

## Talking to the Commission Office TELEPHONE VOICE MAIL

### *From the Director*

By: D. Philip Lasater, Executive Director

The Alabama Real Estate Commission office currently has 20 permanent staff members. Two staff members serve as telephone operators directing incoming calls in addition to processing license applications. Licensing staff consists of four others who primarily handle applications, trans-

fers, and renewals. We have one general counsel, two investigators and two field auditors. Three staff members handle all education responsibilities including instructor approval and training, course approval and auditing. Three staff members handle all accounting and personnel matters. One person manages data systems and records and the Director and his assistant comprise the Administrative staff. Everyone has a primary area of responsibility but is also charged with handling multiple tasks.

The Real Estate Commission official office hours are 7:30 a.m. - 4:30 p.m. Monday through Friday. The Commission's work is generated by the US Postal Service, facsimile transmission, telephone and walk-ins.

Our staff members are glad to speak personally with any and all callers. Due to caller volume, sometimes an individual staff member may not be available at the time someone places a call to (334) 242-5544. When this happens,

both operators are assisting or directing other callers and rather than hearing a busy signal or continued unanswered rings, an automated attendant will give options to leave specific messages or request for return calls from any staff

*Continued on page 2.*

### In This Issue

<i>From the Director</i> . . . . .	1
<i>Surfing the Net: AREC's World Wide Web Site to be Announced</i> . . .	2
<i>New Commissioner Confirmed</i> . . .	3
<i>Fax on Demand</i> . . . . .	3
<i>Disciplinary Actions Taken</i> . . . . .	4
<i>Briefly Legal:</i>	
<i>Gifts, Rebates and Kickbacks</i> . . . .	7
<i>Remaining Examination Dates</i> . . .	8
<i>Change of Address</i> . . . . .	8
<i>Education Corner:</i>	
<i>RECAD and "Update" Newsletter Win ARELLO Awards</i> . . . . .	9
<i>AREEA Elects New Officers</i> . . . . .	9
<i>Annual Instructors' Seminar and Computer Workshop for Instructors</i> . . . . .	9
<i>Time Is Running Out:</i>	
<i>A Renewal Notice</i> . . . . .	10
<i>Recovery Funds Refund</i> . . . . .	10
<i>Alabama Legal Holidays</i> . . . . .	10
<i>RECAD Video Order Form</i> . . . . .	11



**TALKING TO THE COMMISSION**

*Continued from page 1*

member chosen. Staff members may be reached by calling the extension listed here or by spelling the first three letters of their last name. If the extension and last name are unknown, the caller can listen long enough to the division directory to determine where a call can be best addressed. A last option allows a general message to be left with the automated attendant. An operator will direct the messages upon reaching them in the order they are received.

Voice mail messages can be brief or detailed. The most critical elements of a message are a clearly spoken name and telephone number. Referencing the question, need or problem often will enable the staff member to be better prepared upon returning a call.

Knowing and having your license number or social security number ready will expedite our staff assisting your inquiries. All application requirements are contained in the application package. All requirements related to license maintenance or status changes are in the law and rules. Referencing those or discussing with

**OFFICE EXTENSION NUMBERS**

**Accounting**

- Janie Jordan .....406
- Cullene Sanders .....415
- Hattie Thomas .....414

**Administrative**

- D. Philip Lasater .....402
- Gloria Ingram .....437

**Data Systems**

- Nancy Barfield .....423

**Education**

- Pat Anderson .....405
- Vernita Oliver-Lane .....427
- Chris Porter .....422

**Investigative/Legal**

- Charles Sowell .....403
- David Erfman .....410
- Chuck Kelly .....411
- Betty Beckman .....413
- Penny Kent .....413

**Licensing**

- Annie Hall .....421
- Betty Anderson .....419
- Paula Cook .....401
- Melissa Floyd .....400
- Kike Germanos .....425
- Rose Stephens .....418

one's broker can help qualify the question we need to clarify or answer when calling.

Voice mail is not intended to replace personnel interaction but to extend service and attention where personal service is not otherwise possible. When voice mail options are encountered, a staff member is either not present, assisting another caller, returning a call previously received, meeting in person with other people or involved in solving problems that are in their work flow line.

