

DOOR TO DOOR

Tennessee Real Estate Commission Newsletter

VOLUME 1 | NUMBER 3
WINTER, 2018

IN THIS ISSUE

Director's Note
Explanation of Complaint Process
Fresh Start Act
Cloud Companies
Errors and Omissions "E&O" Policy Renewals
Lapsed Errors and Omissions Insurance
Education Renewals
Disciplinary Action Report

2019 MEETING CALENDAR

January 9-10 th Nashville, Tennessee	July 10-11 th Nashville, Tennessee
February 13-14 th Nashville, Tennessee	August 14-15 th Nashville, Tennessee
March 13-14 th Nashville, Tennessee	September 11-12 th Nashville, Tennessee
April 17-18 th Nashville, Tennessee	October 10-11 th East Tennessee
May 9-10 th West Tennessee	November 13-14 th West Tennessee
June 12-13 th Nashville, Tennessee	December 4-5 th Nashville, Tennessee

LICENSING STATISTICS

PROFESSION	COUNT
Acquisition Agent License	164
Acquisition Agent Registration	42
Acquisition Representative	2,330
Affiliate Brokers	29,636
Designated Agent	106
RE Brokers	7,656
Real Estate Firm	4,208
Time Share Exempt	151
Time Share Registrations	33
Time Share Sale	1,179
Vacation Lodging Service	118

Licensing Statistics are continued on page 3.

DIRECTOR'S NOTE



As the year comes to a close and a new year is ahead, we are continuously working to decrease our licensing time, improve customer service, and our constituents' all around experience with our Department. In the new year, we hope to further progress upon these aspects with updates to our licensing system and additional educational opportunities. Currently, we are full steam ahead on E&O and education renewals. Wishing everyone a happy holiday and happy new year!

Caitlin Maxwell
Executive Director

NEWS AND UPDATES

EXPLANATION OF COMPLAINT PROCESS

When a complaint is filed against you, it can be somewhat daunting. It is important to know what goes into the complaint process. The most important part is to make sure you respond. Here is an outline of the complaint process:

1. Once a complaint is received by the Commission, it is submitted to the Respondent, otherwise known as the individual or company the complaint was filed against for response.
2. Respondents are given ten days to file their response. If possible, please include the entire transaction file, or any pertinent documents to your complaint.
3. The response from the Respondent is then sent to the Complainant.
4. The Complainant then has the opportunity to respond and include any additional information.
5. The complaint, Respondent's response, and any additional correspondence are then forwarded to our legal counsel.
6. Our legal counsel then reviews the file and all documentation and writes a summary based on all information. They also include a recommendation for the Commission to consider.
7. These summaries are presented to the Commission at the regularly scheduled meeting. The legal report is presented anonymously as to not prejudice the Commission on reaching a decision.

8. Upon hearing the summary, the Commission will vote on whether or not they believe the facts of the matter are grounds for discipline under the Tennessee Broker's Act. If they do not feel that there has been a violation under the Act, then they will often dismiss the matter. However, if the Commission determines that the facts warrant discipline, the Commission may authorize a formal hearing but first give an option for the Respondent to settle via a Consent Order. Discipline varies from letters of warning, continuing education, civil penalties, suspension, and revocation.
9. If the Respondent is sent a Consent Order and decides against settlement, then the matter may be set by legal counsel for a formal hearing between the Department and the Respondent. Often times, a Complainant is called upon as a witness in these hearings but is not a party to the litigation.

Please be advised that this office typically has over 300 open complaints being processed. We strive to present each complaint to the Commission within 180 days of receipt; however, this is not always the case.

FRESH START ACT

This Act affects all applicants who desire to apply for a real estate license and current licensees. This Act went into effect on 7/1/2018. Essentially what the Act states is that subject to the exemptions, a licensing authority shall not deny an application for licensure based on a prior criminal conviction that does not directly relate to the applicable occupation, profession, business or trade.

Continued on Page 2

Currently, if an applicant has a prior criminal conviction that is a felony or a misdemeanor that is related to the real estate profession and the date of conviction is within the last ten years, that applicant is required to come before the Commission with their principal broker. Per the Fresh Start Act, if the Commission wishes to deny an applicant, they now must go through a series of questions outlined in the Fresh Start Act. The Act also gives denied applicants a right to appeal.

