

THE UPDATE

ALABAMA REAL ESTATE
COMMISSION
 EMPOWER, CONNECT, AND EDUCATE

PATRICIA ANDERSON Named New Executive Director

Congratulations to Pat Anderson on being named the new Commission Executive Director!



Pat has served as Assistant Executive Director of the Alabama Real Estate Commission for the past ten years. Prior to this position, she was the Commission's Education Director from 1977-2004. Under her leadership, Alabama has become nationally recognized for its leadership role in real estate regulation and model programs that have been used by many states. Pat has served in many positions with ARELLO® (Association of Real Estate License Law Officials) on the national and international levels and currently serves on its Board of Directors. She also serves on the Board of Trustees for the Alabama Center for Real Estate at the University of Alabama.

Real Estate Commissioners appointed Pat to the position after conducting a national job search and an extensive interview process.

Commission Chairman Bill Watts said, "The Commission looks forward to working with Pat. She will be an effective leader and a great asset to the real estate industry. She has vast experience, knowledge, and skills that are critical in meeting Commission objectives and requirements of the law."

Pat expressed that she is extremely excited about the opportunity to serve as Executive Director and is committed to continue the Commission's vision to ensure excellence in the real estate profession.

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Changes Coming Soon to Online Services Login

Soon licensees will see a new Online Services screen that will no longer require them to enter their social security number (SSN) and date of birth (DOB) to log in.

Although we have to collect SSNs to be in compliance with the law, the new login will eliminate the need for licensees to use their SSN and/or DOB as a form of identification when accessing their online records. This kind of login change is what many of you are already doing for additional security on your online banking and other secure websites.

Beginning in mid-May, when licensees use the new login for the first time they will create a username and password and confirm their email address. This new username and password, and not their personal information, will be used to log in for all subsequent visits to

Online Services. Also with the login change, should licensees forget their password, there is an option to have a password reset email sent to their email address. Similarly, if licensees ever want to change their username or password, there will be an option for them to do so after successfully logging in.



The Commission is constantly looking at ways to enhance the security of our licensees' personal information. This new login feature will allow companies to assist their licensees with online transactions without obtaining their

SSNs and DOBs. And for all new and prospective licensees, it will allow them to register with the Commission and obtain an identification number (ID) to be used online. Using the ID will reduce the number of electronic transmissions of their SSNs and DOBs to a single one directly to the Commission. Additionally, it eliminates instructors and the testing service having a need to store SSNs and DOBs. These are ways we can help guard against unauthorized use of your personal information.

Look for these login changes coming soon. Other changes coming in May are enhancements to the design for most of our online applications that will make them work better on your phones, tablets, and other mobile devices. Also changing will be the two logins needed for brokers and companies becoming a single login for both. Follow the Commission on Twitter and like us on Facebook to stay informed as these changes are implemented.

New License Law App Puts Law at Your Fingertips

The new Alabama License Law app on the Commission's website features the ability to bookmark and reference the law you use the most. Easily search the law from your desktop computer to your mobile device!

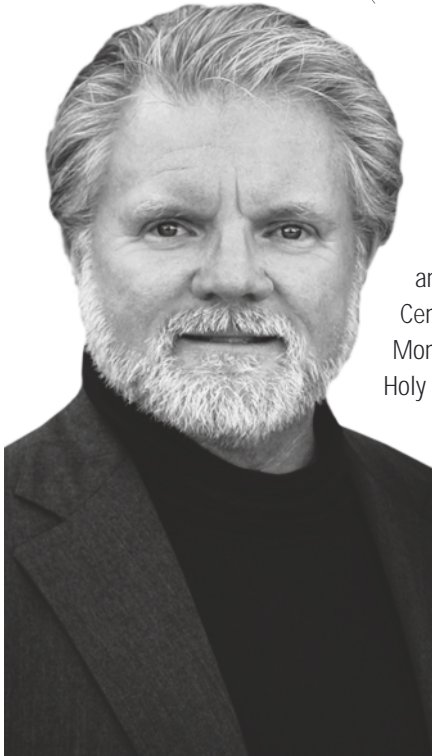
Empower, Connect and Educate — go to License Law today at arec.alabama.gov to have the License Law at your fingertips.



