

Calendar

TBA

Link to the
Georgia Real
Estate License
Laws, Rules,
and Regulations

Link to GREC
Disciplinary
Actions
View Current
Suspensions and
Revocations

Link to Proposed
Rule Changes

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This Issue:

Ministerial or Not?	P.1
Opportunity at GREC	P.1
Disciplinary Stats	P.1
BRRETA Examples of Ministerial Acts	P.2
AMK Section	P. 2
Focus on Terminology	P.2

Ministerial or Not?

Typically a real estate licensee represents either the seller or the buyer (or the landlord or the tenant) in a real estate transaction. By entering into a brokerage agreement, the licensee establishes an agency relationship with that party as a client. However, a licensee can participate in a transaction without representing anyone by acting as a transaction broker. When acting as a transaction broker, a licensee can only perform ministerial acts.

The [Georgia Real Estate License Law](#) 43-40-1 (5.1) defines "Ministerial acts" as those acts related to real estate brokerage activities which a licensee or a licensee's employee performs and which do not require discretion or the exercise of the licensee's own judgment." This means that a licensee cannot provide opinions or advice to a customer. If a licensee does provide an opinion or give advice, he/she could unintentionally create an agency relationship.

BRRETA, The Brokerage Relationships in Real Estate Transactions Act, also includes Definitions in Section 10-6A-3 as follows:

(12) "Ministerial acts" means those acts described in Code Section 10-6A-14 *(see page 2) and such other acts which do not require the exercise of the broker's or the broker's affiliated licensee's professional judgment or skill.

(14) "Transaction broker" means a broker who has not entered into a client relationship with any of the parties to a particular real estate transaction and who performs only ministerial acts on behalf of one or more of the parties, but who is paid valuable consideration by one or more parties to the transaction pursuant to a verbal or written agreement for performing brokerage services.

Job Opportunity at the Georgia Real Estate Commission

Position of **Investigator**

For more information, go to <https://grec.state.ga.us/job-opportunity-at-grec/>

May 2021 Commission Actions Taken

Cases Sent to the Attorney General for Review and Disposition by Consent Order or by Hearing	1
Cease & Desist Orders Issued	1
Citations Issued	6
Letter of Findings Issued	1
Consent Orders Entered Into	0
Final Orders of Revocation of Licensure	0
Cases Closed for Insufficient Evidence or No Apparent Violation	9
Licensing Cases - Applicant has a Criminal Conviction - License Issued	11
Licensing Cases - Applicant has a Criminal Conviction - License Denied	0
Total	29

[Click here to review a legend of the disciplinary actions the Commission may impose.](#)

BRRETA Examples of Ministerial Acts

Online Courses from GREC

approved for:

- ✓ License Law
- ✓ Continuing Ed
- ✓ **Instructor CE**
- ✓ 3 - 9 Hours CE

1. Being a Broker and Staying Out of Trouble
2. Avoiding Trust Account Trouble
3. Practicing Real Estate & Staying Out of Trouble

Click Here to Enroll \$10 Each

- (1) Identifying property for sale, lease, or exchange;
 - (2) Providing real estate statistics and information on property;
 - (3) Providing preprinted real estate form contracts, leases, and related exhibits and addenda;
 - (4) Acting as a scribe in the preparation of real estate form contracts, leases, and related exhibits and addenda;
 - (5) Locating architects, engineers, surveyors, inspectors, lenders, insurance agents, attorneys, and other professionals; and
 - (6) Identifying schools, shopping facilities, places of worship, and other similar facilities on behalf of any of the parties in a real estate transaction.
- (b) A broker acting as a transaction broker shall do the following:
- (1) Timely present all offers to and from the parties involving the sale, lease, and exchange of property;
 - (2) Timely account for all money and property received by the broker on behalf of a party in a real estate transaction; and
 - (3) Timely disclose the following to all buyers and tenants with whom the broker is working:
 - (A) All adverse material facts pertaining to the physical condition of the property and improvements located thereon including but not limited to material defects in the property, environmental contamination, and facts required by statute or regulation to be disclosed which are actually known by the broker which could not be discovered by a reasonably diligent inspection of the property by the buyer; and
 - (B) All material facts pertaining to existing adverse physical conditions in the immediate neighborhood within one mile of the property which are actually known to the broker and which could not be discovered by the buyer upon a diligent inspection of the neighborhood or through the review of reasonably available governmental regulations, documents, records, maps, and statistics. Examples of reasonably available governmental regulations, documents, records, maps, and statistics shall include without limitation: land use maps and plans; zoning ordinances; recorded plats and surveys; transportation maps and plans; maps of flood plains; crime statistics; tax maps; school district boundary maps; and maps showing the boundary lines of governmental jurisdictions.

To sign up to receive the GREC RENEWSletter Click Here

Submit a Comment or suggestion Click Here

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AMK Absolutely Must Know Section

[Rule 520-1-.02 Definitions.](#)

There is an agency relationship with the client, and there is a non-agency relationship with the customer. The transaction broker has a non-agency relationship.

“Customer” means a person who has not entered into a brokerage engagement with a broker but for whom a broker may perform ministerial acts in a real estate transaction;

“Client” means a person who has entered into a brokerage engagement with a real estate broker;



Focus on Terminology: “Discretion & Judgement

Discretion & Judgement are not objective but involve opinions and counsel. Therefore, if a licensee gives his/her opinion or advice to a party, he/she is not acting as a transaction broker. Providing opinions and advice may create an agency relationship.

- **Discretion** is defined as “individual choice or judgement; the quality of having or showing discernment or good judgment.”
- **Judgement** is defined as “the process of forming an opinion or evaluation by discerning and comparing; an opinion or estimate so formed.”

Definitions from www.Merriam-webster.com.