

**MINUTES OF MEETING**  
**OF**  
**LOUISIANA REAL ESTATE COMMISSION**

**September 25, 2014**

The Louisiana Real Estate Commission held its regular meeting on Thursday, September 25, 2014, at 9:45 a.m., at 9071 Interline Ave, Baton Rouge, Louisiana, according to regular call, of which all members of the Commission were duly notified, at which meeting the following members were present:

**COMMISSION**

Paul Burns, Chairman  
James Gosslee, Vice Chairman  
Lynda Nugent Smith, Secretary  
Archie Carraway  
Jeffrey Donnes  
Kelly Ducote  
Steven Hebert  
Richman Reinauer

**STAFF**

Bruce Unangst, Executive Director  
Arlene Edwards, Legal Counsel  
Summer Mire  
Debbie Defrates  
Jeremy Endicott  
Dusty Evans  
Mark Gremillion  
Chad Mayo  
Robert Maynor  
Stacy Sharpe  
Ryan Shaw  
Marsha Stafford  
Sara Wheeler  
Jenny Yu

**GUESTS**

Burk Baker – Burk Baker School of Real Estate & Appraisal  
Lisa Baker – Burk Baker School of Real Estate & Appraisal  
Cheryl Bella – Bella Appraisals  
Lynda Butler – Burns and Co. / Louisiana REALTORS  
Chris Donaldson – Donaldson Real Estate School  
Mike Grace – Commerce Title  
Rachel Lenox – Bob Brooks School of Real Estate  
Abby Mack – Crescent Title  
Norman Morris – Louisiana REALTORS  
Roy Ponthier – ProEducate  
John Sibley – Keller Williams Realty Professionals  
Tim Tullos – Keller Williams

Commissioner Carraway led the Invocation; Commissioner Donnes led the Pledge of Allegiance.

**MINUTES**

Commissioner Gosslee made motion, seconded by Commissioner Nugent Smith, to approve the minutes of the meeting of August 21, 2014. Motion passed without opposition.

**COMMITTEE REPORTS:**

1. Budget – Ms. Yu reviewed the budget report. She stated that the Commission received the best possible audit report which is an unqualified report. She noted that the budget is in line with last year. There has been a slight increase in expenses due to rising retirement costs.  
(Attachment A)
2. Education/Research/Publication – Commissioner Hebert introduced Cheryl Bella to the commission. Ms. Bella explained and discussed the 2015 mandatory course that she will be developing for the Commission. Commissioner Hebert made motion, seconded by Commissioner Gosslee, to approve the professional services agreement for Ms. Bella to develop the 2015 mandatory course. Motion carried without opposition. (Attachment B)
3. Legal/Legislative/Timeshare – Commissioner Gosslee stated that the committee met prior to the regular business meeting. Commissioner Donnes made motion, seconded by Commissioner Nugent Smith, to add “Discussion of Fine Schedule for Schools and Vendors” to the agenda. Motion carried unanimously. A fine schedule was proposed and discussed at the committee meeting in regards to violations committed by schools and vendors. Commissioner Nugent Smith made motion, seconded by Commissioner Ducote, to approve the fine schedule presented at the meeting in addition to a \$25.00 per licensee fee. Motion carried without opposition.

Commissioner Gosslee stated that the committee also discussed salary compensation of licensed assistants. This item was deferred to a later meeting for further research.

4. Standardized Forms – In the absence of Commissioner Wolford, Mr. Unangst stated that the proposed changes to the buy/sell agreement and the residential property disclosure form would be discussed at today’s meeting and up for approval in October.

Mrs. Butler stated that there are proposed changes to both forms. The major changes to the residential property disclosure form are on the first page of the form. Property Disclosure Form: Ms. Mack stated that there has been confusion on who is required to fill out the property disclosure form. Commissioner Hebert asked if there were any new exceptions added or any existing taken out. Ms. Mack stated that the exceptions have only been revised to allow for better wording and clarification. Commissioner Hebert would like to see a line for initials and signature of the buyer on the bottom of the first page.

