

Official Document Printing Available on Commission's Web Site

By Nancy Barfield, Information Technology Manager



Alabama real estate licenses and notices are available to be printed from the Online Services section of the Commission's Web site at www.arec.alabama.gov.

■ **LICENSE PRINTING:** When a license has been issued by the Commission, the license will be available to the qualifying broker through the company login in the Online Services section of the Commission's Web site. Only the qualifying broker will have access to online license printing. The qualifying broker can log in using the company license number and select "Official Document Printing" from the Available Services in order to print licenses. Beginning July 1, 2010, the only licenses that will be printed and mailed from the Commission office will be for those companies for which the qualifying broker has requested in writing to the Commission to receive a hard copy of the license. Qualifying Brokers will soon receive further instructions for requesting a hard copy of a license.

■ **NOTICE PRINTING:** A notice is a document other than a license that contains information applicable to the license issued by the Commission (i.e. inactive notices, license expired notices, license lapsed notices, etc.). When a notice has been issued to a licensee by the Commission, the notice will be available to the licensee through the login in the Online Services section of the Commission's Web site. The licensee can print the most recent Commission notice issued to him/her by logging in to Available Services and selecting "Official Document Printing." At this time all notices will continue to be mailed to the licensee from the Commission. The "Official Document Printing" simply gives the licensee the availability to print the most recent notice issued by the Commission. ■

Change in Requirements for New Reciprocal Applicants

On October 1, 2009, a change to Section 34-27-32(b)(1) became effective requiring reciprocal APPLICANTS to complete a six (6) hour prelicense salesperson or broker course in Alabama law and pass the Alabama portion of the examination in order to qualify for a reciprocal license. (See Rule 790-X-1-.18 for further details.) **This law change does not apply to reciprocals who received an Alabama license prior to October 1, 2009.** Only new reciprocal applicants must meet the new requirement. If you have any questions, please call or email the Alabama Real Estate Commission." ■

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LICENSING TIDBITS

By Anthony Griffin, Licensing Administrator

Licensing Procedures Update

■ Temporary Licensees

Brokers, make sure Temporary licensees who are coming to your company have their application for Temporary Salesperson filled out completely and have all necessary documents and fees attached. Also, ensure that the state of residency shown on their proof of residence corresponds with the state of residency listed on their application and that they submit a valid high school proof, or equivalent, showing a completion date.

■ Registration Transfer Form

Brokers, do not mail to the Commission the licenses of licensees desiring to go inactive without attaching a completed Registration Transfer Form or a signed written request from the Qualifying Broker instructing the Commission to place the license on inactive status.

■ Multiple Brokers

Multiple Brokers are required to operate multiple companies from the same location. Therefore, before submitting change of company address forms to the Commission, remember that all company addresses associated with the Multiple Broker must be the same.

■ New Reciprocal Licensing Requirements

See page 1 for a brief description of changes in reciprocal licensing requirements. There are still a few of the old reciprocal applications being submitted to the Commission. Reciprocal applicants must submit the application they receive at the test center upon passing the examination. Any application form other than the appropriate one will be returned because the old one does not contain all of the information now required for reciprocal licensing. Your cooperation is appreciated.

■ Personal Contact Information Updates

Inactive and active licensees, please ensure that the Commission has your correct mailing address, telephone number, and email on file. If your personal contact information changes, notify the Commission promptly in writing or update information online through our Web site at www.arec.alabama.gov. Licensees must notify the Commission in writing within 30 days after changing their residence address [Section 34-27-35(h) in License Law]. There is no fee for updating your personal contact information. If you need additional assistance, please contact a member of our licensing staff at 334.242.5544. ■

What Does the Number at the End of My License Signify?

The very first license issued to a licensee ends in dash zero such as 000000000-0. That license is either current or it has lapsed. If you have obtained another license it ends in dash one such as 000000000-1. If you have a license ending in dash one that means that you obtained a second broker's license OR you obtained an instructor's approval OR the first one ending in dash zero lapsed. At any rate, you had reason to apply for another license or instructor approval.

For example, you had an original salesperson license, number 000000000-0, issued and it lapsed September 30, 2009. Later, you decide to obtain another license by meeting licensing requirements again. This license would be issued as 000000000-1, with the -1 signifying you had a previous license and this is your second current license issued. The number following the dash would increase by one digit any time this same scenario repeated itself.

