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United States • Georgia Real Estate Salesperson License Exam

Georgia

Study Guide

KNOWLEDGE POINTS	CHAPTERS	EDITION
75	11	2026-10-18

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Edition 2026-10-18 • 75 knowledge points • 11 chapters

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CHAPTER 1

Rules 520-1-.01–.05: Organization, definitions, Commission operations, obtaining and maintaining a license

1.1 Key Definitions for Brokerage Practice

A 'brokerage engagement' is a written contract wherein a seller, buyer, landlord, or tenant becomes the client of the broker and promises valuable consideration (examples: exclusive listing, open listing, buyer broker agreement, property management agreement). A 'client' has entered a brokerage engagement; a 'customer' has not but may receive ministerial acts. A 'dual agent' simultaneously has a brokerage relationship with both parties (seller/buyer or landlord/tenant) in the same transaction. 'Ministerial acts' require no discretion or judgment. A 'firm' is a sole proprietorship, partnership, LLC, or corporation licensed as a broker.

- ✓ A brokerage engagement must be a written contract creating a client relationship
- ✓ A client has a brokerage engagement; a customer receives only ministerial acts
- ✓ A dual agent represents both parties in the same transaction
- ✓ Ministerial acts do not require the licensee's discretion or judgment

1.2 Broker License Experience Requirement

To become a broker or associate broker, an applicant must show proof of holding an active license for at least three of the five years immediately preceding the application. When another jurisdiction cannot certify the full period, the candidate must show the experience was obtained within the prior five years and that the former jurisdiction certifies licensure at some time in those five years; other credible evidence (transaction files, broker affidavits) may then be considered.

- ✓ Broker/associate broker applicants must have held an active license for 3 of the past 5 years
- ✓ Out-of-state applicants must present an original certification of licensure issued within the prior 12 months
- ✓ Credible evidence such as transaction files and broker affidavits may supplement incomplete jurisdictional records

1.3 Salesperson Post-License and Continuing Education

A new salesperson must complete a 25-hour post-license course within one year of original licensure (up to 18 months with the statutory extension). To renew an active license, licensees must complete 36 hours of continuing education per renewal period, including at least 3 hours on license law (effective July 1, 2016). A salesperson who lets the license lapse for failing post-license education may reinstate only as provided by statute.

- ✓ Salespersons must complete a 25-hour post-license course within one year of licensure
- ✓ Active renewal requires 36 CE hours per renewal period
- ✓ At least 3 of the 36 CE hours must cover license law

1.4 Active vs. Inactive License Status

Every active associate broker, salesperson, and CAM must be licensed under one active Georgia broker at a time. A new salesperson or CAM may not begin brokerage activity until the broker receives the wall certificate. Inactive licensees may perform brokerage activity only on real estate they solely own. A licensee may not go inactive to perform brokerage work for an unlicensed employer; to do so they must surrender the license and requalify as an original applicant.

- ✓ An active licensee may work under only one Georgia broker at a time
- ✓ Inactive licensees may only perform brokerage activity on real estate they solely own
- ✓ A licensee cannot be inactive and perform brokerage work for an unlicensed employer

1.5 Reinstatement of a Lapsed License

A license lapsed under two years may be reinstated by paying the Rule 520-1-.04(1) fees plus completing any CE that would have been required. Between two and five years lapsed, reinstatement to active status requires the appropriate prelicense course (taken within one year prior). A license lapsed over five years requires requalifying as an original applicant. Alternatively, a licensee may reinstate by retaking and passing the qualifying exam including the national portion.

- ✓ Under 2 years lapsed: pay fees and complete missed CE to reinstate
- ✓ 2 to 5 years lapsed: complete the appropriate prelicense course within the prior year
- ✓ Over 5 years lapsed: requalify as an original applicant

1.6 Agency and Instructional Hour Definitions

'Agency' means every relationship in which a real estate broker acts for or represents another by that person's express authority in a real property transaction. An 'instructional hour' equals at least 50 minutes of instruction or learning activity. 'Timely' means a reasonable time under the circumstances. 'Bank' means a federally regulated financial institution authorized to provide federally insured checking accounts.

- ✓ Agency requires express authority to act for another in a real property transaction
- ✓ An instructional hour is at least 50 minutes
- ✓ A bank for GREC purposes must offer federally insured checking accounts

1.7 License Fees and Renewal Period Structure

Individual and firm original licenses run to the applicant's birth month in the fourth calendar year after activation (firms to the fourth anniversary month). Activation fee is $45 for individuals (broker, associate broker, salesperson, CAM) including $20 for the Recovery Fund; $75 for firms/schools/instructors including $20 for the Fund. Four-year renewal fees are $125 (paper) or $100 (online). Reinstatement of a lapsed license costs an added $100 within four months, and more thereafter. A $25 fee applies for failing to notify the Commission within 30 days of address, trust account, or company changes. A $100 fee applies for a returned check or a disputed charge causing a chargeback.

- ✓ Individual activation fee is $45 (incl. $20 Recovery Fund); firm/school/instructor is $75 (incl. $20)
- ✓ Four-year renewal is $125 paper or $100 online
- ✓ $25 fee for failing to notify GREC within 30 days of a change of address, trust account, or affiliation
- ✓ $100 fee for a returned check or a disputed charge resulting in a chargeback

1.8 Examination Requirements and Reciprocity

Candidates must pass a Commission-approved examination scored by psychometrically sound methods. A candidate who moved to Georgia or seeks nonresident licensure may be granted a license without further exam/education if the other state's certification (issued within 12 months) shows they passed the exam, met all education requirements, are in good standing, and have had no disciplinary action; otherwise they must take the Georgia exam. Supplying exam content to others without authorization is grounds for denial or sanction.

- ✓ Reciprocal licensure requires an original certification (issued within 12 months) showing exam passage, education completion, good standing, and no discipline
- ✓ A candidate with disciplinary history or convictions in another state must take and pass the Georgia exam
- ✓ Improperly disclosing exam content is grounds for denial or sanction under 43-40-25

1.9 Application Filing and Completeness Rules

Applications must be on Commission-approved forms. They may be filed by personal delivery, USPS mail, private courier, or by fax/email only if no fee is required. The effective filing date is the USPS postmark (if mailed) or the date GREC receives it; the applicant bears the burden of proving timely filing. An application is incomplete if it lacks the fee, required documents, biographical data, signatures, or legible responses. Failing to disclose any criminal conviction or disciplinary action may constitute a falsified application.

- ✓ Fax/email filing is allowed only when no fee is due
- ✓ Filing date is the USPS postmark if mailed, otherwise the GREC receipt date
- ✓ Failure to disclose any conviction or disciplinary action may constitute a falsified application

1.10 Criminal History and Conviction Disclosure

No more than 60 days before applying, each candidate must obtain and attach a certified GCIC criminal history report; non-Georgia residents must obtain an equivalent report from their resident jurisdiction, and an FBI/FCIC report may be required if a record appears or a state report is unavailable. Applicants revealing a criminal conviction must supply certified copies of the charging document and the sentence; those with prior discipline must supply the allegations and the final order.

