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July 12, 2017

Notice of Public Hearing on Proposed Rule Amendments

Proposed Changes to Rules: (To view the rule amendments, click on the link below.)

790-X-1-.06 **Prelicense And Post License School Approval And Requirements**

790-X-1-.15 **School And Instructor Advertising Regulations**

790-X-1-.18 **Reciprocal License Requirements**

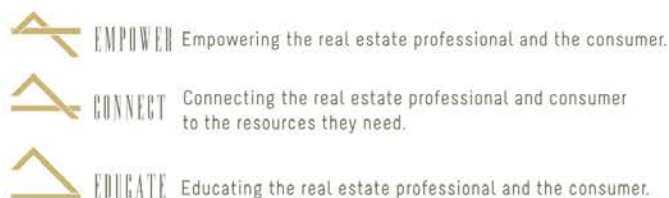
790-X-1-.21 **Distance Education Courses**

Location: Alabama Real Estate Commission
1201 Carmichael Way
Montgomery, AL 36106

Date: Thursday, July 27, 2017

Time: 9:00 a.m.

Notice of Public Hearing or Submitting Written Comments: Comments can be presented at the public hearing scheduled at 9:00 a.m. on July 27, 2017 at the Alabama Real Estate Commission located at 1201 Carmichael Way, Montgomery, Alabama. Additionally, written comments may be addressed to Patricia Anderson, Executive Director, Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama 36106. Written comments must be received in the Commission office no later than 4:30 p.m. on August 4, 2017.



Rule 790-X-1-.06. Prelicense And Post License School Approval And Requirements

- (1) All schools and instructors teaching real estate courses shall agree to be governed by rules and regulations adopted by the Commission for the orderly operation of the schools.
- (2) All prelicense ~~and post license~~ courses shall have a definite beginning and ending date.
- (3) The administrator shall, at least ~~one week~~ five (5) business days prior to the beginning of a prelicense or post license course, send information concerning the exact location, times and dates of the courses to the Commission via the electronic submission program provided by the Commission. Should changes occur in this information, instructors and administrators must submit the changes immediately via the electronic submission program provided by the Commission.
- (4) The administrator shall, within three (3) business days of course completion, report the credit for students who successfully complete the prelicense or post license course to the Commission via the electronic submission program provided by the Commission. Business days are Monday through Friday and do not include federal holidays, state holidays and weekends.
- (5) No prelicense or post license course shall be approved by the Commission unless the following requirements are fulfilled.
 - (a) Courses shall be taught by an approved instructor.
 - (b) All courses shall comply with the curriculum as prescribed by the Commission.
 - (c) The salesperson prelicense course shall be completed within one year from the start date of the course or the student will receive no credit for classes completed and shall begin the course again. Students enrolled in the salesperson prelicense course can receive no more than six (6) hours credit per day.
 - (d) The 60-clock hour broker prelicense course shall be completed in order to qualify for the broker's exam. The course shall be completed within one year from the start date of the course or the student will receive no credit for classes completed and shall begin the course again. Students enrolled in the broker prelicense course can receive no more than nine (9) hours credit per day.
 - (e) The 30-hour post license course is required for all temporary salesperson licensees, whether on active or inactive status, within the first year of licensure. In order to maintain an active license, the course shall be completed and the original (permanent) license issued within the first six months of licensure. Students enrolled in the post license course can receive no more than nine (9) hours credit per day. Students shall start the post license course at the beginning of any course module in the approved course outline as allowed by the instructor.
 - (f) At least 80% of the course hours in the prelicense and post license courses shall be presented by live instruction unless the course is an ARELLO certified distance education course.
 - (g) Instructors shall offer incremental assessments including a final course exam. Students shall pass all required incremental assessments and the required final course exam that adequately measures mastery of course content and make a minimum course grade of 70% to successfully complete the

salesperson prelicense course.

(h) Instructors shall teach a ~~total~~ minimum of 60 hours for the prelicense course and a minimum of 30 hours for the post license course. Ninety (90%) percent course attendance in the prelicense and post license courses is required of students to successfully complete the course. Any sessions taken by students to make up missed hours must cover topics that have not already been taken in the course. Instructors may take a 10-minute break after each 50 minutes of instruction. Meals and other unrelated activities cannot be counted as part of the course hours.

(i) Upon completing the course hours, passing all required incremental assessments and the required final exam, and obtaining a minimum course grade of 70% in the salesperson prelicense course, the administrator shall submit the course credit as directed by the Commission. Salesperson applicants shall not be allowed to schedule the salesperson examination until exam eligibility has been submitted.

