

2021 Contracts Review

GAR vs. RE Forms

GREC Course #72775
Georgia Real Estate Academy
GREC School #6915

Handout #1 of 3

Table of Differences



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Georgia Real Estate Academy * 3 Hrs for CE Credit * GREC Course #72775

2021 Contracts Review | GREC CE Course #72775

**Notice to Students for Virtual / Broadcast of Continuing Education (CE) Classes
Of GREC-Approved Classroom Classes:**

Georgia Real Estate Academy (GREC School #6915) with end date of renewal being December 31, 2022, presents to you the following course of study:

2021 Contract Review: GAR vs. RE Forms GREC Course #72775

This is a Virtual / Remote Broadcast of an approved in-class course, is 3 hours in duration, and is approved by the Georgia Real Estate Commission for the purpose of Continuing Education (CE.) There are no pre-requisites to receive credit for this course.

Your instructor(s) for this course will be: **Dana Sparks**

This course does NOT have required homework not any required written examination.

Attendance policy:

All students must be on-time and present for all remote / virtual broadcast instruction hours in order to receive credit for this course. Roll call and documentation of Student's Real Estate License Number will be conducted via a "Chat Function" at the beginning and end of each session, and after all breaks.

Continuing Education Notice:

Students may only receive credit for a specific course number once every twelve months. If you have already received credit for this course within the last twelve months, you are invited to attend but will not receive additional credits.

Prohibition of Recruitment:

No recruiting for employment opportunities for any real estate brokerage firm is allowed in this class or on the school premises. Report promptly any effort to recruit on behalf of a brokerage firm by anyone including a fellow student to the Director of Georgia Real Estate Academy, Dana Sparks 678-580-6880, the Coordinator of Georgia Real Estate Academy, Heidi Kelly, 770-919-8825 ext. 306, RosterCEadmin@eAGENTweb.com or the Georgia Real Estate Commission.

GAR Contract vs. RE Forms Contract:

Issue	GAR	Paragraph	RE Forms	Paragraph
Date on Forms	Current Calendar Year – updated semi-annually January & May-ish		Dated the last year form was revised	
Fill In the Blanks	Page 1 of Contract		Throughout the Contract	
# of Pages	8		5 + 9 pages of “Standard Terms”	RE100 – Contract RE1 – Standard Terms
Forms	Specific Forms for Variety of Situations		Multi-Use Forms	i.e. Amendment to Contract may be used to Amend Brokerage, Purchase, Lease, etc.
Purchase & Sale Contract				
Names of Parties	Signature Page		Front Page & Signature Page	
Signatures / Initials	Bottom of 1 st Page Signature Page		Initial Every Page Sign Signature Page	
Sale Price	Numerals	F201 – A2	Numerals & Words	RE100 - 2
Closing Cost – Amount	Specific Amount	F201 – A6	Amount OR Percentage of Sale Price	RE100 - 5
Holder of Earnest Money	If Attorney, REQUIRES GAR F510 as Exhibit AND F511 as Agreement Signed by Closing Attorney	F201 – A5	Nothing noted if it is not the Seller’s or Buyer’s Broker	RE100 - 3
Form of Earnest Money	Check, ACH, Cash, Wire (ACH new in 2021)	F201 – A7	Check, Certified Funds, Money Order, Cash	RE100 - 3
Due Diligence Period	Negotiate Time Frame & additional Option Money for this Contingency	F201 – A8	Negotiate Time Frame for this Contingency	RE100 - 6
Labels for Brokers	“Seller’s” vs. “Listing” & “Buyer’s” vs. “Selling”	Throughout – NEW terminology in 2021	“Seller’s” Broker & “Buyer’s” Broker	Throughout – since beginning of forms in 2012

