

South Carolina Real Estate Commission
Special-Called Teleconference Meeting Minutes
Thursday, October 5, 2023 at 1:30 p.m.

Public notice of this meeting was properly posted at the S.C. Real Estate Commission Office, Synergy Business Park, Kingstree Building, Commission website, and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. The telephone number and access code were provided on the posted agenda for members of the public wishing to join.

Commission Members Present:

William “Andy” Lee, Chair – 3rd Congressional District
John Rinehart, Vice Chair – 5th Congressional District
Candace Pratt – 1st Congressional District
Allen Wilkerson – 2nd Congressional District
David Burnett – 4th Congressional District
Janelle Mitchell – 6th Congressional District
W. Brown Bethune – 7th Congressional District
Gary A. Pickren, Esq. – At-Large Member
Jonathan Stackhouse – Public Member

SCLLR STAFF PRESENT:

Kyle Tennis, Esq., Office of Advice Counsel
Meredith Buttler, Commission Executive
Ashlynn Kirk, Administrative Coordinator

PRESENT:

Diane Hendricks, Court Reporter
Austin Smallwood, Esq., SCR
Lindsay Jackson, Esq., SCR

CALLED TO ORDER: Mr. Lee, Chair, called the meeting to order at 1:36 p.m.

APPROVAL OF AGENDA

Motion: To approve the agenda.

Moved by Mr. Rinehart and seconded by Ms. Pratt, the motion was approved unanimously.

INTRODUCTION OF COMMISSION MEMBERS AND STAFF

Commissioners and staff introduced themselves.

DISCUSSION OF TITLE 40, CHAPTER 57 REVISIONS PER S.C. CODE ANN. §40-57-60(A)(3)

Mr. Tennis began the meeting with an explanation that pursuant to the authority provided for in S.C. Code Ann. § 40-57-60(A)(3) the Commission may recommend changes in legislation. Mrs. Buttler and Mr. Tennis have been working on a draft of recommended changes based on Commission discussions and issues observed over the past year. These draft recommendations

are presented to the Commission for discussion and review. These recommendations include organization of the statutes, new and updated definitions, and other recommended changes as the Commission has voiced in recent Commission meetings. The draft edits that were discussed included but were not limited to the following:

Section 40-57-5. Applicability of chapter; conflicts of law

As “salesperson” has been recommended to be changed to “associate” in S.C. Code Ann. § 40-57-30’s definitions section, this section reflects that. The Commission had no further recommendations.

Section 40-57-10. South Carolina Real Estate Commission created; purpose.

There were no recommended changes. The Commission had no recommendations.

Section 40-57-20. Valid licensure Requirement for Real Estate Brokers, Associates, and Property Managers.

Other than aligning with updated definitions, the Commission had no further recommendations.

Section 40-57-30. Definitions

In the recommended changes, some defined terms were stricken and replaced with different terms. Other recommendations included adding new definitions and updating verbiage for existing definitions. Changes of note include but are not limited to the following:

- Adding the following definitions:
 - o “Active license”
 - o “Agency”
 - o “Alternative name”
 - o “Associate” instead of “salesperson”
 - o “Canceled license”
 - o “Commercial real estate”, with input sought from Commissioners Wilkerson and Bethune specifically
 - o “Formal complaint”
 - o “Inactive license”
 - o “Incompetency”
 - o “Lapsed license”
 - o “Letter of Caution”
 - o “Residential real estate”
 - o “Supervised licensee”
 - o “Wholesaling”
- Updating verbiage for existing definitions:
 - o For “broker” - included updated verbiage, examination requirements, and to include management of short- and long-term rentals.
 - o For “broker-in-charge”- included updated verbiage regarding responsibilities
 - o For “material adverse fact” - issues were discussed with further research requested
 - o For “property manager-in-charge” - included updated verbiage regarding responsibilities
 - o For “real estate brokerage” – updated to include “or other disposition”

Section 40-57-40. Membership; terms of appointment

In the recommended changes, the phrase “South Carolina Real Estate” was stricken as “Commission” is a defined term already. The term “members” was changed to “commissioners.” The Commission had no further recommendations for this section.