- ✓ A certified criminal history report must be obtained within 60 days before applying
- ✓ Applicants with convictions must supply certified copies of the charging document and the sentence
- ✓ Applicants with prior discipline must supply the allegations and the final order

1.11 Preliminary Decisions and Denial Hearings

An individual with a prior conviction or discipline may request a non-binding preliminary decision before completing education and exams; an unfavorable preliminary decision does not prevent becoming an applicant, and any license denial requires notice and a hearing. After a denial, the applicant has 60 days to request a formal hearing in writing; failing to do so, or losing the hearing, causes the application to lapse and requires re-examination and new fees to reapply.

- ✓ Preliminary decisions on convictions/discipline are advisory and not binding
- ✓ A denied applicant must request a formal hearing within 60 days
- ✓ Failing to request a hearing or losing it requires re-examination and new fees to reapply

1.12 License Renewal Timing and Lapse

Unless renewal fees are paid, an individual license lapses on the last day of the licensee's birth month, and a firm license lapses on the last day of the month of the fourth anniversary of original licensure. A licensee whose license lapses for nonpayment or unmet education is prohibited from engaging in brokerage activity until reinstated. An active licensee who lapses only for missing CE automatically becomes inactive upon paying the renewal fee.

- ✓ Individual licenses lapse on the last day of the birth month; firm licenses on the fourth-anniversary month
- ✓ A lapsed licensee cannot engage in brokerage activity until reinstated
- ✓ Lapsing for CE only converts an active license to inactive upon paying the renewal fee

1.13 Notification of Legal Action and Address Changes

Licensees must notify the Commission in writing of the final disposition of any administrative, civil, or criminal action involving the subject matter of O.C.G.A. 16-13-111, 43-40-15, or 43-40-25 — within 10 days of conclusion (civil/administrative) or within 10 days of any conviction (criminal), including the final order or the indictment/accusation/conviction. Licensees, schools, and instructors must notify GREC in writing within one month of any change of mailing, residence, or email address.

- ✓ Report civil/administrative dispositions within 10 days and convictions within 10 days
- ✓ Address or email changes must be reported in writing within one month
- ✓ Notice must include the final order or the charging documents and conviction

1.14 Nonresident Licensure and Out-of-State Practice

Licensees who move out of state may qualify for nonresident licensure only by applying to change status, signing a Consent to Jurisdiction, and agreeing to cooperate with investigations; alternatively they may place the license inactive to avoid termination. A nonresident broker can serve as qualifying broker for a Georgia-licensed entity. No Georgia licensee may perform any broker acts on out-of-state property without first being properly licensed in that state.

- ✓ Nonresident licensure requires a signed Consent to Jurisdiction and cooperation agreement
- ✓ A nonresident broker may serve as qualifying broker for a Georgia-licensed entity
- ✓ A Georgia licensee must be properly licensed in another state before acting on property there

1.15 Petitioning the Commission for Rules and Rulings

Any interested person may petition the Commission to promulgate, amend, or repeal a rule; the petition must be in writing with a notarized signature. Within 30 days the Commission must either deny in writing (stating reasons) or begin rule-making. The Commission also supplies declaratory rulings on the applicability of statutes or its rules; requests must be written and notarized, and the Commission must respond within 60 days unless it seeks the Attorney General's opinion. It will not issue a declaratory ruling on matters related to pending investigative hearings.

- ✓ Rule petitions and declaratory ruling requests must be in writing with a notarized signature
- ✓ Commission must respond to rule petitions within 30 days and declaratory ruling requests within 60 days
- ✓ No declaratory rulings on matters tied to pending investigative hearings

1.16 Firm Naming and Trade Name Requirements

A sole proprietor broker uses the name shown on the application. Corporations submit their charter; partnerships submit their partnership agreement and a certified trade name; LLCs submit their certificate of authority. Entities conducting business under a trade name must file a certified copy, and the name on the certificate of licensure must match. A franchisee's trade name must include the franchise name in a way that distinguishes it from other registered firms.

- ✓ Corporations, partnerships, and LLCs must submit formation documents with the broker application
- ✓ Trade names must be filed as certified copies and shown on the certificate of licensure
- ✓ A franchisee's name must include the franchise name distinct from other registered firms

1.17 Military Spouse and Service Member Expediting

Effective July 1, 2017, military spouses and transitioning service members qualify for expedited processing of any license application by showing their status, paying the fee, and meeting the license requirements. Certain veterans also receive preference points added to exam scores (5 points for qualifying service, additional points for disabled veterans) provided they were honorably discharged and meet service documentation requirements.

- ✓ Military spouses and transitioning service members qualify for expedited application processing
- ✓ Qualifying veterans receive exam preference points only if honorably discharged
- ✓ Disabled veterans rated 10% or above may receive a 10-point credit

CHAPTER 2

Rules 520-1-.06–.08: Brokerage relationships, management responsibilities of firms, trust accounts and trust funds

2.1 Brokerage Engagement Requirements

Every exclusive brokerage agreement must be in writing with defined terms and a definite expiration date. The licensee securing the engagement must give each signer a true copy at the time of signing. Net brokerage engagements are prohibited; the broker must add the fee to the client's price so the client knows the gross price and the broker's compensation.

- ✓ Each exclusive brokerage agreement must fully set forth its terms and have a definite expiration date
- ✓ At time of securing the engagement, the licensee must furnish each signer a true copy
- ✓ Net brokerage engagements are prohibited; broker must disclose gross price and fee

2.2 Property Management Agreement Contents

Every written property management agreement between a broker and owner must contain specific required elements: identification of the property; all terms and conditions of management; terms for remitting income and providing periodic (at least annual) written statements of income and expenses; which expenses the broker pays to third parties and how funded; the fee/commission amount and when paid; whether security deposits and prepaid rents are held by broker or owner; effective and termination dates; termination terms; and signatures of broker and owner or authorized agent. The licensee must give the owner a legible copy at signing, and the broker must retain a copy.

- ✓ Management agreement must identify property, state all terms, fee amount and payment timing, and effective/termination dates
- ✓ Periodic written statements of income and expenses must be provided at least annually
- ✓ Must specify whether security deposits and prepaid rents are held by broker or owner
- ✓ Must contain signatures of broker and owner or authorized agent
- ✓ Licensee must give owner a legible copy at signing; broker must retain a copy

2.3 Disclosure of Brokerage Relationships

A licensee buying, leasing, or optioning property listed with the licensee's firm must clearly disclose their position as buyer/tenant and insert a clause in the contract. A licensee selling or leasing property they own must disclose their position as seller/landlord and insert a clause. Licensees must make written disclosure to both parties revealing whom the firm represents (agent/dual agent) and from whom it receives consideration, no later than when any party first makes an offer. Licensees may not pay a fee to a licensee representing another party without the full knowledge and written consent of all parties.

- ✓ Licensee must disclose position as buyer/tenant or seller/landlord and insert a clause in the contract
- ✓ Written disclosure of who the firm represents and from whom it receives consideration must be made no later than the first offer
- ✓ May not pay a fee/commission to a licensee representing another party without full knowledge and written consent of all parties

2.4 Handling of Trust Funds by Licensees

A licensee must place all cash, checks, or items of value received in a brokerage capacity into the custody of their broker as soon as practicably possible. Funds received when acting as principal (selling own property) and security deposits on own property go to the broker's custody or a broker-approved trust account. The broker must promptly deposit funds into a federally insured, GREC-registered trust account unless parties agree otherwise in writing. Interest-bearing trust accounts require a written agreement identifying who receives the interest before deposit. Brokers must notify GREC of each trust account's institution and name/number within one month of opening.

