



# BOUNDARY LINES

First Quarter 2017 Volume 50, No. 1

## Chair's Corner



### Broker Responsibilities Regarding Escrow Accounts

In an ongoing effort to better serve the public's interest in today's ever-changing real estate world of technology tools, business models and information ownership rights, Louisiana Real Estate Commissioners this year are emphasizing brokers' responsibilities in training and supervising agents in best practices. In 2017, brokers are required to take a live four-hour mandatory course on this subject as part of their continuing education requirements. If you have a broker's license, don't wait too late to take this class as it will not be available online. Concerns have been raised in some surveys and reports, most notably the National Association of REALTORS'® (NAR) commissioned Definitive Analysis of Negative Game Changers Emerging in Real Estate (DANGER) Report, that one of the greatest threats to our industry today is ignorance and poor service on the part of mediocre agents.

One area of increasing concern has been the growing practice of using title companies rather than the listing broker to hold escrow deposits. As we all should know, a broker who receives funds in a transaction must properly account for those monies in an escrow or trust account following guidelines set by Louisiana license law and the LREC. Additionally, a very simple, albeit potentially lengthy, procedure is in place for resolving escrow disputes. In the event that a broker mismanages the company escrow account or does not handle the dispute procedure correctly, the LREC has oversight of the matter to protect the consumer but has none over a title company. Many brokers are opting to pass the buck to title companies, because they simply do not like dealing with disputes that may arise. Is this the right example to set for agents who do not like dealing with issues that arise when providing services that their clients should know to expect?

Some selling agents consistently send their deposits to title companies for all the wrong reasons, such as the belief that this gives an advantage to their client should a dispute arise because their clients have chosen who holds the money. Clearly these are agents that have never been properly trained about why purchase agreements are secured by a deposit and what the proper procedure is for resolution. More alarming is the burden it puts on both selling and listing agents to be certain that a third party has received and deposited funds immediately. An agent who leaves a deposit check on the front desk for a marketing rep to pick up days later has put his unwitting client in default of the agreement to purchase. In the coming months, the LREC will be reviewing ways to amend the language regarding broker responsibilities germane to escrow account requirements in order to reinforce these regulations as they were intended.

On a bright note for many brokers, the Commission recently passed a motion to allow for the forwarding of unclaimed escrow deposits after a period of time into the State Treasury. This motion will take several months of vetting before becoming a new rule but should receive no opposition in the process.

**Evelyn Wolford, Chair**

# Meet Your New Commissioner

Jeff Free is an Associate Broker with Coldwell Banker Gosslee in Bossier City, LA. He has been a near lifelong resident of the Bossier City area and earned his BS in Business Administration from Louisiana State University – Shreveport. Jeff and his wife Lisa have been married since 1986 and have three beautiful daughters, Jacque Leigh Free, Dr. Rachel Ann Free, and Audrey Morgan Free. Free is a Notary Public, has been actively selling real estate in the Bossier City - Shreveport area since 2003, and earned his Associate Brokers License in 2008. Free also serves Bossier City as a City Councilman for District 4.

## Designations and Certifications:

- Accredited Buyer’s Representative (ABR)
- At Home with Diversity (AHWD)
- Certified Residential Specialist (CRS)
- Certified Military Residential Specialist (CMRS)
- Graduate, REALTOR® Institute (GRI)
- Military Relocation Professional (MRP)
- Performance Management Network (PMN)
- Seller Representative Specialist (SRS)

## Professional Memberships:

- Commercial Investment Division (CID)
- Northwest Louisiana Association of Realtors
- Louisiana Realtors Association (LR)
- National Association of Realtors (NAR)

## Elected Official - City of Bossier City:

- City Councilman - District 4 (2013 – Current)

## Local Real Estate Committees:

- NWLAR PAC Trustee (2013 - Current)
- MLS General (Past Member)
- Professional Standards (Past Member)



*Chairwoman Evelyn Wolford swears in new commissioner Jeff Free.*



*Left: Incoming Chairwoman Evelyn Wolford presents outgoing Chairwoman Lynda Nugent Smith with a plaque recognizing her service to the commission.*

# Investigator's Desk

## Statewide Outreach

Over the last several months the LREC has sent members of its Investigative staff to locations around the state to give presentations on common license law and rule violations and how to avoid them. One of the main focus points of these presentations has been advertising. With a rise in advertising violations and penalties, the LREC wants to ensure that all licensees are familiar with the laws and rules governing advertising. If you are interested in hosting a presentation, please contact the Investigative Division at (225) 925-1923, ext. 250.

