

November 2021

HOT TOPIC ALERT

LICENSING REQUIREMENTS AND CONSIDERATIONS IN THE REAL ESTATE INDUSTRY



Real estate agents and brokers help clients to buy, sell, and rent properties. In most states, brokers are licensed to manage their own real estate businesses, while agents must work under a broker. Every state requires agents and brokers to hold a license. The eligibility requirements for licensure vary state by state. The requirements typically include approved coursework and a licensing exam. There are more than [3 million active real estate licensees](#) in the U.S.

Why is licensure required?

Buying or selling property is a complex business. People often seek help from real estate brokers and agents for property transactions. Each state has a regulatory real estate board or commission that governs licensing requirements for real estate professionals, issues licenses, and monitors compliance. These licensing frameworks are designed to protect the public by ensuring that the real estate professionals have a basic level of competence and obey the law.

Licensure requirements

Any person engaging in a real estate transaction as an agent for another must be licensed. This usually means that the person holds a real estate license issued by the state or territory where the transaction takes place. It could also mean that the person is licensed in another jurisdiction, and the state or territory where the transaction is taking place recognizes the license through reciprocity.

I. Agents

An [agent](#) (also referred to as an associate broker or salesperson in some states) is a person licensed to help others buy, sell, and rent real estate. The agent must work under the authority and supervision of a sponsoring broker or brokerage firm. The job description and licensure requirements for brokers are further described below.

Agents generally represent either buyers or sellers. Those representing sellers are usually called listing brokers or listing agents. Their services include helping set listing prices, guide owners through putting their property on the market, list the property on local [Multiple Listing Services](#) (MLS), advertise and market the property, negotiate sales on behalf of the owners, and file the required documents of sale.

Agents representing buyers, called buyer's agents, provide services which include helping find prospective properties for the buyer, arrange appraisals and inspections, and negotiate sales on behalf of the buyers, as well as filing the required documents of sale.

In order to earn a license as an agent, in general, a person must:

- Be at least 18 years old;
- Be a legal resident of the U.S.;
- Complete the required training, usually a minimum of 30 to 90 hours of classroom instruction in real estate fundamentals from an accredited provider;
- Pass the state real estate license exam, usually covering real estate standards and practices, plus national and state real estate law;
- Complete a criminal background check and/or submit fingerprints;
- Pay an annual license fee;
- Receive sponsorship from a licensed real estate broker; and
- Maintain the license by completing required continuing education every 1 or 2 years.

The fingerprinting and criminal background check requirements are one way of protecting against unethical behavior by real estate licensees. In California, for instance, applicants are expected to show "honesty and truthfulness." [Cal. Bus. & Prof. Code § 10152\(a\)](#). In Utah, the licensee must demonstrate financial responsibility as well as "good moral character, honesty, integrity, and truthfulness." [Utah Code § 61-2c-203\(1\)](#).

II. Brokers

A [broker](#) (also referred to as a managing or supervisory broker) performs many of the same functions as an agent. However, brokers have additional training and licensing enabling them to work independently, own their own brokerage firms, and hire agents to work under their supervision. A person who wants to become a broker generally needs several years of experience as a licensed agent and additional specialized education before becoming eligible to take the broker exam. However, in some states a college degree may take the place of some experience or training requirements.

III. Related professions

There are a number of real estate professions associated with agents and brokers. For instance, [real estate office assistants](#) are unlicensed professionals who assist at real estate offices with matters such as managing listings, coordinating transactions, administration, and marketing. [Transaction coordinators](#), who are also generally unlicensed, assist in real estate transactions by processing listings and overseeing transactions from initial contact to finalization of the purchase agreement. [Appraisers](#), on the other hand, are licensed professionals who provide opinions about the value of real property. All states require appraisers to be licensed or certified.

Another professional in this area, but one who is not directly involved in the sale of property, is the home inspector. [Home inspectors](#) examine the physical structure and systems of a house in order to issue an inspection report. [Qualification requirements for home inspectors vary by state](#). In general, the home inspector must be licensed or be a member of a national home inspector association, such as the [American Society of Home Inspectors](#) or the [International Association of Certified Home Inspectors](#).

Education

I. Pre-licensing education

Agents and brokers must complete state education requirements to be eligible for licensure. Most states require accredited licensing courses, but some states waive these courses if the candidate has taken university coursework in real estate.

