

# HB492 INTRODUCED



1 HB492  
2 FQGL5CD-1  
3 By Representatives Hollis, Wood (D), Bracy  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 30-Apr-24



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SYNOPSIS:

Under existing law pertaining to licensing real estate companies, brokers, and salespersons, there is no provision limiting the number of co-brokerage agreements a licensed out-of-state broker may enter into with state licensed brokers.

Under existing law, there is no limit on the duration of a residential listing agreement.

Under existing law, there are no specific disclosures required of licensees dealing in equitable interests in a contract for purchase and sale of residential property.

This bill would provide certain requirements pertaining to training, qualifications, licensure, and license renewal for licensed real estate companies, brokers, salespersons, schools that offer real estate training courses, and applicants for licensure.

This bill would provide certain restrictions on transactions between licensed out-of-state co-brokers and licensees of this state.

This bill would provide that the Alabama Real Estate Commission may impose penalties for a licensee's failure to disclose certain aspects of transactions involving the sale or assignment of an equitable interest in a contract for the purchase and sale of



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29 residential real estate.

30 This bill would further provide that the Alabama  
31 Real Estate Commission may impose penalties for certain  
32 conduct by licensees, including, but not limited to,  
33 the failure to specify the expiration date of a  
34 residential listing agreement or for creating an  
35 encumbrance on the property that is the subject of a  
36 residential listing agreement by recording the listing  
37 agreement with a probate officer.

38 This bill would also make nonsubstantive,  
39 technical revisions to update the existing code  
40 language to current style.

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A BILL

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TO BE ENTITLED

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AN ACT

45

46 Relating to licensed real estate professionals and  
47 companies; to amend Sections 34-27-2, 34-27-3, 34-27-6,  
48 34-27-8, 34-27-32, 34-27-33, 34-27-34, 34-27-35, 34-27-36,  
49 34-27-81, 34-27-82, 34-27-83, 34-27-84, 34-27-85, and  
50 34-27-86, Code of Alabama 1975; to provide certain  
51 requirements related to training, qualifications, and  
52 licensure of real estate companies, brokers, and salespersons;  
53 to provide restrictions on licensed out-of-state co-broker  
54 transactions in the state; to impose penalties for certain  
55 licensee conduct including certain conduct related to the sale  
56 or assignment of an equitable interest in a residential



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57 purchase and sale agreement and for the failure to provide a  
58 specified expiration date of a residential listing agreement;  
59 and to make nonsubstantive, technical revisions to update the  
60 existing code language to current style.

61 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

62 Section 1. Sections 34-27-2 and 34-27-3, Code of  
63 Alabama 1975, are amended to read as follows:

64 "§34-27-2

65 (a) For purposes of Articles 1 and 2 ~~of this chapter~~,  
66 the following terms ~~shall~~ have the ~~respective~~ following  
67 meanings ~~ascribed by this section~~:

68 (1) ASSOCIATE BROKER. Any broker other than a  
69 qualifying broker.

70 (2) BROKER. Any person licensed as a real estate broker  
71 under Articles 1 and 2 ~~of this chapter~~.

72 (3) COMMISSION. The Alabama Real Estate Commission,  
73 except where the context requires that it means the fee paid  
74 to a broker or salesperson.

75 (4) COMMISSIONER. A member of the commission.

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

81 (6) ENGAGE. Contractual relationships between a  
82 qualifying broker and an associate broker or salesperson  
83 licensed under him or her whether the relationship is  
84 employer-employee, independent contractor, or otherwise.



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85           (7) EQUITABLE INTEREST IN A CONTRACT or EQUITABLE  
86 INTEREST. Any interests or rights in a contract or agreement  
87 to purchase residential real estate held by a party to the  
88 contract or agreement.

89           ~~(7)~~ (8) INACTIVE LICENSE. A license ~~which~~ that is being  
90 held by the commission office by law, order of the commission,  
91 at the request of the licensee, or which is renewable but is  
92 not currently valid because of failure to renew.

93           ~~(8)~~ (9) LICENSEE. Any broker, salesperson, or company.

94           ~~(9)~~ (10) LICENSE PERIOD. That period of time beginning  
95 on October 1 of a year designated by the commission to be the  
96 first year of a license period and ending on midnight  
97 September 30 of the year designated by the commission as the  
98 final year of that license period.

99           (11) LISTING AGREEMENT. An agreement between a company  
100 and an owner by which the company agrees to assist the owner  
101 in the sale of the owner's real property in exchange for a  
102 fee. The definition includes agreements giving the company the  
103 right to list or market the owner's real property upon the  
104 owner's future decision to sell the property.

105           (12) OWNER. A person or entity legally deeded real  
106 property.

107           ~~(10)~~ (13) PERSON. A natural person.

108           ~~(11)~~ (14) PLACE OF BUSINESS.

109           a. A licensed broker living in a rural area of this  
110 state who operates from his or her home, provided that he or  
111 she sets up and maintains an office for the conduct of the  
112 real estate business, which shall not be used for living



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113 purposes or occupancy other than the conduct of the real  
114 estate business. The office shall be used by the broker only  
115 and not as a place of business from which any additional  
116 licensee operates under his or her license. The office shall  
117 have a separate business telephone, separate entrance, and be  
118 properly identified as a real estate office.

119         b. All licensees located within the city limits or  
120 police jurisdiction of a municipality shall operate from a  
121 separate office located in the city limits or police  
122 jurisdiction. The office shall have a business telephone, meet  
123 all other regulations of the Real Estate Commission, and be  
124 properly identified as a real estate office. Hardship cases  
125 may be subject to waiver of this regulation upon application  
126 and approval by the commission.

127         c. All business records and files shall be kept at the  
128 place of business as required by law or Real Estate Commission  
129 rules.

130         (15) PRINCIPAL BROKER. As used in other states, having  
131 the same meaning as "qualifying broker" in this state.

132         ~~(12)~~ (16) QUALIFYING BROKER. A broker under whom a sole  
133 proprietorship, corporation, partnership, branch office, or  
134 lawfully constituted business organization as the Legislature  
135 may ~~from time to time~~ provide is licensed, or a broker  
136 licensed as a company to do business as a sole proprietorship  
137 who is responsible for supervising the acts of the company or  
138 proprietorship and all real estate licensees licensed  
139 therewith.

140         ~~(13)~~ (17) RECOVERY FUND. The Alabama Real Estate



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141 Recovery Fund.

142 (18) RESIDENTIAL. Pertaining to real property located  
143 in the state which is used primarily as a residence.

144 ~~(14)~~ (19) SALESPERSON. Any person licensed as a real  
145 estate salesperson under Articles 1 and 2 ~~of this chapter.~~

146 (b) The licensing requirements of Articles 1 and 2 ~~of~~  
147 ~~this chapter~~ shall not apply to any of the following persons  
148 and transactions:

149 (1) Any owner in the managing of, or in consummating a  
150 real estate transaction involving, his or her own real estate  
151 or the real estate of his or her spouse or child or parent.

152 (2) An attorney-at-law performing his or her duties as  
153 an attorney-at-law.

154 (3) Persons acting without compensation and in good  
155 faith under a duly executed power of attorney authorizing the  
156 consummation of a real estate transaction.

157 (4) Persons or a state or federally chartered financial  
158 institution acting as a receiver, trustee, administrator,  
159 executor, or guardian; or acting under a court order or under  
160 authority of a trust instrument or will.

161 (5) Public officers performing their official duties.

162 (6) Persons performing general clerical or  
163 administrative duties for a broker so long as the person does  
164 not physically show listed property.

165 (7) Persons acting as the manager for an apartment  
166 building or complex. ~~However, this~~ This exception shall not  
167 apply to a person acting as an on-site manager of a  
168 condominium building or complex.



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169 (8) Persons licensed as time-share sellers under  
170 Article 3 ~~of this chapter~~ performing an act consistent with  
171 that article.

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

174 "§34-27-3

175 (a) A licensed principal broker of another state may  
176 act as co-broker, whether in sales or lease transactions, with  
177 a licensed qualifying broker of this state by executing a  
178 written agreement specifying each parcel of property covered  
179 by the agreement ~~if the state in which the nonresident broker~~  
180 ~~is licensed offers the same privileges to licensees of this~~  
181 ~~state~~. Co-brokerage agreements are limited to three  
182 transactions per calendar year, per licensed out-of-state  
183 principal broker. Transactions may include multiple properties  
184 if the properties are part of the same portfolio. No licensed  
185 out-of-state principal broker shall use co-brokerage  
186 agreements to engage in transactions totaling more than fifty  
187 million dollars (\$50,000,000) in any one calendar year.

188 (b) Whenever an Alabama qualifying broker enters into a  
189 co-brokerage agreement with a ~~nonresident~~ licensed out-of-state  
190 principal broker to perform in Alabama any of the acts  
191 described in Section 34-27-30, the Alabama qualifying broker  
192 shall file ~~within 10 days~~ with the commission a copy of each  
193 ~~such~~ written agreement not more than 10 days after the  
194 agreement is signed by all parties. By signing the agreement,  
195 the ~~nonresident~~ licensed out-of-state principal broker agrees  
196 to abide by Alabama law, and the rules ~~and regulations~~ of the





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197 commission; and further agrees that civil actions may be  
198 commenced against him or her in any court of competent  
199 jurisdiction in any county of this state in which a claim may  
200 arise.

201 (c) All co-brokerage agreements with licensed  
202 out-of-state co-brokers shall include all of the following  
203 provisions:

204 (1) The Alabama broker shall require a listing or joint  
205 listing of the property involved.

206 (2) The agreement shall specify all material terms,  
207 including, but not limited to, the financial terms.

208 (3) The showing of property located in Alabama and any  
209 negotiations pertaining to it shall be supervised by the  
210 Alabama broker.

211 (4) The name of the Alabama broker shall appear in all  
212 advertising of real property located in the state.

213 (5) The Alabama broker shall be liable for all acts of  
214 the licensed out-of-state broker, as well as his or her own  
215 acts, arising from the execution of the co-brokerage  
216 agreement.

217 (6) The Alabama broker shall verify that the licensed  
218 out-of-state broker is a licensed principal broker in another  
219 state.

220 (7) Any earnest money deposited pursuant to the  
221 agreement must be held in escrow by the Alabama broker unless  
222 both the buyer and the seller agree in writing to relieve the  
223 Alabama broker of this responsibility."

224 Section 2. Section 34-27-6, Code of Alabama 1975, is



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225 amended to read as follows:

226 "§34-27-6

227 (a) For purposes of this section and rules adopted  
228 pursuant thereto, the following terms ~~shall~~ have the following  
229 meanings:

230 (1) ACCREDITED SCHOOL. Any nonprofit college or  
231 university meeting the standards of an accrediting agency  
232 recognized by the U.S. Department of Education and offering  
233 any commission-approved course.

234 ~~(1)~~ (2) ADMINISTRATOR. A person designated by a  
235 ~~principal~~ school ~~or branch school~~ and approved by the  
236 commission to be the person responsible to the commission for  
237 all acts governed by this chapter and applicable rules  
238 ~~which~~ that govern the operation of schools.

239 ~~(2)~~ (3) APPROVED COURSE. Any course of instruction  
240 approved by the commission that satisfies commission  
241 requirements for prelicense education, ~~postlicense education,~~  
242 or continuing education.

243 ~~(3) APPROVED SCHOOL. Any proprietary educational~~  
244 ~~institution offering only commission approved continuing~~  
245 ~~education courses and any accredited college or university~~  
246 ~~that offers any commission approved course.~~

247 ~~(4)~~ (4) BRANCH SCHOOL. Any school under the ownership of  
248 a principal school which offers commission approved courses at  
249 a permanent location.

250 (5) CE-ONLY SCHOOL. Any private educational institution  
251 or organization offering only commission approved continuing  
252 education courses.



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253 (6) CONTINUING EDUCATION. Any professional course  
254 required to renew or activate a license which shall be a  
255 minimum of one clock-hour upon approval of the commission.

256 (7) DISTANCE EDUCATION. Courses where instruction does  
257 not take place in a traditional classroom setting but rather  
258 where teacher and student are apart by distance or by time and  
259 instruction takes place through other media.

260 ~~(5) INSTRUCTIONAL SITE. Any physical place where~~  
261 ~~commission approved instruction is conducted apart from the~~  
262 ~~principal school or branch school.~~

263 ~~(6)~~ (8) INSTRUCTOR. A person approved by the commission  
264 to teach approved courses in the classroom or by distance  
265 education.

266 (9) PRELICENSE INSTRUCTOR. An instructor of commission  
267 approved prelicense courses offered to individuals preparing  
268 to apply for real estate licensure as a salesperson or a  
269 broker and other courses offered at a prelicense school.

270 ~~(7) LICENSED~~ (10) PRELICENSE SCHOOL. Any ~~proprietary~~  
271 school that is licensed by the commission and bonded pursuant  
272 to this section, including any for-profit college, that offers  
273 commission approved prelicense courses ~~or postlicense courses,~~  
274 ~~or both, only after being licensed and bonded by the~~  
275 ~~commission.~~ Prelicense schools may also offer continuing  
276 education courses.