(j) Instructors and administrators shall provide each student who completes the salesperson prelicense course with instructions on where to access the Commission-approved prelicense course evaluation. Instructors and administrators shall also provide each student in prelicense and post license courses with information explaining the licensing process and deadlines. Instructors and administrators shall provide information on how to obtain the Application for Real Estate Salesperson's Original License to all post license students.

(k) Upon completing the course hours, passing the course final exam and obtaining a minimum course grade of 70% in the broker prelicense course, the administrator shall submit the course credit as directed by the Commission. Broker applicants shall not be allowed to schedule the broker examination until exam eligibility has been submitted. Broker applicants shall meet all qualifications for a broker's license prior to making application. Successfully passing the exam is only one of several qualifications that are identified in Section 34-27-32. Failure to meet all broker qualifications prior to applying for a broker's license shall result in the exam score being rendered null and void and may subject the broker applicant to disciplinary action by the Commission.

(l) A person shall be required to have a temporary license issued prior to taking a post license course and earning post license credit. Instructors and administrators shall obtain the temporary license number before allowing a student to enroll in the post license course. Salespersons who make a minimum course grade of 70% and complete the 30 hour post license course may check the Commission website to ensure their course credit has been accurately reported. The temporary salesperson shall submit the application and fees for an original (permanent) license within the time frame set forth in Section 34-27-33.

(m) Schools shall maintain permanent records showing attendance, exam answer sheets, licensing process and deadline forms, course credit submission via the electronic submission program provided by the Commission, and any other documentation required by the Commission for a minimum of four (4) years. If a school closes because it merges with another school or is bought by another school, the records for the previous four years shall be turned over to and become the responsibility of the new school. If a branch school closes, the records for the previous four years shall be turned over to and become the responsibility of the main school. In the event a school closes and there is no school to whom the records would revert, the records for the previous four years must be turned over to the Commission.

(6) Salesperson applicants shall pass the state licensing salesperson examination within six (6) months immediately following the date of successful completion of the salesperson prelicense course approved by the Commission. Salesperson applicants who fail to meet this requirement shall be required to again successfully complete the salesperson prelicense course and pass the state licensing salesperson examination.

(7) Broker applicants shall pass the state licensing broker examination within six (6) months immediately following the date of successful completion of the broker prelicense course approved by the Commission. Broker applicants who fail to meet this requirement shall be required to again successfully complete the broker prelicense course and pass the state licensing broker examination.

Author: Alabama Real Estate Commission

Statutory Authority: Code of Ala. 1975, §§34-27-6, 34-27-8, 34-27-32, 34-27-33.

Rule 790-X-1-.15. School And Instructor Advertising Regulations

(1) No administrator and no instructor shall make, or cause to be made, any statement, or representation, oral, written, or visual in connection with the operation of a school or the offering of a course, if such person knows or reasonably should know the statement or representation to be false, inaccurate, or misleading.

(2) All school advertising shall contain the licensed or approved name of the school. A school shall not advertise in conjunction with any other business establishment unless the administrator submits a written statement to the Commission that the school will be responsible to ensure that all advertising complies with the laws and rules which govern advertising.

(3) No reference whatsoever shall be made in any newspaper, advertising brochures, etc. as to "pass/fail ratio" by any school/course sponsor or instructor approved by the Alabama Real Estate Commission with the exception that administrators and instructors may advertise that pass/fail rates can be viewed on the Alabama Real Estate Commission's website.

(4) There shall be no advertising which guarantees or alludes to a guarantee of passing the state examination.

(5) Failure by administrators and instructors to comply with advertising laws and rules shall result in disciplinary action as set forth in Commission rules.

Author: Alabama Real Estate Commission

Statutory Authority: *Code of Ala. 1975, §§ 34-27-6, 34-27-8.*

Rule 790-X-1-.18. Reciprocal License Requirements.

(1) Applicants for a reciprocal license shall have a current license in a qualifying state either on active or inactive status which is not a reciprocal or nonresident license. A qualifying state is one in which the applicant completed prelicense course work and passed a comprehensive examination which contained general real estate in addition to state law. This shall be evidenced by a certification of licensure (license history) that is obtained from the qualifying state within the 120 days immediately prior to the issuance of an Alabama license. For initial licensure as a reciprocal salesperson or broker, at minimum the certification of licensure shall show:

- (a) Name and address of the licensee; and
- (b) Status of the license (current, renewed, not renewed, expired, lapsed, etc.) and
- (c) Type of license (salesperson, broker, etc.); and
- (d) Period of time the license has been active and inactive over at least the previous 36 months; and
- (e) If the applicant passed an examination; and
- (f) Whether the examination consisted of the national and state portion or only the state portion; and
- (g) Record of any disciplinary action against the licensee; and
- (h) Any other documentation the Commission may require.

