



BOUNDARY LINES

Third Quarter 2017 Volume 50, No. 3

Chair's Corner



LREC, NAR, LR : Decoding the Real Estate Industry

Nearing the end of the year forces us to pause and take stock of our business as we face annual dues, fees and requirements to maintain our real estate licenses. It is not uncommon to be confused about the fees you are paying and why, so I thought I'd try to shed a little light on the history and purpose of the Louisiana Real Estate Commission (LREC) and the National Association of Realtors®, including the Louisiana Realtor Association (referred as LRA or LR) and the local associations.

The LREC came into being with the passage of the Louisiana Real Estate Licensing Act, authored by State Senator Allen Johnness, in 1920 and was initially known as the State Board of Real Estate. It was created "to regulate the mode and manner of conducting the affairs and business of real estate" and has jurisdiction over all real estate licensees. Today's mission is "to serve and protect the public interest in real estate transactions and other real estate related activities." The LREC enforces the license laws enacted by the state legislature and approved by the Governor as well as its own Commission Rules and Regulations. Another major responsibility is the supervision of the development of educational programs to promote knowledge and ethics in the industry.

Today's Commission mandates annual license renewal fees for individual Brokers, Associate Brokers, Corporations and partnership LLCs in the amount of \$105 and \$70 for Salespersons. Fees must be paid on or before December 31, 2017, preferably on the LREC web site, and the effective date for all is January 1st, 2018. Errors and Omissions Insurance is required for each licensee and the LREC offers a policy through RISC Insurance at a reduced rate of \$136 with additional coverages than in prior years. All licensees must have completed 12 hours of LREC-approved continuing education in 2017 prior to renewal. Four (4) hours in Insurance Awareness and Contract Timeliness is mandated for all licensees. Brokers and Associate Brokers are also mandated to take a 4-hour course in Broker Responsibility. Failure to complete the required coursework by December 31, 2017 will result in the inability to renew a license for 2018. An affidavit of course completion must be signed at the time of license renewal.

While the LREC is a state government regulatory agency, the Realtor® Association is a trade organization with somewhat similar roots and purpose. Following the Homestead Act of 1862 allowing homesteaders to stake 160 acres plots in the development of the wild, wild west, a group of men met in Chicago in 1908 to form the National Association of Real Estate Exchanges in hopes of bringing some manner of civility to a burgeoning enterprise. Still headquartered in Chicago, the organization became the National Association of Realtors® by name in 1972. The Realtor® Code of Ethics was adopted in 1913 with 10 Articles dedicated to Duties to Clients and Customers. Additional Articles were later added dealing with Duties to the Public and Duties to Realtors®. Licensees who become a member

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of the Association can classify themselves as Realtors®. Initial functions of the association were to educate members in best practices, promote bipartisan legislation for the benefit of real property owners and to mediate and arbitrate disputes involving brokers and their agents under the guidelines of the Code of Ethics. Of interest to note is that the first piece of license law was not passed until 1918, five years after the Code of Ethics. Legislatures everywhere have long since caught up, however. While Realtors® must adhere to their Code, in any instance in which the Code and law conflict, the law must take precedence.

Association dues must also be paid for the upcoming year. Local associations in the state collect their membership fees along with the state (LR) and national (NAR) dues. While local associations may differ in their fees and services provided, the total amount is approximately \$500 per agent annually. If a broker is a member of the NAR, then all of the broker's agents must be members as well. In addition to dues payments, the NAR also has a mandated education requirement which began just over 16 years ago. Realtors® must complete a minimum 2 ½ hour course on Ethics every four years. The last quadrennial cycle ended in December, 2016. This mandate has been changed to a two-year cycle which will end in December, 2018. Some Ethics courses have been approved for continuing education by both the LREC and NAR, but agents need to check carefully to verify that the LREC has approved a course for their credit. NAR offers a free course on the [NAR.Realtor](http://www.nar.realtor.org) web site (formerly known as Realtor.org). It has not been approved by the LREC for CE credit as NAR does not have a vendor's license with the Commission, a requirement for course approval. If the Ethics course is not completed in its proper cycle, an agent's membership will be terminated by the Association.

Last, but certainly not least, are multiple listing service fees which vary in price depending upon which local association owns an MLS and what services may be provided. There is also the Louisiana Commercial Data Base (LACDB) which charges an annual fee for commercial practitioners. Some associations bill at the end of the year with their membership dues billing, while others may charge mid-year to lessen the financial burden at holiday time.



Evelyn Wolford, Chair

Renew Your License Now!