277 ~~(8)~~ (11) PRINCIPAL SCHOOL. Any institution or  
278 organization ~~which~~ that is the primary school and not a branch  
279 school ~~that is approved~~ and is licensed by the commission.

280 ~~(9) PROPRIETARY SCHOOL. Any school that is not an~~



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281 ~~accredited college or university and which offers commission~~  
282 ~~approved prelicense courses or postlicense courses, or both,~~  
283 ~~only after being licensed and bonded by the commission. Each~~  
284 ~~branch school shall be licensed separately.~~

285 (b) The commission shall ~~approve and regulate schools~~  
286 ~~that offer commission approved prelicense, postlicense, and~~  
287 ~~continuing education courses. The commission shall be the~~  
288 ~~board, commission, or agency with~~have the sole and exclusive  
289 authority to license ~~proprietary and regulate~~ schools ~~and their~~  
290 ~~branches~~ for the limited purpose of their offerings of  
291 commission approved prelicense courses and to approve CE-only  
292 schools for the limited purpose of their offerings of  
293 commission approved continuing education courses ~~or~~  
294 ~~postlicense courses, or both~~ that offer commission approved  
295 prelicense and continuing education courses.

296 (c) (1) The commission shall ~~require proprietary~~ require  
297 any prelicense principal school ~~schools~~ to ~~furnish~~ obtain a  
298 surety bond issued by a surety company authorized to do  
299 business in Alabama, payable to the commission in ~~the amount~~  
300 ~~of an amount not to exceed~~ twenty thousand dollars (\$20,000)  
301 ~~with a surety company authorized to do business in Alabama,~~  
302 ~~which bond shall provide.~~ The bond shall provide that the bond  
303 obligor ~~therein~~ shall pay ~~up to~~ an amount not to exceed twenty  
304 thousand dollars (\$20,000) in the aggregate sum of all  
305 judgments ~~which shall be~~ recovered against the school for  
306 damages arising from the school's collection of tuition or  
307 fees, or both, from students, but failing to provide the  
308 complete instruction for which ~~such~~ the tuition or fees were



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309 collected.

310 (2) The bond shall be obtained by the school and shall  
311 also cover any branch schools named in the bond or any  
312 endorsement or amendment of or to the bond.

313 (3) The bond shall remain in effect as long as the  
314 school is licensed. In the event the bond is revoked or  
315 ~~cancelled~~canceled by the surety company, the school shall have  
316 10 days after cancellation or revocation to obtain a new bond  
317 and file ~~it~~ the bond with the commission. Failure to maintain  
318 a bond shall result in the immediate suspension of the  
319 licenses of the school and all of its branches.

320 ~~The bond shall be provided by the school and shall also~~  
321 ~~cover any branch schools named in the bond or any endorsement~~  
322 ~~or amendment thereto.~~

323 (d) (1) The commission shall charge a license fee for  
324 each ~~licensed~~prelicense principal school and ~~shall charge a~~  
325 ~~fee for each~~ branch school in the amount of two hundred fifty  
326 dollars (\$250) per year for each year or portion of a year  
327 remaining in the respective license period. The renewal fee  
328 for each ~~school license~~prelicense principal and branch school  
329 shall be one hundred twenty-five dollars (\$125) for each year  
330 of the license period.

331 (2) The commission shall charge an approval fee for  
332 each CE-only school in the amount of one hundred dollars  
333 (\$100) per year for each year or remaining portion of a year  
334 in any approval period. The renewal fee for each CE-only  
335 school shall be fifty dollars (\$50) for each year of any  
336 approval period.



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337 (e) The commission shall require all schools to name  
338 and have approved by the commission ~~a school~~an administrator  
339 who shall be responsible to the commission for all actions of  
340 his or her respective school.

341 (f) ~~Principal schools~~The signage for each principal  
342 school and branch school shall ~~be~~ clearly ~~identified by~~  
343 ~~signage~~indicate the name of the school in a manner as  
344 appropriate for ~~the~~its location. The signage ~~shall set out the~~  
345 ~~name of the principal school. Branch schools shall be clearly~~  
346 ~~identified by signage as appropriate for the location. The~~  
347 ~~signage shall set out~~for each branch school shall also  
348 indicate ~~the name of the branch school and~~ the name of the  
349 principal school under which it operates.

350 (g) The commission ~~shall have the authority to~~ may  
351 reprimand, fine, suspend for a period up to two years, or  
352 revoke the license or approval of any school, administrator,  
353 or instructor for any violation of this section or any rule of  
354 the commission. The fine shall be not less than one hundred  
355 dollars (\$100) nor ~~more~~greater than ~~two thousand five hundred~~  
356 ~~dollars (\$2,500)~~five thousand dollars (\$5,000) per  
357 ~~count~~violation.

358 (h) The commission shall approve, sponsor, contract for  
359 or conduct, or assist in sponsoring or conducting, real estate  
360 courses for licensees, may charge fees, and may incur and pay  
361 the necessary related expenses ~~in connection therewith~~.

362 (i) (1) The commission shall approve and regulate  
363 instructors who teach the ~~commission approved~~ prelicense,  
364 ~~postlicense~~, and continuing education courses. The commission



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365 shall establish and collect fees as determined necessary, in  
366 an amount not to exceed fifty dollars (\$50) per instructor  
367 annually, ~~to approved instructors who teach commission~~  
368 ~~approved courses.~~

369 (2) The commission shall establish a continuing  
370 education requirement for all active prelicense instructors.

371 (j) (1) An instructor, administrator, or school may  
372 request that the commission issue or change its education  
373 approval or license to inactive status. An instructor,  
374 administrator, or school whose status is inactive shall be  
375 prohibited from engaging in any of the following:

- 376 a. Teaching commission approved courses.
- 377 b. Offering commission approved courses.
- 378 c. Performing any duties of an administrator,  
379 including, but not limited to, registering students,  
380 advertising the school, reporting course schedules to the  
381 commission, or entering student credit for completed courses.

382 (2) The inactive status of an instructor,  
383 administrator, or school must be renewed in the same manner as  
384 an active status for an instructor, administrator, or school,  
385 as provided in this section.

386 (k) (1) A prelicense instructor whose status is inactive  
387 for three years or less and who renews his or her approval  
388 while inactive may activate his or her approval for the first  
389 time during any approval period by meeting all of the  
390 following requirements:

- 391 a. Completing any continuing education requirement for  
392 instructors that remains incomplete from the previous approval



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393 period.

394 b. Paying an activation fee.

395 (2) A prelicense instructor whose approval remains  
396 inactive for longer than three years must take required  
397 training before activating his or her approval. Once his or  
398 her approval is on active status, a prelicense instructor will  
399 be responsible for completing the then current continuing  
400 education coursework requirements to renew the active approval  
401 for the next approval period.

402 (3) In addition to any other requirements provided in  
403 this section, any instructor, administrator, or school that is  
404 seeking to change its status from inactive to active shall be  
405 required to pay an activation fee in the amount of fifty  
406 dollars (\$50) per approval or license.

407 (1) An active prelicense instructor with an inactive  
408 broker license must remain current with continuing education  
409 requirements for active brokers as well as the continuing  
410 education requirements for active prelicense instructors.

411 (m) (1) All education licenses and approvals shall  
412 expire at midnight on September 30 of the final year of each  
413 approval period. Each prelicense instructor must complete  
414 required continuing education courses and provide proof of  
415 completion to the commission on or before September 30 of the  
416 final year of each approval period.

417 (2) The continuing education coursework requirement  
418 shall apply to each two-year education renewal. Coursework  
419 hours completed in excess of the requirement shall not be  
420 applicable to any subsequent renewal.





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421 (3) An inactive status of a prelicense instructor shall  
422 be renewed in the same manner as for an active prelicense  
423 instructor except that continuing education coursework shall  
424 not be required while the status remains inactive.

425 (n) Any instructor, administrator, or school that fails  
426 to renew its active status approval or license by the  
427 September 30 deadline shall incur a late fee in the amount of  
428 two hundred dollars (\$200) per approval or license.

429 (o) (1) An instructor, administrator, or school may  
430 renew any expired approval or license during the 12-month  
431 period following the September 30 renewal deadline, provided  
432 that an instructor, administrator, or school shall not engage  
433 in any activity for which a license or approval is required  
434 until the commission approves the renewal.

435 (2) Except as provided in subdivision (3), after the  
436 last day of the twelfth month following the September 30  
437 renewal deadline, an expired license or approval shall lapse  
438 and shall be subject to all requirements applicable to an  
439 original license or approval.

440 (3) The commission may allow renewal of an expired  
441 license or approval upon a determination of hardship, provided  
442 that all required fees are paid.

443 ~~(j)~~ (p) (1) Except as provided in subdivision (2),  
444 the commission shall approve courses and establish and collect  
445 fees ~~as determined~~ deemed necessary, in an amount not to exceed  
446 one hundred dollars (\$100) per application, to review each  
447 course.

448 (2)a. The commission may certify and approve



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449 synchronous distance education courses and establish and  
450 collect fees deemed necessary, in an amount not to exceed four  
451 hundred dollars (\$400) per application, to review each course.

452 b. The commission shall consider synchronous distance  
453 education courses for certification based on the commission's  
454 analysis of all of the following aspects:

455 1. The course or program mission statement.

456 2. Course design.

457 3. Interactivity.

458 4. Delivery.

459 5. Equipment.

460 6. The learning environment.

461 7. Student support services.

462 8. Educational effectiveness and assessment of student  
463 learning outcomes.

464 9. Commitment to ongoing support of the course.

465 ~~(k)~~ (q) The commission shall establish one-year or  
466 multi-year approval or license periods for schools,  
467 instructors, administrators, and courses. Approval and license  
468 periods shall run from October 1 of the first year of the  
469 approval or license period through September 30 of the final  
470 year of the approval or license period.

471 (1) The commission shall promulgate rules and  
472 regulations as necessary to accomplish the purpose of this  
473 section in accordance with the Administrative Procedure Act."

474 Section 3. Section 34-27-8, Code of Alabama 1975, is  
475 amended to read as follows:

476 "§34-27-8



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477 ~~(a)~~ A majority of the commission members shall  
478 constitute a quorum for the conduct of commission business.  
479 The commission may adopt and enforce all rules ~~and regulations~~  
480 pursuant to the ~~state administrative procedure statutes~~  
481 Alabama Administrative Procedure Act necessary for the  
482 administration of this chapter, and to otherwise do all things  
483 necessary and convenient for effecting this chapter.

484 (b) In addition to the powers granted in this section,  
485 the commission may adopt and enforce rules and regulations  
486 governing the requirements of agency disclosure by licensed  
487 brokers and salespersons.

488 ~~(c) Each offer to purchase prepared after August 1,~~  
489 ~~1998, shall have prominently displayed the following AGENCY~~  
490 ~~DISCLOSURE clause which shall be completed and initialed as~~  
491 ~~indicated:~~

492 ~~The listing company \_\_\_\_\_ is:~~

493 ~~(Two blocks may be checked)~~

494 ~~\_\_\_\_\_ An agent of the seller.~~

495 ~~\_\_\_\_\_ An agent of the buyer.~~

496 ~~\_\_\_\_\_ An agent of both the seller and buyer and is~~  
497 ~~acting as a limited consensual dual agent.~~

498 ~~\_\_\_\_\_ Assisting the \_\_\_\_\_ buyer \_\_\_\_\_ seller as a~~  
499 ~~transaction broker.~~

500 ~~The selling company \_\_\_\_\_ is:~~

501 ~~(Two blocks may be checked)~~

502 ~~\_\_\_\_\_ An agent of the seller.~~

503 ~~\_\_\_\_\_ An agent of the buyer.~~

504 ~~\_\_\_\_\_ An agent of both the seller and buyer and is~~



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505 ~~acting as a limited consensual dual agent.~~

506 ~~\_\_\_\_\_ Assisting the \_\_\_\_\_ buyer \_\_\_\_\_ seller as a~~  
507 ~~transaction broker."~~

508 Section 4. Section 34-27-32, Code of Alabama 1975, is  
509 amended to read as follows:

510 "§34-27-32

511 (a) A license for a broker or a salesperson shall be  
512 registered to a specific real estate office and shall be  
513 issued only to, and held only by, a person who meets all of  
514 the following requirements:

515 (1) Is trustworthy and competent to transact the  
516 business of a broker or salesperson in a manner that  
517 safeguards the interest of the public.

518 (2) Is a person whose application for real estate  
519 licensure has not been rejected in any state on any grounds  
520 other than failure to pass a written examination within the  
521 two years prior to the application for real estate licensure  
522 with Alabama. If the applicant's rejection for real estate  
523 licensure in any state is more than two years from the date of  
524 application for licensure with Alabama, then the applicant may  
525 not be issued an Alabama real estate license without the  
526 approval of the ~~commissioners~~commission.

