

NONRESIDENT BROKERAGE ACTIVITY

Georgia Real Estate Commission
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Out of state brokers may participate in real estate transactions and commissions with Georgia brokers in three ways: (1) through referral of clients or prospects, (2) through written agreements with Georgia brokers, and (3) through nonresident licensure.

(1) Referrals

Participation in real estate transactions through referral of clients or prospects is permissible with any licensed broker of any state. In this instance, the out of state broker refers a client or prospect to the Georgia broker; may or may not receive a fee as negotiated by the brokers involved; and takes absolutely no part in listing, showing, negotiating offers, or any of the other functions of a broker. Conversely, the Georgia broker might refer a party to the out of state broker for a fee but can not participate further in the transaction unless that state's laws permit the Georgia broker to do so.

(2) Written Agreements

A licensed broker of another state who desires to work in Georgia on an occasional transaction without becoming licensed may enter into a written agreement with a Georgia broker to conduct real estate brokerage business in Georgia. The Georgia broker shall be responsible for all of the real estate brokerage acts performed by the out-of-state broker under such written agreement and shall determine that the out-of-state broker has and maintains an active license in the out-of-state broker's state of residence. The Georgia broker and the out-of-state broker must enter into a written agreement in which they become involved and the agreement shall provide for certain procedures to be followed before, during, and after the transaction. See O.C.G.A. Section 43-40-9 (e) below which contains specific requirements regarding such agreements.

(3) **Nonresident Licensure** - Since Florida does not grant full reciprocity to Georgia licensees, Georgia law requires that the Commission impose on applicants from Florida requirements which are substantially equivalent to the requirements which Florida imposes on Georgia licensees seeking nonresident licensure.

- A. **AN INDIVIDUAL LICENSED IN FLORIDA** must take and pass the state portion of the qualifying examination for the Georgia license which the applicant seeks. In order to qualify for this exemption the applicant must submit with the application for examination (and also with the application for a license) an original certified copy of his/her license history, not more than one year old, from the Florida Real Estate Commission.
- B. **AN INDIVIDUAL LICENSED IN ANY OTHER STATE**, either a nonresident or a licensee moving to Georgia, shall be granted a license without further examination or education if such applicant submits a certification (no more than one year old) of license history from his or her prior state of residence which shows that the applicant is currently in good standing; **(Cannot be lapsed or expired)**.

If you have leased or purchased a residence in Georgia, you **must** attach a copy of the Georgia Crime Information Report (GCIC) on the applicant. Such reports must not be more than 60 days old. The applicant can obtain a GCIC from any local sheriff's office or police department. (Depending on the law enforcement agency's policy, there may be a waiting period to obtain the report.)

If the applicant is aware of any conviction, nolo contendere plea, or first offender sentence that is not on the GCIC report, the applicant must disclose such conviction(s).

Failure to supply a GCIC report will result in the Commission' returning the entire application unprocessed. Failure to disclose all convictions, nolo contendere pleas, First Offender sentences and disciplinary sanctions are grounds for denial of your license.

An applicant who does not meet all of the above requirements must take and pass the qualifying examination for the Georgia license which the applicant seeks.

NOTE: If you have prior criminal convictions/disciplinary actions in another state you may wish to apply for a preliminary decision from the Commission before you incur the expense of a license. Contact the Commission for the **Application for Preliminary Decision Regarding Prior Criminal Conviction(s) or Disciplinary Sanction(s)**.

520-1-.23 Referral Fees Paid to Persons Licensed in Other States.

If a broker licensed in another licensing jurisdiction refers prospective clients or customers to a Georgia broker, the Georgia broker may pay a fee to such licensed broker. Such brokers who refer prospective clients or customers to a Georgia broker may not perform any of the other acts of a broker with regard to property located in this state unless they first obtain a nonresident's license or enter into a written agreement with a Georgia broker as permitted by O.C.G.A. Section 43-40-9.

520-1-.24 Acting as a Licensee in Other States.

No Georgia licensee may perform or attempt to perform any of the acts of a broker as defined in O.C.G.A. Section 43-40-1 on property located in another state without having first been properly licensed in that state or otherwise complied fully with that state's laws regarding real estate brokerage.

O.C.G.A. Section 43-40-9 Nonresident Licenses.

