

2016 Calendar

GREC Brokerage Course & Trust Accounts Class Dates:

March 30-31, 2016
Bartow Area BOR
www.bartowrealtors.com

April 27-28, 2016
Central Georgia BOR
www.centralgairealtors.com

Instructor Training Opportunities

- Georgia Instructor Training
GIT March 17-18, 2016
[GREC GIT Registration](#)
- AREEA Instructor
Training
March 31-April 1, 2016
Birmingham Assoc. of
Realtors®

[Link to the Georgia Real Estate License Laws, Rules, and Regulations](#)

[Link to GREC Disciplinary Sanctions View Current Suspensions and Revocations](#)

Georgia Real Estate Infobase

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2015 Year in Review

The significant changes made to the Georgia Real Estate License Law, Rules, and Regulations in 2015 are summarized below, but it is recommended that licensees read the full wording of the new rule or law in their entirety to be familiar with all aspects of the rule(s) as they may apply in their brokerage practice.

Effective July 1, 2015

[Rule 520-1-.05 Maintaining a License.](#)

Increase in Required Continuing Education Hours - As of July 1, 2015, a Rule change increased continuing education hours from 24 to 36 for the 4 year license renewal period.

Effective July 1, 2016

[Rule 520-1-.05 Maintaining a License.](#)

Mandatory Topics: Beginning July 1, 2016, the required hours of continuing education, 36 hours as of July 1, 2015, shall include 3 mandatory hours on the topic of License Law. In order to renew, every licensee must take at least one (1) 3-hour CE course covering specific license law topics as mandated by GREC. Mandatory in this case means that the 3-hour course must cover specific subject areas on the topic of license law as identified by the Georgia Real Estate Commission. The course provider will be required to include the required subjects in the course to comply with the requirements for the 3-hour mandatory license law course approval.

Effective July 1, 2015

Senate Bill 95 expanded the number of financial institutions at which trust accounts may be held by a real estate broker from "federally insured banks" to "federally insured financial institutions." A "financial institution" under Georgia law includes a "bank" but also a trust company, a building and loan association, and a credit union. Additionally, under this Bill a trust account may now be held in accounts other than "checking accounts" as long as the account is federally insured.

Effective July 1, 2015

House Bill 153 relates to the activities of a real estate licensee and the practice of law. It allows real estate brokers, associate brokers, and salespersons to provide information and advice to their clients in matters involving the listing, management, sell, purchase, exchange, renting, lease, option, or other conveyance of real estate without being in violation of the unauthorized practice of law. It also allows licensees to prepare special stipulations to forms, to provide legal forms to clients, and to

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2015 Year in Review

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complete legal instruments for their clients all of which instruments and forms must have been prepared by an attorney. However, this section does not authorize a licensee to close a real estate transaction or to express, render or issue a legal opinion as to the status of title to real property.

Effective October 3, 2015

TILA-RESP Integrated Disclosure Rule (TRID) The federal Integrated Disclosure Rules simplified some forms and eliminated some repeated disclosures. TRID basically combined 4 required disclosure documents into 2 documents.

- The initial Truth-in-Lending (TIL) Statement and the Good Faith Estimate were replaced with the Loan Estimate, and it is required to be provided to the buyer/borrower within 3 business days of applying for the loan.
- The Closing Disclosure replaced the HUD-1 Settlement Statement and the final Truth-in-Lending (TIL) Statement, and it must be provided to the borrower 3 days before the closing.
- The Consumer Financial Protection Bureau (CFPB) provides materials helpful to real estate professionals in becoming familiar with the new procedures and forms. <http://www.consumerfinance.gov/know-before-you-owe/real-estate-professionals/>.

Adopted, Pending, or Proposed legislative or rule changes affecting real estate licensees are posted on the GREC web site at <http://www.grec.state.ga.us/>

Remember you can update your mailing address, email address, and other information on file with the Commission. Address changes must be corrected within 1 month.

[Online Services Login](#)

Focus on Terminology: "Client & Customer"

The following definitions are quoted from the Georgia Real Estate License Law, Rules, and Regulations and directly from BRRETA. Although the wording varies slightly, the critical components are the same. Note the determining factor between client and customer as it relates to ministerial acts.

License Law: "Client" means a person who has entered into a brokerage engagement with a real estate broker; <http://rules.sos.ga.gov/GAC/520-1-.02>

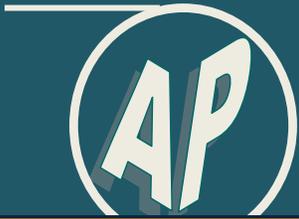
BRRETA: (6) "Client" means a person who is being represented by a real estate broker in an agency capacity pursuant to a brokerage engagement.

License Law: "Customer" means a person who has not entered into a brokerage engagement with a broker but for whom a broker may perform ministerial acts in a real estate transaction; <http://rules.sos.ga.gov/GAC/520-1-.02>

BRRETA: (8) "Customer" means a person who is not being represented by a real estate broker in an agency capacity pursuant to a brokerage engagement but for whom a broker may perform ministerial acts in a real estate transaction pursuant to either a verbal or written agreement.

License Law: "Ministerial acts" means those acts which the broker or affiliated licensee performs for a person which do not require discretion or the exercise of the broker or affiliated licensee's own judgment; <http://rules.sos.ga.gov/GAC/520-1-.02>

The distinction between the definition of client and customer is there is no brokerage engagement with a customer, and the licensee can only perform ministerial acts for the customer. Those acts can be provided through either verbal or written agreement.



