

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

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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>

State License Portability Chart

Updated October 25, 2005

THIS REPORT DOES NOT CONSTITUTE LEGAL ADVICE.

State	Category	Remarks	Source
Alabama	C	An out-of-state licensee ("OSL") may enter Alabama to work on a transaction provided that the OSL enters into cooperative arrangement with Alabama licensee, which requires OSL to submit to the jurisdiction of Alabama courts. Agreement must be written and filed with real estate commission.	Ala. Code § 34-27-3 Ala. Admin. Code 790-x-1-.05
Alaska	PL	OSL may not enter into Alaska to work on a transaction, but may receive a brokerage commission from Alaska licensee for assisting an Alaska licensee in actions for which an Alaska license is required. There is no barrier to an OSL bringing a commission lawsuit in Alaska.	Alaska Stat. § 08.88.401 (b) (1)
Arizona	C	OSL can enter into a written co-brokerage agreement with Arizona licensee, in which the OSL must agree: to submit to AZ law; AZ co-operating licensee assumes responsibility for acts of OSL; negotiations in AZ or with AZ property owners are conducted through AZ licensee; and all funds are handled in accordance with AZ law. OSL can bring commission lawsuit in Arizona if all activities occurred outside of Arizona. Despite cooperative agreement, OSL cannot perform any services in Arizona.	Ariz. Rev. Stat. § 32-2163
Arkansas	PL	OSL can share a commission as long as all licensed activities relating to the sale of the property are performed in State by an Arkansas licensee. OSL cannot perform any services in Arkansas. OSL can sue for commission in Arkansas if all of his/her activities occurred outside of Arkansas.	Ark. Code Ann. § 17-42-105
California	PL	An OSL can perform no acts in California. An OSL can receive a referral fee and can share a commission if his or her acts in furtherance of the sale occur outside of California. OSL can bring a lawsuit in California, so long as the lawsuit isn't for any actions which required a California real estate license.	Cal. Bus. & Prof. Code § 10137
Colorado	C - with limitations	OSL may share in a fee earned on a Colorado transaction provided that the OSL cooperates with a Colorado licensee, and provided that all advertising, negotiations, contracting, and conveyancing done in Colorado must be performed in the name of the Colorado broker, and provided that all money collected from the parties to the transaction shall be deposited in the name of the co-broker.	Colo. Rev. Stat. § 12-61-103 (j) Reg. E-23
Connecticut	C	OSL can recover commission for commercial real estate	Conn. Gen. Stat. 20-311, 20-325a, 20-

State License Portability Chart

Updated October 25, 2005

		transactions when it meets specific statutory requirements, including: 1) OSL cooperates with licensed broker; 2) enters into written agreement with licensed CT broker meeting statutory requirements; 3) provides proof of license; and 4) escrows funds according to CT law. All advertising in CT must reference in-state cooperating broker.	328-8a
Delaware	PL	Delaware prohibits performance of licensed services within the State without a license. Case law is unclear and contradictory.	Delaware Division of Professional Services
D.C.	PL	OSL can receive a referral fee but cannot participate in any activities which require a real estate license. The license laws do not address the question of whether a licensee can bring a commission lawsuit.	D.C. Code Ann. §47-2853.197 (38)
Florida	PL	OSL cannot work physically within the state of Florida. OSL can sue for commission if he/she does not violate the law of the state in earning the commission. Note that case law is in sharp conflict within this state.	Fla. Stat. ch. 475.180
Georgia	C	OSL must enter into a written co-operating brokerage agreement with Georgia licensee. Contract must specify what the financial arrangement is between the parties and what property is the subject of the agreement. Georgia licensee is responsible for supervising the OSL. The statute sets forth additional requirements which must be followed. OSL cannot sue to collect a commission when commission is based on actions that occurred outside of the state.	Ga. Code Ann. § 43-40-9 Ga. Real Estate Comm. "Nonresident Brokerage Activity" Information Sheet Ga. Real Estate Comm. Rules & Reg. §520-1-.16, .24
Hawaii	PL	OSL cannot perform any work within Hawaii. An OSL may receive a commission from a Hawaii licensee so long as the OSL performs no functions physically within the state. A commission lawsuit can be brought so long as it is lawful.	Haw. Rev. Stat. § 467-14 (14) (A)
Idaho	PL*	OSL can enter the state, but can do nothing more than accompany Idaho licensee. OSL can receive cooperative commission from Idaho licensee but cannot list, show or inspect property in Idaho, nor advertise within the state. An OSL probably cannot sue for commission in Idaho.	Idaho Real Estate Commission Guideline #2 (Rev. 07/02)
Illinois	PL	An OSL can share a commission with an Illinois licensee, but cannot perform any of the actions related to the sale within Illinois. An OSL is generally barred from bringing a commission lawsuit in Illinois.	225 Ill. Comp. Stat. 454/10-10 (e)
Indiana	C	OSL can enter cooperative agreement with Indiana licensee for	Ind. Code 25-34.1-3-11, 25-34.1-4-3