Pre-licensing education requirements vary considerably from state to state. For instance, in [New York](#), an agent (known in that state as a salesperson) must complete an approved course of 75 hours. The [pre-licensing curriculum](#) includes 19 subjects, such as license law and regulations, the law of agency, and legal issues relevant to the profession. A prospective broker in New York, after earning two years of experience as an agent (or three years in the general real estate field), must complete an additional 45 hours of approved broker courses.

In [Tennessee](#), the agent (known as an affiliate broker) must complete 60 hours of approved coursework in real estate principles and fundamentals before taking the licensing exam. After passing the exam, the Tennessee applicant must take a 30-hour "[Course for New Affiliates](#)" which

include topics such as listings, agency, contracts, fair housing, antitrust, risk reduction, state laws, property management, ethics, etiquette, and finance. Prospective brokers in Tennessee must complete a total of 120 hours of approved education, including at least 30 hours in office management and broker management.

Some pre-licensing education includes a [fair housing](#) requirement. At present, 25 jurisdictions require pre-licensing training in fair housing for brokers, and 27 jurisdictions make pre-licensing fair housing training mandatory for salespersons. Fair housing law should be an important component of training for all real estate professionals. The Fair Housing Act prohibits discrimination in the sale, rental, or financing of dwellings and in other housing-related activities on the basis of race, color, religion, sex, disability, familial status or national origin. [42 U.S.C. § 3601 et seq.](#) Many states also have their own fair housing laws. The prohibition on discrimination extends to [all areas of agents' and brokers' work](#), from advertising and marketing, working with buyers and sellers, and customer service, to working with mortgage lenders, other brokers, and industry professionals.

II. Continuing education

In order to maintain a real estate license, agents and brokers must complete [continuing education](#) (CE) courses. The time frames and requirements for completing CE vary from state to state, as can be seen from the following examples.

For instance, in [Alabama](#), both agents (referred to as salespersons) and brokers must complete 15 hours of approved CE every 2 years, including 3 hours in risk management. Alabama salespersons must also complete a 30-hour post-license course within the first 6 months of active licensure.

In [California](#), the CE requirements are considerably more complex. Agents (also referred to in California as salespersons) renewing their licenses for the first time must complete 45 hours of approved CE, including: three hours each on ethics, agency, trust fund handling, fair housing, and risk management; at least 18 hours on consumer protection; and other approved coursework related either to consumer service or consumer protection. California brokers renewing for the first time must complete the same CE hours and subjects, plus three hours in management and supervision. For second and subsequent license renewals, California salespersons and brokers must complete 45 hours of approved CE courses, including: eight hours total on ethics, agency, trust fund handling, fair housing, risk management, and management and supervision; and consumer protection and consumer coursework as required for the first renewal. California also provides that salespersons and brokers can petition for equivalent real estate coursework at a college or university to qualify for CE credit.

In [Minnesota](#) (where agents are also referred to as salespersons), CE requirements must be completed before June 30 each year. The CE for Minnesota salespersons must include 15 hours each license year, including a specific general module CE course and at least one hour each in: laws or regulations on agency representation and disclosure (agency law); and state and federal fair housing and antidiscrimination requirements, or courses designed to help licensees to meet the housing needs of immigrant and other underserved populations (fair housing). Brokers must also complete this CE, including the specific general module and a specific broker module.

Additionally, Minnesota has a “[commercial-only exemption](#).” Salespersons and brokers who have verified that they are engaged solely in the commercial real estate business are exempt from the CE requirements on agency law, fair housing, and the specific module training.

With the arrival of the COVID-19 pandemic in mid-2020, many states extended or temporarily suspended CE deadlines (see, e.g., California’s renewal and exam [deadline extensions](#), all of which expired by June 30, 2021). However, by mid-2021, most CE providers had moved to online course offerings (see, e.g., the [course schedule](#) of the [New York State Association of REALTORS](#)).

Certification/approval of schools or training

The education systems offered for pre-licensure and CE are also subject to state regulations. Most states require real estate instructors, schools, and courses to be certified or approved. States often grant approval to schools and courses that have been vetted and approved by organizations such as the [Association of Real Estate License Law Officials](#) (ARELLO) or the International [Distance Education Certification Center](#) (IDECC). NAR also offers a range of [approved CE courses](#) online.

