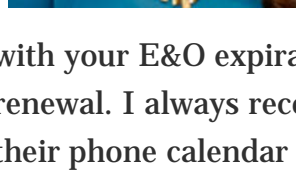




IN THIS ISSUE	2021 MEETING CALENDAR												
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LICENSING STATISTICS	
PROFESSION	COUNT
Acquisition Agent License	139
Acquisition Agent Registration	139
Acquisition Representative	2,330
Affiliate Brokers	33,058
Designated Agent	141
RE Brokers	7,887
Real Estate Firm	4,405
Time Share Exempt	146
Time Share Registrations	26
Time Share Sale	817
Vacation Lodging Service	146

DIRECTOR'S NOTE



We made it to 2021! This means it is errors & omissions insurance ("E&O") time. We have been busy updating all licensees with expired insurance. There are roughly 30,000 licensees that renew their insurance in the month of January. The E&O suspension began on 1/29/2021 and a little under 3,000 licensees were suspended for a lapse in E&O coverage. It is important to make sure you are keeping up with your E&O expiration date, education requirements and license renewal. I always recommend agents keep this information saved in their phone calendar and set reminders.

Stay up to date with your license at www.core.tn.gov through your account. As always, if there are any questions or concerns, please reach out to trec.info@tn.gov.

Caitlin Maxwell, *Executive Director*

EDUCATION UPDATE

On January 1, 2021 ARELLO began their "Synchronous Course Approval." Synchronous courses are categorized as distance education. Distance education includes those courses in which instruction does not take place in a traditional classroom setting, but rather through other media where the teacher and student are separated by distance or by time. Synchronous courses are considered distance education as the students are separated by distance (i.e.: by Zoom, Cisco WebEx, Microsoft Teams, etc.)

This past year, the Commission approved classroom courses to be taught remotely. The Commission's approval is in accordance with Governor Bill Lee's executive orders to protect the health and safety of citizens and government officials during the COVID-19 pandemic. This directive remains in effect through the 2022 education cycle, and includes those course providers that previously received approval on their synchronous courses. Starting April 2021, any new synchronous course will require the ARELLO certificate. The ARELLO certification program will be the new TREC requirement for synchronous distance education courses. This certification will provide additional educational knowledge and certification status to TREC course providers that continue to offer synchronous distance education courses.

We are always looking to improve real estate education in Tennessee. If you have questions about how TREC's education program works or need information to assist in your real estate career, please email me at ross.white@tn.gov. Be safe!

Ross White, *TREC Education Director*

LICENSING SPOTLIGHT

At the January Commission meeting, the Commission approved a reciprocal licensing agreement with the Kentucky Real Estate Commission. The goal of the agreement is to allow Tennessee licensees to use their education and experience when applying for licensure in Kentucky. The past few years, the Kentucky Real Estate Commission has not been able to give credit for Tennessee education and experience. Now, through the agreement, some of these requirements can be waived. A licensee must be in an active status and good standing with their original state of licensure. This agreement ultimately does not change much for licensees coming to Tennessee. Per statute, we look for equivalency when reviewing a candidate licensed in another state. The requirements that can be waived are those that are equivalent to our requirements. Please see this excerpt of our statute:

62-13-314. Reciprocity -- Service of process on nonresidents.

(3) The commission may issue the appropriate license to the nonresident applicant if:

(A) The applicant has qualified for the license held in the applicant's state of residence by written examination;

(B) The applicant meets or exceeds each of the qualifications for licensure in this state;

For the full agreement, please click [here](#).

LEGAL: ATTORNEY GENERAL OPINION

The Commission recently requested an opinion from the Office of the Attorney General regarding interpretation of Tenn. Code Ann. § 62-13-312(b)(11). Please see the excerpt below for reference:

Tenn. Code Ann. § 62-13-312 (b)(11) provides, in pertinent part, that:

(b) The commission shall have the power to refuse a license for cause or to suspend or revoke a license where it has been obtained by false representation or by fraudulent act or conduct, or where a licensee, in performing or attempting to perform any of the acts mentioned herein, is found guilty of:

(1) Accepting a commission or any valuable consideration by an affiliate broker for the performance of any acts specified in this chapter, from any person, except the licensed real estate broker with whom the licensee is affiliated;

Two questions were presented for clarification and interpretation:

If Tenn. Code Ann. § 62-13-312(b)(11) allows for any person or entity other than an affiliate broker who is affiliated with a licensed principal broker to disburse a commission, or any valuable consideration for the performance of the acts specified in the Tennessee Real Estate Broker License Act?

