

MEETING CALENDAR

<http://llr.sc.gov/POL/REC/rec/pdf/Doc152.pdf>

CONTACT

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Welcome to the New Commission Newsletter

The Commission is committed to making sure you stay up-to-date on issues affecting your license and hopes you find the information in this newsletter helpful and useful. This newsletter is for you, so please let the Commission staff know the type of information you would like included in future newsletters.

--Candace W. Pratt, Commission Chair

License Law Spotlight – Real Estate Payments

“Pay at Close”: On August 17, 2016, the Commission addressed whether the practice of an associated licensee being paid by a Commission or referral fee directly at closing, also known as “Pay at Close”, is allowed under the SC Real Estate Practice Act. The Commission’s interpretation is that “Pay at Close” does violate the law and is not permissible. Minutes from this meeting can be found at <http://llr.sc.gov/POL/REC/Minutes/8-17-16.pdf>.

The provision referenced in the motion has moved to SC Code of Laws 40-57-135(B) from (B)(8) in the pre-2017 law, however the language did not change and the Commission’s position stands.

The current applicable provision of law, SC Code of Laws 40-57-135(B), reads: “An associated licensee may not receive compensation from an activity requiring a real estate license from an entity or person other than the one for which the license is issued.”

Referral Fees: The Commission does not have a “referral” license status, but “Limited Function Referral Office” is defined in SC Code of Laws 40-57-30(15) as “a brokerage where the office policy allows only the placement of referrals through the broker-in-charge.”

To solicit and receive referral compensation on a sales transaction, one has to be “active” status as a broker or salesperson and supervised under a Broker in Charge. A Broker in Charge will often create a separate “referral only” office code to supervise and affiliate licensees who will only be engaging in referrals. Whether or not an office is a “referral only” office is based upon the office policy of the broker in charge creating the office.

Unlicensed individuals or inactive status licensees may not solicit referral fees on real estate transaction as that is considered engaging in the practice of real estate in South Carolina. SC law does allow a licensee to pay a referral fee to a brokerage of another jurisdiction, as the licensees of that jurisdiction do not engage in activities requiring licensure in South Carolina.

SC Code of Laws 40-57-120(E) reads: “A resident licensee may pay a part of his commission as a referral fee on a cooperative basis to a brokerage of another state or jurisdiction if that brokerage’s license does not conduct, in this State, a real estate brokerage service for which a fee, compensation, or commission is paid.”

To comply with this provision, licensees of another jurisdiction should not be listing, showing properties, or engaging directly with SC customers or clients regarding real estate transactions. This should be purely a referral to a brokerage’s SC licensees to provide services to a customer or client in South Carolina.



ADMINISTRATOR'S MESSAGE – ROD ATKINSON

Renewals are underway for licensees with an expiration date of June 30, 2018. This has been a year in which the Real Estate Commission has been implementing many major changes as a result of the 2017 license law revision.

For the first time, non-exempt active status Salesperson, Broker, and Broker in Charge licensees will be required to have a total of 10 hours of continuing education to remain active. Of the 10 hours, 4 must be the mandatory core course - "TRID Safely in a Flood of Disclosures". If you are a non-exempt Broker in Charge at time of active renewal, you must also take a 4-hour mandatory course titled "BIC Duties and Responsibilities". Brokers and Salesperson renewing as active have to take 6 hours of elective courses, while Brokers in Charge will have only 2 hours of electives due to the 2 mandatory course requirements.

There is no continuing education required for Property Managers or Property Managers in Charge, Timeshare Salespersons, non-resident licensees who have completed the CE of their resident licensed jurisdiction, and those who qualified for permanent continuing education age/experience exemptions under the pre-2017 licensing law. Licensees who have applied for and been granted partial exemptions under the current law (25 years as an active licensee) are exempt only from elective hours and must complete all mandatory hours for their license type.

Please be sure you signed up at <https://www.cebroke.com/sc/account/basic> to keep track of your CE compliance. SC Real Estate schools should be reporting CE hours for licensees within 14 days of the course completion. If a course is not reported, you may self report by uploading your completion certificate. Even if you meet an exemption, you must report that exemption in CEBroker.com under the "report exemptions" tab and upload proof of CE if you are a non-resident who has taken CE in your resident jurisdiction.

If you have not yet claimed your free basic CEBroker.com account yet, you may do so at the following link: <https://www.cebroke.com/sc/account/basic>.

For a full list of CE Requirements, exemptions, and information on signing up for CE Broker, review the documents below:

[CE Requirements and Exemptions](#)
[CE BROKER – CE Tracking Database](#)



Rod Atkinson

FAQS

Do you have a question regarding licensing or renewals? Before you contact us, look below to see if your question is answered in the licensing and renewal FAQ documents.

