



FALL 2009

Three Areas of Alabama Real Estate License Law Amended

By D. Philip Lasater, Executive Director



Three areas of real estate license law were amended by the passage and enactment of two different bills in the last regular session.

he bill amending how salespersons and associate brokers comply with advertising requirements and requiring education and exam for reciprocal applicants was in its third session. The bill giving the Real Estate Commission Instructor and School licensing authority was the other bill passing this session.

Real estate salespersons or associate brokers will be considered in compliance with license law advertising regulation if the name of their broker or company is "prominently" enough displayed that it can be read and understood. This replaces the size of letter standard that measuring became a complex equation with impractical considerations to make enforcement feasible. The intent of the requirement is so the public can know either with what company a salesperson or associate broker is affiliated or to whom what qualifying bro-

ker a salesperson or associate broker is accountable.

Reciprocal applicants will now be required to complete six hours in Alabama real estate law and regulation course work. They will also be required to pass the state portion of the real estate exam.

Even though the Real Estate Commission approved real estate schools, instructors and courses, since the Real Estate Commission did not actually issue a license to real estate schools or instructors they were subject to the Private School Act which has been administered over the years by the Department of Education and, most recently, the Department of Post-secondary Education. Act #2009-581, by giving the Real Estate Commission the authority to issue licenses, means that schools and instructors will not be subject to duplicative regulation and directly

accountable to the entity that issues the license. This is a natural extension and realization of Commissioners initiative in recent years to strengthen and improve the quality of all real estate education by the training and audit programs that have been implemented.

All these legislative amendments required either new or amended rules for implementation procedures and guidelines by the October 1 effective date. These rule amendments have been promulgated in accordance with the Administrative Procedures Act having been noticed, written comment solicited, and public hearing held. Commissioners then adopt and staff will certify to Legislative Reference and the new rules likewise will become effective.

In This Issue

LICENSING TIDBITS:
It' Not Too Late to 2
Renew Your License
Commissioner Jewel Buford2
Reappointed
BRIEFLY LEGAL:
Advertising: A Few Points
Let the Real Estate Agent Be Aware $\dots 3$
FOR YOUR INFORMATION:
License Law Deadlines 4
Fee Schedule 5
EDUCATION CORNER:
SoWhat Do You Think 6
Disciplinary Actions
Other Administrative Actions7



LICENSING TIDBITS

By Patricia Anderson, Assistant Executive Director

It's Not Too Late to Renew Your License

Here is good news for those who have not vet renewed your salesperson or broker license for 2009-2010! There is still time.

peal Estate License Law allows an expired license to be renewed during the 12-month period following the license renewal for which the license was current. An expired license can be renewed by paying the license renewal fees plus \$150 penalty fee by September 30, 2009. If you are among the 5,000 plus people who missed the October 1, 2008 deadline, do not miss this deadline. After midnight September 30, 2009 failure to renew will mean that the license has lapsed and shall be subject to all requirements applicable to persons who have never been licensed. You do not want that to happen!

The quick, easy way to renew a salesperson or broker license is online at www.arec.alabama.gov. From our main Web site page, click on "Online Services" and follow the prompts. You can pay with an eCheck or credit card. You will also receive an immediate confirmation of payment. An inactive company cannot be renewed online.

If you wish to renew by mail, you should have a license renewal form in hand by the time you receive this newsletter. If you do not and would like to have one, contact the Commission office. All renewal forms and fees must be postmarked by the U.S. Postal Service no later than **September 30, 2009**. We cannot accept a renewal form postmarked October 1, 2009 or later so be mindful of the day. Fees must be in the form of a personal check, certified check, or money order. We accept cash in the office, but it is not a good idea to mail cash. Credit cards are not accepted for mail-in renewals.

Remember, you are renewing a license considered by law to be expired and inactive. If you wish to have an active license, that will require a separate activation process and fee. First, you must complete the required 15 hours of continuing education courses. Your instructor will electronically transmit your credit to the Commission. Once that has been done, complete an Application for License Activation and submit it with the \$25 per license activation fee. The application can be obtained from our Web site at www.arec.alabama.gov. Once there, click on "Forms and Applications" and download the application.

