

Rule 790-X-1-.12. Continuing Education Course Approval And Requirements

(1) All instructors of continuing education courses shall apply for course approval on a form prescribed by the Commission along with a \$100 course review fee and all required documents. Applications for courses shall be submitted online as required by the Commission.

(2) Approved continuing education courses shall be taken from a Commission approved school and taught only by approved instructors. Otherwise those completing the course shall not receive credit toward meeting continuing education requirements.

(3) In order to be approved for continuing education credit, courses shall contain a minimum of three (3) clock hours of instruction. A licensee shall not earn more than nine (9) hours of continuing education credit in any one day. ~~Upon special request courses which contain one and one-half (1 1/2) hours may be approved by the Commission.~~

(4) Administrators shall not advertise courses out as approved, enroll students or conduct classes for which students expect to earn continuing education credit prior to the course instructor receiving written approval from the Commission. Course instructors shall submit the course application to the Commission at least ~~14~~30 days prior to the proposed beginning date of the course.

(5) Administrators shall report all required course information including the exact location, times and dates of the courses to the Commission via the electronic submission program provided by the Commission at least five (5) business days prior to the beginning of each course. Should changes occur in this information, the administrator shall submit the changes immediately 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.

(6) Administrators shall within 10 days of course completion, report credit for the students who successfully completed the course to the Commission via the electronic submission program provided by the Commission. Credit completed on or before September 30 of a renewal year shall be entered before midnight of September 30 to avoid possible disciplinary action.

(7) Each school shall maintain permanent records for its students showing attendance, 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 principal school.

(8) No more than one-third of any continuing education class can be presented through video unless the course is an ARELLO certified distance education course.

(9) Students shall attend 100% of the course offering in order to be awarded continuing education credit. Instructors may take a 10-minute break after each 50 minutes of instruction. Credit shall not be

given for time spent on meals or other unrelated activities. The instructor and school shall not issue credit to students who do not attend 100% of the course offering.

~~(10) Prior to becoming licensed, a person shall not earn real estate continuing education credit.~~

(10)~~(11)~~ Any licensee who completes the entire 60 hour broker prelicense course or the entire 30 hour post license course shall earn 15 clock hours of continuing education credit which shall satisfy all continuing education requirements for the current license period.

(11)~~(12)~~ Instructors and schools shall provide each student in any approved continuing education class with instructions on how they can check continuing education credit and electronically submit a course evaluation on the Commission's website.

(12)~~(13)~~ Any licensee who completes a continuing education classroom course in another state which is approved by any state may receive credit in Alabama for successful completion of that course by submitting appropriate documentation as prescribed by the Commission including verification of approval by any state, the number of hours for which the course is approved, and course completion. Such courses shall count as elective continuing education credit only. These courses shall not be subject to renewal procedures, instructor application and fee or the course review fee.

Rule 790-X-3-.03. Deposit Of Funds

(1) The deposit and accounting for at all times of all funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama shall require that the qualifying broker be a customer of the financial institution holding all such accounts and the qualifying broker shall be one of the persons with authority to deposit and withdraw funds and to write or make checks as necessary on all such accounts.

(2) Each real estate salesperson or associate broker shall pay over to his or her qualifying broker all funds coming into his or her possession in trust for other parties immediately upon receipt of same.

(3) Each qualifying broker is responsible for deposit of all funds belonging to others coming into his or her possession or of a salesperson or associate broker licensed under him or her where such funds are to be held in trust, unless the qualifying broker is expressly relieved of such responsibility in writing. In cases where the funds are U. S. currency, i.e. cash as opposed to a check or note, these funds shall be deposited immediately. In cases where a check is received as earnest money and the contract form states that the check is to be held for a specific length of time or until the occurrence of a specific event, then the check shall be deposited when the contract form states, or if no time for deposit is specified in the contract form, then the check shall be deposited when the offer becomes a contract.

