

## License Law for Agents & Brokers

GREC Course #65208

### O.C.G.A. 43-40 & Rule 520-01

This class **DOES** satisfy the GREC "License Law" class requirement.

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CE Credit Offered Through: Georgia Real Estate Academy  
GREC School #6915

## License Law for Agents & Brokers

### References:

**RE License Law (OCGA Title 43 Ch 40)  
and GREC Rules (520-01) may be viewed  
at [www.GREC.state.ga.us](http://www.GREC.state.ga.us)**

### Class Handouts

**Websites on last slide**

## License Law for Agents & Brokers

### **DISCLAIMER** (recite together as a class)

**Text on the following slides may have been  
abbreviated or paraphrased from License Law or  
GREC Rules text.**

**All licensees are individually responsible for  
reading, understanding and following Georgia  
Real Estate License Law as written in OCGA Title  
43 Chapter 40, and GREC Rule 520-1, including  
all applicable subsections.**

## License Law for Agents & Brokers

### Topics for Review:

- About the Georgia Real Estate Commission
- Effects of prohibited conduct on your license
- Requirements for transfer to another firm
- Requirements for handling Escrow funds
- Unfair trade practices prohibited in GA
- Broker Relationships & Handling Transactions
- Management responsibilities of RE firms
- Advertising Rules
- Licensees acting as Principals

## License Law for Agents & Brokers

### About the Georgia Real Estate Commission (Handout)

- Administers the License Law that regulates Brokers, Salespersons & Community Association Managers
- Protects the Public Interest
- Enforces the Laws Fairly & Impartially

## License Law for Agents & Brokers

**QUIZ!**

### Quiz Answers (1)

I can name the 7 federally protected classes of the Fair Housing Act	True
Your "original" RE license wall certificate must be held by your broker	True
Licenses who have moved from one firm to another are entitled to continue working on Pending sales from their old firm	False
Agents who own rental property may hold security deposits in their own business bank account	False
A broker may never pay a commission to a non-licensed person/entity	False

### Quiz Answers Cont'd (2)

Licensee shall place Earnest Money into the custody of their broker within 3 business days	False
A broker who disburses Earnest Money contrary to the terms of a contract can be deemed "incompetent" by the commission	True
Agents are allowed to collect commissions and/or fees from someone other than their broker, at any time	False
Failure to include a specific expiration date in a listing agreement is considered an unfair trade practice	True
Fees being paid for referrals must be disclosed in writing to the principal, when he/she is being referred for real estate services or relocation	True

### Quiz Answers Cont'd (3)

Acting for more than one party in a transaction without the expressed written consent of all parties, is considered an unfair trade practice	True
Agents must provide a copy of any document utilized in a RE transaction to any individual signing such document	True
An Agent may rebate a portion of their commission to a client or customer, after the sale closes	False
An Agent's assistant may do anything an Agent is allowed to do, as long as the Agent and their broker supervise that activity	False
ALL advertising by licensees must be done under the direct supervision of their broker and in the name of their firm	True

**How did you do!?!?!?!?**

### License Law for Agents & Brokers

**Prohibited Conduct (OCGA 43-40-15(e,f))**

Grounds for suspension or revocation of license shall also be grounds for refusal to grant a license

Grounds for denial of license shall also be grounds for imposition of any sanction permitted by this chapter

### License Law for Agents & Brokers

**Topics for Review:**

- **Effects of prohibited conduct**
- Requirements for transfer to another firm
- Requirements for handling Escrow funds
- Unfair trade practices prohibited in GA
- Broker Relationships & Handling Transactions
- Management responsibilities of RE firms
- Advertising Rules
- Licensees acting as Principals

### License Law for Agents & Brokers

**Prohibited Conduct (OCGA 43-40-15(g))**

When GREC initiates an investigation to determine if a licensee is guilty of prohibited conduct ...and such licensee has surrendered or let lapse their license...GREC may issue an order revoking that license

### License Law for Agents & Brokers

#### Prohibited Conduct (OCGA 43-40-15(g))

The order to revoke shall be effective 10 days after the order is served...

...unless the licensee makes a written request for a hearing before GREC

### License Law for Agents & Brokers

#### Prohibited Conduct (OCGA 43-40-15(c))

#### Fair Housing Violations

If found guilty of a violation of the Georgia or Federal Fair Housing law, such conviction may be sufficient ground for refusal of a license (or the imposition of any sanction permitted by this chapter).

### License Law for Agents & Brokers

Fair Housing Do's and Don'ts



### License Law for Agents & Brokers

Do you work with rentals?  
Do you "screen" applicants?  
Does your Landlord client discriminate?

### License Law for Agents & Brokers

**Does this symbol appear on all of your marketing?**

*Not required; just an outward sign that you provide equal housing opportunities.*



### License Law for Agents & Brokers

- It is YOUR responsibility to know
- Educate your clients with HUD pamphlet
- 7 Federally protected classes
- Is Sexual Orientation a "protected class?"




**License Law for Agents & Brokers**

**Answer:** Federal law does not protect people against housing discrimination based on their sexual orientation. However, the District of Columbia, several cities and towns, and the following states include sexual orientation as a protected class in their housing discrimination laws:

**Note:** In 2017, a federal judge ruled that sexual orientation & gender identity are protected classes under the Fair Housing Act.

• California	* Massachusetts	* Vermont
• Colorado	* Minnesota	* Washington
• Connecticut	* New Hampshire	* Wisconsin
• Hawaii	* New Jersey	
• Illinois	* New Mexico	
• Maine	* New York	
• Maryland	* Rhode Island	



**License Law for Agents & Brokers**

**Just remember:**

**“FRESH CORN”**



**License Law for Agents & Brokers**

**F** Familial Status  
**R** Religion  
**E**  
**S** Sex  
**H** Handicap Status/Disability

**C** Color  
**O**  
**R** Race  
**N** National Origin

*(There's no E or O; easy to remember for Equal Opportunity)*



**License Law for Agents & Brokers**

**Prohibited Conduct (OCGA 43-40-15(d))**

**False Statement on Application**  
 Where an applicant or licensee has made a false statement of material fact on their application, such action may be sufficient grounds for the refusal, suspension, or revocation of the license.

**License Law for Agents & Brokers**

**Prohibited Conduct (OCGA 43-40-15(h))**

When a GA occupational licensing body **or the licensing body of any other state** has disciplined the license of an applicant... or whenever such an applicant has allowed a license to lapse or has surrendered a license after initiating an investigation...

**License Law for Agents & Brokers**

**Prohibited Conduct (OCGA 43-40-15(h))**

...or a disciplinary process regarding such applicant's license, such discipline, lapsing, or surrender in itself may be a sufficient ground for refusal of a license

### License Law for Agents & Brokers

#### Prohibited Conduct (OCGA 43-40-15(h))

##### Been Revoked?

GREC **may** re-issue an associate broker's or a broker's license **only if** these three conditions exist:

### License Law for Agents & Brokers

#### Prohibited Conduct (OCGA 43-40-15(h))

- 10 years have passed since revocation
- no criminal charges are pending
- applicant presents proof to GREC they now bear a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the public interest

### License Law for Agents & Brokers

#### Prohibited Conduct (OCGA 43-40-15(i))

When convicted of any offense named in subsection (b) of this Code section\*, the licensee shall immediately notify GREC of that conviction.

*\* Defined as "any felony or crime of moral turpitude"*

### Crimes of Moral Turpitude

**"Conduct considered contrary to standards of justice, honesty or good morals" such as..**

Fraud or intent to defraud	Bribery
False representation	Counterfeiting
Evil intent	Perjury
Blackmail	Tax Evasion
Embezzlement	Murder
Extortion	Robbery or Theft
Malicious destruction of Property	Larceny

### License Law for Agents & Brokers

#### Prohibited Conduct (OCGA 43-40-15(i))

The licensee's license shall automatically be revoked **60 days after the conviction** unless the licensee makes a written request to GREC for a hearing

### License Law for Agents & Brokers

#### Prohibited Conduct (OCGA 43-40-15(k))

Where an applicant or licensee has been found not in compliance with an order for child support as provided in Code section 19-28.1 or 19-11-9.3, such action shall be sufficient grounds for refusal of a license or suspension of a license.

**License Law for Agents & Brokers**

**Prohibited Conduct (OCGA 43-40-15(l))**

Where an applicant or licensee has been found to be a borrower in default who is not in satisfactory repayment status as provided in Code Section 20-3-295\*, such status shall be sufficient grounds for refusal of a license or suspension of a license.

\*Ga Higher Education Assistance Loan Program

**License Law for Agents & Brokers**

**Topics for Review:**

- Effects of prohibited conduct on your license
- **Requirements for transfer to another firm**
- Requirements for handling Escrow funds
- Unfair trade practices prohibited in GA
- Broker Relationships & Handling Transactions
- Management responsibilities of RE firms
- Advertising Rules
- Licensees acting as Principals

**License Law for Agents & Brokers**

**Changes / Transfers (OCGA 43-40-19(a))**

When a broker changes the address of their place of business, the broker shall notify GREC, in writing, within 30 days of such change.

