



Commissioners Vote To Seek Repeal of Mandatory E&O

By D. Philip Lasater, Executive Director

The Alabama Real Estate Commission will be requesting that the legislature repeal the mandatory requirement to maintain errors and omissions insurance for an active license as set out in Section 34-27-35.1 Code of Alabama 1975, as amended. The Commission has enlisted the support and assistance of industry leaders and licensees to accomplish this repeal.

This Commission action is in no way intended to be a negative commentary on the value of professional liability errors and omissions insurance and should not be construed as a recommendation that any licensee not seek appropriate coverage in the open market.

Representative Ron Johnson is the House sponsor and will be handling HB 34. Senator Larry Means is the Senate sponsor and will be handling SB 19. Commissioners encourage legislative contacts positive to repeal.

After the Commission decided last fall to undertake a comprehensive feasibility review, Chairman Bill Poole appointed Commissioner Roy Bragg to review all issues related to an E&O group program. Upon reporting to Commissioners, Commissioner Bragg cited analysis of factors primarily consisting of the insurance mar-

ket in general, Alabama seller disclosure issues, and optional equivalency issues. He concluded by recommending that the Commission move to repeal the mandatory requirement from Alabama license law. Following discussion of his report recommendation and its ramifications, the Commission voted unanimously 9-0 to take all necessary steps to accomplish the repeal in the 2003 legislative session beginning in March.

An overview of the problems and challenges to an E&O group program were highlighted in the Fall edition of the UPDATE newsletter. To summarize, it has been four years since there has actually been an insurance carrier under contract for the Alabama program. Licensees overwhelmingly opted for open market carriers. For two contract periods or the last two license periods in a row, less than 9% of licensees signed on with the group program. Commissioners just do not believe it is in the best interest of orderly regulation to declare a requirement in force only to have to declare that it is null and void within a matter of months.

This Commission action is in no way intended to be a negative commentary on the value of professional liability errors and omissions insurance and should not be construed as a recommendation that any licensee not seek appropriate coverage in the open market. It is simply a recognition that the Commission's role in facilitating a group program has been deemed to be ineffective. ■

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Got an Old House You Want to Sell?



As a free public service, the Alabama Historical Commission has established a “Landmarks Clearinghouse” Web site. The site can be accessed through the Historical Commission’s regular Web page at www.preserveala.org. (See the “For Sale” link.)

The Historical Commission set up the Clearinghouse in response to frequent calls from people, both in Alabama and from other states, who are looking for an old building to buy or restore. The Clearinghouse is an effort to target that specific market of “serious old-house lookers” and to match them up with landmark buildings that may be available for purchase. Real estate agents and homeowners alike can list their landmark property through the Clearinghouse — for free and for as long as the property is offered.

There is only one condition for listing a building through the Landmarks Clearinghouse. It must qualify as a true “landmark” property according to Historical Commission criteria. But this does not

mean that it has to be a white-columned mansion. It can be a Victorian cottage in an urban historic district or a vintage old log cabin in the country; an abandoned cotton gin, an old barn, or an old store.

The Clearinghouse lists landmarks by region (North Alabama, North Central Alabama, South Central Alabama, and South Alabama), with an accompanying map. Properties are then listed alphabetically by county within each region. For each property, the Historical Commission staff prepares a short descriptive blurb highlighting its architecture or history, along with descriptive information (square footage, etc.) based on information supplied by the seller. The seller is also asked to furnish a recent photo or photos - though in some cases the Historical Commission can use an

image from its own archives. The listing will remain on the Clearinghouse Web site until the seller advises otherwise (presumably when the property is either taken off the market or sold).

