


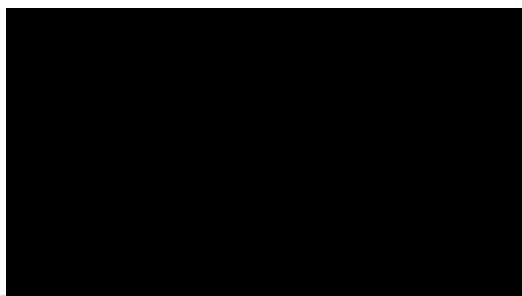





Department of Commerce
Division of Real Estate & Professional Licensing

H.B. 532
Ohio License Law Changes


Jacqueline T. Williams, Director
R.S. (Tre') Giller, III, OREC President
Anne M. Petit, Superintendent

Welcome!





**Ohio Revised Code
Chapter 4735
Core Law Class**




HB 532 Background

- 2012 OREC Authorized Task Force
 - 17 RE professional members
 - Commercial/Industrial
 - Education
 - Multi Office
 - Sole brokers
 - Manager & Manager/Owner
 - Realtor® & Non-Realtor®
 - Unlicensed



HB 532 Background

- January 2013 TF convened
- October 2013 TF concluded
- December 2013 R&R to OREC
 - 11 recommendations
 - 2 changes proposed by OAR accepted
 - OREC approved moving on 9 recommendations
 - 2 recommendations held for new TF
 - OAR found sponsor, shepherded bill




Effective April 6, 2017

(131 in General Assembly)
(Amended House Bill Number 532)

AN ACT

To amend sections 4735.01, 4735.06, 4735.07, 4735.09, 4735.10, 4735.141, 4735.142, 4735.18, 4735.24, 4735.51, and 4735.65 and to enact sections 4735.087, 4735.091, and 4735.23 of the Revised Code relating to real estate brokers and salespersons.

Be it enacted by the General Assembly of the State of Ohio:



ORC 4735.01

- Definitions – Some **revised**, some **new**
 - Institution of Higher Education (D)
 - Associate Broker (AA)
 - Credit-eligible course (CC)
 - Distance education (DD)
 - Principal broker (GG)



ORC 4735.01

- Institution of Higher Education
Includes all of the following:
 - State institution of higher education as defined in ORC 3345.011;
 - Non-profit institution issued a certificate of authorization by the Chancellor of the Dept. of Higher Education;
 - A private institution known as a “proprietary school”;
 - An institution registered with the State Board of Career Colleges and Schools, and approved to offer degree programs.



ORC 4735.01

- Principal Broker
Licensed as a real estate broker and overseeing/directing the operations of the brokerage.
- Associate Broker
Licensed as a real estate broker but does not function as a principal broker or management level licensee.



ORC 4735.01

• Credit-eligible Course

At the time the course is taken, for credit or non-credit and satisfies both:

- Course(s) offered by institution of higher education;
- Course(s) eligible for academic credit that may be applied toward a degree.



ORC 4735.01

• Distance Education

All required pre-licensing, post-licensing and continuing education courses where instruction is accomplished through use of interactive, electronic media and where teacher and student are separated by distance or time – or both.



ORC 4735.06

• Brokerage Name Reservations

- In part, moved from OAC 1301:5-3-03
 - Can't be too similar to existing name
 - Can't be likely to mislead public
- ****NEW**** language permits approval/use of multiple trade names (“Doing Business As”)
- Brokerage **MUST** use only DBA in advertising



POLICY

- Multiple DBAs
 - A maximum of five (5) DBAs permitted
 - Must do Name Reservation form for each one
 - Must have a separate trust account for each
 - First DBA will appear on brokerage license
 - Additional DBAs will appear on separate document
 - Must have some commonality (Core Name)
 - Must be on file with Ohio Secretary of State



ORC 4735.07

- Broker Licensing
 - Distance education for pre-licensing permitted
 - Pre-licensing courses must be credit-eligible
 - Required post-secondary education
 - Credit-eligible
 - Online or classroom
 - Successful completion = Law in effect
 - 10 hr post-licensing → online permitted

