



ALABAMA REAL ESTATE
COMMISSION
 EMPOWER, CONNECT, AND EDUCATE

Commission Now Utilizing Gemalto, a Digital Fingerprint Scanning Service, to Capture License Applicants' Fingerprints for State and Federal Criminal History Record Information (CHRI)

By Teresa Hoffman, Assistant Executive Director



As many are already aware, applicants must now submit to a fingerprint-based federal and state criminal background check, mandated by *Code of Alabama* 34-27-32, by working with the Commission's processing company, Gemalto. These applicants include not only those seeking to obtain a salesperson license but also those already licensed salespersons who complete prelicense coursework, pass the broker examination and apply for an Alabama broker license and include those with a problematic background who are seeking a determination of licensing eligibility from the Commission prior to taking their coursework. **It does NOT include individuals with a Temporary Salesperson license who are applying for an Original Salesperson License and those who are already licensed who must simply renew a license.**

We are pleased to be able to offer our license applicants the services of Gemalto. We believe that applicants will find the 57+ scanning sites to be more convenient, the scans to be more fail proof and the processing time to be improved. If you are an instructor, qualifying broker or any individual who has knowledge of someone who is in the process of obtaining their Alabama real estate license we hope you will share this article with them. **Please Note: License issuance will not proceed until the Commission has received the criminal history record information (CHRI).**

Blank fingerprint cards will no longer be supplied at Alabama test centers. Applicants must follow the instructions for fingerprint scanning and processing found at <https://www.aps.gemalto.com>. The Commission can only utilize fingerprints processed through Gemalto. We also cannot accept fingerprints completed for any reason outside of pursuing a real

estate license from the Alabama Real Estate Commission. The fingerprints will be utilized to conduct a federal and state criminal background check per Ala. Code 34-27-32.

- Non-resident applicants who cannot come to Alabama to be fingerprinted must contact the Commission office and request a set of fingerprint cards. Upon receiving the cards in the mail, non-residents must have their prints professionally rolled then submit them to Gemalto.

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Know the Facts Before Offering Incentives

The law has long allowed licensees to give prizes, money, gifts and other valuable consideration (“incentives”) to parties to induce them to enter into real estate transactions. If this sounds simple, just wait. Real estate law does not allow a real estate licensee to give or receive a rebate in a real estate transaction.

Here’s what you, as a real estate licensee, can do:

- Pay cash to an owner who lists property for sale;
- Pay cash to a customer to get him to buy a home;
- Give an appliance, fence, etc. to a customer to get him to buy a home;
- Give a month’s free rent to get someone to rent a property; or
- Pay repair expenses to get a buyer and seller to close a sale.

Offering these without violating other laws depends in part on how they are given. All incentives must be given at or before closing and must be disclosed to all interested parties. Interested parties in a sale are the seller, buyer and lender or guaranteeing agency. Section 34-27-36(a)(21) of Alabama license law makes it a violation for a licensee to fail to disclose to any lender, guaranteeing agency, or any other interested party the true terms of a real estate sale. In short, if you provide a refrigerator (or one of the above-named types of items) to a buyer, you must disclose to the buyer, seller and lender and the item must be given at or before closing.

Section 34-27-36(a)(12) of license law prohibits a licensee from giving

or receiving a rebate in a real estate transaction. A rebate is any unearned fee, kickback or thing of value given in connection with a transaction. This is typically given outside of closing and may not be received by a licensee or given to anyone in connection to the transaction. Remember that a rebate is illegal regardless of disclosure.

Here are examples of illegal fees which constitute rebates:

- Licensees receiving something of value from a company/individual (title insurance company, mortgage company, carpet company, pool contractor, etc.) for referral of business;
- Giving something of value, by a licensee, to anyone for referring a buyer or seller to the licensee.

What is “something of value?” This can encompass a wide array of items including but not limited to money, discounts, vacations, prizes, etc. that a licensee would give or receive.

What is an “unearned fee?” A fee which is not for the performance of legitimate real estate services actually performed. Referring business to a company/individual is not considered a legitimate real estate service. As stated above, unearned fees are not allowed under Section 34-27-36(a)(12).

