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Real Estate Commission



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## **2024 Changes to the Real Estate Practice Act**

House Bill 4754 was signed into law on May 21, 2024. The bill created Act No. 204 and comprehensively updates and clarifies the licensing laws governing the practice of real estate in South Carolina, as codified in Section 40-57-5 *et seq.* (2024) (“Real Estate Practice Act”).

### **2024 Real Estate Practice Act References**

A copy of the updated 2024 Real Estate Practice Act that has the additions and deletions underlined and stricken through, making the updates easier to find, can be found [here](#).

A “clean” copy of the updated 2024 Real Estate Practice Act can be found [here](#).

### **Summary of Changes Made**

Due to the volume of changes and updates made, the following are some, but not all of the changes and updates made to the Real Estate Practice Act, separated into the following categories for ease of reference:

- [New and Updated Terms](#)
- [Practice-Related Updates](#)
- [Licensure Updates](#)
- [Education \(Instructors and Providers\)](#)
- [Continuing Education](#)
- [Wholesaling and Assignments](#)
- [Advertising of Real Estate or Real Estate Services; Team Advertising](#)
- [Prohibition on Bad Faith Agreements](#)
- [Disciplinary/Investigatory Updates](#)
- [Disciplinary Citations](#)
- [Artificial Intelligence](#)

### **Updated Regulations**

The regulations, found in Chapter 105, were also updated in 2024. The updates focused on pre-licensing and continuing education, among other educational-related topics. A “clean” copy of the regulations begins on Page 236 (PDF page 245 of 448) of the May 24, 2024 edition of the State Register, found [here](#). The State Register will open as a separate PDF.

## **New and Updated Terms**

- Includes renamed terms (i.e. “salesperson” to “associate,”) newly-added terms (i.e. “wholesaling”), and updates to existing terms (i.e. “broker-in-charge”) (Section 40-57-30)

## **Practice-Related Updates**

- Clarification regarding when and in what ways a licensee must reveal his license status when the licensee’s personal transaction is involved (Section 40-57-135(F)(1))
- Offer rejection forms must be provided within forty-eight hours of rejection (Section 40-57-135(I)(5))
- 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 (Section 40-57-230(H))

## **Licensure Updates**

- Broker experience requirement increased: The experience requirement for a broker license was increased; applicants applying for a broker license must now have five years of active South Carolina associate licensure within the past seven years. Before the 2024 update, only three years of South Carolina salesperson licensure within the last five years was required. (Section 40-57-320(A)(2))

Note: this applies to any broker applicant that applies on or after May 21, 2024.

- Clarification regarding both portions of examination: Language was added clarifying that applicants must pass both the state and national portions of the examination in order to obtain associate or broker licensure (Sections 40-57-30(5), 40-57-310, and 40-57-320)
- Reduction in time applicants may reapply after failing exam from 5 years to 3: An applicant who fails to complete both the state and national portions of the exam may reapply to become eligible if applicable qualifying courses were completed within 3 years before applying for the exam. The prior law gave applicants up to 5 years. (Section 40-57-320(B)(3))
- Extension of time before license cancellation: Licenses are no longer cancelled after six months following the licensee's lapsing. Instead, a license that has lapsed is not cancelled until 24 months after the license lapses. (Section 40-57-110(E))

Note: this applies beginning with the 2024 renewal cycle. For example, licenses that lapse on July 1, 2024, are not cancelled until July 1, 2026.

- Alternative name registration: A licensee may use an alternative name, as defined, after the licensee has registered the alternative name with the Commission. (Section 40-57-135(C)(3))

- Reciprocal agreement required for reciprocity: Reciprocal agreements between the Commission and another jurisdiction's real estate regulatory authority must be in place in order for an applicant licensed by the other jurisdiction to be granted a license via reciprocity. The applicant must also comply with all requirements as detailed in the reciprocal agreement in order to be eligible for licensure via reciprocity. To date, the Commission has reciprocal agreements with Georgia and North Carolina. (Section 40-57-120(A))

### **Education (Instructors and Providers)**

- The laws governing education have been reorganized and grouped together in newly-created Article 9, Sections 40-57-910, 40-57-920, and 40-57-930. Additionally, some minor changes were made.

