

BOUNDARY LINES

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BROKER RESPONSIBILITIES

Louisiana Revised Statute 37:1446.H cites the conditions that must be met for a real estate licensee to establish independent contractor status with a sponsoring broker. The first and most obvious requirement is having a real estate license. Substantially, all remuneration must be directly related to sales or other output, rather than the number of hours worked. Finally, there must be a written agreement between the sponsoring broker and the licensee stating that the licensee will not be treated as an employee.

While it may come as a surprise to some licensees, an independent contractor relationship with a sponsoring broker does not diminish the broker's role as the ultimate decision maker within a brokerage firm. A sponsoring broker is well within his or her rights to establish policies and procedures that not only promote business, but also serve to protect the brokerage firm from litigation or disciplinary action by regulatory authorities. As a broker and business person, it is the duty and responsibility of sponsoring brokers to be aware of what their agents are doing or not doing, whatever the case may be.

An obvious responsibility of the sponsoring broker is to ensure that all real estate license activities conducted by his or her agents are performed legally, in compliance with the requirements prescribed by the Louisiana Real Estate License Law and commission rules and regulations. Regardless of who, what, when, where, why, or how, the proverbial buck will always stop with the sponsoring broker.

Sponsoring brokers have an overall responsibility for the management of the brokerage firm, which includes the direct supervision of sponsored licensees and employees of the firm. Ensuring that specific standards and procedures are adhered to by licensees and employees is an important part of broker responsibilities. While the broker may certainly delegate management duties, it will always ultimately be the sponsoring broker who is held accountable. This is not to say that sponsored licensees do not share in the responsibility for acting within the bounds of the law and rules, rather the sponsoring broker cannot escape the responsibility for ensuring that they do so.

Broker responsibilities have become a major focus of the commission this year, and certain areas of this broad topic are already under review. Advertising by sponsored licensees and real estate teams, as well as timely license renewal, as it relates to practicing without a license, are at the forefront of the review. When all is said and done, it is safe to say that the commission intends to educate or adjudicate.

In the interim, there are many tools available on the LREC website to assist sponsoring brokers in keeping their brokerage firms and agents in compliance with the law and rules. Everything there is to know about the real estate licensing programs administered by the commission or the status of a real estate license can be found on the commission website at www.lrec.state.la.us.

TRAPANI ELECTED CHAIRMAN



I am very honored to serve as the 2011 Chairman of the Louisiana Real Estate Commission. The confidence and trust bestowed upon me by my fellow members is not something that I intend to take lightly. We have a lot of work ahead of us, and their support and expertise is integral to our success.

While the mission of the commission is to protect the public interest in real estate transactions, we also want to be an advocate for our licensees, registrants, and certificate holders. That is why this year a key area of focus will be the expansion and advancement of licensee programs and services that are cost effective and that promote a positive business climate.

I look forward to working with the members, staff, and leaders in our real estate communities, as we continue to develop and implement licensing and education programs that will distinguish Louisiana real estate licensees from those in other jurisdictions.

As the first quarter of 2011 draws to a close, I am pleased to report that the commission has been fast at work developing a new and exciting resource to assist licensees in their daily license activities. At this writing, the final edit is being made to the *Louisiana Real Estate Commission Advertising Guidelines* booklet. Its purpose is to assist brokers and agents in advertising correctly and to identify and avoid advertising in breach of the commission rules and regulations. This booklet will not answer every question about real estate advertising, but it will provide licensees with a solid foundation for making informed decisions in their advertising campaigns.

We are off to a good start, but we know that there is always more work to be done. Your thoughts and comments are always welcome, and we encourage you to attend the monthly business meetings to keep abreast of what is happening from the administrative and regulatory perspective of the real estate industry.

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INTERNATIONAL LICENSEE VERIFICATION DATABASE

The Association of Real Estate License Law Officials (ARELLO®) has opened a new license verification web service to assist licensees and companies with automated real estate license verifications. The new web service will allow users to include license verification tools in their own computer applications. Ensuring that real estate practitioners are licensed professionals is important, and this new service will allow users to connect to the ARELLO database to efficiently verify licenses in mass numbers. This site is the only one of its kind, and it is the result of cooperation by various governmental and not-for-profit organizations that are seeking to assist and protect the public. In addition to the licensee search, the site also provides the following:

- A link to the various real estate regulatory agencies around the world
- Online versions of real estate laws and regulations from several jurisdictions
- Links to other real estate organizations
- Other sites of interest

Quick Facts

- Search among 3,009,612 licensee records
- Includes data from 42 actively participating regulatory jurisdictions

Contact ARELLO® for information about how your organization may be able to use this powerful new tool.

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ARELLO® Websites

www.arello.org (Member Regulators and General Information)
www.arello.com (Consumers)
www.arello.net (Distance Education Certification)





MESSAGE FROM THE INVESTIGATION DIVISION

REFERRAL LICENSES DO NOT EXIST!

