

Arbitration

The basics of filing a request for arbitration through a local REALTOR® organization

A service provided to you by the Georgia Association of REALTORS®
The Voice for Real Estate™ in Georgia



P R E F A C E

The Code of Ethics was adopted by the National Association of REALTORS® in 1913. Since then, REALTORS® everywhere have agreed to meet its high standards. Enforcement of the Code of Ethics is a very important part of the REALTOR® organization and helps to ensure honorable, faithful and competent service to clients, customers, other members of the public and fellow REALTORS®. This brochure was prepared to help you understand the process of arbitration.

Q. Do you have a monetary dispute with a REALTOR® arising out of a contractual agreement?

A. To file a request for arbitration with a REALTOR® Board/Association, you must first determine if the real estate licensee involved is a REALTOR®. Not all real estate licensees are REALTORS®. Only those who belong to a REALTOR® Board/Association can use the term REALTOR®. When joining a Board/Association, all members agree to abide by the Code of Ethics as a continuing condition of membership. It is because of their obligation to abide by the Code of Ethics that you can file a request for arbitration through the member's local Board/Association.

Q. Does your issue concern an ethics or an arbitration matter?

A. You may have to consider whether your issue concerns an ethics matter or an arbitration of a business dispute.

An ethics complaint alleges that a REALTOR® has violated an Article(s) of the Code of Ethics. The information contained in this brochure pertains to arbitration of a business dispute. A separate brochure is available explaining the filing of an ethics complaint.

Arbitration is a means of resolving a dispute arising out of a contractual real estate matter that the parties have been unable to resolve

themselves. An arbitration request is a simple notice of a disagreement with a member, usually a commission dispute. Sometimes, arbitration concerns a dispute between a member of the public and a REALTOR®. Your dispute may be addressed through the process of arbitration.

If your situation concerns *both* ethics and arbitration, the Board/Association will handle them separately. Only when the arbitration is completed will the ethics complaint be considered. Arbitration is always held first.

Q. Who may file an arbitration request?

A. The people who may file an arbitration request are:

- REALTORS® who are principal brokers
- REALTORS® or REALTOR®-ASSOCIATES who are not principals, provided his or her principal broker joins in the request
- Clients or customers of the REALTOR®

NOTE: Disputes involving clients or customers require that the client or customer sign an agreement to arbitrate and to be bound by the arbitration. Whether the Complainant is a client or a customer and whether the dispute is one that can be processed by the Board/Association is determined by the Board/Association's Grievance Committee.

The request must also:

1. be in writing;
2. be signed by the Complainant;
3. indicate the amount in dispute;
4. be filed within 180 days after the facts became known.

Arbitration facilities are provided by the REALTOR® Board/Association as a service to its members. Arbitration is *not* a disciplinary proceeding nor does it award damages. By becoming and remaining a member of a REALTOR® Board/Association, each REALTOR® binds herself or himself to arbitrate certain disputes.

You should be aware that not every situation may be arbitrated by the Board/Association. There are conditions and limitations to be considered, which will be explained to you as the process continues.

Q. What can the REALTOR® Board/Association do?

A. A Board/Association of REALTORS® has limitations to its authority regarding its members. The following is a list of those limitations:

1. The Board/Association will determine which brokerage firm was the procuring cause of the sale and, therefore, entitled to the commission in dispute.

2. The Board/Association cannot “try” a member for violations of the Georgia real estate license law, the Georgia Real Estate Commission rules and regulations or any other alleged violation of the law. It has jurisdiction only over violations of membership duties. The Georgia Real Estate Commission has sole control of the real estate licensee’s ability to sell real estate. If you think a person has violated the law, you should go to the Georgia Real Estate Commission’s web site, www.grec.state.ga.us, or call 404/656-3916.
3. The Board/Association cannot suspend or terminate the license of one of its members.
4. The Board/Association can arbitrate certain money disputes and must in some situations, but a member of the public must agree in writing to arbitrate the dispute and to be bound by the decision.
5. The award in arbitration may not be more than the amount in dispute and under no circumstances will “punitive” damages be awarded.

Q. How do you file a request for arbitration?

A. To file a request for arbitration, you need to follow these steps:

1. Complete and sign the request form (supplied by the REALTOR® Board/ Association). This form requires you to name the REALTOR®(s) in question as the Respondent(s).
2. Indicate the amount in dispute.
3. Include an explanation of the situation. State why you feel you are entitled to an award of some kind. *Do not* include allegations of unethical behavior in your argument. If you think there have been ethical violations, they should be handled separately with an ethics complaint.
4. Attach copies of any and all pertinent documents such as listing agreements, purchase and sale agreements, closing statements, etc. If you have notarized statements from witnesses, include those as well.
5. An arbitration deposit may be required. Check with the local REALTOR® Board/ Association about this requirement.
6. Send all of these items (keeping copies for yourself) to the REALTOR® Board/ Association. Your request will be reviewed before a formal hearing can be arranged.
7. You will be asked to sign an arbitration agreement indicating your commitment to abide by the decision of the Hearing Panel.

NOTE: It is not unusual for a Board/Association

to receive an ethics complaint and a request for arbitration regarding the same set of circumstances. If you think the REALTOR® has violated the Code of Ethics and you also have a monetary dispute with the REALTOR®, you must file an ethics complaint separately from any request for arbitration.