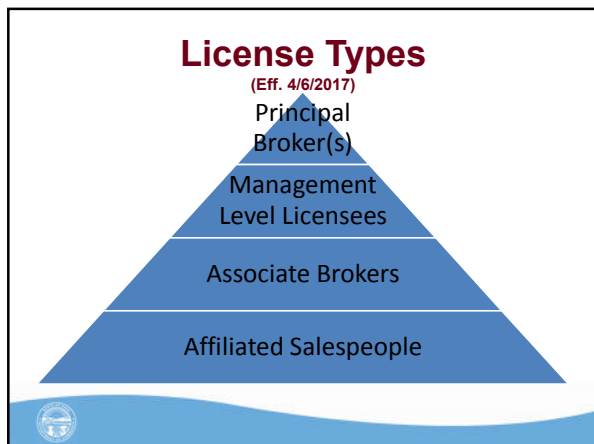


ORC 4735.07

What exactly does "credit-eligible" mean?

- Taken for credit or not for credit
- AND**
- Offered by an institution of higher education;
- Eligible for academic credit toward a degree at that or another institution





ORC 4735.081

- Designation of Principal Broker
 - All active Brokers will be converted to Principal
 - Licensee designations → Brokerage Assessment
 - Each brokerage must have at least one Principal
 - A brokerage with only 1 broker – automatically will be a Principal
 - New form for brokerage to notify Division of changes going forward

Changing License Designation

REAL ESTATE **CHANGE APPLICATION - INDIVIDUAL**

This form is interactive. You may, before printing, type your responses directly onto the form. Otherwise, this form must be typewritten or printed legibly in black ink.

FOR DIVISION USE ONLY

Incomplete applications and applications that are filled out incorrectly will be returned for correction.

A check or money order for any fees, made payable to Division of Real Estate & Professional Licensing must be remitted with this form. **Cash will not be accepted.**

REASON FOR COMPLETING THIS FORM (check all that apply)

- CHANGE HOME ADDRESS: (complete sections 1, 2, 3 and 5; no fee. You may also do this online at www.ors.ohio.gov/real. Click on eLicense Center. Contact the Division directly to obtain an username and password if you do not have that information.)
- REPLACE LOST OR DAMAGED LICENSE: CHOOSE ONE: REISSUE LICENSE PLACE LICENSE IN INACTIVE STATUS (complete sections 1, 2 and 3; complete section 5 if applicable; \$25 fee.)
- INDIVIDUAL NAME CHANGE: (complete sections 1, 2, 3 and 4; submit a copy of the legal document showing the name change; \$25 fee.) - Return Original License
- CREDENTIAL NUMBER REVERSION: I am an Ohio broker with a previous Ohio salespersons license issued prior to the year 2000 and wish to revert my current credential number back to my previous credential number. (complete sections 1 and 2; no fee) - Return Original License
- CHANGE LICENSE LEVEL DESIGNATION: (complete sections 1, 3 and 6; principal broker must certify) - Return Original License OR Company License and Addendum

1. APPLICANT'S FEE: FEE NUMBER IS VERY IMPORTANT - The application cannot be processed without this information.

ORC 4735.081

- Principal Broker Responsibilities
 - Develop/Maintain written company policy
 - ORC 4735.54 – Agency Relationships
 - ORC 4735.56 – Brokerage policy on Agency
 - Pay affiliate licensees as required
 - Generally oversee licensees to ensure they provide services within area of competency or are working with another *affiliated* licensee who is competent



ORC 4735.081

- Principal Broker Responsibilities
 - Establish Policy & Procedures
 - ORC 4735.18(A)(34) – permitting/compensating unlicensed activity
 - ORC 4735.20 – prohibition on compensating an unlicensed individual
 - ORC 4735.16 – Advertising



ORC 4735.081

- Principal Broker Responsibilities
 - Principals may assign management level duties
 - Must designate *PRIOR* to assignment
 - More definition coming in Rule
 - Broker may be Principal for more than one brokerage → must be approved *PRIOR*
 - *“Nothing in this section shall be considered prima facie evidence of whether an affiliated licensee is an independent contractor or an employee of the brokerage.”*