Two examples of state approval mechanisms for real estate educators follow. The [Florida Real Estate Commission](#) (FREC) requires operators of real estate schools and real estate instructors to hold valid permits. [Fl. Stat. § 475.451](#).

Florida real estate instructors must meet the following [requirements](#):

- Hold a valid, Florida broker's license for a prescribed number of years;
- Hold a bachelor's degree in a business-related field;
- Pass an FREC-approved exam; and
- Complete at least 7 hours of FREC-prescribed CE on either instructional techniques or real estate.

As for individual courses, the FREC has established an Education and Research Foundation which assists in developing course materials in real estate offered by universities, colleges and registered real estate schools. [Fla. Stat. § 475.045](#). The licensure requirements for agents and brokers specify that their pre-licensure coursework and CE shall be either pre-approved courses, or a course that the FREC finds is “adequate to educate licensees.” [Fla. Stat. § 475.182](#).

The [Pennsylvania Real Estate Commission](#) (PREC) requires [real estate education providers](#) to obtain Commission approval. The PREC also requires education providers to post a \$10,000 surety bond “for the protection of the contractual rights of the real estate education provider’s students.” [49 Pa. Code § 35.341](#). Additionally, the director of an education provider must obtain approval by demonstrating that he or she possesses a combination of experience in teaching, supervision, and educational administration adequate to enable the director to evaluate instructor performance and curriculum and course content, analyze course examinations, and manage records and facilities. [49 Pa. Code § 35.342](#). Individual instructors are not required to hold permits. However, the education provider is obliged to employ instructors who have:

- An undergraduate, graduate, or postgraduate degree in the subject to be taught; and
- 3 years of practical or teaching experience directly related to the subject to be taught.

[49 Pa. Code § 35.353](#).

With respect to pre-licensure and CE courses, the PREC indicates that agent and broker pre-licensure education shall include either approved university degrees, or PREC-developed or approved courses. [49 Pa. Code §§ 35.271, 35.272](#). Approved CE providers may be accredited colleges or in- or out-of-state approved real estate education providers. [49 Pa. Code § 35.385](#). The PREC has also developed [course outlines](#) for approved education providers to follow.

REALTORS ®

About half of all licensed real estate agents and brokers in the U.S. also belong to the [National Association of Realtors \(NAR\)](#). NAR members (referred to as REALTORS) are held to ethical standards and receive training above and beyond state licensing requirements. REALTORS also include other types of real estate professionals, such as home appraisers, property managers, and real estate counselors. In order to become a REALTOR, the professional must take an online course and exam on NAR's [Code of Ethics and Professional Standards](#), with refresher courses every 4 years. The core of NAR's membership requirement is adherence to these codes and standards.

Requirements for membership in local NAR associations vary. But the [basic requirements](#) for becoming a REALTOR are:

- An active real estate license;
- Active engagement in the real estate business;
- A clear civil and criminal legal history for the last 7 years;
- No pending bankruptcy;
- No professional sanctions;
- Agreement to abide by the NAR [Code of Ethics and Professional Standards](#);
- Completion of an orientation course; and
- Payment of membership dues.

The agreement to abide by the Code of Ethics and Professional Standards is important for a number of reasons. That agreement, along with the requirements of a clear legal record and no professional sanctions, demonstrates NAR's promise of the highest ethical standards. Because of those high ethical standards, REALTORS are committed to going above and beyond the minimum duties in the practice of their profession. This means doing more than the legal requirements for their profession, but doing their utmost to serve their clients, always acting within the bounds of the law and ethical business practices. These ethical standards, beyond being good in themselves, are also a sound business practice. REALTORS enjoy a good reputation for professionalism and high ethical standards that can bring them clients.

REALTORS also enjoy a number of other [benefits of NAR membership](#). These benefits include national networking opportunities, conferences, specialty training, CE, and access to members-

only materials such as specialized research reports. REALTORS also benefit from NAR lobbying and advocacy at state and federal levels for improved legal protections for real estate professionals. Special insurance rates and marketing resources are also available for REALTORS.

