

CHAPTER 520-1

LICENSURE AND BROKERAGE

RULES
OF
GEORGIA REAL ESTATE COMMISSION

CHAPTER 520-1
LICENSURE AND BROKERAGE

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(1) **Terms Defined by 43-40-1.** As used in this Chapter and Chapters 520-2 and 520-3, the terms “associate broker,” “broker,” “commission,” “commissioner,” “community association,” “community association management services,” “community association manager,” “licensee,” “person,” “property management services,” “purchaser,” “real estate,” and “salesperson” have the same definitions as provided for in O.C.G.A. Section 43-40-1.

(2) **Other Terms.** As used in this Chapter and Chapters 520-2 and 520-3, the term:

(a) “Agency” means every relationship in which a real estate broker acts for or represents another by the latter’s express authority in a real property transaction;

(b) “Applicant” means any person who has completed all of the requirements for a license or an approval as set forth in O.C.G.A. Chapter 43-40 and in any Chapter of the Commission’s Rules and Regulations and who has submitted a complete application on the proper form accompanied by the correct fee;

(c) “Bank” means any financial institution regulated by a member of the federal financial institutions examination counsel and authorized to provide federally insured checking accounts;

(d) “Brokerage engagement” means a written contract wherein the seller, buyer, landlord, or tenant becomes the client of the broker and promises to pay the broker a valuable consideration or agrees that the real estate broker may receive a valuable consideration from another in consideration of the broker’s producing a seller, buyer, tenant, or landlord ready, able, and willing to sell, buy, or rent the property or in consideration of the broker’s performing property management services or performing community association management services. Such contracts or agreements as an exclusive listing contract, an open listing contract, a buyer broker agreement, a property management agreement, a community association management agreement, and an exclusive tenant representation contract are examples of brokerage engagements;

(e) “Brokerage relationship” means the agency and non-agency relationships which may be formed between the broker and the broker’s clients and customers as a result of the brokerage

engagement;

(f) "Buyer" means a purchaser, a person who acquired or attempts to acquire or succeeds to an interest in real estate;

(g) "Candidate for Licensure" means any person who is in the process of completing the requirements for a license or an approval as set forth in O.C.G.A. Chapter 43-40 and in any Chapter of the Commission's Rules and Regulations but who has not successfully completed all of them.

(h) "Client" means a person who has entered into a brokerage engagement with a real estate broker;

(i) "Customer" means a person who has not entered into a brokerage engagement with a broker but for whom a broker may perform ministerial acts in a real estate transaction;

(j) "Dual agent" means a broker who simultaneously has a brokerage relationship with both seller and buyer or both landlord and tenant in the same real estate transaction;

(k) "Firm" means a sole proprietorship, partnership, limited liability company, or corporation licensed by the Commission as a broker;

(l) "Franchise name" means any name, the use of which requires obtaining permission from another who has an existing and continuing right in that trade name by virtue of any state or federal law;

(m) "Franchisee" means a firm licensee authorized to use a franchisor's trade name as part of or in conjunction with the licensee firm's name;

(n) "Franchisor" means a business entity owning a trade name whose use by others the owner of the trade name controls and authorizes;

(o) "Instructional hour" means a period of time of at least fifty minutes of instruction or other learning activity;

(p) "Ministerial acts" means those acts which the broker or affiliated licensee performs for a person which do not require discretion or the exercise of the broker or affiliated licensee's own judgment;

(q) "Statutory overnight delivery" means delivery of a document through the United States Postal Service or through a commercial firm which is regularly engaged in the business of document delivery or document and package delivery in which the sender:

1. has directed that delivery be not later than the next business day following the day on which the document is received for delivery by the United States Postal Service or the commercial firm and
2. receives a receipt acknowledging receipt of the document signed by addressee or an agent of the addressee; and

(r) "Timely" means a reasonable time under the particular circumstances.

Authority O.C.G.A. Sections 10-6A-3, 43-40-2, 43-40-25.

520-1-.04 Obtaining a License.

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(1) **Fees.** Whenever an individual applicant activates an original license, that applicant shall pay an activation fee and a renewal fee which shall cover all fees due the Commission until

the applicant's month of birth in the fourth calendar year following the calendar year in which the license was activated. Whenever a firm applicant activates an original license, that firm shall pay an activation fee and a renewal fee which shall cover all fees due the Commission until the month of the fourth anniversary of the activation of a license by the firm.

(a) Fees for all licenses and services performed by the Georgia Real Estate Commission shall be as follows:

1. The activation fee for original licensure as an individual broker, associate broker, salesperson, community association manager shall be \$45.00 which includes \$20.00 for the Real Estate Education, Research, and Recovery Fund; and the activation fee for original licensure as a firm or an approved school or instructor shall be \$75.00 which includes \$20.00 for the Real Estate Education, Research, and Recovery Fund;

2. Renewal fees for the four year renewal period shall be \$125.00 for each firm licensed as a broker and each approved school and \$125.00 for each individual licensee and each approved instructor if submitted and paid in any manner other than through the Commission's Internet on-line renewal system and \$100.00 for each firm licensed as a broker and \$100.00 for each individual licensee and each approved instructor if submitted and paid through the Commission's Internet on-line system.

3. In addition to the renewal fee due, the fee for reinstatement of any license or approval which lapsed for nonpayment of fees or for failure to meet education requirements shall be as follows:

i. if the license or approval is reinstated within four months of the date of lapsing, \$100.00;

ii. if the license or approval is reinstated more than four months after the date of lapsing, \$100.00 plus an additional fee of \$25.00 for an individual or instructor or \$50.00 for a firm or school for each month or portion of a month beyond six months from the date of lapsing; and

4. \$25.00 (1) for failure to notify the Commission in writing within 30 days of a change of address, of the opening or closing of a designated trust account, of transferring to a new company, or of leaving a firm to go on inactive status; (2) for failure to affiliate with a new company or to apply to go on inactive status within 30 days of the Commission's receipt of notice that the broker holding the licensee's license no longer wishes to do so and has mailed a letter to the licensee's last known address indicating that the broker is returning the license to the Commission; and (3) whenever it is necessary for the Commission to return an application because of the application is incomplete;

5. \$100.00 for submitting to the Commission a check that is returned unpaid or for disputing a charge to a credit card for a fee owed to the Commission when the dispute results in a chargeback to the Commission's account; and

6. Whenever an instructor or school applicant applies for an original approval, that applicant shall pay an activation fee and a renewal fee which shall cover all fees due the Commission until December 31st in the fourth calendar year following the calendar year in which the applicant's approval is granted.

(2) Required Experience for Brokers License. (a) When a candidate for licensure seeks to meet the experience requirement for a broker's or an associate broker's license based on experience in another licensing jurisdiction and that jurisdiction's licensing agency is unable to certify that the applicant maintained a license in active status for at least three of the five years immediately preceding the filing of an application with the Commission because complete records are not available, the candidate for licensure must meet the following two conditions in order for the Commission to consider the application:

1. the candidate for licensure obtained the experience within five years prior to date of making application in Georgia; and
2. the candidate for licensure's former licensing jurisdiction is able to certify that the applicant was licensed at some time during the prior five years;

(b) In addition, to the requirements of paragraph (a) above, the Commission may consider other credible evidence of the required experience such as:

1. transactions files reflecting real estate brokerage activity within the last five years;
2. an affidavit from any licensed broker with whom the applicant was affiliated and who remains currently licensed stating that (1) the broker is licensed, (2) the dates that the applicant was affiliated with the broker, and (3) the approximate number and type(s) of transactions in which the applicant participated; or
3. if the candidate for licensure was a broker in the other state, an affidavit from the candidate for licensure stating that: (1) he or she was licensed, (2) the dates that the candidate for licensure was licensed, (3) the approximate number and type(s) of transactions in which the candidate for licensure participated, and (4) affidavits from three other brokers who can attest that the candidate for licensure operated as a broker and for what period of time.

(3) Examinations.

(a) Candidates for licensure must take a Commission approved examination and make a passing score as determined by psychometrically sound criterion-related methods associated with assessment of minimal competence. The methods used and the minimum passing score shall be published prior to the administration of the examination.

(b) Any candidate for licensure who served on active duty in the armed forces of the United States, or on active duty in a reserve component of the armed forces of the United States including the National Guard, for a period of one year or more, of which at least 90 days were served during wartime or during any conflict when military personnel were committed by the President of the United States, shall be entitled to a credit of five points. If such candidate for licensure is taking the examination in order to become licensed as a community association manager or a salesperson, said points shall be added to the grade made by the

candidate for licensure in answering all questions in any such examination. If such candidate for licensure is taking the examination to become licensed as a broker, said points shall be added to the grade such candidate for licensure makes on the Information Gathering section of the examination and to the grade such candidate for licensure makes on the Decision Making section of the examination.