527 (3) Is a person whose real estate license has not been  
528 revoked in any state within the two years prior to application  
529 for real estate licensure with Alabama. If the applicant's  
530 real estate licensure revocation in any state, including  
531 Alabama, is more than two years from the date of application  
532 for licensure with Alabama then the applicant may not be



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533 issued an Alabama real estate license without the approval of  
534 the ~~commissioners~~commission.

535 (4) Is at least 19 years ~~old~~of age.

536 (5) Is a citizen of the United States or, if not a  
537 citizen of the United States, a person who is legally present  
538 in the United States with appropriate documentation from the  
539 federal government, or is an alien with permanent resident  
540 status.

541 (6) Is a person who, if a nonresident, agrees to sign  
542 an affidavit stating the following and in the following form:

543 "I, as a nonresident applicant for a real estate  
544 license and as a licensee, agree that the Alabama Real Estate  
545 Commission shall have jurisdiction over me in any and all of  
546 my real estate related activities the same as if I were an  
547 Alabama resident licensee. I agree to be subject to  
548 investigations and disciplinary actions the same as Alabama  
549 resident licensees. Further, I agree that civil actions may be  
550 commenced against me in any court of competent jurisdiction in  
551 any county of the State of Alabama.

552 "I hereby appoint the Executive Director or the  
553 Assistant Executive Director of the Alabama Real Estate  
554 Commission as my agent upon whom all disciplinary, judicial,  
555 or other process or legal notices may be served. I agree that  
556 any service upon my agent shall be the same as service upon me  
557 and that certified copies of this appointment shall be deemed  
558 sufficient evidence and shall be admitted into evidence with  
559 the same force and effect as the original might be admitted. I  
560 agree that any lawful process against me which is served upon



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561 my agent shall be of the same legal force and validity as if  
562 personally served upon me and that this appointment shall  
563 continue in effect for as long as I have any liability  
564 remaining in the State of Alabama. I understand that my agent  
565 shall, within a reasonable time after service upon him or her,  
566 mail a copy of the service by certified mail, return receipt  
567 requested, to me at my last known business address.

568 "I agree that I am bound by all the provisions of the  
569 Alabama Real Estate License Law the same as if I were a  
570 resident of the State of Alabama.

571 \_\_\_\_\_ Legal Signature of Applicant"

572 (b) The commission may reject the application of any  
573 person who has been convicted of or pleaded guilty or nolo  
574 contendere to a felony or a crime involving moral turpitude.

575 ~~(b)~~ (c) (1) a. A person who holds a current real estate  
576 salesperson license in another state, including persons who  
577 move to and become residents of Alabama, shall apply for a  
578 reciprocal salesperson license ~~on a form prescribed by the~~  
579 ~~commission~~. A person who holds a current broker license in  
580 another state, including persons who move to and become  
581 residents of Alabama, shall apply for a reciprocal broker  
582 license ~~on a form prescribed by the commission~~.

583 b. The applicant shall submit proof that he or she has  
584 a current real estate license in another state as evidenced by  
585 a certificate of licensure, together with any other  
586 information required by the commission. The applicant shall  
587 also show proof that he or she has completed at least six  
588 hours of course work in Alabama real estate which is approved



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589 by the commission. Applicants for a reciprocal license shall  
590 not be subject to the complete examination or temporary  
591 license requirements of Section 34-27-33, but shall pass a  
592 reasonable written examination prepared by the commission on  
593 the subject of Alabama real estate. A person who holds a  
594 reciprocal license shall show proof of completion of  
595 continuing education either by meeting the requirements of  
596 Section 34-27-35 or by showing proof that his or her other  
597 state license remains active in that state.

598 c. The fees for issuance and renewal of a reciprocal  
599 license shall be the same as those for original licenses  
600 pursuant to Section 34-27-35. The recovery fund fee for  
601 issuance of a reciprocal license shall be the same as for an  
602 original license pursuant to Section 34-27-31.

603 (2) A person who holds a current Alabama license who  
604 moves to and becomes a resident of the state shall within 10  
605 days submit to the commission notice of change of address and  
606 all other license status changes.

607 ~~(e)~~ (d) A person who does not hold a current real estate  
608 broker license in another state desiring to be a real estate  
609 broker in this state shall apply for a ~~broker's~~broker license  
610 on a form prescribed by the commission which shall specify the  
611 real estate office to which he or she is registered. Along  
612 with the application, he or she shall submit all of the  
613 following:

614 (1) Proof that he or she has had an active real estate  
615 ~~salesperson's~~salesperson license in any state for at least 24  
616 months of the 36-month period immediately preceding the date



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617 of application.

618 (2) Proof that he or she is a high school graduate or  
619 the equivalent.

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

623 (4) Any other information requested by the commission.

624 ~~(d)~~ (e) A person who does not hold a current real estate  
625 salesperson license in another state desiring to be a real  
626 estate salesperson in this state shall apply for a  
627 ~~salesperson's~~ salesperson license with the commission on a form  
628 prescribed by the commission which shall specify the real  
629 estate office to which he or she is registered. Along with the  
630 application he or she shall furnish all of the following:

631 (1) Proof that he or she is a high school graduate or  
632 the equivalent.

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

636 (3) Any other information required by the commission.

637 ~~(e)~~ (f) An application for a company license or branch  
638 office license shall be made by a qualifying broker on a form  
639 prescribed by the commission. The qualifying broker shall be  
640 an officer, partner, or employee of the company.

641 ~~(f)~~ (g) An applicant for a company or broker license  
642 shall maintain a place of business.

643 ~~(g)~~ (h) If the applicant for a company or broker license  
644 maintains more than one place of business in the state, he or





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645 she shall have a company or branch office license for each  
646 separate ~~location~~company or branch office. Every application  
647 shall state the location of the company or branch office and  
648 the name of its qualifying broker. Each company or branch  
649 office shall be under the direction and supervision of a  
650 qualifying broker licensed at that address. No person may  
651 serve as qualifying broker at more than one location. The  
652 qualifying broker for the branch office and the qualifying  
653 broker for the company shall share equal responsibility for  
654 the real estate activities of all licensees assigned to the  
655 branch office or company.

656 ~~(h)~~ (i) (1) No person shall be a qualifying broker for  
657 more than one company or for a company and on his or her own  
658 behalf unless he or she meets all of the following  
659 requirements:

660 ~~(1)~~ a. All companies for which he or she is and proposes  
661 to be the qualifying broker consent in writing.

662 ~~(2)~~ b. He or she files a copy of the written consent  
663 with the commission.

664 c. All companies for which he or she is and proposes to  
665 be the qualifying broker share the same company address ~~(3) He~~  
666 ~~or she will be doing business from the same location.~~

667 (2) A person licensed under a qualifying broker may be  
668 engaged by one or more companies with the same qualifying  
669 broker.

670 (3) A person may utilize any office of a company under  
671 which he or she is licensed.

672 ~~(i)~~ (j) A company license shall become invalid on the



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673 death or disability of a qualifying broker. Within 30 days  
674 after the death or disability, the corporation, or the  
675 remaining partners or the successor partnership, if any, may  
676 designate another of its officers, members, or salespersons to  
677 apply for a license as temporary qualifying broker. The person  
678 designated as temporary qualifying broker shall either be a  
679 broker or have been a salesperson for at least one year prior  
680 to filing the application. If the application is granted, the  
681 company may operate under that temporary qualifying broker for  
682 no more than six months after the ~~death or disability of its~~  
683 ~~former qualifying broker~~ temporary qualifying broker license is  
684 issued. Unless the company designates a fully licensed broker  
685 as the qualifying broker within the six months, the company  
686 license and all licenses under the company shall be classified  
687 inactive by the commission after two weeks prior electronic  
688 notice.

689 ~~(j)~~ (k) The commission shall require both state and  
690 national criminal history background checks to issue a  
691 license. Applicants shall submit required information and  
692 fingerprints to the commission, Federal Bureau of  
693 Investigation, Alabama State Law Enforcement Agency, or its  
694 successor, or to a fingerprint processing service that may be  
695 selected by the commission for this purpose. Criminal history  
696 record information shall be provided to the commission from  
697 both the State of Alabama and the Federal Bureau of  
698 Investigation. The commission can use the provided criminal  
699 history for the determination of the qualifications and  
700 fitness of the applicant to hold a real estate license. The



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701 applicant shall assume the cost of the criminal history check.  
702 The criminal history ~~must~~shall be current to the issuance of  
703 the license.

704 ~~(\*)~~ (1) The commission may charge a fee of ten dollars  
705 (\$10) for furnishing any person a copy of a license,  
706 certificate, or other official record of the commissioner."

707 Section 5. Section 34-27-32, Code of Alabama 1975, is  
708 amended to read as follows:

709 "§34-27-32

710 (a) A license for a broker or a salesperson shall be  
711 registered to a specific real estate office and shall be  
712 issued only to, and held only by, a person who meets all of  
713 the following requirements:

714 (1) Is trustworthy and competent to transact the  
715 business of a broker or salesperson in a manner that  
716 safeguards the interest of the public.

717 (2) Is a person whose application for real estate  
718 licensure has not been rejected in any state on any grounds  
719 other than failure to pass a written examination within the  
720 two years prior to the application for real estate licensure  
721 with Alabama. If the applicant's rejection for real estate  
722 licensure in any state is more than two years from the date of  
723 application for licensure with Alabama, then the applicant may  
724 not be issued an Alabama real estate license without the  
725 approval of the ~~commissioners~~commission.

726 (3) Is a person whose real estate license has not been  
727 revoked in any state within the two years prior to application  
728 for real estate licensure with Alabama. If the applicant's



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729 real estate licensure revocation in any state, including  
730 Alabama, is more than two years from the date of application  
731 for licensure with Alabama then the applicant may not be  
732 issued an Alabama real estate license without the approval of  
733 the ~~commissioners~~commission.

734 (4) Is at least 19 years ~~old~~of age.

735 (5) Is a citizen of the United States or, if not a  
736 citizen of the United States, a person who is legally present  
737 in the United States with appropriate documentation from the  
738 federal government, or is an alien with permanent resident  
739 status.

740 (6) Is a person who, if a nonresident, agrees to sign  
741 an affidavit stating the following and in the following form:

742 "I, as a nonresident applicant for a real estate  
743 license and as a licensee, agree that the Alabama Real Estate  
744 Commission shall have jurisdiction over me in any and all of  
745 my real estate related activities the same as if I were an  
746 Alabama resident licensee. I agree to be subject to  
747 investigations and disciplinary actions the same as Alabama  
748 resident licensees. Further, I agree that civil actions may be  
749 commenced against me in any court of competent jurisdiction in  
750 any county of the State of Alabama.

751 "I hereby appoint the Executive Director or the  
752 Assistant Executive Director of the Alabama Real Estate  
753 Commission as my agent upon whom all disciplinary, judicial,  
754 or other process or legal notices may be served. I agree that  
755 any service upon my agent shall be the same as service upon me  
756 and that certified copies of this appointment shall be deemed



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757 sufficient evidence and shall be admitted into evidence with  
758 the same force and effect as the original might be admitted. I  
759 agree that any lawful process against me which is served upon  
760 my agent shall be of the same legal force and validity as if  
761 personally served upon me and that this appointment shall  
762 continue in effect for as long as I have any liability  
763 remaining in the State of Alabama. I understand that my agent  
764 shall, within a reasonable time after service upon him or her,  
765 mail a copy of the service by certified mail, return receipt  
766 requested, to me at my last known business address.

767 "I agree that I am bound by all the provisions of the  
768 Alabama Real Estate License Law the same as if I were a  
769 resident of the State of Alabama.

770 \_\_\_\_\_ Legal Signature of Applicant"

771 (b) The commission may reject the application of any  
772 person who has been convicted of or pleaded guilty or nolo  
773 contendere to a felony or a crime involving moral turpitude.

774 ~~(b)~~ (c) (1) a. A person who holds a current real estate  
775 salesperson license in another state, including persons who  
776 move to and become residents of Alabama, shall apply for a  
777 reciprocal salesperson license ~~on a form prescribed by the~~  
778 ~~commission~~. A person who holds a current broker license in  
779 another state, including persons who move to and become  
780 residents of Alabama, shall apply for a reciprocal broker  
781 license ~~on a form prescribed by the commission~~.

782 b. The applicant shall submit proof that he or she has  
783 a current real estate license in another state as evidenced by  
784 a certificate of licensure, together with any other



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785 information required by the commission. The applicant shall  
786 also show proof that he or she has completed at least six  
787 hours of course work in Alabama real estate which is approved  
788 by the commission. Applicants for a reciprocal license shall  
789 not be subject to the complete examination or temporary  
790 license requirements of Section 34-27-33, but shall pass a  
791 reasonable written examination prepared by the commission on  
792 the subject of Alabama real estate. A person who holds a  
793 reciprocal license shall show proof of completion of  
794 continuing education either by meeting the requirements of  
795 Section 34-27-35 or by showing proof that his or her other  
796 state license remains active in that state.