### 2016/2017 Speaking Engagements:

Alexandria – Keller Williams Realty CENLA Partners  
Baton Rouge – Keller Williams Regional Leadership Meeting  
Baton Rouge – Pennant Real Estate, LLC  
Denham Springs – Keller Williams Realty Livingston Partners  
Destrehan – Latter and Blum  
Destrehan – Keller Williams Realty  
Houma – Bayou Board of Realtors  
Lake Charles – South West Louisiana Association of Realtors  
New Orleans – Realty NOLA Group, LLC  
Pineville – Central Louisiana Realtors Association @ Realtor Day



*Left & Right: LREC investigators Malissa Fowler and Nikki Senegal give a presentation on advertising violations to members of the South West Louisiana Association of REALTORS®.*

*Center (L to R): LREC Investigator Nikki Senegal, SWLAR CEO Cyndi Pettit, SWLAR 2017 President Kathy Venable, and LREC Investigator Malissa Fowler.*

# Broker Responsibility: Escrow Deposits

An escrow deposit is often the cornerstone of any real estate transaction. As such, the sponsoring broker is responsible for all matters associated with the intake and disbursement of these funds. An open dialogue between all parties is important and the terms of the contract should be obeyed in accordance with Louisiana License Law and Rules and Regulations.

The sponsoring broker is mandated to handle funds in a specific manner. Chapter 27, Subsection 2708, of the Rules and Regulations requires that the sponsoring broker be an authorized signatory on every escrow account and states that they are responsible for the proper maintenance and disbursement of any funds contained therein. Chapter 27, Subsection 2715, further explains the methods in which funds deposited into these sales escrow accounts, rental trust accounts, and security deposit trust accounts can be withdrawn.

In today's real estate marketplace, many purchasers are reconsidering their offers, deciding to terminate their contracts, and seeking a return of their escrow deposit. These situations not only require a determination concerning the rights of the parties to enforce the contract provisions, but also often result in disputes over who is entitled to receive the earnest money deposit. In the unforeseen event that a deposit dispute arises between parties then Chapter 29, Subsection 2901, must be adhered to. However, what happens when the sponsoring broker does not receive a specific deposit?

The salesperson or associate broker is not void of responsibility. Per LSA-R.S. 37: 1455. A. 17, an associate broker or salesperson is required to place, as soon after receipt as practicable, in the custody of his licensed broker any deposit money or other money or funds entrusted to him by any person dealing with him as the representative of his licensed broker or in connection with any transaction involving the sale, lease, or management of real property. It is important to collect and properly secure the deposits in a timely manner. The sponsoring broker should always be aware of when an escrow deposit is not immediately provided after the execution of a contract. The transaction, the good standing of a license, and the funds may be in jeopardy.

The real estate landscape is constantly changing. It is prudent for companies to implement policies and procedures, provide training and education and provide management controls to prevent an affiliated licensee from violating real estate license law. Heavy is the head that wears the crown and individual broker responsibility is increasing.

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The Investigation Division issued 21 citations between December 1, 2016 and March 31, 2017. The list below outlines the specific violations cited. Some citations were issued for multiple violations:

1909.A. - Team Advertising Violations	2
2501.A. - Failure To Identify Listing Broker in Advertisement	8
2501.B. - Failure To Place Broker's Phone No. in Advertisement	4
2501.D. - Failure to Advertise as Licensed(Name or Brokerage)	3
2509 - Advertising Violations by Franchises	2
2515.C.4 - No Jurisdiction Shown in Website Advertisement	2

# Advertising Guidelines Checklist

The Louisiana Real Estate Commission (LREC) recently adopted an Advertising Guidelines Checklist for use in ensuring that advertisements adhere to LREC laws and rules. The Advertising Guidelines Checklist can be found [here](#).

It is important that brokers review their sponsored agents' advertisements to ensure that they comply with the law and rules before they are printed and distributed.