Does an agency relationship created by Tenn. Code Ann. § 62-13-401, or by common contractual or agency allow for a licensed principal broker to contractually delegate the broker's duty to disburse a commission, or any valuable consideration, for the performance of the acts specified in the Tennessee Real Estate Broker License Act?

The Office of the Attorney General replied "yes" to both questions. This means that the Tennessee Real Estate Broker License Act does not prohibit a licensed principal broker from delegating to a title company or other party the authority to disburse commissions or any valuable consideration. Specifically, the principal broker's duty to disburse a commission or any valuable consideration can be contractually delegated. Plainly, if they so choose, principal brokers may contract with a third party to disburse commissions or any valuable consideration.

However, and importantly, principal brokers are still responsible or liable for the actions of the third party relating to the disbursement of commissions and/or valuable consideration. This opinion will impact licensees who choose to incorporate this as a business practice. Principal brokers may still personally disburse commissions or valuable consideration to affiliate brokers.

Anna D. Matlock, *Associate General Counsel*

E&O SUSPENSION

On 1/29/2021, roughly 3,000 licensees were suspended for a lapse in errors & omissions insurance ("E&O"). This is based on the statute and rule excerpts below:

T.C.A. § 62-13-112. Errors and omissions insurance.

(a) Each licensee who is licensed under this chapter shall, as a condition to licensure, carry errors and omissions insurance to cover all activities contemplated under this chapter. The requirements of this section shall not apply to acquisition agents.

(k)(1) A license suspended pursuant to this section shall be reinstated if, within thirty (30) days of suspension, the licensee provides proof of insurance that complies with the required terms and conditions of coverage to the commission without the payment of any fee.

(2) A license suspended pursuant to this section shall be reinstated if, on or after thirty-one (31) days of suspension, the licensee provides proof of insurance that complies with the required terms and conditions of coverage to the commission and the licensee pays:

(A) For a license suspended more than thirty (30) days but less than one hundred twenty (120) days, a penalty fee of not more than five hundred dollars (\$500); or

(B) For a license suspended for more than one hundred twenty (120) days but less than one (1) year, a penalty fee of five hundred dollars (\$500), plus an additional penalty fee of not more than one hundred dollars (\$100) per month for months six through twelve (6-12).

1260-01 - 16 LAPSED ERRORS AND OMISSIONS INSURANCE.

(2) Principal Brokers of Licensees Who Fail to Maintain E&O Insurance:

(a) A principal broker shall ensure, at all times, that all licensees affiliated with that principal broker shall hold E&O insurance as required by law. A failure to do so shall constitute failing to exercise adequate supervision over the activities of a licensed affiliated broker.

(b) For any principal broker who has an affiliated licensee whose license is suspended pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance, there shall be no penalty to the principal broker if either of the following two (2) circumstances occur within thirty (30) days of that affiliated licensee's license suspension:

1. The affiliated licensee has provided proof of insurance which complies with the required terms and conditions of coverage to the Commission; or

2. The principal broker releases that affiliated licensee whose license is suspended for failure to maintain E&O insurance.

Licensees now have 30 days to renew their E&O insurance without penalty. Penalty fees will start accruing on 3/1/2021. These penalties apply to licensees with a suspended license due to E&O and also apply to their Principal Broker.

If you are suspended due to E&O or have a licensee affiliated with your firm who is suspended, please ensure new E&O insurance is in place by 3/1/2021.

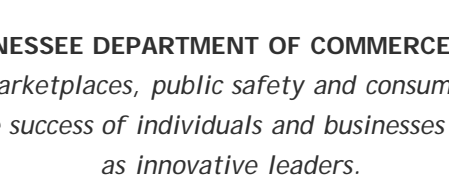
DISCIPLINARY ACTIONS

[October 2020](#)

[November 2020](#)

[December 2020](#)

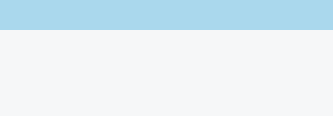
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