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3 HOUSE BOARDS, AGENCIES AND COMMISSIONS COMMITTEE SUBSTITUTE  
4 FOR HB402

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9 SYNOPSIS: Under existing law, real estate salespersons  
10 and brokers are licensed and regulated by the  
11 Alabama Real Estate Commission.

12 This bill would add definitions, clarify  
13 requirements for brokerage agreements and for  
14 schools, administrators, and instructors offering  
15 real estate courses, and add additional  
16 requirements for schools, administrators, and  
17 instructors offering real estate courses. This bill  
18 would also require a real estate license for  
19 certain lease and rental arrangements. This bill  
20 would also increase the clock hours requirement for  
21 continuing education for real estate license  
22 holders.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT  
27

1                   Relating to real estate; to amend Sections 34-27-2,  
2                   34-27-3, 34-27-6, 34-27-32, 34-27-33, 34-27-34, and 34-27-35,  
3                   Code of Alabama 1975, to add definitions, clarify requirements  
4                   for brokerage agreements and for schools, administrators, and  
5                   instructors offering real estate courses; to add additional  
6                   requirements for schools, administrators, and instructors  
7                   offering real estate courses; to require a real estate license  
8                   for certain lease and rental arrangements; and to increase the  
9                   clock hours requirement for continuing education for real  
10                  estate license holders.

11                 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12                         Section 1. Sections 34-27-2, 34-27-3, 34-27-6,  
13                         34-27-32, 34-27-33, 34-27-34, and 34-27-35, Code of Alabama  
14                         1975, are amended to read as follows:

15                         "§34-27-2.

16                         "(a) For purposes of Articles 1 and 2 of this  
17                         chapter, the following terms shall have the respective  
18                         meanings ascribed by this section:

19                         "(1) ASSOCIATE BROKER. Any broker other than a  
20                         qualifying broker.

21                         "(2) BROKER. Any person licensed as a real estate  
22                         broker under Articles 1 and 2 of this chapter.

23                         "(3) COMMISSION. The Alabama Real Estate Commission,  
24                         except where the context requires that it means the fee paid  
25                         to a broker or salesperson.

26                         "(4) COMMISSIONER. A member of the commission.

1           "(5) COMPANY. Any sole proprietorship, corporation,  
2 partnership, branch office, or lawfully constituted business  
3 organization as the Legislature may provide for from time to  
4 time, which is licensed as a company under Articles 1 and 2 of  
5 this chapter.

6           "(6) ENGAGE. Contractual relationships between a  
7 qualifying broker and an associate broker or salesperson  
8 licensed under him or her whether the relationship is  
9 employer-employee, independent contractor, or otherwise.

10           "(7) INACTIVE LICENSE. A license which is being held  
11 by the commission office by law, order of the commission, at  
12 the request of the licensee, or which is renewable but is not  
13 currently valid because of failure to renew.

14           "(8) LICENSEE. Any broker, salesperson, or company.

15           "(9) LICENSE PERIOD. That period of time beginning  
16 on October 1 of a year designated by the commission to be the  
17 first year of a license period and ending on midnight  
18 September 30 of the year designated by the commission as the  
19 final year of that license period.

20           "(10) PERSON. A natural person.

21           "(11) PLACE OF BUSINESS.

22           "a. A licensed broker living in a rural area of this  
23 state who operates from his or her home, provided that he or  
24 she sets up and maintains an office for the conduct of the  
25 real estate business, which shall not be used for living  
26 purposes or occupancy other than the conduct of the real  
27 estate business. The office shall be used by the broker only

1 and not as a place of business from which any additional  
2 licensee operates under his or her license. The office shall  
3 have a separate business telephone, separate entrance, and be  
4 properly identified as a real estate office.

5 "b. All licensees located within the city limits or  
6 police jurisdiction of a municipality shall operate from a  
7 separate office located in the city limits or police  
8 jurisdiction. The office shall have a business telephone, meet  
9 all other regulations of the Real Estate Commission, and be  
10 properly identified as a real estate office. Hardship cases  
11 may be subject to waiver of this regulation upon application  
12 and approval by the commission.

13 "c. All business records and files shall be kept at  
14 the place of business as required by law or Real Estate  
15 Commission rules.

16 "(12) PROPERTY MANAGEMENT. The overall management of  
17 real property for others for a fee, compensation, or other  
18 valuable consideration, that includes those activities listed  
19 in Section 34-27-30 that require a license.

20 "~~(12)~~ (13) QUALIFYING BROKER. A broker under whom a  
21 sole proprietorship, corporation, partnership, branch office,  
22 or lawfully constituted business organization as the  
23 Legislature may from time to time provide is licensed, or a  
24 broker licensed as a company to do business as a sole  
25 proprietorship who is responsible for supervising the acts of  
26 the company or proprietorship and all real estate licensees  
27 licensed therewith.

1           "~~(13)~~(14) RECOVERY FUND. The Alabama Real Estate  
2 Recovery Fund.

3           "~~(14)~~(15) SALESPERSON. Any person licensed as a real  
4 estate salesperson under Articles 1 and 2 of this chapter.

5           "(b) The licensing requirements of Articles 1 and 2  
6 of this chapter shall not apply to any of the following  
7 persons and transactions:

8           "(1) Any owner in the managing of, or in  
9 consummating a real estate transaction involving, his or her  
10 own real estate or the real estate of his or her spouse or  
11 child or parent.