The Real Estate Commission in conjunction with the Division of Telecommunications conducted a telephone traffic survey. The result has been that incoming phone lines are sufficient to provide for a "non blocking" call pattern under normal call conditions. This is the most that can reasonably and economically be provided.

The telephone and voice mail systems can enable us to better assist licensees and the general public. Help us by learning and being willing to use the alternatives to personnel contact from time to time.

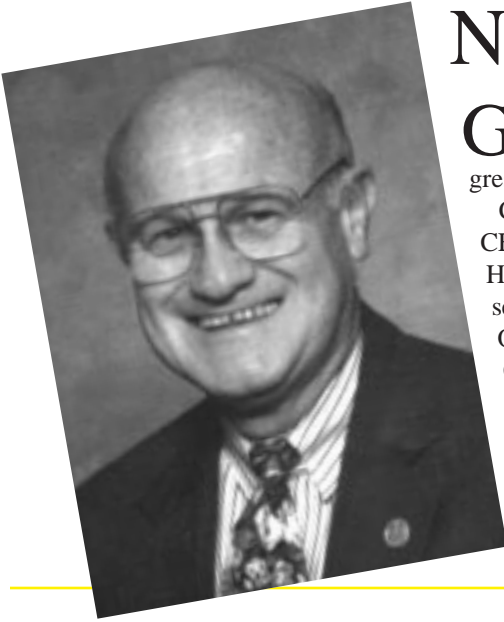
Please complete and fax or mail the detachable form on page 3 of this publication which will allow the Commission to establish a Facsimile number data base for Real Estate Companies. ■



**Alabama Real Estate Commission's World Wide Web Site To Be Announced Soon!**

Catch the wave and make plans to visit our home page on the world wide web. The site will highlight up to date information about licensing, education and renewal requirements, legal issues, and the "Update" newsletters. Download real estate forms and applications, change home address online, access staff e-mail and more.

Watch for the internet address [URL http://...] that will be announced soon and get connected to the Real Estate Commission. We hope you enjoy your visit in cyberspace. :-)!

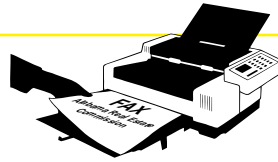


## New Commissioner Confirmed

George P. Hayes, GRI, CRB, was appointed to the Alabama Real Estate Commission and received Senate confirmation on March 12, 1997. He is now serving from the 6th Congressional District.

Commissioner Hayes is the Qualifying Broker and manager of First Real Estate and CEO/Instructor of Professional Real Estate Institute both located in Birmingham, Alabama. He is a member of the National Association of Realtors, Real Estate Brokerage Council and serves on various committees for the Alabama and Birmingham Association of Realtors. Other Board Directorships include the Medical Center East Foundation-Planned Giving Committee, Gardendale Chamber of Commerce, and the Parkway Christian Academy. He is the father of four children and grandfather of three.

As required by law with the appointment and confirmation of any new Commissioner, the Commission elected a Chairman and Vice-Chairman at their April meeting. Elected as the Chairman of the Commission was Starke Irvine of Montrose, Alabama. Serving as Vice-Chairman will be Bill E. Poole of Huntsville, Alabama. ■



## *Fax on Demand!*

For your convenience forms can be obtained from the Real Estate Commission 24 hours every day. By calling the real estate direct telephone number (334) 242-5544 fax features can be utilized on demand. Callers will be prompted by the voice system's greeting message to dial seven (7) to access the forms menu. The following forms can be selected from the menu as listed.

- 1 Registration Form (for license transfers)
- 2 Application For License Activation
- 3 Reciprocal Salesperson Application
- 4 Reciprocal Broker Application
- 5 Multiple or Second Broker or Temporary Broker Application
- 6 Corporation, Branch, or Partnership Application
- 7 Errors and Omissions (E&O) enrollment/for St. Paul-Williams Underwriting Group insurance
- 8 Certification of Coverage Errors and Omissions (E&O) enrollment/for optional insurance
- 9 List of Alabama Licensing Requirements

The Real Estate Commission's fax number is **(334) 270-9118**. Please use this number to send fax documents to the Commission.