The Act also applies to existing licensees. Pursuant to Tennessee Code Annotated 62-13-312, when a licensee is convicted of certain offenses, the Commission has the right to discipline the licensee. If the discipline is related to a prior criminal conviction, then the Commission would need to apply to Fresh Start Act factors to that licensee's specific criminal conviction.

To read more about the Fresh Start Act, please click [here](#).



CLOUD COMPANIES: PLEASE BE AWARE OF “CLOUD-BASED” COMPANIES

These are fraudulent companies taking advantage of prospective home buyers and potentially taking advantage of current licensees. The scam involves fake “cloud-based companies”, which are online real estate websites advertising available property. While the properties might be real, the companies are not. In fact, scammers have created duplicates of legitimate websites and are advertising property they do not have permission to sell. Some unscrupulous individuals even steal licensees’ identities in order to portray themselves as a licensed agent, when in fact they are not. The scammers can go so far as to accept a down payment for the advertised property and then leave the consumer with nowhere to go and an empty bank account. We are recommending the following tips to avoid these companies and protect consumers:

- Check verify.tn.gov to ensure both the company and the individual agent are properly licensed with the Tennessee Real Estate Commission.
- Confirm the city of both the company and the agent at verify.tn.gov. If the locations do not match, call or email the Real Estate Commission at 615-741-2273 or trec.info@tn.gov to verify what firm the agent is associated with.
- Proceed with caution if the company is asking for money up front. Never give money to someone you don't know or have any information about other than how they portray themselves on the Internet.
- Be sure to confirm the company's exact location before proceeding with business negotiations. Pay special attention to the suite number or floor where they are located. Many fraudulent companies list well-known business addresses, but are not actually associated with the building.
- If you are wary about the location listed, search for the address on the Internet. Look for a street view of the location to confirm that business name is on the sign or building address matches the one provided. If you're still in doubt, visit the company or call them to ask additional questions.
- If you are a licensee and are aware of someone using your identity, please file a complaint at <https://core.tn.gov/>.

ERRORS AND OMISSIONS “E&O” POLICY RENEWALS

It's time! If your insurance expires 1/1/19, it is time to renew your policy with your E&O provider. Under our rules, there are penalties for licensee who fails to maintain continuous E&O insurance. As a principal broker, it is also important to ensure all licensees affiliated with your firm maintain their E&O insurance. Below are the applicable rules, Tenn. Comp. R. & Regs. 1260-01-.16.

LAPSED ERRORS AND OMISSIONS INSURANCE

(1) Licensees Who Fail to Maintain Errors & Omissions (E&O) Insurance

(a) Penalty fees for Reinstatement of a Suspended License: Any licensee whose license is suspended for more than thirty (30) days pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance must provide proof of insurance that complies with the required terms and conditions of coverage to the Commission and must pay the following applicable penalty fee in order to reinstate the license:

1. For a license suspended due to a lapse in E&O coverage for more than thirty (30) days but within one hundred twenty (120) days:
 - (i) Two Hundred Dollars (\$200.00) if the licensee's insurance carrier back-dated the licensee's E&O insurance policy to indicate continuous coverage; or
 - (ii) Four Hundred Dollars (\$400.00) if the licensee's insurance carrier did not back-date the licensee's E&O insurance policy to indicate continuous coverage.

NEWS AND UPDATES - ERRORS AND OMISSIONS "E&O" POLICY RENEWALS (CONT'D)

2. For a license suspended due to a lapse in E&O coverage for more than one hundred twenty (120) days but less than six (6) months, a Five Hundred Dollar (\$500.00) penalty fee;
3. For a license suspended due to a lapse in E&O coverage for six (6) months up to one (1) year, a Five Hundred Dollar (\$500.00) penalty fee plus a penalty fee of One Hundred Dollars (\$100.00) per month, or portion thereof, for months six (6) through twelve (12).

(b) Conditions for Reissuance of a Revoked License: Upon revocation of a license pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance, any individual seeking reissuance of such license shall:

1. Reapply for licensure, including payment of all fees for such application;
2. Pay the penalty fees outlined in subparagraph (a) above;
3. Pass all required examinations for licensure, unless the Commission waives such examinations; and
4. Meet any current education requirements for licensure, unless the Commission waives such education requirements.