Purchase & Sale Contract				
Issue	GAR	Paragraph	RE Forms	Paragraph
Deed	Limited Warranty	F2011 - B1a	Limited Warranty	RE1 - 1
Title	Good & Marketable	F2011 - B1b	Good & Marketable	RE1 - 1
Closing Costs – Use by Buyer	Mortgage lender may not allow & unused sums go back to Seller	F201 – 3a	Any purpose whatsoever – merely at the discretion of the Buyer	RE1 – 5.5
Prorations	Fees to be prorated based on estimates & any differences to be negotiated directly between parties once actual bills come out	F201 – B3c	Fees to be prorated based on estimates & any differences to be negotiated directly between parties once actual bills come out	RE1 – 5.2
Liability for Ad Valorem Property Tax	Liability is with Buyer (NEW in 2021)	F201 – B3c	Not addressed	
Delay in Closing IMPORTANT DIFFERENCE	8 Day Unilateral Right to Extend	F201 – B4a Extension Right by either party – specific issues	Must be Extended by Mutual Agreement UNLESS there is a Lender Delay or additional costs imposed upon Seller & Buyer sends Notice (then Seller may terminate or continue)	RE1 – 6.3.2 Termination Right by Seller – specific issues & procedures
Earnest Money Deposit	5 Banking Days	F201-B5	3 Banking Days	RE100 – 3.1
Buyer Default on EM – Time to Cure	3 Banking Days	F201 – B5	3 Calendar Days	RE1 – 3.3
If No Cure	Seller may Terminate within 7 days of Notice of No Cure			
Closing Attorney	Buyer Chooses Represents Lender	F201 – B6	Buyer or Seller Chooses Represents Lender	RE100 - 4
Attorney if No Loan	Attorney represents Buyer – CHECK with Attorney!	F201 – B6	Party to select is negotiated in contract No Mortgage, then Negotiate which party shall “SELECT” Closing Attorney	RE100 - 4

Purchase & Sale Contract				
Issue	GAR	Paragraph	RE Forms	Paragraph
Disbursement of Earnest Money	Same in Both - Except if Holder disburse \$600+ to Seller, Holder may request W9 from Seller If No Agreement of "Release" of T&R <ul style="list-style-type: none"> • 10 Day Letter • Interplead Note: If Cash & Attorney is Holder – ONLY interplead	F201 – B7 F201 – B7b	Same as GAR	RE1 – 3.4
Utilities	Seller to turn on utilities	F201 – B8a	Negotiate Buyer or Seller to turn on utilities.	RE100 - 7
Inspection by Buyer & Buyer's Representatives	Right to Inspect Property Buyer may enter - from Binding Through Closing (new verbiage in 2021) Duty to Inspect Neighborhood	F201 – B8a & b	Duty to Inspect Buyer may enter - from Binding Through Closing	RE100 – 7.1
Damage from Inspection	Hold Broker Harmless Buyer to repair any damage caused by inspections	F201 – B8a	Hold Broker Harmless Buyer to repair any damage caused by inspections "Inspection" = others hired by Buyer	RE100 – 7 RE100 – 12.9.8
Contingencies in Purchase & Sale	Due Diligence Only	F201 – A8 & B8	Buyer's Right to Terminate Appraisal Contingency Financing Contingency MUST CHECK BOX	RE100 – 6 & RE1 - 6
Repairs	Good & workmanlike manner prior to closing	F201 – B8e	Good & workmanlike manner 3 days prior to closing	RE1 – 7.3

Issue	GAR	Paragraph	RE Forms	Paragraph
Broker/Agent Disclaimer	Buyer/Seller – not relied on advice or representations of Broker. Special Stips – Parties approve Agent-Answers to questions are from information provided by Seller	F201 – B10c	Broker owes No Duty Greater Than what is in Brokerage Agreements & BRETТА (OCGA 10-6a-1)	RE1 - 8
Broker/Agent Limits of Authority	Broker owes no duty outside of what is described in Buyer Brokerage or Listing Agreement	F201 – B10a	Buyer & Seller have not relied on any given or implied advice from Broker/Agent	RE1 – 8.3
Notice by Email	Receipt = When Sent	F201 – C1b	Receipt = When sent (New as of 2019)	RE1 – 11
Change of Address – Notice	Address / Email Address / Fax Number on signature page in contract – or subsequently changed	F201 – C1b	If no notification, then = “received” Change of address must be 5 banking days Notice	RE1 - 11
Remedy of Seller Upon Default by Buyer	Seller's sole remedy shall be to retain the earnest money as full liquidated damages.	F201 –C2a	Seller to get Earnest Money as Liquidated Damages	RE1 - 10.1 (change as of 2019) Used to say “Any remedy under the law”
Remedy of Buyer Upon Default by Seller	1) to sue for specific performance OR 2) terminate the contract with the return of Earnest Money.	F201 –C2b	Accept Earnest Money OR Sue Seller for Specific Performance. No actual damages	Standard Terms – Paragraph 10.2
Remedy for Broker	Commission that would have been earned	F201 – C2c	Commission that would have been earned	RE1 – 10.3
Condition of Property	As of OFFER Date “substantially same condition” * “clean & free of trash & debris & personal property of Seller not identified as remaining”	F201 – C3	As of “Acceptance” (Binding) Date “same condition normal wear & tear excepted” Broom clean all garbage, debris & personal property & belongings removed	RE1 – 7.3

