

## Real Estate Commission Laws and Policies

### **Compliance Corner: Establishing a Compliant Trust Account**

If taking possession of funds belonging to others in a real estate transaction, a broker in charge or property manager in charge is required to establish a properly designated Trust Account to safeguard those held funds. "Trust Account" is defined in [SC Code of Laws Section 40-57-30\(31\)](#).

[SC Code of Laws 40-57-136](#) goes further into the compliance requirements for creating, designating and maintaining trust funds. A Real Estate trust account for purposes of South Carolina compliance must:

- Be a demand deposit account.
- Be in an insured financial institution authorized to do business in South Carolina.
- Be established in the name of the company or brokerage holding the funds.
- Be designated to include the word "Trust" or "Escrow" in the account title.
- Have "Trust" or "Escrow" in the account designation of checks and statements issued in connection with the account.

#### Real Estate Trust Account Guidelines:



The Commission often receives calls from individuals who are at a bank branch and are being told that bank staff cannot or does not know how to set up a Real Estate Trust Account. The bullet points above should assist with explaining how you need to set up your account for compliance with the licensing law. The words "Trust" or "Escrow" in the account title are critical in the event of financial insolvency or default of the company as they will alert potential creditors or claimants that the funds in this account do not belong to the company.

The broker in charge or property manager in charge must maintain control and responsibility for the account if their company is taking possession of the funds. The broker in charge or property manager in charge also must be responsible for the maintenance of records relating to the accounts, all related transactions, and the monthly reconciliation of the accounts.

If the company has multiple offices, it may utilize one centralized trust account, however, there must be a responsible broker in charge or property manager in charge for this account and for account record keeping and reconciliation. Trust funds should not be commingled with other brokerage or licensee funds or be treated as an operating account.

The Commission is beginning work on an updated Trust Account Guidelines document that will be educational for licensees who are currently or who are interested in becoming a broker in charge or property manager in charge. You can view the current (original) version of the [Trust Account Guidelines](#) online.

Please note: a trust account under current law is not required to be maintained by the "In Charge" licensee if the brokerage will not be taking possession of funds and instead utilizing a third-party escrow agent such as an attorney. The use of a third-party trust agent should be agreed upon by the parties in the contracts utilized by the brokerage or management company.

## Administrator's Message — Rod Atkinson



Rod Atkinson

Licensees frequently contact Real Estate Commission staff requesting to be placed in “referral” status. The Commission does not have a “referral” license status. Your license may either be “Active” or “Inactive”. To engage in any activities for which licensure is required for compensation or with the expectation of receiving compensation, a licensee must be “Active” status and affiliated under an office.

Many brokers in charge choose to establish separate office codes with the Commission for what are called “Limited Function Referral Offices” which is defined in [SC Code of Laws 40-57-30\(15\)](#).

These offices are established for the purpose of affiliating licensees who will only be doing referral and will not be actively engaging in sales. Whether an office is “full service” or “limited function” is determined by the broker in charge or property manager in charge’s office policy.

All compensation for referrals must be paid to the brokerage or management company under which the licensee is affiliated and should not be paid directly to the licensee. Property manager licensees may not receive referral compensation on a sales transaction because sales activities are outside of the scope of the property manager license classification.

## Important News: Revised Residential Property Condition Disclosure Statement Now in Effect

Due to a 2018 legislative amendment to the [SC Residential Property Disclosure Act](#), changes to the [SC Residential Property Condition Disclosure Statement](#) were approved at the November 14, 2018, meeting of the SC Real Estate Commission. The following amendments have been made to the form:

- ◆ Roman numeral V., adds a new item number, 16: Designation as a historic building, landmark, site or location within a local historic or other restrictive district, which may limit changes, improvements or demolition of the property.
- ◆ New Roman numeral IX adds: **WHETHER THE PROPERTY IS SUBJECT TO GOVERNANCE OF A HOMEOWNERS ASSOCIATION WHICH CARRIES CERTAIN RIGHTS AND OBLIGATIONS THAT MAY LIMIT THE USE OF THIS PROPERTY AND INVOLVE FINANCIAL OBLIGATIONS.**
- ◆ The disclosure Addendum for HOAs is now attached to the same document as the main disclosure form. The Addendum page must also be completed if the seller answers YES to Roman numeral IX.