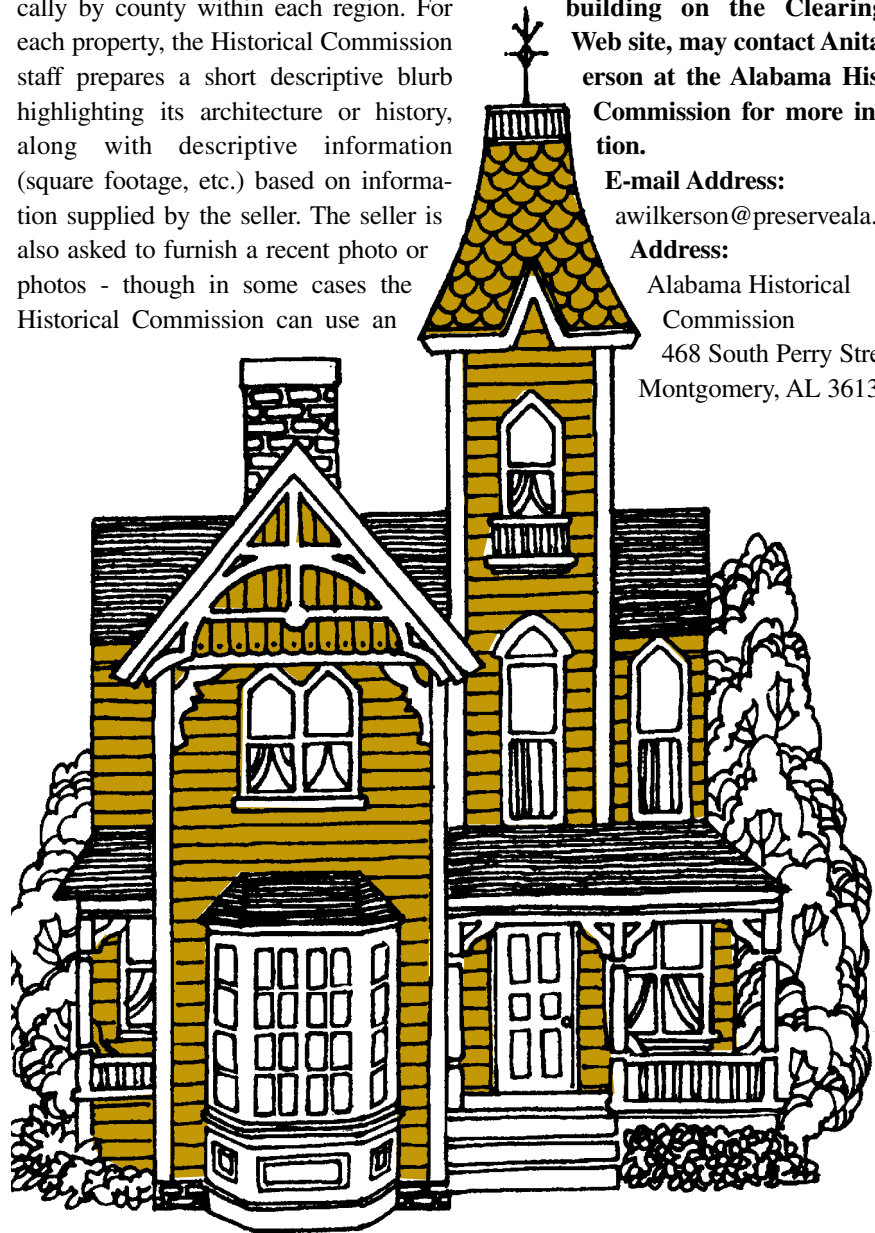
The Clearinghouse is a great way to reach a specialized “old house” clientele both in and outside of Alabama. **Anyone interested in knowing more about the Clearinghouse program, or listing a building on the Clearinghouse Web site, may contact Anita Wilkerson at the Alabama Historical Commission for more information.**

E-mail Address:

awilkerson@preserveala.org

Address:

Alabama Historical
Commission
468 South Perry Street
Montgomery, AL 36130 ■



BRIEFLY LEGAL

A Refresher On Estimated Closing Statements Or Net Sheets

By Charles R. Sowell, General Counsel

It appears we have a good deal of misunderstanding, especially with the newly-licensed among us, about the requirements for estimated closing statements in single family residential transactions. The requirements are set out in Alabama Real Estate Commission Rule 790-X-3-.04. The term “net sheets” is commonly used in the business to refer to estimated closing statements.

If you are working with a buyer, it is your responsibility to provide a net sheet form to the buyer at the time the buyer signs an offer. This form must be prepared by you and it must be 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 each item will cost. Do not forget, too, your responsibility to furnish a detailed closing statement at the time the sale is closed.

If you are working with a seller, it is your responsibility to provide a net sheet form to the seller at the time an offer is presented to the seller. This form must be prepared by you and it must be signed by the seller. It must contain your best estimates of all cost items the seller is expected to have at closing, and the approximate amount each item will cost. Do not forget, too, your responsibility to furnish a detailed closing statement at the time the sale is closed.

Here are some key points:

- You will be OK if you make your best reasonable guess about the items and the amounts that appear on the sheets. This requires that you make reasonable efforts to inform yourself about the list of possible cost items, and the estimated cost of those items. If you find later that some correction needs to be made, you should make those corrections. Then have the seller or buyer sign off on a new or corrected sheet.
- It is not permissible to rely on any estimate of costs provided by a mortgage lender. It is your responsibility to prepare one yourself. If an attorney or title company closes the transaction, you can rely on the actual closing statement provided by them. It is not necessary that you “redo” one yourself for the buyer or seller. The rule

requiring you to do an actual closing statement is for those very rare cases where the closing is conducted by you or your company broker. Let me add a note here. I do not recommend that you or your broker handle a closing, no matter how simple it might appear.

- It is necessary for you to do a new net sheet, or at least correct the one already prepared, when preparing and presenting counter offers or subsequent written offers.
- The rule does not require that you prepare a net sheet for the seller at the time you get a listing. Many brokers require this, but the rule does not. If your broker does require this, you still must prepare another one when you present an offer to the seller, unless the offer is on the same, exact terms upon which you based the first one. I do not think that happens very often.
- You are to leave a signed copy with the buyer or seller, and retain one for the company’s files. The company file copy should be retained for three years the same as all other records. It is not necessary for the listing agency and the selling agency to trade net sheets for record retention purposes. If it is an in-house sale, then the file should contain both seller’s and buyer’s sheets.

