



NOVEMBER 2001

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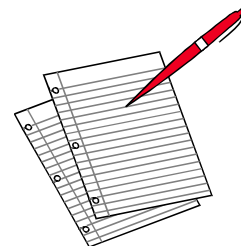
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Deputy Executive Director

ARKANSAS

Real Estate Commission

N E W S L E T T E R

From the Desk of ... **The Executive Director**



What's New!

The following regulations were amended to implement changes to the license law and proposals from the real estate industry. These changes will be effective January 1, 2002.

Regulation 4.1 was amended as a result of ACT 748 of 2001, which authorized the Commission to establish a Post-License education program beginning January 1, 2002. The 90-classroom hour broker pre-license education requirement, which included a 30-classroom hour broker course requirement, was changed to 60-classroom hours. The 30-classroom hour broker course will be required as post-license education beginning January 1, 2002.

Regulation 7.7 was amended as a result of ACT 1172 of 2001. The changes allow the Commission to permit a real estate firm to continue operating upon the death, resignation, termination, or incapacity of the principal broker, or the closing of the real estate

firm, under the direction of a person approved by the Commission.

Regulation 10.8 was amended as a result of a proposal from the real estate industry. The change will increase the number of days to deposit trust funds into a trust account or delivered to an escrow agent to three (3) days.

Regulation 11.5 is a new regulation, which was drafted to establish the post-license education requirement pursuant to ACT 748 of 2001. This regulation requires new salespersons to complete an 18-classroom hour salesperson course and new brokers to complete a 30-classroom hour broker course within one (1) year of initial licensure. If the post-license education is not completed within the first year, the license will be placed on inactive status until the post-license education requirement is completed. No broker who is initially licensed after January 1, 2002 can be designated as a Principal or Executive Broker until the broker post-license requirement is completed.

These changes will be incorporated into a new license law and regulation booklet that will be available the first of the year. If you want copies of the changes please send a request with a SASE to AREC marked "New Regulation Changes."

Appraiser Board Putting New Rules Into Effect

(This article is provided by Jim Martin, Director of the Arkansas Appraiser Licensing & Certification Board. If you have any questions please call him at 501-296-1843.)

The Arkansas Appraiser Licensing and Certification Board is putting rules into effect to carry out a 2001 law that creates a

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FORMAL Hearing DECISIONS

The following information is extracted from Findings of Fact, Conclusions of Law and Order which were issued for Hearings conducted by the Commission from May through September 2001. Formal Hearing Decisions that have been appealed are not listed.

Stevie L. Bailey, Principal Broker, Little Rock: In Formal Hearing #2028 the Commissioners ordered that "...a Letter of Reprimand be placed immediately in the file of Broker Stevie L. Bailey."

The Commission found Mr. Bailey guilty of violating Arkansas Code Annotated §17-42-311(a)(7) and Commission Regulation 10.16(b).

Mr. Bailey did not make a written report to the Arkansas Real Estate Commission of the action taken by the Arkansas Appraiser Licensing and Certification Board against his Appraiser License within thirty (30) days after such action.

Robert B. Dalton, Principal Broker, Pine Bluff: In Formal Hearing #2029 the Commissioners ordered that "...Robert B. Dalton's Arkansas Broker's license is hereby revoked immediately. Abalone Enterprises will undergo an examination by the Arkansas Real Estate Commission within six (6) months from this date (7-10-01); and that a fine of \$2,500.00 is assessed against Robert B. Dalton, payable within 90 days of the date of the final Order in this matter."

The Commission found Mr. Dalton guilty of violating Arkansas Code Ann.

§17-42-108, §17-42-311(a)(6) & (13), Commission Regulations 8.5(a), 9.2(b), 10.7(b)(2), 10.8(c), (g)(1) & (2), and 10.9(b).

Mr. Dalton failed to account and provide monthly statements to Complainant within a reasonable time.

He failed to protect and promote the interest of the Complainant as follows: 1) He authorized numerous repairs to Complainant's properties without Complainant's specific approval; and 2) He charged Complainant a 10% service fee for repairs even though the Complainant only authorized a 5% service fee in the management agreement.

Lease agreements stated that \$200.00 security deposits had been collected when Mr. Dalton's management records and management agreement stated that he had collected and was required to collect \$250.00 security deposits. Mr. Dalton transferred funds from Property A to pay for repairs charged to Property B without Complainant's knowledge or approval.