"Referral license" is an industry term that is not recognized by the Louisiana Real Estate License Law or the commission rules and regulations. Many licensees in the inactive license status are under the mistaken impression that they may continue to collect commissions as "referral agents." This is absolutely incorrect, and it could put them in a world of trouble for practicing real estate without a license. The only licensees qualified and/or authorized by the law to receive compensation in a real estate transaction are those that hold an active real estate license. Another industry term, "referral agency," simply refers to a real estate firm whose broker is not a member of the local REALTOR® board. Rest assured that the firm holds an active real estate license. So remember...

REFERRAL LICENSES DO NOT EXIST!



LICENSEE STATS FROM AROUND THE WORLD

AUSTRALIA
49,824

BAHAMAS
2,026

CANADA
115,056

HONG KONG
27,712

SOUTH AFRICA
84,009

UNITED STATES
3,032,196

LREC E-MAIL RESPONSE POLICY

The Louisiana Real Estate Commission receives over 1000 e-mail inquiries a week. While we strive to answer all of them as quickly as possible, in some instances, it may take several days to receive a response.

Quick responses are not impossible, but the amount of research required to formulate an answer, and the total volume of daily mail, are factors that will not always facilitate the kind of speedy response e-mail users may anticipate.

The commission aims to respond to all inquiries from licensees and the general public, both in Louisiana and outside the state, within two days. If it is not possible to provide a full response within this timeframe, senders can expect to receive an e-mail response that provides a likely timeframe to resolve the query.

As a licensee, it is important to include your name, as licensed with the commission, and your license number, in all communication with the commission. In addition, it is helpful to include a secondary means of response (e.g. postal address, phone numbers) for those times when an e-mail response is not possible, such as service failures or hardcopy requests. In instances where names are similar, this information can be used to confirm the identity of the correct licensee.

Our junk e-mail filter is set to catch most junk e-mail messages; however, some legitimate e-mail may be captured, as well. It is not unheard of to find e-mail from licensees buried

within a very large junk mail folder. To avoid this happening to you, and to avoid a delay in receiving a response, it is recommended that you always fill in the subject line in your e-mail correspondence, avoiding the use of words or symbols that may cause the filter to interpret it as junk or spam mail.

Using quotation marks, dollar signs, exclamation points, and all capital letters in the subject line will often cause your e-mail to be filtered out by mail filters. You should also never use a toll free number in the subject line. While this is not a comprehensive list, it represents some of the more common things that will trigger mail filters.

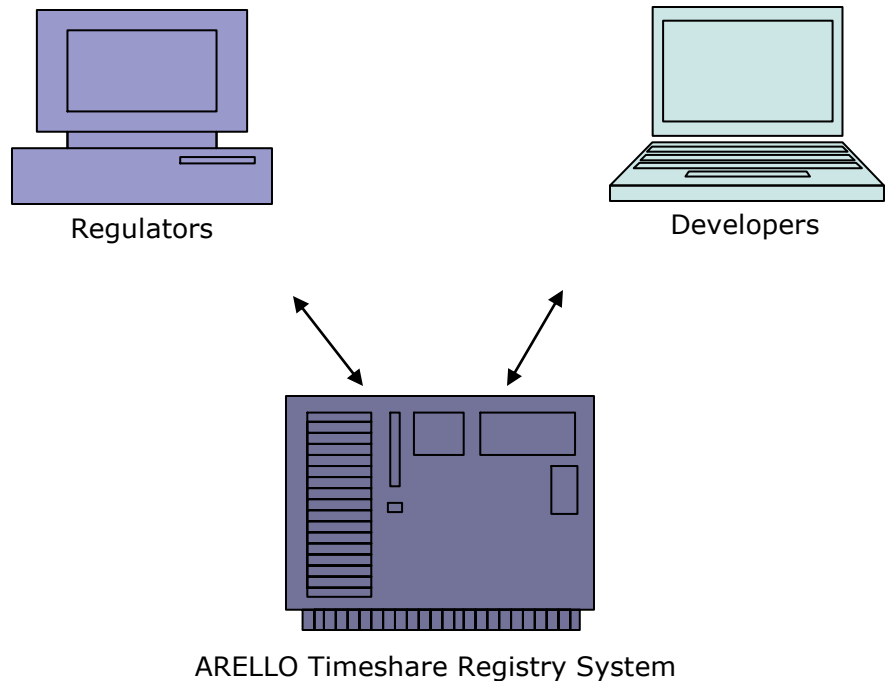


GOVERNOR APPOINTS NEW MEMBER TO LOUISIANA REAL ESTATE COMMISSION

James D. "Jimmy" Gosslee was appointed to the Louisiana Real Estate Commission by Governor Bobby Jindal. He is Chairman of the Board/CEO and Senior Partner of Coldwell Banker/J. Wesley Dowling, Inc., in Shreveport. A graduate of Louisiana State University, with a B.S. in Business Administration, he has been a broker since 1977. Commissioner Gosslee represents Supreme Court District II. He replaces former commissioner Keitha Avant.