12           "(2) An attorney-at-law performing his or her duties  
13 as an attorney-at-law.

14           "(3) Persons acting without compensation and in good  
15 faith under a duly executed power of attorney authorizing the  
16 consummation of a real estate transaction.

17           "(4) Persons or a state or federally chartered  
18 financial institution acting as a receiver, trustee,  
19 administrator, executor, or guardian; or acting under a court  
20 order or under authority of a trust instrument or will.

21           "(5) Public officers performing their official  
22 duties.

23           "(6) Persons performing general clerical or  
24 administrative duties for a broker so long as the person does  
25 not physically show listed property.

26           "(7) Persons or entities acting as the manager for  
27 an apartment building or complex or anyone under a manager's

1 direct supervision and control. However, this exception shall  
2 not apply to a person acting as an on-site manager of a  
3 condominium building or complex.

4 "(8) Persons licensed as time-share sellers under  
5 Article 3 of this chapter performing an act consistent with  
6 that article.

7 "(9) Transactions involving the sale, lease, or  
8 transfer of cemetery lots.

9 "§34-27-3.

10 "(a) A licensed principal broker of another state  
11 may act as co-broker, whether in sales or lease transactions,  
12 with a licensed qualifying broker of this state by executing a  
13 written agreement specifying each parcel of property covered  
14 by the agreement ~~if the state in which the nonresident broker~~  
15 ~~is licensed offers the same privileges to licensees of this~~  
16 ~~state.~~ Co-brokerage agreements are limited to three per  
17 calendar year per licensed principal broker in another state.  
18 If the broker desires to engage in the sale or lease of  
19 property in this state after engaging in three co-brokerage  
20 agreements, that broker shall obtain an Alabama reciprocal  
21 broker's license and be the principal broker in the real  
22 estate company where he or she is licensed.

23 "(b) Whenever an Alabama qualifying broker enters  
24 into a co-brokerage agreement with a nonresident principal  
25 broker to perform in Alabama any of the acts described in  
26 Section 34-27-30, the Alabama qualifying broker shall file  
27 ~~within 10 days~~ with the commission a copy of each such written

1 agreement, within 10 days. By signing the agreement, the  
2 nonresident principal broker agrees to abide by Alabama law,  
3 and the rules and regulations of the commission; and further  
4 agrees that civil actions may be commenced against him or her  
5 in any court of competent jurisdiction in any county of this  
6 state in which a claim may arise.

7 "§34-27-6.

8 "(a) For purposes of this section and rules adopted  
9 pursuant thereto, the following terms shall have the following  
10 meanings:

11 "(1) ACCREDITED SCHOOL. Any nonprofit college or  
12 university meeting the standards of an accrediting agency  
13 recognized by the United States Department of Education and  
14 offering any commission approved course.

15 "~~(1)~~ (2) ADMINISTRATOR. A person designated by a  
16 principal school or branch school and approved by the  
17 commission to be the person responsible to the commission for  
18 all acts governed by this chapter and applicable rules which  
19 govern the operation of schools.

20 "~~(2)~~ (3) APPROVED COURSE. Any course of instruction  
21 approved by the commission that satisfies commission  
22 requirements for prelicense education, postlicense education,  
23 or continuing education.

24 "(4) BRANCH SCHOOL. Any licensed school under the  
25 ownership of a principal school which offers commission  
26 approved courses at a permanent location.

1           "~~(3)~~(5) ~~APPROVED~~ CONTINUING EDUCATION ONLY SCHOOL.

2     Any proprietary educational institution or organization, other  
3     than accredited schools, offering only commission approved  
4     continuing education courses ~~and any accredited college or~~  
5     ~~university that offers any commission approved course.~~ The  
6     term includes for-profit colleges.

7           "~~(5)~~(6) INSTRUCTIONAL SITE. Any physical place where  
8     commission approved instruction is conducted apart from the  
9     principal school or branch school.

10          "~~(6)~~(7) INSTRUCTOR. A person ~~approved~~ licensed by  
11     the commission to teach approved courses in the classroom or  
12     by distance education.

13          "~~(7)~~(8) ~~LICENSED~~ PRE/POST LICENSE SCHOOL. Any  
14     ~~proprietary unaccredited~~ school that offers commission  
15     approved prelicense courses or ~~postlicense~~ post license  
16     courses, or both, including continuing education courses, only  
17     after being bonded and licensed ~~and bonded~~ by the commission.  
18     The term includes for-profit colleges.

19          "~~(8)~~(9) PRINCIPAL SCHOOL. Any institution or  
20     organization which is the primary school and not a branch  
21     school that is ~~approved~~ licensed by the commission.

22          "~~(9)~~ ~~PROPRIETARY~~ SCHOOL. ~~Any school that is not an~~  
23     ~~accredited college or university and which offers commission~~  
24     ~~approved prelicense courses or postlicense courses, or both,~~  
25     ~~only after being licensed and bonded by the commission. Each~~  
26     ~~branch school shall be licensed separately.~~



1           " (b) ~~The commission shall approve and regulate~~  
2 ~~schools that offer commission approved prelicense,~~  
3 ~~postlicense, and continuing education courses.~~ The commission  
4 shall ~~be the board, commission, or agency with~~ have the sole  
5 and exclusive authority to license and regulate proprietary  
6 ~~schools and their branches for the limited purpose of their~~  
7 ~~offerings of commission~~ that offer commission approved real  
8 estate prelicense courses or postlicense, post license, and  
9 continuing education courses, or both.