Mr. Dalton failed to maintain complete records pertaining to Complainant's properties as follows: 1) He did not maintain various monthly property management statements concerning Complainant's properties; and 2) He did not maintain copies of receipts or invoices regarding Complainant's property located at Property B.

His trust account located at Pine Bluff National Bank did not include the word "trust" or "escrow" on the bank statements.

He did not reconcile his trust account bank statements monthly and did not balance same to the total amount of trust funds deposited in the account which had not been disbursed.

In January 2001 Mr. Dalton's trust account liabilities for Abalone Enterprises exceeded the adjusted bank balance for said account.

Mr. Dalton did not provide written agency disclosure.

He did not keep detailed records of funds coming into his possession and disbursements made.

He did not provide the Commission a written answer to this Complaint.

Clifford Beehler, Principal Broker, Garfield: In Formal Hearing #2033 the Commissioners ordered that "...the real estate license of Clifford Beehler is hereby immediately revoked and he is assessed a fine in the amount of \$2,000.00 to be paid to the Commission within 90 days from the issuance of this Order."

The Commission found Mr. Beehler guilty of violating Arkansas Code Ann. §17-42-311(a)(11) & (13) and Commission Regulations 8.5(a), 10.5(b) and 10.8(g)(1).

Mr. Beehler conducted property management business under a name other than Resort Real Estate, the name of the firm in which his real estate license was issued.

He maintained property management trust funds in the Lost Bridge Village Rentals business account which was not designated as a trust account.

Mr. Beehler did not protect and promote the interest of his client by not advising him he would no longer be managing his property.

Mr. Beehler permitted his wife to manage property for others when she did not hold an Arkansas Real Estate License.

Anna Johnson Cure, Salesperson, Cabot: In Formal Hearing #2030 by Consent Order the Commissioners ordered that:

1. "...the Respondent shall be issued a Letter of Reprimand, which will be placed in her license file maintained at the Arkansas Real Estate Commission.
2. "The Respondent shall complete the 18 Hour Salesperson's course, to be approved in advance by the Commission's Executive Director, as soon as practicable and no later

than 90 days after receipt of this Order and she shall not be eligible to receive any scholarship offered, nor shall these hours apply for CE credit.

3. "The Respondent is placed on a two-year probation beginning with the date of this Order. During this term, the Respondent shall comply with the Real Estate License Law, Arkansas Code Ann. §17-42-101 et seq., and Commission Regulations; any violation may subject the Respondent to revocation of her real estate license.
4. "The Respondent shall provide a copy of this Consent Order to each Principal Broker she is licensed with during the two-year probation period."

The Commission found Ms. Cure guilty of violating Arkansas Code Ann. §17-42-311(a)(7) & (13) and Commission Regulation 10.1(b).

Ms. Cure engaged in property management activities independent of her Principal Broker by managing Complainants' properties.

She represented to her Principal Broker that she had terminated the property management agreement with the Complainants when in fact she had not and continued to manage the properties.

Rollin Caristianos, Associate Broker, Little Rock: In Formal Hearing #2035 the Commissioners ordered that "...Respondent Rollin Caristianos is ordered to take the 30-hour Broker's Course, without continuing education credit or scholarship funds, within 120 days of the date of the hearing (8-14-01). Respondent Caristianos is assessed a fine of \$1,000.00, to be paid within 90 days of the date of this Order. A Letter of Reprimand will also be placed in Respondent Caristianos' license file."

The Commission found Mr. Caristianos guilty of violating Arkansas Code Ann. §17-42-311(a)(4) & (13) and Commission Regulation 8.5(a).

Mr. Caristianos, acting as a Dual Agent in the Complainant's transactions, failed to protect and promote the interests of the Complainant by disclosing confidential information about the Complainant's past credit situation to the seller without the Complainant's express written consent.

He delivered to seller the buyer's offer which stated that the buyer had tendered \$1,000.00 as earnest money when in fact buyer had not tendered said funds.

He obtained a verbal counteroffer from seller which he did not reduce to writing to present to the buyer.

Mr. Caristianos obtained a credit report from his firm on the Complainant and presented same to the seller without the Complainant's knowledge or consent. This action was contrary to the terms of the real estate contracts executed by the parties and the listing and selling agents.