**License Law for Agents & Brokers**

**\*\*\* Remember\*\*\***

**If YOUR address changes,  
 you must also notify GREC.**

*You can do this on the GREC website.*

**License Law for Agents & Brokers**

**Changes / Transfers (OCGA 43-40-19(b))**

Any licensee who is released by a broker shall not engage in the activities of a real estate licensee until the licensee:

- delivers to GREC a signed transfer form (**See Handout**)
- or (for brokers) receives from GREC a wall certificate authorizing service as a broker or QB

**Sample of GREC Change Form**

The image shows two sample forms from the Georgia Real Estate Commission. The left form is titled 'Real Estate Change Application' and includes sections for 'Section A: Individual Information' and 'Section B: Change Information'. The right form is titled 'Form Affiliates / Release Information' and includes sections for 'Section E: Firm Affiliates / Release Information' with sub-sections A and B. Both forms have fields for Firm Name, Firm License #, Firm Phone #, and Broker Signature.

### License Law for Agents & Brokers

#### Changes / Transfers (OCGA 43-40-19(c))

Licensees transferring to a new broker may continue to act for that broker on pending sales, provided:

- both brokers agree (in writing)
- the transactions are noted in writing
- the former broker accepts full responsibility
- the written agreement shows compensation

*See GAR Form  
C013*

### SAMPLE GAR C013 – Agreement Between New Broker & Former Broker of Transferring Licensee

### License Law for Agents & Brokers

#### Changes / Transfers (OCGA 43-40-19(d))

A licensee may not act on behalf of any broker other than the one holding their license, except as just mentioned

### License Law for Agents & Brokers

#### Changes / Transfers (520-01-.07(5a))

A written ICA is required for all licensees affiliated with a broker's firm

Must include terms of compensation, for both during affiliation, and on transactions begun but not completed during affiliation

Disputes are not grounds for refusal to release

### License Law for Agents & Brokers

#### Changes / Transfers (520-01-.07(5b))

When a licensee requests a change form be signed, releasing broker shall immediately sign it and forward the wall certificate

### License Law for Agents & Brokers

#### Changes / Transfers (520-01-.07(5c))

Transferring licensees shall not take nor have in possession, nor use any brokerage engagement secured through the office unless authorized by the releasing broker

All property of the releasing broker shall be returned to that releasing broker

### License Law for Agents & Brokers

#### Changes / Transfers (520-01-.07<sup>(5d)</sup>)

Wall certificates returned to GREC should be accompanied by a release form signed by both the broker and licensee

Licensee has one month to activate with another firm, or notify GREC of choosing an inactive status

### License Law for Agents & Brokers

#### Changes / Transfers (520-01-.07<sup>(5d)</sup>)

If a broker is releasing a licensee for reasons other than the licensee's request, and is unable for any reason to obtain the licensee's signature on the release, the broker shall send to GREC a copy of a letter from the broker mailed to the licensee's last known address indicating that the broker is returning the license to GREC

### License Law for Agents & Brokers

#### Changes / Transfers (520-01-.07<sup>(5d)</sup>)

The broker's letter to the licensee should state clearly that the licensee has one month from GREC's receipt of the licensee's wall certificate of licensure to apply to transfer to another broker or to apply to place the license on inactive status

### License Law for Agents & Brokers

#### Changes / Transfers (520-01-.07<sup>(5e)</sup>)

When a licensee decides to leave a firm, such licensee may not have any contact with any of the firm's clients that the licensee is serving until the expiration of the brokerage engagement, except as may be expressly approved in writing by that broker

### License Law for Agents & Brokers

#### Topics for Review:

- Effects of prohibited conduct on your license
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### License Law for Agents & Brokers

*For this section, the term ESCROW account and TRUST account shall be interchangeable.*

*We will use the term "trust" account in the following slides, rather than using the phrase "trust or escrow" just to reduce the text*

*These laws apply to agents who hold Escrow Accounts for Investment Properties too.*



**License Law for Agents & Brokers**

**Handling Escrow Funds (OCGA 43-40-20(a))**

Each broker who accepts trust funds shall maintain a separate, federally insured bank checking account which shall be designated as a trust account where all funds held on behalf of another person shall be deposited. The account shall not be subject to attachment or garnishment.

**License Law for Agents & Brokers**

**Senate Bill 95 (Effective July 1, 2015)**

Expands institutions that an hold Trust Accounts from “federally insured banks” to “federally insured institutions” = trust company, building & loan & credit union.

Also, Broker can hold trust funds in accounts other than “checking accounts” as long as federally insured.

**License Law for Agents & Brokers**

**Handling Escrow Funds (OCGA 43-40-20(b))**

Brokers shall notify GREC of the name of the bank in which the trust account is maintained, and also the number of the account (or, if the bank doesn't use numbered accounts, the account name)

**License Law for Agents & Brokers**

**Handling Escrow Funds (OCGA 43-40-20(c))**

Brokers shall authorize GREC to examine such trust accounts at any time upon reasonable cause; and during each renewal period

**License Law for Agents & Brokers**

**Handling Escrow Funds (OCGA 43-40-20(c))**

In lieu of an examination, GREC may accept a written report from a CPA that the broker's trust account is maintained as required

**License Law for Agents & Brokers**

**Handling Escrow Funds (OCGA 43-40-20(d))**

A broker may maintain more than one trust account, if GREC is advised of such account.

**License Law for Agents & Brokers**

**Handling Escrow Funds (OCGA 43-40-20(e))**

A broker shall not be entitled to any part of the trust funds paid to the broker in connection with any real estate transaction as part or all of the broker's commission or fee until the transaction has been closed or terminated

**License Law for Agents & Brokers**

**Handling Escrow Funds (OCGA 43-40-20(f))**

Any licensee, acting in the capacity of principal in the sale of interests in real estate owned by such licensee, shall deposit trust funds (earnest money, security deposit, etc.) in the same manner, and is not entitled to those funds until the sale closes

**License Law for Agents & Brokers**

**Handling Escrow Funds (OCGA 43-40-20(h))**

Licenses who receive trust funds on property they own must deposit those funds into a trust account maintained by the broker with whom their licenses are affiliated or in a designated trust account approved by that broker.

**License Law for Agents & Brokers**

**Handling Escrow Funds (OCGA 43-40-20(h))**

If the broker approves a licensee holding funds in a trust account owned by the licensee, the broker shall assure the account is designated as a trust account and shall notify GREC of the name of the bank, the number of the account, and the name of the licensee who owns the account.

**License Law for Agents & Brokers**

**Handling Escrow Funds (OCGA 43-40-20(h))**

The licensee who owns such account shall maintain records on the account as are required for brokers in maintaining their trust accounts.

**License Law for Agents & Brokers**

**Handling Escrow Funds (OCGA 43-40-20(h))**

The licensee who owns such account shall provide to such licensee's broker on at least a quarterly basis a written reconciliation statement comparing the licensee's total trust liability with the reconciled bank balance of the licensee's trust account.

**License Law for Agents & Brokers**

**Handling Escrow Funds**

**Part 2, GREC Rules: 520-1-.08**

**License Law for Agents & Brokers**

**Handling Escrow Funds (GREC 520-1-.08(1a))**

Brokers may maintain multiple trust accounts.

They shall notify GREC of each, within one month of opening each account.

**License Law for Agents & Brokers**

**Handling Escrow Funds (GREC 520-1-.08(1b))**

Licensees shall place all cash, checks or other items of value received into the custody of the broker holding their license as soon after receipt as is practically possible.

**License Law for Agents & Brokers**

**Handling Escrow Funds (GREC 520-1-.08(1c))**

When acting as a principal in the sale of interests in real estate owned by the licensee, the same applies: shall place all cash, checks or other items of value received, into the custody of the broker holding their license as soon after receipt as is practically possible.

**License Law for Agents & Brokers**

**Handling Escrow Funds (GREC 520-1-.08(1d))**

The broker holding funds shall promptly deposit those funds in their trust account, and shall make appropriate arrangement for the safekeeping of other items of value.

**License Law for Agents & Brokers**

**Handling Escrow Funds (GREC 520-1-.08(1d))**

If the broker's trust account is **interest-bearing**, the broker shall obtain written agreement of the parties indicating to whom the broker shall pay any interest, prior to making deposit in such an account.