This is not just a technical paperwork requirement. It is designed to inform and protect consumers. It also is a good sales tool for you. Getting a transaction closed is just as important as getting a contract. Closings are often difficult under the best circumstances. If the parties know what to expect, the odds are you will have a smooth closing. If a party is unhappy due to not being informed, then the closing is in trouble. It is hard to negotiate, and get a closing done on the spot under these circumstances. If those efforts fail, remember this: No commissions are disbursed at failed closings. You will be left to walk to the parking lot with empty pockets and some very unhappy folks. It gets worse after they drive away.

Personally, I learned this stuff the hard way when I closed transactions while in private practice. Complying with the rule is good for everyone, especially you. ■

DISCIPLINARY ACTIONS TAKEN

October 2002 through January 2003

Disposition: The below were found guilty for violation of Section 34-27-36(a)(16) by 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.

Name: Jason Clayton, Salesperson, Pelham, Alabama

Date of Hearing: October 25, 2002, Fined \$100

Name: Jacqueline H. Bouyer, Inactive Salesperson, Bessemer, Alabama

Date of Hearing: October 25, 2002, Fined \$250

Name: Rita Ann Hanson, Salesperson, Carrollton, Georgia

Date of Hearing: October 25, 2002, Fined \$250

Name: John R. Hilliard, Qualifying Broker, Birmingham, Alabama

Date of Hearing: October 25, 2002, Fined \$100

Name: Tyrone Reynolds, Inactive Temporary Salesperson, Montgomery, Alabama

Date of Hearing: November 15, 2002, Fined \$250

Name: Susan Robin Hood, Inactive Temporary Salesperson, Birmingham, Alabama

Date of Hearing: November 15, 2002, Fined \$250

Name: Renee Correll, Salesperson, Brewton, Alabama

Date of Hearing: January 23, 2003, Fined \$250

Name: William G. Turnipseed, Qualifying Broker, Matthews, Alabama

Date of Hearing: January 23, 2003, Fined \$250

Name: Leticia Weaster, Temporary Salesperson, Birmingham, Alabama

Date of Hearing: January 23, 2003, Fined \$250



Disposition: The below were found guilty for violation of Rule 790-X-3-.01 via Section 34-27-36(a)(19) for changing his or her place of business as set out on his or her numbered license certificate, and failing to notify the commission in writing within 30 days after the change.

Name: Thomas S. Ford, Qualifying Broker, Madison, Alabama

Date of Hearing: October 25, 2002, Fined \$250

Name: Bruce A. Stowers, Qualifying Broker, Montgomery, Alabama

Date of Hearing: October 25, 2002, Fined \$250

Name: Shelby E. Belcher, III, Qualifying Broker, Brierfield, Alabama

Date of Hearing: October 25, 2002, Fined \$250

Name: Frank W. Jennings, Qualifying Broker, Santa Anna, California

Date of Hearing: November 15, 2002, Fined \$250

Name: Marco Louis Pacella, Qualifying Broker, Metairie, Louisiana

Date of Hearing: November 15, 2002, Fined \$250

Name: William B. Eyster, Jr., Qualifying Broker, Birmingham, Alabama

Date of Hearing: November 15, 2002, Fined \$250

Name: Carol G. Muszik, Qualifying Broker, Madison, Alabama

Date of Hearing: November 15, 2002, Fined \$250

Name: John S. Wright, Qualifying Broker, Decatur, Alabama

Date of Hearing: November 15, 2002, Fined \$250

Name: Bo Brown, Qualifying Broker, Atlanta, Georgia

Date of Hearing: January 23, 2003, Fined \$250

Name: Tony J. Green, Qualifying Broker, Tupelo, Mississippi

Date of Hearing: January 23, 2003, Reprimanded

Name: W. R. Stephens, Qualifying Broker, Birmingham, Alabama

Date of Hearing: January 23, 2003, Fined \$250

Disposition: The below was found guilty for violation of Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. for a broker to fail to deposit and account for funds to be held in trust for others at all times by having a shortage of trust funds.

Name: Shawn Pinion, Qualifying Broker, Tuscaloosa, Alabama

Date of Hearing: January 23, 2003, Fined \$500

Disposition: The below was found guilty for violation of Section 34-27-36(a)(10) for a real estate salesperson to fail to voluntarily furnish a copy of a document to each party executing the document with reasonable promptness and Rule 790-X-3-.04(2) via Section 34-27-36(a)(19) for a salesperson presenting a written offer to a seller to fail to have the seller acknowledge receipt of the estimated closing statement or net sheet by signature on the net sheet form at the time the offer is presented.

Name: Warren Kuntz, Salesperson, Birmingham, Alabama

Date of Hearing: November 15, 2002, Fined \$1000

Disposition: The below were found guilty for violation of Section 34-27-32(g) via Section 34-27-36(a)(19) for a company and a qualifying broker to maintain more than one place of business in the state without having a company license and a qualifying broker for each separate location or branch office.