(c) Any candidate for licensure who is disabled who served on active duty in the armed forces of the United States, or on active duty in a reserve component of the armed forces of the United States including the National Guard, during wartime or during any conflict when military personnel were committed by the President of the United States shall be entitled to a credit of five points if the disability was for an injury or illness incurred in line of duty and such disability is officially rated at less than 10 percent at the time of taking said examination. If such candidate for licensure is taking the examination in order to become licensed as a community association manager or a salesperson, said points shall be added to the grade made by the candidate for licensure in answering all questions in any such examination. If such candidate for licensure is taking the examination to become licensed as a broker, said points shall be added to the grade such candidate for licensure makes on the Information Gathering section of the examination and to the grade such candidate for licensure makes on the Decision Making section of the examination.

(d) Any candidate for licensure who is a disabled veteran and who served on active duty in the armed forces of the United States, or on active duty in a reserve component of the armed forces of the United States, including the National Guard, during wartime or during any conflict when military personnel were committed by the President of the United States shall be entitled to a credit of ten points if the disability was for an injury or illness incurred in line of duty and such disability is rated at 10 percent or above at the time of taking said examination. If such candidate for licensure is taking the examination in order to become licensed as a community association manager or a salesperson, said points shall be added to the grade made by the candidate for licensure in answering all questions in any such examination. If such candidate for licensure is taking the examination to become licensed as a broker, said points shall be added to the grade such candidate for licensure makes on the Information Gathering section of the examination and to the grade such candidate for licensure makes on the Decision Making section of the examination.

(e) The provisions of paragraphs (b), (c), and (d) above as to points to be allowed to veterans shall apply to any candidate for licensure, male or female, who comes within the classes herein specified; except that they shall not apply in any instance to a candidate for licensure who has not been honorably discharged.

(f) Any candidate for licensure seeking to qualify for veterans preference points under the provisions of paragraphs (b), (c), (d), and (e) above must:

1. have served in a branch of the armed forces which participated in the war or conflict during which the candidate for licensure served at least ninety (90) days of active duty;
2. have served at least ninety (90) days during a period of time when the Congress of the United States formally declared a state of war or when the Joint Chiefs of Staff authorized issuance of a campaign badge for service in a campaign or expedition in which the President committed military personnel; and
3. submit proof of the candidate's service on official forms available through the

Veterans Administration or the Department of Defense which clearly identify active duty time and percentage of disability for an injury or illness incurred in line of duty.

(g) A candidate for licensure for licensure who has moved to Georgia from another state or a candidate for licensure for non-resident licensure may be granted a license without further examination or education if such candidate for licensure produces, from the licensing body of each state which has licensed the candidate for licensure, an original certification issued no more than twelve months prior to the candidate for licensure making application for licensure which shows that the candidate for licensure:

1. has passed an examination for the type of license for which such candidate for licensure seeks licensure in Georgia;
2. has met all prelicensure and continuing education requirements required by such other state(s) for that license;
3. is licensed in good standing at the time of the certification; and
4. has not had any formal disciplinary action imposed by such state's licensing body.

A candidate for licensure whose certification from the other state(s) does not comply with all of the conditions in the preceding sentence must take and pass the qualifying examination for the Georgia license which such candidate for licensure seeks. Rather than the written certification required of applicants by this paragraph, the Commission, in its sole discretion, may choose to accept some electronic form of the certified data from other states, which applicants must submit, or by some other procedure that reduces paperwork.

(h) If the criminal history report from another state of such a candidate for licensure a prior criminal conviction(s) or if the candidate for licensure has a prior professional license disciplinary action, the candidate for licensure shall comply with the provisions in paragraphs (8) and (9) of this rule and said candidate for licensure shall be subject to the provisions of 43-40-15 (a) et seq.

(i) Any examinee, applicant, candidate for licensure, or licensee who without proper authorization supplies to others, or attempts to supply to others, any information concerning the content of any qualifying examination, administered by or approved by the Commission shall be grounds for denial of license or the imposition of any sanction permitted by O.C.G.A. Section 43-40-25.

- (j) Approved instructors, approved schools, or their staff members are prohibited from:
1. obtaining from examinees information concerning the content of any qualifying examination administered by or approved by the Commission;
 2. accepting such information except as provided or approved by the Commission; and
 3. using such information in non-approved courses operated by or in association with any approved instructor or approved school or their staff.

Violation of this paragraph may be grounds for denial of approved status, withdrawal of approved status, suspension of approved status, or imposing any sanction permitted by O.C.G.A. Section 43-40-25 upon both instructors and school.

(k) Unless a person first obtains written permission of the Commission, a person may not take any qualifying examination offered by the Commission except:

1. to qualify for or to reinstate the license for which the examination is designed;
2. when:
 - a. such person holds a license issued by the Commission by reciprocity rather than by examination,
 - b. such person is applying to another state for licensure by reciprocity, and
 - c. the state to which such person is applying requires that an applicant for reciprocity must have passed an examination in Georgia as a condition of receiving a license by reciprocity in that state; or
3. when such person is required to take a qualifying examination by an Order of the Commission in a disciplinary matter.

(4) **Applications.** Applications for licensure, for renewal of license, for transfer of license, for any change in status of a license, and for any change in the name of a firm required to be filed with the Commission, must be on Commission approved forms. Changes in other information required to be filed with the Commission such as changes in trust accounts, address changes, and individuals' name changes may be done by letter.

(a) Any such application, change of information, or fee required to be filed with the Commission may be filed with the Commission by:

1. personal delivery to the Commission's offices during regular business hours;
 2. mail in a letter postmarked by the United States Postal Service;
 3. private courier or delivery service; or
4. electronic facsimile (fax) transmission, if the application does not require the payment of a fee.

(b) The effective date of the filing of the application or fee shall be the United States Postal Service postmarked date, if mailed, or if otherwise filed, the date the Commission dates receipt of the application or fee. In the event that receipt by the Commission of an application or fee occurs later than the deadline for the filing of such application or fee, the applicant or licensee shall bear the burden of proof that the application or fee was timely filed.

(c) If an applicant or a candidate for licensure submits an application on a form which is no longer in use by the Commission and pays the correct fee in effect on the date of the application, the Commission may require the applicant to submit a new application on its latest form at no further cost to the applicant.

(d) A licensee, an applicant, or a candidate for licensure must supply all information requested on any form the licensee submits to the Commission. Failure to supply all information shall cause the application to be incomplete. An application is incomplete if the applicant or a candidate for licensure fails to include the proper fee, to attach any required documents, to provide all requested biographical or other data, to include required signatures, or to include legible responses. Failing to disclose each and every criminal conviction, as defined by O.C.G.A. § 43-40- 15(a), or license disciplinary action that the applicant may have in this state or any other jurisdiction may constitute a falsified application.

(e) The Commission may assess the fees cited in Substantive Regulation 520-1-.04(1) on any

incomplete application and may return any incomplete application, or any obsolete application, or any application on a non-approved form to a licensee or applicant by mail at either (1) the address listed on the incomplete or incorrect application or (2) the last known business address of record in the Commission's files if the incomplete or incorrect application contains no address.

(f) The Commission will provide reasonable accommodation to a qualified candidate for licensure with a disability in accordance with the Americans With Disabilities Act. The request for an accommodation by an individual with a disability must be made in writing and received in the Commission's office by the application deadline along with appropriate documentation, as indicated in the Commission's *Request for Disability Accommodation Guidelines*.

(g) Whenever an applicant or a candidate for licensure submits to the Commission an original application on paper for licensure as, including but not limited to, a broker, an associate broker, a salesperson, a community association manager, a sole proprietor firm, a corporation, a limited liability company, or a partnership or for approval as a school or an instructor, the Commission shall maintain the paper record for a period of 15 years and may then destroy the application. Whenever a licensee submits any other application to the Commission on paper, the Commission shall maintain the paper record for a period of one year and may then destroy the application. The Commission shall maintain all electronic licensing records for a period of at least 15 years.

(5) Application Deadlines. (a) Any person who has taken the community association manager's examination and successfully passed the examination and any person who has taken the salesperson's examination and successfully passed the examination must make application for an active or inactive license within three months from the date of the examination taken, or after three months, must pay a fee equal to two times the original application fee. Any person who fails to activate a community association manager's or a salesperson's license by making application therefor within twelve months from the date of the examination taken must retake the examination. In addition to passing the qualifying examination, an applicant who applies for a community association manager's license must submit evidence of successful completion of the Community Association Manager's Prelicense Course (or an approved equivalency as set forth in Chapter 520-2) and an applicant who applies for a salesperson's license must submit evidence of successful completion of the Salesperson's Prelicense Course (or an approved equivalency as set forth in Chapter 520-2).