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08(1e))

A broker may maintain their own funds in a designated trust or escrow account **only when** they are clearly identified as the broker's deposit, and **only for the following purposes**:

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08(1e))

1. to cover a minimum balance required;
2. to cover service charges (NSF checks, etc);
3. commissions due to the broker from funds held, provided:

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08(1e))

4. only checks payable to the broker may be used to withdraw monies designated as the broker's funds

*(no cash withdrawals are allowed)*

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08(2b))

However, whether a manual or electronic, the **accounting system must**:

1. Include components required by law and sound business practices
2. Be readily accessible
3. Be in a readily understandable format
4. Be reasonably available to GREC

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08(3a))

A broker who disburses funds from their trust account contrary to the terms of a contract will be considered by GREC to have demonstrated **incompetence** to act as a real estate broker in such manner as to safeguard the interest of the public.

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08(3b))

A broker who disburses funds from a trust account under the following circumstances shall be deemed to have properly fulfilled the broker's duty...

**License Law for Agents & Brokers**

**Handling Escrow Funds (GREC 520-1-.08(3b))**

1. upon the rejection of an offer;
2. upon the withdrawal of an offer not yet accepted;
3. at the closing of the transaction;
4. upon receiving a written agreement signed by all parties having an interest in the funds, separate from the contract that directed the broker to hold those funds

**License Law for Agents & Brokers**

**Handling Escrow Funds (GREC 520-1-.08(3b))**

5. upon the filing of an interpleaded action;
6. upon the order of a court; or
7. upon a reasonable interpretation of the contract = "the 10 day letter"

**License Law for Agents & Brokers**

**Handling Escrow Funds (GREC 520-1-.08(3c))**

A broker shall not disburse trust funds until they have reasonable assurance that the bank has credited the funds to the broker's trust account.

*(need "good funds" in the account)*

Broker may also have a "policy" about releasing funds from Trust account – make sure to check.

**License Law for Agents & Brokers**

**Handling Escrow Funds (GREC 520-1-.08(3c))**

When a broker makes a disbursement to which all parties **do not expressly agree**, the broker must immediately notify all parties in writing of the disbursement.

***(See Handout of contract language in both the GAR Contract & RE Forms Contract )***

**Verbiage in GAR F201 (Purchase & Sale) ¶1B7 &**

**7. Earnest Money**  
**a. Entitlement to Earnest Money:** Subject to the paragraph below, Buyer shall be entitled to the earnest money upon the: (1) failure of the parties to enter into a binding agreement; (2) failure of any unexpired contingency or condition to which this Agreement is subject; (3) termination of this Agreement due to the default of Seller; or (4) termination of this Agreement in accordance with a specific right to terminate set forth in the Agreement. Otherwise, the earnest money shall be applied towards the purchase price of the Property at closing or if other funds are used to pay the purchase price then the earnest money shall be returned to Buyer.  
**b. Disbursement of Earnest Money:** Holder shall disburse the earnest money upon: (1) the closing of Property; (2) a subsequent written agreement of Buyer and Seller; (3) an order of a court or arbitrator having jurisdiction over any dispute involving the earnest money; or (4) the failure of the parties to enter into a binding agreement where there is no dispute over the formation or enforceability of the Agreement. In addition, Holder may disburse the earnest money upon a reasonable interpretation of the Agreement provided that Holder first gives all parties at least ten (10) days notice stating to whom and why the disbursement will be made. Any party may object to the proposed disbursement by giving written notice of the same to Holder within the ten (10) day notice period. Objections not timely made in writing shall be deemed waived. If Holder receives an objection and, after considering it, decides to disburse the earnest money as originally proposed, Holder may do so and send notice to the parties of Holder's action. If Holder decides to modify its proposed disbursement, Holder shall first send a new ten (10) day notice to the parties stating the rationale for the modification and to whom the disbursement will now be made. Holder shall disburse the earnest money to Seller by check in the event Holder (i) makes a reasonable interpretation of the Agreement that the Agreement has been terminated due to Buyer's default, and (2) agrees the required ten (10) day notice of the proposed disbursement to Buyer and Seller. The above-referenced check shall constitute liquidated damages in full settlement of all claims of Seller against Buyer and the Brokers in this transaction. Holder may require Seller to sign a W-9 before issuing a check to Seller for liquidated damages of \$500 or more. Such liquidated damages shall constitute a pre-estimate of Seller's actual damages, which damages the parties agree are difficult to ascertain and are not a penalty.  
**c. Interpleader:** If an earnest money dispute cannot be resolved after a reasonable time, Holder may interplead the earnest money into a court of competent jurisdiction if Holder is unsure who is entitled to the earnest money. Holder shall be reimbursed for and may deduct its costs, expenses and reasonable attorney's fees from any funds interpleaded. The prevailing defendant in the interpleader lawsuit shall be entitled to collect its attorney's fees, court costs and the amount designated by Holder to cover Holder's costs and expenses from the non-prevailing defendant.  
**d. Hold Harmless:** All parties hereby covenant and agree to: (1) indemnify and hold Holder harmless from and against all claims, injuries, suits and damages arising out of the performance by Holder of its duties; (2) not to sue Holder for any decision of Holder to disburse

**& RE Forms RE1 (Standard Terms) ¶13.4**

**13.4 Disbursement of Earnest Money if Held by Escrow Agent.** After receiving reasonable assurance that the Buyer has completed the process to the escrow where the Earnest Money is being held, the Escrow Agent may: (i) disburse the Earnest Money to Buyer if available; (ii) not disburse, unless that there is a dispute; (iii) disburse the Earnest Money for credit to Buyer at Closing; (iv) disburse the Earnest Money to Buyer at Closing if it is not credited towards the purchase price at Closing; (v) disburse the Earnest Money pursuant to a separate written agreement signed by the parties, agreeing to the terms of disbursement of the Earnest Money; (vi) disburse the Earnest Money upon order of a court or arbitrator which has jurisdiction over the matter; or (vii) if Escrow Agent has received notice from any party that the Contract has been terminated or Closing has failed to occur, no more than thirty (30) days after said notice has been received, Escrow Agent shall notify all parties of Escrow Agent's disbursement decision. Upon receipt of Escrow Agent's notification of disbursement, a party shall have ten (10) days to object to the disbursement. After receipt of a party's objection, Escrow Agent may change its decision or proceed according to Escrow Agent's original notification, but shall, in any event, notify the parties of said final disbursement. In addition, if the disbursement of the Earnest Money is in dispute, Escrow Agent may file an action to interplead the Earnest Money to allow a court of competent jurisdiction to decide how the disbursement, and Escrow Agent may disburse Earnest Money as part of the required procedures related to this thing. Additionally, Escrow Agent may deduct its attorney's fees, court costs and other related expenses from the Earnest Money as necessary to reimburse Escrow Agent for costs related to the interpleaded action, and Escrow Agent shall be entitled to receive additional costs as described above if Escrow Agent's expenses exceed the amount of the Earnest Money. The party that the court deems to be entitled to the Earnest Money may seek to recover its attorney's fees, court costs and the amount designated by the Escrow Agent from the party that was not deemed to be entitled to the Earnest Money. In performing any of its duties under this Agreement, Escrow Agent shall not be liable for any loss, cost or damage which may result as a result of serving as Escrow Agent hereunder, except for any loss, cost or damage arising out of its willful default or gross negligence. The parties agree to release Escrow Agent from liability for any costs, fees, or damages resulting from Escrow Agent's duties described in the Contract. If no objection to the disbursement of the Earnest Money is received by Escrow Agent prior to the disbursement of the Earnest Money, the party to object to said disbursement shall be deemed waived by the

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08<sup>(3d)</sup>)

A broker who claims any part of the trust funds paid to the broker in connection with a sale as part or all of their commission shall be deemed by GREC to have complied with the law if:

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08<sup>(3d)</sup>)

1. (sale) the transaction has closed, or the date of closing specified in the sales agreement and any extensions of that date have passed;
2. (lease) possession has been delivered to the tenant;
3. (lease/purchase) the sales transaction has closed or the date of closing specified in the sales agreement and any extensions thereof have passed; or
4. upon receiving a written agreement, separate from the contract/lease, signed by all parties having an interest in the transaction who have agreed that the broker is entitled to any commission.

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08<sup>(3e)</sup>)

All refunds of trust funds must be paid by check, or credited at the closing of a transaction.

*(Need a paper trail. Again...no cash withdrawals)*

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08<sup>(3f)</sup>)

The total of all checks written against each deposits should reflect a zero balance in the trust account, relating to the closing of each transaction. A zero balance should also occur when brokers transfer funds out as their commissions.

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08<sup>(3g)</sup>)

If a licensee who owns a trust account files a bankruptcy petition, such licensee shall immediately notify GREC in writing of the filing of that petition.

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08<sup>(3g)</sup>)

If a qualifying broker, or the firm that a licensee serves as qualifying broker, files a bankruptcy petition, such qualifying broker shall immediately notify GREC in writing of the filing of that petition.

### License Law for Agents & Brokers

#### Handling Escrow Funds (GREC 520-1-.08<sup>(4c)</sup>)

A licensee who manages rental property which the licensee owns 100% must maintain any security deposits in a designated trust account, and **may not** post a bond in lieu of maintaining such deposits in a trust account.