**Note:**  
Documents can not be faxed to the direct telephone number.

---

## AREC FAX DATA FORM

Fax Number (\_\_\_\_\_) \_\_\_\_\_  
Area Code

Name of Company \_\_\_\_\_

Company License Number \_\_\_\_\_

Name of Qualifying Broker \_\_\_\_\_

Qualifying Broker's Social Security Number \_\_\_\_\_

**Fax to (334) 270-9118 or mail to:** Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, AL 36106

## DISCIPLINARY ACTIONS TAKEN

June 1996 Through March 1997

**Name:** Billie W. McFadden, Qualifying Broker, Mobile, Alabama

**Date of Hearing:** June 7, 1996

**Disposition:** Mr. McFadden was found guilty of shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. of the Code. Reprimand and license suspended for 60 days, but stayed pending completion of 3 hour trust accounts course. Suspension void upon compliance.

**Name:** Jerry M. Silverstein, Qualifying Broker, Mobile, Alabama

**Date of Hearing:** June 7, 1996

**Disposition:** Mr. Silverstein was found guilty of shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. Reprimand and license suspended for 6 months, but stayed pending completion of 3 hour trust accounts course. Suspension void upon compliance.

**Name:** Vonda D. Brazile, Salesperson, Mobile, Alabama

**Date of Hearing:** June 7, 1996

**Disposition:** Ms. Brazile was found guilty and license revoked for presenting a check to the commission which was returned unpaid by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** Brenda F. McDill, Salesperson, Mobile, Alabama

**Date of Hearing:** June 7, 1996

**Disposition:** Ms. McDill was found guilty and license revoked for violating an earlier commission order that she pay a \$200 fine for presenting a check to the commission which was returned unpaid by the bank in violation of Section 34-27-36(a)(19) of the Code.

**Name:** Carolyn T. Kelly, Broker, Montgomery, Alabama

**Date of Hearing:** Hearing Waived

**Disposition:** License surrendered with revocation agreement in lieu of filing of formal complaint.



**Name:** William R. Stewart, Associate Broker, Huntsville, Alabama

**Name:** Roger D. Stafford, Qualifying Broker, Huntsville, Alabama

**Date of Hearing:** July 19, 1996

**Disposition:** Both found not guilty after a hearing on the charges.

**Name:** Kenneth R. Greenwood, Qualifying Broker, Huntsville, Alabama

**Name:** Terry M. Priest, Salesperson, Huntsville, Alabama

**Date of Hearing:** July 19, 1996

**Disposition:** Mr. Greenwood found guilty and issued a reprimand for violation of a qualifying broker's supervisory responsibilities in Section 34-27-32(a)(2) Code of Alabama 1975, as amended. Ms. Priest found guilty and fined \$500 for violation of place of business requirements in Section 34-27-32(f) of the Code.

**Name:** Janice V. Swords, Salesperson, Huntsville, Alabama

**Date of Hearing:** July 19, 1996

**Disposition:** Ms. Swords found guilty and fined \$1,000 for performing acts for which a license is required while on inactive status in violation of Section 34-27-35(k) of the Code.

**Name:** Melissa Ann Mott Poole, Salesperson, Bessemer, Alabama

**Date of Hearing:** August 16, 1996

**Disposition:** Ms. Poole found guilty and

fined \$200 for presenting a check to the commission which was returned unpaid by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** Claude H. Estes, III, Qualifying Broker, Birmingham, Alabama

**Date of Hearing:** August 16, 1996

**Disposition:** Mr. Estes found guilty of commingling and shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. of the Code. His license was revoked, but stayed pending payment of a \$500 fine and completion of the three hour trust accounts course with revocation void upon compliance.

**Name:** Arthur C. Crawford, Qualifying Broker, Prattville, Alabama

**Date of Hearing:** September 13, 1996

**Disposition:** Mr. Crawford found guilty of shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. of the Code. His license was revoked, however, the commission's order has been temporarily stayed by the Circuit Court of Autauga County, Alabama, on appeal.

