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.

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

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.
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, checkbooks, 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 qualifying 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. 00007808-1
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 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. 000094146
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 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
Fined $2,500

David Troy Ross
License No. 000099891
Salesperson; Orange Beach, Alabama
Date of Hearing: November 21, 2013
Fined $2,500

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

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.

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. 000051808-2
Qualifying Broker; Dadeville, Alabama
Date of Hearing: November 21, 2013
Fined $2,500

The below were 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 were found guilty of violating Section 34-27-36(a)(8)(a) for entering 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. 000089900
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

Irфан 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
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.