DAVID PHILIP LASATER

(1955 - 2013)

Commission Mourns the Loss of Executive Director



The Commissioners and staff of the Alabama Real Estate Commission wish to thank everyone for the thoughts, prayers, words of encouragement and support you offered at the passing of our long-time Executive Director Philip Lasater. On behalf of his family, thank you for your generous contributions to the Montgomery Humane Society and the Capri Theatre in Montgomery.

Philip passed away suddenly on August 15, 2013. He had faithfully served the citizens of Alabama as the Executive Director of the Alabama Real Estate Commission for 24 years. Philip was a past president and board member of ARELLO® (Association of Real Estate License Law Officials); an ACRE (Alabama Center for Real Estate) Trustee; past president of the Downtown Kiwanis Club; former board member of the Montgomery Public Library Board; and lay eucharistic minister and former vestry member at Church of the Holy Comforter in Montgomery.

Philip was a devoted father, son and friend. He enjoyed the outdoors and actively participated in hiking, kayaking and biking. He loved the fall and the changes it brings: crisp morning air, leaves turning, a roaring fire in the fireplace, and another championship season for the Alabama Crimson Tide. He was an avid reader with a love for learning and teaching others. He loved to laugh and lived life to its fullest. Above all, Philip was a dedicated child of God believing that Christ's grace was truly sufficient for all. He lived his life sharing that grace and love through his actions with everyone he met.

Commission Chairman Bill Watts said "He was a dedicated and outstanding Executive Director. Philip's wit, humor, camaraderie, professionalism, and quiet, steady leadership will be missed by many. Over the decades Philip has favorably impacted thousands of lives and challenged each of us to 'step-up' and become professional leaders in our industry."



EDUCATION CORNER

By Ryan Adair, Education Director

Do You Know the CE Requirements for Activation and Renewal?

By now you should know that CE requirements for license activation and renewal have changed. All qualifying brokers are encouraged to share these revisions with licensees to make sure everyone understands.

Previously, all licensees taking courses in Alabama have been required to complete a three-hour course in Risk Management and 12 additional hours of approved courses. License activation and/or renewal now require **six hours of Risk Management and nine hours of other approved courses.**

An easy way to remember the new Risk Management requirements is to recognize the icons representing the coursework. You will see the icons with either a **1** or a **2** identifying the level of the coursework. **All licensees must have both Level 1 and Level 2 in their CE record in order to activate a 2013-2014 license for the first time or earn credit to renew a 2015-2016 license.**



Level 1 for Risk Management includes the *Risk Management: Avoiding Violations* course which is **required for all licensees**... both salespersons and brokers.



Level 2 for Risk Management includes the *Risk Management for Brokers* course which is **required for all brokers**... associate and qualifying.



Level 2 for Risk Management also includes the *Risk Management for Salespersons* course or an industry-specific Risk Management course approved by the Commission.

IMPORTANT: All licensees who complete the 15 hours of CE to activate their 2013-2014 license must take another 15 hours (including the new Risk Management courses) by September 30, 2014 in order to renew a license on active status for the next license period. Rule 790-X-2-.13 of License Law was recently amended to explain the activation of inactive licenses and the CE required afterward.



So You Want to Be a Qualifying Broker?

DOCUMENT RETENTION

This will be the first in a series of articles that point out licensing issues for individuals looking to become qualifying brokers or who are currently qualifying brokers for companies. Taking on the responsibilities of qualifying broker for a company should not be taken lightly or without advance planning. Of primary concern for any qualifying broker, among many, should be a plan as to how he or she manages the records for the company and licensees.

I like to say, if a document is touched or created by a licensee during any real estate activities, the licensee should make sure that the qualifying broker or company has a copy for the files. So what does the law say? Under Section 34-27-36(a)(31) a qualifying broker or company should keep copies "of all contracts, leases, listings and other records pertinent to real estate transactions for a period of three years." This section should be considered in conjunction with Administrative Rules 790-X-3-.04 Estimated Closing Statement and 790-X-3-.09 Office Inspections.