For faster service when activating a license, go to our main Web site page, click on "Online Services" and follow the



prompts. Company and qualifying broker licenses cannot be activated online. Those activations must be mailed to the Commission office. If the activation forms are mailed by Certified or Registered mail, you may resume your real estate activities as soon as the form and fee are mailed.

If you know licensees who have not renewed their license for the 2009-2010 period, please let them know about the September 30, 2009 deadline.

Commissioner Jewel Buford Reappointed



🦰 ommissioner Jewel Buford has been reappointed by Governor Bob Riley and confirmed by the Senate to serve on the Alabama Real Estate Commission for a second five-year term representing the Seventh Congressional District. Commissioner Buford's second term will begin on October 1, 2009. She currently serves as Vice Chair of the Commission.

Commissioner Buford has been in the real estate business since 1989 and her work experience includes being a salesperson and broker/owner of Buford's Real Estate Services located in Northport, Alabama.

The Commission is made up of nine members. Other Commissioners currently serving include Sheila Hodges, Gulf Shores, Chair (District 1); Robert S. Hewes, Dothan (District 2); Janet Morris, Montgomery (District 3); Nancy Wright, Cullman (District 4); Steve Cawthon, Huntsville (District 5); Bill Watts, Birmingham (District 6); Clifton Miller, Huntsville (Member-at-Large); and Dorothy P. Riggins-Allen, Montgomery (Consumer-at-Large).

Congratulations, Commissioner Buford!



BRIEFLY LEGAL Advertising: A Few Points

By Charles R. Sowell, General Counsel

ou will see references in this issue of the Update to advertising requirements. The law on "size of letters" has been changed. Also, Commissioners wanted to make sure you understand that social networking Web sites will be considered advertising when used to solicit real estate business. When you get down to it, there are only 3 advertising provisions in the law. They are: 1. do not publish any false or misleading advertisement; 2. do identify yourself as a licensed broker or salesperson; 3. if you are a salesperson or associate broker and your name appears in an ad, then the ad must also prominently contain the name of your qualifying broker or company. These are not as well written in the law as I would prefer, so I just gave you the plain English translation. Maybe some explanation will help.

- Almost everyone uses his or her company name in ads to satisfy the law's requirements for licensees to identify themselves. This makes sense. The name of a business is a valuable asset. Building and promoting it is important.
- Commissioners intend to leave brokers some discretion to decide what "prominent" is in publication of the company name when a salesperson or associate broker's name appears in the ad. Do not abuse that discretion. Fine print as used at the bottom of political ads will not fly.
- An ad is any publication designed to solicit real estate business. Publication under the law is not just printed words, but also covers electronic media such as television, radio, and Web sites. Commissioners over the years have wisely decided not to write special rules dealing with different media. Our simple requirements apply to all media. Some other examples of advertising are: business cards, letterhead stationery, Web sites, billboards, newspaper print ads, magnetic signs, yard signs, directional signs, etc......
- If you have a nickname, it must be printed on your real estate license before it can be advertised or used in your business dealings. Otherwise, it is a fictitious name that may not be used. The easiest way to accomplish this is

- to go to our Web site under "Online Services" then to "License Transfer." Change the name on your license by putting your nickname in parentheses just before your last name. To illustrate, if my nickname was Buddy, I would change my name to look like this: Charles R. (Buddy) Sowell.
- For years Commissioners have instructed staff to use a two-strike policy. Generally, this means if you commit what would be a simple advertising violation, you will get one warning with instructions to fix it. The next violation could result in a formal complaint. The two-strike policy does not apply if you commit some other offense at the same time of the advertising violation, or if other circumstances are present.

Let the Real Estate **Agent Be Aware**

The Alabama Real Estate Commission has recently seen fraud alerts from other states warning about scams against real estate licensees. Although the Alabama Real Estate Commission has not received any complaints of fraud occurrences in our state, we are advising all licensees to be aware and to use good judgment to guard against scammers.

Do not provide your personal information by phone or email. The Alabama Real Estate Commission does not contact licensees to request credit card numbers, checking account information, or social security numbers. Licensees who receive a suspicious call or email from someone claiming to be an Alabama Real Estate Commission staff member is urged to report it to the Commission at 334.242.5544. Always verify whether the person is indeed a Commission employee. You can check the Commission's Web site at www.arec. alabama.gov for a current list of employees. Be aware and protect your personal information.



