



Compliance Corner: Criminal Grounds for License Denial or Discipline

Applicants and licensees frequently ask, what criminal offenses will prevent me from obtaining or being able to keep a real estate license in South Carolina?

The Commission's statutory criminal grounds for denial or discipline of a license are found in SC Code 40-57-710 and 40-1-110.

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

(A) In addition to Section 40-1-110, the commission may deny issuance of a license to an applicant or may take disciplinary action against a licensee who:

(9) is convicted of violating the federal and state fair housing laws, forgery, embezzlement, breach of trust, larceny, obtaining money or property under false pretense, extortion, fraud, conspiracy to defraud, or has been convicted of a felony sex-related, felony drug-related, felony real estate-related, felony financial, or felony violent offense, or pleading guilty or nolo contendere to such an offense in a court of competent jurisdiction of this State, another state, or a federal court;

SECTION 40-1-110. Additional grounds for disciplinary action.

In addition to other grounds contained in this article and the respective board's chapter:

(1) A board may cancel, fine, suspend, revoke, or restrict the authorization to practice of an individual who:
(h) has been convicted of or has pled guilty to or nolo contendere to a felony or a crime involving drugs or moral turpitude;

As it applies to **applicants for initial licensure**, this does not mean that someone automatically will be denied. Offenses in these categories generally cannot be approved at staff level, so the applicant may appear before the Commission for consideration for approval at what is called an application hearing.

An applicant will have to submit a complete application including completed pre-licensing education before their background check can be reviewed and a hearing can be scheduled before the Commission.

For **existing licensees**, a conviction that occurs during the course of licensure in these categories, or an offense that was not disclosed to the Commission previously and considered at initial licensure or during subsequent renewals, could lead to disciplinary action against the license. In these instances, there could be two violations: one for the conviction, and one for failing to disclose or providing false information on an application for licensure or renewal.

S.C. Code of Laws Section 40-1-110. Additional grounds for disciplinary action.

In addition to other grounds contained in this article and the respective board's chapter:

(1) A board may cancel, fine, suspend, revoke, or restrict the authorization to practice of an individual who:
(a) used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure under this article;

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Renewal applications ask *“Since you last renewed your license (or applied for initial license), have you been convicted of, pled guilty or nolo contendere to a crime other than a minor traffic offense that has not been previously disclosed? If Yes, please include a full explanation and documentation.”*

Each instance where a licensee did not disclose the offense initially, and subsequently answer “NO” to this question on a renewal application could be considered a violation by the Commission.

The appropriate discipline against the license would be in the Commissions’ discretion considering the nature of the offense and failures to disclose if applicable. Permanent license revocation is the most serious disciplinary action that the Commission can take against a license.

Administrator’s Message - 2020 Renewals Begin May 1st/Contact Information

If you have a license expiration date of June 30th of this year, 2020 renewals will begin on May 1st, 2020. We will try to keep a consistent renewal cycle start date each year of May 1st (or the first business day of May). Please make sure your personal email address and contact information is current with the Real Estate Commission so you will receive important reminders regarding your license.

We strongly encourage you to use your permanent personal email address rather than just a work email address so that you don’t have to update your email each time you change companies.

You may update your contact information with the Commission by logging into your LLR User Account through the following change your address link:

<https://eservice.llr.sc.gov/SSO/Login/LoginPage?ReturnUrl=%2fChangeOfAdd%2f>

If you need assistance with recovering your USER ID and Password or updating your email address, please review the following document:

https://llr.sc.gov/re/RECPDF/20170403133527_RECLoginHelp.pdf

You also can complete and submit the following contact information change form and scan/email it to **Contact.REC@llr.sc.gov**.

<https://llr.sc.gov/re/recpdf/doc190.pdf>



Rod Atkinson



John D. Rinehart, CCIM, CRB, CRS, GRI

Real Estate Commission

Profession: Commissioner Rinehart has been a licensed Real Estate Broker in North Carolina since 1973 and in South Carolina since 1976. He is founder of Rinehart Realty Corporation and Rinehart School of Real Estate. Rinehart has served as Past President and Vice President of the South Carolina Association of Realtors® and Piedmont Regional Association of Realtors®. He has held multiple committee positions with the local Association of Realtors® Chapters and the National Association of Realtors®. He currently is Vice Chair of the Licensing Law and Regulation Committee for ARELLO and serves on the ARELLO Finance Committee.



Term of Service: Rinehart has represented the South Carolina Real Estate Commission District 5 since 2015 and currently is Chair of the SCREC Rules and Regulations Task Force.

Education/Training: Rinehart graduated cum laude (with distinction and honors) with a Bachelor of Science Degree from Appalachian State University and is a member of Alpha Chi academic honor society.