10           " (c) The commission shall require proprietary  
11 pre/post license principal schools to furnish a surety bond  
12 payable to the commission in the amount of twenty thousand  
13 dollars (\$20,000) with a surety company authorized to do  
14 business in Alabama, ~~which~~ and the bond shall provide that the  
15 obligor ~~therein~~ shall pay up to twenty thousand dollars  
16 (\$20,000) in the aggregate sum of all judgments which shall be  
17 recovered against the school for damages arising from the  
18 school's collection of tuition or fees, or both, from  
19 students, but failing to provide the complete instruction for  
20 which such tuition or fees were collected. The bond shall  
21 remain in effect as long as the school is licensed. In the  
22 event the bond is revoked or cancelled by the surety company,  
23 the school shall have 10 days to obtain a new bond and file it  
24 with the commission. Failure to maintain a bond shall result  
25 in the immediate suspension of the licenses of the principal  
26 school and all of its branches. The bond shall be provided by

1 the school and shall also cover any branch schools named in  
2 the bond or any endorsement or amendment thereto.

3 "(d) The commission shall charge a license fee for  
4 ~~each licensed principal~~ pre/post license school ~~and shall~~  
5 ~~charge a fee for each branch school~~ in the amount of two  
6 hundred fifty dollars (\$250) per year for each year or portion  
7 of a year remaining in the respective license period. The  
8 renewal fee for each pre/post license principal and branch  
9 school license shall be one hundred twenty-five dollars (\$125)  
10 for each year of the license period. The commission shall  
11 charge a license fee for each continuing education only school  
12 in the amount of fifty dollars (\$50) per year for each year or  
13 portion of a year remaining in the respective license period.  
14 The renewal fee for each continuing education only school  
15 shall be twenty-five dollars (\$25) for each year of the  
16 license period.

17 "(e) The commission shall require all schools to  
18 name ~~and have approved by the commission a school~~ an  
19 administrator, licensed by the commission, who shall be  
20 responsible to the commission for all actions of his or her  
21 respective school. Administrators of pre/post license and  
22 continuing education only schools shall pay a license fee in  
23 the amount of fifty dollars (\$50) per year for each year or  
24 portion of a year remaining in the respective license period.  
25 The renewal fee for each administrator shall be twenty-five  
26 dollars (\$25) for each year of the license period.

1           "(f) Principal schools shall be clearly identified  
2 by signage as appropriate for the location. The signage shall  
3 set out the name of the principal school. Branch schools shall  
4 be clearly identified by signage as appropriate for the  
5 location. The signage shall set out the name of the branch  
6 school and the name of the principal school.

7           "(g) The commission shall have the authority to  
8 reprimand, fine, suspend for a period up to two years, or  
9 revoke the license ~~or approval~~ of any school, administrator,  
10 or instructor for any violation of this section or any rule of  
11 the commission. The fine shall be not less than one hundred  
12 dollars (\$100) nor more than two thousand five hundred dollars  
13 (\$2,500) per count.

14           "(h) The commission shall approve, sponsor, contract  
15 for or conduct, or assist in sponsoring or conducting real  
16 estate courses for licensees, may charge fees, and may incur  
17 and pay the necessary expenses in connection therewith.

18           "(i) The commission shall ~~approve~~ license and  
19 regulate instructors who teach the commission approved  
20 prelicense, ~~postlicense~~ post license, and continuing education  
21 courses. The commission shall establish and collect fees as  
22 determined necessary, not to exceed fifty dollars (\$50) per  
23 instructor annually, to ~~approved~~ license instructors who teach  
24 commission approved courses. The commission shall impose a  
25 continuing education requirement for all active pre/post  
26 license instructors.

1           "(j) An instructor, administrator, or school may  
2 request that the commission issue or transfer a license to  
3 inactive status. Inactive instructors may not teach and  
4 inactive schools shall not offer commission approved courses.  
5 Inactive administrators may not perform any duties as an  
6 administrator including, but not limited to, registering  
7 students, advertising for the school, reporting course  
8 schedules to the commission, or entering student credit for  
9 courses completed. The license of an inactive instructor,  
10 administrator, and school shall be renewed in the same manner  
11 as the license for an active instructor, administrator, and  
12 school. An inactive pre/post license instructor whose license  
13 was renewed on inactive status may activate his or her license  
14 for the first time in a license period by completing the  
15 instructor continuing education requirement that remains  
16 incomplete from the previous license period and paying a  
17 license activation fee. Once active, an instructor shall be  
18 responsible for completing the current instructor continuing  
19 education requirement in order to renew the license on active  
20 status for the next license period. A change of status from  
21 inactive to active requires an activation fee of twenty-five  
22 dollars (\$25) for each instructor, administrator, and school.

23           "(k) Active pre/post license instructors with an  
24 inactive broker's license shall remain current with the  
25 continuing education requirement mandated for active brokers  
26 as well as the continuing education requirement for their  
27 instructor license. Failure to meet these continuing education

1 requirements shall result in the instructor's license being  
2 placed on inactive status until the requirements are met.

