

2013 Calendar

GREC Brokerage Course & Trust Accounts Class Dates:

- September 25&26, 2013
Atlanta Board
www.learningrealestate.com
- October 16 & 17, 2013
Altamaha Basin Board
<http://altamahabasinmls.com>
- November 13 & 14, 2013
N.W. Georgia Council
<http://www.gcar.net/>

Common Violations Class Dates:

- September 17, 2013
Thomasville BOR
229-228-5279
- September 24, 2013
Central GA BOR
478-922-0099
- October 15, 2013
GAMLS Morrow
770-493-9000

[Click here to
see GREC
Disciplinary
Sanctions](#)

Georgia Real Estate Infobase



Expanded Issue Contents:

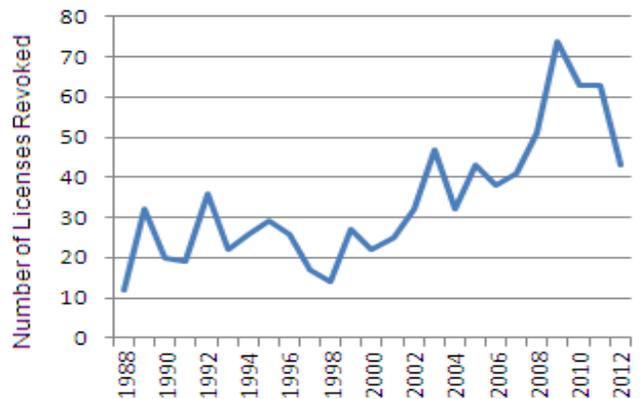
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Georgia Real Estate Commission Disciplinary Actions

Licensees, attorneys, lenders, or the public can look at the license history of a Georgia real estate licensee. By entering the name, license number, or even the firm name, the public can search for information regarding an individual Georgia licensee. This data is useful for brokers recruiting agents and for licensees to help determine the experience level of an agent or even to determine if he/she is actively licensed in Georgia. The following information can be viewed concerning a Georgia real estate licensee:

- Status of Georgia License: Inactive, Active, Lapsed
- Type of license held: Broker, Associate Broker, Salesperson, Community Association Manager
- License History: time period(s) he/she has been licensed
- Disciplinary sanctions imposed on the licensee

The Georgia Real Estate Commission web site lists all individuals by name whose license has been revoked or suspended by the Commission. Over the last 25 years (since 1988), the Commission has revoked 867 licenses. Although that averages to 35 per year, as indicated in the graph, more revocations occurred over the last 10 years than the 15 prior years, in large part due to the increase in licensees over the last decade.



Over the last 12 months the following were issued by the Commission:

- 152 Citations
- 51 Cease & Desist Orders
- 30 Revocations of Licensure
- 21 Suspensions

Any of these actions can require the licensee to: reimburse the Commission for legal and administrative expenses, complete a course of study in real estate brokerage or instruction; to file periodic reports by an independent accountant on a real estate broker's designated trust account; and/or to pay a fine not to exceed \$1,000.00 for each violation, with fines for multiple violations limited to \$5,000.00 in any one transaction.

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Online Courses from GREC

\$10 each
3 Hour CE Course
Total of 9 Hours CE Available

“Avoiding Trust Account Trouble”

“Practicing Real Estate & Staying Out of Trouble”

“Being a Broker and Staying Out of Trouble”

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Comments or Suggestions
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To sign up to receive the GREC RENEWSletter
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Georgia Real Estate Commission
Suite 1000
International Tower
229 Peachtree Street NE
Atlanta, GA 30303-1605
Phone 404-656-3916

GREC Disciplinary Actions....