POLICY

- PB serving as PB for multiple brokerages
 - Brokerage must have at least *ONE* PB
 - 15 days to notify if status of PB changes
 - Can only be **PB** in multiple companies – not PB in one and management level broker in another, etc.
 - Details to be determined



POLICY

- PB serving as PB for multiple brokerages
 - Disclosure to any affected party is required
 - Affiliated licensees must be made aware
 - Must be included on Agency Disclosure
 - Affiliated business relationship must be disclosed to parties to a contract, as appropriate
 - Must be included in Brokerage Company Policy



ORC 4735.09

- Salesperson Licensing
 - Distance education for pre-licensing permitted
 - Pre-licensing courses must be credit eligible
 - Successful completion = Law in effect
 - Sales post-licensing requirement
 - Online permitted
 - Additional 10 hours = 20 hrs required
 - Include: Commercial/PM, short sales, land contracts; contract law; federal/state programs; economic conditions; fiduciary responsibilities



ORC 4735.09

- Salesperson Licensing

Here's where it gets interesting...

“Only for noncredit course offerings...shall obtain approval from the appropriate state authorizing entity prior to offering a real estate course... The state authorizing entity may consult with the superintendent in reviewing the course for compliance...”



ORC 4735.091

“A real estate broker, real estate salesperson, foreign real estate dealer, and foreign real estate salesperson may be associated with a brokerage as either an employee or an independent contractor.”




ORC 4735.10 (Rules)

- Parameters for multiple DBAs
- Parameters for a PB to serve as PB for multiple brokerages
- Core Law CE for Commission meeting
- Standards for post-licensing courses




Let's Take A Break...




ORC 4735.141

- Continuing Education Requirements
 - ****NEW**** Core Requirement
 - Broker – Principal and Associate
 - Broker on deposit
 - Management level licensee
 - Sales or broker
 - Active or Inactive
 - Total number of hours required DOES NOT CHANGE – only the number of Core Courses



ORC 4735.141

- Continuing Education Requirements
 - ****NEW**** Core Requirement
 - Licensees 70 or older
 - Online CE permitted (clarified)
 - Active, management level licensee, or “on deposit” (inactive broker)
 - “On deposit” (inactive) brokers ONLY need to complete this one 3-hr course, not all Cores



POLICY

- Broker Responsibility CE
 - Brokers
 - Will all be required to take it in the renewal cycle that **starts** after 4/6/2017.
 - Management Level Licensees
 - Will be required to take it in the renewal cycle that **starts** immediately following designation as an MLL

The Commission highly recommends taking this course during your current cycle.

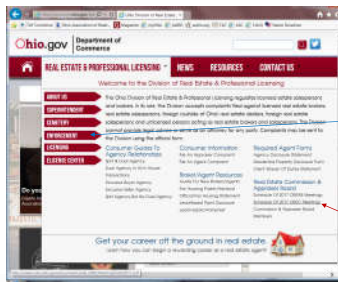


POLICY

- Core Law CE credit for OREC meeting
 - May not be a party to any case on the agenda
 - Must attend the full meeting
 - May only use for Core Law once per cycle
 - Email us to get on list to receive agendas
 - Schedule of 2017 meetings available on our website



OREC Meeting Schedule



Click on the top banner (RE & PL tab) then on Enforcement

Click on the link to the OREC meetings schedule



ORC 4735.18

License Law Violations

****NEW**** (A)(38)

"Having acted as a broker without authority, impeded the ability of a principal broker to perform any of the duties described in section 4735.081 of the Revised Code, or impeded the ability (of) a management level licensee to perform the licensee's duties."



ORC 4735.23

• Pre-Licensing Audit/Review

- Superintendent makes requests to ODHE
- REPL and ODHE review
- Superintendent or Chancellor may request information as needed from institution

What does this mean for education providers??