3 "(l) All education licenses and approvals shall  
4 expire at midnight on September 30 of the final year of each  
5 license period. Each instructor for renewal of an active  
6 pre/post license instructor license shall, on or before  
7 September 30 of the final year of each license period, satisfy  
8 the instructor continuing education requirement, in addition  
9 to any other requirements for renewal. The instructor  
10 continuing education requirement shall apply to each two-year  
11 education renewal. Hours in excess of the requirement shall  
12 not be cumulated or credited for the purpose of subsequent  
13 renewals. An inactive pre/post license instructor license  
14 shall be renewed in the same manner as an active pre/post  
15 license instructor license with the exception that instructor  
16 continuing education is not required as long as the instructor  
17 license remains inactive.

18 "(m) Failure of instructors, administrators, and  
19 schools to meet all requirements for renewal by the September  
20 30 deadline shall result in an expired license which is  
21 renewable until September 30 of the following year by renewing  
22 the license and paying the license fee plus a late fee of  
23 fifty dollars (\$50). Courses are not subject to the late fee  
24 but are subject to renewal.

25 "(n) An expired license or approval may be renewed  
26 late during the 12-month period following the September 30  
27 renewal deadline. No licensed activity may take place while a

1 license is expired. Beyond the 12-month late renewal period,  
2 expired licenses and approvals shall lapse and shall be  
3 subject to all requirements applicable to an original license  
4 or approval. The commission, upon determination of hardship,  
5 may allow later renewal upon payment of all fees.

6 ~~"(j)(o)~~ The commission shall approve courses and  
7 establish and collect fees as determined necessary, not to  
8 exceed one hundred dollars (\$100) per application, to review  
9 each course.

10 ~~"(k)(p)~~ The commission shall establish one-year or  
11 multi-year ~~approval~~ license periods for schools, instructors,  
12 administrators, and courses. ~~Approval and license~~ License  
13 periods shall run from October 1 of the first year of the  
14 approval period through September 30 of the final year of the  
15 ~~approval~~ license period.

16 ~~"(l)(q)~~ The commission shall promulgate rules and  
17 regulations as necessary to accomplish the purpose of this  
18 section in accordance with the Administrative Procedure Act.

19 "§34-27-32.

20 "(a) A license for a broker or a salesperson shall  
21 be registered to a specific real estate office and shall be  
22 issued only to, and held only by, a person who meets all of  
23 the following requirements:

24 "(1) Is trustworthy and competent to transact the  
25 business of a broker or salesperson in a manner that  
26 safeguards the interest of the public.

1           "(2) Is a person whose application for real estate  
2 licensure has not been rejected in any state on any grounds  
3 other than failure to pass a written examination within the  
4 two years prior to the application for real estate licensure  
5 with Alabama. If the applicant's rejection for real estate  
6 licensure in any state is more than two years from the date of  
7 application for licensure with Alabama, then the applicant may  
8 not be issued an Alabama real estate license without the  
9 approval of the commissioners.

10           "(3) Is a person whose real estate license has not  
11 been revoked in any state within the two years prior to  
12 application for real estate licensure with Alabama. If the  
13 applicant's real estate licensure revocation in any state,  
14 including Alabama, is more than two years from the date of  
15 application for licensure with Alabama then the applicant may  
16 not be issued an Alabama real estate license without the  
17 approval of the commissioners.

18           "(4) Is at least 19 years old.

19           "(5) Is a citizen of the United States or, if not a  
20 citizen of the United States, a person who is legally present  
21 in the United States with appropriate documentation from the  
22 federal government, or is an alien with permanent resident  
23 status.

24           "(6) Is a person who, if a nonresident, agrees to  
25 sign an affidavit stating the following and in the following  
26 form:

1           ""I, as a nonresident applicant for a real estate  
2 license and as a licensee, agree that the Alabama Real Estate  
3 Commission shall have jurisdiction over me in any and all of  
4 my real estate related activities the same as if I were an  
5 Alabama resident licensee. I agree to be subject to  
6 investigations and disciplinary actions the same as Alabama  
7 resident licensees. Further, I agree that civil actions may be  
8 commenced against me in any court of competent jurisdiction in  
9 any county of the State of Alabama.

10           ""I hereby appoint the Executive Director or the  
11 Assistant Executive Director of the Alabama Real Estate  
12 Commission as my agent upon whom all disciplinary, judicial,  
13 or other process or legal notices may be served. I agree that  
14 any service upon my agent shall be the same as service upon me  
15 and that certified copies of this appointment shall be deemed  
16 sufficient evidence and shall be admitted into evidence with  
17 the same force and effect as the original might be admitted. I  
18 agree that any lawful process against me which is served upon  
19 my agent shall be of the same legal force and validity as if  
20 personally served upon me and that this appointment shall  
21 continue in effect for as long as I have any liability  
22 remaining in the State of Alabama. I understand that my agent  
23 shall, within a reasonable time after service upon him or her,  
24 mail a copy of the service by certified mail, return receipt  
25 requested, to me at my last known business address.