Section 40-57-50. Election of officers; seal; rules and procedures.

There were grammatical recommended changes. The Commission had no further recommendations.

Section 40-57-60. Powers and duties of Commission

In the recommended changes, “initial license issuance and” was added to S.C. Code Ann. § 40-57-60(A)(1) . The Commission had no further recommendations.

Section 40-57-65. Annual report

There were grammatical recommended changes. The Commission had no further recommendations.

Section 40-57-70. Application and liense fees; Allocation of fees; annual report.

The Commission recommended updating S.C. Code Ann. § 40-57-70(C) to clarify how the Education and Research funds may be used.

Section 40-57-90. Application for examination or licensure; form and fees.

There were grammatical recommended changes. The Commission had no further recommendations.

Section 40-57-110. Issuance and classification of license; inactive status; renewal; lapse; unlicensed practice.

In the recommended changes, unlicensed practice was added to the Commission’s jurisdiction. Additional information regarding inactive status and inactive licensees was recommended. Other recommendations included grammatical changes and updated verbiage based upon updated definitions.

Section 40-57-115. Criminal background checks required for initial applicants and licensure renewals.

Recommendations for updated verbiage based upon updated definitions. The Commission had no further recommendations.

Section 40-57-120. Reciprocal agreements; Nonresident licensees; change in residency; referral fees by resident licensees.

Recommended changes included the following:

- “Reciprocal agreements” was added to the statute’s heading
- Language regarding completing the state examination was removed from subsection A as it was addressed elsewhere
- Removed “nonresident” status as basis for recognition of others with an active license from subsection A

- Clarified the need for a reciprocity agreement to be in place in subsection A
- Removed “and compliance to” from subsection (C)(3) for readability

Other recommendations included grammatical changes and updated verbiage.

Section 40-57-135. Duties of broker-in-charge and property manager-in-charge; supervised licensees; office locations; policies and recordkeeping; management agreements; unlicensed employees.

Recommended changes included the following:

- Updated statutory references in S.C. Code Ann. § 40-57-135(A)(5) regarding office policy
- Providing for alternative names to be used after registering the name with the Commission in S.C. Code Ann. § 40-57-135(C)(3)
- Updating S.C. Code Ann §40-57-135(E) to include licensees obtaining the owner’s consent before advertising as well as parameters regarding advertising property as well as the licensee’s real esate services
- For S.C. Code Ann §40-57-135(F)(1), Commissioners identified that the statute may need better clarity regarding as to when a licensee must clearly reveal their license status in a personal transaction and to suggested redrafting this section to provide licensees better direction
- For S.C. Code Ann §40-57-135(I)(2)(f) Commissioners discussed limiting specific dates for agency relationship to one year for residential real estate. This would not apply to commercial real estate. Further research would be conducted.
- Commissioners recommended to strike recommendation of S.C. Code Ann §40-57-135(I)(8).

Other recommendations included grammatical changes and updated verbiage based upon updated definitions.

Section 40-57-136. Trust accounts; disputes; records

Recommended changes included the following:

- Commissioners reviewed S.C. Code Ann. § 40-57-136(E) thoroughly to address issues regadrng trust fund disbursement. Further research would be conducted.
- Commissioners recommended for S.C. Code Ann § 40-57-136(G) to include language regarding obligations to ensure money deposited in accordance with contract. Other recommendations included grammatical changes and updated verbiage based upon updated definitions.

To continue reviewing and discussing the remaining draft recommendations, the Commission scheduled special-called WebEx meetings for October 9, 2023, at 2:00pm and October 10, 2023, at 2:00pm

PUBLIC COMMENTS

None

ADJOURNMENT

Motion: To adjourn.

Moved by Mr. Pickren and seconded by Mr. Rinehart, the motion carried by unanimous vote.

The meeting adjourned at 3:34 p.m.