Disciplinary actions

Real estate professionals have ethical and fiduciary duties to put the interests of their clients and customers first. Laws and regulations governing the relationship between agents, brokers, and their clients ensure that the agent or broker:

- Acts with reasonable skill and care;
- Promptly presents all offers and counteroffers;
- Discloses material information; and
- Acts in the best interest of the client or customer.

Discipline within the profession is an important function of the licensing requirement. Agents and brokers are required to follow federal and state law as well as the local rules of professional conduct. Regulatory boards and commissions have the power to enforce these duties by investigating violations of these requirements. Penalties can include imposing additional education requirements or practice supervision, license suspension or revocation, and even criminal proceedings. Disciplinary decisions identifying the violator by name are usually published on the website of the real estate board or commission.

Escrow violations and mishandling client funds are among the most common violations. There are multiple steps in the escrow process and agents and brokers must carefully abide by their duties or risk disciplinary action.

For instance, in Nebraska, which publishes summaries of [disciplinary decisions from 1990 to the present](#), common escrow violations include:

- Failure to obtain written consent to pay money from the escrow/trust account before closing;
- Failure to maintain a separate trust account; and
- Failure to maintain an accurate bookkeeping system for the trust account; and
- Failure to account for and remit money coming into the agent's possession belonging to others.

A potential area of disciplinary issues is fair housing. All parties associated with a property transaction are required to observe fair housing laws. Fair housing means it is illegal to do things like the following because of a person's membership in a protected class (and in some cases because of the neighborhood where a home is located):

- Refuse to sell a property;
- Steer potential buyers away from particular neighborhoods;
- Restrict loans or target higher cost loans to a person;
- Restrict or target homeowners insurance coverage; and

- Provide different services and opportunities to people.

Many states require fair housing language to appear in documents such as real estate agency consumer guides, representation agreements, and brokerage forms, informing potential customers and customers of their rights. Failure to include the required fair housing language in documents may lead to disciplinary action.

Housing discrimination allegations are serious and may also result in revocation of a license. Anyone harmed by a housing transaction can file a fair housing complaint. Enforcement agencies are also authorized to file complaints; however, despite the seriousness of the violation, disciplinary action is rarely taken for fair housing violations. For instance, after a newspaper's independent investigation into bias against minority home shoppers in Long Island, New York, the New York Department of State [moved to suspend or revoke](#) the licenses of 18 agents and 3 real estate education instructors for fair housing violations. Despite the state's efforts, only [one licensee faced discipline](#), and the cases against two others were dismissed by the court. Investigations against other licensees are reportedly ongoing.

According to NAR, [10 of the top violations](#) that can cost a practitioner their license, include:

1. Misrepresentation (e.g., misstating some material feature of the property);
2. Failure to disclose (e.g., failing to follow environmental disclosure requirements);
3. Mortgage fraud (e.g., overvaluing property leading to an inflated mortgage, or reworking a deal so the buyer borrows a little extra beyond the cost of the house itself to cover the down payment);
4. Criminal conviction or failure to disclose a criminal conviction (many states automatically revoke a license if the licensee is convicted of certain crimes);
5. Failure to cooperate with investigators;
6. Incompetence (e.g., failure to perform duties to such an extent that a client is injured);
7. Lack of supervision of agents by a broker;
8. Undisclosed dual agency (e.g., representing both the buyer and the seller on a transaction);
9. Unlicensed practice of law (e.g., drafting complex contracts without attorney review); and
10. Failure to meet licensing requirements (e.g., paying renewal fees and completing CE).

License reciprocity

Licenses typically may not be transferred from one state to another. Some states are willing to recognize licenses issued by other states. Many states have [reciprocity](#) agreements to accept licenses from out of state if the licensee meets certain requirements, such as holding an active license and being in good standing in the original state. Other reciprocity requirements might include additional course hours, years of experience, and passing the state-portion of the host state's real estate exam.

For instance, [Colorado](#) offers license reciprocity for all 50 states. This means, for instance, that a broker who has held for at least two years a non-expired license from another state does not need to re-take all real estate courses and exams in order to practice in Colorado. Instead, to obtain a Colorado broker license, a qualified out-of-state applicant must:

- Pass the state portion of the Colorado broker's exam;
- Complete a fingerprint background check; and
- Provide a license history (including any disciplinary actions).