Breaking these rules can be violations under Section 34-27-36(a)(19) which holds licensees liable for "violating or disregarding any provision of this chapter or any rule, regulation, or order of the Commission." The Estimated Closing Statement rule requires licensees to prepare an estimated closing statement, commonly called a net sheet, on residential property when they procure a written offer from a buyer or present a written offer to a seller. Paragraph three goes on to state that for records retention, licensees should retain in their qualifying broker's file, a copy of the statement but that cooperating

brokers need not maintain both the buyer's and seller's statement. The Office Inspections rule gives a laundry list of items that our auditors will be looking for during an office audit. The items from this list as related to this article include files for closed transactions, all pending sales files, property management contracts, leases, rental records, bank statements, check-books, lists, and ledgers or records documenting any funds held in escrow.

One additional statute deals with records retention involving trust funds as well as the list of items in the Office Inspections rule. Section 34-27-36(a)(8)c requires licensees to keep, "for at least three years a complete record of funds belonging to others showing to whom the money belongs, date deposited, date of withdrawal, and other pertinent information." So if you take any trust funds, license law requires that licensees keep the complete records regarding those funds for three years.

These four requirements, as interpreted and enforced by the Commission, mean that salespersons and associate brokers should turn over to their qualifying broker or their company the complete records created by them or documents coming into their possession for any transactions, offers, estimated closing statements, consumer RECAD disclosure forms as well as other records related to those documents.

I will point out one more issue regarding records retention. Nowhere in the laws or rules does it require a qualifying broker to keep paper records. It is allowable to maintain your records in electronic format. I will give one warning on the use of electronic storage. All qualifying brokers will be held strictly liable for the maintenance of all records in paper or electronic format. Loss of documents because your computer crashed is not a sufficient excuse for failure to maintain required documents.

The law backs me up on my original opinion that if a licensee creates or comes into possession of a document during a real estate transaction then the qualifying broker should keep a record. More simply said all means all when it comes to records retention under license law.

Finally, why all this emphasis on document retention? This issue is important because license law Sections 34-27-36(a)(28) and (30) require licensees to produce any of the documents to the Commission during an investigation or to a rightful owner, meaning someone having an interest in the documents, upon request. Failure to properly maintain your records could not only lead to a visit with the Commission but also makes business sense because it helps to have a plan for these requirements as a qualifying broker.





What To Do When Mailing in License Transfer Requests

Salespersons and associate brokers who choose to transfer their active licenses to another company/qualifying broker by mailing in a Registration/Transfer Form to the Commission office, must ensure the form is completed correctly by doing the following:

- ✓ *Have your current/departing qualifying broker complete and sign Section I of the form.* By the current/departing qualifying broker completing and signing Section I of the form, it confirms to the Commission that the qualifying broker is aware that you are transferring from the company and that the qualifying broker is no longer responsible for your licensing activities.
- ✓ *You, as the salesperson or associate broker transferring, must complete Section II of the form.* Completing this section gives the Commission the opportunity to review your current contact information. If anything has changed we can update your information while we complete your transfer request.
- ✓ *Have the qualifying broker of the company you are transferring to complete and sign Section III.*
- ✓ *Attach the \$25 transfer fee.*

Registration/Transfer Forms that are mailed to the Commission office indicating that the salesperson or associate broker will transfer his or her license to inactive status are treated by the Commission as a termination

of status by the qualifying broker. In this case, the law requires the qualifying broker to return the original license certificate along with the Registration/Transfer Form. It is also important for the qualifying broker to complete and sign Section I of the form and for the licensee who is going inactive to complete and sign Section II before it is mailed.

When salespersons and associate brokers use the Commission's online services program to transfer their licenses, the Commission sends written notice to the old qualifying brokers informing them that they are no longer responsible for the licensees. If the licensee transfers to a new company, the new qualifying broker receives written notice that the licensee has transferred his or her license to them and that they have agreed to responsibility; however, the new qualifying broker does have the option to deny responsibility by informing the Commission. Therefore, transfer requests submitted online do not require licensees to submit additional written proof to the Commission regarding notification to their old or new qualifying broker. Section 34-27-34(c) of license law does require a licensee changing qualifying brokers to notify their current/departing qualifying broker in writing of their intention to transfer. Section 34-27-34(d) also requires qualifying brokers to give written notice to licensees when they choose to terminate their status as qualify broker for a licensee.