1 34-27-33, but shall pass a reasonable written examination  
2 prepared by the commission on the subject of Alabama real  
3 estate. Passing candidates shall submit a complete application  
4 for licensure and fees within 90 days after passing the  
5 examination or the exam score shall be null and void. A person  
6 who holds a reciprocal license shall show proof of completion  
7 of continuing education either by meeting the requirements of  
8 Section 34-27-35 or by showing proof that his or her other  
9 state license remains active in that state. The fees for  
10 issuance and renewal of a reciprocal license shall be the same  
11 as those for original licenses pursuant to Section 34-27-35.  
12 The recovery fund fee for issuance of a reciprocal license  
13 shall be the same as for an original license pursuant to  
14 Section 34-27-31.

15 "(2) A person who holds a current Alabama license  
16 who moves to and becomes a resident of the state shall within  
17 10 days submit to the commission notice of change of address  
18 and all other license status changes.

19 "(c) A person who does not hold a current real  
20 estate broker license in another state desiring to be a real  
21 estate broker in this state ~~apply for a broker's license on a~~  
22 ~~form prescribed by the commission which shall specify~~ shall  
23 submit a complete application for licensure and fees within 90  
24 days after passing the examination or the exam score shall be  
25 null and void. The applicant shall specify whether the license  
26 shall be issued to inactive status to be held by the  
27 commission or to active status with the real estate office to

1 which he or she ~~is~~ shall be registered. Along with the  
2 application, he or she shall submit all of the following:

3 "(1) Proof that he or she has had an active real  
4 estate ~~salesperson's~~ license in any state for at least 24  
5 months of the 36-month period immediately preceding the date  
6 of application.

7 "(2) Proof that he or she is a high school graduate  
8 or the equivalent.

9 "(3) Proof that he or she has completed a course in  
10 real estate approved by the commission, which shall be a  
11 minimum of 60 clock hours.

12 "(4) Any other information requested by the  
13 commission.

14 "(d) A person who does not hold a current real  
15 estate salesperson license in another state desiring to be a  
16 real estate salesperson in this state shall ~~apply for a~~  
17 ~~salesperson's license with the commission on a form prescribed~~  
18 ~~by the commission which shall specify~~ submit a complete  
19 application for licensure and fees within 90 days after  
20 passing the examination or the exam score shall be null and  
21 void. The applicant shall specify whether the license shall be  
22 issued to inactive status to be held by the commission or to  
23 active status with the real estate office to which he or she  
24 ~~is~~ will be registered. Along with the application he or she  
25 shall furnish all of the following:

26 "(1) Proof that he or she is a high school graduate  
27 or the equivalent.

1           "(2) Proof that he or she has successfully completed  
2 a course in real estate approved by the commission, which  
3 shall be a minimum of 60 clock hours.

4           "(3) Any other information required by the  
5 commission.

6           "(e) An application for a company license or branch  
7 office license shall be made by a qualifying broker on a form  
8 prescribed by the commission. The qualifying broker shall be  
9 an officer, partner, or employee of the company.

10          "(f) An applicant for a company or broker license  
11 shall maintain a place of business.

12          "(g) If the applicant for a company or broker  
13 license maintains more than one place of business in the  
14 state, he or she shall have a company or branch office license  
15 for each separate location or branch office. Every application  
16 shall state the location of the company or branch office and  
17 the name of its qualifying broker. Each company or branch  
18 office shall be under the direction and supervision of a  
19 qualifying broker licensed at that address. No person may  
20 serve as qualifying broker at more than one location. The  
21 qualifying broker for the branch office and the qualifying  
22 broker for the company shall share equal responsibility for  
23 the real estate activities of all licensees assigned to the  
24 branch office or company.

25          "(h) No person shall be a qualifying broker for more  
26 than one company or for a company and on his or her own behalf  
27 unless:

1           "(1) All companies for which he or she is and  
2 proposes to be the qualifying broker consent in writing.

3           "(2) He or she files a copy of the written consent  
4 with the commission.

5           "(3) He or she will be doing business from the same  
6 location.

7           "A person licensed under a qualifying broker may be  
8 engaged by one or more companies with the same qualifying  
9 broker.

10           "(i) A company license shall become invalid on the  
11 death or disability of a qualifying broker. Within 30 days  
12 after the death or disability, the corporation, or the  
13 remaining partners or the successor partnership, if any, may  
14 designate another of its officers, members, or salespersons to  
15 apply for a license as temporary qualifying broker. The person  
16 designated as temporary qualifying broker shall either be a  
17 broker or have been a salesperson for at least one year prior  
18 to filing the application. If the application is granted, the  
19 company may operate under that temporary qualifying broker for  
20 no more than six months after the ~~death or disability of its~~  
21 ~~former qualifying broker~~ temporary qualifying broker's license  
22 has been issued. Unless the company designates a fully  
23 licensed broker as the qualifying broker within the six  
24 months, the company license and all licensees licensed under  
25 the temporary qualifying broker shall be ~~classified~~ placed  
26 inactive by the commission.

1           "(j) The commission shall require both state and  
2 national criminal history background checks to issue a  
3 license. Applicants shall submit required information and  
4 fingerprints to the commission, Federal Bureau of  
5 Investigation, Alabama State Law Enforcement Agency, or its  
6 successor, or to a fingerprint processing service that may be  
7 selected by the commission for this purpose. Criminal history  
8 record information shall be provided to the commission from  
9 both the State of Alabama and the Federal Bureau of  
10 Investigation. The commission can use the provided criminal  
11 history for the determination of the qualifications and  
12 fitness of the applicant to hold a real estate license. The  
13 applicant shall assume the cost of the criminal history check.  
14 The criminal history must be current to the issuance of the  
15 license.