- (e) Notwithstanding any other provision of this Code section, a licensed broker of another state may enter into a written agreement with a Georgia broker to conduct the real estate brokerage business in Georgia without first obtaining a Georgia license. The Georgia broker shall be responsible for all real estate brokerage acts performed by the out-of-state broker under such written agreement and for determining that the out-of-state broker has and maintains an active license in the out-of-state broker's state of residence. For purposes of this subsection, a "licensed broker of another state" means the licensed broker and other brokers or salespersons licensed under such broker. The Georgia broker shall maintain for at least three years a copy of any written agreement into which such Georgia broker enters with a licensed broker of another state. Each written agreement shall provide:
- (1) For procedures to be followed in the event of the out-of-state broker's performing any of the acts of a broker on real property located in Georgia;
 - (2) How the brokers will divide any earned commissions;
 - (3) That any listing or property management agreement for Georgia real property in which the out-of-state broker will participate shall be in the name of the Georgia broker;
 - (4) That the out-of-state broker shall conduct negotiations with any client of a Georgia broker only with the express permission of the Georgia broker;
 - (5) That any advertisement by any means of Georgia real property shall identify the listing Georgia broker;
 - (6) That any contracts, agreements, or offers on Georgia real property shall clearly identify the Georgia broker and the out-of-state broker with the statement that the out-of-state broker is not licensed by the Georgia Real Estate Commission, that said contract, agreement, or offer shall be construed under Georgia law, and that the superior courts of this state shall have jurisdiction over any actions which may be brought against either broker as a result of such contract, agreement, or offer;
 - (7) That any trust funds obtained in any transaction involving any real property in Georgia by an out-of-state broker shall be held in the trust account of the Georgia broker unless agreed otherwise in writing by the party or parties having any interest in said trust funds; and
 - (8) Such other matters as the Commission may require by rule and regulation.
- (f) Whenever an out-of-state broker operating under a written agreement permitted by subsection (e) of this Code section violates any provision of this chapter, for such violation by the out-of-state broker the Commission will be limited to suspending or revoking the Georgia broker's right to enter into such written agreements with out-of-state brokers unless the Georgia broker participated in or ratified the violation of the out-of-state broker or failed to include in such written agreement all provisions required by subsection (e) of this Code section and the Commission's rules and regulations.

520-1-.35 Nonresident Licensure. Amended.

- (1) Nonresidents who meet the requirements prescribed in O.C.G.A. Section 43-40-9 and the Rules and Regulations of the Commission may be granted a nonresident's license.
- (2) Licensees who remove their residency from this state to another state may qualify for nonresident licensure in accordance with O.C.G.A. Section 43-40-9 only if they make application to change their status from resident to nonresident, sign a Consent to Jurisdiction, and sign an agreement to cooperate with any investigation initiated by the Commission.
- (3) Licensees who move from this state to another state may elect to place their licenses on inactive status rather than seeking a nonresident's license to avoid termination of their license. Licensees who elect such inactive status may not then conduct brokerage business in this state until they have again become residents of this state and have complied with the reactivation provisions of O.C.G.A. Section 43-40-12 or have qualified for nonresident licensure as provided in paragraph (2) of this Rule.

ADDITIONAL EDUCATION INFORMATION:

Nonresident licensees must meet Georgia's continuing education requirements after becoming licensed. For salespersons that means successful completion of the 25-hour Sales Postlicense course in their first year of licensure. The Postlicense course is one course consisting of at 25 hours in which a course examination must be passed for successful completion.

All licensees must complete at least 24 hours of Commission approved continuing education study during each four year renewal period. Rule 520-2-.07(9) states that the Commission shall deem the continuing education requirement as met by any nonresident licensee who submits satisfactory written proof that he or she has met the continuing education requirement of the state of residence. A certification of license history or a copy of your pocketcard indicating that your license is up-to-date and that your end of renewal is later than the one in Georgia will suffice. If the state of residence of a nonresident licensee does not require continuing education, then such nonresident licensee must meet the continuing education requirements of a resident licensee.

To obtain a copy of the Georgia Real Estate Manual which includes the license law and the Commission's rules and regulations, contact the publisher: Lexis Publishing, 1-800-227-9597; or a copy can be downloaded from www.grec.state.ga.us; or any of the schools on the Georgia Real Estate Commission Approved Schools list. The Approved Schools list is available from the Commission.