Also, each time an additional Broker's license (multiple) is issued the number following the dash increases by one digit. For example, you are qualifying Broker, license number 000000000-0, for EFG Real Estate Company and you decide to open two additional companies, XYZ and DEF, for which you will be Qualifying Broker. These additional Broker licenses would be issued as 000000000-1 for XYZ Company and 000000000-2 for DEF Company. Let's say you decided to become approved as a real estate instructor. Once approved, your license number would then have another extension. It would be 000000000-3.

The numbers following the dash are an important factor in aiding the Real Estate Commission and individuals in keeping a clearer account of a licensee's license history and/or status. ■



When Changing Name or Addresses

When changing the name or address of a company or company branch office, please keep in mind that the \$25 fee associated with this change applies to the Company license, as well as to the Qualifying Broker license, all Associate Broker licenses, all Salesperson licenses, and all Temporary Salesperson licenses under the company receiving the change.

For example, if EFG Real Estate Company changes its name to XYZ Real Estate Company and has one Qualifying Broker, two Associate Brokers, and four Salespersons, then a fee totaling \$200 would be needed to complete this status change:

- 1 for company
- + 1 Qualifying Broker
- + 2 Associate Brokers
- + 4 Salespersons
- = 8 changes
- x \$25 = \$200 total fees.

The same fees apply when changing a company address or a combination of address/name change.

Don't Be Alarmed by Inactive Notice

Licenses, do not be alarmed when you receive a license inactive notice after completing an online transfer to another company. Since part of the online process of transferring your license to another company involves placing it on inactive status first, you will receive a notice stating that your license has been placed on inactive status. However, once you have completed your transfer request to the new company/broker your current license status will be active and your new license will be available for printing by your new Qualifying Broker. You can always check the status of your license online at License Status Verification under the Online Services at www.arec.alabama.gov.

Insert Available for Alabama License Law Book 22nd Edition Revised

A new insert is available for the current Alabama License Law book (22nd Edition Revised 2009). The insert contains all legislative updates passed since the publication of the 2009 Alabama License Law book. Please make sure that your License Law book includes this new insert and that you are familiar with these changes.

The License Law Insert is available for purchase individually for \$3.00. The insert is identified on the order form as "Alabama License Law 22nd Edition 2009 Insert (Insert Only)." If you need to purchase a License Law book, it is available for \$10 and the insert is included.

The inserts and books are available for purchase from the ACRE (Alabama Center for Real Estate) Online Store. The Online Store can be accessed on ACRE's Web site at www.acre.cba.ua.edu. Orders can also be placed by

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THE UNIVERSITY OF ALABAMA

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mail, fax, or phone. Please access the ACRE Web site for an order form and additional details. ■

Commissioner Wright Graduates from Commissioner College



Commissioner **Nancy Wright** (right) has become the first Alabama Commissioner to graduate from the ARELLO (Association of Real Estate License Law Officials) Commissioner College. Her Commissioner College certificate was presented at the January 2010 Commission meeting by Commission Chairman **Sheila Hodges**.

Developed by ARELLO's Commission Member Resource Committee, the Commissioner College is an exclusive program that is designed to prepare newly appointed/ elected individuals for their unique role as regulatory decision-makers and also serves as a valuable refresher course for veteran regulators.

Commissioner Wright is Associate Broker of Coldwell Banker Hill Real Estate in Cullman and serves Alabama Congressional District 4. Congratulations to Commissioner Wright! ■

EDUCATION CORNER

By Ryan Adair, Education Director

Important CE Information You Need to Know

License renewal is quickly approaching for salespersons, brokers, and companies.

A few important points regarding CE requirements are outlined below.

More detailed CE requirements for renewal will be published in the Summer Renewal Issue of the Update newsletter.

■ ACTIVE LICENSES

All licensees must pay the renewal fee and have fifteen (15) hours of CE credit on file with the Commission in order to renew on active status. Many licensees continue to call the Commission asking how many hours of CE are needed and when they have to be completed. A total of 15 hours of CE must be completed and submitted to the Commission by the sponsoring schools. These 15 hours include three (3) hours of Risk Management and twelve (12) hours of approved elective courses. These hours must be submitted to the Commission no later than midnight on September 30, 2010, in order for a license to remain on active status on October 1, 2010. If the licensee pays the renewal fee, but there is no record of the licensee's completion of the 15 CE hours by midnight on September 30, the license will automatically be placed on inactive status.