A Recovery Fund Hearing was held. The Commission found that the Complainant failed to prove actual compensatory damages. Therefore Complainant's request for damages was denied.

Nadine Yates, Executive Broker, Fayetteville: In Formal Hearing #2026 the Commissioners ordered that "...a Letter of Reprimand be issued against Respondent Nadine Yates."

The Commission found Ms. Yates guilty of violating Regulation 10.10(a).

Ms. Yates did not reduce the exact agreements of the parties to writing and place signed copies in the hands of the parties as follows:

1. She contacted Complainants for authorization for a buyer to take possession of their property before closing for purposes of cleaning and maintenance work and gave the buyer the key with no written agreement signed by the parties;
2. She did not cause an agreement to be reduced to writing and signed by the parties concerning the buyer moving into the Complainants' property prior to closing.
3. She did not see that signed copies of addenda dated May 4 and May 31, 2000 were delivered to the Complainants.

A Recovery Fund Hearing was held. The Commission found that the Complainants failed to prove actual compensatory damages. Therefore Complainants' request for damages was denied.

John Bracey, Principal Broker, Jonesboro: In Formal Hearing #2037 the Commissioners ordered that "...Respondent John Bracey's Principal Broker's license is revoked immediately."

The Commission found Mr. Bracey guilty of violating Arkansas Code Ann. §17-42-311(a)(2).

Mr. Bracy has failed and refused to pay the annual fee to renew his Broker's license pursuant to Arkansas Code Annotated §17-42-307(b)(1) and the fee to change the address of his real estate office pursuant to Arkansas Code Ann. §17-42-310(a).



***Joyce Wilkerson
PROMOTED!***

The Commission is happy to announce the promotion of Joyce Wilkerson to head the License Department. She has been an AREC employee for 27 years and began as Receptionist. Joyce will continue to be AREC's Computer Specialist as well as undertaking her new duties. Congratulations, Joyce!

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If you wish to have your name removed from this mailing list please write the Commission at the address above.

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Changes to Real Estate Distance Education

As of January 1, 2002 all distance education courses (e.g., computer based courses, on-line courses, satellite, correspondence courses, etc.) for either real estate pre-licensing or continuing education will be required to be certified by the Association of Real Estate License Law Officials (ARELLO). Arkansas real estate schools and instructors are working with the Arkansas State Board of Private Career Education (SBPCE) and ARELLO to obtain the required certification and licensing to teach real estate education by distance education delivery methods.



Several on-line educators across the country are claiming that their real estate education fulfills the requirements of several states. It is highly recommended that before purchasing any distance education real estate course you check with either SBPCE at (501) 683-8000, or AREC to confirm that the course and instructor meets Arkansas' real estate licensing requirements.

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Appraisal Board (continued)

new licensing category for appraisers who do not work on federally related transactions.

Act 1256 of 2001 requires those in the new classification, State Registered Appraiser, to be registered with the Board by December 31. Executive Director Jim Martin said this forced the Board into the tightest schedule to put the regulations into effect that the Arkansas Procedure Act allows.

Written comments from the public were accepted on the proposed rules through September 28 and the Board held a public hearing October 2. Before they can go into effect, Board-approved rules must be reviewed by the Legislative Council and its Committee on Administrative Rules and Regulations.

A State Registered Appraiser is restricted by law to doing appraisals on property in which no federal agency is involved, and the reports submitted to clients must state that the information is not to be used in federally related transactions. However, the appraiser's work is subject to the competency provisions of the Uniform Standards of Professional Appraisal Practice (USPAP).

Highlights of the regulations include:

- A \$50 fee to register for a license that expires annually December 31 and a \$50 renewal fee. No license may be placed on inactive or retired status.
- Applicant must submit a statement of work experience and scope of appraisal practice to the Board and present a signed affidavit that he/she has read and understands USPAP. A State Registered Appraiser must complete a 15-hour USPAP course with exam before first annual renewal. In subsequent years, he/she must have completed 14 hours a year of Board-approved continuing education to renew registration.
- A State Registered Appraiser may apply at any time to upgrade to State Licensed, Certified Residential or Certified General status, but must meet at least the minimum qualifications for the classification desired.
- Non-residents planning to do appraisals that are not federally related in Arkansas must apply to the Board for registration before starting the assignment. Their applications must include a notarized Consent For Service of Legal Process Affidavit.