State License Portability Chart

Updated October 25, 2005

		acts related to commercial real estate. Cooperative agreement requires OSL to work closely with Indiana licensee (see statute for specifics) and must file consent to jurisdiction with Indiana Real Estate Commission.	
Iowa	PL*	OSL may receive part of a commission or fee from Iowa broker. The broker cannot participate in any of the activities in Iowa which require an Iowa broker's license. OSL could likely bring a lawsuit for a lawfully earned commission. Comments from Real Estate Commission officials indicate OSL may enter state but perform no licensed services within the state.	Iowa Admin. Code § 193E-2.17 (2)
Kansas	C	OSL can enter into cooperative agreement with Kansas supervising broker for commercial real estate transaction so long as the agreement meets the statutory requirements, which include: 1) a written agreement; 2) OSL consents to the jurisdiction of Kansas Real Estate Commission; 3) escrows all funds with Kansas supervising broker; 4) files agreement with Kansas Real Estate Commission; and 5) brokers communicate with each other on the status of the negotiations.	Kan. Stat. Ann. 58-3062 §2
Kentucky	T	OSL can only receive a referral fee if the OSL represents an out-of-state client and performs no licensed services on the transaction. It is unlikely that an OSL could bring a lawsuit seeking an unpaid commission in Kentucky.	Ky. Rev. Stat. Ann. § 324.020 (1), (3)
Louisiana	C	OSL can receive commissions from Louisiana licensee, if a valid cooperation agreement is entered into between the parties, which includes the Louisiana broker providing supervision over the OSL. Agreement must be filed with Commission. OSL can bring a lawsuit to recover a lawfully earned commission.	Louisiana Real Estate Commission Rules & Regulations Chp. 51, §5101
Maine	PL	OSL can share a commission with a Maine licensee for a transaction if licensed services performed by the OSL are outside of Maine. OSL cannot bring a lawsuit in Maine in support of a commission.	Me. Rev. Stat. Ann. 32, §§ 13001-13004
Maryland	C	OSL can receive temporary license from Commission for specific commercial real estate transaction. OSL must: file a license application with Commission, listing all salespeople who will work on transaction as well as consenting to jurisdiction in the state; enter into a cooperative arrangement with Maryland broker specifying commission amounts as well delineating responsibility; and file cooperative agreement with Commission.	Md. Code Ann. § 17-536, 537, 538, 539, 540

State License Portability Chart

Updated October 25, 2005

Massachusetts	PL	Massachusetts would not prevent a Massachusetts licensee from paying part of a commission to OSL, so long as OSL performed no licensed services within the state. A lawsuit can be brought in Massachusetts for a lawfully earned commission.	Mass. Gen. Laws ch. 112, § 87 PP, QQ, RR
Michigan	C - with limitations	OSL can receive a commission from Michigan licensee so long as the OSL does not conduct any negotiations within the state of Michigan. It is unclear whether OSL is permitted to enter Michigan. OSL is prohibited from bringing a commission lawsuit in Michigan.	Mich. Comp. Laws § 339.2512 (h)
Minnesota	PL*	OSL can receive commission split from Minnesota licensee so long as no work is performed within Minnesota. It is unclear whether an OSL could bring a commission lawsuit. Different opinions from different real estate officials leave issues unresolved.	Minn. Stat. § 82.19 (1), (3)
Mississippi	C	OSL cannot act within the Transaction State except with the cooperation of a Mississippi broker. Whenever a foreign licensee enters into a written cooperative agreement with a Mississippi broker, the Mississippi broker shall file (within 10 days of execution of the agreement) a copy with the real estate commission. When the foreign broker signs this agreement, that foreign broker agrees to abide by Mississippi law, and the rules and regulations of the committee. Further, the showing of the property and negotiations pertaining to the transaction shall be supervised by the Mississippi broker.	Miss. Code Ann. § 73-35-11 Miss. Real Estate Commission Rule IV (A)(3)
Missouri	T	OSL can only receive a referral fee from Missouri licensee, but OSL cannot perform any licensed services on the transaction.	Mo. Rev. Stat. § 339.010
Montana	PL	OSL can share a commission with a Montana licensee, but cannot perform licensed services within the Transaction State. OSL cannot bring a lawsuit for commission in Montana if the OSL performed licensed services within the state.	Mont. Code Ann. § 37-51-306; 401
Nebraska	T*	Per one Real Estate Commission official, OSL can receive a commission for transaction involving Nebraska real estate from Nebraska licensee without obtaining a Nebraska license so long as all of the work performed by the OSL occurs outside of Nebraska. However, another official interpreted the statute to prohibit performing any licensed services on a Nebraska transaction without a Nebraska license.	Neb. Rev. Stat. § 81-885.24 (18)
Nevada	C	OSL can perform work in the state, but first must obtain a "certificate of cooperation" from the real estate commission. OSL	Nev. Rev. Stat. 645.280, 645.605 Nev. Admin. Code §§ 645.180, 183, 185