- ✓ Licensee must deliver all trust funds to the broker as soon as practicably possible
- ✓ Broker must deposit trust funds in a federally insured, GREC-registered trust account
- ✓ Interest-bearing accounts require written agreement on who receives interest before deposit
- ✓ Broker must notify GREC of each trust account within one month of opening

2.5 Authorized Disbursement of Trust Funds

Disbursing trust funds contrary to contract terms is deemed incompetence. A broker properly accounts for trust funds by disbursing only: upon rejection or withdrawal of an unaccepted offer; at closing; upon a written agreement signed by all interested parties separate from the contract; upon filing an interpleader action; upon court order; or upon a reasonable interpretation of the contract. A broker may not disburse until reasonably assured the funds have cleared, and when disbursing without all parties' express agreement must immediately notify all parties in writing.

- ✓ Disbursing trust funds contrary to contract terms is deemed incompetence
- ✓ Proper disbursal circumstances include rejection/withdrawal of offer, closing, all-party written agreement, interpleader, court order, or reasonable contract interpretation
- ✓ Broker may not disburse until funds have cleared and must give written notice when disbursing without all parties' agreement

2.6 Examination and Reconciliation of Trust Accounts

Brokers must authorize GREC to examine trust accounts each renewal period or upon reasonable cause. Brokers may submit a CPA report in lieu of a GREC examination, though GREC may decline it and examine directly. A broker must prepare at least monthly a written reconciliation comparing total trust liability (all deposits held) with reconciled bank balances, including required detail on accounts, balances, outstanding checks, deposits in transit, and itemized trust liability. Reconciliation statements must be reviewed and kept for three years, with explanations for any discrepancies, returned checks, or negative balances.

- ✓ Brokers must authorize GREC trust account examination each renewal period or on reasonable cause
- ✓ A monthly written reconciliation comparing trust liability to reconciled bank balances is required
- ✓ Reconciliation statements must be kept for three years and explain any discrepancies or negative balances

2.7 Fidelity Coverage for Community Association Management

A broker providing community association management who handles association funds must carry a fidelity bond or insurance policy unless the broker never handles more than $60,000 in association funds. Coverage must be written by an insurer authorized in Georgia, cover the maximum funds handled (never less than three months' assessments plus required reserves), name the association as additional named insured, cover the broker and its partners/officers/affiliates/employees, and require 30 days' notice before cancellation (10 days for non-payment). A separate policy is required per association, and copies plus current certificates must be provided to the association.

- ✓ Fidelity coverage required unless broker handles $60,000 or less in association funds at all times
- ✓ Coverage must never be less than three months of assessments plus required reserve funds
- ✓ Association must be named as an additional named insured
- ✓ Insurer must give 30 days notice before cancellation, 10 days for non-payment of premiums
- ✓ A separate policy is required for each community association managed

2.8 Firm Name and Broker Responsibility

A broker may not conduct business under any name other than the one in which the license is issued. Brokers/qualifying brokers are responsible for any affiliated licensee who violates Chapter 43-40 and its rules, must instruct affiliates on the license law and rules, and must notify GREC of any violation of the license law and rules.

- ✓ A broker shall not conduct business under any name other than the one in which the license is issued
- ✓ Broker/qualifying broker is responsible for affiliated licensees who violate 43-40 and its rules
- ✓ Broker must notify GREC of any violation of the license law and its rules

2.9 Change of Qualifying Broker

When a firm's qualifying broker dies, resigns, or is discharged unexpectedly, the firm must secure a new qualifying broker within 60 days or cease all real estate brokerage activity. During the search, the firm must designate a partner (partnership), member (LLC), or officer (corporation) to sign Commission documents and disburse trust funds as required by contracts.

- ✓ Firm must secure a new qualifying broker within 60 days or cease all brokerage activity
- ✓ During the search, firm must designate a partner/member/officer to sign documents and disburse trust funds

2.10 Transferring Licensees and Release Procedure

A broker taking on a licensee must have a written agreement covering compensation during and after affiliation. When a licensee requests a release, the releasing broker must immediately sign it and forward the wall certificate to the Commission (or notify GREC it went to the new broker). Disputes over compensation or return of firm property are not grounds for refusing to sign the release. After GREC receives the certificate, the licensee has one month to transfer to a new broker or go inactive. Departing licensees must return firm property and may not take firm brokerage engagements. Applications for transfer/release may be signed by an associate broker only with written authority. Duplicate certificates/pocket cards issue upon proof of loss.

- ✓ Releasing broker must immediately sign the release and forward the wall certificate upon request
- ✓ Compensation disputes are not grounds for refusing to sign a release
- ✓ Licensee has one month after GREC receives the certificate to transfer or go inactive
- ✓ Departing licensee must return firm property and may not take firm brokerage engagements without authorization

2.11 Licensee Contact With Clients After Leaving Firm

When a licensee terminates affiliation with a firm, the licensee may not contact any of the firm's clients being served under a listing, management agreement, or other brokerage engagement until that engagement expires, unless expressly approved in writing by the broker or qualifying broker of the firm being left.

- ✓ Departing licensee may not contact firm clients under existing brokerage engagements until they expire
- ✓ Exception only with express written approval of the broker/qualifying broker of the firm being left

2.12 Support Personnel — Permitted Ministerial Tasks

Both the firm and affiliated licensee are responsible for support personnel, who may perform only ministerial duties requiring no discretion or judgment. Written agreements must specify permitted and prohibited duties. Permitted tasks include answering phones and forwarding calls, submitting listing data to MLS, checking loan status after a contract, assembling closing documents, securing public documents, making keys and handling lockboxes, writing and placing ads with approval, recording and depositing earnest money/deposits/rents, computing commission checks, placing/removing signs, scheduling showings/inspections/closings/open houses, and acting as courier.

- ✓ Support personnel may perform only ministerial duties requiring no discretion or judgment
- ✓ Written agreements must specify duties permitted and prohibited
- ✓ Permitted tasks include MLS data entry, assembling closing documents, handling keys/lockboxes, and scheduling appointments

2.13 Support Personnel — Prohibited Tasks

Support personnel may NOT: make cold calls or solicit prospects; host open houses/booths/fairs; prepare ads without licensee/firm approval; show real estate; answer questions on title, financing, or closings (beyond time/place); answer listing questions except price/amenities expressly authorized in writing; discuss or explain contracts/leases with outsiders; negotiate commissions or fees; discuss property attributes with prospects; discuss sale/lease terms with owners; collect or hold deposits, rent, or anything of value; or give advice on buying/selling/leasing. Unlicensed or inactive support personnel may not hold themselves out as actively licensed or affiliated.

- ✓ Support personnel may not make cold calls, host open houses, show real estate, or negotiate commissions/fees
- ✓ May not answer questions on title, financing, or closings beyond time and place
- ✓ May not collect or hold deposits, rent, or anything of value
- ✓ Unlicensed/inactive support personnel may not hold themselves out as actively licensed

2.14 Sharing Commissions with Non-Resident Brokers

A Georgia broker may divide or share a commission with a broker licensed in another state and may pay a referral fee to an out-of-state licensed broker who refers clients. However, out-of-state brokers may not perform any other broker acts regarding Georgia property unless they obtain a nonresident license or enter a written agreement with a Georgia broker under 43-40-9.