Name: Adams Homes, L.L.C., Spanish Fort, Alabama

Date of Hearing: October 25, 2002, Fined \$1000

Name: Susan L. Greenwell, Qualifying Broker, Spanish Fort, Alabama

Date of Hearing: October 25, 2002, Fined \$500

Disposition: The below was found guilty for violation of Section 34-27-34(a)(2) via Section 34-27-36(a)(19) for a qualifying

broker to fail to see that the actions of a licensee complied the provisions of the law, specifically Section 34-27-35(k).

Name: Shelby H. Warren, Qualifying Broker, Florence, Alabama

Date of Hearing: November 15, 2002, Fined \$500

Disposition: In lieu of filing a formal complaint and having a hearing, the below surrendered the license for alleged license law violations.

Name: Patrick J. O’Rear, Temporary Salesperson, Florence, Alabama

Date of Hearing: November 15, 2002, License Revoked

Disposition: The below was found guilty for violation of Section 34-27-36(a)(23)a. for a real estate broker to enter a plea of guilty to or be convicted of a felony; Section 34-27-31(j) via Section 34-27-36(a)(19) for a broker to fail to notify the Commission within ten days of the institution of any criminal prosecution against

him; and Section 34-27-31(k) via Section 34-27-36(a)(19) for a broker to fail to notify the Commission within ten days of a criminal verdict being rendered against him.

Name: Joe E. Harvey, Inactive Associate Broker, Birmingham, Alabama

Date of Hearing: November 15, 2002, License Revoked

OTHER ADMINISTRATIVE ACTIONS

Determination for Licensure

Approved. 1
 Denied. 2

Determination of Eligibility

Approved. 1
 Denied. 2

COMPLAINTS AND INQUIRIES HANDLED BY LEGAL AND INVESTIGATIVE STAFF

From Licensees 998
 From Public. 440
 Anonymous 27

Alabama Real Estate Commission Policy on Publication of License Revocations: Revised October 14, 1999

Upon the Hearing of a formal complaint resulting in a license revocation (including an affidavit of surrender) Commission staff shall cause a public advertisement to be placed by the following criteria: After all appeals have been exhausted, a notice of the Commission revocation shall be placed in a 2x2 inch display ad one time in the newspaper of largest general circulation in the county to which the license was issued.

LICENSING TIDBITS

Commission Welcomes New Associate

By Annie Hall, Licensing Supervisor

The Commission welcomes **Princesinett Scott** to our staff. Affectionately known as “Princess,” she comes to us from the Department of Public Safety where she acquired a great deal of experience in public relations. Her multi-talents make her a welcome addition to the Licensing and Education Divisions as well as assisting the Administrative Division. Princess is married and has three girls. She enjoys interior decorating, attending antique car shows, and creating floral arrangements.



EDUCATION CORNER

Reciprocity

By Pat Anderson, Education Director

The Alabama Real Estate Commission receives numerous inquiries from licensees, potential licensees and instructors regarding reciprocal licensing. The term seems confusing and mutual license recognition would more appropriately align with the definition provided in License Law. A reciprocal license is one obtained in a state based on the fact that the person holds a license in another state and the licensee has met the other state's licensure qualifications. A reciprocal license is never determined by where the person lives or conducts the majority of his or her real estate business. This summary will be of assistance to you.

To **OBTAIN** a license when a person holds a license in another state the following must occur:

- 1** The license held in another state must be current, which means that all of the fees have been paid and it is up to date.

Welcome New Education Staff Member



Ryan M. Adair, Education Specialist, joined the Education Department staff in January 2003. He earned a Bachelor of Science degree from Auburn University and a Master of Science degree from Troy State University Montgomery. His work experience includes eight years at Faulkner University as a program administrator and instructor.

He also served as Director of Education and Board Services for the Alabama Association of REALTORS® for two years. Ryan is a welcome addition to the Commission and will assist with providing enhanced service to instructors, licensees and the public.

It does not matter if the license is active or inactive.

- 2** It does not matter in which state the applicant resides.
- 3** If the person holds a current salesperson's license in another state, the person may apply for a salesperson's license in Alabama by filing the "Salesperson's Reciprocal Application," submitting a Certification of Licensure showing proof of a current license in another state, and paying the appropriate fees identified on the application form.
- 4** If the person holds a current broker's license in another state, the person may apply for a broker's license in Alabama by filing the "Broker's Reciprocal Application," submitting a Certification of Licensure showing proof of a current license in another state, and by paying the appropriate fees identified on the application form.
- 5** If the person holds a salesperson's license in another state and wishes to obtain a broker's license in Alabama, then the person can not obtain the license through reciprocity. The applicant must meet all the same requirements as would any salesperson regardless of the state in which the salesperson's license is held. That means the applicant must complete the Alabama 60-hour prelicense course, hold an active salesperson's license in this state or any state for 24 of the 36 months prior to application, meet all other general licensure requirements, take and pass the entire broker's examination, and apply for a regular (not reciprocal) broker's license.