ORC 4735.24

• Release of Earnest Deposit

- Still one (1) of four (4) conditions must be met to release the funds
- Clarification on requirement for **SEPARATE** written instructions from parties re: disbursement



Contemporaneous Offers

- ORC 4735.51
defines “Contemporaneous Offers”
- ORC 4735.65
lays out requirements for disclosure
 - Timing
 - In writing
 - Confidentiality considerations



Education Specifics

- Pre-licensing courses
- Post-licensing courses
 - Still 10 hours for Brokers
 - 20 hours for Salespersons licensed on or after 4/6/17
 - Rule will change approval process



Education Specifics

- Continuing education
 - 3 hours Core Broker Responsibility Course
 - Same application/renewal process as current
 - Requirements: 4735.07; 4735.141 and Rule
- All education can be provided via distance education as of 4/6/17



Education Specifics

Q: What determines whether a new salesperson has to complete the 10-hr or the 20-hr post-licensing?

A: The date of licensure dictates which course must be completed.



Education Specifics

Example: Mary's license is issued on March 28, 2017 – she is required to take the 10 hr post-licensing in a classroom, but *MAY* want to take the new 20 hr course *in a classroom*.

Example: Tom's license is issued on April 6, 2017 – he is *required* to take the 20 hr post-licensing course, and may do so in a classroom *OR* online.



Education Specifics

Q: How will HB 532 change the license examinations, and *when* will the new material be tested?

A: When – earliest would be June...



Education Specifics

Q: How will HB 532 change the license examinations, and when will the new material be tested?

A: REPL works with exam vendor to design new test items; pre-test; review performance; incorporate into active item bank.



Reminder...

No licensed salesperson or broker shall participate in a dual agency relationship where:

- The licensee is a party to the transaction
 - Personally *OR*
 - As a member or officer of a partnership association, LLC, LLP, or corporation
 - that has an interest in the property that is the subject of the transaction or
 - an entity that has the intention of purchasing, leasing or exchanging



Reminder...

- The initial licensing period (broker or salesperson) begins when the license is issued and *ends* on the *first birthday* following initial license issuance.
- If applicant was an inactive or active salesperson immediately preceding application for a broker's license the initial licensing period begins at the time the license is issued and ends on the date the licensee's CE is due as set when that person was a salesperson.



Reminder...

NEW BROKERS

- If you want to have an active license, MUST contact the Division (Licensing) within 30 days of taking the exam
- Otherwise, license will be issued on the 30th day post-exam in an in-active status
- Activate to:
 - New Sole proprietorship;
 - New Corporation; or
 - Reactivate to an existing brokerage



Reminder...

Maintaining Files

- Record retention = 3 years [ORC 4735.18(A)(24)]
- Files are the property of the PB/brokerage
 - Affiliated licensees should keep a copy
 - ALL documents relating to a transaction
 - Closed/Expired/Terminated
 - *Includes communications via email, text*
 - eSignature systems have saved a few licensees



Reminder...

Social Media

- Blogs
- Tweets
- Texts
- Facebook



Electronic Signatures

- Division forms
- Transactional Documents



Reminder...

Innocent until proven guilty...

- Statute requires notification within 15 days of conviction.
- We will monitor a licensee upon:
 - Arrest
 - Indictment
 - Arraignment
- Cannot take action until:
 - Licensee neglects to notify within 15 days and/or
 - Division becomes aware of the conviction



Reminder...

Want to hit on disclosure re: residential v. commercial

- Material fact (yes!)
- Agency Disclosure (yes!)
- Consumer Guide (no)
- Use controls (they matter!)



Reminder...

PAPERWORK....

- Out of date
- Broker signed before affiliate
- Incomplete information
- Wrong/No fee included
- Falsifying documents
- Proof documents before submitting



Common Violations

- Video/Photos without consent
- Property Management
- Advertising
- Lock boxes
- Earnest money
- Not getting all parties' signatures/initials
- Stealing personal property
- Not cooperating with the Division