 STATE OF SOUTH CAROLINA RESIDENTIAL PROPERTY CONDITION DISCLOSURE STATEMENT 
<p>The South Carolina Code of Laws (Title 27, Chapter 50, Article 1) requires that an owner of residential real property (single family dwelling unit or a single transaction involving transfer of four dwelling units or less) shall provide to a purchaser this completed and signed disclosure statement prior to forming a real estate contract. This disclosure must be provided in connection with any sale, exchange, installment land sale, and lease with an option to purchase contract. This disclosure statement is not required in connection with transactions listed and exempted by South Carolina Code Section § 27-50-30.</p> <p>Owners should answer the questions fully, honestly, and appropriately by attaching documents, checking a box for each check box question, and writing in the blanks on this disclosure statement.</p> <p>If a question is answered “yes” or asks for a description, then owner must explain or describe the issue or attach a descriptive report from an engineer, contractor, pest control operator, expert, or public agency. If owner attaches a report, owner shall not be liable for inaccurate or incomplete information in the report unless owner was grossly negligent in obtaining or transmitting the information. If owner fails to check “yes” or make a disclosure and owner knows there is a problem, owner may be liable for making an intentional or negligent misrepresentation and may owe the purchaser actual damages, court costs, and attorney fees. If a question is answered “no” for any question, the owner is stating that owner has no actual knowledge of any problem.</p> <p>If a question is answered “no representation” for any question, owner is stating that owner is making no representation regarding the conditions or characteristics of the property, but owner still may have a duty to disclose information that is known or should have been known.</p> <p>If a question is answered and subsequently new information is obtained or something changes to render the owner’s answer incorrect, inaccurate, or misleading (example: roof begins to leak), owner must promptly correct the disclosure. In some situations, the owner may notify the purchaser of the correction. In some situations, the owner may correct or repair the issue.</p> <p>If owner is assisted in the sale of property by a real estate licensee, owner remains solely responsible for completing and delivering this disclosure statement to the purchaser. The real estate licensee must disclose material adverse facts about the property if actually known by the licensee about the issue, regardless of owner responses on this disclosure. Owner is solely responsible to complete this disclosure as truthfully and fully as possible. Owner and purchaser are solely responsible to consult with their attorneys regarding any disclosure issues. By signing below, owners acknowledge their duties and that failure to disclose known material information about the property may result in owner liability.</p> <p>Owner must provide the completed disclosure statement to the purchaser prior to the time the owner and purchaser sign a real estate contract unless the real estate contract states otherwise. Owner should provide a signed copy to the purchaser and keep a copy signed by the purchaser.</p> <p>A real estate contract, not this disclosure, controls what property transfers from owner to purchaser.</p> <p>Property Address (including unit # or identifier) _____</p> <p>Owner: ( ) ( ) Purchaser: ( ) ( ) acknowledge receipt of a copy of this page which is page 1 of 5.</p> <p style="text-align: center;">REV. 11/2018</p>

The new [form](#) became effective as the only Commission-approved version on January 1, 2019.

## LLR's Farr Continues to Lead Agency

Governor Henry McMaster has announced that Emily H. Farr will continue serving as LLR's director.

Farr was first appointed to her position by former Governor Nikki Haley in August 2016 and was confirmed by the SC Senate on March 8, 2017.

"Director Farr has proven that she is the right person for the job, and I am grateful for her continued service to our great state," McMaster said.

McMaster noted that LLR's POL Division is piloting new licensure application and payment processes with a goal of reducing approval times. These new processes already have cut printing costs by 50%, and 88% of POL licensees now renew online.

"I am thankful to Governor McMaster for his continued support," Farr said. "I am excited to continue serving as LLR's director and look forward to building on the Agency's successes as we carry out our vision of making South Carolina a safe place to work and live."



Director Emily Farr



## David A. Crigler Real Estate Commission

*The SC Real Estate Commission and LLR Staff would like to thank David A. Crigler for his years of dedicated service to the Commission and the State of South Carolina. Crigler has served as both Chair and Vice Chair of the Commission and will vacate his seat as the Commission's 4<sup>th</sup> Congressional District Representative in January of 2019.*

**Profession:** COO and EVP, Berkshire Hathaway HomeServices, C. Dan Joyner REALTORS.

**Term of Service:** Served for eight years (two terms).

**Education/Training:** I have been in the real estate business since 1988, initially as a sales associate, then to Broker in Charge, Senior Vice President and currently Executive Vice President of Sales, and COO.

