



FALL 2005

## License Law Changes Important to Commissioners: Act 2005-314

By D. Philip Lasater, Executive Director

**R**eal Estate License Law has been amended by a bill enacted during the Special Session. Over two years ago commissioners initiated and actively lobbied industry leaders and legislators about their proposals. *These amendments become effective November 1, 2005.*

### DISCIPLINARY AUTHORITY



#### Fine schedule increased.

Previously, any licensee found guilty in a formal hearing of violating license law could be fined \$25 to \$1000 per count. Now the amendment increases the fine schedule that commissioners may levy from \$100 to \$2500 per count.



#### Requirement to take additional continuing education or make restitution to trust accounts added to disciplinary actions.

This change allows the Commission three choices when dealing with the decision to suspend or revoke a license:

- 1) Allow the suspension or revocation to stand for the length of time specified by the Commission.
- 2) Suspend or revoke the license but stay the action pending the completion of a continuing education course or restitution of a trust account.
- 3) Suspend or revoke the license and have the suspension or revocation run until such time as a specific continuing education course is completed or a trust account is restored.

### MEETING VENUE



Previously, licensees had the right by law to assert that a hearing be held either in the county of their residence or practice. Hearings held otherwise required the Commission to obtain waivers of hearing in order to hold the hearing elsewhere. Commissioners strongly believed that they should legally have the authority to exercise discretion and direction on where meetings and hearings are conducted. Demanding a hearing in ones county of practice of residence can not be used to delay or require the Commission to travel to an area that would be considered remote for lack of no other relevant, convenient or practical business. The amendment establishes that all meetings will be held in Montgomery but allows commissioners to determine whether the best interest of the public or the Commission's case is better served in another location.

### RESEARCH AND EDUCATION FEE



The amended law will now require reciprocal licensees to pay the \$30 Research and Education fee just as any Alabama licensee does. There was an inadvertent gap previously because Alabama salespeople pay at the Temporary application stage. The reciprocal language ties reciprocal fees to that of original sales and broker licensees for which there is no research and education fee.

## Duplicate Company Names

By Pat Anderson, Assistant Executive Director

**N**othing in Alabama Real Estate License Law prohibits one company from having the same name as another company. Whenever asked by licensees if the Commission will allow their company name to be used by another company, the answer is that the Commission has no statutory authority to refuse to issue a license to a company in the name requested.

### Registering with the Secretary of State's Office

Business entities including but not limited to Corporations, Limited Partnerships (LP), Limited Liability Partnerships (LLP), Limited Liability Limited Partnerships (LLLP) and Limited Liability Companies (LLC) must register with

*(Continued on back page.)*

## In This Issue

Briefly Legal:	
New Minimum Services Law	2
New Open Meetings Law	3
Disciplinary Actions Taken	4
Licensing Tidbits	5
Education Corner:	
Commissioners' Commitment to Quality Instructor Education	6
Keep Track of CE Credit Online with CMap!	7
Commission Web and Email Addresses Changed	7

**BRIEFLY LEGAL****NEW MINIMUM SERVICES LAW***By Charles R. Sowell, General Counsel*

**E**ffective November 1, 2005 Section 34-27-84 Alabama Code has been amended. This is the section of RECAD (Real Estate Consumer Agency Disclosure Act) that deals with obligations of real estate licensees to the parties in a transaction. The amendment adds provisions commonly referred to as “minimum services” to a listing broker’s obligations under a listing agreement. Here is what the law now says: “When accepting an agreement to list an owner’s property for sale, the broker or his or her licensee shall, at minimum, accept delivery of and present to the consumer all offers, counteroffers, and addenda to assist the consumer in negotiating offers, counteroffers, and addenda, and to answer the consumer’s questions relating to the transaction.”

A little context is in order to help explain this new law. Alabama is one of several states that have added, or are considering adding similar provisions. These changes have come as a reaction to concerns about a fairly new business practice being offered by some brokers. These brokers are accepting a particular kind of listing agreement from property owners. The agreement typically provides that the broker will place the owner’s property in the local multiple listing service, and the broker will give no further service to the owner. These brokers have become known as minimum services brokers. This is why the law dealing with this issue has become known as minimum services legislation. The reason for the concern about this should be obvious. Owners should not be left on their own to deal with all the details of a transaction, and not even have their questions answered. My goal is to help you understand what the new law means in every day practice. As we will see, too, the law applies to all brokers and their personnel, not just to limited services brokers. The list that follows is not all inclusive. These are just the major points the law addresses or affects.