### **Continuing Education**

- Carryover of elective hours: Brokers and associates that take more than the required number of continuing education hours during a two-year period may now carryover up to four hours of elective courses to the next renewal period. (Section 40-57-340(C))
- Removal of nonresident CE exemption: Nonresident licensees are no longer allowed to use their resident jurisdiction's continuing education to satisfy South Carolina's CE requirements. This exemption, found in the previous version of the Real Estate Practice Act at Section 40-57-340(B)(1)(c), was removed with the 2024 update. (Section 40-57-340(B))

### **Wholesaling and Assignments**

- "Wholesaling" is newly defined as follows: (Section 40-57-30(44))
  - o "Wholesaling" means having a contractual interest in purchasing residential real estate from a property owner, then marketing the property for sale to a different buyer prior to taking legal ownership of the property. Advertising or marketing real estate owned by another individual or entity with the expectation of compensation falls under the definition of "broker" and requires licensure. "Wholesaling" does not refer to the assigning or offering to assign a contractual right to purchase residential real estate.
- Licensees are prohibited from wholesaling because of duties owed to clients. (Section 40-57-350(A))
- Licensees are prohibited from wholesaling because of duties owed to customers. (Section 40-57-350(L)(5))
- The advertising and marketing of real property is to be distinguished from the advertising and marketing of a contractual position in a sales agreement to purchase real estate. An advertisement that markets a contractual position to acquire real property from a person with either equitable or legal title and does not imply, suggest, or purport to sell, advertise, or market the underlying real property is permissible. (Section 40-57-135(E)(1))

## **Advertising of Real Estate or Real Estate Services; Team Advertising**

- Written authorization required for licensee not associated with the listing brokerage firm to advertise real estate owned by another (Section 40-57-135(E)(1))
- A difference is drawn between advertising and marketing real property from advertising and marketing contractual position in sales agreement to purchase real estate. An advertisement marketing a contractual position to acquire real property that does not imply, suggest or purport to sell, advertise, or market the underlying real property is permissible. (Section 40-57-135(E)(1))
- If a licensee is either advertising their *own real estate services as a licensee* or marketing property owned by another, the licensee must identify the full name of their real estate brokerage firm; if this is done online, this can be satisfied by including a link from the advertisement to the home page of the brokerage firm or property management company. (Section 40-57-135(E)(2))

Note: Section 40-57-135(E)(2) takes effective on May 15, 2025.

- Laws governing team advertising were substantially updated. (Sections 40-57-360(D), (E), and (F))

Note: These team advertising laws take effect May 15, 2027.

## **Prohibition on Bad Faith Agreements**

- Bad faith agreements, as defined, are unenforceable. Additionally, a licensee involved in a bad faith agreement is subject to discipline of their license by the Commission. (Section 40-45-135(I)(9) and (10); Section 40-57-710(A)(5))

## **Disciplinary/Investigatory Updates**

- Practicing with lapsed licenses subject to sanctions: Licensees that practice with lapsed licenses may be sanctioned as unlicensed practice, which includes disciplinary citations. (Sections 40-57-110(D), 40-57-720, and 40-57-725)
- Confidentiality of investigations; supervising licensee to receive complaint documentation: The supervising broker-in-charge (BIC) or property manager-in-charge (PMIC) at the time the complaint's materials are sent to the licensee under investigation must also receive copies of the same documentation the licensee under investigation is sent. (Section 40-57-770)
- Supervising licensee during the events in question must attend disciplinary hearing of supervised licensee being disciplined: The supervising BIC or PMIC must now attend the Commission disciplinary hearing of their supervised licensee if the supervised licensee is required to appear for the hearing regarding misconduct that is alleged to have occurred during the BIC or PMIC's period of supervision. Failure to attend may result in the BIC or

PMIC facing disciplinary action himself for not attending unless good cause is shown as to why the BIC or PMIC failed to appear. (Section 40-57-710(B))

- Maximum fine per violation increased; minimum fine removed: The maximum fine per violation increased from \$5,000 to \$10,000; the minimum fine amount per violation was removed. (Section 40-57-720(E)(2))

### **Disciplinary Citations**

- For violations of the Real Estate Practice Act or the Commission's regulations, investigators and inspectors with the Commission may issue citations against a licensee or an unlicensed individual. A recipient of a citation may appeal it within 10 days, otherwise it becomes final and must be paid within 30 days of receiving the citation. (Section 40-57-725)

### **Artificial Intelligence**

- Licensees are responsible for work product that is produced with the assistance of Artificial Intelligence (A.I.). (Section 40-57-820)

**Disclaimer: This update is not intended as legal advice. LLR is providing this legislative update to notify licensees of recently enacted legislation and regulations that may impact his or her practice area or license. This update provides only a high-level overview of enacted legislation and regulations. Licensees are urged to review the entire enacted legislation and/or regulation, available in the hyperlinks above.**