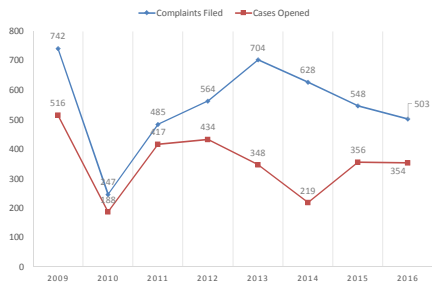


Common Issues

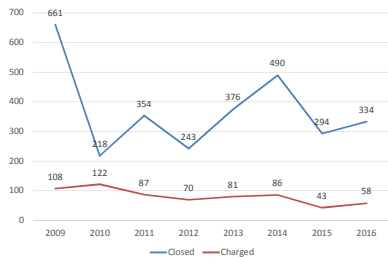
- New brokers/brokerages
- Teams
- Ancillary Trusteeship
- Home Inspection
- Client/Licensee Communications
- Salespeople not seeking advice/guidance



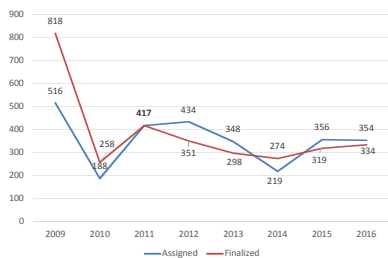
COMPLAINTS VS. CASES



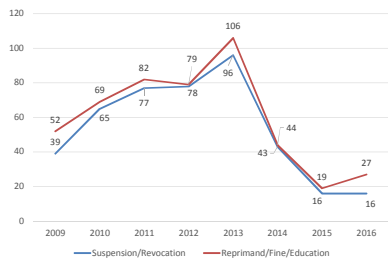
CLOSED VS. CHARGED



ASSIGNED VS. FINALIZED



DISCIPLINARY ORDERS



Canons of Ethics - Charges

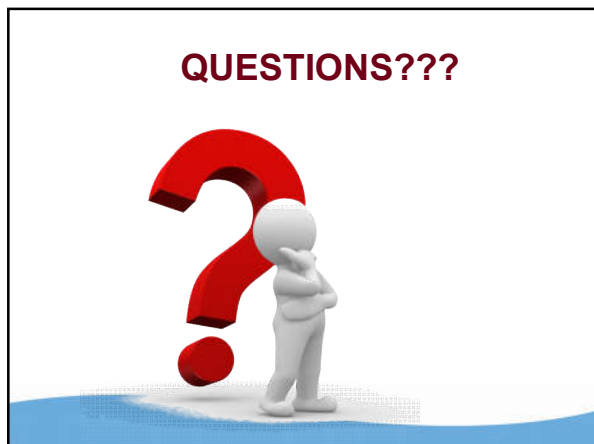
- Certain agreements
- Violating ORC 4735.71(C)
- Commission outside of closing
- Unauthorized access to property
- Removing personal property

Canons of Ethics - Charges

- Certain felony convictions
- Certain advertising infractions
- Misstating ownership
- Failure to cooperate
- Forgetting with which brokerage you're licensed

Canons of Ethics - Charges

- Inserting terms without knowledge
- Broker allowing suspended person to practice
- Mishandling earnest money



 **Department of Commerce**
Division of Real Estate & Professional Licensing

Making Sense for Business & Consumers

What can we do to better serve you?

Anne M. Petit, Superintendent
Kimberley Wells, Division Counsel
Tom Moore, Education Compliance Administrator
Shannon Drawns, Enforcement Supervisor

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Making Sense for Business & Consumers

Ohio Real Estate Commission


R.S. (Tre') Giller, III – President (Columbus)
Diane Carnes – Vice-President (Chillicothe)
Courtney Combs (Hamilton)
Kristine Burdick (Wadsworth)
Mary Ten Eyck Taylor (Columbus)




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3-Hour Core Law Continuing Education


CINCINNATI COURSE CODE




 **Department of Commerce**
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3-Hour Core Law Continuing Education


CANTON COURSE CODE




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MARIETTA COURSE CODE




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3-Hour Core Law Continuing Education


**MAYFIELD VILLAGE
COURSE CODE**




 **Department of Commerce**
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3-Hour Core Law Continuing Education


LIMA COURSE CODE




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3-Hour Core Law Continuing Education


PERRYSBURG COURSE CODE




 **Department of Commerce**
Division of Real Estate & Professional Licensing

3-Hour Core Law Continuing Education


**COLUMBUS A.M.
COURSE CODE**




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3-Hour Core Law Continuing Education


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