goodwill of an existing real estate business; and guilty of violating Section 34-27-36(a)(19) by failing to notify the Commission within ten days of the institution of a civil suit against them which related to a real estate transaction in violation of Section 34-27-31(j).

### **Hugh T. Praytor III**

**License No. 000009211-2**

Qualifying Broker; Mobile, Alabama

Date of Hearing: January 19, 2017

**License revoked**

### **Praytor Realty Company Inc.**

**License No. 000009190**

Company; Mobile, Alabama

Date of Hearing: January 19, 2017

**License revoked**

## DISPOSITION

**The below surrendered his license for alleged license law violations in lieu of a formal complaint and hearing.**

### **Joe D. Huddleston**

**License No. 000073019**

Salesperson; Rainbow City, Alabama

Date of Hearing: August 24, 2017

**JUNE - SEPTEMBER 2017**

**APPLICATION FOR LICENSURE**

(Includes Applications for Temporary, Broker or Reciprocal licenses.)

These numbers represent persons who have come before the Commission requesting hardship extensions to renew licenses, complete exams or submit applications past the deadline. They also represent those who request applications for change in status (i.e. salesperson to broker).

<b>APPROVED</b> .....	<b>11</b>
<b>DENIED</b> .....	<b>6</b>

**DETERMINATION OF ELIGIBILITY**

(Applications for Licensing Eligibility Determination)

These numbers represent persons who have come before the Commission requesting approval to be licensed, mainly persons who have criminal prosecutions show in their criminal background checks. They have an opportunity to explain to Commissioners the circumstances surrounding these incidences and be granted permission to proceed with the licensing process or not, based on the Commissioners' ruling.

<b>APPROVED</b> .....	<b>3</b>
<b>DENIED</b> .....	<b>0</b>

**COMPLAINTS AND INQUIRIES HANDLED BY LEGAL AND INVESTIGATIVE STAFF**

<b>FROM LICENSEE</b> .....	<b>1,276</b>
<b>FROM PUBLIC</b> .....	<b>599</b>
<b>ANONYMOUS/COMMISSION</b> .....	<b>49</b>

By Mandy Chambliss Lynn,  
Assistant General Counsel

**Quick Thoughts on Estimated Closing Statements (net sheets)**

In the Summer 2017 issue of *The Update*, the Legal Division provided some clarification on estimated closing statements, also known as net sheets. I just wanted to break down the key points of net sheets to clarify the basics of this topic... a cheat sheet, so to speak.

Simply, if you are working with a buyer, it is your responsibility to prepare and provide a net sheet form to the buyer at the time the buyer signs an offer or counter-offer. This form must be prepared by you and signed by the buyer. It must contain your best estimates of all cost items the buyer is expected to have at closing and the approximate amount of each item.

If you're working with the seller, you must provide a net sheet form to the seller at the time an offer or counter-offer is presented to the seller. (This does not require you to prepare a net sheet to a seller who is unrepresented by a licensee; e.g. FSBO.) Again, this form must be prepared by you and must be signed by the seller. It must contain your best estimates of all costs items the seller is expected to have at closing and the amount of each.

These are basically the key points to remember when dealing with estimated closing statements. You can keep these handy:

- Estimated closing statements are just that. Estimated. We expect you to make your best reasonable guess about the items. You must make reasonable efforts to gather this information. If you later find out different information, you should make the corrections and have the party sign off on the new or corrected net sheet.

- You cannot rely on any estimate of costs provided by a mortgage lender. It is your responsibility to prepare one. There is no longer a requirement to provide a net sheet at or after closing.
- You must prepare or amend a net sheet when preparing and presenting counter offers or subsequent written offers.
- The rule does not require you to prepare a net sheet for the seller when you get a listing. Brokers can require this, but the rule does not.
- You must leave a signed copy with the buyer or seller and retain one in your company files for three years, as is required for all records. You only need a net sheet in your files for the side of the transaction you worked. There is no need to trade with the other side's licensee.

The requirements for estimated closing statements can be found in Alabama Real Estate Commission Rule 790-X-3-.04 and are to help ensure that buyers and sellers are informed of all expected costs. If the parties know what to expect, you are likely to have a smooth closing!

In the next *The Update* newsletter, we would like to do a Q&A with the questions you have! Please email any questions to [mandy.lynn@arec.alabama.gov](mailto:mandy.lynn@arec.alabama.gov). As always, if there is anything we can assist you with, please call or email us.

# THE UPDATE

ALABAMA REAL ESTATE

## COMMISSION

EMPOWER, CONNECT, AND EDUCATE



**EMPOWER** Empowering the real estate professional and the consumer.



**CONNECT** Connecting the real estate professional and consumer to the resources they need.



**EDUCATE** Educating the real estate professional and the consumer.

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### THE UPDATE

is published for the benefit of the Alabama Real Estate Industry by the Alabama Real Estate Commission.

### COMMISSION MEETINGS OPEN TO THE PUBLIC

All Commission meetings are open to the public and that includes real estate licensees. Commissioners welcome and encourage attendance and observation by any licensee in any location. Locations, dates, and times can be found on the Commission's website at **arec.alabama.gov**.

### REAL ESTATE LICENSES EXPIRE SEPTEMBER 30, 2018

Remember to renew all broker, salesperson, and company licenses in every even-numbered year.

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### LICENSING REVIEW

(Continued from page 4.)

It is common for Commission staff to be contacted by temporary salespersons who receive our correspondence that their license went inactive or lapsed, unaware why this action happened, when they completed the 30-hour post license course before the deadline. It is important that temporary salespersons are aware that after completing the course they must apply for the original salesperson's license. This entails completing a separate application and submitting a fee.

There are two ways temporary salespersons can have their original license issued. First, you may log in to the Commission's website under Online Services Login, complete the original salesperson's online application process and pay the fee for the license in one convenient step. Additionally, the online process allows the license to be issued to active or inactive status or be transferred to another active company. Secondly, you can complete the Salesperson Original Application found on the Commission's website under "Forms" and mail it to the Commission office with the appropriate fee.

If you are an instructor or licensee reading this article and know someone who is a temporary salesperson, please help ensure that they are aware of these requirements.