Commissioner Hebert stated that he is always concerned with the exemptions. If a seller is exempted for some reason, they always see this as a “get out of jail free” card. He suggested adding an \* to add a statement saying the Louisiana law requires you to disclose a known material defect if you are aware of it, regardless of exemptions. Ms. Mack stated that a major misconception is that people who inherit a property do not have to fill out a form. This is not correct. Only an executor of a will would be exempt. Nothing prevents someone from filling out the form. Commissioner Hebert stated that if you are aware of a defect then you are required to disclose either in writing or verbally.

Purchase agreement: Mrs. Butler stated that all signatures and initials will be consistent and on the same side of each page. She stated that the proposed changes to the finance section are to keep it simple. Commissioner Hebert stated that the previous changes were made as an attempt to manage the unmanageable but agrees that the language should be simplified. Line 75 – question arose as to why not to leave this language in. There needs to be consequences for not making loan application. Commissioner Hebert wants to see an out for the seller if the buyer does not make a good faith effort. Mr. Grace stated this would be a default and the party would have to be put on notice that they defaulted. The seller has the right to put the buyer on notice and sell to someone else. It was suggested to add this language back in as a clarification. Mr. Grace suggested that it be added either in that section or in the default provisions. Commissioner Nugent Smith suggested that line 75-76 be added back in ending with the word “terminate”. Mr. Tullos asked the group what would happen to the deposit. Mr. Grace stated the default clause should have language adding about returning the deposit. The seller at his

option can return the deposit. Commissioner Hebert agreed that this should go to the default provision and to add line 75-76 as previously discussed. Chairman Burns stated that he sees a possible remedy by adding language to line 264. Mr. Morris stated that this needed to be reviewed before a final decision is made. Commissioner Hebert stated that he is satisfied with the default provision but wants to add line 75 and 76 back in.

Commissioner Hebert discussed the application process. The buyer should provide something to the seller that gives some kind of proof that they can qualify for the loan. He understands that full proof of loan closing is not available. Commissioner Donnes questioned about what if a seller gets a better offer. Mr. Tullos stated if you required a conditional approval that this may give Commissioner Hebert what he is suggesting. He has always wanted a commitment letter. Commissioner Hebert feels that is unattainable. Mr. Grace agrees but feels that leaving it up to a third party is not a good idea. The seller should have their licensee do some research on credit worthiness of the buyer prior to signing the contract. Mr. Grace stated that he is not sure how to craft language that would not confuse the situation more. Commissioner Ducote suggested requiring the buyer to notify of any changes in the buyers loan status. Commissioner Hebert proposed a midway date between the application and the closing for the buyer to provide written notice that they qualify for funding.

Mrs. Butler discussed the appraisal section of the agreement. Mr. Grace stated that the lender is now required to give a copy of the appraisal to the buyer.

Commissioner Nugent Smith asked that the water and sewer addendum be added to the commission website when available.

Commissioner Donnes asked that "and governing authority" be added to line 146.

Commissioners Gosslee and Reinauer discussed line 147 regarding leases. Ms. Mack stated she is looking at the liability of the seller. Commissioner Reinauer doesn't feel that this language is a good addition as it will change the dynamic of investment properties. Ms. Mack stated that this proposal was added to force the addressing of this situation. From a title company perspective, they do not want leases recorded as this raises issues at the closing table. They do not want to encourage people to record leases.

Commissioner Donnes asked that line 168 direct to the Home Inspectors Board website to locate a home inspector.

Private water/sewer section will be further researched.

Line 248 should be deleted or renumbered.

It was determined that the Louisiana REALTORS workgroup would meet again prior to the October Commission meeting to work on revisions discussed. A committee meeting will be held in October to discuss the proposed changes and revisions.

5. Strategic Planning – Commissioner Nugent Smith stated that the committee will meet in October after the regular business meeting to continue discussion on the strategic plan.
6. Errors & Omissions – Mr. Unangst stated that the RISC errors and omissions group policy is up for renewal if the Commission wishes to move forward. Commissioner Nugent Smith made motion, seconded by Commissioner Reinauer, to approve the one year renewal of the RISC E&O policy for 2015. Commissioner Hebert asked to discuss the mold exclusion on the current policy. He is concerned that brokerages cannot afford mold claims as they are excluded on the current policy. After discussion, Commissioner Nugent Smith withdrew her motion, seconded by Commissioner Reinauer, so that further research and discussion with RISC could take place regarding the mold exclusions and coverage. The issue will be deferred to the October meeting.

