



**Alabama Real Estate Commission**  
Empowering | Connecting | Educating  
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**BRIEFLY LEGAL AND COMMISSION NOTE**  
**Selling Personal Property and Task Forces on Broker Supervision and RECAD**  
**February/March 2020**

**TODAY'S QUESTION:**

Can licensees sell their own property the same as any other private owner?

**ANSWER:**

No, because having a license makes a difference in how you must act while selling your own property. While Section 34-27-2(b)(1) *Code of Alabama*, exempts owners of real estate from being licensed in transactions involving their own property (translated – no license is required to sell or rent your own property), if you have a license, the only thing the law and rules allow you to do as a private owner is to advertise it. To avoid any misunderstanding of what the law is, the Commission many years ago wrote Rule 790-X-1-.03(3). This rule says a licensee must abide by all provisions of the law and rules in dealing in his or her own property, or that of a spouse, child, parent or member of the public. Therefore, the transaction must be treated the same as if you are selling someone else's property. Your qualifying broker is responsible in these transactions. This means there should be a sales or rental file in the office. Any earnest money or security deposit must be turned over to the qualifying broker and deposited into a trust account, unless a release is executed and signed by everyone with an interest in the money. The company RECAD office policy is to be followed. You and your qualifying broker cannot agree that these transactions do not have to "run through" the company, they **MUST** run through the company. You and your broker cannot contract to waive requirements of law.

Remember, the law holds real estate licensees to a higher standard when dealing in property owned by you **or your family**. This is an often overlooked feature of the license law. Section 34-27-36(a)(2) of License Law provides for disciplinary action when "Engaging in misrepresentation or dishonest or fraudulent acts when selling, buying, trading, or renting real property of his or her own or of a spouse or child or parent." If you are selling your own, spouse's, child's or parent's property, don't forget this important aspect of law.

**COMMISSION NOTE – BROKER SUPERVISION AND RECAD**

Two Commission-appointed task forces have been working over the past 6-9 months on two issues important to you.

The Commission would like to thank the following members of the Broker Supervision Task Force for their many hours of study on this topic and for making recommendations to the Commission to enhance broker requirements.

Commissioner Danny Sharp, Chair – Dothan  
Carol Andrews – Montgomery  
Amy Brown – Dothan  
Steve Cawthon – Huntsville  
Commissioner Reid Cummings – Mobile  
Scott Edmondson – Cullman  
Commissioner Carole Harrison – Auburn  
Vaughn Poe, AREC Chief Policy Officer  
Yvonne Rinehart – Tuscaloosa  
Andrea Kaiser Shilston – Gulf Shores  
David Skinner – Birmingham  
Brian Sparks – Birmingham

The Commission would also like to thank RECAD task force members for their many hours of research, analyzing, discussion, and formulating recommendations for the Commission to consider.

Commissioner Em Barran, Chair – Decatur  
Mark Caudell – Albertville  
Cindy Denney – Tuscaloosa  
Jim Dye – Birmingham  
Cindy Dyer – Cullman  
Commissioner Joyce Harris – Marion Junction  
Lee Harris – Auburn  
Randy McKinney – Gulf Shores  
Wilson Moore – Tuscaloosa  
Peyton Norville – Birmingham  
Commissioner Susan Smith – Ft Payne  
Michelle Talbot Rogers – Mobile  
Mary Ann Scott – Decatur

The recommendations developed by both task forces for changes to License Law have been accepted by the Commissioners. More information will be shared as it becomes available.

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