### License Law for Agents & Brokers

#### Topics for Review:

- Effects of prohibited conduct on your license
- Requirements for transfer to another firm
- Requirements for handling Escrow funds
- **Unfair trade practices prohibited in GA**
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### License Law for Agents & Brokers

*For the purposes of this section, the terms sale/lease/option/exchange shall be interchangeable or stated as "transaction"*

*Likewise, the terms owner/landlord, buyer/tenant shall be interchangeable or stated as "party", simply to reduce text.*

### License Law for Agents & Brokers

#### Unfair Trade Practices (OCGA 43-40-25b<sup>(1)</sup>)

Because of race, color, religion, sex, disability, familial status, or national origin:

- A. Refusing to sell after the making of a bona fide offer, or refusing to negotiate for the sale, or otherwise making unavailable or denying, real estate to any person;

### License Law for Agents & Brokers

#### Unfair Trade Practices (OCGA 43-40-25b<sup>(1)</sup>)

Because of race, color, religion, sex, disability, familial status, or national origin:

- B. Discriminating against any person in the terms, conditions, or privileges of sale of real estate or in the provision of services or facilities in connection therewith;

### License Law for Agents & Brokers

#### Unfair Trade Practices (OCGA 43-40-25b<sup>(1)</sup>)

Because of race, color, religion, sex, disability, familial status, or national origin:

- C. Making, printing, or publishing or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the sale of real estate, that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation, or discrimination;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(1))**

Because of race, color, religion, sex, disability, familial status, or national origin:

- D. Representing to any person that any real estate is not available for inspection or sale when such real estate is in fact so available; or

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(1))**

Because of race, color, religion, sex, disability, familial status, or national origin:

- E. Representing explicitly or implicitly that a change has or will or may occur in a block, neighborhood, or area in order to induce or discourage the sale of real estate;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(2))**

Intentionally advertising material which is misleading or inaccurate or which in any way misrepresents any property, terms, values, policies, or services of the business conducted;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(3))**

Failing to account for and remit any money coming into the licensee's possession which belongs to others;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(4))**

Commingling the money or other property of the licensee's principals with the licensee's own;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(6))**

**Failing to disclose in writing** to a principal in a real estate transaction **any of the following:**



**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(6))**

- A. The receipt of a fee, rebate, or other thing of value on expenditures made on behalf of the principal for which the principal is reimbursing the licensee;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(6))**

- B. The payment to another broker of a commission, fee, or other thing of value for the referral of the principal for brokerage or relocation services; or

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(6))**

- C. The receipt of anything of value for the referral of any service or product in a real estate transaction to a principal;

*(use an Affiliated Business Disclosure form... MANY Brokers have their own)*

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(7))**

Representing or attempting to represent a real estate broker, other than the one holding the licensee's license, without the express knowledge and consent of the broker holding the license;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(8))**

Licensees accepting a commission from anyone other than the broker holding their license, without the consent of that broker;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(9))**

Acting in the dual capacity of agent and **undisclosed principal** in any transaction;

### License Law for Agents & Brokers

#### Unfair Trade Practices (OCGA 43-40-25b(11))

Placing a sign on any property offering it for sale or rent **without the written consent of the owner** or the owner's authorized agent;

and failing to remove such sign within ten days after the expiration of listing;

### License Law for Agents & Brokers

#### Unfair Trade Practices (OCGA 43-40-25b(12))

Offering real estate for sale or lease without the consent of the owner or the owner's authorized agent or on terms other than those authorized by the owner or the owner's authorized agent;

### License Law for Agents & Brokers

#### Unfair Trade Practices (OCGA 43-40-25b(13))

Inducing any party to an existing contract or a brokerage agreement, **to break such contract or brokerage agreement** for the purpose of substituting another contract or brokerage agreement with another principal;

*(terminating a sale to get a new buyer, for example)*

### License Law for Agents & Brokers

#### Unfair Trade Practices (OCGA 43-40-25b(14))

Negotiating a sale directly with a party if the licensee knows that such party has a written outstanding contract in connection with such property granting an exclusive agency or an exclusive right to sell to another broker...

### License Law for Agents & Brokers

#### Unfair Trade Practices (OCGA 43-40-25b(14))

...or that such party has a written outstanding exclusive brokerage agreement with another broker, unless the outstanding listing or brokerage agreement provides that the licensee holding such agreement will not provide negotiation services to the client;

### License Law for Agents & Brokers

#### Unfair Trade Practices (OCGA 43-40-25b(15))

Indicating that an opinion given to a potential party regarding a property price is an appraisal unless such licensee holds an appraiser classification in accordance with Chapter 39A of this title;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b<sup>(16)</sup>)**

Performing or attempting to perform any of the acts of a licensee on property located in another state without first having been properly licensed in that state, or otherwise having complied fully with that state's laws regarding real estate brokerage;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b<sup>(17)</sup>)**

**When can a broker pay a commission for performing real estate services to someone who NOT licensed?**

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b<sup>(17)</sup>)**

A. To the estate or heirs of a deceased real estate licensee when such deceased licensee had a valid GA real estate license in effect at the time the commission was earned and at the time of such person's death; or

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b<sup>(17)</sup>)**

B. To a citizen of another country acting as a referral agent (*if that country does not license real estate brokers*) and if the GA licensee paying such commission obtains reasonable written evidence that the payee is a citizen of said other country and is in the business of brokering real estate in that other country;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b<sup>(17)</sup>)**

C. To an unlicensed firm (*i.e. LLC*) as long as the individual licensee affiliated with the Brokerage firm owns more than 20% interest in unlicensed firm; individual licensee has earned the commission on behalf of the brokerage firm & affirms that the unlicensed firm does not perform real estate brokerage activity.

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b<sup>(18)</sup>)**

Failing to include a fixed date of expiration in any written listing agreement;  
  
and failing to leave a copy of said agreement with the principal;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(19))**

Failing to deliver, within a reasonable time, a completed copy of any contract or offer to the purchaser and to the seller;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(20))**

Failure by a broker to deliver to the seller in every transaction, at the time the transaction is closed, a complete and detailed closing statement showing all of the receipts and disbursements handled by such broker for the seller...

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(20))**

and to the buyer, a complete statement showing all money received in said transaction from buyer and how and for what the same was disbursed;

the broker shall retain true copies of such statements in the broker's files;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(21))**

Making any substantial misrepresentations;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(22))**

Acting for more than one party in a transaction without the express written consent of all parties to the transaction;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b(23))**

Failure of a licensee to place, as soon after receipt as is practicably possible, in the custody of the broker... any funds entrusted to the licensee by any person dealing with the licensee as a representative of that licensed broker;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b)(25)**

Having demonstrated incompetency to act as a real estate licensee in such manner as to safeguard the interest of the public,

or having demonstrated any other conduct which constitutes dishonest dealing;

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b)(26)**

Obtaining a brokerage agreement or contract from a party while knowing or having reason to believe that another broker has an exclusive agreement with such party, unless the licensee has written permission from the broker having the first exclusive brokerage agreement.

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b)(27)**

Failing to keep for a period of three years a true and correct copy of all sales contracts, closing statements, any offer or other document that resulted in the depositing of trust funds, accounting records related to the maintenance of any trust account required by this chapter...

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b)(27)**

...and other documents relating to real estate closings or transactions, or failing to produce such documents at the reasonable request of GREC or any of its agents for their inspection

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b)(28)**

Being a party to any falsification of any portion of any contract or other document involved in any real estate transaction

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b)(29)**

Failing to obtain the written agreement of the parties indicating to whom the broker shall pay any interest earned on trust funds deposited into an interest-bearing checking account, prior to depositing those funds into such account

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b)(30)**

Failing to disclose in a timely manner to all parties in a transaction any agency relationship that the licensee may have with any of the parties

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b)(35)**

Inducing any person to alter, modify, or change another licensee's fee or commission for real estate brokerage services without that licensee's prior written consent

**License Law for Agents & Brokers**

**Unfair Trade Practices**

**Last one...**

**License Law for Agents & Brokers**

**Unfair Trade Practices (OCGA 43-40-25b)(36)**

Failing to obtain a person's written authorization to refer that person to another broker for real estate services,  
  
 and failure to disclose any compensation for such referral

**See Handouts for Referral Forms in both GAR Contracts & RE Forms**

**GAR CO16 – Referral Agreement – Broker-to-Broker  
 GAR F843 – Referral Authorization**

**RE156 – Broker Agreement to Pay Referral Commission  
 RE157 – Prospect's Acknowledgement & Consent to Referral**

### License Law for Agents & Brokers

#### What about Property Management and Community Association Management?

There are ADDITIONAL Rules & Laws that apply to PM & CAM.

If you want a list of the applicable laws, email the Instructor.