Renewals for all license types have been sent out to licensees' LREC-assigned email addresses. You may complete a paper renewal, but if you would prefer the convenience of renewing online here are some tips:

- Your login ID and password can be found at <http://www.lrec.state.la.us/user-id-and-password-lookup-77>.
- If you have more than one license to renew, make sure that you log out of the renewal site after you renew the first license and then log in with the credentials of your next license.
- If you need to check your past payments, education record, or print out a paper renewal, you can log in to MyLREC here: <http://www.lrec.state.la.us/pages/mylrec-login/> with the user ID and password that you use for renewals and your LREC-sponsored e-mail.
- If your LREC-sponsored e-mail is not working when you click on messages, you may want clear out your history/temporary internet files and try again.
- When you receive your license, be sure to open it on a PC or Mac laptop or desktop. Apple mobile devices will not support the version of PDF used and the license will appear to be blank.

If you have any questions, feel free to e-mail the LREC IT Department at info_IT@lrec.state.la.us



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.

Continuing Education - Time is Running Out!

In order to renew their license, all licensees must complete twelve (12) hours of continuing education, including the above-mentioned mandatory topic(s) prior to the renewal of their license. If you are unsure how many hours you have taken, the LREC makes it easy for you to check your continuing education transcript by following these steps:

- Search for your license on the LREC [website](#)
- Click on your name
- On the Results Details page, click on “View Education Record”

LREC rules and guidelines state that certified education vendors must submit course reporting forms to the Commission by the fifteen of the following month after completion of a course. For example: If a course was completed on November 2, 2017, the certified education vendor has until December 15, 2017 to report course completions, therefore, courses completed may not reflect on continuing education records for up to forty-five days.

The Commission does not use student course completion certificates to record education credit. There is no need for you to submit certificates to the Commission. Course completion certificates are intended as your proof that you completed a course and can be necessary if you are included in the continuing education audit.

Note: non-approved miscellaneous courses or courses completed through non-approved vendors cannot be used, in that approval of such courses was not obtained prior to completion and renewal of your license, in accordance with LAC 9.907.F(1-5) of the LREC Rules and Regulations.

FEMA'S "OBTAIN AND MAINTAIN" INSURANCE REQUIREMENTS

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The Federal Emergency Management Agency (FEMA) provides aid to replace, restore, repair, or reconstruct damaged property. This aid after a disaster however is not without requirements. FEMA expects the property owner receiving aid to protect their investment in the local community against future disasters generally by obtaining insurance if possible¹. The recipient of disaster relief funding who fails to obtain flood insurance and thereafter maintain flood insurance on the property ("obtain and maintain") may be ineligible for future disaster relief.

To determine if these "Obtain and Maintain" requirements apply, a property owner should ask the following questions:

1. ***Have the owners of the property received Federal disaster assistance?***

FEMA, SBA, and HUD offer programs which provide individuals, households, businesses, and private nonprofits financial assistance after a disaster. These programs may include residential and commercial property.

2. ***Is the property being sold or rented located in a Special Flood Hazard Area?***

FEMA defines "Special Flood Hazard Area" as "The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V."²

If the answer is "YES" to both of these questions, the property is subject to the "obtain and maintain" requirements.

The "Obtain" Requirement. The National Flood Insurance Program (NFIP) allows Federal agencies to only provide financial assistance (including disaster assistance loans³) for acquisition or construction purposes in an SFHA where NFIP insurance is available, if the property for which assistance is being provided is covered by flood insurance. The amount of flood insurance must be the lesser of the following: (1) the maximum limit of coverage available under NFIP; or (2) the development or project cost (less estimated land cost).⁴ If the disaster assistance is in the form of a loan, the amount of insurance need not exceed the outstanding principal balance of the loan.

¹ 42 U.S.C. § 5154(b).

² "Special Flood Hazard Area", FEMA, available at <https://www.fema.gov/special-flood-hazard-area>.

³ The requirement does not apply to "small loans," defined as having (1) an original outstanding principal balance of \$5,000 or less and a repayment term of one year or less, or (2) "detached structures" that are not part of the primary residential structure on residential property. 42 U.S.C.A. § 4012a(c)(2)-(3).

⁴ 42 U.S.C.A. § 4012a.

Obtain and Maintain continued...

The “Maintain” Requirement. The insurance must be continuously maintained regardless of a change in ownership. For owners, this requirement runs with the property address and applies to subsequent owners. For renters, this requirement only applies for as long as the applicant for disaster assistance or the insured contents remains at the flood-damaged rental property. For loans, the insurance must be maintained during the life of the loan.