State License Portability Chart

Updated October 25, 2005

		can also receive a referral fee from Nevada licensee. OSL must have obtained "certificate of cooperation" before bringing a compensation lawsuit in Nevada.	
New Hampshire	C	OSL can share a commission with New Hampshire licensee so long as OSL is performing actions legal within OSL's state. OSL must enter into a cooperative agreement with New Hampshire licensee.	N.H. Rev. Stat. Ann. § 331-A: 26, XXIV
New Jersey	T	OSL may only receive a referral fee from New Jersey licensee and may bring a lawsuit in New Jersey to collect this fee. "Referral" is defined as introducing or directing a consumer to a New Jersey licensee. OSL can bring a lawsuit to collect referral fee. Note - case law interprets New Jersey statutes as PL.	N.J. Stat. Ann. § 45: 15-3.1
New Mexico	C	A specific written co-brokerage or referral agreement between the foreign licensee and the New Mexico licensee shall be executed prior to the closing of any transaction, all negotiations in New Mexico must be done through the New Mexico broker with the New Mexico broker assuming the responsibility for all activities relating to the properties within the State. Further, all funds handled for others in the transaction shall be placed by the New Mexico broker in a New Mexico bank.	N.M. Real Estate Commission Rules and Regulations 16.61.27.8
New York	PL	OSL can share a commission with a New York licensee, but OSL cannot perform any functions regarding New York real estate within New York. OSL cannot bring commission lawsuit in New York.	N.Y. Real. Prop. Law § 442
North Carolina	C	A limited commercial real estate license can be obtained from the Commission, so long as the OSL is affiliated with a North Carolina licensee and its license is in good standing. License is issued for a limited time and only applies to commercial real estate transactions.	N.C. Gen. Stat. § 93A-1, §93A-9(b)
North Dakota	C	OSL can enter state, perform licensed services (except for listing of properties without North Dakota license and negotiating a transaction while in the state), and receive a commission split from North Dakota licensee so long as the OSL's state affords a similar opportunity to North Dakota licensees.	NDCC § 70-02-03-03 N.D. Real Estate Commission
Ohio	C	OSL can perform work on a transaction involving "commercial real estate" (defined as any property except property with one to four residential units or condominiums, townhouses, manufactured homes, or individual homes which are sold individually, even though they are part of a larger group), so long as the OSL:	Ohio Rev. Code §4735.01(S), (T); §4735.022