### License Law for Agents & Brokers

#### Topics for Review:

- Effects of prohibited conduct on your license
- Requirements for transfer to another firm
- Requirements for handling Escrow funds
- Unfair trade practices prohibited in GA
- **Broker Relationships**/Handling Transactions
- Management responsibilities of RE firms
- Advertising Rules
- Licensees acting as Principals

### License Law for Agents & Brokers

#### Broker Relationships (GREC 520-1-.06(1))

##### Brokerage Engagements

- a) Each exclusive brokerage agreement must fully set forth its terms and have a definite expiration date

### License Law for Agents & Brokers

#### Broker Relationships (GREC 520-1-.06(1))

- b) At the time of securing a brokerage engagement, the licensee securing it must furnish each person signing it a copy

### License Law for Agents & Brokers

#### Broker Relationships (GREC 520-1-.06(1))

- c) GREC prohibits the acceptance by brokers of net brokerage engagements and hereby makes it obligatory upon the broker to add the broker's fee thereby notifying the client of the gross price of the property and the broker's services

### License Law for Agents & Brokers

#### Broker Relationships (GREC 520-1-.06(4a))

##### Disclosure of Broker Relationships

No licensee shall buy interest in property listed with the licensee or the licensee's firm on which the licensee or the licensee's firm has been requested to act as a broker, unless...

**License Law for Agents & Brokers**

**Broker Relationships (GREC 520-1-.06(4a))**

...the licensee shall clearly disclose his/her position as a buyer to the seller, and insert a clause to this effect in the contract

**License Law for Agents & Brokers**

**Broker Relationships (GREC 520-1-.06(4a))**

Neither shall any licensee sell any interest in property owned by the licensee to any person, unless the licensee shall clearly disclose the licensee's position as a seller to the buyer, and insert a clause to this effect in the contract (& all advertising):

**"Seller / Buyer is duly licensed agent in Georgia - RE License # \_\_\_\_\_."**

**License Law for Agents & Brokers**

**Broker Relationships (GREC 520-1-.06(4b))**

A licensee shall provide written disclosure to both buyer and seller, revealing the party for whom that firm is acting, and from whom that firm will receive valuable consideration for its efforts as agent in the transaction.

**License Law for Agents & Brokers**

**Broker Relationships (GREC 520-1-.06(4b))**

If the licensee's firm is not acting as an agent for either party, then the licensee shall make a written disclosure revealing from whom the licensee's firm will receive any compensation for its efforts in the transaction.

**License Law for Agents & Brokers**

**Broker Relationships (GREC 520-1-.06(4b))**

The written disclosures required by this paragraph must be made in a timely manner but, in any event, not later than the time that any party first makes an offer to purchase real property.

**License Law for Agents & Brokers**

**Broker Relationships (GREC 520-1-.06(4c))**

Real estate licensees shall not pay a fee or commission to a licensee representing another party to a transaction, except with the full knowledge and written consent of all parties.



### License Law for Agents & Brokers

#### Topics for Review:

- Effects of prohibited conduct on your license
- Requirements for transfer to another firm
- Requirements for handling Escrow funds
- Unfair trade practices prohibited in GA
- Broker Relationships/**Handling Transactions**
- Management responsibilities of RE firms
- Advertising Rules
- Licensees acting as Principals

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(1))

A licensee shall promptly tender to any customer or client any signed offer made to such client or customer.

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(1))

If you receive an offer to purchase a property, from someone you do not represent as a client or customer, you still have a **responsibility to deliver** that offer to the agent representing the seller.

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(1))

A licensee who obtains an offer **may negotiate** a sale directly with an owner if the licensee knows that the seller has a written agreement for such property that expressly provides the other licensee will not provide negotiation services to that seller

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(2))

A licensee preparing or signing a brokerage engagement or an offer shall include the license number of each firm, and of each licensee participating in the transaction, as issued by GREC

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(3))

A licensee shall provide a copy of any document utilized in a real estate transaction to any individual signing such document

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(3))

If any offer is accepted and signed by all parties, copies of that document shall be properly distributed, one to each person signing the document and one to each brokerage firm involved in the transaction

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(4))

Copies of real estate contracts, brokerage engagements, closing statements, and other documents are **required by law to be maintained in a broker's file for three years** and shall be made available to authorized agents of GREC upon reasonable request, and at a reasonable cost to GREC.

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(4))

Brokers that must keep copies of the documents cited in this paragraph include:

- a) brokers identified in a contract, brokerage engagement, or closing statement related to a real estate transaction;
- b) firms that participate in the negotiations of a contract or brokerage engagement related to a real estate transaction;
- c) and brokers required to maintain a trust account

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(4))

Copies of documents/records required to be maintained may be kept in any records storage system that utilizes paper, film, electronic, or other media provided that:

- a) copies of documents can be produced; and
- b) copies of documents can be made available to GREC

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(5))

No licensee shall falsify or be a party to the falsification of a document involved in a real estate transaction or knowingly represent, either verbally or in writing, to a principal or any interested third party:

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(5))

- a) an amount other than the true and actual price;
- b) an amount other than the true and actual down pymnt;
- c) an amount other than the true and actual earnest money, security deposit, or other trust funds or that such trust funds have been tendered in any form other than its true and actual form;
- d) a payment of trust funds in cash when in fact some other method of such is made; or
- e) an artifice, contrivance, or machination with the intent to deceive – See Next Slide for Definitions

## Definitions

**Artifice** = trickery, guile or craftiness

**Contrivance** = a plan or scheme

**Machination** = crafty scheme, plot, intrigue

## License Law for Agents & Brokers

### Handling Transactions (GREC 520-1-.10(5))

Any or all above practices shall constitute a misrepresentation.

## License Law for Agents & Brokers

### Handling Transactions (GREC 520-1-.10(6))

#### Disclosures of Commissions, Fees, Rebates or Other Valuable Consideration

## License Law for Agents & Brokers

### Handling Transactions (GREC 520-1-.10(6a))

The disclosures required by OCGA 43-40-25 (b6) – *payments to another broker must be disclosed in writing* – may be made in advance based upon pre-established terms set forth in a brokerage agreement, management agreement or other written agreement

## License Law for Agents & Brokers

### Handling Transactions (GREC 520-1-.10(6b))

In a transaction where a licensee refers a principal to another broker for brokerage or relocation services...

*(and the broker to whom the principal is referred knows of the referral and the referring licensee's expectation of receiving a commission, fee or other thing of value for the referral)...*

## License Law for Agents & Brokers

### Handling Transactions (GREC 520-1-.10(6b))

...the payment to the referring licensee shall be disclosed in writing to the principal, by the broker to whom the referral was made, no later than at the closing

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(6c))

The disclosures required in OCGA 43-40-25 (b6c) – *referral fee for service/product in a RE transaction* - shall be in addition to any requirements of federal law pertaining to the payment or receipt of anything of value, for the referral of any service or product in a real estate transaction [RESPA]

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(6d))

For the purposes of OCGA 43-40-25(b6) – unfair trade practices - the term "licensee's principal" shall mean both the client and a customer of the broker, if the customer is working primarily with the broker and is not being represented by another broker in the transaction

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(6e))

A licensee may rebate to a principal any part of a commission, fee, or other compensation received by the licensee related to the sale of real estate as long as said rebate is disclosed on the closing statement for that transaction...AND...

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(6e))

...as long as the rebate does not mislead any other licensee, other principal, lender, title company or government agency involved in the transaction regarding the source of funds to complete the transaction, or regarding the financial resources or obligations of a buyer principal

### License Law for Agents & Brokers

#### Handling Transactions (GREC 520-1-.10(6))

Notwithstanding anything to the contrary above, no disclosure is required for gifts, products, services, or other things of value given to a principal by a licensee **provided that they are not contingent upon** the purchase, sale, lease or exchange of real estate for that transaction

### License Law for Agents & Brokers

#### Topics for Review:

- Effects of prohibited conduct on your license
- Requirements for transfer to another firm
- Requirements for handling Escrow funds
- Unfair trade practices prohibited in GA
- Broker Relationships/Handling Transactions
- **Management responsibilities of RE firms**
- Advertising Rules
- Licensees acting as Principals

### License Law for Agents & Brokers

#### Management Responsibilities (520-1-.07<sup>(4)</sup>)

##### AB and QB affiliated with multiple firms

A person licensed by GREC as a broker or QB for a licensed firm may serve as the broker or QB with one or more other licensed firms

### License Law for Agents & Brokers

#### Management Responsibilities (520-1-.07<sup>(4)</sup>)

A person licensed as an associate broker and affiliated with a licensed firm may serve as the broker or QB for one or more other licensed firms provided such person has notified in writing the broker with whom he or she is affiliated as an associate broker of his or her intended services as a broker or QB with another firm

### License Law for Agents & Brokers

#### Management Responsibilities (520-1-.07<sup>(6a)</sup>)

##### Utilizing Unlicensed Personnel

Whenever a licensee who is affiliated with a broker engages support personnel to assist in the conduct of real estate brokerage business, both the firm **and** the affiliated licensee are responsible for the acts of the support personnel; and...