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Consider the different disciplinary tools used to regulate Georgia Licensees:

- 1) **Revocation:** If a license is revoked, the licensee is permanently prohibited from conducting real estate brokerage activity. Revocation is the most severe action and is used in those cases where the licensee has caused harm to the public. (*It is possible that an individual could reapply as a new applicant after an extended period of time depending on the individual situation.*)
- 2) **Suspension:** If a license is suspended, the licensee cannot perform brokerage activity of any sort during the suspension period.
- 3) **Cease & Desist Order:** The C&D orders the party to immediately stop a certain activity that is in conflict with the License Laws, Rules, and Regulations. For example, a person practicing real estate without an active real estate license can face substantial fines for each day the individual continues the violation.
- 4) **Citation:** Typically a citation is a minor infraction that does not cause harm to the public. A Citation does not appear on the public record of the licensee's history. However if someone inquired about a citation, the Commission can give information on any record of citations issued to a licensee.
- 5) **Letter of Finding:** This is basically a letter of warning concerning a minor infraction of the License Laws, Rules, and Regulations that did not cause harm to the public. It is not reported nor provided upon inquiry.

Reminder to Schools:

The GREC Education Advisor requests that all School Directors of any Georgia Real Estate or Appraisal School review their School records online and change or update the information as necessary so GREC has the correct information. Except for changing the School Director, all changes can be made online at the GREC web site via the online services system.

Take a moment to verify and update your email, address, phone numbers, location, contact person, school coordinator, school web site address, etc.

<http://www.grec.state.ga.us/schools/approvedschools.html>



Focus on Terms: “office brokerage policy”

BRRETA (Brokerage Relationships in Real Estate Transactions Act) requires that each **broker** develop, implement, and enforce a firm brokerage policy. This written policy must state the types of agency relationships available through the broker. It must clearly state whether the firm specifically permits or rejects the practice of disclosed dual agency. The practice of dual agency requires a written consent signed by all parties.

The firm's office brokerage relationship policy must be disclosed **before** entering into a brokerage engagement with a client. The broker must advise the prospective client of the types of agency relationships available through the broker. This requirement helps clarify the responsibilities and duties expected of the broker, so that the client does not misunderstand or misinterpret the terms of the agency relationship. **10-6A-10**. Other terms must also be covered in the brokerage engagement agreement such as the practice of sub-agency and the sharing of commissions. **BRRETA** can be used as a guideline.

- ✓ Where is your written office brokerage policy?
- ✓ Are all the affiliated licensees familiar with the firm's policy?
- ✓ Does the broker need to provide refresher training on the firm's office brokerage policy?

Recap of Changes to the License Laws, Rules, and Regulations

Since several legislative amendments and rule changes that affect real estate licensees and appraisers were passed or became effective in 2012. The following is a recap of those law and rule changes over the last year and a half.

Law Changes

Senate bill 365 was passed and it clarifies certain terms and issues in the License Law, including the following:

1. Required that a licensee must be actively licensed for 3 of the 5 previous years before he/she can sit for the state examination for broker.
2. Code Section 43-40-8 defined disciplinary sanctions and allows the Commission to consider the disciplinary actions of another state when determining the severity of a new sanction. Code Section 43-40-25.
3. Increased the amount that can be recovered from the Real Estate Recovery fund from \$15,000 to \$25,000 per transaction and from \$45,000 to \$75,000 for multiple transactions per licensee. Code Section 43-40-22.
4. Changed the notification provisions required to obtain funds from the Real Estate Recovery Fund making it easier and allows the ability to make a claim after judgment or settlement of a suit rather than at commencement of a suit. Code Section 43-40-22.
5. Defined a "Letter of Findings". It is a confidential disciplinary tool that can be used by the Commission when it has been determined that a licensee violated the License Law, but there was no harm to a third party or to the public. A Letter of Findings is basically a letter of warning and shall not appear in the License History of a licensee. Code Section 43-40-25.2.
6. Clarified the definition of a "Felony" to mean any offense committed: (i) Within this state and deemed a felony under the laws of this state or under the laws of the United States or in another state and deemed a felony under the laws of that state. Code Section 43-40-15.
7. Amended the Appraiser Act regarding relocation companies specifying an Appraisal Management company does not include a relocation company. Code Section 43-39 A-2.
8. Allows the Commission or the Appraiser Board to revoke a license that is surrendered after the commencement of an investigation.
9. Although passed in 2011, the Georgia "Illegal Immigration Reform and Enforcement Act of 2011" became effective January 1, 2012. Each licensee must submit a secure and verifiable document of identity and a lawful presence affidavit of residence. Documents can be sent via fax to (404) 656-6650, e-mail verify@grec.state.ga.us, U.S. mail, or by visiting the office. Recent changes require this information only be submitted one time to the Commission instead of being required for each license renewal.

