

Calendar

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Rule Changes

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Records Disposal Practices: FACTA

In addition to records maintenance (as noted in the AMK section), each brokerage office should have a clear records disposal policy. The beginning of a new year is a good time to review and re-evaluate company records storage policies and procedures.

Organizations or persons who possess or maintain, for a business purpose, consumer information derived from consumer reports must properly dispose of such information. Information includes credit reports, records of insurance claims and other personal information. This type of data is held in many real estate files, for example such information is obtained when a landlord obtains a credit report in a tenant's rental application.

Therefore, there is a burden upon licensees to safeguard client and customer information and take reasonable measures to protect against unauthorized access to or use of the information or access to it in connection with its disposal. [The acceptable methods of "proper" disposal are described in the FTC document.](#)

The intent of the **Fair and Accurate Credit Transactions Act of 2003 (FACTA)** is to safeguard consumer information to help combat fraud, such as identity theft. Service providers are included in this ruling. ... continued on page 2

Job Opportunity at the Georgia Real Estate Commission

Opening for position as Investigator with GREC. For more information, go to

<https://grec.state.ga.us/job-opportunity-at-grec/>

January 2021 Commission Actions Taken

Cases Sent to the Attorney General for Review and Disposition by Consent Order or by Hearing	0
Cease & Desist Orders Issued	0
Citations Issued	5
Letter of Findings Issued	0
Consent Orders Entered Into	0
Final Orders of Revocation of Licensure	1
Cases Closed for Insufficient Evidence or No Apparent Violation	11
Licensing Cases - Applicant has a Criminal Conviction - License Issued	10
Licensing Cases - Applicant has a Criminal Conviction - License Denied	0
Total	27

[Click here to review a legend of the disciplinary actions the Commission may impose.](#)

FACTA...

...continued from page 1

So there is a responsibility upon real estate licensees to properly dispose of consumer information they possess or maintain. The list of service providers is broad and includes, but is not limited to, lenders, insurers, employers, landlords, mortgage brokers, automobile dealers and many more. Clearly, real estate brokerage is a service business and consumer information is an integral part of the real estate business and some company marketing programs.

Each company is unique in its use and treatment of information and the circumstances for appropriate maintenance and disposal vary. Careful planning will ensure that reasonable disposal methods are established for safeguarding sensitive personal information and complying with this rule. For further information and to develop a proper records disposal plan, visit the entire ruling and a summary at the following links:

<http://www.ftc.gov/opa/2004/11/factadisposal.htm>

<http://www.ftc.gov/os/2004/11/041118disposalfrn.pdf>



Absolutely Must Know Section

A broker must maintain records concerning real estate transactions for 3 years. An approved real estate school must maintain student and course documentation records for 5 years. Well-documented records can be in digital, electronic, or paper format. Records must be easily accessible to the Real Estate Commission upon request.

Brokers must maintain records for a period of 3 years. For detail of the specific records real estate brokers must maintain for 3 years, review [Rule 520-1-.10 \(4\)](#).

Real Estate Schools must maintain records for a period of 5 years. For details on the specific records approved real estate schools must maintain, review [Rule 520-2-.02 \(8\)](#).



Focus on Terminology: FTC Description of Records "Disposal"

"The Disposal Rule requires disposal practices that are reasonable and appropriate to prevent the unauthorized access to – or use of – information in a consumer report. For example, reasonable measures for disposing of consumer report information could include establishing and complying with policies to:

- burn, pulverize, or shred papers containing consumer report information so that the information cannot be read or reconstructed;
- destroy or erase electronic files or media containing consumer report information so that the information cannot be read or reconstructed;
- conduct due diligence and hire a document destruction contractor to dispose of material specifically identified as consumer report information consistent with the Rule. Due diligence could include:
 - reviewing an independent audit of a disposal company's operations and/or its compliance with the Rule;
 - obtaining information about the disposal company from several references;
 - requiring that the disposal company be certified by a recognized trade association;
 - reviewing and evaluating the disposal company's information security policies or procedures."

<https://www.ftc.gov/tips-advice/business-center/guidance/disposing-consumer-report-information-rule-tells-how>

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