Issue	GAR	Paragraph	RE Forms	Paragraph
Survival of Closing	Commission Title Warranties of Seller in writing Any obligation parties agree shall survive (<i>Use Magic Phrase</i>) Seller's interest in warranties, service contracts, etc. a Buyer's acceptance & expense Condemnation of Property Buyer's liability for Property Tax (<i>NEW in 2021</i>)	F201 – C4b	“the provisions of the contract shall survive closing.”	RE1 – 12.7
Binding Contract (same definition)	“Binding Agreement”	F201 – C4f	“Accepted Contract”	RE1 – 12.9.1
Usage & Definition of Days	Days = Calendar Days “Business Days” = Mon – Fri except Federal Holidays	F201 – C5d	“Days” = Calendar Days “Banking Days” = Mon – Fri except Federal Holidays	RE1 – 12.9.3
Wire/Cyber Fraud	CyberFraud Disclaimer Hold Harmless & Liability not greater than \$100	F201 – C6 F201 – C7	Wire Fraud Disclaimer & Hold Harmless No specific liability amount for “cyber fraud”	RE100 – 8.5
Broker / Agent Liability	Not greater than amount of commission or if No commission, then not greater than \$100	F201 – C7	Limited to amount of commission per the transaction	RE1 – 8.3
Technology & Privacy	Seller Brokerage Agreement – Marketing paragraph – “Seller acknowledges other Brokers & Buyers may take photos or video...”	F101 – B3a	Disclaimer & Buyer waiver of claims against Seller for any recordings of Buyer in home (New as of 2019)	RE1 – 9.1

Loan Contingencies				
Issue	GAR	Paragraph	RE Forms	Paragraph
Cash	Separate Exhibit	F401 – All Cash	In Contract – Just Don't Check Box for Financing Contingency	RE100
Financing Contingencies	Separate Exhibits	F404 – Conventional F407 – FHA F410 - VA	Included in Contract EXCEPT FHA & VA No USDA	RE100 - Contract RE200 – FHA RE201 - VA
Terms & Time Frames of Loan Contingencies	On the Loan Exhibits	F404 - Conv F407 - FHA F410 - VA	All Time Frames on the Purchase & Sale Agreement FHA – Terms on Exhibit VA – Terms on Exhibit	RE 100 – 6 RE 200 – FHA RE201 - VA
Termination Based on Financing	Termination Notice within negotiated time frame Loan Denial Letter within 7 days	ALL	Termination Notice & SIMULTANEOUS Loan Denial Letter	RE1 – 6.3.1
Loan Denial Letter May NOT Be Based on	“SOLELY ON...” Lack of Cash to Close (i.e. Down Payment or CC) Failure to Sell/Lease Home (if not contingency agreed to) Not provided docs to Lender timely Purchases Made After Binding that lower Credit	ALL - 6	Lack of cash to close Loan app Not Timely Submitted Failure to Sell/Lease Home (if not contingency agreed to) Buyer's Conduct After Acceptance	RE1 – 6.3.1.2
Financing Contingency – Seller Right to Terminate	AFTER end of contingency period, Seller may request Evidence of Buyer's Ability to close	ALL – 7 & 8	Repair costs per Appraisal exceed negotiated amount	RE200 RE201
Repair Costs Exceed Negotiated Amount	Seller required to get estimates & send to Buyer, parties negotiate, if no agreement, contract terminates	F407 & F410 - 15	Seller may terminate	RE200 RE201