LICENSE LAW DEADLINES As of May 2009

We have compiled a list of deadlines and license fees for your convenience. Please keep these lists as a handy reference guide.

APPLICANTS

- 90 DAYS Persons who pass the licensing examination must file the license application with the Commission within 90 days after passing the exam.
- 6 MONTHS Temporary salesperson licensees must complete the post license course and submit application for an original salesperson's license within 6 months of issuance of a temporary license. If this requirement is not met, the temporary license expires and is placed on inactive status. The 6 months begins counting on the first day of the month following the month the temporary license was issued and concludes on the last day of the sixth month.
- 1 YEAR A temporary salesperson's license lapses if the post license course is not completed and an original license issued within 1 year of issuance of the temporary salesperson's license. The 1 year begins counting on the first day of the month following the month the temporary license was issued and concludes on the last day of the twelfth month.
- 1 YEAR Students have 1 year after enrolling in a prelicense course to complete it or the student will receive no credit for classes completed and must begin the course again.
- 12 MONTHS Students must take and pass the salesperson's exam and submit the application for a license within 12 months of completing the 60-hour prelicense course.
- 12 MONTHS Students must take and pass the broker's exam and submit the application for a license within 12 months of completing the 60-hour prelicense course.
- 15 DAYS If an applicant is denied eligibility for licensing, the applicant may request a hearing before the Commission within 15 days of the denial.

ADDRESS

- 10 DAYS A person who holds a current Alabama license and who moves to and becomes an Alabama resident shall within 10 days notify the Commission of change of address.
- 30 DAYS For change of business address, the qualifying broker must submit letter and a \$25 fee for each license, including the company license, within 30 days after changing the address.
- 30 DAYS For change of residence address.

 There is no fee for this change and it can be

done online at **www.arec.alabama.gov** by logging in under *Online Services*. You can also email, fax or mail the information to the Commission office.

TRANSFER

10 DAYS After 10 days a transfer sent by certified mail is declared null and void if all documents required for the transfer have not been received.

RENEWALS

- AUGUST 10 OF EVEN YEARS Date by which licensees must notify the Commission if a renewal form has not been received.
- AUGUST 31 OF EVEN YEARS All licensees, both active and inactive, must file renewal forms and fees with the Commission on or before August 31 of the even years.
- SEPTEMBER 30 OF EVEN YEARS Active licensees must complete 15 hours of continuing education on or before midnight September 30 in order to have an active license issued on October 1.
- SEPTEMBER 1 OF EVEN YEARS
 THROUGH SEPTEMBER 30 OF ODD YEARS
 Late renewals incur a \$150 penalty.
- SEPTEMBER 30 OF ODD YEARS If not renewed, the licenses lapse and applicants must begin as though never licensed.
- SEPTEMBER 30 OF ODD YEARS
 All schools, instructors and courses must renew online on or before midnight.
- DECEMBER 31 OF ODD YEARS

 School, instructor and course approvals lapse if not renewed by midnight.

COBROKERAGE

■ 10 DAYS Cobrokerage agreements must be filed with the Commission by the Alabama broker within 10 days of entering into the agreement with a nonresident licensee.

LAWSUIT/CRIMINAL PROSECUTION

- 10 DAYS Notify the Commission in writing within 10 days after the institution of any criminal prosecution or of a civil summons and complaint if the subject matter involves a real estate transaction or the goodwill of a real estate company.
- 10 DAYS Notify the Commission in writing within 10 days after receiving notice that any criminal verdict has been rendered or dismissed or that civil action that involves

a real estate transaction or the goodwill of a real estate business has resulted in a judgment or been dismissed.

FORMAL COMPLAINTS

15 DAYS Commission must give an accused licensee at least 15 days notice of the time, date and place of hearing.

APPEALS

30 DAYS Length of time during which an appeal must be filed to appeal any Commission action following a contested case hearing.