(4) Funds to be held in trust under a contract for sale involving more than one qualifying broker shall be held and deposited by any of the qualifying brokers involved in the sale. All funds to be held in trust, whether by contract for sale, or by lease or property management agreement, shall be held and deposited by the qualifying broker who is providing these services to the owner. In cases where a successor qualifying broker is to provide these services, the first broker shall provide a complete accounting of the funds and shall transfer the funds to the successor broker. The qualifying broker who is currently providing services to the owner shall be responsible to the public and to the commission for all funds. Upon request by the Commission or its authorized representative, each qualifying broker shall promptly account for any trust funds being held by that qualifying broker.

(5) Disbursement of funds held in trust: Unless otherwise stated in this rule, each qualifying broker shall promptly disburse to the appropriate party or parties any trust funds within 7 business days of the consummation of the transaction for which the funds were deposited. If for any reason the transaction terminates without consummation, or if there is a disagreement regarding the disbursement of trust funds, the qualifying broker shall not disburse any trust funds except pursuant to a written agreement signed by all parties after or upon termination, or pursuant to a court order ~~is not consummated, or if for any reason there is a disagreement involving to whom trust funds should be disbursed, the qualifying broker shall not disburse any trust funds except pursuant to a written agreement by all parties or pursuant to a court order.~~

(6) Disbursement of security deposits held in trust under a lease agreement:

(a) Residential leases security deposits: Refer to Alabama Code Section 35-9A-201 Security Deposits; Prepaid Rent, and 35-9A-205 Limitation of Liability. Alabama Code Sections 35-9A-201 and 35-9A-205 have priority and qualifying brokers shall comply with their instruction.

(b) Commercial leases security deposits:

1. Upon termination of the tenancy, money held for the landlord by a qualifying broker as security may be applied to the payment of accrued rent and the amount of damages that the landlord has suffered by reason of the tenant's noncompliance of the lease all as itemized by the qualifying broker in a written notice delivered to the tenant together with the amount due within 60 calendar days after termination of the tenancy and delivery of possession.
2. If the qualifying broker does not refund the entire deposit, the qualifying broker, within the 60-calendar-day period, shall provide the tenant an itemized list of amounts withheld.
3. Upon vacating the premises, the tenant may provide to the qualifying broker a valid forwarding address, in writing, to which the deposit or itemized accounting, or both, may be mailed. If the tenant fails to provide a valid forwarding address, the qualifying broker shall mail, by first class mail, the deposit or itemized accounting or both, to the tenant at the address of the property. Any deposit unclaimed by the tenant as well as any check outstanding shall be forfeited by the tenant after a period of 90 calendar days.
4. The qualifying broker's mailing, by first class mail, to the address provided in writing by the tenant, within 60 calendar days of the refund or itemized accounting, or both, is sufficient compliance with this chapter.

(c) Security deposits and trust funds subject to a management termination by a landlord or the qualifying broker: If a landlord and/or qualifying broker terminates a management agreement for leased properties, the qualifying broker shall provide an accounting of all security deposits, prepaid rents and other related escrows, and provide such accounting to the landlord or new manager of the property, within seven (7) business days of the management termination effective date, along with payment of funds. A qualifying broker, who is the manager of leased properties, whose leases include security deposits, is relieved of liability under the lease agreements and this chapter as to events occurring after written notice to the tenant of the termination of management and name of the new management.

(d) Security deposits subject to a sale of the property: If a landlord conveys property subject to a rental agreement in a good faith sale to a bona fide purchaser, the qualifying broker shall provide an accounting of all security deposits, prepaid rents and other related escrows, and provide such accounting to the purchaser of the property, within seven (7) business days of the closing of the sale, along with payment of funds, if such funds are not already transferred via sale closing documents. Upon the date of accounting and payment, the qualifying broker is relieved of trust funds liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the sale and name of the new management.

(7) This Rule shall not prohibit a broker from depositing with the appropriate court any trust funds which are the subject of disagreement among or between parties under the rules of interpleader or other lawful procedure.