16           "(k) The commission may charge a fee of ten dollars  
17 (\$10) for furnishing any person a copy of a license,  
18 certificate, or other official record of the commissioner.

19           "§34-27-33.

20           "(a) (1) In addition to other requirements of this  
21 chapter, every applicant for a broker's or salesperson's  
22 license shall submit to a reasonable written examination. The  
23 commission shall conduct examinations at places and times it  
24 prescribes. The commission may contract with an independent  
25 testing agency to prepare, grade, or conduct the examination.

26           "~~(2) Effective October 1, 2001, and thereafter, the~~  
27 The fee for each examination and the provisions for payment

1 and forfeiture shall be as specified in the contract with the  
2 independent testing agency.

3 "(b) Within 90 days after passing the examination,  
4 the applicant shall ~~secure a qualifying broker and~~ submit the  
5 appropriate fees, a complete application on a form prescribed  
6 by the commission, and meet all requirements of this chapter  
7 ~~and the board.~~ The commission shall issue an active license to  
8 the real estate office to which he or she shall be registered  
9 ~~or classify~~ issue the license as to inactive status to be held  
10 by the commission. In order to obtain an active license, the  
11 applicant's qualifying broker shall sign and submit to the  
12 commission a sworn statement that the applicant is in his or  
13 her opinion honest, trustworthy, and of good reputation and  
14 that the broker accepts responsibility for the actions of the  
15 salesperson as set out in Section ~~34-27-31~~ 34-27-34. The  
16 applicant's qualifying broker shall ~~be licensed in~~ hold an  
17 active Alabama license.

18 "(c) (1) On passing the examination and complying  
19 with all other conditions for licensure, a temporary license  
20 certificate shall be issued to the applicant. The applicant is  
21 not licensed until he or she or his or her qualifying broker  
22 actually receives the temporary license certificate. A  
23 temporary license shall be valid only for a period of one year  
24 following the first day of the month after its issuance.

25 "(2) The holder of a temporary license shall not be  
26 issued an original license until he or she has satisfactorily  
27 completed a 30-hour ~~post-license~~ post license course

1 prescribed by the commission. The holder of a temporary  
2 license ~~must~~ shall complete the course within six months of  
3 issuance of his or her temporary license, submit an  
4 application for an original license on a form prescribed by  
5 the commission, and have his or her original license issued,  
6 otherwise his or her temporary license certificate shall  
7 automatically be placed on inactive status by the commission.  
8 During the remaining six months his or her temporary license  
9 is valid, the holder of a temporary license may complete the  
10 course, submit an application for an original license on a  
11 form prescribed by the commission, and have his or her  
12 original license issued to either active or inactive status.  
13 If the holder of a temporary license does not complete the  
14 course and have his or her original license issued within one  
15 year following the first day of the month after its issuance,  
16 the temporary license shall automatically expire and lapse. A  
17 temporary license is not subject to renewal procedures in this  
18 chapter and may not be renewed.

19 "(3) In order to have a temporary license issued to  
20 active status, the applicant shall pay the Recovery Fund fee  
21 specified in this chapter. ~~The holder of a temporary license~~  
22 ~~shall, upon satisfactory completion of the course, pay the~~  
23 ~~original license fee specified in this chapter to have his or~~  
24 ~~her original license issued.~~ An applicant for an original  
25 license who has paid the Recovery Fund fee specified in this  
26 chapter shall not be required to pay another Recovery Fund fee  
27 in order to have his or her original license issued.



1           "(4) The holder of an original license who has  
2 satisfactorily completed the ~~postlicense~~ post license course  
3 and whose original license has been issued, shall not be  
4 subject to the continuing education requirements in this  
5 chapter for the first renewal of his or her original license.

6           "(d) This section shall become effective for  
7 licenses issued beginning October 1, 1993.

8           "§34-27-34.

9           "(a) (1) A broker may serve as qualifying broker for  
10 a salesperson or associate broker only if licensed in Alabama,  
11 his or her principal business is that of a real estate broker,  
12 and he or she shall be in a position to actually supervise the  
13 real estate activities of the associate broker or salesperson  
14 on a full-time basis.

15           "(2) A salesperson or associate broker shall not  
16 perform acts for which a license is required unless licensed  
17 under a qualifying broker. A qualifying broker shall be held  
18 responsible to the commission and to the public for all acts  
19 governed by this chapter of each salesperson and associate  
20 broker licensed under him or her and of each company for which  
21 he or she is the qualifying broker. It shall be the duty of  
22 the qualifying broker to see that all transactions of every  
23 licensee engaged by him or her or any company for which he or  
24 she is the qualifying broker comply with this chapter.  
25 Additionally, the qualifying broker shall be responsible to an  
26 injured party for the damage caused by any violation of this  
27 chapter by any licensee engaged by the qualifying broker. This

1 subsection does not relieve a licensee from liability that he  
2 or she would otherwise have.

3 "(3) The qualifying brokers' supervision  
4 responsibilities, as prescribed herein, over the real estate  
5 activities of associate brokers and salespersons licensed  
6 under him or her are not intended to and should not be  
7 construed as creating an employer-employee relationship  
8 contrary to any expressed intent of the qualifying broker and  
9 licensee to the contrary.