- The law applies only to listing brokers and their licensed office personnel. Existing law deals with responsibilities of licensees working with buyers, commonly called selling agents, although they might not have an agency relationship with their buyer.
- The law applies regardless of any agency relationship established between the listing broker and the consumer. This

means the requirements apply to agents, limited consensual dual agents, and transaction brokers. It is not at all likely that a limited services broker will be anything other than a transaction broker, but the new requirements apply, regardless.

- It requires that listing company licensed personnel accept and transmit offers, etc., to the owner and to a buyer with whom they might be working. Let’s not forget existing license law on this point. Alabama Real Estate Commission Rule 790-X-3-.08 has always required that agents acting for a principal shall transmit to the principal all written offers. Also preserved is existing Section 34-27-84(a)(5) Alabama Code which requires presentation of all written offers when assisting a party in negotiations.
- There is no explicit provision in the license law that requires a licensee to actually draft or reduce an offer or counteroffer to writing. Licensees will have to continue to use their judgment and whatever commitments, such as agency agreements, they make to consumers along this line.
- Alabama Real Estate Commission Rule 790-X-3-.04 will continue to apply. This is the rule that requires estimated closing statements. A licensee who procures a written offer from a buyer in a single family residential transaction is obligated to prepare and furnish one to the buyer. A licensee who presents a written offer to a seller in a single family residential transaction is obligated to prepare and furnish one to the seller.
- The requirement to assist the consumer in negotiations means, at minimum, that the licensee will relay a party’s position on a particular matter to the other party. This obligation will continue as long as negotiations last between the seller and a potential buyer.
- The last point is easy to understand. If the licensee gets questions from a consumer, buyer or seller, those questions will be answered, consistent with existing law. For example, this provision does not change existing law on keeping confidential information.

## NEW OPEN MEETINGS LAW

**E**ffective on October 1, 2005 Alabama has a new law that governs the conduct of meetings of most public bodies. The Commission is subject the new law. Actually, our procedures will change very little, because the Commission has always been as open as possible in the conduct of the public's business. Here is a plain English summary of the act.

### ■ NOTICE OF MEETINGS

Notice of meetings of bodies with statewide jurisdiction like the Commission must be given at least seven days before the meeting. Notice must be given to the Secretary of State for posting on the Internet. The notice must include the date, time, and place of the meeting and a preliminary agenda as soon as it is practicable to provide one.

### ■ WHAT IS A MEETING?

A meeting is any gathering of a quorum (majority of the voting members) where deliberations (Commission business discussions) occur. A social gathering or conference where no Commission business discussions occur is not considered a meeting.

### ■ EXECUTIVE SESSIONS PROCEDURE

Executive sessions are not required but may be held as follows:

- If an applicant with a criminal record requests an executive session hearing, the Commission may declare that it is about to go into an executive session hearing and may conduct the hearing in executive session.
- The Commission may declare that it is about to deliberate a contested case decision, and may conduct an executive session for that purpose.
- In all other executive sessions it is necessary to first convene an open meeting. Then a majority of the commissioners present must adopt, by recorded vote, a motion calling for executive session and must set out the purpose of the executive session (character or employee or attorney discussions as described below.) The vote of each member must be recorded in the minutes. Before the executive session is called to order, the presiding officer must state whether the Commission will reconvene in open session, and approximately when it expects to do so.

### ■ USES OF EXECUTIVE SESSIONS

Executive sessions may be held for the following purposes:

- To discuss the general reputation and character of individuals. This would apply to an applicant with a criminal

record, who requests an executive session hearing. This does not apply to discussions concerning the job performance or salary, compensation or job benefits of elected or appointed public officials or to state employees who have to file a Statement of Economic Interest with the Ethics Commission, so these would have to be discussed in open session.

- To discuss with the commission attorney the legal considerations of pending litigation or controversies imminently likely to be litigated. Before the executive session begins the attorney must declare on the minutes that the session is proper under the law. No deliberations or decisions can occur in the session. The open session must be reconvened before any deliberations or decisions are made.
- To deliberate and discuss evidence presented at a hearing (contested case) and vote upon the outcome. After the deliberations the Commission may reconvene the open meeting and make its decision; or it may choose to issue a written decision in the executive session.

### ■ OPEN MEETING PROVISIONS

- The Commission must maintain records (minutes) of its meetings.
- Except for votes in executive session hearings (contested cases) all votes must be made in open meeting and no other votes may be made in executive session.