**Name:** Nancy A. Early, Salesperson, Birmingham, Alabama

**Date of Hearing:** Hearing Waived

**Disposition:** License surrendered with revocation agreement in lieu of filing of formal complaint.

*Note: As part of this action Ms. Early dismissed her appeal of a prior commission decision to revoke her license. At the time of the surrender she was operating under a stay order decision issued by the Circuit Court of Jefferson County, Alabama, on the appeal.*

**Name:** Steven S. Baird, Salesperson, Huntsville, Alabama

**Date of Hearing:** Hearing waived and plea of guilty entered.

**Disposition:** Mr. Baird found guilty and fined \$200 for presenting a check to the commission which was returned unpaid



by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** Shirley W. Young, Qualifying Broker, Bessemer, Alabama

**Date of Hearing:** October 4, 1996

**Disposition:** Ms. Young found guilty of shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. of the Code. Her license was suspended for 30 days, but stayed pending completion of the three hour trust accounts course. Suspension void upon compliance.

**Name:** Adrienne F. Lee, Qualifying Broker, Birmingham, Alabama

**Date of Hearing:** October 4, 1996

**Disposition:** Ms. Lee found guilty of shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. of the Code. She was fined \$1,000 and her license was suspended for 30 days, but stayed pending completion of the three hour trust accounts course. Suspension void upon compliance.

**Name:** William A. Butler, Qualifying Broker, Birmingham, Alabama

**Name:** William W. Coleman, Qualifying Broker, Birmingham, Alabama

**Date of Hearing:** October 4, 1996

**Disposition:** Both found guilty of shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. of the Code. Both were fined \$1,000 and both licenses suspended for 30 days, but stayed pending completion of the three hour trust accounts course. Suspension void upon compliance.

**Name:** Walter Sidney Green, Salesperson, Wadley, Alabama

**Date of Hearing:** Hearing waived and plea of guilty entered.

**Disposition:** Mr. Green was found guilty and fined \$200 for presenting a check to the commission which was returned unpaid by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** Stephen A. Penny, Salesperson, Glenwood, Alabama

**Date of Hearing:** Hearing waived and plea of guilty entered.

**Disposition:** Mr. Penny was found guilty and fined \$200 for presenting a check to the commission which was returned unpaid by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** Walter J. Anderson, Jr., Salesperson, Fairhope, Alabama

**Date of Hearing:** Hearing waived and plea of guilty entered.

**Disposition:** Mr. Anderson was found guilty and fined \$200 for presenting a check to the commission which was returned unpaid by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** Felicia M. Pettus, Salesperson, Monroeville, Alabama

**Date of Hearing:** Hearing waived and plea of guilty entered.

**Disposition:** Ms. Pettus was found guilty and fined \$200 for presenting a check to the commission which was returned unpaid by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** Dallas D. Moody, Salesperson, Pike Road, Alabama

**Date of Hearing:** Hearing waived and plea of guilty entered.

**Disposition:** Mr. Moody was found guilty and fined \$400 for presenting two checks to the commission which were returned unpaid by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** William H. Mobley, III, Qualifying Broker, Huntsville, Alabama

**Date of Hearing:** Hearing waived and plea of guilty entered.

**Disposition:** Mr. Mobley was found guilty and fined \$200 for presenting a check to the commission which was returned unpaid by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** Carol H. Ray, Salesperson, Tusculumbia, Alabama

**Date of Hearing:** Hearing waived and plea of guilty entered.

**Disposition:** Ms. Ray was found guilty and fined \$200 for presenting a check to the commission which was returned unpaid by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** San Hunt, Gulf Shores, Alabama

**Date of Hearing:** Hearing waived and plea of guilty entered.

**Disposition:** Mr. Hunt was found guilty and fined \$200 for presenting a check to the commission which was returned unpaid by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** Joan E. Head, Salesperson, Montgomery, Alabama

**Date of Hearing:** November 8, 1996

**Disposition:** Charge of worthless check dismissed after hearing.

**Name:** Joanne W. Wilson, Qualifying Broker, Jackson, Alabama

**Name:** Karen C. Fleming, Salesperson, Jackson, Alabama

**Date of Hearing:** November 8, 1996

**Disposition:** Ms. Wilson was found guilty of shortage of funds to be held in trust for others and of failure to properly supervise activities of licensee licensed under her in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. and 34-27-34(a)(2), respectively. Her license was revoked, but stayed pending completion of the three hour trust accounts course, completion of the three hour license law course, and payment of a \$200 fine. Revocation void upon compliance.