**Personal Life:** I was born and raised in Charlotte. After graduating from Myers Park High School in 1976, I entered the University of South Carolina, graduating in 1980. While there, I met and married Beth Joyner, just celebrating our 38<sup>th</sup> anniversary in December, 2018. Beth is a second generation REALTOR, and currently all of our children hold a real estate license and work for the family business. Our down time is spent hanging out with the family, especially the eight "grands", whether at home, the coast, or the mountains. Serving on the Real Estate Commission has been a privilege and a pleasure.



SC LLR – [Twitter](#), [Facebook](#)

State Fire – [Twitter](#), [Facebook](#)

Fire Safe SC – [Twitter](#), [Facebook](#)

SC OSHA – [Twitter](#)

SC Real Estate Commission - [Facebook](#)

## Commission Members

**Candace W. Pratt (Chair)** – 1<sup>st</sup> Congressional District (Charleston)

**William A. “Andy” Lee (Vice Chair)** – 3<sup>rd</sup> Congressional District (Seneca)

**David C. Lockwood, III** – 2<sup>nd</sup> Congressional District (Columbia)

**David A. Crigler** – 4<sup>th</sup> Congressional District (Greenville)

**John D. Rinehart** – 5<sup>th</sup> Congressional District (York)

**Janelle S. Mitchell** – 6<sup>th</sup> Congressional District (Orangeburg)

**Scott McNew** – 7<sup>th</sup> Congressional District (Myrtle Beach)

**Wayne Poplin** – At Large Member (Charleston)

**Johnathan Stackhouse** – Public Member (Columbia)

## Frequently Asked Questions By Licensees

### How do I transfer, inactivate and reactivate my license?

There are forms which allow you to perform most of these functions on the Commission's [website](#).

**Inactive Status/Disassociation of licensees:** A licensee can request to be placed on “inactive status” by completing document [#200](#).

A Broker in Charge or Property Manager in charge may request the removal of associated licensees with a signed letter identifying themselves and the licensees they wish to disassociate, or an email from their email address of record with the Commission.

**Transfers:** Transfers from one company office to another can be done online through online services or with document [#200](#), which can be mailed or emailed. A licensee currently on inactive status cannot transfer and must instead fill out a request for license reactivation form [#210](#).

**Reactivations:** This form is document [#210](#). It must be signed by the Broker or Property Manager in Charge and mailed to the Commission with a \$10 reactivation fee. You also must include copies of recent continuing education certificates, if required.



### How do I change contact information?

**Personal Name or Contact Information Changes:** Document [#190](#) is the personal name or address change form. The form must be completed and submitted with a \$10 fee and legal documentation of the name change. You must be licensed in your legal, government name. Other contact information changes require completion of the form with no fee. This form can be mailed or emailed (if not a legal name change) to the Commission.

**Office/Company Office Name Address Changes:** This is accomplished by completing document [#180](#). It must be completed and signed by the Broker in Charge or the Property Manager in Charge. It also must be submitted with a check or money order. The fee for this action is \$10 per associated licensee with a maximum fee of \$250 per office.

For more information: [Contact.REC@llr.sc.gov](mailto:Contact.REC@llr.sc.gov).

# LLR Celebrating 25th Anniversary

February 1 will mark 25 years since the SC Real Estate Commission and 37 other boards merged with the SC Department of Labor, the State Fire Marshal and the SC Fire Academy to form the SC Department of Labor, Licensing and Regulation.

LLR was created as part of state government restructuring, which was led by Governor Carroll Campbell in 1993. The legislature adopted the restructuring act as a way to inject more accountability into government.

Virgil Duffie Jr. was the first LLR Director. He gathered his executive staff at his Columbia home to develop plans to consolidate the boards and the Department of Labor, State Fire Marshal and SC Fire Academy. This was no easy task as all of the individual agencies had been independent.