### ■ ENFORCEMENT

- Enforcement of the provisions of this law shall be by civil action in circuit court filed by any media organization, any Alabama citizen, the Attorney General, or district attorney.
- The court may enter a temporary restraining order, declaratory judgment, or injunction and may under certain circumstances invalidate actions by the Commission in violation of the law.
- Individual commission members found in violation may receive a civil penalty for each meeting not to exceed \$1,000 or one-half of the member's monthly salary, whichever is less. In improper discussions during executive session monetary penalties may only be assessed against those members who improperly remained in a discussion. Monetary penalties may not be paid or reimbursed by the Commission, but must be paid by the individual member.
- The Commission may pay for legal expenses of members and former members named as defendants in enforcement actions. ■

## DISCIPLINARY ACTIONS TAKEN

March through July 2005

### DISPOSITION

The below were found guilty for violation of Sections 34-27-35(b)(c)(2) and 34-27-36(a)(19) for a real estate licensee to cancel a credit card payment for required fees, therefore, failing to pay the fees required.

#### **Susan M. Horton**

Inactive Associate Broker  
Niceville, Florida  
Date of Hearing: March 11, 2005  
**Fined \$250**

#### **Leigh R. Campbell**

Salesperson  
Birmingham, Alabama  
Date of Hearing: March 11, 2005  
**Reprimanded**

### DISPOSITION

The below were found guilty for violation of Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. for a broker to fail to deposit and account for funds to be held in trust for others at all times by having a shortage of trust funds.

#### **Odell White, Jr.**

Qualifying Broker, and  
White and Associates Realty, Inc.  
Birmingham, Alabama  
Date of Hearing: March 11, 2005  
**Fined \$1000**

#### **Sara L. Whitworth**

Qualifying Broker  
Madison, Alabama  
Date of Hearing: April 15, 2005  
**Fined \$250**

#### **Ray L. Huff**

Qualifying Broker  
Auburn, Alabama  
Date of Hearing: May 20, 2005  
**Fined \$500**



#### **Denise S. Stafford**

Associate Broker  
Muscle Shoals, Alabama  
Date of Hearing: July 29, 2005  
**Reprimanded**

### DISPOSITION

The below was found guilty for violation of Rule 790-X-3-.01 via Section 34-27-36(a)(19) for changing her place of business as set out on her numbered license certificate, and failing to notify the commission in writing within 30 days after the change.

#### **Marsha R. Slyman**

Qualifying Broker  
Huntsville, Alabama  
Date of Hearing: March 11, 2005  
**Fined \$250**

### 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.

#### **Glenda A. Vaughn**

Inactive Salesperson  
Crane Hill, Alabama  
Date of Hearing: March 11, 2005  
**Reprimanded**

#### **Jessica Escott**

Salesperson  
Birmingham, Alabama  
Date of Hearing: March 11, 2005  
**Fined \$250**

#### **Timothy A. McDaniel**

Salesperson  
Birmingham, Alabama  
Date of Hearing: July 29, 2005  
**Fined \$250**

### DISPOSITION

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

#### **Nicholas R. Noffsinger**

Inactive Temporary Salesperson  
Pelham, Alabama  
Date of Hearing: March 11, 2005  
**License Revoked**

#### **Amy Diane Tortorigi**

Inactive Salesperson  
Trussville, Alabama  
Date of Hearing: July 29, 2005  
**License Revoked**

### DISPOSITION

The below was found guilty of violating Section 34-27-36(a)(19) by failing to comply with Rule 790-X-1-.12(8) and Rule 790-X-1-.12(9) by failing to provide to the Commission, upon request, original certificates of completion of all the requested hours of approved continuing education courses.

#### **Dina M. Chappell**

Salesperson  
Birmingham, Alabama  
Date of Hearing: July 29, 2005  
**Reprimanded**

### DISPOSITION

The below was found guilty of violating 34-27-31(j) and (k) via Section 34-27-

36(a)(19) for failing to notify the Commission within 10 days of the institution of criminal prosecutions and Section 34-27-36(a)(23)a. for being found guilty of or convicted of a felony or a crime involving moral turpitude.

**Glenda A. Vaughn**

Inactive Salesperson  
Crane Hill, Alabama  
Date of Hearing: March 11, 2005

**License Revoked**

**DISPOSITION**

The below was found guilty of violating Section 34-27-36(a)(19) by failing to comply with Rule 790-X-3-.04(1), (2), and (3) in failing to furnish to buyers and sellers, in single family residential transactions, an estimated closing statement at the time offers were presented; Section 34-27-82(g) and Rule 790-X-3-.13 in failing to use and provide to buyers and sellers the mandatory Real Estate Brokerage Services Disclosure form; and Section 34-27-8(c) by failing to have in Respondent’s purchase agreement form the required “AGENCY DISCLOSURE” clause with the appropriate blocks to be checked on all offers prepared after August 1, 1998.