(b) Any person who has taken the broker's examination and successfully passed the examination must activate a broker's or associate broker's license by making application therefor within 12 months from the date of the examination taken, or after 12 months must retake the examination. An applicant must show proof of having held a license in active status for at least three years of the five years immediately preceding the filing of an application to become a broker or an associate broker. Applicants whose prior active licensure was in a licensing jurisdiction other than Georgia must present an original certification of licensure from that licensing jurisdiction; and if the applicant was a broker in that licensing jurisdiction, the applicant must present an original certification of licensure of the firm or firms the applicant served as broker. The certification of licensure must have been issued no more than twelve months prior to the applicant's making application.

(6) Name of Firm on Application. (a) A broker operating as a sole proprietor shall supply the Commission with the name in which the broker intends to conduct business on the broker's application for licensure as a sole proprietor and the same name shall be shown on the broker's certificate of licensure.

(b) Any corporation applying for licensure as a broker shall submit with its application a copy of its corporate charter as registered with the Corporation Division of the Secretary of State's Office. In the event a corporation wishes to conduct business under a trade name, it shall also submit with its application a certified copy of its trade name, certified to by the Clerk of the County in which such certificate is on file. The corporate name as is shown on the corporate charter, or the trade name which appears on said certified copy, if the corporation has filed a trade name registration, shall be shown on the broker's certificate of licensure issued to the corporation. In the event a corporation chooses to conduct business under a trade name or change the name under which it is conducting business at any time after issuance of its initial certificate of licensure, it shall submit a certified copy of its trade name; and such trade name shall be shown on a new broker's certificate of licensure issued to the corporation.

(c) Any partnership applying for licensure as a broker shall submit with its application a copy of its partnership agreement and a certified copy of its Certificate of Trade Name, certified to by the Clerk of the County in which such certificate is on file. The trade name that appears on said certified copy shall be shown on the broker's certificate of licensure issued to the partnership.

(d) Any limited liability company applying for licensure as a broker shall submit with its application a copy of its certificate of authority to transact business in Georgia as issued by the Secretary of State's office. In the event a limited liability company wishes to conduct business under a trade name, it shall also submit with its application a certified copy of its trade name, certified to by the clerk of the county in which such certificate is on file. The limited liability company's name that appears on its certificate of authority to transact business in Georgia, or the trade name which appears on the certified copy of its trade name, if the limited liability company has filed a trade name registration, shall be shown on the broker's certificate of licensure issued to the limited liability company. In the event a limited liability company chooses to conduct business under a trade name or change the name on its certificate of authority to transact business in Georgia at any time after issuance of the initial certificate of licensure, it shall submit a certified copy of its trade name or a copy of its revised certificate of authority to transact business in Georgia; and such new name shall be shown on its broker's certificate of licensure.

(e) The trade name of any franchisee applying for licensure as a broker shall include the franchise name in a manner reasonably calculated to discern it from any other firm registered with the Commission by including both the franchise name and either: said firm's name as it appears on its corporate charter, partnership agreement, or certificate of authority to transact business in Georgia; or said firm's trade name, unique from the franchise name, as registered with each county in which it is doing business.

(7) Criminal History Report. No more than 60 days prior to making application, each candidate for licensure or applicant for a license or an instructor approval shall obtain, at the expense of the candidate for licensure or applicant, and attach to the application for licensure or approval:

(a) a certified criminal history report issued by the Georgia Crime Information Center of the

Georgia Bureau of Investigation, indicating whether the candidate for licensure or the applicant has any record of a criminal history;

(b) for candidates for licensure or applicants for licensure who have not lived in Georgia, a certified criminal history report from their resident state, province, or territory that is equivalent to the report required in sub-paragraph (a) of this sub-section.

If that report indicates that the candidate for licensure or the applicant has a record in another jurisdiction, or if the applicant is unable to obtain a report as set forth in subparagraph (b) of this sub-section, the applicant must, at the applicant's expense, provide any necessary fingerprints, fees, authorization, or other requirements for the Commission to obtain a Federal Crime Information Center report from the Federal Bureau of Investigation.

(8) **Applicants with Convictions.** Whenever a candidate for licensure or an applicant reveals that such candidate or applicant for licensure has a criminal conviction, as that term is defined in O.C.G.A. Section 43-40-15 (b)(1)(A), and whenever any licensee is convicted of any offense that the licensee is required to report to the Commission, such candidate for licensure, applicant, or licensee must supply to the Commission a certified copy of:

- (a) the citation, accusation, information, or indictment that led to the conviction; and
- (b) a certified copy of the sentence.

(9) **Applicants with Sanctions.** Whenever a candidate for licensure or an applicant reveals that such candidate or applicant for licensure, has been the subject of a disciplinary proceeding before any licensing agency, and whenever any licensee has been the subject of a disciplinary proceeding before any licensing agency that the licensee is required to report to the Commission, such candidate for licensure, applicant, or licensee must supply the Commission with a certified copy of:

- (a) any allegations that preceded the final order; and
- (b) the final order of that licensing agency.

(10) **Incomplete Applications.** The Commission, in its discretion, may deem an application for licensure as incomplete unless the requirements of paragraphs (1) and (2) are met and may elect not to process such an application unless and until those requirements are met.

(11) **Preliminary Decisions for Candidates for Licensure Having Convictions or Sanctions.** The Official Code of Georgia Annotated Section 43-40-15 provides in part that the Commission may deny a license to an applicant who has a prior criminal conviction(s) or a disciplinary sanction(s) imposed by any occupational licensing body. An applicant for licensure is a person who has met all experience, education, and examination requirements for the license sought. Because of the time and expense involved in becoming an applicant for licensure, the Commission affords an individual who has not yet become an applicant the opportunity to request that the Commission make a preliminary decision on the conviction(s) or the prior disciplinary sanction(s) before the individual takes the required education and examination for license. The purpose of a preliminary decision is merely to provide advisory guidance. Preliminary decisions are not binding. However, the Commission may elect to allow a favorable preliminary decision to become its final decision without further investigation or hearing when the individual becomes an applicant for licensure.

(a) **Required Information.** An individual seeking a preliminary decision must submit to the Commission a certified copy of any indictment and conviction or a disciplinary sanction imposed by another licensing regulatory authority. An individual seeking a preliminary

decision may also provide the Commission with any additional information that the individual believes may assist the Commission in rendering a preliminary decision.

(b) Adverse Preliminary Decisions. A preliminary decision by the Commission that is unfavorable to the individual shall not prevent the individual from becoming an applicant for licensure by successfully completing all education, experience, and examination requirements for the license. Whenever the Commission denies a license based on a prior conviction or prior disciplinary action, it must provide the applicant the opportunity for notice and a hearing.

(12) **Request for hearing after Commission Denies an Application.** If the Commission denies an application for licensure or reinstatement of licensure after an applicant has met the age, education, and examination requirements as described in O.C.G.A. Section 43-40-8 and 43-40-9 and the Rules and Regulations of the Commission and has paid all required fees for the license, that applicant may request a formal hearing concerning that denial. The applicant must make that request in writing to the Real Estate Commission within sixty (60) days of the Commission's mailing notice to the applicant to the address on the application that the Commission has reviewed the applicant's application and voted to deny the application.

(a) If the applicant does not make written application for a formal hearing within sixty (60) days the application shall lapse and the applicant may not make another application for a license without again standing and passing any qualifying examination that may be required for that license and paying any required fees.

(b) If the applicant makes written application for a formal hearing within sixty (60) days and is granted the opportunity for a formal hearing and the Commission affirms its denial of the application, the applicant may not make another application for a license without again standing and passing any qualifying examination that may be required for that license and paying any required fees.

Authority O.C.G.A. Sections 43-40-2, 43-40-3.1, 43-40-7, 43-40-9, 43-40-13, 43-40-14, 43-40-16, 43-40-25.

520-1-.05 Maintaining a License.

520-1-.05 Maintaining a License.

(1) **Required Postlicense Education.** O.C.G.A. Section 43-40-8 (c) requires that each salesperson must furnish to the Commission within one year of the issuance of an original salesperson's license evidence of satisfactory completion of a course of study of at least 25 instructional hours (other than the Salespersons Prelicense Course or Brokers Prelicense Course) approved by the Commission. Salespersons must have completed such course:

(a) no earlier than one year before the date of issuance of the original salesperson's license,

or

(b) no later than either:

1. one year after the date of issuance of an original salesperson's license or
2. eighteen months after the date of issuance of an original salesperson's license if the salesperson qualifies for the six month extension of time authorized by the O.C.G.A. Section 43-40-8 (c).