To **RETAIN** an Alabama reciprocal license, the licensee must do the following:

- 1** Renew the license at the same time as all renewals are due which is by August 31 of the even years.
- 2** Meet continuing education requirements by doing **ONE** of the following:
 - a) Show proof to the Commission that the license held in the other state was current and ACTIVE at the time your Alabama active reciprocal license was issued (October 1 of the even years);

OR

b) Complete the 15 hours of continuing education as required by Alabama Real Estate License Law/Rules and Regulations.

licensee must still take Alabama prescribed courses as follows: Risk Management plus one of these three: License Law, RECAD or Fair Housing.

OUT OF STATE CE COURSES

The following information regarding continuing education courses taken out of state applies to ALL licensees regardless of whether or not a licensee holds a reciprocal license.

Q If I take continuing education courses in another state, do the hours count for continuing education credit in Alabama?


A Yes, they count for elective CE credit. Rule 790-X-1-.12(19) says that if any licensee (whether reciprocal or Alabama licensee) takes a course in another state it counts as continuing education credit toward his or her Alabama license requirements provided the course is approved by another state's Real Estate Commission for CE credit. The Alabama

Q How do I document a course taken out of state?

A You must have an official letter either from the Course Provider or that State's Real Estate Commission that the course is approved for credit by another state. You should then have a course certificate showing the course name, school name, date and place taken, and number of hours of credit received.

Q What if the course approved in another state is one that would not meet Alabama's curriculum requirements? Can I still take it and receive credit?

A Yes, as long as it is approved for CE credit by another state and you have that appropriately documented, it is acceptable for Alabama CE credit. ■



**MARK
YOUR
CALENDAR**

**ANNUAL
INSTRUCTORS'
SEMINAR**

OCTOBER 10, 2003

Auburn Hotel and
Conference Center

Auburn, Alabama

Alabama Real Estate Educators Association Officers Elected

New officers for the Alabama Real Estate Educators Association (AREEA) were elected on October 17, 2002.

They are as follows:

President:

Donnis Palmer

Vice President:

Harriett Isaacson

Secretary/Treasurer:

Bo Goodson

Directors:

Fraser Sparkman

Emil Ankermiller

Jeri Gray

Any educator who would like information about joining this association can contact any of the AREEA officers or the Alabama Real Estate Commission.

Commission FAQs: Did I Ask The Right Question?



Q *Can the prelicense course be taken either by classroom or through distance education?*

A **Yes**, it can be taken by either method as long as it is approved by the Alabama Real Estate Commission in advance of your taking it.

Q *Can post license and continuing education be taken by classroom or distance education?*

A **Yes**, courses can be taken by either classroom or distance education. Just as in prelicense, it is up to the licensee to make sure the course is approved for credit by the Commission prior to taking it.

Q *When must the post license course be completed and the original (permanent) salesperson's license issued?*

A The expiration date on a temporary license is six months from the first day of the month following its issuance. After that, it shall be valid for an additional six months but must be placed inactive until the post license course is completed and the original salesperson's license is issued. If the post license course has not been completed within one year after the temporary license was issued, the license shall lapse and the applicant must begin again as though a license were never held.

Q *If an active temporary salesperson's license expires at the end of six months, will the qualifying broker be notified?*

A **Yes**. The Commission will notify both the temporary salesperson and the qualifying broker.

Q *Can a person begin the post license course as soon as he/she passes the salesperson's examination?*

A **No**. The temporary license must have been issued before a person can begin a post license course.

Q *Is a person who holds a reciprocal license required to complete the 15 hours of continuing education?*

A The law says that a person who holds a reciprocal license must either show proof of an active license in another state OR meet the requirement in Alabama Real Estate License Law for the 15 hours of continuing education.

Q *How does this work on the audit process for reciprocal licensees?*

A A reciprocal licensee must obtain a certification of licensure in the state where another license is held which shows that the license was active at the time of Alabama license renewal or produce certificates of 15 hours of approved course work which meets the requirements of license law. If the Alabama license was active on October 1, 2002, then this course work must have been taken between October 1, 2000 and August 31, 2002.

Q *Can you give us more detail on the CE audit process for all licensees?*

A The Commission is periodically sending out audit letters to licensees who are randomly selected by the computer. These licensees are notified by mail to send in their original CE certificates within 30 days. If you do not have all 15 hours in your file, you should contact your school and obtain any certificates which you do not have. If you completed courses between October 1, 2000 and October 31, 2001, that information was tracked electronically by the Commission. If you can not locate the certificate that was sent to you by the Real Estate Commission in January 2002 for the thirteen month period mentioned above, you can obtain a duplicate by sending a written request and \$10 check to the Commission.

Remember: For each person who was issued an active license on October 1, 2002, and did not return it to be placed inactive, that means you should have proof of 15 hours of continuing education in your file for courses completed between October 1, 2000 and August 31, 2002. This obviously does not apply to those who are exempt from meeting continuing education requirements, those who completed the post license course during that period, or reciprocal licensees who are active in another state.

Q *How long must I keep my certificates for courses completed on or before August 31, 2002?*

A Until October 1, 2004.