State License Portability Chart

Updated October 25, 2005

		enters into a written agreement with Ohio broker; files consent to jurisdiction in Ohio; furnishes certificate of good standing in home state to Ohio broker; and all funds received are deposited in Ohio broker's escrow account.	
Oklahoma	PL	OSL can share a commission with the Oklahoma licensee, as long as all licensed services for which the OSL receives compensation are performed in OSL's state of licensure. OSL can bring a lawsuit to recover a commission.	Okla. Stat. tit. 59 § 858-306 (c) Okla. Admin. Code § 605:10-7-9 (h)
Oregon	C	OSL can perform work on a "nonresidential real estate" transaction (defined as property that has or could have commercial development or a property with five or more residential units) in Oregon if the OSL enters into a written cooperative agreement with an Oregon licensee. The cooperative agreement must be in writing and must state the Oregon licensee will supervise all activities conducted in Oregon. Oregon licensee must be present for all showings and negotiations conducted in Oregon. OSL can also receive a referral fee. OSL can only bring a lawsuit to recover lawfully earned commissions.	Or. Rev. Stat. 696.290 (1), (3), (4)
Pennsylvania	T	OSL may only receive a referral fee from Pennsylvania licensee. Otherwise, a Pennsylvania license is required to receive a commission or part of a commission. There is no bar to an OSL filing a lawsuit for referral fee in Pennsylvania.	State Real Estate Commission
Rhode Island	C - with limitations	OSL can share a commission with a Rhode Island licensee, so long as OSL does not conduct any negotiations within the state. OSL may bring a lawsuit for compensation if lawfully earned.	R.I. Gen. Laws § 5-20.5-10 (b)
South Carolina	C - with limitations	OSL may split a commission with a South Carolina licensee so long as OSL does not conduct any negotiations while physically within the state. Nothing in South Carolina bars a licensee from bringing a lawsuit for a commission.	S.C. Code Ann. § 40-57-180 (B)
South Dakota	C - with limitations	OSL may split a commission with South Dakota licensee so long as OSL does not perform any of the negotiations within South Dakota. OSL cannot bring a lawsuit in South Dakota.	South Dakota Real Estate Commission Rule 20:69:03:17
Tennessee	C - with limitations	OSL may only receive a part of commission from a Tennessee licensee if the OSL does not conduct any negotiations within Tennessee.	Tenn. Code Ann. § 62-13-302
Texas	PL	OSL may split a commission from Texas licensee so long as OSL does not conduct any of the activities related to the transaction in Texas. Texas considers OSL as acting within Texas if the OSL is	Tex. Rev. Civ. Stat. Ann. Art. 6753a, § 14(a) Tex. Admin. Code 22.23.535,

State License Portability Chart

Updated October 25, 2005

		conducting brokerage business from another state by mail, telephone, the internet, e-mail, or other medium and is considered to be acting within the State if all the prospective buyers, seller, landlords, or tenants are legal residents of the State of Texas and the property concerned is located wholly or in part within the State. No bar exists to filing a commission lawsuit in Texas.	Rules §§ 535.1 (a), 535.131
Utah	T	OSL may receive a "referral commission" from Utah licensee. Otherwise, a Utah license is required in order to receive any other compensation. OSL is barred from bringing a commission lawsuit in Utah.	Utah Code Ann. 61-2-1 (1)
Vermont	PL	OSL may receive share commission with Vermont licensee (note that Rule uses the term "referral fee"). OSL may not perform any brokerage services in Vermont, but may observe brokerage services in Vermont.	Vermont Real Estate Commission Rule 4.12 (b)
Virginia	PL	OSL can receive a referral fee or share a commission with a Virginia licensee so long as OSL does not physically enter the state to perform licensed services. No Virginia laws bar the OSL from bringing a lawsuit seeking to recover a commission. A written agreement is not required between OSL and Virginia licensee.	18 Va. Admin. Code 135-20-280 (1)
Washington	C	OSL broker can perform work in the state for commercial real estate transactions so long as the OSL enters into a written agreement with a Washington broker, includes the name of the Washington broker on all advertising, consents to jurisdiction in Washington, and provides all transaction records to Washington broker. OSL broker's salespeople can also work in the state, so long as their broker has met the requirements of the Washington statute and the OSL salespeople provide a copy of their license to the Washington broker.	Wash. Rev. Code 18.85.330, 18.85.010
West Virginia	PL	West Virginia does not permit OSL to receive any part of a commission for work performed within the state, but does not prohibit payments but West Virginia licensee for OSL's work performed outside of West Virginia's physical boundaries. West Virginia does not prohibit the bringing of a lawsuit for a lawfully earned commission.	WV Real Estate Commission W. Va. Code § 30-40-3, 30-40-19(a)(14)
Wisconsin	PL	OSL can split commission with Wisconsin licensee. OSL cannot perform any activities with the state. Wisconsin's policy is that to perform any brokerage work in the state, a license is required, no matter where the land is located. There is no bar to bring a	Wis. Stat. § 452.19

State License Portability Chart

Updated October 25, 2005

		commission lawsuit in Wisconsin.	
Wyoming	C	OSL can receive commission split from Wyoming licensee, so long as OSL conducts no negotiations within Wyoming for the transaction. Case law allows OSL to enter Wyoming and work on transaction, so long as the OSL does not conduct negotiations within the state.	Wyo. Stat. Ann. § 33-28-110 (a)