### License Law for Agents & Brokers

#### Management Responsibilities (520-1-.07<sup>(6a)</sup>)

...for assuring that the support personnel comply with the requirements of this rule and the license law; and for seeing that any licensed support personnel are properly licensed with the firm.

### License Law for Agents & Brokers

#### Management Responsibilities (520-1-.07<sup>(6a)</sup>)

Unless such support personnel holds an **active** real estate license, the support personnel may not perform any duties and tasks of a real estate licensee and may perform only ministerial duties, those that do not require discretion or the exercise of the licensee's own judgment

### License Law for Agents & Brokers

#### Management Responsibilities (520-1-.07<sup>(6b)</sup>)

Nothing in this rule shall prohibit an individual employed by a broker to assist in the management of property, from undertaking those activities permitted by OCGA 43-40-29<sup>(10)</sup>\*

*\*43-40-29 = Exceptions to operation of chapter 40*

**License Law for Agents & Brokers**

**Management Responsibilities (520-1-.07<sup>(6c)</sup>)  
Effective November 1, 2014**

An individual licensed with one firm may work as support personnel for a different firm or for a licensee of a different firm with the written consent of the broker of each firm.

A licensee on **inactive status** may work as support personnel for a firm or licensee.

**License Law for Agents & Brokers**

**Management Responsibilities (520-1-.07<sup>(6d)</sup>)**

Any real estate brokerage firm that allows an affiliated licensee to utilize support personnel to assist that licensee in carrying out his or her real estate brokerage activities must:

**License Law for Agents & Brokers**

**Management Responsibilities (520-1-.07<sup>(6d)</sup>)**

1. enter into a written agreement with the affiliated licensee authorizing the use of the support personnel, delineating the duties that the support personnel may perform, and approving any compensation arrangement that the firm permits the affiliated licensee to have with the support personnel;

**License Law for Agents & Brokers**

**Management Responsibilities (520-1-.07<sup>(6d)</sup>)**

2. enter into a written agreement with the support personnel assisting its affiliated licensee specifying any duties that the support personnel may undertake in behalf of the affiliated licensee;

**License Law for Agents & Brokers**

**Management Responsibilities (520-1-.07<sup>(6d)</sup>)**

3. assure that the affiliated licensee and the support personnel have entered into a written agreement specifying all duties that the support personnel may undertake in behalf of the affiliated licensee and the manner in which the support personnel shall be compensated

*See Agreement for Licensee  
Use of a Real Estate Assistant  
– GAR Form C007*

**License Law for Agents & Brokers**

**Management Responsibilities (520-1-.07<sup>(6e)</sup>)**

In order to provide reasonable guidelines for licensees and support personnel, GREC has identified tasks that licensed and unlicensed support personnel can and cannot perform

*See Guidelines on next  
4 Slides*

**GREC Rule 520-1-.07 (6e) – Tasks an Unlicensed Assistant MAY Perform**

- 1. answering the phone and forward calls to a licensee
- 2. submitting data on listings to a multiple listing service
- 3. checking on status of loan commitments, after a contract has been negotiated
- 4. assembling documents for closings
- 5. securing documents that are public information from the courthouse and other sources available to the public
- 6. having keys made for company listings and installing/removing lock boxes
- 7. writing ads/promotional materials for the approval of the broker
- 8. placing ads in magazines, newspapers, and other media as directed by the supervising broker
- 9. receiving, recording, and depositing earnest money, deposits, advance rents
- 10. typing contract forms as directed by the licensee and the broker

**GREC Rule 520-1-.07 (6e) – Tasks an Unlicensed Assistant MAY Perform**

- 11. monitoring personnel files and license reports from the commission
- 12. computing commission checks
- 13. placing signs on property and removing such signs
- 14. ordering items of routine repair as directed by a licensee
- 15. acting as courier for such purposes as delivering documents or picking up keys [the licensee remains responsible for assuring delivery of contracts and closing documents as required by O.C.G.A. Section 43-40-25 (a)(19) & (20)]
- 16. scheduling appointments for a licensee to show listed property
- 17. arranging dates and times for inspections
- 18. arranging dates and times for mortgage application, walk through, closing
- 19. scheduling an open house
- 20. accompanying licensee to an open/showing, only for security purposes
- 21. performing physical maintenance on a property

**GREC Rule 520-1-.07 (6f) – Tasks an Unlicensed Assistant may NOT Perform**

- 1. making cold calls by telephone or in person or otherwise contacting the public for the purpose of securing prospects for listings, leasing, sales, exchanges, or property management
- 2. hosting open houses, kiosks, home show booths, or fairs
- 3. preparing promotional materials or advertisements without the review and approval of licensee and supervising broker
- 4. showing property
- 5. answering any questions on title, financing, or closings (other than the time and place)
- 6. answering any questions regarding a listing except for information on price and amenities expressly authorized in writing by the licensee
- 7. discussing or explaining a contract, listing, lease, agreement, or other real estate document with anyone outside the firm

**GREC Rule 520-1-.07 (6f) – Tasks an Unlicensed Assistant may NOT Perform**

- 8. negotiating or agreeing to any commission, commission split, management fee, or referral fee on behalf of a licensee
- 9. discussing the attributes or amenities of a property, under any circumstances, with a prospective purchaser or lessee
- 10. discussing with the owner of real property, the terms and conditions of the real property offered for sale or lease
- 11. collecting or holding deposit monies, rent, other monies or anything of value received from the owner of real property or from a prospective purchaser or lessee;
- 12. providing owners of real property or prospective purchasers or lessees with any advice, recommendations or suggestions as to the sale, purchase, exchange, or leasing of real property that is listed, to be listed, or currently available for sale or lease
- 13. holding himself or herself out in any manner, orally or in writing, as being licensed or affiliated with a particular firm or real estate broker as a licensee

**License Law for Agents & Brokers**

**Topics for Review:**

- Effects of prohibited conduct on your license
- Requirements for transfer to another firm
- Requirements for handling Escrow funds
- Unfair trade practices prohibited in GA
- Broker Relationships/Handling Transactions
- Management responsibilities of RE firms
- **Advertising Rules**
- Licensees acting as Principals

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(1)</sup>)  
 Effective May 14, 2014 – “Advertising”  
 revised**

**Advertising/Advertisement** – any manner, method, or activity by which a licensee through the use of any media makes known to the general public real estate for sale, rent, lease, or exchange

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(1))  
Effective May 14, 2014 – “Media” expanded**

Media – includes print, photographs, broadcast, and the Internet, including, but not limited to...

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(1))**

newspapers, magazines, flyers, posters, business cards, billboards, radio, videos, television, signs\*...

*\*Including directionals, "for sale," "for lease," "sold," or vehicle signs*

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(1))**

...newsletters, voicemail, email, FAX, websites, blogs, video blogs, property listing database services, email farming, news groups, discussion lists, bulletin boards, social media, text messages, multimedia advertising, banner ads, pop-ups, and similar media

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(2))**

Any advertising that is misleading or inaccurate in any material fact or in any way misrepresents any real estate is prohibited.

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(2.1))**

All advertising by licensees must be under the direct supervision of their broker and in the name of their firm.

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(3))**

A licensee shall not advertise any real estate for sale unless the licensee has first secured the written permission of the owner



**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(3)</sup>)**

When such permission is granted, a licensee advertising real estate that is listed with another firm shall clearly and conspicuously disclose the name of the listing firm unless the listing firm has expressly agreed in writing to waive those clear and conspicuous disclosures.

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(4)</sup>)**

A licensee shall not advertise to sell real estate when such advertisement is directed at or referred to persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(4)</sup>)**

The contents of any advertisement must be confined to information relative to the real estate itself, and any advertisement that is directed at or referred to persons of any particular race, color, religion, sex, handicap, familial status, or national origin is prohibited.  
i.e. describe the property & not the person

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(5)</sup>)**

Any advertising on the Internet by a licensee of real estate for sale shall disclose the name and telephone number of the licensee's firm on every viewable web page of a website except as herein otherwise provided:

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(5)</sup>)**

a) When advertising in electronic messages of limited information or characters, a license shall provide a direct link to a display that is in compliance with this Rule.

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(5)</sup>)**

b) When advertising real estate for sale on an internet website not owned or controlled by the licensee or firm with which the licensee is affiliated, and that website's terms of use limit the licensee's ability to comply with this paragraph, the advertising shall provide a direct link to a display that is in compliance with this Rule on every viewable webpage of the website.

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(5)</sup>)**

- c) Information on a website maintained by a licensee that is outdated shall be updated or removed from the website within **thirty (30) days** of the information becoming outdated

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(5)</sup>)**

- d) If a licensee's website is maintained by a third party, the licensee shall provide to the third party a timely written notice (by mail, email, fax) of any updates to outdated information, so that such information removal may be accomplished in accordance with this Rule.