(c) if the salesperson is a non-resident who has successfully completed in his or her state of residence a post-license course substantially similar to Georgia's Salespersons Postlicense Course prior to the issuance of a Georgia salesperson's license (or in the first year after being issued such a license), then such course shall be deemed to have met the requirements of O.C.G.A. Section 43-40-8 (c).

(2) Active or Inactive License. (a) Every active Georgia associate broker, salesperson, and community association manager shall be licensed under an active Georgia broker; and said associate broker, salesperson, or community association manager cannot be licensed under more than one Georgia broker during the same period of time. An active Georgia associate broker, salesperson, or community association manager may also affiliate a license issued by another state's real estate licensing regulatory body with a broker in that state provided:

1. said state's laws allow affiliations in both states; and
2. said Georgia resident associate broker, salesperson, or community association manager has the written permission of the broker holding his Georgia license to affiliate with a broker in another state and said written permission clearly delineates (1) the duties that the licensee may undertake for each broker and (2) that the licensee may not undertake brokerage activity on property located in Georgia except in behalf of the active Georgia broker.

(b) After making an original application for licensure to the Commission, a salesperson or a community association manager shall not commence work in real estate brokerage activities until the broker has received the licensee's wall certificate of licensure.

(c) After a licensee makes application to change the status of his or her license to a broker of a sole proprietorship or qualifying broker of a corporation, limited liability company, or partnership, the applicant shall not commence work in real estate brokerage activities until the applicant has received the wall certificate of licensure for the sole proprietorship, corporation, limited liability company, or partnership.

(d) Any licensee whose license is released by a broker shall not engage in the activities of a real estate broker until the licensee:

1. affiliates his or her license with a new broker and mails a Change Application to the Commission; or
2. receives from the Commission a wall certificate of licensure authorizing the licensee to serve as the broker of a sole proprietorship or the qualifying broker of a corporation, limited liability company, or partnership.

(e) Any licensee who seeks to activate a license which has been on inactive status for two years or longer shall be required to attend a Commission approved course or courses of study totaling at least six hours for each year the license was on inactive status. The course or courses must be taken no more than one year prior to the date of the reactivation of the license.

(f) This requirement shall not apply to an inactive licensee who can furnish to the Commission evidence that he or she has met the continuing education requirement for each renewal period that his or her license has been on inactive status.

(g) Every active licensee seeking to perform real estate brokerage activity must do so as a broker or on behalf of a real estate broker. Inactive licensees may not perform real estate brokerage activity on any real estate except real estate owned solely by the inactive licensee.

Real estate brokerage activity includes sales, leasing, community association management services, property management services, and any of the activities identified under the definition of "Broker" in O.C.G.A. Section 43-40-1.

(h) The license law contains an exception (not available to licensees) that allows an unlicensed person who is a full-time employee of an unlicensed person to perform real estate brokerage activity on property owned by that unlicensed person's employer.

(i) A licensee may not place the licensee's license on inactive status and perform real estate brokerage activity for an unlicensed person. Whenever a real estate licensee wishes to be employed by an unlicensed person in order to perform real estate brokerage activity on real estate owned by that unlicensed person, such licensee must first surrender such licensee's license to the Commission and may not reinstate that license without first qualifying as an original applicant.

(j) A licensee on inactive status may be an employee of an unlicensed person to perform work other than real estate brokerage activity for the unlicensed person.

(3) Renewals. Unless renewal fees are paid, all licenses issued under the provisions of paragraph (1) of this Rule will lapse:

(a) in the case of an individual license, on the last day of the month of the birthday of the individual licensee and

(b) in the case of a firm licensed as a broker on the last day of the month of the fourth anniversary of its original licensure.

(4) Reinstatement of Lapsed License.

(a) Any licensee whose license lapses due to nonpayment of fees or failure to satisfactorily complete any of the education requirements of O.C.G.A. Chapter 43-40 shall be prohibited from engaging in real estate brokerage activities as defined in O.C.G.A. Section 43-40-1 until such time as the license is reinstated. Upon the lapsing of a license, a licensee shall cause the licensee's wall certificate of licensure and pocket card to be forwarded at once to the Commission by the licensee's broker.

(b) Any licensee who has been exempt from the continuing education requirements of O.C.G.A. Section 43-40-8 (e), and whose license has lapsed for longer than one year, and who reinstates it by paying the fees cited in Rule 520-1-.04(1) shall thereafter be subject to the continuing education requirements of O.C.G.A. Section 43-40-8 (e).

(c) Any licensee who fails to pay a renewal fee and allows an active license to lapse may reinstate that license within two years of the date of lapsing by paying the fees cited in Rule 520-1-.04(1), provided the licensee has completed any required continuing education courses.

(d) Any licensee who fails to pay a renewal fee and allows an inactive license to lapse may reinstate that license to active status within two years of paying the fees cited in, 520-1-.04(1), provided the licensee has completed (1) a Commission approved course or courses of study totaling at least six hours for each year or portion of a year of continuing education due prior to the licensee's going on inactive status and (2) a Commission approved course or courses of study totaling at least six hours for each year or portion of a year since the date the

license was placed on inactive status.

(e) Any licensee who fails to pay a renewal fee and allows an inactive license to lapse may reinstate that license to inactive status within two years of the date of lapsing by paying the fees cited in Rule 520-1-.04(1).

(f) Any licensee who fails to pay a renewal fee and allows a license to lapse and who does not elect to reinstate the license under the provisions of paragraph (4)(c), (d), or (e) of this Rule may reinstate the license by furnishing proof of completion of any required prelicense education and by taking and passing the appropriate qualifying examination for that license. Any person who elects this option to become relicensed may not exempt the national portion of the examination.

(g) Any licensee who has passed an examination administered by or approved by the Commission and who allows a license to lapse for a period longer than two years and less than five years due solely to a failure to pay a renewal fee may reinstate that license by paying the total amount of all renewal fees and late charges which would have been due while that license was lapsed plus a reactivation fee and by successfully completing the following educational course or courses:

1. if the lapsed license is that of a community association manager, the Community Association Managers Prelicense Course;
2. if the lapsed license is that of a salesperson, the Salespersons Prelicense Course; or
3. if the lapsed license is that of a broker or associate broker, the Brokers Prelicense Course.

Courses taken to reinstate a license as provided in 1., 2. and 3. above must be taken within one year prior to making application for and paying the fees required for reinstatement. Any course taken under this paragraph must be taken at a Commission approved school. Any licensee who reactivates a license under the terms of this paragraph shall thereafter be subject to the continuing education requirements of O.C.G.A. Section 43-40-8(e).

(h) Any licensee whose license has lapsed a period of time longer than five years due to a failure to pay required fees and who desires to re-qualify for a license must do so as an original applicant.

(i) Any licensee whose license lapses for failure to complete any continuing education required for renewal of a license may reinstate the license by (a) furnishing the Commission within two years of its lapsing evidence of having completed an approved course or courses of study and (b) meeting the requirements provided in paragraph (3) of this Rule. The course or courses of study required by (a) above must have a number of hours of instruction totaling at least six hours for each year of the renewal period.

(j) Any licensee whose license lapsed for failure to complete satisfactorily the 25 instructional hours of education required by O.C.G.A. Section 43-40-8 (d) may reinstate the license only as provided in that Code section. Any such licensee whose license has lapsed a period of time longer than five years due to a failure to complete education requirements in a timely manner and who desires to re-qualify for a license must do so by (1) completing the education the applicant had not completed and (2) re-qualifying as an original applicant.

(k) Any licensee whose license lapses for any reason and who then applies to reinstate that license or any licensee whose license is on inactive status and who then applies to reactivate that license shall not commence work in real estate brokerage activities until:

1. if a broker, he or she has received the broker's wall certificate of licensure; or
2. if a community association manager, salesperson, or associate broker, the broker with

whom the licensee is affiliated has received the licensee's wall certificate of licensure.

(5) Notification of Legal Action and Change of Address. (a) Every licensee shall notify the Commission in writing of the final disposition of any administrative, civil, or criminal action filed in any court of competent jurisdiction or any administrative agency whenever that final disposition involves the subject matter of the offenses cited in O.C.G.A. Sections 16-13-111, 43-40-15, or 43-40-25. Such notice of any administrative or civil action shall be given to the Commission within ten (10) days of the conclusion of the court or administrative proceedings and shall include a copy of any final order entered by the court or agency. Such notice of any criminal action shall be given to the Commission within ten days of any conviction and shall include a copy of the indictment, accusation, and the conviction. (b) Each licensee, approved school, or approved instructor must notify the Commission in writing within one month of any change in any such licensee's, approved school's, or approved instructor's mailing address or residence address.

