

**Out of State Transactions:
License Portability
and Reciprocity**

Updated April, 2006



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Background

Many real estate professionals have clients that transcend local markets or are involved in transactions in states other than the one in which they are located and licensed. As a result, real estate professionals need states to adopt statutes that allow out-of-state licensees (OSL) to perform licensed services either (a) in cooperation and according to a written agreement with a local licensee, also known as **license portability**; or (b) by providing OSL's the ability to obtain a license in that state without satisfying the full education, examination or experience requirements, also known as **license reciprocity**.

The NATIONAL ASSOCIATION OF REALTORS® (NAR) supports both the goals of license portability and license reciprocity.

Real Estate professionals should consult their attorney or legal counsel before becoming involved with a transaction in another state. Failure to observe applicable law could put your license or your ability to collect compensation in jeopardy. The following report is not intended to serve as such legal advice.

Portability

As of October, 2005, forty four (44) states and the District of Columbia have statutes that allow an OLS to perform licensed services on a transaction in their state. Those states can be broken down into two categories:

Cooperative States: In these states, a legal authority allows (implicitly or explicitly) an OSL to physically enter its physical borders (with certain exceptions or limitations which vary on a state by state basis), provided that the OSL and a licensee of the state where the property in question exists (the "Transaction State") enter into a written co-brokerage agreement which usually assigns duties, responsibilities, and addresses sharing of compensation. The statute lists requirements for a co-brokerage agreement, and also sets forth what activities an OSL may or may not perform within the Transaction State. The reader should always consult the remarks section for that state to determine what licensed services may or may not be performed in the Transaction State. (24 states fall into this category, although some have stricter limitations than the rest.)

Physical Location States: OSL may not perform licensed services on a real estate transaction while physically located in the Transaction State. The OSL may work on the deal and receive part of the commission from licensee in the Transaction State, provided that all licensed services rendered by the OSL are rendered while the OSL is physically located in his/her state of licensure. (21 states and the District of Columbia fall into this category.)

The remaining six (6) states are known as "Turf States," which neither permits an OSL to enter the Transaction State nor work on the transaction from his/her home state of licensure. Referral to local licensees is permitted in those states, and such referral is mandatory if the OSL is to share in any compensation. Referral fees may be paid (and negotiated) - but no licensed services may be performed by an OSL on that transaction. *As of October, 2005, these "Turf States" are Kentucky, Missouri, Nebraska, New Jersey, Pennsylvania, and Utah.*

A chart outlining the laws of each state can be found on the NAR website, at the link listed in the "Sources for More Information" section below.

Reciprocity

NAR has outlined five recommended elements of reciprocity and encourages State Associations to seek laws and/or regulations incorporating as many elements as possible in order to promote uniformity of requirements among the states. These elements are:

- 1) In order to be licensed in new states/jurisdictions, nonresidents must:
 - a. show satisfactory proof of current licensure in the applicant's resident state/jurisdiction and pay any required fees.*
 - b. sign a statement that they have read, understand and will abide by the real estate license laws of the new state/jurisdiction.*
 - c. affiliate with a broker who holds a license in the nonresident state/jurisdiction, only if an individual is a salesperson or associate broker, as opposed to a managing/qualifying/designated broker who need not affiliate.
 - d. provide the new state/jurisdiction with their resident license and copies of any disciplinary actions taken against them in their resident state/jurisdiction or other state/jurisdictions. Disciplinary action in another state/jurisdiction may be grounds for license denial or revocation.*
 - e. file with the new state/jurisdiction a designation in writing that appoints the Real Estate Administrator/Commissioner to act as the licensee's agent concerning all judicial or legal notices that may be served on the licensee.*
 - f. agree in writing to cooperate with any investigation initiated by the new state/jurisdiction by promptly supplying any documents it may request.*
- 2) In a situation where the licensee is acting only as a referral agent and is not involved in real estate brokerage activity, a licensed broker in one state/jurisdiction may divide or share a real estate commission with a licensed broker in another state/jurisdiction.*
- 3) The new state/jurisdiction shall have the power to impose any sanction permitted by law on any licensee of the state/jurisdiction who performs or attempts to perform any of the acts of a licensee on property located in another state/jurisdiction without first having been properly licensed in that state/jurisdiction or not complying with that state's/jurisdiction's laws regarding real estate.*
- 4) Eliminate nonessential paperwork, i.e streamline the application process and other communication between the nonresident licensee and the new state/jurisdiction.
- 5) Provided a licensee holds a license in another state/jurisdiction, waive all examination, education, and experience requirements and waive continuing education requirements only if the licensee has met the requirements in his/her resident state/jurisdiction.

* Summary of the [Association of Real Estate License Law Officials](#) (ARELLO) position.

CCIM Institute Statement of Policy – Cooperation Agreements

For its part, the CCIM Institute urges state legislatures to pass Cooperation Agreement statutes allowing out-of-state licensees (OSLs) to perform licensed real estate services regarding the lease, purchase, sale or other transfer of commercial real property (any real estate, other than real estate containing four or fewer residential units, which is not intended for residential purposes, and specifically raw land) within their states.

A Cooperation Agreement shall allow an OSL (or any licensee affiliated with the OSL) to enter a Transaction State (state in which a transaction is taking place) and perform licensed activities in that state or perform such licensed activities from outside the Transaction State, only if the OSL enters into a written cooperation agreement with a licensee (or other state exempted professional) of the Transaction State. That agreement shall require that all acts of the OSL within or outside the Transaction State, in furtherance of the real estate transaction, will be in close cooperation with the in-state licensee and will comply with all Transaction State laws.

The cooperation agreement should: (a) set forth the payment obligations of the parties; (b) set forth the OSL's consent to the jurisdiction of the Transaction State; and (c) allow the OSL to bring suit to enforce his or her right to payment under the cooperation agreement. The cooperation agreement can be filed with the Transaction State's real estate license commission, or it can simply serve as an enforceable contract among the licensees and the parties to the transaction. (6/01; updated 4/06)

Sources for more information on license reciprocity, license portability, and out of state transactions:

CCIM Institute Statement of Policy:

http://www.ccim.com/members/govaffairs/pdf/master_SOP.pdf

REALTOR® Field Guide to License Reciprocity/License Recognition:

<http://www.realtor.org/LibWeb.nsf/pages/fg709>

REALTORS® Commercial Alliance State License Chart:

<http://www.realtor.org/NCommSrc.nsf/pages/StateLicenseChart?OpenDocument&Login>