797 c. The fees for issuance and renewal of a reciprocal  
798 license shall be the same as those for original licenses  
799 pursuant to Section 34-27-35. The recovery fund fee for  
800 issuance of a reciprocal license shall be the same as for an  
801 original license pursuant to Section 34-27-31.

802 (2) A person who holds a current Alabama license who  
803 moves to and becomes a resident of the state shall within 10  
804 days submit to the commission notice of change of address and  
805 all other license status changes.

806 ~~(e)~~ (d) A person who does not hold a current real estate  
807 broker license in another state desiring to be a real estate  
808 broker in this state shall apply for a ~~broker's~~ broker license  
809 ~~on a form prescribed by the commission which shall specify the~~  
810 ~~real estate office to which he or she is registered.~~ Along  
811 with the application, he or she shall submit all of the  
812 following:



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

817 (2) Proof that he or she is a high school graduate or  
818 the equivalent.

819 (3) Proof that he or she has ~~completed a course in real~~  
820 ~~estate approved by the commission, which shall be a minimum of~~  
821 ~~60 clock hours.~~met all of the following requirements:

822 a. Successfully completed a course in broker basics  
823 approved by the commission.

824 b. Passed a license examination within 90 days after  
825 completion of the broker basics course.

826 c. Within 90 days after passing the license  
827 examination, successfully completed a course in professional  
828 development approved by the commission.

829 (4) Any other information requested by the commission.

830 ~~(d)~~ (e) A person who does not hold a current real estate  
831 salesperson license in another state desiring to be a real  
832 estate salesperson in this state shall apply for a  
833 ~~salesperson's~~salesperson license with the commission ~~on a form~~  
834 ~~prescribed by the commission which shall specify the real~~  
835 ~~estate office to which he or she is registered.~~ Along with the  
836 application he or she shall ~~furnish~~provide all of the  
837 following:

838 (1) Proof that he or she is a high school graduate or  
839 the equivalent.

840 (2) Proof that he or she has ~~successfully completed a~~



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841 ~~course in real estate approved by the commission, which shall~~  
842 ~~be a minimum of 60 clock hours.~~ met all of the following  
843 requirements:

844 a. Successfully completed a salesperson basics course  
845 approved by the commission.

846 b. Passed a license examination within 90 days after  
847 successfully completing the salesperson basics course.

848 c. Within 90 days after passing the license  
849 examination, successfully completed a course approved by the  
850 commission in salesperson professional development.

851 (3) The name of the applicant's qualifying broker,  
852 along with the information required pursuant to Section  
853 34-27-33.

854 ~~(3)~~ (4) Any other information required by the  
855 commission.

856 ~~(e)~~ (f) An application for a company license or branch  
857 office license shall be made by a qualifying broker on a form  
858 prescribed by the commission. The qualifying broker shall be  
859 an officer, partner, or employee of the company.

860 ~~(f)~~ (g) An applicant for a company or broker license  
861 shall maintain a place of business.

862 ~~(g)~~ (h) If the applicant for a company or broker license  
863 maintains more than one place of business in the state, he or  
864 she shall have a company or branch office license for each  
865 separate location ~~or branch office~~. Every application shall  
866 state the location of the company or branch office and the  
867 name of its qualifying broker. Each company or branch office  
868 shall be under the direction and supervision of a qualifying





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869 broker licensed at that address. No person may serve as  
870 qualifying broker at more than one location. The qualifying  
871 broker for the branch office and the qualifying broker for the  
872 company shall share equal responsibility for the real estate  
873 activities of all licensees assigned to the branch office or  
874 company.

875 ~~(h)~~ (i) (1) No person shall be a qualifying broker for  
876 more than one company or for a company and on his or her own  
877 behalf unless he or she meets all of the following  
878 requirements:

879 ~~(1)~~ a. All companies for which he or she is and proposes  
880 to be the qualifying broker consent in writing.

881 ~~(2)~~ b. He or she files a copy of the written consent  
882 with the commission.

883 ~~(3) He or she will be doing business from the same~~  
884 ~~location~~ c. All companies for which he or she is and proposes  
885 to be the qualifying broker share the same company address.

886 (2) A person licensed under a qualifying broker may be  
887 engaged by one or more companies with the same qualifying  
888 broker.

889 (3) A person may utilize any office of a company under  
890 which he or she is licensed.

891 ~~(i)~~ (j) A company license shall become invalid on the  
892 death or disability of a qualifying broker. Within 30 days  
893 after the death or disability, the corporation, or the  
894 remaining partners or the successor partnership, if any, may  
895 designate another of its officers, members, or salespersons to  
896 apply for a license as temporary qualifying broker. The person



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897 designated as temporary qualifying broker shall either be a  
898 broker or have been a salesperson for at least one year prior  
899 to filing the application. If the application is granted, the  
900 company may operate under that temporary qualifying broker for  
901 no more than six months after the ~~death or disability of its~~  
902 ~~former qualifying broker~~temporary qualifying broker license is  
903 issued. Unless the company designates a fully licensed broker  
904 as the qualifying broker within the ~~six months~~six-month  
905 period, the company license and all licenses under the company  
906 shall be classified inactive by the commission after two weeks  
907 prior electronic notice.

908 ~~(j)~~ (k) The commission shall require both state and  
909 national criminal history background checks to issue a  
910 license. Applicants shall submit required information and  
911 fingerprints to the commission, Federal Bureau of  
912 Investigation, Alabama State Law Enforcement Agency, or its  
913 successor, or to a fingerprint processing service that may be  
914 selected by the commission for this purpose. Criminal history  
915 record information shall be provided to the commission from  
916 both the State of Alabama and the Federal Bureau of  
917 Investigation. The commission can use the provided criminal  
918 history for the determination of the qualifications and  
919 fitness of the applicant to hold a real estate license. The  
920 applicant shall assume the cost of the criminal history check.  
921 The criminal history ~~must~~shall be current to the issuance of  
922 the license.

923 ~~(k)~~ (l) The commission may charge a fee of ten dollars  
924 (\$10) for furnishing any person a copy of a license,



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925 certificate, or other official record of the  
926 ~~commissioner~~commission."

927 Section 6. Section 34-27-33, Code of Alabama 1975, is  
928 amended to read as follows:

929 "§34-27-33

930 (a) (1) ~~In addition to other requirements of this~~  
931 ~~chapter~~Pursuant to Section 34-27-32, every applicant for a  
932 ~~broker's~~broker or ~~salesperson's~~salesperson license shall  
933 submit to a reasonable written examination. The commission  
934 shall conduct examinations at places and times it prescribes.  
935 The commission may contract with an independent testing agency  
936 to prepare, grade, or conduct the examination.

937 (2) ~~Effective October 1, 2001, and thereafter, the~~The  
938 fee for each examination and the provisions for payment and  
939 forfeiture shall be as specified in the contract with the  
940 independent testing agency.

941 (b) (1) In addition to the requirements of Section  
942 34-27-32(e), within~~Within~~ 90 days after passing the  
943 salesperson examination, the applicant shall secure a  
944 qualifying broker. ~~and meet all requirements of this chapter~~  
945 ~~and the board shall~~Upon notification that the applicant has  
946 secured a qualifying broker, the commission shall issue a  
947 temporary ~~an active~~ license or classify the license as  
948 inactive.

949 (2) In order to obtain ~~an active~~a temporary license,  
950 the applicant's qualifying broker shall acknowledge sign and  
951 ~~submit~~ to the commission ~~a sworn statement~~ that the applicant  
952 is in his or her opinion honest, trustworthy, and of good



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953 reputation, and that the broker accepts responsibility for the  
954 actions of the salesperson as set out in Section 34-27-31. The  
955 applicant's qualifying broker shall ~~be licensed in~~ hold an  
956 active Alabama license.

957 (c) (1) On passing the salesperson examination and  
958 complying with all other conditions for licensure, a temporary  
959 salesperson license ~~certificate~~ shall be issued to the  
960 applicant. The applicant is not licensed until he or she or  
961 his or her qualifying broker actually receives the temporary  
962 license ~~certificate. A temporary license shall be valid only~~  
963 ~~for a period of one year following the first day of the month~~  
964 ~~after its issuance.~~

965 (2) a. The holder of a temporary license shall not be  
966 issued an original license until ~~he or she has satisfactorily~~  
967 ~~completed a 30-hour post-license course prescribed by the~~  
968 ~~commission~~ both of the following are submitted to the  
969 commission:

970 1. Proof of successful completion of a 15-hour  
971 orientation as prescribed by the commission in the applicant's  
972 real estate practice area.

973 2. A complete core competencies checklist on a form  
974 prescribed by the commission and signed by the applicant's  
975 qualifying broker.

976 b. If the ~~The~~ holder of a temporary license ~~must~~  
977 ~~complete the course~~ fails to submit the application for an  
978 original license with required documentation within ~~six~~  
979 ~~months~~ 90 days ~~of~~ after issuance of his or her temporary  
980 license, ~~and have his or her original license issued,~~



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981 ~~otherwise~~ his or her temporary license ~~certificate~~ shall  
982 automatically be placed on inactive status by the commission.  
983 ~~During the remaining six months his or her temporary license~~  
984 ~~is valid, the holder of a temporary license may complete the~~  
985 ~~course and have his or her original license issued. If the~~  
986 ~~holder of a temporary license does not complete the course and~~  
987 ~~have his or her original license issued within one year~~  
988 ~~following the first day of the month after its issuance, the~~  
989 ~~temporary license shall automatically expire and lapse. A~~  
990 ~~temporary license is not subject to renewal procedures in this~~  
991 ~~chapter and may not be renewed.~~

992 (d) (1) An inactive temporary license must be renewed  
993 prior to the license renewal deadline if an original license  
994 has not yet been issued. If a temporary license remains  
995 inactive for more than three years, the licensee must retake  
996 the salesperson professional development course prior to  
997 activating the license.

998 ~~(3)~~ (2) In order to have the status of an inactive a  
999 temporary license ~~issued~~ changed to active status, the  
1000 applicant shall pay the Recovery Fund fee specified in this  
1001 chapter. ~~The holder of a temporary license shall, upon~~  
1002 ~~satisfactory completion of the course, pay the original~~  
1003 ~~license fee specified in this chapter to have his or her~~  
1004 ~~original license issued.~~ An applicant for an original license  
1005 who has paid the Recovery Fund fee specified in this chapter  
1006 shall not be required to pay another Recovery Fund fee in  
1007 order to have his or her original license issued.

1008 ~~(4) The holder of an original license who has~~



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1009 ~~satisfactorily completed the postlicense course and whose~~  
1010 ~~original license has been issued, shall not be subject to the~~  
1011 ~~continuing education requirements in this chapter for the~~  
1012 ~~first renewal of his or her original license.~~

1013 ~~(d) This section shall become effective for licenses~~  
1014 ~~issued beginning October 1, 1993."~~

1015 Section 7. Section 34-27-34, Code of Alabama 1975, is  
1016 amended to read as follows:

1017 "§34-27-34

1018 (a) (1) ~~A broker may serve as qualifying broker for a~~  
1019 ~~salesperson or associate broker only if licensed in Alabama,~~  
1020 ~~his or her principal business is that of a real estate broker,~~  
1021 ~~and he or she shall be in a position to actually supervise the~~  
1022 ~~real estate activities of the associate broker or salesperson~~

1023 ~~on a full-time basis~~A person licensed as a broker in another  
1024 state who has reciprocally obtained a broker license in this  
1025 state may serve as a qualifying broker over a salesperson or  
1026 associate broker if all of the following apply:

1027 a. Real estate is his or her principal business.

1028 b. He or she is in a position to supervise the real  
1029 estate activities of the associate broker or salesperson on a  
1030 full-time basis.

1031 c. He or she has held an active broker license for at  
1032 least 24 of the last 36 months.

1033 d. He or she satisfies all minimum experience and  
1034 course requirements that the commission may adopt by rule.

1035 (2) A person licensed as a broker in this state who is  
1036 not currently licensed as a broker in another state may serve



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1037 as qualifying broker over a salesperson or associate broker if  
1038 all of the following apply:

1039 a. Real estate is his or her principal business.

1040 b. He or she is in a position to supervise the real  
1041 estate activities of the associate broker or salesperson on a  
1042 full-time basis.

1043 c. He or she has held an active broker license for at  
1044 least 24 of the last 36 months.

1045 d. He or she has attended a qualifying broker training  
1046 course approved by the commission. This course may be provided  
1047 by the commission or other entities as designated by the  
1048 commission.

1049 e. He or she satisfies all minimum experience  
1050 requirements that the commission may adopt by rule.

1051 ~~(2)~~ (3) a. A salesperson or associate broker shall not  
1052 perform acts for which a license is required unless licensed  
1053 under a qualifying broker.