(2) Persons who hold an entry level license in the qualifying state; i.e., a salesperson license in most states, shall apply for a reciprocal salesperson license in Alabama provided all other eligibility requirements are met. For single licensing states, the first level of broker licensing equates to salesperson licensing in Alabama.

(3) Persons who hold a license that is beyond entry level in a qualifying state, i.e., a broker license in most states, shall apply for a reciprocal broker license in Alabama provided all other eligibility requirements are met. For single licensing states, the second level of licensing or higher equates to broker licensing in Alabama.

(4) If potential reciprocal applicants have questions regarding their eligibility for licensure, they shall submit a "Request for Determination of Reciprocal Licensing Eligibility" along with a certification of licensure to the Commission for review and determination of eligibility. The form may be obtained from the Commission's website.

(5) In addition to license requirements in Section 34-27-32(a) and (b) of License Law, applicants for a reciprocal salesperson or a reciprocal broker license shall meet the following requirements before applying for a reciprocal license.

- (a) Complete six (6) hours of reciprocal salesperson prelicense or reciprocal broker prelicense coursework prescribed by the Commission in order to qualify for the reciprocal license examination. These six hours of coursework shall not qualify for continuing education credit.

(b) Pass the reciprocal salesperson or reciprocal broker license examination offered by the testing agency under contract with the Commission. The examination appointment shall be made and the examination fee paid to the testing agency as published in the Candidate Handbook. When the registration has been processed, the applicant shall be notified of the time to report to the exam center. Unscheduled candidates shall not be admitted.

(6) An examination fee shall be paid for each scheduled examination whether or not the applicant takes the exam unless the applicant is rescheduled in accordance with policies as specified in the Candidate Handbook. Applicants who fail the examination may retake the examination by following application procedures as outlined in the Alabama Candidate Handbook.

(7) Reciprocal salesperson and reciprocal broker license applicants shall pass the examination within ~~12~~ six (6) months immediately following the date of completion of the reciprocal prelicense course approved by the Commission. Reciprocal applicants who fail to meet this requirement shall be required to again successfully complete the appropriate reciprocal prelicense course and pass the appropriate reciprocal license examination.

(8) The passing grade for both the reciprocal salesperson and reciprocal broker examinations shall be seventy (70). A time limit of one hour is allotted for completion of the required examination.

(9) Upon completing the course hours the administrator shall electronically submit the course credit to the Commission. Reciprocal applicants shall not be allowed to schedule the reciprocal salesperson examination or reciprocal broker examination until course credit has been submitted.

(10) Instructors and administrators shall provide each student who completes the reciprocal salesperson or reciprocal broker prelicense course with instructions on where to access the Commission-approved prelicense course evaluation. Instructors and administrators shall also provide each student with information explaining the licensing process and deadlines.

(11) Reciprocal licensees shall meet continuing education requirements by complying with either paragraph (a) or paragraphs (b) and (c) below:

(a) Complete the appropriate 15 hours of continuing education courses approved by the Alabama Real Estate Commission.

(b) Submit to the Commission a certification of licensure or letter that is issued by the regulatory agency in the state where prelicense course work was completed and the licensing examination was passed. The certification of licensure or letter shall at minimum show:

1. the type of license

2. the license is active and current at least through October 1 of the calendar year during which the Alabama license is being renewed.

3. a full licensing examination, not just state portion, was passed in that state.

(c) The certification of licensure or letter in paragraph (b) above shall be dated no earlier than June 1 of the final year of the Alabama license period and shall be received by the Commission no later than September 30 of the final year of the Alabama license period.

(12) If continuing education requirements are not satisfied by the prescribed deadline the reciprocal licensee shall be automatically placed on inactive status and subject to all reactivation requirements as provided in §34-27-35, Code of Ala. 1975.

Author: Alabama Real Estate Commission

Statutory Authority: Code of Ala. 1975, §§34-27-6, 34-27-8; 34-27-32; 34-27-35.