■ INACTIVE LICENSES

Licensees who wish to remain on inactive status must pay the renewal fee but the CE hours are not due until the licensee is ready to activate the license sometime after October 1, 2010. When renewed on inactive status, an inactive notice can be printed by the inactive licensee by signing on to the licensee's own record at www.arec.alabama.gov and going to "Official Document Printing." One will also be mailed to the licensee after October 1, 2010.

■ LICENSE PRINTING

Once your CE requirements have been satisfied, and your renewal payment has been made, a license will be issued during normal Commission business hours and will be available for printing in the Online Services section of the Commission's Web site. The qualifying broker can log in using the company number and select "Official Document Printing" from the Available Services in order to print licenses. The issue date on the license will be the date renewal requirements are met and it is available online for printing. The expiration date will be September 30, 2012.

• License Printing Example

John Doe earns 15 hours of CE from January 16, 2010, through July 20, 2010. John pays his license fee on July 26, 2010. Provided all CE hours have been reported by the schools that offered the courses he took, John will have a license available for printing online. Only John's Qualifying Broker will have access to the online license printing through the Company login. John's printed license will show an expiration date of September 30, 2012.

Learn more about online license printing in the article titled "Official Document Printing Available on Commission's Web Site" on page 1. ■

CE for Reciprocal Licensees

OPTION 1

Take 15 hours of CE in Alabama

This requirement includes the three hour Risk Management course and 12 hours of approved elective courses. This credit must be on record at the Commission by midnight on September 30, 2010.

OPTION 2

Show proof of active licensure in another state

The proof needs to be a certification of licensure from the state where you were originally licensed. Reciprocal licensees who were licensed after September 30, 2009, are not required to meet CE requirements for the first renewal of the license [Section 34-27-35(j)(2)]. ■

DISCIPLINARY ACTIONS TAKEN

January through March 2010

DISPOSITION

The below were found guilty of violating 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.

Loretta Sherrell Beamon

License No. 000083296

Salesperson; Opelika, Alabama

Date of Hearing: January 21, 2010

Fined \$250

Amanda D. Hoot

License No. 000069996

Associate Broker; Harvest, Alabama

Date of Hearing: January 21, 2010

Fined \$250

Bernita R. Andrews

License No. 000091584

Salesperson; Mobile, Alabama

Date of Hearing: February 10, 2010

Fined \$250

Shannon Braswell

License No. 000096091

Salesperson; Dothan, Alabama

Date of Hearing: February 10, 2010

Fined \$250

Kathy B. Byrd

License No. 000072648

Salesperson; Gadsden, Alabama

Date of Hearing: February 10, 2010

Reprimanded

Joshua F. Kirk

License No. 000094498

Salesperson; Gardendale, Alabama

Date of Hearing: March 10, 2010

Fined \$250

DISPOSITION

The below were found guilty of Count #1 for violating Rule 790-X-3-.03(5) through Section 34-27-36(a)(19) for failing to disburse trust funds to the appropriate party within 7 days of the consummation of the



transaction for which the funds were deposited; Count #2 for violating Rule 790-X-2-.07 through Section 34-27-36(a)(19) for failing to have a the place of business identified by a sign which sets out the name of the company as licensed with the Commission; and Count #3 for violating Section 34-27-36(a)(28) and (29) for failing to produce a document, record, information in their possession concerning a transaction for inspection by the Commission or its authorized personnel or representative and for failing to provide within a reasonable time information requested by the Commission during an investigation or after a formal complaint has been filed.

Elizabeth Dunn

License No. 000071415

Qualifying Broker; Chelsea, Alabama

Date of Hearing: January 21, 2010

Revoked

Fine Homes and Country Estates, LLC

License No. 000094000

Company; Chelsea, Alabama

Date of Hearing: January 21, 2010

Revoked

DISPOSITION

The below were found guilty of violating Section 34-27-36(a)(8)(a) and Section 34-27-36(a)(8)(b) for failing to deposit and account for at all times all funds being held for others by having a shortage of funds in the property management trust account.