*A licensee who provides such timely notice shall not be in violation of this Rule if the third party fails to effect an information change as notified*

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(5)</sup>)**

- e) The requirements of this Rule apply to advertising and information on a website that is within the licensee's ownership or direct control. No licensee shall be responsible for information taken from the licensee's website, or other advertising, if placed on a website, or in other advertising outside the licensee's ownership and/or direct control and without the licensee's consent

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(6)</sup>)**

For purposes of this rule the term trade name shall include trade mark and service mark; and the term advertising shall include, but is not limited to, advertising done by others on behalf of the licensee.

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(6)</sup>)**

- a) Any firm using a trade name or any franchisee in advertising specific real estate for sale in any media shall clearly and unmistakably include the firm's name as registered with GREC in a manner reasonably calculated to attract the attention of the public.

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09<sup>(6)</sup>)**

... The firm's name shall appear adjacent to any specific real estate the firm advertises for sale so that the public may unmistakably identify the firm listing the specific real estate.

In advertising real estate for sale the name of the firm offering the real estate shall appear in equal or greater size, prominence, and frequency than the name of any affiliated licensee

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(6))**

- b) Any firm using a trade name or any franchisee shall clearly include the firm's name as registered with GREC on any contracts or other documents relating to a real estate transaction

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(6))**

- c) Any firm using a trade name or any franchisee shall clearly include the firm's name as registered with GREC on office signs

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(7))**

In advertising specific real estate for sale, rent, or exchange in any media:

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(7))**

- a) firms must include a name of the firm as registered with GREC and a telephone number for the firm, except when complying with lawful restrictions (such as covenants or local governmental ordinances) that forbid the use of the firm's name on a particular type of sign

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(7))**

- b) the name of the firm advertising the real estate for sale shall appear in equal or greater size, prominence, and frequency than the name any affiliated licensee

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(7))**

- c) the firm's telephone number shall appear in equal or greater size, prominence, and frequency than the telephone number of any affiliated licensee, and it must be a number at which the public can reach a broker or a manager of the firm without going through the affiliated licensee listed in the advertisement

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(7))**

d) whether contained in a logo or standing alone, the name of the firm must be in equal or greater size, prominence, and frequency than the name of any affiliated licensee or group of licensees

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(7))**

e) a block advertisement in any print media that advertises various listings of a firm, and includes the name of the listing agent next to each listing, shall be in compliance with this rule if the name of the firm appears only once at the top of the advertisement in equal or greater prominence and print size than any of the listing agent's names.

*Other positions are acceptable if the firm name appears clearly larger and more prominently than licensee names*

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(8))**

A licensee shall not advertise to sell real estate in a manner indicating that the offer to sell such real estate is being made by a private party not licensed by GREC.

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(8))**

Every licensee is prohibited from advertising under the licensee's individual name to buy any real estate or offer for sale any real estate.

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(8))**

All advertising by licensees must be under the direct supervision of their broker and in the name of their firm.

**License Law for Agents & Brokers**

**Advertising Rules (GREC 520-1-.09(8))**

However, when a licensee wishes to advertise real estate owned by the licensee and which is not under a brokerage engagement, the licensee may do so provided:

### License Law for Agents & Brokers

#### Advertising Rules (GREC 520-1-.09<sup>(8)</sup>)

1. Broker has been notified in writing
2. Broker gives written consent to advertising the specific property, and approves the advertising
3. Whether active or inactive, ads must include a legend:
  - a) "Seller holds a real estate license"; or
  - b) "Georgia Real Estate License#..."  
 (or "GA RE Lic#")

### License Law for Agents & Brokers

#### Advertising Rules (GREC 520-1-.09<sup>(10)</sup>)

Notwithstanding any other provision of this Rule, a licensee shall make every reasonable attempt in advertising to assure the public knows that they are being contacted by a licensee

### Summary of Advertising Laws

- **Marketing/Advertising**
- You are required to review the GREC advertising rules & regulations: Complete rules on advertising can be found in **Rule 520-1-.09** [www.grec.state.ga.us](http://www.grec.state.ga.us)
- All advertising (print media, signs, website, e-mail, business cards, blogs, vlogs, Craigslist, Facebook, etc...) by an affiliate licensee must be done in the name of firm and under the supervision of the broker. When a licensee advertises a specific property or properties for sale, for rent, or for exchange, the name of the licensed firm offering the property must appear in equal or greater size, prominence, and frequency than the name or names of any affiliated licensees or groups of licensees. Additionally, the telephone number of the firm must appear in equal or greater size, prominence, and frequency than any telephone numbers of any affiliated licensees or groups of licensees. *See also Rule 520-1-.09*
- All marketing materials must be approved by your Broker or the Managing Broker
- Any advertising on the Internet by a licensee of real estate for sale shall disclose the name and telephone number of the licensee's firm on every viewable web page of a website except as herein otherwise provided
- Licensee must make every reasonable attempt to assure that the public knows they are being contacted by a real estate agent

### Summary of Advertising Laws

- **GREC Advertising Guide**
- **ALL Advertising (Including Specific Property)**
  - Is Not Misleading or Inaccurate
  - Does Not Discriminate
  - In the Name of the Broker (Firm not the person)
    - Corporate Name or Trade Name as approved by GREC
    - In a manner reasonably calculated to attract the attention of the public
  - Reviewed & Approved by the Broker

### Summary of Advertising Laws

- Advertising **Specific Property** (House, Apartment, Subdivision, Condo, Land, Etc.)
  - **REQUIRED**
    - Brokerage Name – Corporate or Trade Name as Registered with GREC
    - Brokerage Phone Number as registered with GREC (but can have agent extension afterwards as long as when public calls there is an option for them to get to Broker without having to go through agent)
    - Broker's Name equal or greater size, frequency or prominence than agent(s).
    - Broker's telephone number is equal or greater size, frequency or prominence than telephone number of agent(s).
    - Can use the size of Broker's Logo in name as measurement "yardstick" for size
  - **OPTIONAL**
    - Affiliate Licensee(s) or Team Name
    - Telephone number other than broker
    - E-mail/Web address

### Summary of Advertising Laws

- Advertising **Licensee-Owned Property**
  - Written notification to Broker PRIOR to signing contract for listing / purchase / sale / lease / option / exchange
  - Broker's written consent & approval
  - Includes appropriate licensee disclosure – This is required even for INACTIVE agents who still hold a real estate license
    - "Seller holds a real estate license in Georgia" or
    - "Georgia Real Estate License Number \_\_\_\_\_"
  - Complies with Rules on advertising specific property
- **ELECTRONIC Marketing:**
  - Agent Website - EVERY page must include Brokerage Name & Brokerage Phone Number
  - All other Electronic Marketing - if you don't have enough room for all of GREC compliance, you **MUST** include a link to a website (yours or your Broker's) that is in full-blown GREC compliance - i.e. the public must be 1 click away from something that does meet GREC marketing compliance laws

### Summary of Advertising Laws

- **Broker's Address:**
  - There is **NOTHING** in GREC License Law about a Brokerage Address being on anything - not required on signs, business cards, postcards, etc.
  - **BUT** GREC does allow for a Brokerage to have a policy requiring the Brokerage address being business cards or anything else
- **Business Cards:**
  - Must meet terms of ALL Marketing
  - Does not need Broker's Phone Number **UNLESS**
    - Broker requires by policy
    - That Business Card will ever be in a listing
- **Directionals:**
  - They are marketing a specific property so per GREC, directional should meet the terms of marketing a specific property
- **Resources:**
  - GREC Article: <https://www.grec.state.ga.us/articles/advertising.html>
  - GREC Rule: 520-1-.07 (6) – Utilizing Support Personnel – Task Guidelines

### GREC Proposed License Law Changes – Spring 2020

- The proposed rule amendments were considered for adoption by the Commission at its meeting on March 11, 2020, at 9:30 a.m. following the public hearing.
- **Update as of 3/12/20 - GREC Rule Change - Teams Definitions & Prohibited Words for Advertising:** GREC met on March 11th and had a public hearing and was scheduled to vote. Based on the calls & emails and discussions at the Public Hearing, GREC is going to propose an **UPDATED** Rule Change to the definition of "Team" & "Team Captain" as well as what words may be used in marketing & advertising. It appears that GREC may allow the use of "Real Estate" "Realty Broker" "Associate Broker" and some others. They will vote on the new Proposal in their April meeting and then bring up for a public hearing before voting it into law. Other issues they are taking into consideration: grandfathering in marketing (i.e. YouTube videos) that includes any prohibited words, giving a several month "grace" period for agents to switch over their marketing, and more. Many issues were discussed at the Public hearing.
- **Note as of 4/14/20:** Due to the Coronavirus Pandemic, GREC has suspended their meetings. This issue will most likely be delayed until later this year or 2021.