Personal Life: Rinehart enjoys boating, travelling, and spending time with his family. He has been married to wife Geri Rinehart since 1969.

Rinehart has a son, John David Rinehart Jr. (Jay), and daughter-in-law, Dee Dee, and grandchildren, Madison and Ashley (twins), 23, Courtney, 20, and John David III, 21.

Mr Rinehart also has a daughter, Jennifer Pearson, and son-in-law, Dr. Andrew Pearson, and grandchildren Mackenzie, 24, Bennett, age 21, and Elizabeth Grace, 17.

License Law Spotlight: Interference with Agency Relationship

A frequent issue the Commission sees is when licensees change companies and transfer their licenses from one brokerage office to another and assume they can take the clients they were working with at their former brokerage over to their new brokerage. This is not the case.

The representation agreement and the agency relationship is not with you individually but with your former brokerage. You were acting as subagents of your former brokerage.

Section 40-57-30. For purposes of this chapter: (1) 'Agent' means one authorized and empowered by a written agency agreement to perform actions for a client. A real estate brokerage firm is the agent of a buyer, seller, landlord, or tenant, and the real estate brokerage firm's 'associated licensees' are its subagents.

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If you continue to act as the agent for clients that are still under representation agreements with your former brokerage, and especially if you encourage those clients to request releases from their representation agreements with your former brokerage, you could be violating the following provision of licensing law.

S.C. Code of Laws 40-57-710. (A) In addition to Section 40-1-110, the commission may deny issuance of a license to an applicant or may take disciplinary action against a licensee who:

(24) engages in a practice or takes action inconsistent with the agency relationship that other real estate licensees have established with their clients;

Please be aware of this provision when continuing to communicate with former clients after changing companies. If there is a situation where clients of the former brokerage would like to continue working with you, they should initiate that discussion with the Broker in Charge of the brokerage that represents them without your influence.

If you anticipate changing brokerages, whether or not your Broker in Charge will release the clients you have worked with from representation so that you may continue working with them should be a discussion you have with that Broker in Charge while still under affiliation with the company.

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SCREC Licensing Update

**2563 Licensees did not renew and lapsed at the end of 2019.*

Type	Count
Active Broker in Charge	7,637
Active Broker	5,136
Active Salesperson	29,148
Active Property Manager in Charge	1,308
Active Property Manager	1,709
Inactive Broker	1,597
Inactive Salesperson	7,496
Inactive Property Manager	782
Total	54,813

Frequently Asked Questions By Licensees

How do I transfer, inactivate and reactivate my license?

There are forms which allow you to perform most of these functions on the Commission's [website](#).



Licensing Questions?

Do you have a question regarding licensing or renewals?

Before you contact the Board office, check out the links listed below to see if your question is answered in the licensing and renewal FAQ documents.

If not, contact the [Commission](#).

[REC Licensing FAQ](#)

[REC Renewal FAQ](#)

Visit the Commission's [Website](#)

Website Features

[SC Real Estate Laws and Regulations](#)

[Licensee Lookup](#)

[Board Orders/Disciplinary Actions](#)

[Applications and Forms](#)

Legislative Update: Criminal Background Checks

Keeping with the subject of criminal backgrounds, in 2017 legislation was passed that would take effect in 2020 requiring fingerprint-based SLED and FBI criminal background checks for SC Real Estate Commission initial applicants and existing licensees every third renewal .

The effective date in the initial passed bill is May 19, 2020; however, there is pending legislation that would change that effective start date to July 1, 2020 .

(link to H.4246 at https://www.scstatehouse.gov/sess123_2019-2020/bills/4246.htm)

If the date change is approved by the General Assembly, renewal fingerprint background checks for most licensees will begin in the 2021 and 2022 renewal cycles. Initial license applicant background checks would begin effective July 1st, 2020.

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

Section effective May 19, 2020.

In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for licensure as a salesman, broker, broker-in-charge, property manager, and property manager-in-charge, the commission shall require initial applicants and applicants for licensure renewal to submit to a state fingerprint-based criminal records check, to be conducted by the State Law Enforcement Division (SLED), and a national criminal records check, supported by fingerprints, by the FBI. Costs of conducting a criminal records check must be borne by the applicant. The commission shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as necessary to support the administrative action.

There will also be amendments to the sections for Salesperson, Broker and Property Manager active renewal conditions that will require that any licensee who does not complete their criminal background check prior to the renewal deadline will be placed on inactive status.

Commission staff will be communicating with all licensees in coming months through email blasts and the website regarding implementation of the coming background check requirements. Please make sure you and all of your affiliated licensees have up-to-date contact information on file with the Commission.