- ✓ A Georgia broker may share a commission or pay a referral fee to a broker licensed in another state
- ✓ Out-of-state brokers may not perform other broker acts on Georgia property without a nonresident license or written agreement under 43-40-9

2.15 Broker's Own Funds in Trust Account

A broker may keep personal funds in a designated trust account only when clearly identified as the broker's and only to: maintain a minimum balance required to keep the account open; cover service charges and account maintenance costs; or hold earned commissions temporarily, provided the accounting designates them as the broker's and the broker removes excess broker funds monthly. Only checks payable to the broker may withdraw the broker's own funds from the trust account.

- ✓ Broker's own funds allowed in trust account only for minimum balance, service charges, or earned commissions
- ✓ Broker must remove excess broker funds from the account each month
- ✓ Only checks payable to the broker may withdraw broker funds from the trust account

2.16 Trust Account Accounting Requirements

A broker required to maintain a trust account must keep an accounting system detailing each deposit: names of buyer/seller (or tenant/landlord, member/association, or broker), amount and date of deposit, identification of property, and the amount, payee, and date of each check drawn. Accounting may be manual or electronic but must include all legally required components, be readily accessible, in an understandable format, and reasonably available to authorized GREC representatives.

- ✓ Each deposit record must show parties' names, amount/date of deposit, property, and details of each check drawn
- ✓ Accounting may be manual or electronic but must be accessible, understandable, and available to GREC

2.17 Broker's Claim to Earnest Money as Commission

A broker may claim earnest money or other funds as commission and be deemed compliant with 43-40-20(e) if: in a sale, the transaction closed or the closing date (with extensions) has passed; in a lease/rental, possession has been delivered; in a lease/purchase, the sale closed or the closing date has passed; or a written agreement separate from the contract, signed by all interested parties, entitles the broker to commission. All refunds of earnest money must be paid by check or credited at closing.

- ✓ Broker may claim earnest money as commission only after closing/closing date passes, possession delivered, or separate signed agreement
- ✓ All refunds of earnest money must be paid by check or credited at closing

2.18 Property Management and Association Trust Accounts

Brokers managing property or associations may keep separate designated rental or assessment trust accounts. Bills may be paid only when enough money is credited to that owner's or association's account. Security deposits kept in a rental trust account must be clearly identified and credited to the tenant, with the account always holding a balance equal to total deposits. A licensee managing rental property they own must keep collected security deposits in a designated trust account and may not post a bond in lieu.

- ✓ Bills may be paid only when enough is credited to that owner's or association's account
- ✓ Security deposits in a trust account must always be matched by a balance equal to total deposits
- ✓ A licensee managing own rental property must keep security deposits in a trust account and may not post a bond instead

2.19 Abandoned Funds and Non-Broker Owned Property Accounts

A licensee who believes trust funds are abandoned may not disburse them unless the written authorization requires it, the licensee complies with the Disposition of Unclaimed Property Act (O.C.G.A. 44-12-191 et seq.), or other statutory/court requirements are met. Under 43-40-20(h), a non-broker licensee may open a trust account for trust funds on properties they own if the broker approves and receives regular reports. Property is 'owned by a licensee' only if the deed shows only the licensee or a business entity solely owned by the licensee; if the licensee owns less than 100%, trust funds must go into a licensed firm's trust account.

- ✓ Abandoned trust funds may not be disbursed except per written authorization, the Unclaimed Property Act, or court requirements
- ✓ A non-broker licensee may open a trust account for own-property funds only with broker approval and regular reporting
- ✓ If a licensee owns less than 100% of a property, trust funds must go into a licensed firm's trust account

2.20 Qualifying Brokers with Multiple Firms

A broker or qualifying broker may serve as broker/qualifying broker for one or more other licensed firms. An associate broker affiliated with a firm may serve as broker/qualifying broker for other firms only after giving written notice to the broker with whom he/she is affiliated.

- ✓ A broker/qualifying broker may serve as broker for one or more other licensed firms
- ✓ An associate broker must give written notice to their affiliated broker before serving as broker for another firm

2.21 Bankruptcy Notification Requirement

If a licensee who owns a designated trust account files bankruptcy, the licensee must immediately notify GREC in writing. If a qualifying broker or the firm they serve files bankruptcy, the qualifying broker must immediately notify GREC in writing.

- ✓ A licensee owning a trust account must immediately notify GREC in writing upon filing bankruptcy
- ✓ A qualifying broker must immediately notify GREC in writing if the broker or firm files bankruptcy

CHAPTER 3

Rules 520-1-.09–.14: Advertising, handling transactions, licensees as principals, business brokerage, fair housing, citations

3.1 Misleading Advertising Prohibited

Any advertising that is misleading or inaccurate in any material fact, or that misrepresents any real estate, is prohibited. When a licensee learns that a principal (with whom the firm has a brokerage engagement) is advertising in a manner inconsistent with the rule, the licensee must immediately take steps to stop the advertising until it complies.

- ✓ Advertising that is misleading, inaccurate in a material fact, or misrepresents real estate is prohibited
- ✓ Licensee must immediately stop noncompliant advertising by a principal once aware of it

3.2 Advertising by Affiliated Licensees

All advertising by associate brokers, salespersons, and community association managers must be under the direct supervision of their broker and in the name of their firm. Affiliated licensees cannot advertise independently apart from their firm.

- ✓ Affiliated licensee advertising must be under the broker's direct supervision
- ✓ All advertising must be in the name of the firm

3.3 Written Permission to Advertise

A licensee shall not advertise real estate for sale, rent, lease, or exchange unless the licensee first secures written permission from the owner, the owner's authorized agent, or the owner of a leasehold estate. When advertising property listed with another firm, the licensee must clearly and conspicuously disclose that fact and the name of the listing firm, unless the listing firm has expressly agreed in writing to waive those disclosures.

- ✓ Written permission of owner/authorized agent/leasehold owner is required before advertising
- ✓ Must disclose the listing firm's name when advertising another firm's listing, unless waived in writing

3.4 Discriminatory Advertising Prohibited

A licensee shall not advertise to sell, buy, exchange, rent, or lease real estate when the advertisement is directed at or refers to persons of a particular race, color, religion, sex, handicap, familial status, or national origin. Advertisement contents must be confined to information about the real estate itself.

- ✓ Advertising directed at/referring to a protected class is prohibited
- ✓ Advertisement content must be confined to information about the real estate itself

3.5 Licensees Advertising as Principals

A licensee may not advertise to sell, buy, exchange, rent, or lease real estate in a manner indicating the offer is made by an unlicensed private party. Affiliated licensees cannot advertise under their individual name. To advertise property they own (not under a brokerage engagement): (1) the broker must be notified in writing of the specific property; (2) the broker must give written consent and approve the ad; and (3) any ad must include the legend 'seller/buyer/landlord/tenant holds a real estate license' OR 'Georgia Real Estate License # (six-digit number)' — which may be abbreviated 'GA R. E. Lic.'

- ✓ Licensees cannot advertise as if they were unlicensed private parties
- ✓ Broker's written notice and written consent/approval required to advertise a licensee's own non-listed property
- ✓ Ad must include a license-disclosure legend (license held or GA R.E. Lic. # with six-digit number)

3.6 Presenting Offers Promptly

Under Rule 520-1-.10, a licensee must promptly tender to any customer or client any signed offer to purchase, sell, lease, or exchange property. When the offeror is not the licensee's client/customer, the licensee receiving the offer must provide a copy to the licensee working with or representing the offeree. A licensee may negotiate directly with an owner/party if the offeree has a written agreement stating the other licensee will not provide negotiation services.