[REC Licensing FAQ](#)

[REC Renewal FAQ 2018](#)

[REC Online Account Login Help](#)

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Compliance Corner – Investigations vs. Inspections

LLR has an Office of Investigation and Enforcement (OIE). While this Office includes investigators and inspectors, their roles are quite different.

What are Inspections?

Under SC Code of Laws Section 40-57-60(C) “The Commission staff shall conduct periodic inspections of the offices of licensees to assist with and ensure compliance with this chapter.”

Inspections are non-disciplinary. LLR inspectors schedule office visits to assist Brokers in Charge and Property Managers in Charge in assuring their offices are in compliance with licensing law requirements for trust accounting, advertising, supervision, recordkeeping and office policies. If concerns are found, the inspector will explain best practices to correct compliance issues and will reschedule a follow-up inspection. However, if an Inspector observes egregious violations during an inspection, such as conversion of funds, lack of record keeping, or other non-correctable violations, the inspector may report the findings to the Administrator or to OIE to initiate an investigation.

New Brokers in Charge and Property Managers often request inspections to assure they are in compliance. The Commission has directed inspectors to focus on new offices, however, inspections may be scheduled at random.

When you are contacted by an inspector, there is no need to panic. They are scheduling to help make sure you are up to speed on what is necessary for license law compliance.

What are Investigations?

Investigations generally are initiated through complaints and are based upon allegations of conduct that may violate the SC Real Estate Practice Act. The investigator’s role is to gather information and facts relating to those alleged violations.

In some cases, a complaint may be generated by a very specific grievance, yet during the course of investigation, other compliance issues may be discovered. For example, a complainant may file a complaint because rental proceeds are repeatedly late. Upon review of accounting records, an investigator may discover that the late rental proceeds were due to commingling or conversion of trust funds, inadequate record keeping, or just a lack of timely communication and responsiveness by the responsible “in charge” licensee.

Once the investigator has gathered information and evidence, he or she prepares a report summarizing the allegations and their findings and presents gathered exhibits to an Investigative Review Committee (IRC). After reviewing the evidence, the Investigative Review Committee makes a recommendation to the Commission for approval. Their recommendation may be to dismiss the case, to issue non-disciplinary private letter of caution, to offer a consent agreement, to issue a formal complaint, or to offer a permanent license relinquishment.

A Consent Agreement offers the licensee an opportunity to admit to the violations and conduct and to resolve the case through set disciplinary sanctions such as fines, education, probation and a public reprimand. If the licensee and the Chair of the Commission sign a consent agreement, the case ends, and in most cases, the license may continue to practice as long as he or she maintains compliance with the conditions of the agreement. If the licensee does not agree to the terms of a consent agreement, a formal complaint and notice of hearing are issued, where the licensee is charged with specific violations and scheduled to appear at a hearing before the full Commission. The Commission will issue a Final Order after a hearing, which will include penalties if the State meets its burden of proving violations of licensing law by a preponderance of the evidence. The penalties imposed by the Commission may be greater or lesser than those imposed through a consent agreement, and may include a revocation of licensure.

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Candace W. Pratt, Chair, Real Estate Commission



Profession: Real Estate Agent

Term: March 2013-2021

Education/training/military: I have been a real

estate agent and broker for 42 years. I have worked as a sales associate, broker-in charge, relocation coordinator, and company trainer. Currently, I am 1 of 4 owners of RE/MAX Pro Realty in North Charleston.

Personal Life: My husband, Robert, is a commercial real estate broker, and we have four grown children; a son, Jim Hamilton, who has been a real estate salesperson with us for 14 years; a son, Ross Hamilton, is a food broker in Maryland; a son, Robert William Pratt, who is a dentist in North Charleston; and a daughter, Mary Ashton Pratt, who is a doctor of physical therapy and runs and owns a clinic in Ladson. We are also blessed with five grandchildren.

I grew up as an Air Force dependent and have lived a variety of places, but find Summerville is the perfect home. I spent my junior high and high school years in a small town in Mississippi, and I do not even recall that Columbus had any real estate offices at that time, but here I am entrenched in real estate and how blessed I am. I attended Mississippi State College for Women and have attended many real estate-related educational classes. I hold CRS, CRB, and CRP designations.

Visit the Commission’s Website at:

<http://llr.sc.gov/POL/REC/>

Website features

- SC Real Estate Laws and Regulations: <http://llr.sc.gov/POL/REC/index.asp?file=laws.htm>
- Licensee Lookup: <https://verify.llronline.com/LicLookup/Rec/Rec.aspx?div=19>
- Board Orders/Disciplinary Actions: <http://llr.sc.gov/POL/REC/index.asp?file=finalorders.htm>
- Applications and Forms: <http://llr.sc.gov/POL/REC/index.asp?file=pub.htm>
- Course Calendars:
 - Pre-licensing Course Calendar - <http://llr.sc.gov/POL/REC/recpdf/Doc150.pdf>
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