Issue	GAR	Paragraph	RE Forms	Paragraph
Appraisal Contingency Time Frames	Conventional – Negotiated FHA – Day of Closing VA – Day of Closing	ALL	Conventional – Negotiated FHA – Day of Closing VA – Day of Closing	RE100 – 6.2 RE200 RE201
Failure to Appraise: Conventional Loan	Buyer must submit amendment to Seller to sell for lower price or Buyer buys at contract price. If Seller accepts, Buyer must buy; if Seller rejects Buyer may buy or terminate –	F404 – 11 Specific Time Frames Involved	Buyer may terminate at sole discretion Either party may propose Amendment to other party to re-negotiate Sale Price	RE1 – 6.2
Failure to Appraise: FHA Loan	Buyer may terminate at sole discretion Either party may propose Amendment to other party to re-negotiate Sale Price	F407 – 11 Value – Specific \$ Amount	Buyer may terminate at sole discretion Either party may propose Amendment to other party to re-negotiate Sale Price	RE200 – 1 st paragraph Value – Specific \$ Amount
Failure to Appraise: VA Loan	Buyer may terminate at sole discretion Either party may propose Amendment to other party to re-negotiate Sale Price	F410 – 11 Value – Reasonable Value as established by VA	Buyer may terminate at sole discretion Either party may propose Amendment to other party to re-negotiate Sale Price	RE201 – 1 st paragraph Value – Reasonable Value as established by VA
Costs Associated with FHA / VA / USDA Loan	If costs exceed negotiated amount, Seller required to get estimates then Buyer & Seller negotiate who will pay difference; no agreement then contract terminates	F407 – FHA F410 - VA	If costs exceed agreements in contract, Seller may unilaterally terminate	RE1 – 6.3.2

Issue	GAR	Paragraph	RE Forms	Paragraph
VA Loan Exhibit	Seller to provide termite Clearance Letter 90 days prior to close & potentially repair any previous damage from termites. (new as of 2020)	F410 - 14	Seller to pay costs associated with VA Loan that Buyer not allowed to pay	RE201 – “Seller Obligations” #2
Other Forms				
Issue	GAR	Paragraph	RE Forms	Paragraph
Counter Offer	Verbiage (new in 2021) – once counter initiated, no going back	GAR 249	Only one counter offer form to be signed	RE110
Seller’s Disclosure Form	No “Don’t Know” option No Year for systems age except for HVAC or when installed. Seller indicates what items are to be removed	F301	Has “Unknown” as an option Has year systems were installed & material defect Nothing regarding fixtures/items remaining with the property or Seller taking	RE130 RE112 – Bill of Sale Special Stip – “Seller to Remove Fixtures Prior to Closing”
Seller’s Disclosure of Latent Defects	NEW Form in 2021 – Designed for Non-Occupant Sellers	F302	No separate short form	
Community Association Exhibit	Undisclosed fees or increases in fees to be paid by Seller at closing	F322 – throughout form	If any changes in fees, Seller has 3 days to disclose to Buyer; any initial fees NOT disclosed or changes in fees not disclosed to be paid by Seller at closing	RE136 – 5
Sale or Lease Contingency Exhibit	More Seller influence over information regarding Buyer’s Current Home / Property	F601	More general coningency	RE251

Issue	GAR	Paragraph	RE Forms	Paragraph
Amendment During DD / Buyer's Right to Terminate	Option to terminate Due Diligence upon agreement AND as of 6/1/19 Due Diligence period acts as Time Limit of this Amendment	F704 * Verbiage from RE Forms is available in GAR as SS 302 – “Amend to Address Concerns as Notice to Terminate”	Option to terminate contract if No agreement	RE262 * NOTE: If Seller writes a Counter Amendment & parties sign, Buyer must Withdraw first Amendment RE 263 GAR F285
Temporary Occupancy Agreement for Seller After Closing	Only a Tenant at Sufferance per diem	F219 - 9	“Usage Fee” – Seller pays Buyer at Closing & Tenant at Sufferance per diem	RE255 - 2
Closing Attorney as Holder of Earnest Money (as of 6/1/19) If all cash & there is a dispute, attorney's sole remedy is to interplead the funds	GAR Form F510 – “Closing Attorney Acting as Holder of Earnest Money” (signed by parties with Binding Agreement) & GAR Form F511 – “Agreement of Closing Attorney to Serve as Holder of Earnest Money” (signed by attorney within 3 business days of receipt of Binding Agreement)	F510 – Signed by Buyer & Seller with Binding Contract & F511 – Signed by Attorney within 3 business days of receipt of Binding Agreement & Buyer has 2 Business Days to get contract to Attorney	No Contractual Form	Concern: Closing Attorney does NOT sign contract to no obligation to perform responsibilities as “Holder” as outlined in the contracts
Termination & Release “T&R”	BOTH issues addressed on one form	F522 – Unilateral Termination & Proposed Agreement to Release F519 – Mutual T&R	Termination on one form & Agreement to Release Trust Funds on a Separate Form	RE263 – Notice to Terminate RE212 – Agreement to Disburse Trust Funds
Contract Designed to Protect	Quiz: ??????		Quiz: ??????	