Rule Changes

- Rule 520-1-.10 (6) was amended to clarify rebates from licensees to principals.
- Rule 539-1-.24 was adopted clarifying that Appraisers acting as a hearing officer or arbitrator in tax appeal cases is not considered to be doing an appraisal activity.
- In addition, it clarified that anyone can represent a taxpayer or himself in a property tax appeal and can give an "opinion of value" without being a licensed appraiser.

The Commission posts any proposed, pending, or adopted rule changes under the License Law tab on the GREC web site at <http://www.grec.state.ga.us/about/relaw.html>.

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The Appraisers Page

Georgia Real Estate Appraisers Board

September 2013

Georgia's Real Estate Recovery

Useful
Links:

By: D. Scott Murphy, SRA

[GREAB
Web Site](#)

[Appraisal Act](#)

[GREAB
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Are values recovering in Georgia? Well, it depends who you ask and exactly which part of the state you are talking about. It actually goes even further than that; it depends on which price range in a given area. So the answer is very complicated. But in general the worst appears to be behind us and many areas and price points are seeing steady appreciation since the beginning of the year. Values over the past two months have begun to stabilize which is common after the summer selling season comes to an end. We have seen days on market decrease, sales price to list price ratios increase and multiple offers on properties. This is due in part to the fact that many parts of Georgia are seeing some of the lowest levels of inventory of homes for sale in many years. Many economists state that when inventory reaches a point of less than 6 months it becomes a seller's market. This is occurring in areas all around the state, generally in areas where foreclosure and short sale rates have stabilized or declined. Case Schiller Index latest #'s for Atlanta (June 2013) show a continued decline in inventory (-2.91% from May 2013) and (down -17.74% from a year ago) with the last 7 months down -23.2%.

Over my 30 years of appraising, I have seen at least three recoveries. I am keenly aware of the various stages of these cycles and monitor the market closely so I can accurately estimate the value of a given property. I am concerned that this recovery may be extended or impeded by the appraiser and or the lender. Neither of which should have any influence on the value of a home. They both should act in the background and the market should be moved by the forces of supply and demand, negotiations of a willing and well educated buyer and seller, mortgage interest rates and the state of the economy in general. However, I am seeing time and time again good arm's length transactions "not appraising" and sellers having to make large price concessions or the deal dies. This unnatural force on market value is caused by some new problems in the appraisal and lending worlds.

What is causing this? Why are so many properties "not appraising"? First let me state for the record that I do not believe that every arm's length sale should appraise – there are going to be times when the property is just not worth the agreed upon purchase price, but these instances should be few and far between. Next let's look at the appraiser's role in the mortgage process. We are to act as an unbiased party, putting ourselves in the shoes of a typical buyer, thoroughly analyze the market and determine if the sales price is reasonable. I often refer to us as the "mortgage police". We are to determine if the sale price is reasonable or not, ferreting out fraudulent or unreasonable deals in an effort to protect the lender and the buyer. Appraisers do not determine market value, we interpret market value. So a good arm's length deal should appraise because the buyer has closely analyzed the market and negotiated a deal which is in line with other recent sales and active listings. The problem for an appraiser in a recovering market is twofold. We must use recent confirmed sales and are only allowed to consider active listings and pending sales as a secondary means of supporting our appraised value. Where buyers are in the present, appraisers are mostly trapped in the past. This is compounded by the onerous rules and guidelines imposed by the lender (ultimately the secondary market funder such as Fannie Mae, Freddie Mac or FHA). I often say there are two values for a property, market value and Fannie Mae market value because so often the requirements of these secondary market funders and the lenders lead the appraiser to a value which is different than they would have arrived at if not for the countless guidelines.