**Name:** Augustine G. Little, Qualifying Broker, Mobile, Alabama

**Date of Hearing:** November 8, 1996

**Disposition:** Ms. Little was found guilty and fined \$200 for shortage and commingling of funds to be held in trust for others in violation of Section 34-27-36(a)(16) of the Code.

**Name:** Willie M. Olds, Qualifying Broker, Wetumpka, Alabama

**Date of Hearing:** November 8, 1996

**Disposition:** Ms. Olds was found guilty and was fined \$200 and was reprimanded for shortage and commingling of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. of the Code.

*In the interest of saving space the following are reported together. All waived hearing and entered a plea of guilty to the charge of presenting a check to the*

*(Continued on page 6.)*

commission which was returned unpaid by the bank. All were fined \$200 on November 8, 1996.

**Name:** Joseph T. Cox, Associate Broker, Birmingham, Alabama

**Name:** Donah L. Bigham, Qualifying Broker, Tuscaloosa, Alabama

**Name:** Mary B. Brazelton, Salesperson, Huntsville, Alabama

**Name:** Larry F. Childers, Salesperson, Birmingham, Alabama

**Name:** Barbara Lynn Maddox, Associate Broker, Gulf Shores, Alabama

**Name:** Jo Ann M. Pittman, Salesperson, Roswell, Georgia

**Name:** Earl W. Solomon, Qualifying Broker, Montgomery, Alabama

**Name:** Wanda J. Byrd, Associate Broker, Weogufka, Alabama

Same with the two following persons, except they were fined \$200 on December 6, 1996.

**Name:** Tijuan L. Jones, Salesperson, Birmingham, Alabama

**Name:** Karen E. Way, Associate Broker, Gulf Shores, Alabama

**Name:** Monica E. LeGault, Inactive Associate Broker, Mobile, Alabama

**Date of Hearing:** December 6, 1996

**Disposition:** Ms. LeGault was found guilty and her license was revoked for failing to account for and commingling of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. of the Code.

**Name:** D. E. Barber, Jr., Qualifying Broker, Selma, Alabama

**Date of Hearing:** January 24, 1997

**Disposition:** Mr. Barber was found guilty of commingling and shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. of the Code. His license was suspended for 6 months, but stayed pending completion of the three hour course in trust accounts and payment of a \$250 fine. Suspension void upon compliance.

**Name:** Joe B. Duckworth, Qualifying Broker, Tuscaloosa, Alabama

**Date of Hearing:** January 24, 1997

**Disposition:** Mr. Duckworth was found

guilty of shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. of the Code. His license was suspended for 6 months, but stayed pending completion of the three hour course in trust accounts and payment of a \$250 fine. Suspension void upon compliance.

**Name:** Laura J. Boyles, Salesperson, Fruithurst, Alabama

**Date of Hearing:** Hearing waived and plea of guilty entered.

**Disposition:** Found guilty and fined \$200 for presenting to the commission a check which was returned unpaid by the bank in violation of Section 34-27-36(a)(16) of the Code.

**Name:** Connie R. Glenn, Salesperson, Prattville, Alabama

**Date of Hearing:** March 7, 1997

**Disposition:** Formal complaint dismissed after hearing.

**Name:** Pinewood Properties, Inc., and Carolyn C. Levy, Qualifying Broker, Auburn, Alabama

**Date of Hearing:** March 7, 1997

**Disposition:** Both found guilty and licenses revoked for shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. of the Code, and on Mrs. Levy for failure to supervise her licensees in violation of Section 34-27-34(a)(2) of the Code. Additionally, the commission accepted the offered surrender and revoked the license of Ralph Levy, salesperson with the company.

*Note: An application for rehearing has been filed with the commission.*

**Name:** Shirley F. Brabham, Qualifying Broker, Troy, Alabama

**Date of Hearing:** March 7, 1997

**Disposition:** Found guilty of shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. and of failing to keep copies of records in violation of Section 34-27-36(a)(31) of the Code. License revoked, but stayed pending completion of 3 hour trust accounts course and payment of a \$500 fine. Revocation void upon compliance.