### GREC Proposed License Law Changes – Spring 2020

- **SYNOPSIS OF PROPOSED AMENDMENTS TO THE GEORGIA REAL ESTATE COMMISSION RULES CHAPTER 520 Rule 520-1-.02 - Terms**
- **Purpose:** The purpose of this proposed amendment is to define the terms "Team" and "Team Leader" as they relate to real estate brokerage activity in Georgia.
- **Main Feature:** Defining the terms "Team" and "Team Leader".
- **CHAPTER 520 Rule 520-1-.02 (2) - Terms**
- (u) "Team" is comprised of two or more licensees who
  1. act on behalf of, and are affiliated with, the same firm;
  2. work together on a regular basis to provide real estate brokerage services;
  3. represent themselves to the public as a team; and
  4. are identified by a team name.
- (v) "Team Leader" is a licensee designated by his or her qualifying broker or broker as a Team Leader. Each Team in a firm must have a Team Leader. Each Team Leader shall maintain an accurate list of the names, license numbers, contact information for each team member, and provide the list to the qualifying broker or broker of the firm.

### GREC Proposed License Law Changes – Spring 2020

- **SYNOPSIS OF PROPOSED AMENDMENTS TO THE GEORGIA REAL ESTATE COMMISSION RULES - CHAPTER 520 Rule 520-1-.09 - Advertising**
- **Purpose:** The purpose of this rule is to provide guidance for real estate firms and to help prevent confusion by the general public, regarding the advertising of real estate Teams in Georgia, by identifying requirements that are specific to the advertising of Teams for Georgia real estate salespersons, brokers and firms.
- **Main Features:** Identifying the responsibilities of Team Leaders, qualifying brokers or brokers when advertising Teams. Identifying required and prohibited words and phrases used in Team advertising.
- **CHAPTER 520 Rule 520-1-.02 (11) – Advertising as Teams**
- (a) It shall be the Team Leader's responsibility to submit all team advertising to the qualifying broker or broker of the Firm of which the Team is affiliated. The qualifying broker or the broker shall timely review all advertising by Teams to assure compliance with the advertising rules of Chapter 520-1-.09.
- (b) The word "team" or "group" **must be included** as part of the name for all Teams. Real estate team or group names may **not include** the following words or phrases, or variations thereof:
 

* Associate Brokerage	* Company	* Corp	* Inc	* LLP
* Broker	* Corporation	* Incorporated	* LLC	* LP
* Real Estate				

### License Law for Agents & Brokers

**Topics for Review:**

- Effects of prohibited conduct on your license
- Requirements for transfer to another firm
- Requirements for handling Escrow funds
- Unfair trade practices prohibited in GA
- Broker Relationships/ Handling Transactions
- Management responsibilities of RE firms
- Advertising Rules
- **Licensees acting as Principals**

### License Law for Agents & Brokers

**Licensees as Principals (GREC 520-1-.11(1))**

Paraphrased:  
***You can't do anything without notifying your broker in writing, and gaining their consent.***

Actual GREC rule is written as:

**License Law for Agents & Brokers**

**Licensees as Principals (GREC 520-1-.11(1))**

No licensee shall be permitted to list, sell, buy, exchange, rent, lease, or option, or offer to list, sell, buy, exchange, rent, lease, or option real estate, either in individual or multiple parcels...

**License Law for Agents & Brokers**

**Licensees as Principals (GREC 520-1-.11(1))**

...in the licensee's own name or in the name of any other firm or entity in which the licensee is an officer, employee, beneficiary, or member of such firm or entity...

**License Law for Agents & Brokers**

**Licensees as Principals (GREC 520-1-.11(1))**

...acting as a principal, without first advising, in writing, the broker for whom the real estate licensee is acting

**License Law for Agents & Brokers**

**Licensees as Principals (GREC 520-1-.11(2))**

When a licensee offers to [buy] a property as a condition to obtaining a [listing agreement] or on which the licensee is extending the expiration date of an existing agreement, the licensee must enter into a written contract to purchase which expresses all the terms and conditions of the licensee's purchase...

**License Law for Agents & Brokers**

**Licensees as Principals (GREC 520-1-.11(2))**

...**prior to or at the time of** entering into the proposed [listing agreement] or into the extension of the existing agreement.

**License Law for Agents & Brokers**

**Licensees as Principals (GREC 520-1-.11(2))**

[Similarly], when a licensee offers to buy a property in order to enable a party to purchase, sell, lease, or exchange another property, the licensee must do the same as above [enter into a written agreement with the purchase terms expressed].

### License Law for Agents & Brokers

#### Licensees as Principals (GREC 520-1-.11(3))

Licensees advertising to buy, sell, exchange real property for their own accounts must comply with the advertising requirements of Rule 520-1-.09 - Advertising

### License Law for Agents & Brokers

#### Licensees as Principals (OCGA 43-40-29(c))

“In order to protect the public, it requires a licensee to comply with its provision whether acting as an agent or as a principal.”

*Brokers are required to review all if their affiliated licensees' activities for compliance with the law, whether the activity is that of an agent or of a principal and agent.*

### License Law for Agents & Brokers

#### Property Management of Real Estate Owned by Licensee & Trust Funds (GREC Rule 520-1-.08 (9))

All Trust monies must be placed in the Trust Account of Broker Holding License if property not owned 100% by licensee =

- Deed only in name of licensee OR
- Deed only in name if business entity of which licensee is SOLE owner, member, stockholder

### License Law for Agents & Brokers

#### Property Management of Real Estate Owned by Licensee & Trust Funds

Broker may give licensee permission to set up a personal Trust Account that Broker must register with GREC... all rules & laws regarding trust accounts shall apply

If not owned 100% by licensee, this is not an option.

### Agent as Principal Summary

**If you are the principal in any transaction involving real property (i.e. personal residence or investment property) you must:**

- You must send your Broker an email with the property address (if you have one yet) of your desire / intent to buy / sell / rent / lease / option / exchange real property – prior to signing a contract / agreement (GREC 520-1-.11(1))
- Create a transaction with your Broker & upload all the documents into that transaction in whatever Transaction Management System your firm uses
- All transactions must go through a Compliance review
- You may not hold any trust funds (earnest money or security deposits) in your own account – based on your company's policy, all escrow funds must be deposited with either your Broker, another Broker or a Property Management Company

### Agent as Principal Summary

- All agents must identify themselves as being a licensed agent in Georgia and include their Real Estate License Number
- Reveal any material relationship with any one else on the contract – including any business entity acting as principal – i.e. “Listing Agent is member of \_\_\_\_\_ LLC which is selling the property”
- If this is your personal primary residence, if you complete the “Agent Owner Letter” in FMLS & upload to your transaction for a Broker signature, there is no FMLS fee.
- If any of the parties in the transaction require Broker's permission to take \$0 commission, please make that request for a Broker Commission Permission Letter in your transaction if your company allows this so that your Broker may initiate & sign this permission to cut the commission



### Agent as Principal Summary

- The license law requires brokers to review all of their affiliated licensees' activities for compliance with the law, whether the activity is that of an agent or of a principal and agent. Thus, whenever an affiliate intends to act as a principal or as a principal and an agent in handling her own real property, the license law requires the affiliate to disclose her intentions in writing.

### Agent as Principal Summary

- ***Why do I have to tell my broker that I am marketing a property that I own if I am not paying her a commission?***
- In order to protect the public, it requires a licensee to comply with its provisions whether acting as an agent or as a principal
- [ [See O.C.G.A. Section 43-40-29 \(c\)](#) ].

### License Law for Agents & Brokers

#### Inactive Licensee Practicing Real Estate OCGA 43-40-12(g)

- The license law provides that a licensee on inactive status may perform the acts of a licensee *only concerning property he or she personally owns.*

### License Law for Agents & Brokers

#### Inactive Licensee Practicing Real Estate OCGA 43-40-12(g)

- However, even in this situation involving personally owned property, the inactive licensee remains subject to the provisions of the license law requiring disclosure of his or her licensed status in real estate sales contracts and leases

### License Law for Agents & Brokers

#### Inactive Licensee Practicing Real Estate OCGA 43-40-12(g)

- Active or inactive licensees must have in any advertisement done in their own names for property that they own the phrase, "(seller, buyer, landlord, or tenant) is a licensed real estate agent;"

### Thank you!

- Remember to Confirm all Law Questions with your Broker & GREC & all Contract Questions with your Broker!
- Please attend Additional Courses:  
[www.registerforREclasses.com](http://www.registerforREclasses.com)
- Course Offered through: **Georgia Real Estate Academy** (GREC School #6915)
- Credits for Virtual CE classes to be recorded 3 to 5 Business Days from class
- **Video Contract Tips:**  
[www.YouTube.com/RealEstateMadeCrystalClear](http://www.YouTube.com/RealEstateMadeCrystalClear)