- ✓ All signed offers must be promptly tendered to the client or customer
- ✓ A copy of an offer must be provided to the licensee representing the offeree

3.7 Responsibility to Distribute Copies

A licensee must provide a copy of any document used in a real estate transaction to any individual who signs it. When an offer is accepted and signed by all parties, copies must be distributed to each person signing and to each brokerage firm involved.

- ✓ Copy of any signed transaction document goes to each signer
- ✓ Fully executed offers require copies to each signer and each brokerage firm involved

3.8 Retention of Records and Documents

Copies of sales contracts, brokerage engagements, closing statements, leases, and related documents must be kept in a broker's file for three years and made available to the Commission on reasonable request at reasonable cost. Brokers required to keep them include any broker named in a document, any broker firm that participates in negotiations, and any broker required to maintain a trust account. Records may be stored in paper, film, electronic, or other media as long as true and correct copies can be produced and made available to the Commission.

- ✓ Transaction records must be retained for three years
- ✓ Records may be kept electronically if true and correct copies can be produced for the Commission

3.9 Falsification and Misleading Representations Prohibited

No licensee may falsify or be a party to falsifying a transaction document, or knowingly misrepresent (verbally or in writing) to a principal or third party: the true sales/lease/exchange price; the true down payment; the true earnest money/security deposit/other trust funds or their form; a cash payment of trust funds when another method was used; or use any artifice/contrivance intended to deceive. All such practices constitute misrepresentation.

- ✓ Falsifying transaction documents is prohibited
- ✓ Misrepresenting price, down payment, earnest money, trust fund form, or using deceptive artifice is prohibited and constitutes misrepresentation

3.10 Written Notification to Broker When Acting as Principal

Under Rule 520-1-.11, no licensee may list, sell, buy, exchange, rent, lease, or option real estate (or offer to) in the licensee's own name — or in the name of any firm/entity in which the licensee is an officer, employee, beneficiary, or member acting as principal — without first advising, in writing, the broker for whom the licensee acts.

- ✓ Licensees acting as principals must give prior written notice to their broker
- ✓ Applies to property held individually or through an entity in which the licensee has an interest

3.11 Fair Housing: Prohibited Representations (Blockbusting)

Under Rule 520-1-.13, no licensee (or agent/employee) may represent, explicitly or implicitly, to induce or discourage a purchase, sale, rental, or listing: that a change in the composition of a block/neighborhood/area has/will/may occur based on a protected class; or that the presence of persons of a protected class will/may cause lowered property values, a material change in area composition, an increase in criminal/antisocial behavior, or a decline in school quality. Protected classes: race, color, religion, sex, handicap, familial status, or national origin.

- ✓ Blockbusting representations based on protected classes are prohibited
- ✓ Cannot represent that a protected class's presence will lower values, change composition, increase crime, or lower school quality

3.12 Fair Housing: Discrimination Prohibited

No licensee (or employee/agent) may, because of a person's race, color, religion, sex, handicap, familial status, or national origin: refuse to sell/purchase/rent/lease or otherwise deny housing; discriminate in the terms of a transaction or in furnishing facilities/services; refuse to receive or transmit a bona fide offer; refuse to negotiate; or misrepresent that housing is unavailable for inspection/sale/rental/lease when it is in fact available or refuse to permit inspection.

- ✓ Cannot refuse, deny, or discriminate in housing transactions based on a protected class
- ✓ Cannot falsely represent housing as unavailable or refuse inspection based on a protected class

3.13 Citations: Imposition of Penalties

Under Rule 520-1-.14, when the Commission finds a licensee violated Chapter 43-40, Commission rules, or committed an unfair trade practice, it may either initiate sanction proceedings (contested case under Ch. 13 of Title 50) or issue a citation in lieu of sanctions. A citation may order completion of a course of study, filing of periodic accountant reports on a broker's trust account, and/or a fine not to exceed $1,000 per violation, capped at $5,000 total in any one citation. The Commission may also require approved education in addition to or in lieu of financial penalties.

- ✓ Citation fine cannot exceed $1,000 per violation and $5,000 total per citation
- ✓ Citation may require course of study, trust account reports, and/or fines in lieu of formal sanctions

3.14 Definition of Advertising and Media

Under Rule 520-1-.09, 'advertising' means any manner, method, or activity by which a licensee, through any media, makes known to the general public real estate for sale, rent, lease, or exchange. 'Media' is broadly defined and includes print, photographs, broadcast, and the Internet — newspapers, flyers, business cards, billboards, radio, TV, signs (office, directional, 'for sale,' 'for lease,' 'sold,' or vehicle signs), newsletters, voicemail, email, fax, websites, blogs, social media, text messages, banner ads, pop-ups, and similar media.

- ✓ Advertising = making real estate known to the general public through any media
- ✓ 'Media' includes internet, social media, signs, business cards, email, texts, and all traditional forms

3.15 Internet Advertising Requirements

Any internet advertising of real estate must disclose the firm's name and telephone number on every viewable web page. For electronic messages of limited characters, provide a direct link to a compliant display. On third-party sites whose terms limit compliance, provide a direct link to a compliant display on every viewable page. Outdated website info must be updated or removed within 30 days. If a third party maintains the site, a licensee who gives timely written notice of needed changes is not in violation if the third party fails to make the change. The rule applies only to sites within the licensee's ownership or direct control.

- ✓ Firm name and phone number must appear on every viewable web page of internet advertising
- ✓ Outdated website information must be updated or removed within 30 days
- ✓ Timely written notice to a third-party webmaster shields the licensee if the change is not made

3.16 Trade Names and Franchise Names in Advertising

A firm using a trade name (includes trademark and service mark) or a franchisee must clearly and unmistakably include the firm's registered name in advertising specific real estate, positioned adjacent to the property so the public can identify the listing firm. The firm's name must appear in equal or greater size, prominence, and frequency than any affiliated licensee's name. The registered firm name must also appear on contracts/transaction documents and on office signs.

- ✓ Registered firm name must appear adjacent to advertised specific real estate
- ✓ Firm name must be in equal or greater size, prominence, and frequency than any affiliated licensee's name
- ✓ Registered firm name required on contracts, transaction documents, and office signs

3.17 Firm Names and Phone Numbers in Advertising

In advertising specific real estate, firms must include the registered firm name and a firm telephone number (except where lawful restrictions like covenants forbid a firm name on a sign). Firm name and phone number must be equal or greater in size, prominence, and frequency than any affiliated licensee's. The firm phone must reach a broker or manager without going through the affiliated licensee. In block ads listing many properties with agent names, compliance is met if the firm name appears once at the top in equal or greater prominence than any agent name.

- ✓ Firm name and phone number required in ads for specific real estate
- ✓ Firm phone must reach a broker/manager without going through the affiliated licensee
- ✓ Firm name/phone must be equal or greater in size, prominence, and frequency than any affiliated licensee

3.18 Every Ad Must Reveal Contact by a Licensee

Notwithstanding any other provision, a licensee must make every reasonable attempt in advertising to ensure the public knows they are being contacted by a licensee. A licensee may also not advertise Commission-approved courses unless approved by the Commission to offer them.