**Barbara F. Harrison**

Qualifying Broker  
Luverne, Alabama  
Date of Hearing: March 11, 2005

**Fined \$600**

**DISPOSITION**

The below was found guilty of violating Section 34-27-36(a)(19) via Section 34-27-32(g) for maintaining more than one place of business without having a company license and qualifying broker at each office.

**William T. Brogfan**

Qualifying Broker and  
Swords Property Management  
Huntsville, Alabama  
Date of Hearing: April 15, 2005

**Fined \$1,000 &  
License Revoked for  
Swords Property Management**

**DISPOSITION**

The below was found guilty of violating Section 34-27-36(a)(23)a. for being found guilty of or convicted of a felony or a crime involving moral turpitude.

**Karen Elaine Glidewell**

Salesperson  
Birmingham, Alabama  
Date of Hearing: April 15, 2005

**License Revoked**

**DISPOSITION**

The below was found guilty of violating Section 34-27-36(a)(19) via Section 34-27-34(a)(1) for not being in a position to actually supervise the real estate activities of salespersons on a full-time basis.

**Stephen W. Spellman, Jr.**

Qualifying Broker  
Gulf Shores, Alabama  
Date of Hearing: June 20, 2005

**Fined \$1000**

**DISPOSITION**

The below was found guilty of violating Section 34-27-36(a)(17) for aiding, abetting, or conspiring with a person to circumvent qualifying broker responsibilities.

**Cindy Woodson**

Salesperson  
Gulf Shores, Alabama  
Date of Hearing: June 20, 2005

**Fined \$1000**

**OTHER ADMINISTRATIVE ACTIONS**

**Determination for Licensure**  
Approved . . . . . 4  
Denied . . . . . 3

**Determination of Eligibility**  
Approved . . . . . 14  
Denied . . . . . 12

**COMPLAINTS AND INQUIRIES  
HANDLED BY LEGAL AND  
INVESTIGATIVE STAFF**

From Licensees . . . . . 1956  
From Public . . . . . 1128  
Anonymous . . . . . 33

**Licensing Tidbits**

**Online Change of Address  
Available Now**

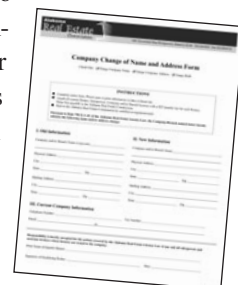
Section 34-27-35(h) of Real Estate License Law requires that licensees shall notify the Commission in writing of any change in their address within thirty days of the change. Notifying the Commission just got easier—announcing the new online change of address service. The Commission recently unveiled this service that allows real estate licensees to submit their change of home address, home telephone, home email, company telephone, and company email online.

There is no fee for making these changes online. Just login to “Online Services” ([www.arec.alabama.gov](http://www.arec.alabama.gov)) by entering your license number, last four digits of your social security number and your date of birth with slash marks using two digits for the month, two digits for the day, and four digits for the year (mm/dd/yyyy). Upon completion, an instant on screen “Confirmation ID” number will be provided for your records.

Please note that company addresses can not be changed online at this time, but look for this feature and other enhancements to be added soon.

**Company Change of Name  
and Address Form**

There is now a form available on the Commission’s Web site at [www.arec.alabama.gov](http://www.arec.alabama.gov) for use by qualifying brokers who wish to submit either a company name change or company address change. Go to “Quick Links” and click on “Forms and Applications” to download it. ■