INSTRUCTORS

- 30 DAYS All documentation required for instructor applications must be received within 30 days of submission of the application or it will be denied and the fee not refunded.
- 14 DAYS CE course applications must be submitted to the Commission at least 14 days prior to the beginning date of the course.
- SEPTEMBER 30 OF ODD YEARS

 Prelicense/Post License instructors must complete 12 hours of instructor training courses no later than September 30 of the odd years unless they were approved in the second year of the period.
- 1 WEEK Course schedules must be entered into CMap at least 1 week prior to the beginning of a prelicense, post license, or CE course.
- 3 DAYS Course credit must be entered into CMap within 3 days of course completion for prelicense and post license courses.
- 10 DAYS Course credit must be entered into CMap within 10 days of course completion for CE courses.
- 3 YEARS Certification for distance education courses expires after 3 years and courses must be recertified to maintain Commission approval.
- 3 YEARS The CDEI designation for distance education instructors expires 3 years from the date of issuance and instructors must take the renewal course in order to continue offering distance education courses.
- 4 YEARS Schools must maintain permanent records required by the Commission for a minimum of 4 years for all prelicense, post license, and CE courses.
- 30 DAYS Online evaluations are available for a total of 30 days after course credit has been entered.



FEE SCHEDULE

As of July 2009

LICENSING	Fee Type	Fee Amount
Applicant	Company	\$85 per year
		(\$170 for 2-year period)
	Broker, Multiple Broker	\$150
	Temporary Broker	\$150
	Reciprocal Broker	\$150
	Temporary Salesperson	\$150 (Renewal not permitted)
	Salesperson	\$85 per year (\$170 for 2-year period)
	Reciprocal Salesperson	\$85 per year (\$170 for 2-year period)
	Recovery Fund	\$30
	Research Education	\$30
	Criminal Records Search	\$25
	Certification of Licensure	\$10
Transfer	Transfer	\$25
Renewal	Company Renewal	\$170
	Broker Renewal	\$195
	Multiple Broker Renewal	\$190
	Salesperson Renewal	\$175
	Penalty for Late Renewal	\$150
TIMESHARE		¥
Registration	Project Registration	\$750
Examination	Timeshare Examination	\$75
License	Timeshare License	\$50
	Timeshare Transfer	\$50
Renewal	Project Renewal	\$750
	Timeshare Renewal	\$50 per year
	Timeshare Penaltyfor Late Renewal	\$15
Other	Timeshare Advertising Review	\$20
OFNEDAL	Out-of-State Timeshare Audit	\$500 plus actual costs
GENERAL	Copies under Subpoena or Public Record Request	\$10 per document
SCHOOL AND		
CONCOL TIND	Prelicense/Post License Instructor Approval	\$50 per year
	Prelicense/Post License	\$50 per year
	Instructor Renewal	(\$100 for 2-year period)
	Continuing EducationInstructor Approval	\$25 per year
	Continuing EducationInstructor Renewal	\$25 per year (\$50 for 2-year period)
	Continuing Education	\$100
	Course Approval	,
	Continuing Education	\$50
	Course Renewal	
	School License	\$250 per year
	School License Renewal	\$125 per year (\$250 for 2-year period)

EDUCATION CORNER

So...What Do You Think?

By Ryan Adair, Education Director



Everyone has received praise and criticism at times in his or her life. This could have come from a client, a qualifying broker, or a company owner. I'm sure the praise made you feel very good about yourself and confirmed that you were doing a great job. The criticism

may not have resulted in a good feeling but probably led to some constructive changes that improved your performance. Feedback and evaluation are very important in determining the level of a person's performance and what, if any, changes need to be made.

The Commission and real estate instructors see the value of feedback. That is why course evaluations are available for all licensees to utilize in order to provide feedback on instructors and courses. With the exception of the salesperson prelicense course, all courses can be evaluated online after credit has been submitted. This is an easy way for licensees to let the Commission know about the quality of education that is being offered in the state and all licensees are encouraged to take advantage of it. The online evaluation is available for 30 days after the course credit has been entered. It can be accessed through the Online Services section of the Commission's Web site after logging in and selecting the Check CE Credit link. During those 30 days, you will see the number of days remaining to evaluate the course in the Course Evaluation column. If you evaluate the course during the 30-day period, the word "Completed" will appear in the Course Evaluation column. If the course is not evaluated within 30 days, the opportunity to complete an online evaluation will end and the course evaluation column will be blank. Course credit will not be affected if you do not complete an online evaluation.