- ✓ Advertising must make the public aware they are being contacted by a licensee
- ✓ Licensee cannot advertise Commission-approved courses unless approved to offer them

3.19 License Numbers in Offers and Engagements

A licensee preparing or signing a brokerage engagement or an offer to purchase, sell, lease, or exchange real property must include the Commission-issued license number of each firm and each licensee participating in the transaction — using the six-digit license number.

- ✓ Each firm's and each participating licensee's six-digit license number must be included
- ✓ Applies to both brokerage engagements and offers

3.20 Disclosure of Commissions, Fees, and Rebates

Disclosures required by O.C.G.A. 43-40-25(b)(6) may be made in advance based on pre-established terms in a written agreement. In referral transactions, the broker to whom a referral was made must disclose in writing to the principal any referral fee paid, no later than closing. 'Licensee's principal' includes both a client and a customer working primarily with the broker (not represented by another broker). A licensee may rebate part of a commission to a principal if disclosed on the closing statement and not misleading as to source of funds or the buyer's financial resources. No disclosure is required for gifts/things of value not contingent on the transaction.

- ✓ Referral fees must be disclosed in writing to the principal no later than closing
- ✓ Rebates to a principal must be disclosed on the closing statement and not mislead as to source of funds
- ✓ No disclosure needed for gifts not contingent on the transaction

3.21 Offers to Buy Tied to a Brokerage Relationship

When a licensee offers to purchase a property as a condition to obtaining or extending a brokerage engagement, the licensee must enter a written purchase contract expressing all terms and conditions before or at the time of entering/extending the engagement. When a licensee offers to purchase a property to enable a party to buy/sell/lease/exchange another property, the written purchase contract with full terms must be completed before or at the time the other party contracts on the new property.

- ✓ A written purchase contract with all terms is required at or before the related engagement is entered or extended
- ✓ Applies to purchase offers used to enable another party's transaction

3.22 Licensees Advertising as Principals Comply with Rule .09

Licensees advertising to buy, sell, or exchange real property for their own accounts must comply with the advertising requirements of Rule 520-1-.09, including the license-disclosure legend requirements.

- ✓ Own-account advertising must follow Rule 520-1-.09
- ✓ License status disclosure requirements apply to principal advertising

3.23 Business Brokerage Licensing Requirement

Under Rule 520-1-.12, unless excepted by O.C.G.A. 43-40-29, a person brokering the sale of a business must hold a Commission license if the sale involves the transfer of any interest (including leasehold or ownership) in real property. Unlicensed business brokers and their associates may not negotiate, attempt to negotiate, or procure prospects for a business sale where (a) it involves transfer of an interest in real property, or (b) a commission/fee is contingent upon the transfer of a real estate interest. An unlicensed broker cannot perform these acts and then use a licensee to approve the transaction.

- ✓ A license is required to broker a business sale involving transfer of any real property interest
- ✓ Unlicensed brokers cannot act where a fee is contingent on transfer of a real estate interest, nor use a licensee to ratify their acts

3.24 Citations: Schedule of Violations and Penalties

Rule 520-1-.14(3) sets a schedule of maximum fines for specific violations. Examples: failure to turn over trust funds to broker ($500); failure to provide a document copy to a signer ($500); conducting business under an unregistered name ($600); trust account violation revealed on exam ($600); failure to notify broker of personal real estate activity ($600); paying commission to an unlicensed person ($600); failure to deposit trust funds within three business days ($600); failure to disclose licensure in a contract ($600 per contract); failure to deposit trust funds per contract terms ($800 per contract); false statement on an application ($800); failure to handle trust funds where a loss is claimed and restitution made ($900); failure to reconcile a trust account monthly ($600 if balanced, $900 if not in balance). In any conflict, the code/rule language controls over the schedule description.

- ✓ Specific violations carry scheduled maximum fines (commonly $500–$900)
- ✓ Trust fund/account violations and application falsification carry the higher fines
- ✓ In conflict, the code section or rule language controls over the schedule description

3.25 Citations: Effectiveness, Service, and Related Actions

A Commission-issued citation becomes final 30 days after service (personal, certified mail, or statutory overnight delivery) unless the licensee reaches alternative terms or requests a contested case hearing. Once final, requirements must be met within 30 days unless the order sets another timetable. The Commission may offer consent in lieu of a citation, may issue a citation in lieu of continuing a contested case, and may sanction a licensee who fails to comply with a final order after notice and hearing. When imposing discipline in a later contested case, the Commission shall not consider prior citations if the licensee fully complied with them.

- ✓ Citation becomes final 30 days after service unless contested or alternative terms are reached
- ✓ Requirements must be met within 30 days of a final citation unless otherwise ordered
- ✓ Prior fully-complied citations are not considered in later contested case discipline

CHAPTER 4

Supplement: Agency and Brokerage Relationships

4.1 BRRETA: Agency Duties, Dual Agency, Designated Agency and Transaction Brokerage

Georgia's Brokerage Relationships in Real Estate Transactions Act (BRRETA), O.C.G.A. § 10-6A-1 et seq., replaces the common law of agency to the extent it is inconsistent and defines the duties a broker owes to clients (perform the terms of the brokerage engagement, exercise reasonable skill and care, promote the client's interests, keep confidential information confidential, account timely for money) and to customers (disclose adverse material facts actually known about the property's physical condition that could not be found by reasonable inspection, comply with law, present offers timely). A broker may act as a dual agent only with the prior written informed consent of both clients, and the consent must disclose the material relationship and the parties the broker represents. Designated agency, where the broker assigns different affiliated licensees to represent different clients in the same transaction, is expressly not dual agency. A transaction broker assists one or more parties without representing either, and a licensee does not become an agent merely by performing ministerial acts. A licensee is not liable for a client's misrepresentation unless the licensee knew or should have known it was false. Source: O.C.G.A. § 10-6A-1 through § 10-6A-14

- ✓ BRRETA (O.C.G.A. Title 10, Chapter 6A) governs agency and supersedes inconsistent common law of agency
- ✓ Dual agency is lawful only with prior written informed consent from both clients
- ✓ Designated agency (separate affiliated licensees for each client) is not dual agency and needs no dual-agency consent
- ✓ A transaction broker assists without representing either party; ministerial acts alone do not create agency
- ✓ Brokers must disclose to customers adverse material facts actually known about the physical condition of the property

CHAPTER 5

Supplement: License Law

5.1 Real Estate Education, Research and Recovery Fund

The Georgia Real Estate Education, Research and Recovery Fund, established by O.C.G.A. § 43-40-22, compensates persons who obtain a final judgment against a licensee for fraud, misrepresentation, deceit or conversion of trust funds in a real estate transaction and cannot collect. Each new licensee pays a fee into the fund with the original application (verify current amount), and the Commission may assess licensees if the fund falls below its statutory minimum (verify current threshold). Recovery is capped per transaction regardless of the number of claimants (commonly cited as $25,000; verify current cap). Payment from the fund automatically revokes the licensee's license, and the license cannot be reinstated until the fund is repaid in full with interest. The claimant must first pursue and exhaust the judgment and notify the Commission of the action. Source: O.C.G.A. § 43-40-22

- ✓ Fund pays uncollectible judgments against licensees for fraud, misrepresentation, deceit or conversion of trust funds
- ✓ Maximum recovery is capped per transaction (verify current cap, commonly $25,000)
- ✓ Payment from the fund automatically revokes the licensee's license until the fund is repaid with interest
- ✓ Commission may assess active licensees if the fund drops below the statutory minimum
- ✓ Claimant must obtain a final judgment and show it cannot be collected before recovering from the fund