This leads me to the second part of the problem and that is the lender, who in their defense is acting in a way to satisfy the secondary market. Never in my 30 years of appraising have I seen such microscopic scrutiny of our appraisal reports. There is literally not a report submitted which is not kicked back for some type of correction or revision. Lenders are running scared and for good reason. The GSE's (Government Sponsored Enterprises) are analyzing these loan files with a fine tooth comb and send them back for repurchase for the slightest reason. Until just 3-4 years ago, appraisers



The Appraisers Page

Georgia's Real Estate Recovery

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By: D. Scott Murphy, SRA

had been pressured by the loan originators to “make deals work” and to get the highest value possible on refinances. This was an industry standard and I am sure many loan officers were taught that it was the way things were done. Then federal regulations changed all that through the HVCC – The Home Valuation Code of Conduct. Now no one on the production side can as much look at an appraiser, let alone discuss value. This was necessary change and one which should have been done a long time ago. The problem is that it came at a really bad time because values were already declining and it had one unintended consequence. Many appraisers now flip flopped and instead of “pushing” value became ultra conservative. Lawsuits were flying from all the mortgage fraud over the past 10 years and loan officers now had no contact and no control over the appraiser in any way. As a matter of fact, now the underwriter has the power. In order to “stay in good” with the lender many appraisers feel they be conservative in an effort to please the underwriter and avoid scrutiny of their reports. Underwriters are under tremendous pressure to scrub each file and make sure it is not going to be kicked back by the GSE.

In past recoveries we had the latitude to prepare our reports with the best data possible, prove that the sales price was reasonable and within our adjusted range (often the higher end of our range) and place appropriate weight on the pending sales and active listings (what other options does a buyer have available to them RIGHT NOW – this is the critical question) and affirm the sales prices of the vast majority of the contracted sales. Now we are faced with a minefield when searching for comparables: REO's, foreclosures, short sales, bankruptcies, etc. litter the comparable sales database. On top of the seemingly impossible struggle to find comparables we face this immense scrutiny from the lender. Can you blame the appraiser for saying “forget it, I am just going to be

conservative, fly below the radar and get my job done”. He is no longer in fear of the loan officer not sending him any work and the less he “rocks the boat” with the lender the better his chances are of getting additional work. The more difficult path is to stick to his ethics, take the blinders off, realize his true purpose is not to determine the market value but interpret it and work extra hard to find the best, most similar comparables possible. If the sale price falls within his adjust range he should gravitate to that number. Appraisers are not God, we do not control the real estate market. The real estate market is far from perfect – there is no ONE number that any house is worth. There are many instances when an appraiser must use a foreclosure sale as a comparable. The problem is that most appraisers don't realize that it is not a true arm's length sale, the buyer is taking a very large risk with this property as he is buying this property in “as-is” condition. There are no warranties and no disclosures. He has no recourse if later a defect is discovered. He is also taking a title risk as the seller does not offer a traditional warranty deed (taking full responsibility for the title) but a limited warranty deed or bargain and sale deed. Wouldn't you expect a discount for this risk? – definitely! Therefore, the appraiser must adjust for this under terms of sale. Once a neighborhood is saturated with foreclosures this adjustment may not be as supportable but in a neighborhood of mostly regular, arm's length sales it is.

If appraisers and lenders do not realize this and become more realistic, the real estate market will only continue to spiral down. Good competent appraisers and lenders must do their job and do it correctly. Market value is ***the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently, and without compulsion.*** It is not that all sales must be within one mile and have sold within so many days; and all adjustments must be within these given ranges. I know of appraisers we are throwing out good sales and replacing them with inferior sales just because they will satisfy these sometime ridiculous lender requirements. Lenders, remember, these are just GUIDELINES. The appraiser must be given the latitude to choose the most appropriate comparables in an effort to truly interpret market value as of the date of his report.