(6) Non-resident Licensure and Brokerage. (a) Nonresidents who meet the requirements prescribed in O.C.G.A. Section 43-40-9 and the Rules and Regulations of the Commission may be granted a nonresident's license.

(b) Licensees who remove their residency from this state to another state may qualify for nonresident licensure in accordance with O.C.G.A. Section 43-40-9 only if they make application to change their status from resident to nonresident, sign a Consent to Jurisdiction, and sign an agreement to cooperate with any investigation initiated by the Commission.

(c) A nonresident broker can serve as a qualifying broker for any corporation, limited liability company, or partnership licensed by the Commission. A nonresident broker can be the qualifying broker for an out-of-state corporation or limited liability company which becomes licensed by the Commission and is authorized by the Secretary of State's Corporation Division to do business in the State of Georgia.

(d) Licensees who move from this state to another state may elect to place their licenses on inactive status rather than seeking a nonresident's license to avoid termination of their license. Licensees who elect such inactive status may not then conduct brokerage business in this state until they have again become residents of this state and have complied with the reactivation provisions of O.C.G.A. Section 43-40-12 or have qualified for nonresident licensure as provided in paragraph (2) of this rule.

(e) Any nonresident licensee whose license lapses for failure to pay a renewal fee may reactivate that license by paying the fee required of an original applicant if such nonresident has maintained an active license in his or her state of residence during the period that his or her license lapsed and has met that state's continuing education requirements.

(f) No Georgia licensee may perform or attempt to perform any of the acts of a broker as defined in O.C.G.A. Section 43-40-1 on property located in another state without having first been properly licensed in that state or otherwise complied fully with that state's laws regarding real estate brokerage.

(g) An applicant for non-resident licensure must also comply with the requirements set forth in Rule 520-1-.04 (3)(g).

(7) Retention of Certificate of Licensure. Upon making such request in writing to the Commission, any licensee who retires after twenty years of active licensure or the family of

any licensee who is deceased shall be allowed to retain the licensee's wall certificate of licensure and pocket card for non-brokerage purposes.

Authority O.C.G.A. Sections 43-40-1, 43-40-2, 43-40-8, 43-40-9, 43-40-12, 43-40-14, 43-40-25.

520-1-.10 Handling Real Estate Transactions.

520-1-.10 Handling Real Estate Transactions.

(1) **Presenting Offers.** A licensee shall promptly tender to any customer or client any signed offer to purchase, sell, lease, or exchange property made to such client or customer. In a transaction in which the offeror is not a client or customer of the licensee, the licensee receiving an offer must provide a copy of the offer to the licensee working with or representing the offeree. However, a licensee who obtains an offer may negotiate a sale, exchange, or lease directly with an owner, a lessor, a purchaser, or a tenant if the licensee who obtains the offer knows that such offeree has a written outstanding agreement in connection with such property that expressly provides the other licensee will not provide negotiation services to the offeree.

(2) **License Numbers in Offers.** A licensee preparing or signing a brokerage engagement or an offer to purchase, sell, lease, or exchange real property shall include the license number issued by the Commission of each firm and of each licensee participating in the transaction. The licensee shall include the six digit license number issued by the Commission.

(3) **Responsibility to Distribute Copies.** A licensee shall provide a copy of any document utilized in a real estate transaction to any individual signing such document. If any offer to purchase, sell, lease, or exchange is accepted and signed by all parties, copies of that document shall be properly distributed, one to each person signing the document and one to each brokerage firm involved in the transaction.

(4) **Retention of Copies of Records and Documents.** Copies of sales contracts, brokerage engagements, closing statements, leases, and other documents related to a real estate transaction required by law to be maintained in a broker's file for three years shall be made available to authorized agents of the Commission upon reasonable request and at a reasonable cost to the Commission. Brokers that must keep copies of the documents cited in this paragraph include:

- (a) any broker identified in a sales contract, brokerage engagement, closing statement, lease, or other document related to a real estate transaction;
- (b) any broker firm that participates in the negotiations involving a sales contract, brokerage

engagement, lease, or other contractual document related to a real estate transaction; and
(c) any broker required by O.C.G.A. Section 43-40-20 to maintain a trust account.

Copies of documents and other records which licensees are required by law and the Commission's rules to maintain may be maintained in any records storage system that utilizes paper, film, electronic, or other media provided that: (a) the licensee can produce true and correct copies of such documents and records and (b) copies of such documents and records can be made available to an authorized representative of the Commission upon reasonable request and at reasonable cost to the Commission.

(5) Falsification of Transaction Documents and Misleading Representations Prohibited.

No licensee shall falsify or be a party to the falsification of a document involved in a real estate transaction or knowingly represent, either verbally or in writing, to a principal or any interested third party:

- (a) an amount other than the true and actual sales, lease, or exchange price;
- (b) an amount other than the true and actual downpayment;
- (c) an amount other than the true and actual earnest money, security deposit, or other trust funds or that such trust funds have been tendered in any form other than its true and actual form;
- (d) a payment of trust funds in cash when in fact some other method of such is made; or
- (e) an artifice, contrivance, or machination with the intent to deceive.

Any or all such practices shall constitute a misrepresentation.

Authority O.C.G.A. Sections 43-40-2, 43-40-7, 43-40-11, 43-40-14, 43-40-25.

CHAPTER 520-2 STANDARDS FOR REAL ESTATE COURSES

RULES
OF
GEORGIA REAL ESTATE COMMISSION

CHAPTER 520-2
STANDARDS FOR REAL ESTATE COURSES

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520-2-.03 Real Estate Instructors.

(1) **Approved Instructors.** Only instructors approved by name by the Commission or guest instructors as provided for in paragraph (5) of this Rule may teach Community Association Managers Prelicense, Salespersons Prelicense, and Brokers Prelicense Courses.

(2) **Timetable for Approval.** The Commission shall approve, disapprove, or request further information on all applications for instructor approval within sixty (60) days of the receipt of a complete application meeting the requirements of Rule 520-1-.04 and containing the data required by this rule. The Commission, in its discretion, may elect not to process an incomplete application as defined by Rule 520-1-.04(4) unless and until all the requirements of that paragraph are met.

(3) **Application Required for Approval.** Applicants for instructor approval must file with the Commission an application and a fee as provided in Rule 520-1-.04. The application must be signed by the applicant and must include the status of any real estate license held by the applicant, a resume of the applicant's background, and the following information:

(a) Teaching Experience. The application must contain a description of the applicant's teaching experience along with at least three recommendations and/or evaluations from each of the following: students, supervisors, and colleagues.

(b) Formal Education. The application must summarize the applicant's formal education including any degrees earned.

(c) Real Estate Education. The application must list all approved pre-licenses and continuing education courses in real estate and any college real estate courses completed by the applicant.

(d) Real Estate Experience. The application must describe the applicant's real estate experience, membership in professional real estate associations, experience with auxiliary fields, training in real estate brokerage and education, and specific numbers and types of brokerage transactions in which the applicant has been involved.

(e) Criminal Background Report. No more than 60 days prior to making application, each applicant for an instructor approval shall obtain, at the applicant's expense, and attach to the applicant's application for approval:

1. a certified criminal history report issued by the Georgia Crime Information Center of the Georgia Bureau of Investigation, indicating whether the applicant has any record of a criminal history or
2. for applicants for licensure who have not lived in Georgia, a certified criminal history report from their resident state, province, or territory that is equivalent to the report required in sub-paragraph (a) of this sub-section.

If that report indicates that the applicant has a record in another jurisdiction, or if the applicant is unable to obtain a report as set forth in sub-paragraph (b) of this sub-section, the applicant must, at the applicant's expense, provide any necessary fingerprints, fees, authorization, or other requirements for the Commission to obtain a Federal Crime Information Center report from the Federal Bureau of Investigation.

(f) Required courses. The application must provide evidence of the applicant's having successfully completed, within one year prior to making an application for instructor approval, the following:

1. a Commission approved instructor development workshop and
2. a Salespersons Prelicense Course including the passing of the course examination; and

(g) such other biographical information as the Commission may require.

(4) **Approval Criteria.** In approving the applicant, the Commission shall consider qualifications from the six areas above. The Commission may approve a non-resident instructor who has been approved by another jurisdiction's real estate regulatory body and who can provide evidence of having actively taught pre-license courses as an approved instructor for at least five years. The Commission shall be the final determinant of approval of instructors.