5.2 Who Must Be Licensed, Exemptions, and Penalties for Unlicensed Practice

Under O.C.G.A. § 43-40-1 and § 43-40-29, any person who for a fee or other valuable consideration sells, buys, leases, negotiates, auctions or manages real estate for others must hold a Georgia real estate license as a broker, associate broker, salesperson or community association manager. Exempt persons include owners (and their regular employees) dealing with their own property, attorneys at law performing duties as attorneys, receivers, trustees, executors and administrators acting under court order, government employees acting within their duties, and certain on-site apartment leasing personnel employed by an owner or broker. A salesperson must be at least 18 and a broker at least 21 (verify education prerequisites). Practicing without a license is a misdemeanor, and under § 43-40-24 an unlicensed person cannot sue to collect a commission. Source: O.C.G.A. § 43-40-1, § 43-40-24, § 43-40-29, § 43-40-30

- ✓ A license is required to perform brokerage acts for others for compensation
- ✓ Owners acting on their own property, attorneys performing attorney duties, court-appointed fiduciaries and government employees are exempt
- ✓ Minimum age is 18 for salesperson and 21 for broker or associate broker
- ✓ Unlicensed practice is a misdemeanor and bars any action to recover a commission
- ✓ Georgia issues broker, associate broker, salesperson and community association manager licenses

5.3 Georgia Real Estate Commission Composition and Disciplinary Sanctions

The Georgia Real Estate Commission consists of six members appointed by the Governor for 5-year terms: five must be licensed brokers or salespersons with at least 5 years of experience and one must be a public member with no real estate connection (O.C.G.A. § 43-40-2). The Commission appoints a Real Estate Commissioner as its executive officer who investigates complaints and administers the license law. Under § 43-40-25 the Commission may reprimand, require additional education, impose a fine of up to $1,000 per violation (with an aggregate cap per action; verify current figure), suspend or revoke a license, and place a licensee on probation, after notice and hearing under the Georgia Administrative Procedure Act (§ 43-40-27). Grounds include misrepresentation, commingling, undisclosed dual agency, failure to account for trust funds, discrimination, and conviction of certain crimes. A licensee whose license is revoked must generally wait (verify period) before reapplying. Source: O.C.G.A. § 43-40-2; § 43-40-25; § 43-40-27

- ✓ Commission has 6 members appointed by the Governor for 5-year terms: 5 licensees with 5+ years experience and 1 consumer member
- ✓ The Real Estate Commissioner is the Commission's executive officer and investigator
- ✓ Sanctions include reprimand, education, fines up to $1,000 per violation, probation, suspension and revocation
- ✓ Disciplinary hearings follow the Georgia Administrative Procedure Act after written notice
- ✓ Grounds for discipline include misrepresentation, commingling, undisclosed dual agency and failure to account for trust funds

CHAPTER 6

Supplement: Landlord-Tenant

6.1 Georgia Landlord-Tenant Law: Security Deposits, Notices, Habitability and Eviction

Georgia security deposits must be held in an escrow account in a Georgia-regulated financial institution or secured by a surety bond, and the landlord must give the tenant a written list of existing damages before taking the deposit (O.C.G.A. § 44-7-30 through § 44-7-37). Since the Safe at Home Act (HB 404, effective July 1, 2024), a security deposit may not exceed two months' rent (§ 44-7-30.1). After the tenant vacates the landlord must inspect and prepare an itemized list of damages within 3 business days and return the deposit or balance within 30 days; bad-faith retention exposes the landlord to three times the amount wrongfully withheld plus attorney fees. A tenancy at will requires 60 days notice from the landlord and 30 days from the tenant (§ 44-7-7), landlords owe a duty of habitability, and a landlord must give a written 3-day notice before filing a dispossessory action for nonpayment and may not cut off utilities to force a tenant out. Local rent control is prohibited by § 44-7-19. Source: O.C.G.A. § 44-7-7, § 44-7-19, § 44-7-30 to § 44-7-37, § 44-7-50

- ✓ Security deposit is capped at 2 months' rent (HB 404, effective July 1, 2024)
- ✓ Deposits must be held in escrow or covered by a surety bond, with a move-in damage list signed by the tenant
- ✓ Deposit must be returned with itemized deductions within 30 days after termination; bad-faith retention = 3x damages plus attorney fees
- ✓ Tenancy at will: landlord gives 60 days notice, tenant gives 30 days
- ✓ 3-day written notice is required before filing a dispossessory for nonpayment; rent control is prohibited statewide

CHAPTER 7

Supplement: Taxes and Recording

7.1 Georgia Real Estate Transfer Tax and Intangible Recording Tax

Georgia imposes a real estate transfer tax on deeds conveying realty of $1.00 for the first $1,000 (or fraction) of consideration and $0.10 for each additional $100, effectively $1.00 per $1,000, payable to the clerk of superior court before the deed is recorded (O.C.G.A. § 48-6-1). The tax is customarily paid by the seller and is reported on the PT-61 transfer tax form; deeds securing debt, gifts and certain governmental transfers are exempt (§ 48-6-2). Georgia also levies an intangible recording tax on long-term notes secured by real estate of $1.50 per $500 ($3.00 per $1,000) of the loan amount, capped at $25,000 per instrument, which is normally paid by the borrower (§ 48-6-61). Notes with a term of three years or less are short-term and not subject to the intangible tax. Source: O.C.G.A. § 48-6-1, § 48-6-2, § 48-6-61

- ✓ Transfer tax = $1.00 for the first $1,000 plus $0.10 per additional $100 (about $1 per $1,000 of price)
- ✓ Transfer tax is paid before recording, customarily by the seller, using the PT-61 form
- ✓ Intangible recording tax on long-term security deeds = $1.50 per $500 of loan amount ($3 per $1,000)
- ✓ Intangible tax is capped at $25,000 and does not apply to notes of 3 years or less
- ✓ Security deeds, gifts and government transfers are exempt from transfer tax

7.2 Property Taxation: 40 Percent Assessment, Homestead Exemption and Tax Sales

Georgia ad valorem property tax is levied on an assessed value equal to 40 percent of fair market value as of January 1 each year (O.C.G.A. § 48-5-7), and the tax is computed by applying the millage rate to the assessed value less any exemptions. The statewide standard homestead exemption is $2,000 of assessed value for an owner-occupied principal residence, with larger local, senior and disabled-veteran exemptions available (O.C.G.A. § 48-5-44 et seq.); HB 581 (2024) added a statewide floating homestead exemption that limits annual assessment increases to inflation unless the local government opted out. Unpaid taxes become a lien on the property, and after a tax sale the owner may redeem within 12 months by paying the sale price plus a 20 percent premium (O.C.G.A. § 48-4-40 to § 48-4-42). Homestead exemption applications are generally due by April 1. Source: O.C.G.A. § 48-5-7; § 48-5-44; § 48-4-40 et seq.