TIMESHARE REGISTRY UPDATE

The Association of Real Estate License Law Officials (ARELLO) Timeshare Registry (ATR) is a centralized data repository used by timeshare regulators and developers for storing, archiving and collaborating on registration filings submitted to a regulatory agency. By utilizing secure Internet technologies, the ATR provides regulators in different jurisdictions with the ability to efficiently and instantly share information between different regulatory agencies. Enabling regulators with similar regulatory policies to share information between agencies saves regulators and developers substantial financial and human resources.



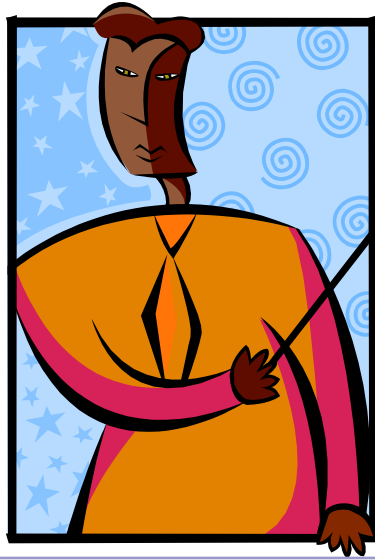
As the ATR is implemented in North America, the ATR is funded by fees paid by developers for using the ATR. Use of the ATR costs regulatory agencies nothing. The ATR saves regulatory agencies considerable financial resources by enabling them to not have to develop their own electronic timeshare registration system. By using the ATR, regulatory agencies can dramatically reduce cost and processing time for timeshare registration documentation and still maintain their unique documentation requirements. The objectives of the registry include:

- Reducing redundant registration procedures and the associated costs for regulatory agencies and timeshare developers.
- Promoting increased uniformity and recognition in timeshare registration processes among jurisdictions.

The ATR provides regulatory agencies and timeshare developers with a powerful tool to streamline registration processes and reduce costs for compliance.

ARELLO is updating the ATR to allow filings from exchange companies to be submitted via the ATR to regulatory authorities. The ATR is a logical and efficient application to use for the filing of exchange company documents and there has been strong support from the industry for adding this new functionality.

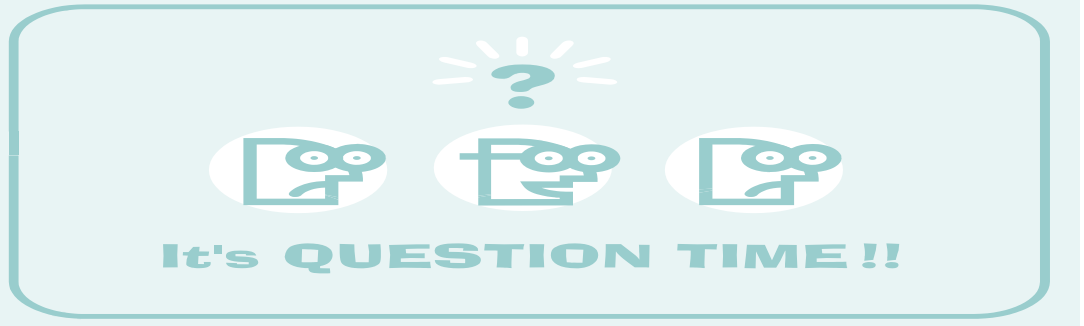
Louisiana is among the jurisdictions using the ATR. If your organization is interested in more information about the ATR, contact support@arello.org or call (334)260-2928.



Continuing Education

Broker and Agent Responsibilities 4-Hour Mandatory Topic 2011

Licensees are reminded that they may be subject to disciplinary action, if they renew their license prior to completion of the required 12-hours of continuing education. Renewal applications contain an acknowledgment statement that declares all requirements for license renewal have been met. Signing the acknowledgment and submitting a renewal application without first completing the required hours is fraudulent.



CONTINUING EDUCATION RECORDS — Did you know?

- LREC education records are **not** obtained from the course completion certificates issued to licensees by education providers.
- Course completion certificates are issued to the licensee as proof of attendance and are to be maintained in the licensee's personal files.
- Licensees should **not** submit course completion certificates to the LREC, unless requested to do so.
- Course completion certificates are not typically requested from students, except in the case of an audit.
- Education audit letters are sent to inform licensees that their education records are incomplete.
- All education providers are required to submit course completion reports to the LREC within thirty (30) days after each course offering.
- It is from the course completion reports submitted by education providers that the LREC updates licensee education records.
- Licensees should **not** submit a renewal application until such time that the annual education requirement has been met.

LOUISIANA REAL ESTATE COMMISSION BIENNIAL REPORT

BULK RATE
U.S. POSTAGE
PAID
Permit No. 707
Baton Rouge, LA