(5) **Guest Instructors.** Schools may utilize guest instructors with expertise in particular areas in any approved course provided a properly approved instructor is present at the time of their presentation. Schools may, however, utilize guest instructors without an approved instructor's being present with the prior written approval of the Commission.

(6) **Renewal of Approval.** All instructors must apply for renewal of approval by December 31 of the year in which their approval expires. Renewal applications must be on forms supplied by the Commission and accompanied by:

- (a) the required renewal fee established in Rule 520-1-.04;
- (b) satisfactory evidence that the applicant has engaged in at least 60 instructional hours of contact with students in any Commission approved course during the preceding four years; and
- (c) satisfactory proof that the instructor has done one of the following:

1. attended each of the Commission's annual meetings for approved schools and instructors during the renewal period or;

2. attended at least two of the Commission's annual meetings for approved schools and instructors during the renewal period and has successfully completed:

(i) a minimum of twelve instructional hours in a Commission approved continuing education course(s) taught by an instructor (other than the applicant) who has earned the DREI designation conferred by the Real Estate Educators Association;

(ii) a twenty-five hour classroom course that leads to a professional designation related to real estate brokerage activities offered by the National Association of Realtors, the National Association of Real Estate Brokers, or such other private trade association as the Commission may approve prior to the applicant's enrollment in the course;

(iii) a five quarter hour or three semester hour college course that leads to a degree in real estate or that focuses on teaching techniques; or

(iv) any other course which the Commission approves for instructor continuing education prior to the instructor's taking the course.

Authority O.C.G.A. Sections 43-40-2, 43-40-8, 43-40-25.

520-2-.04 Real Estate Courses.

520-2-.04 Real Estate Courses.

(1) **Approved Courses.** The Commission intends that all approved courses be educational in nature. Schools should not specifically orient approved courses to the passing of state licensing examinations or other examinations. The courses should introduce students to the language of the profession and basic theory underlying the duties and responsibilities of real estate licensees. They should also seek to improve licensee's skills in handling the normal business activities of a licensee. Approved courses must require practice in the skills being taught and provide a significant number of exercises for practice of those skills. All courses should make students aware of the need for further study and the perfection of practical skills.

An approved school may not hold out a course as approved until the course is posted on the Commission's electronic record of the school's courses or the school receives a certificate of approval from the Commission.

(2) **Instructors .** Only instructors approved by the Commission under the standards of this Chapter may instruct Salespersons Prelicense, Brokers Prelicense, or Community Association Managers Prelicense courses. Only instructors with appropriate experience and knowledge of the content areas of Salespersons Postlicense or continuing education courses may teach these courses.

(3) **Hours of Instruction.** For all courses approved under this chapter, an "instructional

hour” means a period of time of at least 50 minutes of instruction or other learning activity. In-class instruction and testing in any course shall not exceed 7.5 hours per day. The school shall hold all in-class instruction between the hours of 7:00 a.m. and 10:00 p.m. with breaks totaling at least 15 minutes every two hours. The schedule must allow reasonable time for preparation for each classroom session. All in-class instruction for Brokers Prelicense course students shall be separate from all in-class instruction for Salespersons Prelicense course students. Instructors shall utilize no more than 30 minutes of audio or video material toward meeting any required in-class (or make-up) hours of instruction unless the Commission grants written authorization for such material prior to its use.

(4) **Documentation Required for Approved Courses.** For each approved prelicense, postlicense, or continuing education course, the approved school must maintain and make readily available to an authorized representative of the Commission the following documentation:

(a) Course Outline. The school must maintain a detailed course outline that identifies the hours to be spent on each subject area to be covered in the course and all planned exercises that students are required to complete;

(b) Learning Objectives. The school must maintain a detailed list of learning objectives for each instructional hour of the course. A learning objective is part of the overall goal of the course. An objective states, in terms that can be measured, what the student should be able to do, explain, or demonstrate upon mastery of the content of each hour of instruction.

(c) Texts. The school must maintain a list of text materials utilized in the course;

(d) Evaluation Materials. The school must maintain copies of daily tests, final examinations, or other materials used to evaluate student performance;

(e) Student Records. The school must maintain records that identify each student and the student's attendance record and final grade for any course; and

(f) Course Evaluations. The school must maintain written summaries of student evaluations of the courses.

(5) **Ethics.** Every course offered by an approved school for prelicense, postlicense, or continuing education credit must include acknowledgment and coverage of the ethical implications of the subject matter of the course.

(6) **Prelicense and Postlicense Courses.** (a) Community Association Managers Prelicense Course. An approved Community Association Managers Prelicense Course must provide for a minimum of 25 instructional hours. Schools may not count time students spend on breaks as part of in-class instruction time. Time students spend in taking graded exercises and tests or final examinations may not constitute more than ten percent of in-class instruction time. The course must cover fundamentals in the following areas:

1. property law including Georgia laws on common interest ownership, public rights and limitations, and fair housing laws;

2. forms of ownership including planned unit development (PUD), home owner's associations, condominiums, cooperatives, timeshares, townhouses, and master association relationships and how to interpret community association governing documents;

3. contracts and transaction documents including the content and negotiation of management agreements, the nature and content of insurance documents, and resale certificates;

4. real estate instruments and conveyances including notices, proxies, and liens and amendments to documents and the requirements for reinstatement;

5. law of agency including identifying and understanding agency relationships and duties between community association managers and association boards, members, and tenants of members; single and dual agency; and agency disclosure;
6. financing instruments and basic accounting practices including principles of accounting for trust accounts, for common interest associations, and for lender requirements for recertification;
7. Georgia real estate license law;
8. ethics in community association management;
9. environmental laws;
10. safety precautions; and/or
11. such other areas as the Commission may from time to time require or authorize.

(b) Salespersons Prelicense Course. An approved Salespersons Prelicense Course must provide for a minimum of 75 instructional hours. Schools may not count time students spend on breaks as part of the required instruction time. Time students spend in taking graded exercises and tests or final examinations may not constitute more than ten percent of the required instruction time. The course must cover fundamentals in the following areas:

1. real estate contracts including completing and presenting form real estate sales contracts with extensive practice with problems involving new FHA, VA, and conventional loans; loan assumptions; brokerage engagements; and leases (students must demonstrate proficiency in completing such form contracts by passing a school developed and administered test or by satisfying such other assessment measurements established by the school as the Commission may authorize);
2. real estate instruments and conveyances;
3. closing procedures (RESPA) including a salesperson's responsibilities at a loan closing conducted by someone else and an explanation of standard closing procedures and documents used in the salesperson's services area;
4. law of agency including agency disclosure;
5. pricing real property (students must demonstrate proficiency in preparing forms which document such pricing by passing a school developed and administered test or by satisfying such other assessment measurements established by the school as the Commission may authorize);
6. real estate financing including extensive practice in estimating costs of selling and purchasing property and estimating monthly payments (students must demonstrate proficiency in completing forms which document such estimates by passing a school developed and administered test or by satisfying such other assessment measurements established by the school as the Commission may authorize);
7. Georgia's Residential Mortgage Fraud law and methods for identifying possible fraud in transactions and properly reporting alleged fraud;
8. community association management activities and property management activities;
9. environmental laws;
10. taxation;
11. city and urban development;
12. fair housing;
13. anti-trust laws;

14. safety precautions;
15. Georgia's real estate license law; and/or
16. such other areas as the Commission may from time to time require or authorize.

(c) Sales Postlicense Course. A Sales Postlicense Course must provide for a minimum of 25 instructional hours. Schools may not count time students spend on breaks as part of the required instruction time. Time students spend in taking graded exercises and tests or final examinations may not constitute more than ten percent of the required instruction time. The curriculum of the course must focus on legal fundamentals and/or basic practices in sales or management of residential, agricultural, commercial, or industrial properties. If the subject matter of the course addresses residential sales, then the course must include a component on Georgia's Residential Mortgage Fraud law and methods for identifying possible fraud in transactions and properly reporting alleged fraud.

(d) Brokers Prelicense Course. An approved Brokers Prelicense Course must provide for a minimum of sixty instructional hours. Schools may not count time students spend on breaks as part of the required instruction time. Time students spend in taking graded exercises and tests or the final examination may not constitute more than ten percent of the required instruction time. The Brokers Prelicense Course must review all subject areas covered in the Salespersons Prelicense Course so that students may learn advanced concepts in those areas.

In addition, the course must include significant components covering conducting loan closings, real estate office management, personnel policies, trust account record keeping, discharging a broker's responsibility for associate licensees, and/or such other areas as the Commission may from time to time require or authorize.