Q *If I take a CE course in another state, can I get CE credit in Alabama?*

A Yes, as long as the course is approved for CE credit by any state and the licensee obtains adequate documentation of its approval, then it is accepted by the Alabama Real Estate Commission for equivalent CE hours. Such courses count as elective CE course credit only.

Q *When selling my own property, must I disclose that I am a real estate licensee?*

A Alabama Real Estate Commission Rule 790-X-1-.03 (2) provides that any person who elects to become licensed as a broker or salesperson may advertise property of which they are the owner in the same way as any private party. However, such a licensee must abide by all of the other provisions of the license law and rules of the Commission even in dealing in their own property. Secondly, when RECAD was passed, in one of the provisions of the obligations of licensees, Section 34-27-84 (a)(6) we find that in order to act on behalf of the licensee or his or her immediate family, or on behalf of any other individual organization, or business in which the licensee has a personal interest, you must have given prior timely written disclosure of this interest to all parties in the transaction. (A mere disclosure that you hold a license is not sufficient.)

Q *What if I am on inactive status, do I still have to comply?*

A The above section of the law and the cited rule only says "licensee" and does not differentiate between active and inactive, it just says "licensee." Therefore, it follows that a licensee of the Alabama Real Estate Commission is a licensee, just as a doctor is a doctor at all times.

Q *My company has set up a separate referral company and I am considered inactive. I do not actively list or show property. Therefore, I am considered inactive with the local Board or Association of Realtors. What is my license status with the Commission?*

A Under the set of circumstances above, you still hold an active real estate license as far as the Commission is concerned. You have the legal right to do any act that the license law and rules cover, however you have agreed with your qualifying broker to not actively list and show real estate.

Q *Do I have to renew my license if it is on inactive status?*

A Yes, you must renew your license every two years just like anyone else. Far too many people think that since the Commission is "warehousing" their license they don't have to do anything. They fail to notify the Commission of their new residence addresses and let their license lapse. Later they decide to get back into real estate and think they can "reactivate" but they have no license to activate. It is similar to your driver's license. If you choose not to drive for a while and don't renew your license, you get to take the driver's license exams and start over.

(Continued on page 10)

Q *Must I have an active real estate license to rent and lease apartments?*

A **No.** Several years ago, the Alabama Legislature took persons acting as manager for an apartment building or complex out from under any requirement to be licensed and removed the restriction that a resident manager must live on the premises. (Section 34-27-2 (b)(7) of the license law.) However, if a licensed real estate company decides to manage the apartments, the Commission will expect compliance with the law and rules to include depositing the security deposits in a trust account and running the rent and repairs through a trust account.

Q *I don't have an Alabama real estate license, but I am licensed in another state. What must I do to participate in selling Alabama real property?*

A Section 34-27-3 indicates that you may co-broke with an Alabama licensee by executing a written co-broker agreement with an Alabama broker on each piece of property. This agreement is filed with the Alabama Real Estate Commission. By signing such an agreement you agree to abide by Alabama law and you agree that civil actions may be commenced against you in Alabama if the need should arise. Alternately, you may choose to obtain an Alabama real estate license by reciprocity if you are going to frequently deal in real property situated in Alabama.

Q *I have given up my real estate license and moved out of state but a transaction I worked on is about to close. Can my former qualifying broker still pay me my commission?*

A **The answer is, yes.** The acts that required you to be actively licensed (listing, showing, negotiating) were done while you held an active license. Therefore, you still can be paid.

Q *My broker refuses to pay me the commission I have earned. How do I file a complaint with the Alabama Real Estate Commission?*

A The Alabama Real Estate Commission has no jurisdiction to order any broker to pay a commission. Your agreement or contract with the company is all you have to collect your commission. You will have to take them to the proper state court.

Q *I want to transfer my license and my broker refuses to return my license to the Commission. He claims I owe the company money and I dispute that. What do I do?*

A The broker cannot stop you from transferring to another company or going on inactive status. Section 34-27-34 (3)(b) indicates that any salesperson or associate broker who desires to change his or her qualifying broker shall give notice in writing to the Commission and shall send a copy of the notice to his or her qualifying broker. The new qualifying broker shall file a registration form assuming liability for the licensee and on payment of \$25, a new license will be issued. The Commission will then get the old license from the qualifying broker through Rule 790-X-2-.21 (2) which states that the qualifying broker is responsible for the immediate return of any license certificate which is in need of any change.

Q *I have a criminal record. I think that the offense was a misdemeanor, but it might even be a felony. Am I eligible to obtain a real estate license?*

A In Section 34-27-32 of the Alabama Real Estate License Law, the statement is made, "The Commission may reject the application of any person who has been convicted of or pleaded guilty or nolo contendere to a felony or a crime involving moral turpitude." The key word is "may." Just about every month someone with a criminal record asks the Commission for permission to be licensed. Some just write a letter and some actually have a hearing before the Commissioners, but in both instances the Commissioners make a decision on whether or not to allow them to be licensed. They must determine, in their judgment, if the person would be trustworthy and competent to transact the business of a broker or salesperson in a manner that safeguards the interest of the public. (Section 34-27-32 (a)(1).) By the way, the question is not only was there a felony involved, a misdemeanor of a type that would be considered by the courts as "moral turpitude" "may" exclude you from eligibility. Such things as shoplifting and issuing worthless checks are misdemeanors but are also considered offenses of moral turpitude.