1054 b. A qualifying broker shall be held responsible to the  
1055 commission and to the public for all acts governed by this  
1056 chapter of each salesperson and associate broker licensed  
1057 under him or her and of each company for which he or she is  
1058 the qualifying broker. ~~It shall be the duty of the~~ The  
1059 qualifying broker ~~to~~ shall see that all transactions of every  
1060 licensee engaged by him or her or any company for which he or  
1061 she is the qualifying broker comply with this chapter.

1062 c. A ~~Additionally, the~~ qualifying broker shall be  
1063 responsible to an injured party for the damage caused by any  
1064 violation of this chapter by any licensee engaged by the



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1065 qualifying broker. This subsection does not relieve a licensee  
1066 from liability that he or she would otherwise have.

1067 ~~(3)~~d. The qualifying ~~brokers'~~broker's supervision  
1068 responsibilities, as prescribed ~~herein~~in this section, over  
1069 the real estate activities of associate brokers and  
1070 salespersons licensed under him or her are not intended to  
1071 create, and should not be construed as creating, an  
1072 employer-employee relationship contrary to any expressed  
1073 intent of the qualifying broker and licensee to the contrary.

1074 (b) (1) Any salesperson or associate broker who desires  
1075 to change his or her qualifying broker shall give notice in  
1076 writing to the commission, and shall send a copy of the notice  
1077 to his or her qualifying broker. ~~The new qualifying broker~~  
1078 ~~shall file with the commission a request for the transfer and~~  
1079 ~~a statement assuming liability for the licensee.~~In order to  
1080 transfer a license, the transferee's new qualifying broker  
1081 shall acknowledge to the commission that in his or her opinion  
1082 the transferee is honest, trustworthy, of good reputation, and  
1083 that the broker accepts responsibility for the actions of the  
1084 transferee under Section 34-27-33.

1085 (2) On payment of a fee of twenty-five dollars (\$25), a  
1086 new license ~~certificate~~ shall be issued to the new qualifying  
1087 broker on behalf of the salesperson or associate broker for  
1088 the unexpired term of the original license. A fee of  
1089 twenty-five dollars (\$25) shall also be charged for any of the  
1090 following license changes:

1091 ~~(1)~~a. Change of qualifying broker by a company or sole  
1092 proprietorship. The fee ~~is~~shall be paid for ~~the~~each license ~~or~~





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1093 ~~licenses~~ on which the current and new qualifying brokers'  
1094 names appear. In cases where a company has a branch office or  
1095 offices and the main office qualifying broker is changed, the  
1096 fee is paid for each branch office license and for the license  
1097 of each branch qualifying broker. The new qualifying broker  
1098 shall notify the commission of this change, in writing, within  
1099 30 days after the change.

1100 ~~(2)~~b. Change of personal name of a qualifying broker.  
1101 The fee ~~is~~shall be paid for the license or licenses on which  
1102 the current qualifying broker's name appears.

1103 ~~(3)~~c. Change of personal name of a salesperson or  
1104 associate broker. The fee ~~is~~shall be paid for the license on  
1105 which the name appears.

1106 ~~(4)~~d. Change of business location. The fee ~~is~~ shall be  
1107 paid for the license or licenses on which the address appears.

1108 ~~(5)~~e. Change of business name. The fee ~~is~~ shall be paid  
1109 for the license or licenses on which the name appears.

1110 ~~(6)~~f. Change of license status from inactive to active.  
1111 The fee ~~is~~ shall be paid for each license being changed from  
1112 inactive to active status. No fee is charged for the change  
1113 from active to inactive status.

1114 (c) A ~~person~~qualifying broker who wishes to terminate  
1115 his or her ~~status as qualifying broker~~responsibility for a  
1116 licensee may do so by notifying the licensee and ~~the~~  
1117 ~~commission in writing and sending the licensee's license~~  
1118 ~~certificate to the commission or verifying in writing to the~~  
1119 ~~commission that the certificate has been lost or destroyed~~  
1120 placing the licensee's license on inactive status with the



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1121 commission.

1122 (d) ~~A person~~An individual who wishes to terminate his  
1123 or her status as a qualifying broker for a company may do so  
1124 by submitting written notice to the company, ~~or~~ qualifying  
1125 broker of the parent company, and officers of the parent  
1126 company ~~and the commission.~~

1127 (e) A salesperson or associate broker shall not perform  
1128 any act for which a license is required after his or her  
1129 association with his or her qualifying broker has been  
1130 terminated, or if he or she changes qualifying brokers, until  
1131 a new active license has been issued by the commission."

1132 Section 8. Section 34-27-35, Code of Alabama 1975, is  
1133 amended to read as follows:

1134 "§34-27-35

1135 (a) The commission shall prescribe the form and content  
1136 of license certificates issued. Each qualifying broker's  
1137 license certificate shall show the name and business address  
1138 of the broker. The license certificate of each active  
1139 salesperson or associate broker shall show his or her name and  
1140 address. The license certificate of each active salesperson or  
1141 associate broker shall be delivered or mailed to his or her  
1142 qualifying broker. Each license certificate shall be kept by  
1143 the qualifying broker and shall be publicly displayed at the  
1144 address which appears on the license certificate.

1145 (b) The commission ~~may~~shall establish a one-year or  
1146 multi-year license period.

1147 (c) (1) The fee for a temporary license shall be one  
1148 hundred fifty dollars (\$150). The original fee for a



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1149 ~~broker's~~broker license shall be one hundred fifty dollars  
1150 (\$150) ~~and, beginning with the license period effective~~  
1151 ~~October 1, 2002, the renewal fee for a broker's license shall~~  
1152 ~~be seventy-five dollars (\$75) per year for each year of the~~  
1153 ~~license period. The original fee for each salesperson's~~  
1154 ~~license shall be sixty-five dollars (\$65) per year for each~~  
1155 ~~year or portion of a year remaining in the respective license~~  
1156 ~~period, and the renewal fee for each salesperson's license~~  
1157 ~~shall be sixty-five dollars (\$65) per year for each year of~~  
1158 ~~the license period. The original fee for each company license~~  
1159 ~~shall be sixty-five dollars (\$65) per year for each year or~~  
1160 ~~portion of a year remaining in the respective license period,~~  
1161 ~~and the renewal fee for each license shall be sixty-five~~  
1162 ~~dollars (\$65) per year for each year of the license period.~~

1163 (2) ~~Beginning with the license period effective October~~  
1164 ~~1, 2004, the~~The renewal fee for a ~~broker's~~broker license shall  
1165 be ninety-five dollars (\$95) per year for each year of the  
1166 license period. The original fee for each  
1167 ~~salesperson's~~salesperson license shall be eighty-five dollars  
1168 (\$85) per year for each year or portion of a year remaining in  
1169 the respective license period, and the renewal fee for each  
1170 ~~salesperson's~~salesperson license shall be eighty-five dollars  
1171 (\$85) per year for each year of the license period. The  
1172 original fee for each company license shall be eighty-five  
1173 dollars (\$85) per year for each year or portion of a year  
1174 remaining in the respective license period, and the renewal  
1175 fee for each license shall be eighty-five dollars (\$85) per  
1176 year for each year of the license period.



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1177 (d) ~~(1)~~ The renewal research and education fee shall be  
1178 ~~two~~seven dollars and fifty cents ~~(\$2.50)~~ (\$7.50) per year for  
1179 each year of the license period and shall be paid at the time  
1180 of license renewal by all brokers and salespersons in addition  
1181 to the license renewal fees set out in this section.  
1182 Collection of this fee shall apply to all broker and  
1183 salesperson renewals, except that brokers who hold more than  
1184 one ~~broker's~~broker license shall pay the fee for only one  
1185 license at each renewal.

1186 ~~(2) Beginning June 1, 2014, this fee shall be seven~~  
1187 ~~dollars and fifty cents (\$7.50), and the~~The proceeds shall be  
1188 distributed to the Alabama Center for Real Estate.

1189 (e) The original research and education fee shall be  
1190 thirty dollars (\$30) and shall be paid at the time of all  
1191 applications received ~~on and after October 15, 1995,~~ for  
1192 issuance of an original ~~broker's~~broker license, and shall be  
1193 paid at the time of all applications received ~~on and after~~  
1194 ~~October 15, 1995,~~ for issuance of a temporary  
1195 ~~salesperson's~~salesperson license. The original research and  
1196 education fee shall also be paid by reciprocal salespersons.  
1197 This is in addition to the original license fees set out in  
1198 this section. This thirty dollar (\$30) original research and  
1199 education fee is a one-time fee which no person shall be  
1200 required to pay more than once.

1201 (f) The license of a salesperson who is subsequently  
1202 issued a ~~broker's~~broker license automatically terminates upon  
1203 the issuance of his or her ~~broker's~~broker license certificate.  
1204 The ~~salesperson's~~salesperson license certificate shall be



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1205 returned to the commission in order for a ~~broker's~~broker  
1206 license to be issued. No refund shall be made of any fee or  
1207 Recovery Fund deposit pertaining to the ~~salesperson's,~~  
1208 ~~broker's, or company's~~salesperson, broker, or company license  
1209 once it has been in effect.

1210 (g) The commission shall prescribe a license renewal  
1211 form, which shall accompany renewal fees ~~which~~and shall be  
1212 filed on or before August 31 of the final year of each license  
1213 period in order for the respective license to be renewed on a  
1214 timely basis for the following license period. If any of the  
1215 foregoing are filed during the period from September 1 through  
1216 September 30 of the final year of a license period, the one  
1217 hundred fifty dollar (\$150) penalty set out below shall be  
1218 paid in addition to the renewal fees. Failure to meet this  
1219 September 30 deadline shall result in the license being placed  
1220 on inactive status on the following October 1, and the license  
1221 shall be subject to all reactivation requirements.  
1222 Reactivations shall be processed in the order received as  
1223 evidenced by postmark or delivery date. Certified or  
1224 registered mail may be used for reactivation in these cases.  
1225 Licensees filing during the period from September 1 of the  
1226 final year of a license period through September 30 of the  
1227 initial year of a license period shall pay the required  
1228 license fee, plus a penalty of one hundred fifty dollars  
1229 (\$150).

1230 (h) The renewal form shall be mailed by the commission  
1231 to the licensee's place of business, if an active licensee, or  
1232 to his or her residence, if an inactive licensee, prior to



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1233 August 1 of the final year of each license period. Each  
1234 licensee shall notify the commission in writing of any change  
1235 in his or her business or residence address within 30 days of  
1236 the change.

1237 (i) Every license shall expire at midnight on September  
1238 30 of the final year of each license period. An expired  
1239 license may be renewed during the 12-month period following  
1240 the license period for which the license was current. A  
1241 licensee who fails to renew before the end of the 12-month  
1242 period ~~following the license period for which the license was~~  
1243 ~~issued~~ has ~~a lapsed~~ an expired license, and shall be subject to  
1244 all requirements applicable to persons who have never been  
1245 licensed, however, the commission may upon determination of  
1246 hardship, allow later renewal upon payment of all fees and  
1247 penalties. An inactive license must be renewed in the same  
1248 manner as an active license.

1249 (j) (1) a. Each applicant for renewal of an active  
1250 salesperson or broker license issued by the commission ~~shall~~,  
1251 on or before September 30 of the final year of each license  
1252 period, shall submit proof of completion of not less than 15  
1253 clock hours of approved continuing education course work to  
1254 the commission, in addition to any other requirements for  
1255 renewal. Failure to meet this deadline shall result in the  
1256 license being placed on inactive status on the following  
1257 October 1, and the license shall be subject to all  
1258 reactivation requirements. Reactivations shall be processed in  
1259 the order received as evidenced by postmark or delivery date.  
1260 Certified or registered mail may be used for reactivation in



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1261 this case. Proof of attendance at the course work, ~~whether or~~  
1262 ~~not the applicant attained a passing grade in the course,~~  
1263 shall be sufficient to satisfy requirements for renewal. The  
1264 15 clock hours' course work requirement shall apply to each  
1265 two-year license renewal, and hours in excess of 15 shall not  
1266 be cumulated or credited for the purpose of subsequent license  
1267 renewals. The commission shall develop standards for approval  
1268 of courses, and shall require certification of the course work  
1269 of the applicant.

1270 b. Time served as a member of the state Legislature  
1271 during each license renewal period shall be deemed the  
1272 equivalent of the 15 hours course work and shall satisfy the  
1273 requirements of this subsection.

1274 (2) This section shall apply to renewals of licenses  
1275 ~~which~~that expire after September 30, 1986. An applicant for  
1276 first renewal who has been licensed for not more than one year  
1277 shall not be required to comply with this section for the  
1278 first renewal of the applicant's license. Any licensee  
1279 reaching the age of 65 on or before September 30, 2000, and  
1280 having been licensed 10 years prior to that date shall be  
1281 exempt from this section.

1282 (3) Continuing education shall not result in a passing  
1283 or failing grade.