General Differences

Purchase & Sale Agreements

- **GAR Purchase & Sale – Fill-In the Blanks & “Legal-ese”**
 - “A” – Key Terms & Conditions
 - “B” – Corresponding Paragraphs for Section A
 - “C” – Other Terms & Conditions
- **RE Forms**
 - Contract for Purchase – Fill in the Blanks
 - Standard Terms – “Legal-ese”

General Contract Reminders

- ▶ Legal Description is required – Street Address alone is not a sufficient legal description (per License Law)
- ▶ Parties must get a copy of everything they sign (per License Law)
- ▶ Make sure Closing Attorneys & Lenders get copies of ALL Exhibits & Amendments
- ▶ Do not leave any blanks
- ▶ Use “N/A” or “\$0” or “N/C” (= No Change) on Counter Offer
- ▶ Do NOT use “TBD” – does not reflect “Meeting of the Minds” which is required for enforceability
- ▶ If contract is subject to financing, all the terms of the financing MUST be completed (per License Law)
- ▶ As an Agent, do not hold Earnest Money – must get to Broker “as soon after receipt as practically possible” (per License Law)
- ▶ Complete Brokerage address & your email address &/or Fax Number on signature page – may be your Branch Office vs. Corporate Address (Send Notice of change of any of these)
- ▶ Complete your License Number & Firm License Number (per License Law)
- ▶ Complete Agency Representation Disclosures in contract (per License Law)
- ▶ Follow up on Earnest Money DEPOSIT – request proof of deposit – regardless of who named Holder is in the contract
- ▶ All Buyer & Seller Signatures Required
- ▶ Do not miss any initial spaces
- ▶ Contact Information Required for Customers (Email OR Fax OR Address – for Notice Purposes)
- ▶ Limit Special Stipulations
- ▶ Use the pre-printed Stipulations available from GAR & RE Forms in the Special Stipulation library
- ▶ Do Not write/use a Special Stipulation for an issue already addressed elsewhere in the contract
- ▶ Consult with your Broker &/or an Attorney before writing any Special Stipulations on your own
- ▶ Peruse the GAR & RE Forms Libraries for Other Useful Forms & Special Stipulations

Thank you!

- ▶ Remember to Confirm all Contract Questions with your Broker!
 - ▶ Please refer any legal questions to the GAR Legal Helpline or an Attorney
 - ▶ Please attend Additional Courses: www.eAGENTweb.com & select “Calendar” ... select “Marietta” for master calendar of Virtual Classes
 - ▶ Video recordings & Handouts (if they exist) are available: www.eAGENTweb.com & select “Training Videos” & scroll through page for the class which interest you
 - ▶ Course Offered through: Georgia Real Estate Academy (*GREC School #6915*)
 - ▶ Hosted by: Maximum One Realty & Maximum One REALTOR® Companies
 - ▶ Have a joyous & prosperous & healthy year helping others with their real estate needs!
 - ▶ CE Credits to be recorded within 3 – 7 business days – for issues/questions contact the Coordinator of the Georgia Real Estate Academy – Heidi Kelly – RosterCEadmin@eAGENTweb.com 770-919-8825 x 306
 - ▶ Instructor: Dana Sparks, Qualifying Broker of Maximum One Greater Atlanta, REALTORS® - Dana@MaximumOneRealty.com
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- ▶ **Weekly Videos on Contract Tips: “[Real Estate Made Crystal Clear](#)” – on YouTube**