10 "(b) Any salesperson or associate broker who desires  
11 to change his or her qualifying broker shall give notice in  
12 writing to the commission, and shall send a copy of the notice  
13 to his or her qualifying broker. The new qualifying broker  
14 shall file with the commission a request for the transfer and  
15 a statement assuming liability for the licensee. On payment of  
16 a fee of twenty-five dollars (\$25), a new license certificate  
17 shall be issued to the salesperson or associate broker for the  
18 unexpired term of the original license. A fee of twenty-five  
19 dollars (\$25) shall also be charged for any of the following  
20 license changes:

21 "(1) Change of qualifying broker by a company or  
22 sole proprietorship. The fee is paid for the license or  
23 licenses on which the current and new qualifying brokers'  
24 names appear. In cases where a company has a branch office or  
25 offices and the main office qualifying broker is changed, the  
26 fee is paid for each branch office license and for the license  
27 of each branch qualifying broker.

1           "(2) Change of personal name of a qualifying broker.  
2 The fee is paid for the license or licenses on which the  
3 current qualifying broker's name appears. This change shall be  
4 completed within 30 days of the name change.

5           "(3) Change of personal name of a salesperson or  
6 associate broker. The fee is paid for the license on which the  
7 name appears. This change shall be completed within 30 days of  
8 the name change.

9           "(4) Change of business location. The fee is paid  
10 for the license or licenses on which the address appears.

11           "(5) Change of business name. The fee is paid for  
12 the license or licenses on which the name appears.

13           "(6) Change of status from inactive to active. The  
14 fee is paid for each license being changed from inactive to  
15 active status. No fee is charged for the change from active to  
16 inactive status.

17           "(c) A person who wishes to terminate his or her  
18 status as qualifying broker for a licensee may do so by  
19 notifying the licensee and placing the license on inactive  
20 status with the commission.~~the commission in writing and~~  
21 ~~sending the licensee's license certificate to the commission~~  
22 ~~or verifying in writing to the commission that the certificate~~  
23 ~~has been lost or destroyed.~~

24           "(d) A person who wishes to terminate his or her  
25 status as a qualifying broker for a company may do so by  
26 submitting written notice to the company or qualifying broker  
27 of the parent company and the commission.

1           "(e) A salesperson or associate broker shall not  
2 perform any act for which a license is required after his or  
3 her association with his or her qualifying broker has been  
4 terminated, or if he or she changes qualifying brokers, until  
5 a new active license has been issued by the commission.

6           "§34-27-35.

7           "(a) The commission shall prescribe the form and  
8 content of license certificates issued. Each qualifying  
9 broker's license certificate shall show the name and business  
10 address of the broker. The license certificate of each active  
11 salesperson or associate broker shall show his or her name and  
12 address. The license certificate of each active salesperson or  
13 associate broker shall be delivered or mailed to his or her  
14 qualifying broker. Each license certificate shall be kept by  
15 the qualifying broker and shall be publicly displayed at the  
16 address which appears on the license certificate.

17           "(b) The commission may establish a one-year or  
18 multi-year license period.

19           "(c) (1) The fee for a temporary license shall be one  
20 hundred fifty dollars (\$150). The original fee for a broker's  
21 license shall be one hundred fifty dollars (\$150) and,  
22 beginning with the license period effective October 1, 2002,  
23 the renewal fee for a broker's license shall be seventy-five  
24 dollars (\$75) per year for each year of the license period.  
25 The original fee for each salesperson's license shall be  
26 sixty-five dollars (\$65) per year for each year or portion of  
27 a year remaining in the respective license period, and the

1 renewal fee for each salesperson's license shall be sixty-five  
2 dollars (\$65) per year for each year of the license period.  
3 The original fee for each company license shall be sixty-five  
4 dollars (\$65) per year for each year or portion of a year  
5 remaining in the respective license period, and the renewal  
6 fee for each license shall be sixty-five dollars (\$65) per  
7 year for each year of the license period.

8 "(2) Beginning with the license period effective  
9 October 1, 2004, the renewal fee for a broker's license shall  
10 be ninety-five dollars (\$95) per year for each year of the  
11 license period. The original fee for each salesperson's  
12 license shall be eighty-five dollars (\$85) per year for each  
13 year or portion of a year remaining in the respective license  
14 period, and the renewal fee for each salesperson's license  
15 shall be eighty-five dollars (\$85) per year for each year of  
16 the license period. The original fee for each company license  
17 shall be eighty-five dollars (\$85) per year for each year or  
18 portion of a year remaining in the respective license period,  
19 and the renewal fee for each license shall be eighty-five  
20 dollars (\$85) per year for each year of the license period.

21 "(d) (1) The renewal research and education fee  
22 shall be two dollars and fifty cents (\$2.50) per year for each  
23 year of the license period and shall be paid at the time of  
24 license renewal by all brokers and salespersons in addition to  
25 the license renewal fees set out in this section. Collection  
26 of this fee shall apply to all broker and salesperson  
27 renewals, except that brokers who hold more than one broker's

1 license shall pay the fee for only one license at each  
2 renewal.