Earned fees are, of course, allowed. An active licensee may earn a commission split or referral fee for referring a buyer to a listing broker.

Remember that RESPA is the federal law that governs this area in transactions involving federally related mortgage loans. You should seek legal advice on compliance with RESPA if you have any questions.

As always, if you have any questions on this topic or any other, feel free to contact me at Mandy.Lynn@arec.alabama.gov or (334) 353-0805.



Meet the Commissioners

The Alabama Real Estate Commission consists of nine Commissioners: seven who represent the congressional districts and two at-large members. Commissioners are appointed by the Governor and confirmed by the Senate to serve a five-year term. The current Commissioners are (L-R) **Reid Cummings** (District 1); **Emmette Barran** (District 5); **Cindy Denney** (District 7); **Clif Miller** (Industry Member-at-Large); Vice Chairman **Bill Watts** (District 6); Chairman **Nancy Wright** (District 4); **Vaughn Poe** (Consumer Member-at-Large); **Danny Sharp** (District 2); and **Carole Harrison** (District 3).



New Background Check Process for New Applicants for Licensure

The new fingerprint-based criminal background check process is now in effect for applicants seeking to obtain a temporary salesperson license; those already licensed salespersons who complete prelicense coursework, pass the broker examination and apply for an Alabama broker license; and those applicants licensed in another state applying for a reciprocal license. As of **February 5, 2018** applicants must submit their fingerprint-based state and federal background check electronically through the Commission's vendor, Gemalto. Extensive instructions for this process can be found in our application materials, on our website arec.alabama.gov, and on Gemalto's website <https://www.aps.gemalto.com>. Applicants no longer have to submit a fingerprint card rolled by a law enforcement agency and a criminal background fee to the Commission with their application for licensure.

After applying for licensure, applicants must register on Gemalto's website, then go to one of the 57+ fingerprint scanning sites located throughout Alabama to have their fingerprints scanned. The results of the background check will be electronically sent to the Commission within 48 hours to two weeks on average for review. Since this process will be more efficient to applicants than the previous process and the processing time will be significantly improved, license issuance will not proceed until the Commission has received and approved the criminal history record information.

IMPORTANT: The criminal record information will come to the Commission directly from Gemalto and will only be available to the Commission for 30 days; therefore, we recommend that applicants submit their application form (by mail or in person) to the Commission on the same day that they go to a fingerprinting site to be scanned.

This process will be the same for those applicants with a problematic background who are seeking a determination of eligibility from the Commission prior to taking their coursework and examination. The Commission's website and Investigations Division can provide more information regarding this process.

Non-resident applicants who cannot have their fingerprints scanned at a site in Alabama can request a fingerprint card from the Commission's website or by contacting a member of the Licensing Division, after passing the licensing examination. After registering with Gemalto, the

card containing their professionally-rolled fingerprints should be mailed to Gemalto for processing as directed on Gemalto's website.

If you are a qualifying broker or licensee assisting a new applicant for licensure, please pass this information along to them and ensure they are using the current fingerprint-based background process.

PLEASE NOTE: This procedure will affect only new applicants for licensure who are required to submit fingerprints for a criminal background check. It does NOT include individuals with a temporary salesperson license who are applying for an original salesperson license and those who are already licensed who must simply renew a license.

Gear Up for the Upcoming Renewal

Licensees are already contacting the Commission asking when their licenses are due for renewal. As an early reminder, the **deadline to renew your current license without penalty will be August 31, 2018** and licenses expire **September 30, 2018**. Around mid-June 2018 the Commission will inform licensees by email and social media of when we will officially start accepting renewal payments. Around mid-July 2018 we will mail renewal notices to those who have not renewed, informing them of the options for renewing and the deadlines associated with renewing.

Therefore, now is a good time to ensure that all of your contact information, such as mailing address, email address and phone numbers are accurate. Please help the Commission by reminding your fellow licensees to ensure the Commission has their current contact information on record.

Temporary salesperson licenses are not renewable. If you have a temporary salesperson license and you are still eligible to maintain that license after September 30, 2018 you will not have to renew your license in 2018.