**Name:** Tom West, Qualifying Broker, Dothan, Alabama

**Date of Hearing:** March 7, 1997

**Disposition:** Found guilty of shortage of funds to be held in trust for others in violation of Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. of the Code. License revoked, but stayed pending completion of 3 hour trust accounts course and payment of a \$250 fine. Revocation void upon compliance.

**OTHER ADMINISTRATIVE ACTIONS**

**Salesperson Applications**

Approved . . . . .	9
Denied . . . . .	6

**Broker Applications**

Approved . . . . .	1
Denied . . . . .	2

**Determination for Licensing Eligibility**

Approved . . . . .	8
Denied . . . . .	8

**ALABAMA  
REAL ESTATE COMMISSION  
Errors & Omissions  
Program Administrators**

**Williams Underwriting  
Group, Hqt.**  
P.O. Box 769  
111 W. Chestnut Street  
Jeffersonville, IN 47131-0769  
Watts Line: 1-800-222-4035  
Phone: 812-284-2321  
Fax: 812-284-3252

**Williams Underwriting  
Group of Alabama, Inc.**  
P.O. Box 2693  
Huntsville, AL 35804-2693  
Watts Line: 1-800-400-9534  
Phone: 205-883-0650  
Fax: 205-883-0653

## BRIEFLY LEGAL

By: Charles R. Sowell, General Counsel

# GIFTS, REBATES & KICKBACKS

**B**oth federal law and Alabama state law allow real estate licensees to give prizes, money, gifts, and other valuable consideration (I will call “incentives”) to parties to induce them to enter into real estate transactions. If this sounds simple, do not be deceived. Alabama state law does not allow a real estate licensee to give or receive a rebate in a real estate transaction. Federal law does not allow a real estate licensee to give or receive a kickback or unearned fee in connection with certain real estate transactions. As we will see, there are other hidden problems with the giving of such incentives.

Prior to legislation in the 1992 Regular Session of the legislature, Section 34-27-36(a)(24) Code of Alabama 1975, as amended, (The Code) prohibited real estate licensees from giving prizes, money, free gifts, or any valuable consideration to induce customers to purchase, rent, lease, or list property. Although this provision was not deleted until 1992 by the Alabama legislature, it actually had not been enforced since a federal court enjoined its enforcement in 1986 (CAUTION, an incentive may only be given to a party to a transaction, i.e. buyers, sellers, lessors, and lessees).

Here are some examples of what the law allows a licensee to do:

1. Pay cash to owner who list property for sale.
2. Pay cash to a customer to get him or her to buy a home.
3. Give a car or refrigerator to customer to get him or her to buy a home.
4. Give one month’s free rent to a

**customer to get him or her to rent an apartment.**

5. Pay repair expenses to get a buyer and seller to contract or close a sale.

Giving any incentive without violating another law depends in part on how it is given. All incentives must be given in advance or at closing and must be disclosed to all interested parties. Interested parties in the case of a sale are the sellers, buyers and lender or guaranteeing agency (FHA, VA or HUD, for example.) Section 34-27-36(a)(21) of The Code makes it a violation for a licensee to misrepresent or fail to disclose to any lender, guaranteeing

agency, or any other interested party the true terms of a sale of real estate. Obviously, an incentive of material value would matter to these parties and must be disclosed at every step. No disclosure would violate this section of state law and invite FHA, VA or HUD to consider appropriate sanctions against an offending licensee. Criminal charges are also possible in some cases. A classic example is the undisclosed loan or gift to a buyer without which the buyer could not have qualified for a mortgage loan.

Giving the incentive in advance or at closing also helps prevent a potential violation of Section 34-27-36(a)(12) of The Code. This is the section which prohibits



a licensee from giving or receiving a rebate in a real estate transaction. The effect of Commission rulings is that a rebate is any unearned fee, kickback, or thing of value given in connection with a transaction. A rebate is typically given after or outside closing and may not be received by a licensee or given to anyone (whether a party or not) in connection with the transaction. Remember, too, a rebate is illegal whether or not it is disclosed. Disclosure of a rebate does not make it legal.