Failure to “obtain and maintain” flood insurance results in ineligibility for future disaster assistance for flood-damaged items.⁵

The Notice Requirement Under § 582 of the National Flood Insurance Reform Act of 1994

Notification to Subsequent Owners Required. There is a duty to notify the next owner of the “obtain and maintain” requirement in writing on or before the date the property is transferred. The notification requirement applies to personal, commercial, or residential property. The Stafford Act specifically provides notification should appear in the document transferring ownership, such as the Act of Sale, as well as the Purchase Agreement.⁶

Failure to Notify Could be Costly. If the following events occur: (1) the seller fails to provide this notice and the buyer does not obtain and maintain flood insurance as required; (2) the property is damaged by a flood disaster; and (3) Federal disaster assistance is provided to repair, replace, or restore the damage, then the seller may be required to reimburse the Federal government for the amount of the assistance previously received by the seller. The failure to provide the notice could be a very costly error to the former owner of the property.

DISCLAIMER

These materials are to be used for informational purposes and should not be construed as specific legal advice. These materials are not designed to cover every aspect of a legal situation for every factual circumstance that may arise regarding the subject matter included.

This publication is for reference purposes only and association members or other readers are responsible for contacting their own attorneys or other professional advisors for legal or contract advice. The comments provided herein solely represent the opinions of the authors and is not a guarantee of interpretation of the law or contracts by any court or by the Louisiana Real Estate Commission.

⁵ Under the FEMA Public Assistance Program (applicable to state, local, tribal governments, and eligible private non-profits), the “obtain and maintain” requirement applies more broadly. Applicants are required to obtain and maintain insurance for any hazard that results in FEMA-funded assistance and the failure to do so renders the applicant ineligible for any future disaster assistance, regardless of the type hazard.

⁶ 42 U.S.C.A. § 5154a.

Investigator's Desk

Formal and informal adjudicatory hearings conducted by the Louisiana Real Estate Commission resulted in the following sanctions of real estate brokers and salespersons:

A Salesperson from New Orleans was suspended 30 days and ordered to pay administrative costs in the amount of \$75.00 for pleading guilty to a felony and not notifying the Commission in writing within ten days of the conviction in violation of LSA-R.S. 37:1455.A.29. and LSA-R.S. 37:1450.A.3. The Consent Order was approved at the Commission meeting held on July 20, 2017.

A Broker from Baton Rouge was revoked at a formal hearing held July 20, 2017. The Broker was ordered to pay a fine in the amount of \$5,000.00 for not disclosing principal status in a transaction, knowingly misrepresenting terms of a transaction, failing to place funds in the custody of the sponsoring Broker, failing to provide an agency disclosure form, failing to notify the Commission within ten days of an arrest for a real estate transaction in which they were acting as a licensee, and improper advertising in violation of LSA-R.S. 37:1455.A.9., LSA-R.S. 37:1455.A.15., LSA-R.S. 37:1455.A.17., LSA-R.S. 37:1455.A.21., LSA-R.S. 37:1450.A.2., and Chapter 25.

A Broker from Leesville was censured at a formal hearing held August 17, 2017. Broker was ordered to complete the 30 Hour Broker Responsibility course and required to pay a fine and administrative costs in the amount of \$1,171.00 for failure to properly disburse money, commingling funds, and an incorrectly labeled Security Deposit Trust Account in violation of LSA-R.S. 37:1455.A.5., LSA-R.S. 37:1455.A.6., and Chapter 27 Subsection 2701.C.

A Salesperson from Lake Charles was censured and ordered to pay a fine and administrative costs in the amount of \$850.00 for pleading guilty to a felony, in violation of LSA-R.S. 37:1455.A.29. The Consent Order was approved at the Commission meeting held October 19, 2017.

A Salesperson from St. Francisville was censured and ordered to pay a fine and administrative costs in the amount of \$325.00 for accepting compensation for real estate activity performed from someone other than the current sponsoring broker, in violation of LSA-R.S. 37:1446.F. This Consent Order was approved at the Commission meeting held on October 19, 2017.

A Broker from Mandeville was censured and ordered to pay a fine and administrative costs in the amount of \$2,575.00 for compensating an individual for real estate activity performed when they did not have an active real estate license, in violation of LSA-R.S. 37:1446.A. This Consent Order was approved at the Commission meeting held on October 19, 2017.

A Salesperson from Hammond was censured and ordered to pay a fine and administrative costs in the amount of \$1,075.00 for engaging in the business of and acting in the capacity of a real estate Salesperson without being classed in the active license status, in violation of LSA-R.S. 37:1436.B. and LSA-R.S. 37:1459. This Consent Order was approved at the Commission meeting held on October 19, 2017.

The Investigation Division issued 20 citations from July 1, 2017 through October 31, 2017. The list below outlines the specific violations cited. Some citations were issued for multiple violations:

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

Tech Tip

With renewal season now open, it is important that you know your LREC username and password when attempting to renew online. If you do not know your credentials, click on the link below for a refresher on how to obtain this information from our website:

<http://www.lrec.state.la.us/files/elearningemail/new/index.html>

This tutorial will also teach you how to set the auto-forward function so you do not miss any important news or updates from the Louisiana Real Estate Commission.

Follow us for updates



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