(e) Additional Subjects. Schools may offer units of instruction on subjects other than those required for courses cited in this rule only with prior written authorization from the Commission.

(f) Reading Assignments and Exercises. For all prelicense and postlicense courses cited in this Rule, schools must include with each instructional unit appropriate reading assignments for completion out of class. The school shall also require that students complete out of class extensive written exercises that the school grades.

(g) Student Certifications. Each out of class written assignment a student submits for grading must include the following:

I certify that I have personally completed this assignment.

Date Student's Signature

The school shall refuse to grade any out of class written assignment on which the student does not sign this statement.

(h) An approved instructor and/or the school coordinator/director must grade the written course work required of students.

(7) Continuing Education Courses. Every approved school must offer every calendar year a course designed to help licensees meet the continuing education requirements of O.C.G.A. § 43-40-8 (e). This course or courses shall be in addition to the Community Association Managers Prelicense, Salespersons Prelicense, Sales Postlicense, or Brokers Prelicense

Course.

(a) **Duration of Classes.** No school may offer a continuing education course of fewer than three credit hours. A credit hour is defined as an “instructional hour” means a period of time of at least 50 minutes of instruction or other learning activity. In-class instruction and testing in any course must not exceed 7.5 clock hours per day.

(b) **Subject Areas.** Any continuing education course which does not seek to improve knowledge and skills in real estate brokerage activity in the subject areas listed in paragraph (6) this Rule must have the prior written authorization of the Commission.

(c) **Courses Exceeding 24 Hours.** The Commission will accept any course for continuing education credit that exceeds twenty-four classroom hours in length only if such course also meets all requirements for approval as a sales postlicense course.

(d) **Repeating Courses.** A licensee who has successfully completed an approved course to meet any part of such licensee's continuing education credit may not repeat that course unless at least one full year has passed since the completion of that course.

(8) **Teaching Methods.** While instructors may use such teaching methods as lecture, discussion, questions and answers, etc. in in-class sessions, instruction should also include role play, simulations, or other similar instructional techniques designed to assist students in mastering such skills as writing offers, presenting offers, calculating costs, pricing property, and complying with fair housing laws.

(9) **Interactive Instruction Required.** Schools must present courses to students through interactive instructional techniques. Examples of interactive instruction include such teaching techniques as providing a student (1) the opportunity for immediate exchange with an instructor in a classroom setting and (2) immediate assessment and remediation through computer assisted or other audio or audiovisual interactive instruction. Schools shall not attempt to provide instruction primarily by having students (a) read text material, (b) listen to audio tapes, (c) watch video tapes or films, or (d) study questions similar to those on the state licensing examinations or by combining elements of (a) through (d) above.

(10) **Distance Education Courses.** Distance education is comprised of courses in which instruction does not take place in a traditional classroom setting but rather through other media in which teacher and student are separated by distance and sometimes by time. Distance education courses are generally delivered through such media as telecommunications or by computer.

The Commission approves distance education courses:

(a) that meet all of the requirements of this chapter, or

(b) for which the applicant provides satisfactory documentation that the Association of Real Estate License Law Officials (ARELLO) has certified the course as meeting its distance education standards. Any Commission approval based on such an ARELLO certification will cease immediately upon notice from ARELLO that certification of the course has been discontinued for any reason.

In distance education courses, a credit hour is defined as 60 minutes of instruction.

(11) **Computer-Based Courses.** The Commission approves the offering of computer-based courses that meet the specific standards of this rule and all other applicable requirements of this Chapter.

(a) **Teach to Mastery.** Every course approved under this Rule must teach to mastery. Teaching to mastery means that the course must, as a minimum:

1. divide the material into major units as approved by the Commission;
2. divide each of the major units of content into modules of instruction for delivery on a computer;
3. specify the learning objectives for each module of instruction. The learning objectives must be comprehensive enough to insure that if all the objectives are met, the entire content of the course will be mastered;
4. specify an objective, quantitative criterion for mastery used for each learning objective;
5. implement a structured learning method by which each student is able to attain each learning objective;
6. provide means of diagnostic assessment of each student's performance on an ongoing basis during each module of instruction. This assessment process must measure what each student has learned and not learned at regular intervals throughout each module of instruction, and the diagnostic assessment must specifically assess the mastery of each concept covered in the content material.
7. provide a means of tailoring the instruction to the needs of each student as identified in 5. above. The process of tailoring the instruction must insure that each student receives adequate remediation for specific deficiencies identified by the diagnostic assessment;
8. continue the appropriate remediation on an individualized basis until the student demonstrates achievement of each mastery criterion;
9. require that the student demonstrate mastery of all material covered by the learning objectives for the module before the module is completed; and
10. consist of interactive computer-based instructional material which will reasonably require a student completing the course to expend the number of hours for which the course is approved.

(b) **Documentation of Methodology.** Prior to the development of specific computer-based courses to be offered to meet prelicense, postlicense, and continuing education requirements, a school must submit to the Commission for its approval satisfactory documentation of the method by which each element of mastery in paragraph (a) of this Rule is to be accomplished.

If the Commission authorizes that method, the school may utilize that method in developing any courses it may offer to meet licensees' education requirements under this chapter. The rationale for the educational processes implemented with computer-based study must be based on sound instructional strategies that have been systematically designed and proven effective through educational research and development. The basis and rationale for any proposed instructional approach must be specified in any request for approval.

(c) **Required Testing and Evaluation of Courses.** Courses approved under this Rule must also meet the criteria outlined in this Rule except those covering in-class instruction. Except where the Commission has granted permission in writing to do otherwise, persons developing computer-based courses must:

1. when developing prelicense courses for salespersons and community associations

managers, utilize at least nine persons in testing programs in order to evaluate for the developer the quality of content and the user friendliness of software and hardware. Of those nine persons, at least three must be unlicensed, at least three must be licensed salespersons or community association managers, and at least six must be non-educators. Persons developing any other courses for education credit for licensees must utilize at least six persons in testing programs in order to evaluate for the developer the quality of the content and the user friendliness of software and hardware. Of those six persons at least four must be non-educators and no more than two may be brokers, unless the course will only be offered to brokers. Persons developing such courses must document that those testing the programs have varying skill and knowledge levels of computers and real estate; and

2. make reasonably available to an authorized representative of the Commission documentation on the development and testing processes utilized in its computer-based courses.

(d) The following types of programs will not be deemed as meeting the requirements of this Rule:

1. those which consist primarily of text material presented on a computer or other audio or audiovisual programs rather than in printed material;
2. those which consist primarily of questions similar to those on the state licensing examination;
3. those which consist primarily of combinations of the elements in 1. and 2. above.

(e) An approved instructor and/or the school coordinator/director must supervise the grading of the written course work required of students in computer-based courses.

(f) Every computer-based course for the Community Association Managers Preliminary Course must consist of interactive computer-based programs which will reasonably require the student to expend at least twenty-five hours in completing the content areas identified in paragraph (5) of this Rule. Every computer-based course for the Salespersons Preliminary Course must consist of interactive computer-based programs which will reasonably require the student to expend seventy-five hours in completing the content areas identified in paragraph (5) of this Rule. Every computer-based course for the Sales Postlicense Course must consist of interactive computer-based programs which will reasonably require the student to expend twenty-five hours in completing the content areas identified in paragraph (5) of this Rule. Every computer-based course for the Brokers Preliminary course must consist of interactive computer-based programs which will reasonably require the student to expend sixty hours in completing the content areas identified in paragraph (5) of this Rule. Every computer-based course for continuing education must consist of interactive computer-based instructional material that will reasonably require the student completing the course to expend the number of hours for which the course is approved.

(g) Every school offering an approved computer-based course must offer those courses under an instructor. For the Community Association Managers, Salespersons Preliminary, and Brokers Preliminary courses, the school must offer those courses under an approved instructor. Every instructor in a computer-based course must:

1. be available to answer students' questions or provide them assistance as necessary;
2. provide reasonable oversight of students' work in order to insure that the student who completes the work is the student who is enrolled in the course;
3. certify students as successfully completing a computer-based course only if the student:

(i) has completed all instructional modules required to demonstrate mastery of the material,
(ii) has attended any hours of live instruction and/or testing required for a given course, and
(iii) has passed the final examination for the Community Association Managers, Salespersons Prelicense, Sales Postlicense, Brokers Prelicense or any test required by a continuing education course.

4. obtain from each student the following certification statement:

I certify that I have personally completed each assigned module of instruction. I understand that if any other person has completed any module of instruction or any part of this course required for completion of the course, the school may not award credit for the course or may withdraw credit already awarded for the course.