#### **DIRECTORS REPORT:**

Mr. Unangst reported that he would like the Commission to pay an additional \$300,000 towards the building debt. This will increase annual cash flow in the future. The goal is to not have to increase license fees for as long as possible.

Post-license course: the Commission asked vendors to meet a September 1, 2014 deadline but despite good faith efforts they have not been able to meet this date. Mr. Unangst recommended extending the implementation date to November 1, 2014. All existing post license courses would be available to take through that date. Commissioner Nugent Smith made motion, seconded by Commissioner Gosslee, to extend the post license course implementation date to November 1, 2014. Motion carried without opposition. Commissioner Hebert noted that he spoke with Norman Morris and Louisiana REALTORS is proposing legislation to do away with the post-licensing course. Mr. Unangst clarified that that the purpose of that is to combine post license into pre-licensing. This issue will be discussed when developing the strategic plan. Input will be gathered from stakeholders around the state and a law change would be required. This may take a few years for transition.

**PUBLIC COMMENT:**

Mr. John Sibley of Keller Williams Realty Professionals appeared to speak about the proposed team rules. He stated that he had the opportunity to speak with 15-20 teams regarding the upcoming rule change. He stated the change will cause a large cost to teams that have branded themselves. He asked if there had been any complaints received by the commission and what are the options moving forward. Mr. Unangst stated that both Chairman Burns and Commissioner Nugent Smith received emails from concerned members. Mr. Sibley started an online petition around a month ago and had signatures from approximately 36-46 people. He feels that many licensees were not aware of the issue. Mr. Unangst stated that staff has received zero complaints regarding the issue from 19,000+ licensees. He did receive eight email forwards from Commissioner Nugent Smith. Mr. Unangst questioned how many people were actually being affected. He stated the emails that he received are not affected by the rule change. He stated the commission bent over backwards to be transparent on the rule change. Other states were researched and reviewed for input. GBRAR requested that the team issue to be looked at by the commission. This was first done in January 2014. A task force was formed to look at the issues. The members included Tim Tullos, Pat Wattam, Juli Jenkins, and Jeffrey Welch. The meeting was held in February to discuss the issues and it was decided that Maryland's rules seem to be the best fit for Louisiana. Formal introduction of the proposed rules were given in March and April and formally approved in May after input from around the state and local REALTOR boards. The rules were posted to the Register and allowed for public comment time. The rules become effective October 20, 2014 but allows for implementation on January 1, 2015. Public notice and input was asked for and given. The affected teams can become a broker if they want to act like a broker.

Mr. Sibley stated their only concern is the use of the words "realty" and "real estate". They support all other parts of the rule changes. He feels there is a lack of awareness from licensees. The team name must be included on signage, etc. along with the broker's name. If he complies and changes to "Sibley Property Group", will he possibly be required to change his name next year if the rule again changes? He suggested looking at registering team names or grandfathering past team names.

Commissioner Hebert stated that he appreciated Mr. Sibley's passion but feels adamant about not confusing team names and brokerage names. Commissioner Nugent Smith stated that she will bring this up in the strategic planning process but doesn't see this rule changing. A lot of due diligence was put into the change. Mr. Sibley stated that he appreciates the candor and comments from the commission. Mr. Unangst stated that registration of team names was discussed but it was decided that it would be a nightmare to track. The broker is ultimately responsible for this and it should be left up to the broker.

Dr. Ponthier spoke and stated that three of the four online education vendors are in attendance at the meeting today. He asked that the commission consider the costs of developing courses for the vendor. He shared the costs of this. He stated that the commission gave the post licensing course to the vendors but if they were to develop it on their own then no vendor would have developed the course for their online system. It costs a vendor \$110.00 per hour for a developer to create a course. The course only sells for \$100.00 per student. He asked the commission to please keep these costs in mind.

**UNFINISHED BUSINESS:**

None

**NEW BUSINESS:**

None

There being no further business, Commissioner Gosslee made motion, seconded by Commissioner Hebert, to adjourn. Motion passed without opposition.

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PAUL BURNS, CHAIRMAN

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LYNDA NUGENT SMITH, SECRETARY