1284 (k) A licensee may request that the commission issue  
1285 his or her license ~~to~~in an inactive status. Inactive licenses  
1286 shall be held at the commission office until activated. No act  
1287 for which a license is required shall be performed under an  
1288 inactive license.



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1289 (1) If a licensee presents a form of payment to the  
1290 commission, or to any third party on the commission's behalf,  
1291 which is declined or rejected by a financial institution or  
1292 merchant service company, the licensee shall have 30 days upon  
1293 electronic notification from the commission to submit full and  
1294 valid payment for the initial fee or fine and an additional  
1295 fee for submitting the faulty payment, not to exceed the  
1296 maximum amount allowed by Section 8-8-15. Failure to submit  
1297 full and valid payment within 30 days of electronic  
1298 notification by the commission will result in the license  
1299 becoming inactive. Failure to submit full and valid payment  
1300 within six months after electronic notification by the  
1301 commission will result in expiration of the license."

1302 Section 9. Section 34-27-35, Code of Alabama 1975, is  
1303 amended to read as follows:

1304 "§34-27-35

1305 (a) The commission shall prescribe the form and content  
1306 of license certificates issued. Each qualifying broker's  
1307 license certificate shall show the name and business address  
1308 of the broker. The license certificate of each active  
1309 salesperson or associate broker shall show his or her name and  
1310 address. The license certificate of each active salesperson or  
1311 associate broker shall be delivered or mailed to his or her  
1312 qualifying broker. Each license certificate shall be kept by  
1313 the qualifying broker and shall be publicly displayed at the  
1314 address which appears on the license certificate.

1315 (b) The commission ~~may~~shall establish a one-year or  
1316 multi-year license period.





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1317 (c) (1) The fee for a temporary license shall be one  
1318 hundred fifty dollars (\$150). The original fee for a  
1319 ~~broker's~~broker license shall be one hundred fifty dollars  
1320 (\$150) ~~and, beginning with the license period effective~~  
1321 ~~October 1, 2002, the renewal fee for a broker's license shall~~  
1322 ~~be seventy-five dollars (\$75) per year for each year of the~~  
1323 ~~license period. The original fee for each salesperson's~~  
1324 ~~license shall be sixty-five dollars (\$65) per year for each~~  
1325 ~~year or portion of a year remaining in the respective license~~  
1326 ~~period, and the renewal fee for each salesperson's license~~  
1327 ~~shall be sixty-five dollars (\$65) per year for each year of~~  
1328 ~~the license period. The original fee for each company license~~  
1329 ~~shall be sixty-five dollars (\$65) per year for each year or~~  
1330 ~~portion of a year remaining in the respective license period,~~  
1331 ~~and the renewal fee for each license shall be sixty-five~~  
1332 ~~dollars (\$65) per year for each year of the license period.~~

1333 (2) ~~Beginning with the license period effective October~~  
1334 ~~1, 2004, the~~The renewal fee for a ~~broker's~~broker license shall  
1335 be ninety-five dollars (\$95) per year for each year of the  
1336 license period. The original fee for each  
1337 ~~salesperson's~~salesperson license shall be eighty-five dollars  
1338 (\$85) per year for each year or portion of a year remaining in  
1339 the respective license period, and the renewal fee for each  
1340 ~~salesperson's~~salesperson license shall be eighty-five dollars  
1341 (\$85) per year for each year of the license period. The  
1342 original fee for each company license shall be eighty-five  
1343 dollars (\$85) per year for each year or portion of a year  
1344 remaining in the respective license period, and the renewal



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1345 fee for each license shall be eighty-five dollars (\$85) per  
1346 year for each year of the license period.

1347 (d) ~~(1)~~ The renewal research and education fee shall be  
1348 ~~two~~seven dollars and fifty cents ~~(\$2.50)~~ (\$7.50) per year for  
1349 each year of the license period and shall be paid at the time  
1350 of license renewal by all brokers and salespersons in addition  
1351 to the license renewal fees set out in this section.  
1352 Collection of this fee shall apply to all broker and  
1353 salesperson renewals, except that brokers who hold more than  
1354 one ~~broker's~~broker license shall pay the fee for only one  
1355 license at each renewal.

1356 ~~(2) Beginning June 1, 2014, this fee shall be seven~~  
1357 ~~dollars and fifty cents (\$7.50), and the~~The proceeds shall be  
1358 distributed to the Alabama Center for Real Estate.

1359 (e) The original research and education fee shall be  
1360 thirty dollars (\$30) and shall be paid at the time of all  
1361 applications received ~~on and after October 15, 1995,~~ for  
1362 issuance of an original ~~broker's~~broker license, and shall be  
1363 paid at the time of all applications received ~~on and after~~  
1364 ~~October 15, 1995,~~ for issuance of a temporary  
1365 ~~salesperson's~~salesperson license. The original research and  
1366 education fee shall also be paid by reciprocal salespersons.  
1367 This is in addition to the original license fees set out in  
1368 this section. This thirty dollar (\$30) original research and  
1369 education fee is a one-time fee which no person shall be  
1370 required to pay more than once.

1371 (f) The license of a salesperson who is subsequently  
1372 issued a ~~broker's~~broker license automatically terminates upon



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1373 the issuance of his or her ~~broker's~~broker license~~-certificate~~.  
1374 ~~The salesperson's license certificate shall be returned to the~~  
1375 ~~commission in order for a broker's license to be issued.~~ No  
1376 refund shall be made of any fee or Recovery Fund deposit  
1377 pertaining to the ~~salesperson's, broker's, or~~  
1378 ~~company's~~salesperson, broker, or company license once it has  
1379 been in effect.

1380 (g) The commission shall prescribe a license renewal  
1381 form, ~~which~~ that shall accompany renewal fees and ~~which~~ that  
1382 shall be filed on or before ~~August 31~~September 30 of the final  
1383 year of each license period in order for the respective  
1384 license to be renewed on a timely basis for the following  
1385 license period. ~~If any of the foregoing are filed during the~~  
1386 ~~period from September 1 through September 30 of the final year~~  
1387 ~~of a license period, the one hundred fifty dollar (\$150)~~  
1388 ~~penalty set out below shall be paid in addition to the renewal~~  
1389 ~~fees.~~ Failure to meet this September 30 deadline shall result  
1390 in the license expiring and being placed on inactive status on  
1391 ~~the following~~ October 1, and the license shall be subject to  
1392 all reactivation requirements. ~~Reactivations shall be~~  
1393 ~~processed in the order received as evidenced by postmark or~~  
1394 ~~delivery date. Certified or registered mail may be used for~~  
1395 ~~reactivation in these cases.~~ Licensees filing ~~during the~~  
1396 ~~period from September 1 of the final year of a license period~~  
1397 ~~through~~after September 30 of the initial year of a license  
1398 period shall pay the required license fee, plus a penalty of  
1399 one hundred fifty dollars (\$150).

1400 (h) ~~The renewal form shall be mailed by the commission~~



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1401 ~~to the licensee's place of business, if an active licensee, or~~  
1402 ~~to his or her residence, if an inactive licensee, prior to~~  
1403 ~~August 1 of the final year of each license period.~~ Each  
1404 licensee shall notify the commission in writing of any change  
1405 in his or her business or residence address within 30 days of  
1406 the change.

1407 (i) Every license shall expire at midnight on September  
1408 30 of the final year of each license period, except for a  
1409 temporary license of a salesperson whose license becomes  
1410 inactive 90 days after issuance or a temporary broker whose  
1411 license expires six months after issuance. An expired license  
1412 may be renewed during the 12-month period following the  
1413 license period for which the license was current. A licensee  
1414 who fails to renew before the end of the 12-month period  
1415 following the license period for which the license was issued  
1416 has a lapsed license, and shall be subject to all requirements  
1417 applicable to persons who have never been licensed, however,  
1418 the commission may upon determination of hardship, allow later  
1419 renewal upon payment of all fees and penalties. An inactive  
1420 license must be renewed in the same manner as an active  
1421 license.

1422 (j) (1) Each applicant for renewal of an active  
1423 salesperson or broker license issued by the commission ~~shall,~~  
1424 on or before September 30 of the final year of each license  
1425 period, ~~submit~~ shall confirm through the commission's website  
1426 proof of completion of ~~not less than 15 clock~~ his or her  
1427 continuing education requirement hours of approved continuing  
1428 education course work ~~to the commission,~~ in addition to any



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1429 other requirements for renewal. A maximum of six 60 minute  
1430 courses shall be accepted by the commission as part of a  
1431 licensee's continuing education requirement. Failure to meet  
1432 this deadline shall result in the license being placed on  
1433 inactive status on the following October 1, and the license  
1434 shall be subject to all reactivation requirements.

1435 ~~(2) a. Reactivations shall be processed in the order~~  
1436 ~~received as evidenced by postmark or delivery date. Certified~~  
1437 ~~or registered mail may be used for reactivation in this case.~~  
1438 Proof of ~~attendance at the~~completion of course work, whether  
1439 or not the applicant attained a passing grade in the course,  
1440 shall be sufficient to satisfy requirements for renewal. The  
1441 ~~15 clock hours' course work~~continuing education requirement  
1442 shall apply to each two-year license renewal, and hours in  
1443 excess of 15 shall not be ~~cumulated or credited for the~~  
1444 ~~purpose of~~applicable to subsequent license renewals. The  
1445 commission shall develop standards for approval of courses,  
1446 and shall require certification of the course work of the  
1447 applicant. No continuing education course shall be approved by  
1448 the commission unless the course is at least 60 minutes of  
1449 instruction.

1450 b. Time served as a member of the state Legislature  
1451 during each license renewal period shall be deemed the  
1452 equivalent of the ~~15 hours course work~~continuing education  
1453 requirement and shall satisfy the requirements of this  
1454 subsection.

1455 ~~(3) (2) This section shall apply to renewals of licenses~~  
1456 ~~which expire after September 30, 1986.~~ An applicant for first



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1457 renewal of an original license who has been licensed for not  
1458 more than one year shall not be required to comply with this  
1459 section for the first renewal of the applicant's license. ~~Any~~  
1460 ~~licensee reaching the age of 65 on or before September 30,~~  
1461 ~~2000, and having been licensed 10 years prior to that date~~  
1462 ~~shall be exempt from this section.~~

1463 ~~(3)~~ (4) Continuing education shall not result in a  
1464 passing or failing grade.

1465 (k) A licensee may request that the commission issue  
1466 his or her license ~~to~~ in an inactive status. Inactive licenses  
1467 shall be held at the commission office until activated. No act  
1468 for which a license is required shall be performed under an  
1469 inactive license.

1470 (1) If a licensee presents a form of payment to the  
1471 commission, or to any third party on the commission's behalf,  
1472 which is declined or rejected by a financial institution or  
1473 merchant service company, the licensee shall have 30 days upon  
1474 electronic notification from the commission to submit full and  
1475 valid payment for the initial fee or fine and an additional  
1476 fee for submitting the faulty payment, not to exceed the  
1477 maximum amount allowed by Section 8-8-15. Failure to submit  
1478 full and valid payment within 30 days of electronic  
1479 notification by the commission will result in the license  
1480 becoming inactive. Failure to submit full and valid payment  
1481 within six months after electronic notification by the  
1482 commission will result in the license lapsing."

1483 Section 10. Section 34-27-36, Code of Alabama 1975, is  
1484 amended to read as follows:



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1485 "§34-27-36

1486 (a) (1) The commission or its staff may on its own, or  
1487 on the verified complaint in writing of any person,  
1488 investigate the actions and records of a licensee. The  
1489 commission may issue subpoenas and compel the testimony of  
1490 witnesses and the production of records and documents during  
1491 an investigation. If probable cause is found, a formal  
1492 complaint shall be filed and the commission shall hold a  
1493 hearing on the formal complaint.

1494 (2) In each instance in which a person or entity  
1495 engages in any of the acts described in subsection (b) or is  
1496 found in violation of any of the conduct prohibited in  
1497 subsection (b), the commission may impose any of the following  
1498 penalties:

1499 a. Impose a fine of not less than one hundred dollars  
1500 (\$100) nor more than five thousand dollars (\$5,000).

1501 b. Require completion of approved education course or  
1502 courses in addition to the existing continuing education  
1503 requirements.

1504 c. Issue a public reprimand.

1505 d. Revoke or suspend any or all licenses held under  
1506 this chapter by the person or entity. ~~The commission shall~~  
1507 ~~revoke or suspend the license or impose a fine of not less~~  
1508 ~~than one hundred dollars (\$100) nor more than two thousand~~  
1509 ~~five hundred dollars (\$2,500), or both, or reprimand the~~  
1510 ~~licensee in each instance in which the licensee is found~~  
1511 ~~guilty of any of the following acts set out in this section.~~  
1512 ~~The commission may revoke or suspend a license~~



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1513 e. Suspend until such time as the licensee has either  
1514 completed an approved continuing education course, has ~~and/or~~  
1515 made restitution to accounts containing funds to be held for  
1516 other parties, or both. The commission may also stay the  
1517 revocation or suspension of a license and either require  
1518 completion of an approved education course ~~and/or~~, require the  
1519 making of restitution to accounts containing funds to be held  
1520 for other parties, or both.