The Registration/Transfer Form is available on the Commission's website under Forms.

SALESPERSONS BECOMING BROKERS MUST RETURN LICENSE

It is important to remember that Alabama license law requires salespersons who are applying to become brokers to submit their salesperson license certificate with their application for licensure. This must be the original salesperson certificate that was either mailed from the Commission to your qualifying broker or printed by your qualifying broker from the Commission's website and not a copy. In Section 34-27-35(f) the qualifying broker is the only person authorized to be in possession of the original license certificate; therefore, by submitting this original salesperson certificate with your application it certifies to the Commission that the current qualifying broker is aware that your status will change to a broker and complies.

ATTENTION QUALIFYING BROKERS: *New Application Allows You to Inactivate Licensees Online*

The Commission is pleased to announce that a new online application has been added to allow qualifying brokers to place licensees in their companies on inactive status. This **Inactive Licensee Application** was suggested by qualifying brokers to allow them to inactivate licensees in their company whom they no longer want to be responsible for or those who leave the company.

Previously, a qualifying broker would have to rely on the licensee to inactivate his or her own license online. This process left the qualifying broker waiting longer for confirmation that the licensee was placed on inactive status. Now, the qualifying broker will only have to log in and the application will display all the licensees under them. They can then choose whom they want to inactivate. The application requires an eSignature and for the broker to notify the licensee of the change to his or her license.

According to Section 34-27-34(c), when a licensee goes inactive the qualifying broker must return the license certificate. The new online application allows the qualifying broker to select that he or she has notified the licensee(s) that have been placed on inactive and will destroy or return the license certificate(s) to the Commission. This will allow qualifying brokers to easily monitor licensees in their companies.



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.

Otis Stewart, Jr.

License No. 000007808-1

Associate Broker; Birmingham, Alabama

Date of Hearing: September 5, 2013

Fined \$250

Deangela Oreil Berryhill

License No. 000098314

Qualifying Broker; Hampton, Georgia

Date of Hearing: September 26, 2013

Fined \$715, ordered to pay \$715 (original amount of the check) and the \$30 bad check fee for a total of \$1,460

Latonya D. Heard

License No. 000096595

Salesperson; Birmingham, Alabama

Date of Hearing: September 26, 2013

Fined \$500

Mary Elizabeth Comulada

License No. 000100997

Temporary Salesperson; Huntsville, Alabama

Date of Hearing: November 21, 2013

Fined \$250

Latonya D. Heard

License No. 000096595

Salesperson; Birmingham, Alabama

Date of Hearing: November 21, 2013

Fined \$1,000; license suspended for six months with suspension stayed for six months pending full payment of all fines and replacement funds due totaling \$1,500.

DISPOSITION

The below were found guilty of violating Rule 790-X-3-.01 through Section 34-27-36(a)(19) for failing to notify the Commission in writing within 30 days after changing the address of their places of business as set out on their numbered license certificates.

Mary Angel Tutton

License No. 000080726

Qualifying Broker; Odenville, Alabama

Date of Hearing: September 5, 2013

Fined \$250

Frances Tickle Mize

License No. 000054535



Qualifying Broker; Odenville, Alabama

Date of Hearing: September 26, 2013

Fined \$250

DISPOSITION

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

Johanna R. Shirley

License No. 000055705

Qualifying Broker; Northport, Alabama

Date of Hearing: September 5, 2013

Fined \$1,000

Premiere Group LLC dba RE/MAX Premiere Group

License No. 000086434

Company; Northport, Alabama

Date of Hearing: September 5, 2013

Fined \$1,000

DISPOSITION

The below were found guilty on Count 1 for violating Section 34-27-36(a)(8)(b) for failing to deposit and account for at all times funds belonging to, or being held for others, by having a shortage of these funds in the rents paid trust account and Count 2 for violating Section 34-27-36(a)(8)(b) for failing to deposit and account for at all times funds belonging to, or being held for others, by having a shortage of these funds in their security deposit trust account.