Donna R. Willis

License No. 000046155

Qualifying Broker; Gulf Shores, Alabama

Date of Hearing: March 10, 2010

Fined \$1,000; License suspended for 90 days with the suspension stayed for 90 days for completion of a risk management course. If the continuing education course is completed in the 90 days following the issuance of the order, then the order is permanently stayed.

Anchor Vacations, Inc.

License No. 000075704

Company; Gulf Shores, Alabama

Date of Hearing: March 10, 2010

Fined \$1,000

DISPOSITION

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

Scot Damian Escaravage

License No. 000078967

Associate Broker; Prattville, Alabama

Date of Hearing: March 10, 2010

Rose H. Jones

License No. 000077427

Salesperson; Birmingham, Alabama

Date of Hearing: March 10, 2010

OTHER ADMINISTRATIVE ACTIONS

DETERMINATION OF LICENSURE

Approved..... 7
Denied..... 4

DETERMINATION OF ELIGIBILITY

Approved..... 1
Denied..... 1

COMPLAINTS AND INQUIRIES HANDLED BY LEGAL AND INVESTIGATIVE STAFF

From Licensees..... 1,108
From Public..... 477
Anonymous..... 21

PROPERTY MANAGEMENT: The In's & Out's of Escrow Accounts

By Denise Blevins, Auditor

Commissioners call attention and direct emphasis to brokers, sales associates and through instructors to all licensees in CE and prelicense that: Monies received and held in trust/escrow are to be accounted for in full at all times and not ever used for the benefit of the licensee or anyone other than the individual or entity for which the money is held in trust.

In Property Management this expressly means that it is not legal to advance funds from the pool of money held in trust to cover any expense or repair for a property that is not held specifically in trust for that particular property.

When one hears the phrase “trust account” most people think about a sales escrow account. This is a bank account containing earnest money on sales. Earnest money is funds put forth by a buyer to demonstrate a genuine desire to purchase a house.

For companies engaged in property management, the Alabama Real Estate Commission encourages two additional accounts be established and designated as “trust accounts”. These two accounts are a security deposit escrow account and a rental escrow account. Both of these accounts should be handled as trust accounts.

Security deposits should be deposited into and disbursed out of the “security deposit escrow account.” The security deposit is not to be used during the duration of the tenancy unless authorized by a written agreement between the landlord and tenant. A continuous log or ledger should be maintained for the security deposit escrow account. This log can be kept manually or it can be computerized. It should reflect the tenant names, property addresses, owner names, security deposit amounts, and the dates you deposited the various amounts into the escrow account. When a tenant vacates a property it's help-

ful to put the disbursement date and your check number on the log.

The total amount of security deposits being held at any point in time is considered the security deposit liability. This liability should be compared to the security deposit escrow account bank balance and at all times the two amounts should equal or at least the bank balance be slightly larger than the liability.

The second of the two trust accounts is a “rental escrow account.” Rent money belongs to the owner of the property (the public) and therefore is considered to be trust funds. Monthly rent receipts from tenants should be deposited into and disbursed out of this account. The disbursement of the rent will come in the form of at least two checks and possibly more if invoices for the property have to be paid. One check will go to the real estate company for their management fee and the other check will be written to the property owner for their proceeds. Rental management fees earned and interest earned, if using an interest bearing escrow account, should be taken out of this rental escrow account once a month.

Let's now talk about a third way rent may be disbursed. This type of disbursement may take the form of a payment of an

invoice for maintenance on a property. As we talk about paying these maintenance invoices it is important to remember this; you can only write a check out of the “rental escrow account” to pay for the expense if you have that amount of money in the escrow account for that particular property. Example: Let's say that True Property Management Company (TPM) manages two properties; 123 ABC Avenue whose monthly rent is \$700.00 and 789 XYZ Street who pays monthly rent of \$1000.00. TPM gets a 10% management fee. April 3 you receive and deposit into the “rental escrow account” the \$700.00 for ABC Avenue. April 10 you write owner checks and the \$700.00 is disbursed as follows, a \$70.00 check to TPM Company and a \$630.00 check to the property owner. The tenant at XYZ Street is late paying and on April 14 you receive and deposit their \$1000.00. Meanwhile you receive a \$50.00 invoice that needs to be paid for work done at ABC Avenue. At this point if you write a check out of the “rental escrow account” for this \$50.00 invoice you have advanced money for repairs or used someone else's money for this repair. How or why you might ask; because the money in the account belongs to the owner of XYZ Street, remember on April 10 you disbursed