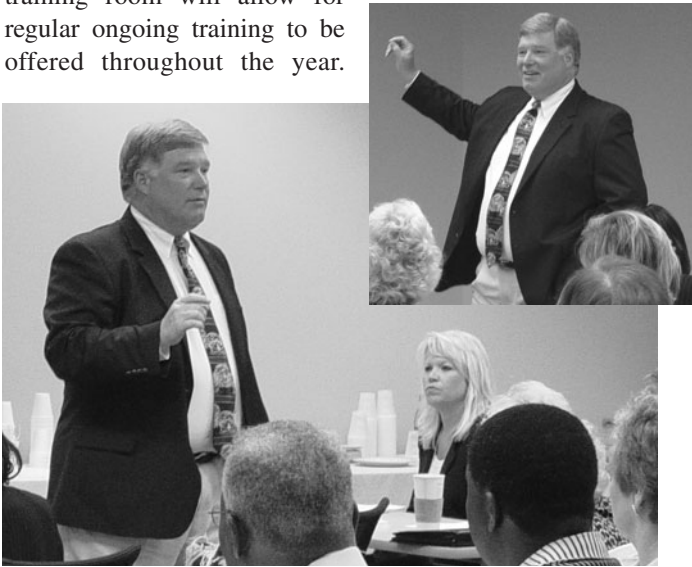


## EDUCATION CORNER

# Commissioners' Commitment to Quality Instructor Education

By Ryan Adair, Education Specialist

Commissioners have adopted by policy and program a commitment to strengthening instructor training. Commissioners seized the opportunity to develop a training room within the Commission office by renovating existing attic space. Education staff offices are now also housed on the second floor with the fully equipped training room. This new training room will allow for regular ongoing training to be offered throughout the year.



Popular educator and Alabama Association of REALTORS® president, Randy McKinney provided the training in front of a packed house.

Commissioners have two key objectives in training: 1) to improve the level of content knowledge and 2) to improve the methods of delivery and encourage classroom interactivity.

The first instructor training program was Risk Management offered on August 17. Popular educator and current Alabama Association of REALTORS® president Randy McKinney provided the training in front of a packed house of over fifty attendees. This was the first in what will be a series of varied regular ongoing training opportunities.

The second instructor training program was recently held on October 7 with Amy Chorew, a nationally recognized instructor, who offered “Using Technology in Course Design” resulting in thirty-eight attendees gaining valuable information from the training.

The wheels of education continue to roll in an effort to improve the knowledge and understanding of Alabama licensees and the Commission’s new training room is playing a big part in reaching that goal. It is anticipated that four to six training programs per year will be planned for instructors. The Commission also offers training for new instructors in the training room on a quarterly basis.



On October 7, Amy Chorew, a nationally recognized instructor, offered “Using Technology in Course Design” resulting in thirty-eight attendees gaining valuable information.

### Customer Service: How Are We Doing?

We would like to hear from you. The Commission is interested in receiving feedback from the real estate licensee population and others who have contact with the Commission office. Go to [www.arec.alabama.gov](http://www.arec.alabama.gov) to complete our “Licensee/Consumer Service Satisfaction Survey.” All comments are welcome.



Commissioners are committed to making the best instructor training available in this facility. They have recently adopted rule changes which will require twelve hours of instructor continuing education every two years for the purpose of instructor renewal. This is in addition to the fifteen hours of real estate continuing education required for those instructors who hold real estate licenses. ■

## Keep Track of CE Credit Online with CMap!

### Licensees Can Check Their CE Credit:

Go to the Commission's Web site at [www.arec.alabama.gov](http://www.arec.alabama.gov)

- ✓ Click on CMap under the Quick Links
- ✓ Select Licensee Login and enter:
  - License number
  - Last four digits of your social security number
  - Date of birth with slash marks using two digits for month, two digits for day, and four digits for year (mm/dd/yyyy).
- ✓ A list of all courses for which credit has been submitted will be shown
- ✓ If you have completed a course and it is not identified in the list, contact the instructor or school and let them know
- ✓ Click on the course title to see specific course information
- ✓ Evaluate courses electronically within thirty days after completion

### Qualifying Brokers Can Check the CE Credit of Individuals Licensed Under Them:

- ✓ Go to the Commission's Web site at [www.arec.alabama.gov](http://www.arec.alabama.gov)
- ✓ Click on CMap under the Quick Links
- ✓ Select Licensee Login and enter:
  - Company license number
  - Last four digits of your social security number
  - Date of birth with slash marks using two digits for month, two digits for day, and four digits for year (mm/dd/yyyy).
- ✓ A list of all licensees who have had credit submitted into CMap will be shown
- ✓ Click the license number of each individual to see a list of the courses taken



## Commission Web and Email Addresses Changed

The Alabama Real Estate Commission online news and resource of information is still just a click away; however, the Web site address has changed. The new Web address is [www.arec.alabama.gov](http://www.arec.alabama.gov). Please change your Web browser URL (Favorites and Bookmarks) to reflect this new address.

Likewise, as a result of the State of Alabama's ACE (Alabama Centralized Email) project, all email addresses for the Commission have changed. The ACE project over-all goal is providing the state with a secure, scalable and reliable messaging platform. The ACE system has tightened security and is ensuring that the State of Alabama has a dependable email system available at all times. Update your contact information with the new Commission email addresses listed below.

