



BOUNDARY LINES

A LOUISIANA REAL ESTATE COMMISSION MONTHLY NEWSLETTER

Chairman's corner



meet

Patrick T. "Pat" Caffery, Jr. LREC'S NEW CHAIRMAN FOR 2013

Pat Caffery was first appointed to the Louisiana Real Estate Commission by Governor Jindal in April 2008. Since his appointment, Pat has been selected by his fellow Commission Members to serve in various leadership positions including Secretary, Vice Chairman and now, LREC Chairman for 2013.

Commissioner Caffery was the driving force behind the development and adoption of an updated strategic plan for LREC, which focused on upgrading the use of technology to better serve our stakeholders and improving the quality and

delivery of continuing education for all real estate licensees.

Our new Chairman brings a wealth of hands-on real estate experience to his new leadership role. Having founded Caffery Real Estate, Inc. in 1977, Pat Caffery has built a full service brokerage now serving a five-parish area of south Louisiana including Iberia, St. Martin, St. Mary, Vermillion and Lafayette Parishes. The firm handles all types of real estate transactions including residential properties, commercial/ industrial offerings, residential lots, farm land, as well as the management and leasing of residential real estate.

One of Chairman Caffery's immediate goals is to complete the upgrade of the 45-hour post-licensing course by the end of the first quarter of 2013. "With new licensees investing considerable time and financial resources in their new career, we owe them and the consumers we all serve the most thorough and practical post-license education we can provide," Caffery stated.



Patrick T. "Pat" Caffery, Jr.

"Our mission at LREC is to protect the consumer in all real estate transactions, and what better way to accomplish this than to have knowledgeable and competent real estate practitioners?"

"I look forward to working with my fellow Commissioners and all stakeholders to make the Louisiana Real Estate Commission the model for all other states to follow."

- Tim Flavin

HIGHLIGHTS: THIS ISSUE

Chairman's
Corner

Case
Study

Delinquent
Renewals

Mandatory
Topic



Delinquent Renewals

There's No Grace Period.

Your 2012 real estate license expired on December 31. Unless you have already renewed, you will be violating the law each time you represent yourself as a Louisiana real estate licensee.

R.S. 37:1459 of the licensing law reinforces the serious nature of individuals practicing real estate without an active license. It states that, in addition to the fines and penalties the Commission may impose, an unlicensed person is prohibited from receiving any compensation for services rendered and requires the return of any fees collected for engaging in real estate license activities. There are no exceptions, no exemptions, no excuses built into the law.

Each year a multitude of delinquent renewal applicants practice real estate without a license. It appears that these applicants operate under the misconception that the delinquent renewal period allows them to continue practicing real estate, while postponing payment of the required fees for up to three months. This interpretation is wrong.

Remember that the true purpose of the delinquent renewal period is to provide an opportunity in which to obtain a current license without having to apply as an initial applicant. Licensees are strictly prohibited from engaging in real estate license activities at any time between the expiration of their license and the issuance of a delinquent license. Licensees who practice without

a license are taking a chance that can involve a fine of over \$5,000 or up to five years in prison.

Individuals who elect to renew their active real estate license after December 31, 2012 are required to complete a delinquent affidavit. When completing this affidavit the licensee is attesting to any real estate activities conducted prior to renewing. A license will not be issued until the

licensee returns this notarized affidavit to the Commission.

Remember, an expired license is not worth the paper on which it is printed; much less what it may cost you in the end.

- Robert Maynor

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Commission Staff Cannot Advise on Legal Matters

The staff of the Commission can provide information and advice on questions relating to the license law and the rules and regulations governing licensees. They will be available to answer all questions licensees may have regarding these matters.

Questions regarding interpretations of contracts, rental agreements, commission disputes and closing should be directed to the broker involved. If necessary, consultation with an attorney should be sought for any appropriate action.

[CASE STUDY] [broker responsibility]

The Investigative Division routinely conducts records inspection of licensed brokerages to ensure compliance with the licensing law, rules and regulations. As part of the inspection, all trust accounts are reconciled. During an inspection of a large real estate brokerage, the investigator determined that the broker's security deposit account was seriously deficient. A formal investigation was then opened.

The qualifying broker delegated the responsibility of overseeing the trust accounts to licensed and unlicensed staff members and had no personal knowledge of the deficiency. Not only had theft occurred, but real estate records and bank records had been destroyed by the staff. The broker failed to have mechanisms in place to ensure that the trust accounts were properly maintained; therefore, the broker was still responsible and held accountable for the problem. The broker provided personal funds to restore the balance of the security deposit.

The broker was censured and ordered to pay both a fine of \$2,500 and a \$75 administrative cost for failure to make certain that the escrow account was properly maintained, and failure to make certain that disbursements were made in accordance with the Licensing Law and the Rules and Regulations, in violation of Chapter 27, Subsection 2701. C. and 2708 B. of the Rules and Regulations and LSA-R.S. 37: 1455. A. (2).

§2708. Signatory Rights on Checking Accounts
B. The qualifying broker of a licensed corporation, partnership or limited liability company shall be an authorized signatory on

sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts maintained by the licensed entity and shall be responsible for the proper maintenance and disbursement of any funds contained therein. The addition of sponsored licensees, principals and/or employees of the licensed entity as signatories on the accounts shall not relieve the qualifying broker of this responsibility.

- Marsha Stafford

Delinquent Fee Schedule

From January 1 to February 15 the delinquent fee is \$50.00

From February 16 to March 31 the delinquent fee is \$200.00

These fees apply to all real estate licenses including those in the inactive status.

For any delinquent renewal for a licensee in the active status there is also a requirement to submit a Delinquent Affidavit. For active licensees who renew delinquent their renewal is not considered complete until a delinquent affidavit is received by the Commission.

The status of a licensee can be checked using the Licensee Search on the Commission web site. A status of Renewal Application NOT Processed due to ERROR with a status reason of AFFIDAVIT means the renewal was done online, and a delinquent affidavit is needed.

The affidavit can be obtained by clicking the Print Delinquent Affidavit link in the Licensee Search results screen.

Mandatory Topic 2013

The Education Committee worked closely with LREC staff to survey licensees regarding a relevant topic for Mandatory Continuing Education in 2013. The survey showed—and Commissioners agreed—that licensees thought a more thorough understanding of contracts would benefit all licensees and those involved in real estate transactions.

After approving **Louisiana Real Estate Contracts** as the 2013 mandatory topic the LREC set about to develop the course. Now that the course has been approved, we thought we'd share a bit of what licensees can expect this year for their mandatory topic:

General Contract Law

This section of the course focuses on an introduction into the Louisiana system and why it's

important to be aware of the differences between us and other states.

This section also seeks to define a contract and explores the various elements of contracts.

Contracts Used in Real Estate Practice

This section looks at common contracts such as listing agreements, buyer agency agreements and relationships between the broker and the principal.

This section also looks at preparatory agreements for buying and selling a piece of real estate.

Residential Agreement to Buy or Sell

The areas of focus in this section are on the duties of a licensee in using the purchase agreement as well as the importance of offer and acceptance sections of the agreement.

This section also focuses on a line by line breakdown of the purchase agreement itself.

- Les Patin

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