3 "(2) Beginning June 1, 2014, this fee shall be seven  
4 dollars and fifty cents (\$7.50), and the proceeds shall be  
5 distributed to the Alabama Center for Real Estate.

6 (e) The original research and education fee shall be  
7 thirty dollars (\$30) and shall be paid at the time of all  
8 applications received on and after October 15, 1995, for  
9 issuance of an original broker's license, and shall be paid at  
10 the time of all applications received on and after October 15,  
11 1995, for issuance of a temporary salesperson's license. The  
12 original research and education fee shall also be paid by  
13 reciprocal salespersons. This is in addition to the original  
14 license fees set out in this section. This thirty dollar (\$30)  
15 original research and education fee is a one-time fee which no  
16 person shall be required to pay more than once.

17 "(f) The license of a salesperson who is  
18 subsequently issued a broker's license automatically  
19 terminates upon the issuance of his or her broker's license  
20 certificate. ~~The salesperson's license certificate shall be  
21 returned to the commission in order for a broker's license to  
22 be issued.~~ No refund shall be made of any fee or Recovery Fund  
23 deposit pertaining to the salesperson's, broker's, or  
24 company's license.

25 "(g) The commission shall prescribe a license  
26 renewal form, which shall accompany renewal fees which shall  
27 be filed on or before August 31 of the final year of each

1 license period in order for the respective license to be  
2 renewed on a timely basis for the following license period. If  
3 any of the foregoing are filed during the period from  
4 September 1 through September 30 of the final year of a  
5 license period, the one hundred fifty dollar (\$150) ~~penalty~~  
6 late fee set out below shall be paid in addition to the  
7 renewal fees. Failure to meet this September 30 deadline shall  
8 result in the license being placed on inactive status on the  
9 following October 1, and the license shall be subject to all  
10 reactivation requirements. Reactivations shall be processed in  
11 the order received as evidenced by postmark or delivery date.  
12 Certified or registered mail may be used for reactivation in  
13 these cases. Licensees filing during the period from September  
14 1 of the final year of a license period through September 30  
15 of the initial year of a license period shall pay the required  
16 license fee, plus a ~~penalty~~ late fee of one hundred fifty  
17 dollars (\$150).

18 " (h) ~~The renewal form shall be mailed by the~~  
19 ~~commission to the licensee's place of business, if an active~~  
20 ~~licensee, or to his or her residence, if an inactive licensee,~~  
21 ~~prior to August 1 of the final year of each license period.~~  
22 Each licensee shall notify the commission in writing of any  
23 change in his or her business or residence address within 30  
24 days of the change.

25 " (i) Every salesperson, broker, or company license  
26 shall expire at midnight on September 30 of the final year of  
27 each license period except for temporary salespersons whose

1 licenses expire one year following the last day of the month  
2 after issuance and temporary brokers whose licenses expire six  
3 months after issuance. An expired unrenewed license may be  
4 renewed during the 12-month period following the license  
5 period for which the license was current. A licensee who fails  
6 to renew before the end of the 12-month period following the  
7 license period for which the license was issued has a lapsed  
8 license, and shall be subject to all requirements applicable  
9 to persons who have never been licensed, however, the  
10 commission may upon determination of hardship, allow later  
11 renewal upon payment of all fees and penalties. An inactive  
12 license ~~must~~ shall be renewed in the same manner as an active  
13 license.

14 "(j) (1) Each applicant for renewal of an active  
15 salesperson or broker license issued by the commission shall,  
16 on or before September 30 of the final year of each license  
17 period, ~~submit proof of completion of~~ complete not less than  
18 15 clock hours of approved continuing education course work ~~to~~  
19 ~~the commission,~~ in addition to any other requirements for  
20 renewal. Failure to meet this deadline shall result in the  
21 license being placed on inactive status on the following  
22 October 1, and the license shall be subject to all  
23 reactivation requirements. Reactivations shall be processed in  
24 the order received as evidenced by postmark or delivery date.  
25 Certified or registered mail may be used for reactivation in  
26 this case. Proof of attendance at the course work, whether or  
27 not the applicant attained a passing grade in the course,



1 shall be sufficient to satisfy continuing education  
2 requirements for renewal. The 15 clock hours' course work  
3 requirement shall apply to each two-year license renewal, and  
4 hours in excess of 15 shall not be cumulated or credited for  
5 the purpose of subsequent license renewals. The commission  
6 shall develop standards for approval of courses, and shall  
7 require certification of the course work of the applicant.

8 "Time served as a member of the state Legislature  
9 during each license renewal period shall be deemed the  
10 equivalent of the 15 hours course work and shall satisfy the  
11 requirements of this subsection.

12 "(2) This section shall apply to renewals of  
13 licenses which expire after September 30, 1986. An applicant  
14 for first renewal who has been licensed for not more than one  
15 year shall not be required to comply with this section for the  
16 first renewal of the applicant's license. Any licensee  
17 reaching the age of 65 on or before September 30, 2000, and  
18 having been licensed 10 years prior to that date shall be  
19 exempt from this section.

20 "(3) Continuing education shall not result in a  
21 passing or failing grade.

22 "(k) A licensee may request that the commission  
23 issue his or her license to inactive status. Inactive licenses  
24 shall be held at the commission office until activated. No act  
25 for which a license is required shall be performed under an  
26 inactive license."

1                   Section 2. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.