Q. How does the Board/Association process the request for arbitration?

A. There are two committees of the Board/ Association that will handle your request: the Grievance Committee and the Professional Standards Committee.

Functions of the Grievance Committee Regarding a Request for Arbitration

The Grievance Committee's only role in reviewing a request for arbitration is to make a preliminary investigation to determine whether the matter is subject to arbitration by the Board/Association. Arbitration is sometimes a duty and sometimes a privilege. The Committee must decide whether your situation fits into the "duty" or the "privilege" category. It does this by determining:

1. whether you are authorized, under the rules, to invoke arbitration
2. whether the controversy described is an arbitrable matter in accordance with the Board's/Association's procedures

1. whether the arbitration is mandatory or voluntary for the people involved (this simply means whether arbitrating the dispute is compulsory, or not)
2. whether either the amount in dispute is too small or too large, or the matter is too legally complicated for the Board/Association to consider

Such a review could result in the release of members from the obligation to arbitrate, and thus free you to seek other recourse in order to resolve the dispute.

You will be informed promptly of the Grievance Committee's decision. If the Grievance Committee forwards the request for a hearing, it is assigned to the Professional Standards Committee.

You may also appeal a dismissal of an arbitration request to the Board of Directors. The Board of Directors will review only the materials submitted to the Committee and can either uphold or overturn the Grievance Committee's dismissal. Check with your local Board/Association for details.

Functions of the Professional Standards Committee Regarding a Request for Arbitration

The function of the Professional Standards

Committee is to conduct an arbitration hearing and determine entitlement to monies in dispute. If the Respondent(s) has not already been requested to respond to your request, it will be done at this time. A hearing will then be scheduled before a Hearing Panel made up of members selected from the Professional Standards Committee based on their experience and objectivity. You will be notified of the date, time, and place of the hearing. The hearing will provide an opportunity for the Complainant (you) and the Respondent to explain "his or her side of the story" by presenting testimony, evidence and witnesses. The Hearing Panel will determine how the dispute should be settled.

You will be informed by the Board/Association about each step of this process as it occurs. You will also be given instructions about the hearing procedures prior to the hearing. The entire process will often take between 60 and 120 days.

Under certain circumstances, parties to a hearing have an opportunity to either request a re-hearing or may appeal a decision by the Hearing Panel.

If you have any questions regarding filing a request for arbitration, please call the local Board/Association of REALTORS® in your area.

Member Boards/Associations in Georgia

1. Albany Board - 229/883-6664
2. Altamaha Basin Board - 912/538-7362
3. Americus Board - 229/874-6543
4. Athens Area Association - 706/353-1126
5. Atlanta Board - 404/250-0051
6. Atlanta Commercial Board - 404/250-0051
7. Bartow Area Board - 404/845-4066
8. Camden/Charlton County Board - 912/882-5806
9. Carpet Capital Association - 706/278-0297
10. Central Georgia Board - 478/922-0099
11. Cherokee Association - 770/591-0004
12. Classic South Board - 706/736-0429
13. Cobb Association - 770/422-3900
14. Columbus Board - 706/323-1701
15. Crisp Area Board - 229/874-6543
16. DeKalb Association - 770/493-6100
17. Douglas-Coffee County Board - 229/382-7604
18. Dublin Board - 478/609-0461
19. East Metro Board - 770/787-3763
20. Fayette County Board - 770/461-2401
21. 400 North Board - 706/216-5229
22. Golden Isles Association - 912/264-2915
23. Gordon Association - 706/625-9702
24. Greater Augusta Association - 706/736-0429
25. Greater Rome Board - 706/295-1727
26. Habersham, White & Stephens County Board - 706/776-1551
27. Hall County Board - 770/534-1564
28. Heart of Georgia Board - 770/229-4478
29. Hinesville Area Board - 912/368-4227
30. I-85 North Board - 706/335-3044
31. Lake Country Association - 706/453-0823
32. Metro South Association - 770/477-7579
33. Middle Georgia Association - 478/471-7336
34. Moultrie Board - 229/228-5279
35. Newnan-Coweta Board - 770/683-0990
36. Northeast Atlanta Metro Association 770/495-7300
37. Northeast Georgia Board - 706/781-3030
38. Northwest Georgia Council/ Chattanooga Association - 423/698-8001
39. Perry Board - 478/477-8116
40. Pickens County Board - 404/845-4082
41. Rabun County Board - 706/782-7751
42. RCA Savannah/Hilton Head - 912/354-1513
43. Savannah Board - 912/354-1513
44. Southeast Georgia Board - 912/285-4663
45. Southwest Georgia Board - 229/377-4253
46. Statesboro Board - 912/764-3818
47. Thomasville Area Board - 229/228-5279
48. Tiftarea Board - 229/388-1111
49. Troup County Board - 706/298-0695
50. Valdosta Board - 229/242-2085
51. Walton-Barrow Board - 770/267-8671
52. West Georgia Board - 770/949-9966
53. West Metro Board - 770/832-0804

Telephone numbers are subject to change. Contact the Georgia Association of REALTORS® at 770/451-1831 or toll-free at 866/280-0576 or visit www.garealtor.com for the appropriate telephone number if not listed above.

The terms REALTOR® and REALTORS® are registered collective membership marks which may only be used by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and who subscribe to its strict Code of Ethics.



REALTOR®

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