The Commission and real estate instructors want to hear from licensees regarding their experiences while taking real estate courses both in the classroom and through distance education. The Commission's two education auditors do their best to travel the state and experience a variety of instructors and courses, but it is impossible to see every real estate course that is taught. That is why we depend on you as the licensee to let us know the good, the bad, and the ugly. Our goal of quality real estate education in Alabama depends on feedback received by licensees. How do we know what areas need to be improved if we are not made aware of the problem? In the same way, how do we know which instructors and courses are providing the most benefit for licensees?

We would love to hear your opinions about real estate instructors and courses. The online course evaluation is available and waiting for you to use it, so tell us what you think.

FALL 2009 5

DISCIPLINARY ACTIONS TAKEN

May through July 2009

DISPOSITION

The below was found guilty of violating Section 34-27-36(a)(23)a. by entering a plea of guilty to a felony offense.

Linda Lifer

License No. 000040553

Qualifying Broker; Huntsville, Alabama Date of Hearing: March 11, 2009

Revoked

DISPOSITION

The below were found guilty of Count #1 for violating Section 34-27-32(f) and Section 34-27-2(a)(11)b. through Section 34-27-36(a)(19) for failing to maintain an office place of business separate from home and Count #2 for violating Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. for failing to deposit and account for at all times all funds being held for others by having a shortage of funds in the general rental account and by spending trust funds on personal expenses.

Helen A. Emmons

License No. 000009305

Qualifying Broker; Mobile, Alabama Date of Hearing: April 3, 2009 **Revoked on Count #2**

HAE, Inc.

License No. 000054642

Company; Mobile, Alabama Date of Hearing: April 3, 2009 Revoked on Count #2

Exit Realty at Hillcrest

License No. 000072873

Company; Mobile, Alabama Date of Hearing: April 3, 2009 Revoked on Count #2

All three were jointly fined \$2,500 on Count #1.



DISPOSITION

The below was found guilty of Section 34-27-35(k) through Section 34-27-36(a)(19) for performing an act for which a license is required while his license was on inactive status.

Donald Joseph Taylor

License No. 000066420

Salesperson; Orange Beach, Alabama Date of Hearing: April 3, 2009 Revoked

DISPOSITION

The below were found guilty of Count #1 for violating Section 34-27-36(a)(16) for 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 and Count #2 for violating Rule 790-X-1-.17(3) through Section 34-27-36(a)(19) which states that it is a violation for a real estate instructor holding a real estate license to violate any provision of the Alabama License Law.

Arthur L. Cole, III

License No. 000046738

Qualifying Broker and Approved Instructor; Huntsville, Alabama Date of Hearing: May 22, 2009

Fined \$500 on Count #1; Instructor's approval suspended on Count #2. Suspension shall continue until the three-hour risk management course is completed. Suspension will be lifted when Commission receives notification that the course has been completed.

Lisa B. Justice

License No. 000051371

Associate Broker and Approved Instructor; Clanton, Alabama Date of Hearing: June 19, 2009 Fined \$250 on Count #1 and fined \$100 on Count #2

DISPOSITION

The below were found guilty of violating Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. for failing to deposit and account for at all times all funds being held for others by having a shortage of funds and for commingling money belonging to others.

Michelle J. Humphrev License No. 000049065

Oualifying Broker; Oneonta, Alabama Date of Hearing: June 19, 2009

Fined \$500; Respondent is also ordered to submit to another audit within a year and to take and complete a continuing education course including information in trust accounting within 90 days.

G. B. Miller

Fined \$1,000

License No. 000048753

Qualifying Broker; Gulf Shores, Alabama Date of Hearing: July 24, 2009

Fort Morgan Realty, Inc.