- ✓ Assessed value = 40% of fair market value as of January 1
- ✓ Standard statewide homestead exemption is $2,000 of assessed value on an owner-occupied residence
- ✓ Tax = (assessed value minus exemptions) x millage rate; 1 mill = $1 per $1,000
- ✓ Owner may redeem property sold at tax sale within 12 months by paying price plus a 20% premium
- ✓ HB 581 (2024) created a floating homestead exemption capping assessment growth at inflation unless the locality opted out

7.3 Georgia Withholding on Sales by Nonresident Sellers

Under O.C.G.A. § 48-7-128, when a nonresident individual or a corporation, partnership or other entity not domiciled in Georgia sells Georgia real property, the buyer must withhold 3 percent of the purchase price (or 3 percent of the gain if the seller furnishes an affidavit of gain) and remit it to the Georgia Department of Revenue on Form G-2RP within 30 days after the closing. Withholding is not required if the total price is $20,000 or less, if the property was the seller's principal residence, if the seller certifies Georgia residency by affidavit, or under other listed exemptions (verify current list). The closing attorney normally handles the withholding at settlement, and the buyer is personally liable if it is not withheld. This is a state rule separate from federal FIRPTA withholding. Source: O.C.G.A. § 48-7-128

- ✓ Buyer withholds 3% of the purchase price on sales by nonresident sellers
- ✓ Withholding may be based on 3% of gain if the seller provides an affidavit of gain
- ✓ No withholding if price is $20,000 or less or the property was the seller's principal residence (verify other exemptions)
- ✓ Withheld amount is remitted on Form G-2RP within 30 days after closing
- ✓ Buyer is liable for the tax if withholding is not made

CHAPTER 8

Supplement: Closing Practice

8.1 Attorney-Conducted Closings and the Good Funds Rule

In Georgia the closing of a real estate transaction, including the disbursement of funds and the preparation of the deed and security instrument, is the practice of law and must be conducted by a Georgia-licensed attorney; non-attorneys, including brokers and title companies, may not conduct closings (O.C.G.A. § 15-19-50 et seq.; State Bar Formal Advisory Opinions 86-5 and 2000-3; In re UPL Advisory Opinion 2003-2). The closing attorney must supervise the closing personally and cannot delegate it to a non-lawyer or perform a witness-only closing. Under Georgia's good funds statute, O.C.G.A. § 44-14-13, the lender must deliver loan proceeds to the settlement agent at or before closing and the settlement agent may not disburse until it has collected good funds. Licensees may prepare only pre-printed form contracts and may not draft deeds or closing documents. Source: O.C.G.A. § 15-19-50; O.C.G.A. § 44-14-13; Georgia Supreme Court UPL Advisory Opinion 2003-2

- ✓ Real estate closings in Georgia must be conducted by a licensed Georgia attorney
- ✓ Witness-only or non-lawyer-supervised closings are unauthorized practice of law
- ✓ Lender must deliver loan funds to the closing attorney at or before closing (good funds law)
- ✓ Settlement agent may not disburse until collected funds are on hand
- ✓ Brokers and salespersons may fill in approved form contracts but may not draft deeds or closing documents

CHAPTER 9

Supplement: Disclosures

9.1 Property Condition Disclosure, Latent Defects and Stigmatized Property

Georgia has no statute mandating a seller property disclosure form; the Georgia Association of REALTORS disclosure statement is used by custom, and the general rule is caveat emptor, but a seller and a licensee must disclose known latent (hidden) defects that a buyer could not discover by reasonable inspection, and BRRETA § 10-6A-5 requires brokers to disclose adverse material facts actually known about the physical condition of the property. Under O.C.G.A. § 44-1-16, no cause of action arises against an owner or agent for failing to disclose that the property was the site of a homicide, suicide or other felony, or that an occupant had a disease not transmitted by occupying the property; however, the owner or agent must answer truthfully to the best of that person's knowledge if a prospective buyer asks. The statute likewise gives no duty to volunteer sex-offender-registry information, which buyers may check themselves through the GBI registry. Source: O.C.G.A. § 44-1-16; O.C.G.A. § 10-6A-5

- ✓ Georgia has no mandatory statutory seller disclosure form; disclosure is by custom (GAR form)
- ✓ Sellers and licensees must disclose known latent defects not discoverable by reasonable inspection
- ✓ No liability for failing to disclose homicide, suicide, felony or non-transmissible disease on the property (§ 44-1-16)
- ✓ If a buyer asks about a stigma, the owner or agent must answer truthfully to the best of their knowledge
- ✓ Brokers must disclose adverse material facts about physical condition actually known to them (BRRETA)

CHAPTER 10

Supplement: Condominium and HOA

10.1 Condominium Act, Property Owners' Association Act and Time-Share Rescission Rights

The Georgia Condominium Act, O.C.G.A. § 44-3-70 et seq., creates a condominium by recording a declaration, plat and plans, and a unit owner holds fee title to the unit plus an undivided interest in the common elements. A purchaser buying a unit from the declarant must receive the declaration, bylaws, projected budget and other statutory disclosures and may cancel the contract within 7 days after receiving them (O.C.G.A. § 44-3-111). On resale, the association must furnish a statement of unpaid assessments on request, and unpaid assessments are a lien on the unit (O.C.G.A. § 44-3-109). Homeowner associations that opt in to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220 et seq., obtain a statutory lien for assessments. Under the Georgia Time-Share Act, O.C.G.A. § 44-3-160 et seq., a time-share purchaser may cancel within 7 days of signing, and time-share projects must be registered with the Commission. Source: O.C.G.A. § 44-3-70 et seq.; § 44-3-160 et seq.; § 44-3-220 et seq.

- ✓ Condominium is created by recording a declaration, plat and plans under the Georgia Condominium Act
- ✓ Buyer from a declarant may rescind within 7 days after receiving the required condominium disclosure documents
- ✓ Unpaid condominium and POA assessments are a lien on the unit or lot
- ✓ Georgia Property Owners' Association Act applies only to HOAs that opt in by recorded declaration
- ✓ Time-share buyers have a 7-day cancellation right and projects must be registered with the Commission

CHAPTER 11

Supplement: Financing and Foreclosure

11.1 Security Deeds, Nonjudicial Foreclosure and Deficiency Confirmation

Georgia is a title-theory state in which the customary financing instrument is the security deed (deed to secure debt), which conveys legal title to the lender until the debt is paid (O.C.G.A. § 44-14-60). Most foreclosures are nonjudicial under a power of sale: the lender must send the borrower written notice at least 30 days before the sale by registered or certified mail or overnight delivery (§ 44-14-162.2) and advertise the sale once a week for 4 consecutive weeks in the county legal organ (§ 44-14-162). Sales are held at the county courthouse on the first Tuesday of the month between 10 a.m. and 4 p.m. (§ 9-13-161). Georgia provides no statutory right of redemption after the foreclosure sale; the borrower's equity of redemption exists only until the sale. To pursue a deficiency judgment the lender must report the sale to the superior court for confirmation within 30 days (§ 44-14-161). Source: O.C.G.A. § 44-14-60; § 44-14-161; § 44-14-162; § 44-14-162.2; § 9-13-161

- ✓ Georgia uses the security deed (deed to secure debt) and follows title theory
- ✓ Foreclosure is typically nonjudicial under a power of sale in the security deed
- ✓ Borrower must receive notice at least 30 days before the sale and the sale is advertised 4 consecutive weeks
- ✓ Sales occur on the first Tuesday of the month at the courthouse between 10 a.m. and 4 p.m.
- ✓ No statutory redemption after sale; deficiency judgment requires court confirmation reported within 30 days