Date Student's Signature

A school or instructor may permit a student to complete this statement in an electronic or internet format in any approved computer-based or distance learning course. A school must provide prior documentation or demonstration to the Commission of the method by which the school will acquire this statement. The Commission must authorize the method of requiring this certification.

(h) Schools may provide homework exercises, contract forms, or other assessment exercises required in approved courses in a computer-based or internet delivery format. A school must provide prior documentation or demonstration to the Commission of the delivery methods prior to offering such exercises or assessments. The Commission must authorize the delivery method offered by the school.

(i) Schools may permit students in approved computer-based or distance-learning courses to complete written homework exercises, standard forms, or other assessment exercises. Each written assignment a student submits for completion of a computer-based or distance learning course must include the following:

“I certify that I have personally completed this assignment. I understand that if any other person has completed any assignment, contract form, or other written assessment required for completion of the course, the school may not award credit for the course or may withdraw credit already awarded for the course.”

Date Students's Signature

(12) Course Examinations. Every approved Community Association Managers Prelicense, Salespersons Prelicense, Sales Postlicense, and Brokers Prelicense Courses must conclude with an examination administered by the approved school.

(a) Scheduling. Schools shall administer final examinations for every approved Salesperson Prelicense and Brokers Prelicense Courses on a day when the course holds no in-class instruction. Schools may administer final examinations for every Community Association Managers Prelicense Course and Salespersons Postlicense Course on the last day of in-class instruction.

(b) Passing Score. On final examinations administered for Community Association Managers Prelicense, Salespersons Prelicense, Sales Postlicense, and Brokers Prelicense Courses, schools must require that students achieve a passing score on the final examination that is consistent with the passing score required on state qualifying examinations for these licenses unless a school has first obtained the written permission of the Commission to require a different passing score.

(c) Retaking a Course Examination. Schools may elect to allow any student who fails to achieve a passing score to take another examination on another day without repeating instruction. If a student fails to achieve a passing score on a second final examination, the student must repeat all instruction of that course before taking another examination.

(d) Security. Schools must maintain at least two forms of a final examination for each approved course and must provide the Commission, upon its request, with reasonable assurances that examinations are secure from distribution to students except upon administration of an examination. These final examinations are evaluation tools, not teaching tools. While schools may supply students with information regarding their individual proficiency in areas of the examination, they must not review specific questions from these examinations with students. The Commission may impose any sanction permitted by law on the approval of any school and/or instructor which fails to provide proper security for examinations.

(e) Content Areas for Salespersons Prelicense Examination. The final examination for the Salespersons Prelicense Course must include at least five (5) questions each on (a) brokerage engagements, (b) legal descriptions and legal aspects of contracts, (c) methods of payment and earnest money, (d) special stipulations and writing sales contracts, (e) leases and fair housing, (f) licensees acting as principals, (g) anti-trust laws, (h) basic finance, (i) loan types, (j) pricing property, (k) seller's costs, (l) qualifying purchasers and purchaser's costs, (m) contract closing, and (n) such other matters as the Commission may from time to time require or authorize.

(f) Examination Formats. Final Examinations for prelicense and postlicense courses should attempt to measure the student's competence in the knowledge or skills taught in the approved course. A school shall not be required to submit a course final examination to the Commission if: (1) the examination consists of multiple choice questions with a minimum of four choices of answers for each question; (2) the final examination for the Salespersons Prelicense Course and the Brokers Prelicense Course consists of no fewer than one hundred questions; and (3) the final examination for the Community Association Managers Prelicense Course and the Sales Postlicense Course consists of no fewer than fifty questions. A school must submit to the Commission for approval any course final examination that does not meet the above criteria prior to the examination's being administered for the approved course.

(g) Proctoring. Schools must provide proctors for all final examinations for prelicense and postlicense courses and for any continuing education courses that require the passing of a final examination in order to receive credit for the course. The school director, coordinator, approved instructor, or other person designated by the school director or coordinator may administer or proctor final examinations in approved courses. The school director or

coordinator must insure that examinations are conducted according to the requirements of this chapter.

(13) Alternatives for Meeting Prelicense Course Requirements.

(a) College Courses. Applicants for examination may qualify to sit for examination by presenting college transcripts which show courses in real estate subjects of at least 10 quarter hours or 6 semester hours if the application is for the salesperson's examination or 15 quarter hours or nine semester hours if the application is for the broker's examination. Applicants for the community association manager's examination may qualify to sit for the examination by presenting college transcripts which show real estate courses of at least four quarter hours or two semester hours with a concentration in community associations and community association management.

1. Applicants must submit an official transcript at the time of making application for examination; and the applicant may be required to provide a description of the course or courses from the school's catalogue or bulletin.

2. Only courses which count towards the student's obtaining a major in the field of real estate or courses dealing with principles, fundamentals, or essentials of real estate and only courses in agency, real property law, and contract law at a school of law will satisfy this requirement. College correspondence courses and courses which qualify for continuing education units do not satisfy the requirements of this rule.

(b) Credits for Instructors. The Commission shall approve as meeting the education requirements for examination any instructor who submits satisfactory proof that he or she has taught a course or courses named in this rule within two years prior to making application to sit for an examination.

(c) Sales I, Sales II, and Sales III. Applicants who successfully completed all three of the approved Sales I, Sales II, and Sales III courses prior to January 1, 1993, may present certificates of completion of those courses from approved schools in order to sit for the qualifying examination for a salesperson's license.

(d) Courses Approved by Other Jurisdictions. Prelicense education courses for community association managers, salespersons, and brokers authorized by the regulatory body that regulates real estate licensees in any state, district, territory, possession, or province of the United States or Canada are approved as meeting the corresponding prelicense education requirements in Georgia provided that such courses are similar in credit hours earned to Commission approved prelicense courses and are offered through classroom instruction or through computer-based instruction that is consistent with the standards of these regulations.

(14) Alternatives for Meeting Continuing Education Requirements. The Commission shall deem a licensee to have met the continuing education requirement of O.C.G.A. § 43-40-8 (e) for a renewal period if the licensee successfully completes in a renewal period any of the following courses which have at least the total number hours of instruction the licensee is required to complete:

(a) Prelicense and Postlicense Courses. Licensees may obtain continuing education credits by successfully completing during a renewal period a Community Association Managers Prelicense, Salespersons Prelicense, Sales Postlicense, or Brokers Prelicense course. Salespersons who complete the twenty-five hour Sales Postlicense course in their first year of licensure may count that course as meeting only 6 hours of the continuing education

requirement for the first renewal period. During their first renewal period, such salespersons must complete an additional 18 hours of continuing education courses in order to renew active licenses.

(b) College Courses. A licensee may obtain continuing education credit for a renewal period by completing at an accredited college or university any course of 4 quarter hours or 2 semester hours

1. which counts toward obtaining a major in the field of real estate or courses dealing with principles, fundamentals, or essentials of real estate;
2. which counts toward obtaining a major in business administration, accounting, finance, or marketing offered by a college or university accredited by one the regional accrediting associations recognized by the United States Department of Education; and
3. any 4 quarter hours or 2 semester hour courses in agency, real property law, and contract law at an accredited school of law.

College correspondence courses and courses which qualify for continuing education units may not be used to qualify under this Rule.

(d) Credits for Instructors. The Commission shall deem the continuing education requirement for a real estate renewal period as met by any instructor who submits satisfactory written proof that he or she has taught any of the courses approved under this paragraph for a total of 24 hours during the renewal period in which the instructor is applying for a renewal of a real estate license.

(e) Non-resident Licensees. The Commission shall deem the continuing education requirement as met by any nonresident licensee who submits satisfactory written proof that he or she has met the continuing education requirement of his or her state of residence during the renewal period in which the instructor is applying for a renewal of a real estate license. If the state of residence of a nonresident licensee does not require continuing education, then such nonresident licensee must meet the continuing education requirements of a resident licensee.

(f) Courses Approved by Other Jurisdictions. Continuing education courses authorized by the regulatory body that regulates real estate licensees in any state, district, territory, possession, or province of the United States or Canada may be used to count toward meeting the continuing education requirement for real estate licensees in Georgia. Such courses will be deemed as meeting continuing education requirement only if the courses are offered through classroom instruction or through computer-based instruction that is consistent with the standards for computer based courses or distance education described in this Rule.

(15) Verification of Course Completion. Licensees completing courses approved under this Rule may be required to submit transcripts or other verification of completion which the Commission deems necessary and adequate.

Authority O.C.G.A. Sections 43-40-2, 43-40-8, 43-40-25.