Q *Why can't I login to get a Certification of Licensure online?*

A You must be sure to enter the correct license number, correct last four digits of your social security number and your date of birth in this format; MM/DD/YYYY. ■

AUDIT CHECKLIST:

What the Commission Looks for in an Office Audit

- ✓ Real Estate Licenses
- ✓ R.E.C.A.D. Office Policy (*Acknowledgement of policy signed by all licensees.)
- ✓ Location of closed contracts for past three (3) years
- ✓ All pending sales files
- ✓ Location of all lease contracts, management agreements and rental records
- ✓ Copies of past six (6) months bank statements with canceled checks for all escrow accounts
- ✓ Copies of latest bank reconciliation performed on all escrow accounts, if available
- ✓ Checkbook and or computer check register for all escrow accounts
- ✓ Duplicate deposit tickets with validated bank receipt for all escrow accounts
- ✓ Any lists or ledgers documenting the funds held for escrow purposes
- ✓ Original Continuing Education Certificates

Note: “Escrow Funds” include sales binders, security deposits, rent receipts, and or any other funds held for members of the public.

Office Inspection Suggestions

1. Balance escrow account checkbook as soon as possible after the receipt of each statement.
2. Tape canceled checks back into the checkbook adjacent to the stub so you will have a complete record of the check and not have to search statement envelopes for the check in question.
3. Prepare a continuous list of pending contracts with the amount of earnest money involved. Mark off each transaction as it closes, the money is refunded, or it is forfeited by purchaser or seller.
4. If the bank imposes a service charge, the charge should be deducted from the account before the remainder of the commission is removed to prevent overdraft charges. The Commission has ruled that additional designated funds may be deposited into the account to cover bad checks, service charges, etc.
5. Keep all pending contracts separate from closed contracts.

6. Maintain a separate escrow account for rental or leased property to distinguish it from sales contracts which do not have repairs, owner’s payments, etc.
7. Keep written receipts for all funds received, whether by cash or check, as a means of internal control.

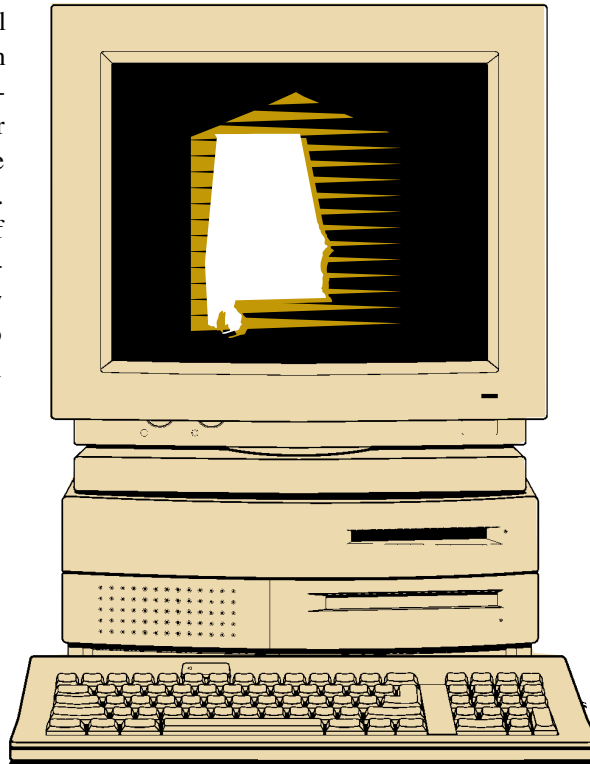
Rental Property Bookkeeping Suggestions

- ✓ Maintain at least three separate accounts to track funds received and disbursed: 1) security deposits; 2) rent receipts; and 3) company operating funds. The first two accounts are to contain no funds other than those for which they are designated.
- ✓ A security deposit is to remain in the appropriate account for as long as there is no reason to refund it or charge any cost against it.
- ✓ A rental receipt should be deposited to the appropriate account before the rental management company takes its commission or fee.
- ✓ Deposit funds promptly, preferably daily, into the proper account(s). Disburse funds promptly when due.
- ✓ Duplicate deposit tickets should be retained in company records to verify deposit dates, amounts, and sources of funds.
- ✓ All check stubs should have an explanation of the purpose of that check. Checkbooks should be balanced regularly with dated deposits noted on the check stubs.
- ✓ Any interest earned should be transferred to the general account as it is earned.
- ✓ A list of funds being held for others should be maintained and should be consulted and marked with any changes insuring an accurate knowledge of the amount needed in the trust accounts.
- ✓ Lease files should contain a copy of the management agreement between the company and the owner of the property, copies of the statements to the owners as to records of rent received and disbursed, and maintenance bills.
- ✓ Maintain separate cards for each property with the information on security deposits, rent receipts and disbursements to owners, or mortgage payments made on behalf of owners. ■

Commission Online Services and Projections for 2003

In June 2002, the Alabama Real Estate Commission in conjunction with Alabama Interactive, the official eGovernment solutions provider for the state, launched our first online service to facilitate individual license renewals. A new application, Certification of Licensure, was recently added as our second online service. By using the new application, licensees now have access to up-to-date license history information and can immediately print official certification documents from their computers. This online service alternative has eliminated the ten to fourteen day processing and mailing time for certifying licensure information.