Ralph J. Wright

License No. 000040953

Qualifying Broker; Enterprise, Alabama

Date of Hearing: September 5, 2013

Count 1 - Fined \$1,000; Count 2 - Fined \$1,000

The Wright Real Estate Company, Inc. dba RE/MAX Real Estate Professionals

License No. 000061568

Company; Enterprise, Alabama

Date of Hearing: September 5, 2013

Count 1 - Fined \$1,000; Count 2 - Fined \$1,000

DISPOSITION

The below were found guilty on Count 1 of violating Section 34-27-36(a)(8)(a) for commingling money belonging to others with their own funds and Count 2 of violating Rule 790-X-3-.03 through Section 34-27-36(a)(19) for not having the qualifying broker as a signatory on the trust accounts.

Ross C. Easter

License No. 000084966-1

Qualifying Broker; Orange Beach, Alabama

Date of Hearing: September 5, 2013

Count 1 - Reprimanded; Count 2 - Fined \$1,000 (fined jointly with Mediterranean LLC)

Mediterranean LLC

License No. 000094416

Company; Orange Beach, Alabama

Date of Hearing: September 5, 2013

Count 1 - Reprimanded; Count 2 - Fined \$1,000 (fined jointly with Ross C. Easter)

DISPOSITION

The below was found guilty of violating Section 34-27-36(a)(19) for disregarding a Commission order by failing to pay an ordered fine.

Deangela Oreil Berryhill

License No. 000098314

Qualifying Broker; Hampton, Georgia

Date of Hearing: January 23, 2014

License revoked

DISPOSITION

The below was found guilty of violating Section 34-27-31(j) for failing to notify the Commission within 10 days of the institution of criminal prosecution against her; violating Section 34-27-31(k) for failing to notify the Commission within 10 days of the disposition of criminal prosecution against her; and for violating Section 34-27-36(a)(23)a. for having pleaded guilty to two felony charges.

Deborah F. Lumpkin

License No. 000028306

Qualifying Broker; Birmingham, Alabama

Date of Hearing: October 24, 2013

License revoked

DISPOSITION

The below were found guilty of violating Section 34-27-36(a)(8)(a) for failing, within a reasonable time, to properly account for or remit money coming into possession which belongs to others; violating Section 34-27-36(a)(8)(b) for failing to deposit and account for at all times all funds being held for others in a separate federally insured account by having a shortage of funds in the trust account; violating Section 34-27-36(a)(26) for engaging in conduct which constitutes or demonstrates dishonest dealings, bad faith, or untrustworthiness; and violating Section 34-27-36(a)(29) for failing to provide, within a reasonable time, information requested by the Commission during an investigation and declining to answer questions from Commission staff.

Cynthia C. Ragland

License No. 000042658

Qualifying Broker; Birmingham, Alabama

Date of Hearing: September 26, 2013

License Revoked

Royal Realty and Associates

License No. 000095413

Company; Birmingham, Alabama

Date of Hearing: September 26, 2013

License Revoked

DISPOSITION

The below were found guilty on Count 1 of violating Rule 790-X-3-.03(1) through Section 34-27-36(a)(19) for not having the qualifying broker as a signatory on the trust account and Count 2 for violating Section 34-27-36(a)(8)(a) for failing, within a reasonable time, to properly account for or remit money coming into their possession which belongs to others.

Leigh McPherson

License No. 000050501-1

Qualifying Broker; Orange Beach, Alabama

Date of Hearing: October 24, 2013

Count 1 and 2 - Fined \$500 (fined jointly with Bama Beaches LLC dba The Liquid Life)

Bama Beaches LLC dba The Liquid Life

License No. 000099375

Company; Orange Beach, Alabama

Date of Hearing: October 24, 2013

Count 1 and 2 - Fined \$500 (fined jointly with Leigh McPherson)

DISPOSITION

The below were found guilty on Count 1 of violating Section 34-27-36(a)(8)(a) for commingling trust funds with personal funds by having loan payments drafted from a trust account and on Count

2 for violating Sections 34-27-36(a)(8)(a) and 34-27-36(a)(8)(b) for failing to deposit and account for at all times all funds being held for others in a separate federally insured account by having a shortage of funds in the rental payment trust account.