If the applicant has less than two years of active experience, he or she may fulfill the above requirements for an associate broker credential in Colorado.

Other states, such as [Texas](#), do not offer any license reciprocity, meaning that a licensee from another state must complete all of the required pre-license courses for Texas and pass the full Texas exam in order to practice there.

Trends in licensure

Real estate licensing requirements are updated frequently to reflect legal changes and to advance the goal of enhancing the quality of service provided by real estate professionals. In [Illinois](#), for instance, recent changes in the Real Estate License Act of 2000 ([225 ILCS 454](#)) decreased the pre-license broker education requirements from 90 hours to 75 hours, but increased post-license requirements from 30 hours to 45 hours. The idea behind the change was to reduce the initial course load to enable new licensees to start more quickly with real-world practice, while focusing more intensively on post-license supervision and education. The restructuring of the law in Illinois also requires managing brokers to oversee certain critical aspects of real estate transactions undertaken by new licensees, including handling of escrow funds and earnest money and negotiation of contracts.

It is critical for all licensees to follow their state requirements and keep track of updates. [State and local REALTOR associations](#) are the premier source of news on these developments. NAR's [State Issues Tracker](#), available to all active REALTORS, also provides up-to-date information on licensing requirements and licensing reciprocity across the U.S. Additionally, ARELLO maintains a list of the [licensing authorities for each state and territory](#).

NAR licensure activities

NAR keeps its members informed about new developments in licensure, including issues like real estate laws, compliance regulations, and risk management. NAR also develops and offers training in essential areas such as [fair housing](#), in order to train its members on how to promote compliance and observe best practices in areas such as creating advertisements and responding to clients. NAR has also developed a set of best practices around fair housing provisions of licensure laws that it has made available to state associations.

Additionally, as part of the commitment to uphold the highest standards of ethical conduct, in November 2020, NAR [updated its Code of Ethics](#) to address discriminatory speech and conduct

by real estate professionals. The update adds [Standard of Practice 10-5](#), prohibiting REALTORS “from using harassing speech, hate speech, epithets, or slurs based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity, in any context.” This is a significant stand by NAR to advance fair housing for all.

Conclusion

Licensing requirements promote professionalism in real estate transactions. These transactions are often complex, involving matters such as property law, financing, contract negotiation, and environmental and building regulations. These issues are often beyond the knowledge and experience of the average member of the public. For these reasons, real estate clients and customers put their trust in real estate professionals to help them with buying, selling, and renting property. State regulatory agencies protect this relationship by granting real estate licenses and taking disciplinary actions against licensees when needed. This ensures that real estate professionals receive the necessary training, demonstrate and maintain competency, and uphold ethical standards.

Additional Resources

[Association of Real Estate License Law Officials](#) (ARELLO) – an international association of official governmental agencies and other organizations that issue real estate licenses or registrations and regulate real estate practices, it certifies distance education programs and accredits examination providers, and maintains a webpage of regulatory agencies and rules covering the U.S. and international locations.

[NAR State Issues Tracker](#) – available to all active REALTORS, this tool provides up-to-date information on licensing requirements and licensing reciprocity across the U.S.

[NAR CE Requirements page](#) – offers summaries of CE requirements for all 50 states.

[NAR “Fairhaven”](#) – simulation training that helps REALTORS identify, prevent, and address discriminatory practices and fair housing violations in real estate.

[NAR Membership Qualification Criteria](#) – a guide for real estate professionals wishing to join the U.S.’s largest trade association, an ally to REALTORS in all aspects of the residential and commercial real estate industries.

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Questions or concerns contact Melissa Horn
Email: MHorn@nar.realtor
Phone: 202-383-1026

ADDITIONAL STATE & LOCAL RESOURCES

White Papers: Comprehensive reports prepared for NAR on issues directly impacting the real estate industry. Examples include: Rental Restrictions, Land Banks, Sales Tax on Services, State & Local Taxation, Building Codes, Hydraulic Fracturing, Foreclosure Property Maintenance, Climate Change, Private Transfer Fees.

Growth Management Fact Book: Analysis of issues related to land use and modern growth management topics include density — rate of growth, public facilities and infrastructure, protection of natural resources, preservation of community character, and affordable housing.

All available on [REALTOR® Party webpage](#) under the *State & Local Issues* tab.