

Requirements for real estate courses tighten

Sponsors must affirm compliance with RESPA

Act 281 of the 2013 legislative session assigned the oversight and regulation of real estate education to the Arkansas Real Estate Commission (AREC). This oversight applies to real estate education that real estate licensees, including REALTORS, must complete to maintain their real estate license.

For the purposes of this article, the most pertinent education is the annual six-hour continuing education requirement.

For years, banks and other organizations have sponsored free education for real estate licensees. A licensed instructor was hired to teach the sponsored education. These free seminars resulted in several questions, including the following, from both licensees and real estate instructors:

- Does the sponsorship of the course create a potential RESPA violation for the licensee and others involved?
- With large groups attending the free education

numbering close to 100 or more students, is the education offering really one of quality and is it effective?

- Are the sponsored courses more about product promotion than quality education?
- Are the large free courses monitored adequately to ensure the attendees complete the entire six classroom hours?

Consequently, Arkansas Commission Regulations developed by AREC contain the following requirements regarding the free sponsored courses:

AREC Commission Regulation - 16.6 Third party sponsors.

- (a) *Only Principal Instructors or Instructors designated by the Principal Instructor and approved by the Executive Director may contract with a third party sponsor to offer a continuing education course.*
- (b) *Time committed to product or service promotion shall not be considered instructional time.*
- (c) *Students must be notified in advance of the time during which the third party sponsor will be presenting product or service promotion to the class. Attendance will be neither monitored nor required during that time by this subchapter.*
- (d) *Third party sponsors must*



About the author

Gary Isom has served as Executive Director of the Arkansas Real Estate Commission since March 2010. His tenure with the Commission began in 1987 when he was hired as an Investigator. In 1977, shortly after receiving a bachelor's degree in business administration at the University of Central Arkansas, Isom was hired as a statistician at the Arkansas Employment Security Division. He later oversaw the employment data collection program at the Division, which now is called the Arkansas Department of Workforce Services.

sign a statement affirming that their sponsorship of the course is not in violation of RESPA. This statement must accompany the monitoring plan filed with the Commission.

(e) The Principal Instructor should obtain the signature of an authorized representative of the third party sponsor on the monitoring plan filed with the Commission."

Real estate instructors and schools licensed with the Arkansas Real Estate Commission have been instructed to request the above information from banks and other organizations that sponsor free education for real estate licensees, including REALTORS.

As for whether the sponsorship is a violation of RESPA, the sponsor and its legal representative are in a much better position than the attendee to determine whether the sponsorship constitutes a violation of RESPA because the sponsor has the information – how and to whom the free education was marketed and offered – needed to help make that determination.

Statements that put the burden on the real estate licensee or REALTOR to consult with their attorney as to whether the sponsorship constitutes a violation do not accomplish the intent of the regulation.

Those organizations intending to sponsor free education for real estate licensees are encouraged to cooperate with the Principal Instructor to comply with these regulations. The failure to do so can result in the students *not* receiving credit for attending the course and potential disciplinary action for the Principal Instructor.

In conclusion, if your organization plans to sponsor continuing education courses for real estate licensees, discuss the requirements for third-party sponsors with the instructor to make sure your organization and the instructor operate in compliance with the state law and regulations.

Individuals with questions may contact AREC Education and Instruction Specialist Heather Kilpatrick at 501-683-8017.