(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.

To see the complete rule, please go to 1260-01-.16 at this [link](#).

EDUCATION RENEWALS

All education course and instructor renewals expire 12/31/2018. At this time a majority of courses have been renewed, but we are still waiting on many instructors. This year, instructors can renew online at <https://core.tn.gov/>. If you have not received your notice or if you have any questions, please contact us at trec.info@tn.gov with the subject "Education Renewals."

LICENSING STATISTICS (CONT'D)		
LICENSE TYPE	STATUS	COUNT
Individual	Active	35,124
Individual	Broker Release	2
Individual	Inactive	2
Individual	Retired	5,942
Individual	Suspended	114
Individual	Vol Surrendered	3,569
Firm	Active	4,473
Firm	Retired	80

DISCIPLINARY ACTION REPORT | SEPTEMBER-NOVEMBER,

RESPONDENT	LOCATION	VIOLATION	ACTION	DATE
Darlene Lyle	Gallatin, TN	Failure to exercise reasonable skill and care	\$1,000 Civil penalty	9/6/18
Northeast Tennessee Rental Properties	Elizabethton ,TN	Failure to ensure that client's trust money was properly disbursed	\$1,000 Civil penalty	9/6/18
Javon Cantrell McKinnon	Cordova ,TN	Engaged in the practice of real estate while not affiliated with any brokerage	\$2,000 Civil penalty	9/13/18
John Andrews	Hendersonville ,TN	Advertising violation	\$500 Civil penalty	9/18/18
Wanda Sterchi	Knoxville ,TN	Failure to supervise	\$1,000 Civil penalty plus 4 hours of continuing education in Contracts	9/18/18
Tom Parham	Crossville ,TN	Failure to supervise	\$500 Civil penalty	9/26/18
Brookside Properties, Inc.	Nashville, TN	Unlicensed activity	\$500 civil penalty	10/2/18
Cathy Jane Phillips	Clarkrange, TN	Acting on behalf of entity with personal interest without prior written disclosure	\$1,000 civil penalty	10/16/18
Stephanie Rust Reece	Franklin, TN	Failure to notify the commission of a guilty plea	Revocation	10/19/18
List with Freedom.com Inc	Boynton Beach, FL	Providing cash rebates in conjunction with a real estate transaction	\$1,000 civil penalty plus 4 hours of CORE continuing education	10/24/18
Chris Wright	Nashville, TN	Advertising property listed by another licensee without written authorization from the property owner	\$500 civil penalty	10/24/18
Philip E. Dildine	Gallatin, TN	Failure to supervise affiliate broker	\$500 civil penalty	10/31/18
Samir Hindieh	Nashville, TN	Failure to bear a good reputation for honesty, trustworthiness, integrity and competence	Revocation	11/6/18
Judy Jones d/b/a Great Smoky Investments, Inc.	Pigeon Forge, TN	Holding oneself out as engaged in the activities of a broker	\$250 civil penalty plus \$250 costs	11/8/18
Jennifer Turns	Nashville, TN	Failure to exercise reasonable skill and care	4 hours of continuing education in Contracts	11/8/18
Chelsey Brooke Barnes	Jonesborough, TN	Failure to exercise reasonable skill and care	4 hours of continuing education in Contracts	11/8/18
Ariel Anderson	Clarksville, TN	Failure to exercise reasonable skill and care	\$1,000 civil penalty	11/20/18
John Johnson	Bartlett, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Malcolm Wilson	Memphis, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Thomas Crutchfield	Signal Mountain, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Cory Whitson	Johnson City, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Rodney Porter	Memphis, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Emily Sheerer	Lebanon, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
James Bowers	Goodlettsville, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Curtis Danz	Ringgold, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Desmond Johnson	Lebanon, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Scott Seeley	Talbott, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Kenneth Reeves	Nashville, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Michael Jenkins	Sevierville, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Noel Russell	Knoxville, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18
Gabriel Price	Knoxville, TN	Failure to comply with T.C.A. §56-1-109, §56-1-312, or T.C.A. § 36-5-731	Suspension	11/20/18