



South Carolina
Department of Labor, Licensing and Regulation



110 Centerview Drive
Post Office Box 11847
Columbia, SC 29211-1847
Phone: (803) 896-4400
FAX: (803) 896-4427

Real Estate Commission

Henry D. McMaster
Governor

Emily H. Farr
Director

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Criminal History Reporting

Purpose:

In accordance with the purpose of the South Carolina Real Estate Commission (“the Commission”), all applicants and licensees are required to submit to criminal background checks and self-report their criminal history to ensure the public’s interest is protected when involved in real estate transactions (S.C. Code §40-57-10).

It is the responsibility of every applicant to prove that they meet all requirements of licensure, including demonstrating that they are qualified for the license requested. To ensure, that applicants are qualified for the requested license, they must report criminal history on their applications for review. Likewise, licensees renewing their licenses must ensure that they are reporting criminal history that occurred since they last renewed. (S.C. Code §§40-57-310, 40-57-510, and 40-57-710(A)(5)).

Reporting:

Self-Reporting:

- 1) Except as set forth in #4, below, all initial applicants and licensees renewing their associate broker, broker-in-charge, property manager, and property manager-in-charge licenses must report all convictions, guilty pleas, and nolo contendere (“no contest”) pleas (collectively “convictions”) that have occurred during the person’s entire life by selecting “Yes” in the Personal History section of the application. If you are unsure if a conviction must be reported to the Commission, it is best to report the conviction.
- 2) Applications with “Yes” answers must be accompanied by a completed Criminal History Explanation form and copies of court disposition documents for all convictions. If disposition documents are no longer available, applicants must submit documentation from the issuing authority or court attesting to the records being unavailable. Applications cannot be processed until this completed form and court disposition or attestation documentation is provided. Applicants who have completed parole, probation, or restitution payments should also provide documentation of these completions.
- 3) **Pardoned convictions** must be reported to the Commission and, if your pardon is not already noted on your Criminal Background Check (“CBC”), Commission staff may

require you to provide a copy of your Certificate of Pardon or other pardon paperwork that confirms issuance of the pardon(s).

4) Items that do not require a “Yes” answer in the Personal History section of the application are:

a. Expungements

Any charge or conviction that has been expunged. If an expunged charge or conviction shows on your CBC, Commission staff may require you to provide a copy of your expungement order before your application can be processed.

b. Non-Convictions

Charges that do NOT result in a conviction do not have to be reported to the Commission. Common examples of non-convictions are charges that are disposed of with:

- Dismissal
- Nolle Pros
- Pre-trial intervention (“PTI”)
- Deferred judgment
- Probation before judgment
- Military non-judicial punishment (a.k.a. “Article 15” or “Captain’s Mast”)

If a charge is listed on your CBC and appears to be a conviction despite the result being a non-conviction, Commission staff may require you to provide copies of documents related to that charge that demonstrate you were not convicted of the charge.

c. Traffic Offenses that Carry 6 Points or Less

Convictions for traffic offenses that carry 6 points or less under South Carolina law do not need to be reported to the Commission. Please refer to S.C. Code §56-1-720 and/or your driving record to determine if you have traffic offenses that must be reported to the Commission or not.

d. Juvenile Offenses

The Commission defines a juvenile offense as one that was disposed of as an “adjudication of delinquent,” rather than as a criminal conviction. In South Carolina an adjudication of delinquency only takes place in the South Carolina Family Court. Thus, even if you were under the age of 18 at the time a crime occurred, if you were convicted in a criminal court, your conviction must be reported to the Commission unless it falls into one of the other exceptions listed in a-c, immediately above.

Criminal Background Checks: In addition to self-reporting, all initial applicants must complete two background checks: a fingerprint-based check and social security number-based check. Upon submission of the initial application, instructions to register for background checks will be sent from the Commission office. The Commission cannot accept third-party background checks or a copy of any check from applicants. Licensees renewing their licenses must submit to the two criminal background checks every third renewal.

Review Parameters:

The Commission may deny an initial application or take disciplinary action against a current licensee if the applicant's criminal history reveals they have been convicted, pled guilty to, or no contest to certain crimes identified in S.C. Code §§40-1-110(1)(h) and 40-57-710(A)(9). These convictions include the following:

- felonies;
- crimes involving drugs;
- federal and state fair housing laws;
- forgery;
- embezzlement;
- breach of trust;
- larceny (which includes shoplifting or any kind of theft);
- obtaining money or property under false pretense (which includes fraudulent check);
- extortion;
- fraud;
- conspiracy to defraud;
- or any crime involving the theft or taking of the property belonging to another;
- felony sex-related;
- felony drug-related;
- felony real estate-related;
- felony financial; or
- felony violent offense, as those offenses are described in S.C. Code §16-1-60.

Failing to Disclose:

Applicants who fail to disclose criminal history on their applications may have their applications denied for making a substantial misrepresentation on their applications, as provided for in S.C. Code §§40-1-110(1)(a), 40-1-130, and 40-57-710(A)(1).

Similarly, licensees that submit renewal applications but fail to disclose criminal history as required may face discipline against their licenses, up to and including revocation. Additionally, licensees are reminded that they must report convictions for the any of the crimes listed in S.C. Code §40-57-710(A)(9) in writing by certified mail within 10 days of being convicted, pleading guilty, or pleading nolo contendere. Failure to do so may result in facing license discipline, up to an including revocation, pursuant to S.C. Code §40-57-710(A)(10).

Review Process:

1. Applications will not be reviewed until both background checks have been received along with all requested explanations and court documentation or attestations, including, if applicable, expungement, pardon, or non-conviction documentation.
2. Complete application packets are then reviewed by Commission staff to determine if an appearance before the Commission is required.
3. Applications that cannot be approved by Commission staff must come before the full Commission for an application or renewal application hearing. Applicants have the right to request an alternate hearing date or may withdraw their application. All hearings are held in-person at LLR, located at 110 Centerview Drive, Kingstree Building, in Columbia, SC. Applicants are entitled to be represented by an attorney at an application or renewal application hearing.