1521 (b) A licensee is prohibited from doing any of the  
1522 following:

1523 (1) Procuring or attempting to procure~~r~~ a license~~r~~ for  
1524 himself or herself or another, by fraud, misrepresentation, or  
1525 deceit, or by making a material misstatement of fact in an  
1526 application for a license.

1527 (2) Engaging in misrepresentation or dishonest or  
1528 fraudulent acts when selling, buying, trading, or renting real  
1529 property of his or her own or of a spouse or child or parent.

1530 (3) Making a material misrepresentation, or failing to  
1531 disclose to a potential purchaser or lessee any latent  
1532 structural defect or any other defect known to the licensee.  
1533 Latent structural defects and other defects do not refer to  
1534 trivial or insignificant defects but refer to those defects  
1535 that would be a significant factor to a reasonable and prudent  
1536 person in making a decision to purchase or lease.

1537 (4) Making any false promises of a character likely to  
1538 influence, persuade, or induce any person to enter into any  
1539 contract or agreement.





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1540 (5) Pursuing a continued and flagrant course of  
1541 misrepresentation or the making of false promises through  
1542 agents or salespersons or any medium of advertising or  
1543 otherwise.

1544 (6) Publishing or causing to be published any  
1545 advertisement which deceives or which is likely to deceive the  
1546 public, or which in any manner tends to create a misleading  
1547 impression ~~or which fails to identify the person causing the~~  
1548 ~~advertisement to be placed as a licensed broker or~~  
1549 ~~salesperson.~~

1550 (7) Acting for more than one party in a transaction  
1551 without the knowledge and consent in writing of all parties  
1552 for whom he or she acts.

1553 (8)a. Failing, within a reasonable time, to properly  
1554 account for or remit money coming into his or her possession  
1555 which belongs to others, or commingling money belonging to  
1556 others with his or her own funds.

1557 b. Failing to deposit and account for at all times all  
1558 funds belonging to, or being held for others, in a separate  
1559 federally insured account or accounts in a financial  
1560 institution located in Alabama.

1561 c. Failing to keep for at least three years a complete  
1562 record of funds belonging to others showing to whom the money  
1563 belongs, date deposited, date of withdrawal, and other  
1564 pertinent information.

1565 (9) Placing a sign on any property offering it for  
1566 sale, lease, or rent without the consent of the owner.

1567 (10) Failing to voluntarily furnish a copy of each



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1568 listing, contract, lease, and other document to each party  
1569 executing the document with reasonable promptness.

1570 (11) Paying any profit, compensation, commission, or  
1571 fee to, or dividing any profit, compensation, commission, or  
1572 fee with, anyone other than a licensee or multiple listing  
1573 service. This subdivision shall not prevent an associate  
1574 broker or salesperson from owning any lawfully constituted  
1575 business organization, including, but not limited to, a  
1576 corporation or limited liability company or limited liability  
1577 corporation, for the purpose of receiving payments  
1578 contemplated in this subsection. The business organization  
1579 shall not be required to be licensed under this chapter, and  
1580 shall not engage in any other activity requiring a real estate  
1581 license.

1582 (12) Paying or receiving any rebate from any person in  
1583 a real estate transaction.

1584 (13) Inducing any party to a contract to ~~break~~breach  
1585 the contract for the purpose of substituting a new contract,  
1586 where the substitution is motivated by the personal gain of  
1587 the licensee.

1588 (14) If the licensee is a salesperson or associate  
1589 broker, accepting a commission or other valuable consideration  
1590 for performing any act for which a license is required from  
1591 any person or company except his or her qualifying broker or  
1592 company.

1593 (15) If the licensee is a qualifying broker or company,  
1594 allowing a salesperson or associate broker licensed under him  
1595 or her to advertise himself or herself as a real estate agent



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1596 without the name or trade name of the qualifying broker or  
1597 company appearing prominently on the advertising; or if the  
1598 licensee is a salesperson or associate broker, advertising  
1599 himself or herself as a real estate agent without the name or  
1600 trade name of the qualifying broker or company under whom the  
1601 salesperson or associate broker is licensed appearing  
1602 prominently on the advertising. For purposes of this  
1603 subdivision, "prominently" means use of a font size that is  
1604 equal to or larger in size than any other text or logo in the  
1605 advertisement and situated and sized for the purpose of  
1606 gaining the attention of consumers viewing the advertisement.

1607 (16) ~~Presenting to the commission, as payment for a fee~~  
1608 ~~or fine, a check that is returned unpaid.~~ As the licensee  
1609 working with the buyer, failing to notify the licensee working  
1610 with the seller or the unrepresented seller in writing within  
1611 three business days in the event that the buyer has not  
1612 deposited earnest money pursuant to a contract requiring the  
1613 buyer to deposit escrow funds with any individual or entity.

1614 b. As the licensee working with the seller, failing to  
1615 notify the seller within 24 hours after the licensee receives  
1616 notice that escrow funds have not been deposited pursuant to  
1617 the terms of the contract.

1618 (17) Establishing an association, by employment or  
1619 otherwise, with an unlicensed person who is expected or  
1620 required to act as a licensee, or aiding, abetting, or  
1621 conspiring with a person to circumvent the requirements of  
1622 this chapter.

1623 (18) Failing to disclose to an owner the licensee's



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1624 intention to acquire, directly or indirectly, an interest in  
1625 property which he or she or his or her associates have been  
1626 employed to sell.

1627 (19) Violating or disregarding any provision of this  
1628 chapter or any rule, regulation, or order of the commission.

1629 (20) ~~If a broker, accepting~~Accepting a "net listing"  
1630 agreement for sale of real property or any interest therein. A  
1631 "net listing" is one that stipulates a net price to be  
1632 received by the owner with the excess due to be received by  
1633 the broker as his or her commission and the licensee is not a  
1634 buyer, seller, or assigning buyer in the subject property.

1635 (21) Misrepresenting or failing to disclose to any  
1636 lender, guaranteeing agency, or any other interested party,  
1637 the true terms of a sale of real estate.

1638 (22) Failing to inform the buyer or seller at the time  
1639 an offer is presented that he or she will be expected to pay  
1640 certain closing costs and the approximate amount of those  
1641 costs.

1642 (23)a. Having entered a plea of guilty or nolo  
1643 contendere to, or having been found guilty of or convicted of  
1644 a felony or a crime involving moral turpitude.

1645 b. Having a final money judgment rendered against him  
1646 or her which results from an act or omission occurring in the  
1647 pursuit of his or her real estate business or involves the  
1648 goodwill of an existing real estate business.

1649 (24) Offering free lots or conducting lotteries for the  
1650 purpose of influencing a party to purchase or lease real  
1651 estate.



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1652 (25) a. Failing to ~~include a fixed date of expiration in~~  
1653 ~~a written listing agreement or failing to~~ leave a copy of the  
1654 written residential listing agreement or written residential  
1655 property management agreement with the principal.

1656 b. Failing to include a fixed date of expiration not to  
1657 exceed one year from the date of commencement in a written  
1658 residential listing agreement, which can be extended in  
1659 writing for up to one year, if signed by all parties.

1660 c. Recording or filing a residential listing agreement  
1661 with a probate court or probate office to encumber the  
1662 property that is the subject of the listing agreement.

1663 (26) Conduct which constitutes or demonstrates  
1664 dishonest dealings, bad faith, or untrustworthiness.

1665 (27) Acting negligently or incompetently in performing  
1666 an act for which a person is required to hold a real estate  
1667 license.

1668 (28) Failing or refusing on demand to produce a  
1669 document, book, or record in his or her possession concerning  
1670 a real estate transaction conducted by him or her for  
1671 inspection by the commission or its authorized personnel or  
1672 representative.

1673 (29) Failing within a reasonable time to provide  
1674 information requested by the commission during an  
1675 investigation or after a formal complaint has been filed.

1676 (30) Failing without cause to surrender to the rightful  
1677 owner, on demand, a document or instrument coming into his or  
1678 her possession.

1679 (31) If the licensee is a qualifying broker or company,



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1680 failing to keep ~~in their files~~ copies of all contracts,  
1681 leases, listings, and other records pertinent to real estate  
1682 transactions for a period of three years.

1683 (32) When selling, offering to sell, assigning, or  
1684 offering to assign an equitable interest in a contract to  
1685 purchase residential real estate:

1686 a. Failing to disclose in writing to a potential buyer  
1687 that the holder of the equitable interest is not the deed  
1688 holder of the property and is only offering to sell or assign  
1689 his or her equitable interest; or

1690 b. Failing to disclose in writing to a seller both of  
1691 the following:

1692 1. The intent to assign an equitable interest in the  
1693 seller's real estate prior to offering to assign the interest.

1694 2. The assignment of the interest within three calendar  
1695 days following the assignment.

1696 c. Failing to include a fixed date of closing with no  
1697 automatic extension in the contract that establishes the  
1698 equitable interest.

1699 ~~(b)~~ (c) If it appears that a person, ~~firm, corporation,~~  
1700 or ~~any~~ business entity has engaged, or is about to engage, in  
1701 an act or practice constituting a violation of Article 1 or 2  
1702 of this chapter or any rule or order of the commission, the  
1703 commission, through the Attorney General, may institute legal  
1704 actions to enjoin the act or practice and to enforce  
1705 compliance with Articles 1 and 2 of this chapter or any rule  
1706 or order of the commission. To prevail in an action, it shall  
1707 not be necessary to allege or prove either that an adequate



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1708 remedy at law does not exist or that substantial or  
1709 irreparable damage would result from the continued violation.

1710 ~~(e)~~ (d) (1) Notwithstanding any other provisions of law,  
1711 the commission may issue an order requiring any accused  
1712 person, firm, corporation, or business entity to cease and  
1713 desist from engaging in activities requiring a license under  
1714 this chapter when the accused person, firm, corporation, or  
1715 business entity is not licensed under this chapter. The order  
1716 shall be entered by the executive director after a finding of  
1717 probable cause by the commission staff. The order shall become  
1718 final 15 days after its service upon the accused, unless the  
1719 accused requests a hearing before the commission. Upon hearing  
1720 the case and finding violations, the commission may make the  
1721 cease and desist order final and the commission may impose a  
1722 fine for each violation in an amount consistent with the range  
1723 of fines applicable to licensees, and in addition, may impose  
1724 a fine in the amount of any gain or economic benefit that was  
1725 derived from the violation, and in addition, may impose a fine  
1726 in the amount of the commission's costs incurred. Any fines  
1727 not paid as ordered shall be enforceable in any court with  
1728 competent jurisdiction and proper venue.

1729 (2) Notwithstanding any other provisions of law, the  
1730 commission may decline to issue an order requiring any accused  
1731 person, firm, corporation, or business entity to cease and  
1732 desist from engaging in activities requiring a license under  
1733 this chapter when the accused person, firm, corporation, or  
1734 business entity is not licensed under this chapter. In this  
1735 instance, the commission shall proceed to give appropriate



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1736 notice of the violations and hold a hearing thereon. Upon  
1737 hearing the case and finding violations, the commission may  
1738 impose a fine for each violation in an amount consistent with  
1739 the range of fines applicable to licensees, and in addition,  
1740 may impose a fine in the amount of any gain or economic  
1741 benefit that was derived from the violation, and in addition,  
1742 may impose a fine in the amount of the commission's costs  
1743 incurred. Any fine or fines not paid as ordered shall be  
1744 enforceable in any court with competent jurisdiction and  
1745 proper venue.

1746 ~~(d)~~ (e) The commission shall notify the licensee and  
1747 qualifying broker in writing regarding the complaint.

1748 ~~(e)~~ (f) The commission shall notify the complainant,  
1749 licensee, and qualifying broker in writing regarding the  
1750 disposition of the complaint."

1751 Section 11. Sections 34-27-81, 34-27-82, 34-27-83,  
1752 34-27-84, 34-27-85, and 34-27-86, Code of Alabama 1975, are  
1753 amended to read as follows:

1754 "§34-27-81

1755 As used in this article, the following words ~~shall~~ have  
1756 the following meanings:

1757 (1) AGENCY AGREEMENT. A written agreement between a  
1758 broker and a client which creates a fiduciary relationship  
1759 between the broker and a ~~principal, who is commonly referred~~  
1760 ~~to as a client~~ consumer.

1761 (2) BROKER. Any person licensed as a real estate broker  
1762 pursuant to Articles 1 and 2 of this chapter.

1763 (3) BROKERAGE AGREEMENT. A specific written agreement





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1764 between a ~~brokerage firm~~real estate company and a consumer  
1765 which establishes a brokerage relationship. The brokerage  
1766 agreement shall contain a statement of the terms and  
1767 conditions of the brokerage services to be provided.