To access all online service information, a new login screen has been designed with more features for verification and security. Licensees



must enter their correct license number, the last four digits of their social security number, and their date of birth to login.

The Commission online service projections for 2003 will include adding an option to renew multiple broker licenses, instructor renewals, home and business address changes and individual license transfers. Also, payment options will be expanded to include eCheck capability. The eCheck feature will allow a bank routing number to be entered and money withdrawn from an account for online services payment.

Check the Commission's Web site regularly at www.arec.state.al.us for the announcement of these new services and for the latest real estate news and information. ■



Holiday Closings for 2003

The Alabama Real Estate Commission offices will be closed for the following official state holidays. Please remember these dates in consideration of receiving, processing and mailing requests.

- Confederate Memorial Day April 28
- National Memorial Day May 26
- Jefferson Davis' Birthday June 2
- Independence Day July 4
- Labor Day September 1
- Columbus Day/Fraternal Day
American Indian Heritage Day October 13
- Veterans' Day November 11
- Thanksgiving November 27
- Christmas Day December 25

Are You Missing Out on a Pot of Gold?



Each month the Commission refunds overpayments to licensees who have sent in too much money for a real estate license fee or transaction. You may be someone we are looking for who has received a refund check but for some reason never cashed it.

The Commission receives a list once a month from the State Comptroller showing who has not cashed their refund check. We send a letter to these licensees with an affidavit to sign in order to get a new check in case their check has been lost, stolen or destroyed. Sometimes we can not locate these people because they have moved and not notified the Commission of a change of address. We can send this type of affidavit for up to a year to those people deserving a refund.

After one year from the check issue date, a check can not be cashed. However, a claim to receive the money can be filed at the Unclaimed Property Section of the State Treasury Department. To find out whether you or a deceased person has an unclaimed asset of any kind, go to the State Treasury's Web site at www.treasury.state.al.us.

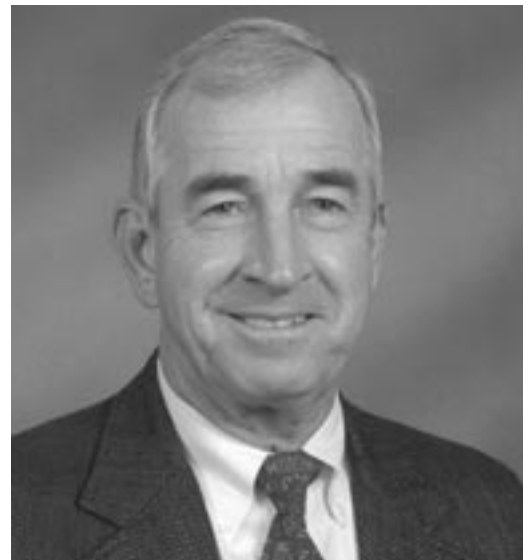
Following is a list of people for whom we are searching:

- Southern Homes Realty Company
- K&L Dreams Inc.
- George L. Bailes III
- Mary L. Bynum
- E. Brad Davis
- Zack Dobbs
- Carol H. Dyches
- Molly J. Gleason
- Johnny L. Hughes
- Beulah Louise Kennedy
- Nellie G. Shoults
- Keith Jeffrey Smith
- Deotis Worsham

If you know any of these people, please have them to contact Janie Jordan at the Alabama Real Estate Commission; rjordan@arec.state.al.us or 334.242.5544 extension 406. ■

COMMISSIONER REAPPOINTED TO SERVE SECOND TERM

Bill E. Poole has been reappointed to serve a second five year term on the Alabama Real Estate Commission. Commissioner Poole serves from the fifth congressional district as an industry member. He is the Qualifying Broker for Bill Poole Realty located in Huntsville, Alabama. Commissioner Poole has been re-elected to serve as chair of the Commission along with Commissioner Gordon Henderson serving as vice chair. ■





1201 Carmichael Way
Montgomery, Alabama 36106

COMMISSIONERS

Bill E. Poole
Chairman, Huntsville

Roy F. Bragg, Birmingham

Thomas L. Hays, Birmingham

Gordon Henderson, Albertville

Robert S. Hewes, Dothan

Sheila S. Hodges, Gulf Shores

Lyman A. Lovejoy, Odenville

Chester Mallory, Montgomery

Ruth T. Whitley, Tuscaloosa

D. Philip Lasater, Executive Director

Vernita Oliver-Lane, Editor

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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 Web site at www.arec.state.al.us.

License Renewal Dates

Real Estate licenses expire September 30, 2004. Remember to renew all broker, salesperson and company licenses in every even year.

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