The Appraisers Page

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[Appraisal Act](#)



[GREAB Disciplinary Sanctions](#)



Pocket Listings

By: D. Scott Murphy, SRA

Early spring used to mark the start of the hectic real estate market in Georgia. In the past few years we have seen that date come earlier and earlier. No one in the real estate industry is complaining, that is about the increased activity. What is sure to happen is complaints about low appraisals. Whenever the market makes a sudden change in one direction or another, it is very difficult for appraisers to accurately interpret the current market conditions. Another factor is simply the seasonal nature

of the real estate market. Historically the highest median sales prices occur during July and the lowest in January. So that when sale prices begin to escalate in February and March, appraisers are forced to use sales from the preceding slow winter months. Even the most accurate analysis of appreciation is often not enough to support strong spring sales.

It's that time of year again where the number of buyers quadruple. Inventory remains low and combined with significantly increased demand; competition for available homes increases exponentially. This hectic market where properties sell in a matter of hours not days, tends to lead to pocket listing or off market sales



A **pocket listing** is a real estate term which denotes a property where a broker holds a signed listing agreement (or contract) with the seller, whether that be an "Exclusive Right to Sell" or "Exclusive Agency" agreement or contract, but where it is never advertised nor entered into a multiple listing system (MLS), or where advertising is limited for an agreed-upon period of time.

Traditionally, the term "pocket listing" referred to a situation in which a property seller and real estate broker signed a listing agreement that allowed the broker to offer the property for sale, but keep the information out of the MLS primarily for purposes of privacy. This is common in California or very specific high-end markets dominated by celebrities.

The downside -- and it's a big one -- is that a pocket listing loses exposure to other real estate brokers, and the public. MLS exposure can mean multiple offers, a bidding war, a higher price, more attractive terms or a buyer who's better positioned to close the deal.

REALTORS® are bound by the Code of Ethics to get the best deal for their client. Sellers should be cautioned that restricting a large pool of eligible buyers from knowledge of the sale might reduce the final sale price.

The reasons for a pocket listing may vary from the need for privacy or secrecy to discrimination, and some sellers may have their own reasons for not advertising a listing in conventional ways. Several legitimate marketing strategies can also lead sellers to choose pocket listings.

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Georgia Real Estate Appraisers Board

February 2016

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By: D. Scott Murphy, SRA

Pocket listings can be very appealing to buyers who seek exclusive opportunities. Other legitimate reasons for a seller to decide to do a pocket listing include the potential for a faster, smoother transaction when the listing agent has buyer clients who may be interested in the property. It can reduce the need for many showings to strangers.

The issue some have with pocket listings is that many sellers are under the assumption that they are entering a traditional listing and have made no agreement to a private or pocket listing. Most MLS and real estate boards require that EVERY exclusive right to sell listing an agent receives in a prescribed territory be entered into the MLS system. There generally are no provisions for private or pocket listings. There generally is no “grace period”.

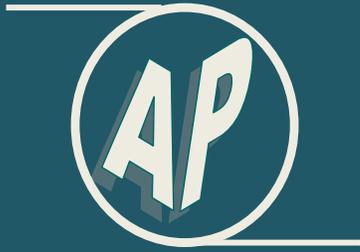
From an appraisal or lending standpoint we need to refer back to the definition of market value:

The definition of market value as defined in the FNMA forms, and that is determined in an appraisal assignment states the following:

The most probable price which a property should bring in a competitive an open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what her or she considers his or her own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The definition is hinged upon market exposure. I often shock homeowners while doing a listing appraisal by stating that a part of the purpose of the listing appraisal is to insure that they **do not** sell their home in 24 hours with a dozen offers. It is important that they price and market the property such that it will allow for the maximum exposure so that it will sell within the typical marketing time of like properties in the subject neighborhood.

The major issue at hand is how the sale of a pocket listing will be handled by subsequent lenders and appraisers. It does not matter to the appraiser of the pocket listing whether or not it was properly exposed to the market. His job is to determine the estimated market value of that property which will be based on the comparables sales in the market. The problem arises when the next appraiser in that[continued on page 5](#)



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market attempts to use the pocket listing as a comparable. The first issue is that he may miss the sale entirely since it has not been listed in the MLS. But even if he were to find it or you were to alert him to it, was it a true market or arm's length sale? How can the appraiser verify the condition, quality and improvements of this sale? We rely on the MLS to provide us with photos and detailed descriptions. You must consider how a reviewer or underwriter could verify the information utilized regarding that sale. All data must be able to be verified by a third party. For these reasons most lenders would disqualify the pocket listing, deeming it not to be a true market sale and most appraisers would not use it for those reasons as well as the difficulty in collecting/verifying the data.

Here is the biggest reason to avoid off-market listings. If the sale is not included in the MLS, how are potential buyers and agents going to be able to use it when considering to purchase the next similar listing in that market? Also, appraisers rely solely on MLS statistical data, extracted and then inserted into appraisal forms, to determine appreciation. Without that pocket listing appearing as a sale (often one of the higher sales) the trends in the market will be skewed. I have seen this happen far too many times when the best sales in the neighborhood were not multiple listed and the trending data generated actually showed a decline in value rather than an increase.

I hope you will consider all the factors at work when you take your next listing. Quick sales are bound to happen regardless of your intentions. Make a concerted effort to insure that every listing is input into the MLS system so that buyers, agents, appraisers, reviewers, and underwriters have access to the data and so that the sale of that property properly impacts market trends.

Pocket listings = future appraisal issues for that market

I welcome your comments and feedback. Please send me ideas for future articles.

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