

**South Carolina Real Estate Commission**  
**Special-Called Teleconference Meeting Minutes**  
Tuesday, October 10, 2023 at 2:00 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 – 3<sup>rd</sup> Congressional District  
John Rinehart, Vice Chair – 5<sup>th</sup> Congressional District  
Candace Pratt – 1<sup>st</sup> Congressional District  
David Burnett – 4<sup>th</sup> Congressional District  
Janelle Mitchell – 6<sup>th</sup> Congressional District  
Gary A. Pickren, Esq. – At-Large Member

**SCLLR STAFF PRESENT:**

Kyle Tennis, Esq., Office of Advice Counsel  
Meredith Buttler, Commission Executive

**PRESENT:**

Katherine Boone, Court Reporter  
Austin Smallwood, Esq., SCR  
Lindsay Jackson, Esq., SCR

**CALLED TO ORDER:** Mr. Lee, Chair, called the meeting to order at 2:03 p.m.

**APPROVAL OF AGENDA**

**Motion:** To approve the agenda.

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

**APPROVAL OF EXCUSED ABSENCES**

**Motion:** To approve the absences of Jonathan Stackhouse, Allen Wilkerson, and W. Brown Bethune.

Moved by Mrs. Mitchell and seconded by Mrs. 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) CONTINUED**

Mr. Tennis began the meeting explaining that between the previous meetings and today he had compiled all of the recommended changes the Commissioners had discussed in previous

meetings. Mr. Tennis wanted to bring to the attention of the Commissioners certain sections with changes that were made in accordance with the discussions at the prior meetings , and if any of the Commissioners have further recommendations for those specific sections or otherwise, to please let him know.

### **Section 40-57-30. Definitions**

The following were discussed:

- Added “created in writing” to the definition of “agency” per prior discussions. The Commissioners had no further recommendations for the updated definition.
- The definition of “commercial real estate” reflected the input from Commissioners Bethune and Wilkerson. The Commissioners had no further recommendations for the updated definition.
- The definition of “letter of caution” was updated to include the following sentence: “While non-disciplinary, the fact that a letter of caution has been issued may be considered in a subsequent disciplinary proceeding against a person authorized to practice.” The Commissioners had no further recommendations for the updated definition.
- Commissioners recommended that the definition for “material adverse fact” include the phrase “but is not limited to”
- The definition of “real estate transaction” was updated to add “lease, or other disposition of real estate” to the end of the definition. The Commissioners had no further recommendations for the updated definition.
- Following discussion, the definition of “residential real estate” was updated to “real estate which is used primarily for personal, family, or household purposes and is improved by one to four dwelling units.” The Commissioners had no further recommendations for the updated definition.

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

Section 40-57-110(D) included additional language so as to allow the Commission to have jurisdiction to take action against unlicensed individuals; it also referenced newly-created S.C. Code Ann. § 40-57-725, which details administrative citations and penalties.

Following discussion, the time period after a license lapses but before it is cancelled was expanded from six months to 24 months, as reflected in the recommended update to S.C. Code Ann. § 40-57-110(E).

### **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.**

In this section, “Prohibition on bad faith agreements” was added to the heading of the section. With respect to Section 40-57-135(E)(1) and (2) Commissioners discussed recommending updated language to include more details regarding advertising and to include requiring authorization from the owner and listing firm to advertise.

**Motion:** To approve the language as recommended for Section 40-57-135(E)

Moved by Mr. Burnett and seconded by Mr. Rinehart, the motion carried by a vote of 5 in favor and 1 opposed.

Section 40-57-135(F)(1) was broken out to be clearer for licensees to understand. The Commissioners had no further recommendations for this section.

Section 40-57-135(I)(9) added a 3-prong prohibition on bad faith agreements as they relate to residential real estate. Section 40-57-135(I)(10) provides a list of exceptions to the bad faith agreement prohibition.

The Commissioners had no further recommendations for these sections.

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

After discussion, Commissioners recommended that Section 40-57-136(E) to be returned to the original language.

Commissioners recommended that Section 40-57-136(H) read as follows: “If trust funds are held outside a licensee’s brokerage firm, the licensee remains obligated to ensure that the trust funds are timely and properly delivered to the trust fund agent as stated in the contract.” The Commissioners had no further recommendations for these sections.

**Section 40-57-360. Broker-in-Charge responsible for team supervision.**

Recommended changes included team advertising requirements, team name requirements, registration regulations, and examples. Commissioners recommended Section 40-57-360(E) be stricken as it was duplicative following the other recommended changes. The Commissioners had no further recommendations for this section.

**Section 40-57-710. Grounds for denial of issuance of license or for disciplinary action against licensee.**

The Commissioners reviewed and approved the language regarding a broker-in-charge or property manager-in-charge being required to attend a disciplinary hearing involving a supervised licensee. The Commissioners had no further recommendations.

**Section 40-57-725. Administrative citations and penalties; appeals.**

Following discussion regarding what action could be taken against unlicensed individuals, the Commission reviewed and recommended adding this section, which outlines the process for administrative penalties and citations, as well as appeals of those citations. Proposed subsection B was stricken. The Commissioners had no further recommendations for this sections.

**Section 40-57-740. Actions against owners and agents; education standards; education providers or instructors.**

After discussion, Commissioners recommended that Section 40-57-740(C) through (I) be moved to Article 9 regarding Education. The Commissioners had no further recommendations for this sections.

**Section 40-57-770. Confidentiality and privileged communications.**

In accordance with its previous discussions, the Commission reviewed and recommended this section be updated to the following: “An investigation conducted pursuant to this chapter is confidential. The supervising broker-in-charge or property manager-in-charge of record with whom the supervised licensee is affiliated with at the time the licensee is sent the information as required per Section 40-1-80(B) shall also receive a copy of the same information the supervised licensee is sent pursuant to Section 40-1-80(B). Related communications are privileged as provided in Section 40-1-190.”

**Section 40-57-930. Renewals**

Section 40-57-930(A) recommendation to include adding “or other national certifying entities as approved by the Commission” to include future approved distance education course certifications. The Commissioners had no further recommendations for this section.

**Motion:** To approve the draft recommendation, with the Chair being delegated the ability to review and approve the final version with respect to any later-found scrivener’s or consistency errors.

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

**PUBLIC COMMENTS**

Mr. Smallwood and Ms. Jackson expressed their thanks to the Commissioners and LLR staff for their dedication on this.

**ADJOURNMENT**

**Motion:** To adjourn.

Moved by Mr. Burnett and seconded by Mrs. Mitchell, the motion carried by unanimous vote.

The meeting adjourned at 3:20 p.m.