Rule 790-X-1-.21. Distance Education Courses

Distance education courses are programs whereby instruction does not take place in a traditional classroom setting but rather where teacher and student are apart and instruction takes place through other media. Distance education courses include but are not limited to those which are presented through interactive classrooms, computer conferencing, interactive computer and the Internet. Distance education courses may be offered by approved instructors of primary or secondary providers.

(1) A primary provider is defined as a course developer who has a proprietary interest in the course. Primary providers may have their own instructors deliver courses and/or may market the courses to secondary providers. If a primary provider offers distance education courses directly to Alabama licensees, the provider shall be a school licensed or approved by the Commission.

(2) A secondary provider is defined as a school which obtains a distance education course from a primary provider. The secondary provider shall have approved instructors who are responsible for enrolling students, providing course orientation, monitoring student progress, answering student questions, administering and grading exams, verifying and reporting course completion and verifying student identity. Any school providing any of these services, other than administering a final exam, shall be deemed to be a secondary provider. The secondary provider shall be a school licensed or approved by the Commission.

(3) Instructors of distance education courses shall be approved by the Alabama Real Estate Commission. Instructors shall not receive approval until they receive the Distance Education Instructor Certification from IDECC (International Distance Education Certification Center), which is a subsidiary of ARELLO (Association of Real Estate License Law Officials), and submit verification of the certification to the Commission. The Distance Education Instructor Certification shall be renewed and kept current in order for the instructor to continue offering distance education courses.

(4) Administrators of schools offering the prelicense course shall provide students with licensing requirements and information on how to schedule to take the licensing examination. Administrators of schools offering the post license course shall provide students with original salesperson license requirements and an application.

(5) All distance education courses developed by approved primary providers shall be approved by the Commission prior to being marketed to secondary providers who will offer the courses to Alabama licensees. Additionally, all distance education courses that will be offered to Alabama licensees by either primary or secondary providers shall be approved by the Commission. Any course containing major content errors or which fails to meet curriculum requirements shall be denied. The revised course may be submitted at a later date along with a new application and course review fee.

(6) Approved instructors who submit any distance education course for approval shall submit the Course Summary Certificate number from ARELLO or IDECC along with the course application and fee. For secondary providers, the Course Summary Certificate from ARELLO or IDECC shall be the same number received by the primary provider.

(7) All distance education courses of primary providers shall be certified by ARELLO or IDECC before being submitted to the Commission for approval and shall retain certification in order to retain

Commission approval. This includes prelicense, post license and continuing education courses. College credit courses offered through distance education at approved colleges and universities shall be exempt from ARELLO or IDECC certification.

(8) Secondary providers shall only offer courses which primary providers have had certified by ARELLO or IDECC. The instructor for a secondary provider shall not be required to obtain ARELLO or IDECC certification for courses.

(9) Instructors of approved distance education courses shall submit to the Commission their procedures for enrolling students, monitoring their progress, answering student questions, administering and grading exams, verifying and reporting course completion and verifying student identity. Instructors shall provide course requirements to all students in writing electronically or by mail when a distance education course is purchased. These requirements include, but are not limited to, submission of required forms, specific course deadlines, and the process for license examination scheduling.

(10) ARELLO or IDECC certified distance education courses shall follow curriculum requirements as specified by the Commission. Instructors who teach courses developed by another school or organization shall review the course for accuracy and applicability of content prior to submitting it to the Alabama Real Estate Commission for review and approval.

(11) Administrators shall give distance education students instructions on how they can electronically submit a course evaluation to the Commission.

(12) Distance education courses of primary providers shall continue to be ARELLO or IDECC certified in order to continue their approval with the Alabama Real Estate Commission. If ARELLO or IDECC certification is discontinued for any reason, approval by the Alabama Real Estate Commission shall be simultaneously discontinued for all primary and secondary providers who offer the affected course.

(13) The Commission may withdraw approval for any distance education course that is not offered in accordance with Commission requirements for distance education courses.

(14) The Commission may withdraw approval or otherwise discipline instructors and schools in accordance with Rule 790-X-1-.17 for any instructor who teaches distance education courses that do not comply with all applicable rules and statutes.

(15) In order to successfully complete the prelicense or post license course, students shall take and score a minimum of 70% on a proctored final examination administered in an educational facility or library by an approved real estate instructor, an approved school administrator, ~~or by a qualified person~~ library employee or volunteer who is not in the real estate business, or a current or retired education professional who is not in the real estate business.

Author: Alabama Real Estate Commission

Statutory Authority: *Code of Ala. 1975, §§ 34-27-6; 34-27-8.*