Why is Continuing Education Important?

Everyone is familiar with real estate education requirements. To get a real estate license, you must complete the prelicense course, pass the license examination, apply for a temporary salesperson license, complete the post license course and apply for an original (permanent) salesperson license. Then you must complete 15 hours of continuing education (CE) coursework every two years in order to maintain an active license.

You can sit back and give yourself a pat on the back after completing all courses and exams required to have a license, but don't take too long to recover or you may end up lagging behind other real estate licensees. Professional development in real estate

should not be ignored or underestimated. CE courses will not only keep licensees aware of current license law, they will also contribute toward the goal of professionalism and delivering high quality service to the public.

Real Estate License Checklist

- Prelicense Course
- License Exam
- Temporary License
- Post License Course
- Original License
- Continuing Education (CE)

When Will It Stop?

CE is a career-long obligation for real estate licensees. This is one reason it is mandated by the Commission as your regulatory body. CE courses provide the education needed for licensees to:

- continue protecting the public,
- remain current with real estate law,
- continue improving their skills,
- improve their professional image, and
- obtain knowledge that contributes toward personal development as well as professional development.

Stay Tuned for *The Update* Renewal Issue

As you are aware, 2018 is a renewal year. Don't panic!

The next issue of *The Update* will be coming this summer packed with everything you need to know about license renewal from CE to e-checks. The Commission team is already at work to make sure you have all the information you need for a successful renewal.

KEEP CURRENT WITH YOUR CONTACT INFORMATION



Have you moved?
Make sure your:

- Residence Address
- Business Address
- Email Address
- Phone Number

is correct with the Commission!

Update your information:
ONLINE SERVICES

[Online Services Login](#)

The Commission must be notified within **30 days** of the change.

Section 34-27-35(h)



To log in to Online Services, go to: arec.alabama.gov

Tech Notes: The Latest Real Estate Cryptocurrencies

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When the subject of cryptocurrency comes up, many people think of Bitcoin; in part because it was the first decentralized digital currency system, and also because its valuation fluctuations have garnered a lot of media attention. Real estate purchase and sale transactions involving bitcoins are reportedly on the rise, and some real estate brokerages are offering to accept their commissions in bitcoins. But there are now hundreds of other cryptocurrencies, an increasing number of which are seeking to “tokenize” real estate transactions and investments in various ways. Here are two recent examples:

PROPERTY COIN

Aperture Real Estate Ventures, the parent company of Property Coin, says that its new blockchain-based cryptocurrency is the first to open the “fix and flip” market to investors. The Los Angeles-based real estate technology and investment company focuses on residential property flipping and making loans to other property investors. The company claims that, since its launch in 2016, it has successfully systematized the fix-and-flip process with its proprietary technology platform and methods “by making real world property investments with personal capital of its founders and management team.” The company seeks to raise \$50 million (or the equivalent in Bitcoin or Ethereum) through an ICO (initial coin offering) of its Property Coin (PCX). According to Co-CEO Andrew Jewett, “Unlike many cryptocurrency offerings, Property Coin’s proposition is straightforward. 100% of the net proceeds from sales of Property Coins will be used to invest in properties and loans identified by our proprietary software and our experienced team. Accordingly, Property Coin is designed to be 100% backed by real estate assets, giving each coin holder a fractional economic interest in the investments made by Aperture or its affiliates with the net proceeds realized from the sale of Property Coins.” A Whitepaper explaining Property Coin states, “Each coin holder will own a fractional percentage of all assets owned by Property Coin. Coin holders will also be entitled to 50% of the net profits from these property and loan investments. Aperture will re-invest those profits in new real estate related investments, with the intent of creating a natural price appreciation effect for coin holders.” [Source: <https://propertycoin.re/en>]