License No. 000040192

Company; Gulf Shores, Alabama

Date of Hearing: July 24, 2009 Fined \$1,000

DISPOSITION

The below were found guilty of Count #1 for violating Section 34-27-36(a)(8)a., Section 34-27-36(a)(8)b. and Rule 790-X-3.-03(5) through Section 34-27-36(a)(19) for failing to, within a reasonable time, to properly remit money coming into possession which belongs to others and Count #2 for violating Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. for failing to deposit and account for at all times all funds being held for others by having a shortage of funds in the rental payment trust account.

Cynthia W. Morgan

License No. 000051808

Qualifying Broker; Dadeville, Alabama

Date of Hearing: July 24, 2009 Fined \$1,000 on Count #1 and fined \$1.000 on Count #2

Lakefront Property Management, LLC

License No. 000089689

Company; Dadeville, Alabama Date of Hearing: July 24, 2009 Fined \$1,000 on Count #1 and fined \$1,000 on Count #2

DISPOSITION

The below were found guilty for 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.

Mickey Berry

License No. 000093664

Salesperson; Birmingham, Alabama Date of Hearing: May 22, 2009

Fined \$250

Tonya R. Gex

License No. 000067960

Qualifying Broker; Fairhope, Alabama Date of Hearing: May 22, 2009

Fined \$500

Jason R. Grammes

License No. 000094393

Qualifying Broker; Birmingham, Alabama Date of Hearing: May 22, 2009

Jamie Lauren Harper McConnell

License No. 000094702

Temporary Salesperson; Phenix City, Alabama

Date of Hearing: May 22, 2009

Fined \$250

Fined \$250

Susan Trawick

License No. 000094698

Temporary Salesperson; Fairhope, Alabama

Date of Hearing: May 22, 2009

Fined \$250

George Freeman

License No. 000095003

Temporary Salesperson; Auburn, Alabama

Date of Hearing: June 19, 2009

Fined \$250

Ryan David Cade

License No. 000094682

Salesperson; Birmingham, Alabama Date of Hearing: July 24, 2009

Fined \$250

DISPOSITION

The below were found guilty of violating Rule 790-X-3-.01 through Section 34-27-

36(a)(19) for failing to notify the Commission in writing within 30 days after changing their place of business as set out on their numbered license certificate.

Catherine Bice

License No. 000035536

Qualifying Broker; Birmingham, Alabama Date of Hearing: July 24, 2009

Fined \$250

Paul Register

License No. 000075491

Qualifying Broker; Montgomery, Alabama Date of Hearing: July 24, 2009

Fined \$250

DISPOSITION

The below surrendered their licenses for alleged license law violations in lieu of a formal complaint and hearing.

Emil M. Ankermiller

Instructor License No. 000024100 School License No. 000070376, 000088694, 000091749, 000093014

Instructor; Rainsville, Alabama Date of Hearing: June 19, 2009

John Allen Jones, IV License No. 000078416

Associate Broker; Montgomery, Alabama

Date of Hearing: July 24, 2009

OTHER ADMINISTRATIVE ACTIONS

DETERMINATION OF LIGHTOON	
Approved	6
Denied	4
DETERMINATION OF ELIGIBILI	TY
Approved	3
Danied	- 1

DETERMINATION OF LICENSIDE

COMPLAINTS AND INQUIRIES HANDLED BY LEGAL AND INVESTIGATIVE STAFF

From Licensees 1,14	ô
From Public 54	5
Anonymous 10	ô

FALL 2009 7



1201 Carmichael Way . Montgomery, AL 36106

OUR MISSION

To serve the public through the licensing and regulating of Real Estate licensees.

OUR VISION

To insure public confidence in real estate transactions.

OUR VALUES

Excellence in stewardship, service, innovation, and integrity.

COMMISSIONERS

Jewel D. Buford, Tuscaloosa
Steve Cawthon, Huntsville
Robert S. Hewes, Dothan
Sheila S. Hodges, Gulf Shores
Clifton Miller, Huntsville
Janet R. Morris, Montgomery
Dorothy P. Riggins-Allen, Montgomery
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The Alabama Real Estate Commission UPDATE is published for the benefit of the Alabama Real Estate Industry by the Alabama Real Estate Commission.

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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 FINAL RENEWAL DEADLINE September 30, 2009

is the deadline for all licensees who have not yet renewed their 2009-2010 licenses.

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