**Here are some examples of illegal fees which constitute a rebate:**

1. **Payment of a fee to a licensee by a title insurance company, a mortgage company, or a homeowner's insurance agent for referral of business. Giving an expenses paid vacation to the licensee is a rebate.**
2. **Payment of a fee to a licensee by a carpet installer, a pool contractor, or landscape contractor for referral of business.**
3. **Payment of a fee by a licensee to anyone for referring a buyer or seller to the licensee.**

The federal law in this area is the Real Estate Settlement Procedures Act (RESPA). Although it is not within the Commission's jurisdiction, licensees should be aware of RESPA's provisions. The provisions of the act are broad and complicated. For purposes of information, I am going to simplify the relevant sections here. Licensees should seek legal advice on compliance with RESPA.

Note, RESPA does not apply to all transactions. It applies only to certain transactions involving federally related mortgage loans. Generally, a mortgage is federally related if the loan is a first mortgage financing the purchase of a one to four family unit structure in the United States and is governmentally guaranteed, insured, supplemented, or assisted.

RESPA prohibits paying or receiving

any unearned fee, kickback, or thing of value for the referral of business. Like rebates, it appears these payments are illegal whether or not they are disclosed.

**Here are some examples of illegal kickbacks:**

1. **Payment of a fee by a title insurance company to an attorney or broker for referring business to the title insurance company.**
2. **Payment of a fee by a mortgage originator to a real estate salesperson for referring business to the mortgage company.**

The best definition of an unearned fee is the common sense one which says an unearned fee is any fee paid which is not for the performance of legitimate services actually performed. Steering or referring business to a company is not considered a legitimate service.

No law prohibits earned fees in connection with real estate transactions. A licensee may earn a commission split for referring a buyer to a listing broker. A broker may legally earn a fee for originating a mortgage loan, provided the broker actually is the originator and does the work of an originator. Similarly, a broker who also holds an insurance license may legally earn a commission for homeowner's insurance written on a property in a transaction. ■

**REMINDER**

**Business and Home Change of Address**

**Has your company moved or your home address changed?**

Please be reminded that it is a violation for any licensee to change the address of his/her place of business and fail to notify the Commission in writing. Notification must be mailed or hand delivered within 30 days after such change has been made.

The qualifying broker must submit ALL current licenses along with \$25 for each license to be reissued to effect the change.

Likewise, each licensee shall notify the commission in writing of any change in his or her residence address within 30 days of the change. If you need to make a home address change, complete a Commission Change of Address Notice card or indicate the old and new address on a standard sheet of paper along with your name, real estate license number or social security number.

There is no charge to effect this change.

**Remaining 1997 Examination Dates**

EXAMINATION DATE	APPLICATION DEADLINE	LATE APPLICATION DEADLINE
May 17, 1997	April 26, 1997	May 5, 1997
June 21, 1997	May 31, 1997	June 9, 1997
July 19, 1997	June 28, 1997	July 7, 1997
August 16, 1997	July 26, 1997	August 4, 1997
September 20, 1997	August 30, 1997	September 8, 1997
October 18, 1997	September 27, 1997	October 6, 1997
November 15, 1997	October 25, 1997	November 3, 1997

(There is no December examination scheduled.)



# EDUCATION CORNER

By: Pat Anderson, Education Director



## ARELLO

### RECAD and "Update" Newsletter Win ARELLO Awards

At their 66th Annual Conference held in October 1996, the Association of Real Estate License Law Officials (ARELLO) recognized two of Alabama's programs as worthy of receiving national awards. First, RECAD (Real Estate Consumer's Agency and Disclosure Act) was recognized as the best program in the category of "Mandatory Continuing Education". This was for the entire series of educational projects which occurred between October 1995 and the RECAD implementation date of October 1, 1996. This included the 3 hour RECAD workshops aired statewide via teleconferencing and satellite uplink/downlink; a full day instructor training program on RECAD; the development of the course manual for the two-3 hour continuing education courses; and the 30 minute training video used by brokers for in house training (See RECAD Video Order Form in this issue of the "Update").