## 2017 Legislative Update

The 2017 Regular Session of the Louisiana Legislature is a busy one for the real estate industry. Below is a brief summary of bills that affect the industry. If you would like to follow these bills in depth, you may utilize the [Legislature's Bill Search tool](#).

**SB 108** - would give district attorneys the power to levy criminal charges and fines against anyone conducting business in Louisiana without a license

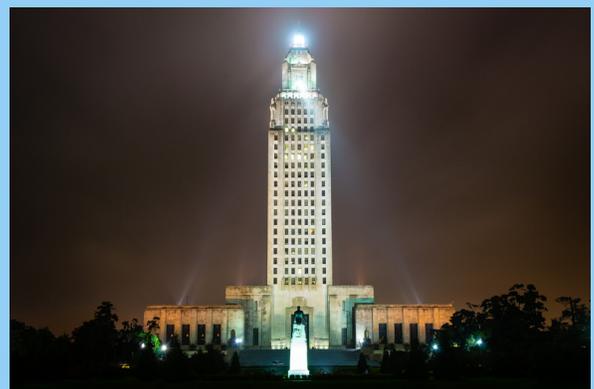
**SB 205** - would change the procedure for adjudicatory hearings

**HB 120** - would increase fees dealing with leases and evictions notices

**HB 469** - would affect current condominium statutes

**HB 628** - would impose a Commercial Activity Tax on the taxable gross receipts of each entity doing business in Louisiana

**HB 290** - would extend the sunset provision on the Appraisal Management Company law from December 31, 2017 to December 31, 2019.





## 2017 Mandatory Course Topics and Requirements

The Louisiana Real Estate Commission (LREC) approved two mandatory topics for 2017. The titles of the two courses are:

*Insurance Awareness and Contract Timelines – 2017 Mandatory*  
*Broker Responsibility - 2017 Broker Mandatory*

In 2017, as part of the annual continuing education, all brokers, associate brokers, and salespersons are required to complete the mandatory course titled, *Insurance Awareness and Contract Timelines – 2017 Mandatory*. In addition, the LREC is requiring brokers and associate brokers to complete a separate mandatory course titled, *Broker Responsibility - 2017 Broker Mandatory*. **The 2017 Broker mandatory course will only be offered in a live classroom format.** Due to the live-format requirement, the LREC recommends that brokers and associate brokers take this course earlier in the year to avoid missing available sessions and failing to fulfill their mandatory requirement.

While a salesperson will only be required to complete the four-hour mandatory course, *Insurance Awareness and Contract Timelines – 2017 Mandatory*; brokers and associate brokers will be required to complete both four-hour mandatory course topics in order to satisfy the mandatory portion of the continuing education requirement.

## Code of Ethics

Completion of a course in ethics is not a requirement for license renewal; rather, it is a requirement implemented by the REALTOR® organization for its membership. Questions regarding your fulfillment of this requirement must be addressed by your local board or Louisiana REALTORS®. The LREC does not track this course and cannot assist you with this information.

While the LREC may accept an ethics course toward the 12-hour continuing education requirement, it must be completed through a LREC certified vendor. Under no circumstance, however, will ethics fulfill the four-hour mandatory topic requirement.

### IT'S NEVER TOO EARLY TO START YOUR CONTINUING EDUCATION!

With the first quarter of 2017 in the rearview mirror, the LREC would like to remind licensees that their annual 12-hour continuing education requirement (including 4-8 hours of mandatory courses; see mandatory article above) can be completed at any time during the year. Save yourself some time, money and added stress during the busy holiday season by completing your CE requirement in advance of the December 31, 2017 deadline.

## Tech Tip

Now that renewal season has ended, remember that it is the responsibility of a broker to ensure that all of their sponsored licensees have renewed their licenses.

The quickest way to check is by using the [Licensee Search](#) feature on the LREC website. To complete this search, follow these steps:

- Type your company's name into the Brokerage Firm or Trade Name box
- Click Submit Search
- Select your company from the list of results
- Click on "Click Here For A List Of Sponsored Licensees"
- Check your licensees' license status

Any licensee not listed as "ACTIVE" has not renewed and can no longer practice real estate.

## Follow us for updates



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