BRIEFLY LEGAL**Vacation Rental Brokers—It's All About Disclosure***By Charles R. Sowell, General Counsel*

Have you ever searched the Internet for an exotic vacation to escape the winter doldrums and seen a familiar location? Recently we were notified that some Internet vendors that contract with real estate brokers in the vacation rental business often omit the information about the broker in charge of the property. In addition they may even collect funds, usually by credit card payment from the consumer, and hold those funds for a period of time after the consumer has occupied the property.

These are concerns to both the Commission as well as brokers who engage in resort or vacation rentals. This caused Commission Chairman Sheila Hodges to convene a meeting with some of those brokers on January 26, 2010, seeking their input. She reported on the meeting to the Commission. It was decided that an article would be of interest to all licensees. Because third-party Internet providers offer a wide menu of opportunities to assist in real estate transactions,



we all need to be aware of the need for some disclosures.

Much like the disclosure of where earnest money is located is a part of most sales contract forms; it would be a good idea to disclose where the money is in these rental transactions. If a broker contracts with a third-party vendor providing for them to collect money from a consumer making a reservation on a rental

transaction, the broker would be well advised to require the third-party vendor to have a disclosure stating to the consumer where their money is held. In the same instance an owner of property that contracts with a broker for management should know who holds the funds, and should know the remittal process.

When a broker publishes an advertisement, including an Internet advertisement, the law requires that the broker's identity be published in the advertisement. When a broker utilizes the services of these vendors there should be a notice to the consumer of the identity of the Alabama broker that is providing the brokerage services.

Our commissioners have long held that these vendors and travel agents may derive a fee for performing their normal services, as long as a real estate broker is handling the rentals. It is hoped that these practice tips can head off potential problems. It is also hoped that we will not have to write special rules to deal with these issues. ■

the funds you were holding for ABC Ave which is the property the invoice was for. If an auditor stopped by now and audited the "rental escrow account" your account would be short. The auditor will be expecting to see the \$1000.00 for XYZ Street in the account however there's only \$950.00 because the invoice was paid. This gives a shortage of \$50.00.

So how do we pay the invoice? This can be paid out of the company's operating account and then the company can be reimbursed when the next month's rent is collected.

At the time of an audit your rent liability will be compared with your escrow account balance. The rent liability

is all rents received and deposited but not yet disbursed. The bank balance should reflect the same amount, if not a little more, than the rent liability.

Over the past several months some discrepancies have appeared during the random and routine audits that are done. There have been shortages caused by the advancing of monies for repairs. There have been shortages because of business expenses being paid out of the escrow account with the money never being put back.

There has also been found a case where the "rental escrow account" and the company's operating account are one in the same which is commingling. You should

not justify advancing money for repairs by saying "I paid that with my money, I leave my management fees in the account for this reason." As stated previously management fees should be taken out every 30 days or once a month.

To insure proper accounting make sure you establish two trust accounts: one for security deposits and one for rent money. If you also engage in sales you'll need a third account for earnest money. At least once a month if not more, for the rental escrow account, reconcile the trust accounts and compare your reconciled bank balance with the liability for each account. At no point in time should your bank balance be less than your liability. ■



ALABAMA Real Estate Commission

1201 Carmichael Way • Montgomery, AL 36106

OUR MISSION

To protect the public through the licensing and regulating of Real Estate licensees.

OUR VISION

To insure public confidence in real estate transactions.

OUR VALUES

Excellence in stewardship, service, innovation, and integrity.

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

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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.alabama.gov.

**REAL ESTATE LICENSES EXPIRE
September 30, 2010**

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

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The Alabama Real Estate Commission will be closed on the following

2010 Official State Holidays

- Memorial Day.....May 31
- Jefferson Davis' Birthday..... June 7
- Independence Day July 5
- Labor Day September 6
- Columbus Day/Fraternal Day/
American Indian Heritage Day October 11
- Veteran's Day November 11
- Thanksgiving November 25
- Christmas December 24