DEPARTMENT /NAME	EMAIL
<b>Administrative</b>	
D. Philip Lasater . . . . . Executive Director	philip.lasater@arec.alabama.gov
Pat Anderson . . . . . Assistant Executive Director	pat.anderson@arec.alabama.gov
Angela Slade . . . . .	angela.slade@arec.alabama.gov
<b>Accounting</b>	
Janie Jordan . . . . .	janie.jordan@arec.alabama.gov
Molli Jones . . . . .	molli.jones@arec.alabama.gov
Hattie Thomas . . . . .	hattie.thomas@arec.alabama.gov
Cullene Sanders . . . . .	cullene.sanders@arec.alabama.gov
<b>Education</b>	
Ryan Adair . . . . .	ryan.adair@arec.alabama.gov
David Bowen . . . . .	david.bowen@arec.alabama.gov
Gloria Ingram . . . . .	gloria.ingram@arec.alabama.gov
<b>Information Technology</b>	
Nancy Barfield . . . . .	nancy.barfield@arec.alabama.gov
Brett Scott . . . . .	brett.scott@arec.alabama.gov
Zan Thomas . . . . .	zan.thomas@arec.alabama.gov
Matt Davis . . . . .	matt.davis@arec.alabama.gov
Steve Brown . . . . .	steven.brown@arec.alabama.gov
<b>Legal</b>	
Charles Sowell . . . . .	charles.sowell@arec.alabama.gov
Chris Booth . . . . .	chris.booth@arec.alabama.gov
David Erfman . . . . .	david.erfman@arec.alabama.gov
Chuck Kelly . . . . .	chuck.kelly@arec.alabama.gov
Anthony Brown . . . . .	anthony.brown@arec.alabama.gov
Denise Blevins . . . . .	denise.blevins@arec.alabama.gov
Vickie Shackelford . . . . .	vickie.shackelford@arec.alabama.gov
Reginald Foster . . . . .	reginald.foster@arec.alabama.gov
<b>Licensing</b>	
Annie Hall . . . . .	annie.hall@arec.alabama.gov
Robina Jenkins . . . . .	robina.jenkins@arec.alabama.gov
<b>Public Relations</b>	
Vernita Oliver-Lane . . . . .	vernita.oliver-lane@arec.alabama.gov



1201 Carmichael Way  
Montgomery, Alabama 36106

**COMMISSIONERS**

Bill E. Poole  
Chairman, Huntsville

Roy F. Bragg, Birmingham

Jewel Buford, Tuscaloosa

Thomas L. Hays, Birmingham

Gordon Henderson, Albertville

Robert S. Hewes, Dothan

Sheila S. Hodges, Gulf Shores

Lyman A. Lovejoy, Odenville

Chester Mallory, Montgomery

D. Philip Lasater, Executive Director

Pat Anderson, Asst. Executive Director

Vernita Oliver-Lane, Editor

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

Phone: 334.242.5544

Fax: 334.270.9118

www.arec.alabama.gov

arec@arec.alabama.gov

**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 Web site at www.arec.alabama.gov

**License Renewal Dates**

Real Estate licenses expire September 30, 2006. Remember to renew all broker, salesperson and company licenses in every even year.

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

**Duplicate Company Names...**

*Continued from page 1*

the Secretary of State's office before transacting business in the State of Alabama. Under the Model Business Corporation Act, the Secretary of State's office prohibits the use of duplicate company names for corporations. Even though other business entities such as those mentioned above can use duplicate company names, corporations can not. The Secretary of State's office does not recognize the DBA names as duplicate names even when they are attached to the name of a corporation.

Here is an example which is both acceptable to the Commission and to the Secretary of State.

- Smith, Inc. DBA XYZ Realty
- Scott-Lane Realty, Inc. DBA XYZ Realty

This meets requirements of the

Secretary of State's office because the corporate names are different even though the DBA names are the same. Some licensees have mistakenly thought that a company in the same geographic area could not have the same DBA name as them. Although perhaps unwise, there is no prohibition against this.

This explanation does not take into account any civil action that may be filed in a court for use of same name. For example, if you wanted to name your company Walt Disney Realty, Inc. or Walt Disney Realty, you would probably encounter a problem.

**Sole Proprietorships**

Sole proprietorships do not have to register with the Secretary of State's office. Therefore, the duplicate name rule does not apply to them. ■