DEEDCOIN

This startup company is selling cryptocurrency that it says can be used to reduce real estate commissions when buying or selling a home. According to the company’s website, “Deedcoin’s patent pending ... platform is already live at DeedcoinHQ.com and simply replaces the way customers find their next real estate agent. Instead of choosing a random 6% com-



mission agent, customers access our platform, input their property information, and link up with their local Deedcoin agent for 1% commission.” The company explains that, “DEED [Deedcoin tokens] replace commission[s] at a ratio of 10 DEED to 1% of a property’s price. ... Each ten DEED are used for 1% of a property’s total cost, regardless of the property’s price, because DEED functions as a percentage.” According to the Deedcoin website, “property sellers can pay 1% instead of 6% commissions” and buyers can be “[r]eimbursed up to 2% of the value of your new home as a credit or closing cost check.” The company also claims that, “Deedcoin integrates fully with the existing real estate infrastructure. All discounts are reflected on the standard HUD forms during a property closing and all homes are listed, or purchased, through standard MLS’s [sic]. Customers have access to a groundbreaking technology dashboard allowing 24/7 access to an agent or licensed transaction assistant.” The company also asserts that participating agents accepting lower commissions will benefit because, “The culmination is that Deedcoin provides the marketing, transaction support, and customers” at no cost to brokers. The company also says that DEED tokens “will access a better real estate network that is already useable in 130+ cities and in all 50 States.” [Source: www.deedcoinlaunch.com]

[PLEASE NOTE: *Boundaries* “Tech Notes” articles are intended as a resource for sharing information about real estate industry developments. ARELLO® does not endorse any particular products or services or warrant their effectiveness, suitability for a particular purpose, or compliance or non-compliance with any applicable laws.-Ed.] The above statement also applies to the Alabama Real Estate Commission. This article is strictly for informational purposes.



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.

Gregory Scott Woolfolk

License No. 000106158

Associate Broker; Huntsville, Alabama
Date of Hearing: February 22, 2018

Fined \$500

Ryleigh Freeman

License No. 000110294

Salesperson; Anniston, Alabama
Date of Hearing: January 25, 2018

Fined \$500

Kwanga Charise (Kay) Little

License No. 000113288

Salesperson; Montgomery, Alabama
Date of Hearing: January 25, 2018

Fined \$500

Shanek L. Madison

License No. 000096070

Salesperson; Aliceville, Alabama
Date of Hearing: November 30, 2017

Fined \$500

Mark Spencer Weekly

License No. 000115914

Salesperson; Scottsboro, Alabama
Date of Hearing: November 30, 2017

Fined \$500

William Peebles

License No. 000111183

Salesperson; Mobile, Alabama
Date of Hearing: September 28, 2017

Fined \$250

DISPOSITION

The below was found guilty of violating Section 34-27-31(j) by failing to notify the Commission within 10 days after notice to him of the institution of criminal prosecution against him or of a civil summons and complaint against him and guilty of violating Section 34-27-36(a)(19) by failing to

comply with Section 34-27-31(k) in that he did not notify the Commission in writing by certified mail within 10 days after he received notice that a criminal verdict had been rendered against him.

James E. Mitchell Jr.

License No. 000046610

Qualifying Broker; Cedar Bluff, Alabama
Date of Hearing: January 25, 2018

Fined \$500

DISPOSITION

The below was found guilty of violating Rule 790-X-3-.01 through Section 34-27-36(a)(19) by failing to notify the Commission in writing within 30 days of changing the address of his place of business as set out on his numbered license certificate.

Dennis Olive Jr.

License No. 000058140

Qualifying Broker; Madison, Alabama
Date of Hearing: November 30, 2017

Fined \$500

DISPOSITION

The below was found guilty of violating Rule 790-X-3-.13 through Section 34-27-36(a)(19) by failing to provide to consumers the mandatory RECAD disclosure forms.

Clifford Joseph Glansen

License No. 000088060

Qualifying Broker; Hollywood, Florida
Date of Hearing: August 24, 2017

Fined \$250

DISPOSITION

The below was found guilty of violating Section 34-27-36(a)(1) for procuring or attempting to procure a license for himself by fraud, misrepresentation or deceit or by making a material misstatement of fact in his application for a license.

Lorenzo (Low) Finley

License No. 000112216

Temporary Salesperson; Opelika, Alabama
Date of Hearing: June 22, 2017

License revoked



OTHER ADMINISTRATIVE ACTIONS

OCTOBER 2017-FEBRUARY 2018

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).