The second award was excellence in newsletter publication for this and other "Update" newsletters. The "Update" includes state and federal law changes, issues facing the industry, Commission actions, educational opportunities, reminders about deadlines, disciplinary actions and a variety of other information. The content has proven to be informative and viewed as a valuable resource to readers. Approximately 30,000 copies are disseminated quarterly to active and inactive licensees, ARELLO jurisdictions, other Alabama state agencies, real estate educators, consumer groups, and other interested consumers.

The ARELLO Education Recognition Awards program recognizes outstanding real estate education programs all over the US and Canada. These awards are indicative of the Commission's efforts to keep you informed and to provide comprehensive information on state law changes affecting the real estate industry. ■



### Annual Instructor's Seminar & Computer Workshop for Instructors

October 9 & 10, 1997

Auburn Hotel &  
Conference Center

Auburn, Alabama

The Annual Instructors' Seminar is scheduled for October 10, 1997, at the Auburn Hotel and Conference Center in Auburn Alabama. This seminar is mandatory for all pre and post license instructors to retain instructor approval and for continuing education instructors who teach any of the mandatory courses. In conjunction with the Annual Instructors' Seminar, a Computer Workshop for Instructors will be taught on October 9, by Matthew Ferrara, Matthew Ferrara Seminars in Methuen, Massachusetts.

Plans for both programs are underway so mark your calendar now to attend!!! Registration material will be sent out at a later date.

### AREEA Elects Officers for 1997

At their annual meeting held on October 21, 1996, in Auburn, Alabama, the Alabama Real Estate Educators Association elected officers for the 1997 year.

If you are interested in participating in the Real Estate Education Association you may contact one of these officers, any REEA member, or the Commission office for further information.

#### 1996-97 AREEA Officers

##### President

Avery Yarbrough, DREI, Birmingham

##### Vice President

Marcia Norris, Birmingham

##### Secretary

Jeri Gray, Birmingham

##### Treasurer

Pam Beedy, Daphne



# Time is Running Out: A Renewal Notice

If you have not renewed your 1997-98 real estate license, you have until midnight **September 30, 1997**, to do so or your license will lapse and shall be subject to all requirements applicable to persons who have never been licensed. An inactive license must be renewed in the same manner as an active license.

## FEES (including penalty):

**SALESPERSON \$140 BROKER \$160 COMPANY \$135**

To renew your license, send in the renewal form with the appropriate fees (including penalty fee). Your license will be renewed on inactive status.

### If you wish to activate the license you must do the following:

- Submit proof of completion of approved 12 hours continuing education
- Submit proof of secured errors and omissions insurance
- Submit a completed Activation Form signed by the qualifying broker along with \$25 activation fee.

## RECOVERY FUND REFUNDS

The accounting division of the Alabama Real Estate Commission has been actively refunding fees from the recovery fund since April, 1992, when the License Law was amended by Act 92-177 which states in Section 34-27-31(c)(2)&(3) "any salesperson licensee who has paid the additional fee and who has attained a broker license and has paid the additional broker fee shall be refunded, upon request, one of the additional fees and no other salesperson licensee shall be required to pay an additional fee upon attaining broker status. Payments made to the recovery fund in lieu of bond by a licensee shall be paid only one time when he or she is originally licensed by the commission."

All salespersons and brokers paid into the recovery fund in 1979 and 1980 to

establish the fund. A salesperson who became a broker after this time is probably due a refund up to November of 1988 when the rule changed and brokers no longer paid into the recovery fund if they had once paid as a salesperson.

Our search through files and microfilm has produced refunds to our licensees totaling \$53, 690.00, most of which were \$30.00.

There are some checks we have mailed to individuals that have been returned to us by the post office. If you think you are owed a refund and have not received one, contact our accounting division with your correct address, social security number and birth date and we will search our records to determine whether you are due a refund. The checks would then be issued within 30 days.

### State of Alabama Legal Holidays

Based on Section 1-3-8 of Code of Alabama 1975 as amended by Act 91-250, the Alabama Real Estate Commission will be closed on these dates.

Holiday .....	Date in 1997
National Memorial Day .....	May 26
Jefferson Davis .....	June 2
Independence Day .....	July 4
Labor Day .....	September 1
Columbus Day .....	October 13
Veterans' Day .....	November 11
Thanksgiving .....	November 27
Christmas Day .....	December 25