As for the boards, Duffie and his staff had to figure out how to bring them under one roof and how to consolidate processes and computer systems. Some boards had executive directors, staff and offices, others were run by management companies, and a few were operated out of the homes or offices of board members. Some records were computerized, others weren't.

"LLR appreciates the opportunity to assist the Real Estate Commission as it carries out its duties of licensing competent individuals and taking disciplinary action when appropriate against a licensee," LLR Director Emily Farr said. "We also appreciate the service of each board member to the State of South Carolina, and the hard work and dedication of Commission employees."

## Legislative Session Begins; New Liaison is on the Job

On Tuesday, January 8, 2019, the General Assembly returned to Columbia for the first year of the two-year 2019-2020 legislative session.

All pre-filed legislation is currently being reviewed by the Agency's Governmental Affairs team to ensure Real Estate Commission members and staff are kept informed on matters affecting their professions.

Katie Phillips was hired in December as LLR's new Director of Business and Governmental Affairs. Before joining LLR, Phillips served as a legislative liaison for the SC Department of Health and Environmental Control (DHEC) for three years. Prior that, she served as an attorney for Malone, Thompson, Summers &



Katie Phillips

Ott, LLC representing state and local government agencies and private employers, and as a law clerk for the S.C. Senate Judiciary Committee. Phillips also worked as an environmental consultant for several years before attending law school.

Phillips earned her bachelor's degree in geography from the University of Western Australia, and her master's degree in marine science and law degree from the University of South Carolina.

"LLR is fortunate to have someone of Katie's education and experience leading the Agency's legislative services," Holly Beeson, Counsel to the Office of Communications and Governmental Affairs, said. "She knows the legislative process and the members of the General Assembly, so she won't miss a beat."

## Did You Know...

In fiscal year 1996-1997, the Real Estate Commission had **29,988** licensees.

Today, the Commission has **52,511** licensees.

# LLR Welcomes New Finance and Procurement Director

Abhijit "Abhi" Deshpande joined LLR as the new Director of Finance and Procurement, effective January 2, 2019. He replaces Laura Pace, who retired.

Deshpande is a seasoned business leader with more than 10 years of experience in finance administration, budgeting and forecasting, strategic planning, business analytics and operational innovation in private and public sectors.

Prior to joining LLR, Deshpande was the Statewide Performance Improvement Manager with the SC Department of Administration's Executive Budget Office, where his roles included managing financial accountability and performance management initiative to integrate statewide budget, financial controls and program performance.

"I'm thrilled with the challenges and opportunities that this position brings in to improve LLR's financial operations, to foster agency-wide fiscal accountability, and to implement higher-level strategic financial planning to meet the needs of the Agency's divisions and diverse programs," Deshpande said.

Deshpande has a Bachelor of Commerce Degree from the University of Pune and an MBA in finance from Babson College, where he served as the Vice President of Graduate Student Council. In addition, he is inducted as a member of the international business honor society, Beta Gamma Sigma.

Deshpande is an avid runner, a globetrotter and enjoys spending time on outdoor activities. He lives in the Ballentine area with his wife, one-year-old daughter and a dog. He also serves as the vice president of his neighborhood homeowner's association.



Director Farr and Abhijit "Abhi"  
Deshpande

## Visit the Commission's Website

[llr.sc.gov/POL/REC/](http://llr.sc.gov/POL/REC/)

### Website Features

[SC Real Estate Laws and Regulations](#)

[Licensee Lookup](#)

[Board Orders/Disciplinary Actions](#)

[Applications and Forms](#)

[Meeting Minutes](#)

### Course Calendars

[Pre-licensing Course Calendar](#)

[CE Course Calendar](#)

### Continuing Education

[CE Requirements and Exemptions](#)

[CE BROKER – CE Tracking Database](#)

## LICENSING QUESTIONS?

Do you have a question regarding licensing or renewals?

Before you contact the Board of office, check out the links listed below to see if your question is answered in the licensing and renewal FAQ documents.

If not, contact the Commission at: [Contact.REC@llr.sc.gov](mailto:Contact.REC@llr.sc.gov).

[REC Licensing FAQ](#)

[REC Renewal FAQ 2018](#)

[REC Online Account Login](#)

For more information:

[Contact.REC@llr.sc.gov](mailto:Contact.REC@llr.sc.gov).