APPROVED 13

DENIED 7

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.

APPROVED 3

DENIED 1

COMPLAINTS AND INQUIRIES HANDLED BY LEGAL AND INVESTIGATIVE STAFF

FROM LICENSEE 1,356

FROM PUBLIC 553

ANONYMOUS/COMMISSION 35

The Early Days of Licensing

By Patricia Anderson, Executive Director

Real estate licensure has been required in Alabama since 1928. What was going on at that time in history? Just think...

- ▶ There were no cell phones, texts, emails or Internet.
- ▶ The telephone was just becoming prevalent in homes by 1927.
- ▶ Real estate licensees had to meet clients or potential clients in person or speak with them by phone (if the client even had a phone).
- ▶ Better yet, you could order a complete home kit from the Sears Catalog and build your own home.

Things were a little less complicated in many areas, including licensing. For example, there were no education requirements, RECAD, advertising regulations, recovery fund, records requirements, inactive status, and on and on. And... there were only 9 violations of License Law:

- 1) Making any substantial misrepresentation
- 2) Making any false promises of a character likely to influence, persuade, or induce
- 3) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or salesman or advertising or otherwise

- 4) Acting for more than one party in a transaction without the knowledge of all parties for when he acts
- 5) Representing or attempting to represent a real estate broker other than the employer without the express knowledge and consent of the employer
- 6) Failing, within a reasonable time, to account for or remit any money's coming into his possession which belong to others
- 7) Being unworthy or incompetent to act as a real estate broker or salesman in such manner as to safeguard the interests of the public
- 8) Paying a Commission or valuable consideration to any person for acts or services performed in violation of this Act
- 9) Any other conduct, whether of the same or a different character from that hereinbefore specified which constitutes improper, dishonest or improper dealings.

As the real estate profession has developed over the past 90 years, 22 more violations of law have been added to accommodate other issues that have arisen. The original 9 violations remain in one form or another. Real estate licensees must know so much more today and most do an excellent job of serving the public. It is not easy these days, but your continuing education will better equip you for the challenges ahead. More to come on that next time!

Commission Now Utilizing Gemalto to Capture License Applicants' Fingerprints for State and Federal Criminal History Record Information (CHRI)

(Continued from page 1.)

Follow the instructions on Gemalto's website <https://www.aps.gemalto.com>. **Use of fingerprint cards is only for non-residents who cannot come to Alabama to have their fingerprints scanned.**

- The applicant is notified that he/she may challenge or appeal any portion of his/her own Criminal History Record Information (CHRI) that he/she believes to be incomplete or inaccurate by contacting the Records & Identification Division within ALEA at 334-353-4340.
- Applicants must fill out a registration form at <https://www.aps.gemalto.com>. Gemalto's registration form requires the applicant's User Identification Number assigned by the Commission. Gemalto will then assign their own registration I.D. number (REG ID) to the applicant who must submit the REG ID when they appear at the fingerprinting/scanning site of their choice. An extensive list of all fingerprinting sites and hours of availability is kept current on Gemalto's website at <https://www.aps.gemalto.com>.

- The applicant will be asked to pay a fee of \$47 for the background check. Follow the instructions on Gemalto's website <https://www.aps.gemalto.com> for proper forms of payment.
- At the scanning site, applicants will be required to supply proper I.D. See instructions on Gemalto's website <https://www.aps.gemalto.com>.
- Occasionally, there is trouble with the fingerprint image. Should that occur you will be contacted by Gemalto and required to submit another set of prints. One re-scan is done free of charge.

IMPORTANT! Licenses will NOT be issued prior to receipt and review of an applicant's CHRI. Applicants must take care to coordinate the submission of their application form and the submission of their fingerprints. The CHRI will be sent directly to the Commission from Gemalto and will only be available to the Commission for 30 days; therefore, we recommend that applicants submit their application (by mail or in-person) on the same day that they submit their fingerprints to Gemalto.

THE UPDATE

ALABAMA REAL ESTATE

COMMISSION

EMPOWER. CONNECT. AND EDUCATE



EMPOWER Empowering the real estate professional and the consumer.



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THE UPDATE

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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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