Cynthia W. Morgan

License No. 000051808-2

Qualifying Broker; Dadeville, Alabama

Date of Hearing: November 21, 2013

Counts 1 and 2 - Qualifying Broker's license revoked; Additional broker's license changed to a salesperson's license

Lakefront Property Management LLC

License No. 89689

Company; Dadeville, Alabama

Date of Hearing: November 21, 2013

License Surrendered

DISPOSITION

The below were found guilty on Count 1 of violating Section 34-27-36(a)(19) by failing to comply with Section 34-27-30(10) for holding Ocean South Properties out to the public as able to perform licensed real estate activities when Ocean South was not licensed by the Commission.

Melissa Murrel Ross

License No. 000099889

Salesperson; Orange Beach, Alabama

Date of Hearing: November 21, 2013

Fined \$2,500

David Troy Ross

License No. 000099891

Salesperson; Orange Beach, Alabama

Date of Hearing: November 21, 2013

Fined \$2,500

The below was found guilty on Count 2 of violating Section 34-27-36(a)(19) by failing to comply with Section 34-27-34(a)(2) as qualifying broker for allowing Melissa and David Ross to hold Ocean South Properties out to the public as able to perform licensed real estate activities when Ocean South was not licensed by the Commission.

Rachel Tullier

License No. 000093868

Qualifying Broker; Orange Beach, Alabama

Date of Hearing: November 21, 2013

Fined \$1,000

DISPOSITION

The below was found guilty of violating Section 34-27-36(a)(23)a. for having entered a plea of guilty or nolo contendere to, or having been found guilty of or convicted of a felony or a crime involving moral turpitude.

Christie D. Taylor

License No. 000098900

Salesperson; Birmingham, Alabama

Date of Hearing: October 25, 2012

License revoked

DISPOSITION

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

Kyle Brandon Burgdorf

License No. 000100133

Salesperson; Semmes, Alabama

Date of Hearing: September 5, 2013

Irfan Rajpari

License No. 000096791

Salesperson; Bessemer, Alabama

Date of Hearing: September 5, 2013

Nancy T. Tran

License No. 000061685

Qualifying Broker; Birmingham, Alabama

Date of Hearing: September 5, 2013

Hugh M. Headrick

License No. 000052847

Associate Broker; Carmel, California

Date of Hearing: September 26, 2013

Suzanne K. Tomlinson

License No. 000056685

Qualifying Broker; Huntsville, Alabama

Date of Hearing: October 24, 2013

RPM Realty, Inc.

License No. 000028378

Company; Huntsville, Alabama

Date of Hearing: October 24, 2013

David Martin

License No. 000071777

Qualifying Broker; Huntsville, Alabama

Date of Hearing: January 23, 2014

OTHER ADMINISTRATIVE ACTIONS

APPLICATION FOR LICENSURE

Approved 14

Denied 3

DETERMINATION OF ELIGIBILITY

Approved 5

Denied 5

COMPLAINTS AND INQUIRIES HANDLED BY LEGAL AND INVESTIGATIVE STAFF

From Licensees 1674

From Public 1391

Anonymous/Commission 44

THE UPDATE

ALABAMA REAL ESTATE

COMMISSION

EMPOWER. CONNECT. AND EDUCATE



EMPOWER Empowering the real estate professional and the consumer.



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



EDUCATE Educating the real estate professional and the consumer.

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THE UPDATE

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

COMMISSION MEETINGS OPEN TO THE PUBLIC

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

REAL ESTATE LICENSES EXPIRE SEPTEMBER 30, 2014

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

Presort Standard
 U.S. Postage
PAID
 Montgomery, AL
 Permit 286

LICENSE UPDATE

As of February 2014

Total Salespersons 15179
(including Reciprocals)

Active 8709
Inactive 6470

Total Brokers 8582
(including Reciprocals)

Active 6791
Inactive 1791

Total Companies/Branches 4024

Active 3809
Inactive 215

Total Temporary Licensees 565

Active 431
Inactive 134

TOTAL LICENSEES 28,350

License Law Insert Highlights New Rules

A new insert is available for the current Alabama License Law book (23rd Edition Revised 2011). The insert contains all rule amendments that have been implemented since the publication of the 2011 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 under the License Law section on the Commission's website. The cost is \$3.00 for the insert only. A License Law book with the insert included can be purchased for \$13.