1768 (4) BROKERAGE SERVICE. Any service, except for rental  
1769 or property management services, provided by a broker or  
1770 licensee to another person and includes all activities for  
1771 which a real estate license is required under Articles 1 and 2  
1772 of this chapter.

1773 (5) ~~CONSUMER. A person who obtains information, advice,~~  
1774 ~~or services concerning real estate from a real estate~~  
1775 ~~licensee~~CLIENT. A person who has an agency agreement with a  
1776 broker for brokerage service, whether he or she is the buyer  
1777 or seller.

1778 (6) ~~CLIENT. A person who has an agency agreement with a~~  
1779 ~~broker for brokerage service, whether he or she be buyer or~~  
1780 ~~seller~~CONSUMER. A person who obtains information, advice, or  
1781 services concerning real estate from a real estate licensee.

1782 (7) CUSTOMER. A person who is provided brokerage  
1783 services by a broker or licensee but who is not a client of  
1784 the broker.

1785 (8) DESIGNATED SINGLE AGENT. An agency agreement in  
1786 which two or more licensed individuals under the same  
1787 qualifying broker each represent a different party in the  
1788 transaction, as designated by the qualifying broker. In this  
1789 circumstance, neither the qualifying broker nor other  
1790 licensees involved in the transaction shall be assumed to have  
1791 imputed knowledge.



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1792           ~~(8)~~ (9) DUAL AGENCY. An agency ~~relationship~~agreement in  
1793 which ~~the same brokerage firma~~ licensee, with informed written  
1794 consent of all parties to a transaction, represents both the  
1795 seller and the buyer in the same real estate transaction once  
1796 all parties have signed the agreement. ~~Circumstances which~~  
1797 ~~establish a dual agency include, but are not limited to, one~~  
1798 ~~of the following:~~

1799           ~~a. When two or more licensees licensed under the same~~  
1800 ~~broker each represent a different party to the transaction.~~

1801           ~~b. When one licensee represents both the buyer and~~  
1802 ~~seller in a real estate transaction.~~

1803           (10) IMPUTED KNOWLEDGE. Knowledge attributed to a party  
1804 because of his or her position, relationship to another party,  
1805 or responsibility for another party.

1806           ~~(9)~~ (11) INFORMED CONSENT. A consumer's agreement to  
1807 allow something to happen which is based upon full disclosure  
1808 of facts needed to choose appropriate brokerage services.

1809           ~~(10)~~ (12) LICENSEE. Any broker, salesperson, or company.

1810           ~~(11) LIMITED CONSENSUAL DUAL AGENT. A licensee who,~~  
1811 ~~with the written informed consent of all parties to a~~  
1812 ~~contemplated real estate transaction, is engaged as an agent~~  
1813 ~~for both the buyer and seller. Circumstances which establish~~  
1814 ~~dual agency include, but are not limited to, one of the~~  
1815 ~~following:~~

1816           ~~a. When two or more licensees licensed under the same~~  
1817 ~~broker each represent a different party to the transaction.~~

1818           ~~b. When one licensee represents both the buyer and~~  
1819 ~~seller in a real estate transaction.~~



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1820           ~~(12)~~ (13) MATERIAL FACT. A fact that is of significance  
1821 to a reasonable party which affects the party's decision to  
1822 enter into a real estate contract.

1823           ~~(13)~~ (14) QUALIFYING BROKER. A broker under whom a  
1824 corporation, partnership, branch office, or lawfully  
1825 constituted business organization, as the Legislature may from  
1826 time to time provide, is licensed, or a broker licensed to do  
1827 business as a sole proprietorship who is responsible for  
1828 supervising the acts of the company, or proprietorship and all  
1829 real estate licensees licensed therewith.

1830           ~~(14)~~ (15) REAL ESTATE TRANSACTION. The purchase, sale,  
1831 lease and rental, option, or exchange of an interest in real  
1832 estate.

1833           ~~(15)~~ (16) SINGLE AGENT. A licensee who has an agency  
1834 agreement and is engaged by and represents only one party in a  
1835 real estate transaction. A single agent ~~includes, but is not~~  
1836 ~~limited to, one~~ may be only one of the following:

1837           a. Buyer's agent, which means a broker or licensee who  
1838 is engaged by and represents only the buyer in a real estate  
1839 transaction.

1840           b. Seller's agent, which means a broker or licensee who  
1841 is engaged by and represents only the seller in a real estate  
1842 transaction.

1843           ~~(16) SUB-AGENT. A licensee who is empowered to act for~~  
1844 ~~another broker in performing real estate brokerage tasks for a~~  
1845 ~~principal, and who owes the same duties to the principal as~~  
1846 ~~the agent of the principal.~~

1847           (17) TRANSACTION ~~BROKER~~ FACILITATOR. The term has the



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1848 same meaning as "transaction broker" provided in Section  
1849 34-27-81. The term also includes a licensee who assists one  
1850 or more parties in a contemplated real estate transaction  
1851 without being an agent or fiduciary or advocate for the  
1852 interest of that party to a transaction."

1853 "§34-27-82

1854 (a) When engaged in any real estate transaction, the  
1855 licensee may act as a single agent, ~~sub-agent, a limited~~  
1856 ~~consensual~~-dual agent, or as a transaction ~~broker~~facilitator.

1857 (b) At the initial contact between a licensee and the  
1858 consumer and until such time a ~~broker~~licensee enters into a  
1859 specific written agreement to establish an agency relationship  
1860 with one or more of the parties to a transaction, the licensee  
1861 shall be considered a transaction facilitator and not ~~be~~  
1862 ~~considered~~-an agent of that consumer. An agency relationship  
1863 shall not be assumed, implied, or created without a written  
1864 bilateral agreement signed by the licensee and the consumer  
1865 establishing the terms of the agency relationship.

1866 (c) As soon as reasonably possible and before any  
1867 confidential information is disclosed to any other person by a  
1868 licensee, the licensee shall provide a written disclosure form  
1869 to a consumer for signature describing the ~~alternative~~-types  
1870 of brokerage services, as identified in subsection (a), that  
1871 are available to clients and customers of real estate  
1872 brokerage companies. The licensee shall also inform a consumer  
1873 as to the specific types of brokerage services that are  
1874 provided by his or her company. A broker shall not be required  
1875 to offer or engage in any one or in all of the ~~alternative~~



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1876 brokerage ~~arrangements~~services specified in subsection (a).  
1877 The licensee will provide a written form to the consumer for  
1878 their signature describing the ~~alternative~~ types of brokerage  
1879 ~~arrangements~~services available. All rental or property  
1880 management services are excluded from the requirements of this  
1881 subsection.

1882 (d) A licensee shall not be required to comply with the  
1883 provisions of subsection (c) when engaged in transactions with  
1884 any corporation, ~~non-profit~~nonprofit corporation, professional  
1885 corporation, professional association, limited liability  
1886 company, partnership, any partnership created under the  
1887 Uniform Partnership Act (commencing at Section 10-8A-101),  
1888 real estate investment trust, business trust, charitable  
1889 trust, family trust, or any governmental entity in  
1890 transactions involving real estate.

1891 (e) After disclosure, the consumer may make an  
1892 affirmative election of a specific type of brokerage  
1893 ~~arrangement~~service that is available from the real estate  
1894 brokerage company. The brokerage agreement shall contain a  
1895 statement of the terms and conditions of the brokerage  
1896 services that the ~~broker~~company will provide. In the absence  
1897 of a signed brokerage agreement between the parties, the  
1898 transaction ~~brokerage~~facilitator relationship shall remain in  
1899 effect.

1900 (f) When serving as a transaction ~~broker~~facilitator,  
1901 the duties of the licensee to all the parties to a real estate  
1902 transaction are limited to those which are enumerated in  
1903 Section 34-27-84. A signed brokerage agreement between the



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1904 parties or, in the absence of a signed brokerage agreement,  
1905 the continuation of the transaction ~~brokerage~~facilitator  
1906 relationship, shall constitute informed consent by the  
1907 consumer as to the services the consumer shall receive from  
1908 the broker.

1909 (g) Disclosure forms shall be provided to buyers and  
1910 sellers. All real estate ~~brokerage firms~~companies operating  
1911 within the State of Alabama shall use the same agency  
1912 disclosure forms. Disclosure forms describing the alternative  
1913 types of brokerage services identified above shall be written  
1914 by the Alabama Real Estate Commission.

1915 (h) Each offer to purchase shall prominently display a  
1916 representation disclosure clause in the following form,  
1917 completed and initialed as indicated:

1918 The listing licensee, \_\_\_\_\_, is:

1919  An agent of the seller.

1920  A dual agent.

1921  Assisting the seller as a transaction facilitator.

1922 The selling licensee, \_\_\_\_\_, is:

1923  An agent of the buyer.

1924  A dual agent.

1925  Assisting the buyer as a transaction facilitator.

1926 ~~(h)~~ (i) Nothing in this section shall prohibit the  
1927 consumer from entering into a written contract with a  
1928 qualifying broker which contains provisions for services not  
1929 specifically identified in the written disclosure form."

1930 "§34-27-83

1931 Any qualifying broker acting in a real estate



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1932 transaction shall adopt a written agency disclosure office  
1933 policy which specifically enumerates the types of brokerage  
1934 ~~service arrangements~~services a licensee may offer or accept.

1935 (a) The qualifying broker for each ~~brokerage~~real estate  
1936 company shall provide every licensee a copy of the agency  
1937 disclosure policy regarding the types of brokerage services  
1938 offered by their company. This policy shall be explained to  
1939 all licensees at least once a year.

1940 (b) A form acknowledging receipt of the agency  
1941 disclosure office policy ~~statement~~ and a satisfactory  
1942 explanation of its contents shall be signed by each licensee  
1943 and a copy retained by the ~~brokerage~~real estate company for  
1944 three years."

1945 "§34-27-84

1946 (a) Licensees shall have all of the following  
1947 obligations to all parties in a real estate transaction:

1948 (1) To provide brokerage services to all parties to the  
1949 transaction honestly and in good faith.

1950 (2) To exercise reasonable skill and care in providing  
1951 brokerage services to all parties.

1952 (3) To keep confidential any information given to the  
1953 licensee in confidence, or any information obtained by the  
1954 licensee that the licensee knows a reasonable individual would  
1955 want to keep confidential, unless disclosure of this  
1956 information is required by law, ~~violates a fiduciary duty to a~~  
1957 ~~client, becomes public knowledge,~~ or is authorized by the  
1958 party in writing, or the information becomes public knowledge,  
1959 or the failure to disclose the information violates a



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1960 fiduciary duty to a client.

1961 (4) To account for all property coming into the  
1962 possession of the licensee that belongs to any party to the  
1963 real estate transaction.

1964 (5) When assisting a party in the negotiation of a real  
1965 estate transaction, to present all written offers in a timely  
1966 and truthful manner.

1967 (6) To act on behalf of the licensee or his or her  
1968 immediate family, or on behalf of any other individual,  
1969 organization, or business entity in which the licensee has a  
1970 personal interest only with prior timely written disclosure of  
1971 this interest to all parties to the transaction.

1972 (b) A licensee may provide requested information which  
1973 affects a transaction to any party who requests the  
1974 information, unless disclosure of the information is  
1975 prohibited by law or in this article.

1976 (c) When accepting an agreement to list an owner's  
1977 property for sale, the ~~broker or his or her~~ licensee shall, at  
1978 a minimum, accept delivery of and present to the consumer all  
1979 offers, counteroffers, and addenda to assist the consumer in  
1980 negotiating offers, counteroffers, and addenda, and to answer  
1981 the consumer's questions relating to the transaction."

1982 "§34-27-85

1983 (a) In addition to the duties enumerated in Section  
1984 34-27-84, a licensee shall provide all of the following  
1985 services to clients:

1986 (1) Loyally represent the best interests of the client  
1987 by placing the interests of the client ahead of the interests





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1988 of any other party, unless loyalty to a client violates the  
1989 duties of the licensee to other parties under Section  
1990 34-27-84, or is otherwise prohibited by law.

1991 (2) Disclose to the client all information known by the  
1992 licensee that is material to the transaction and not  
1993 discoverable by the client through reasonable investigation  
1994 and observation, except for confidential information as  
1995 provided in ~~subdivision (3) of subsection (a) of~~ Section  
1996 34-27-84 (a) (3). A licensee shall have no affirmative duty to  
1997 discover the information.

1998 (3) Fulfill any obligation required by the agency  
1999 agreement, and any lawful instructions of the client that are  
2000 within the scope of the agency agreement, that are not  
2001 inconsistent with other duties as enumerated in this article.

2002 (b) A ~~broker~~licensee who represents more than one  
2003 client in a real estate transaction owes the duties as  
2004 specified in subsection (a) to each client, except where the  
2005 duties to one client will violate the fiduciary duties of the  
2006 licensee to other clients.

2007 (c) A ~~broker~~licensee may provide brokerage services as  
2008 a ~~limited consensual~~ dual agent only with the prior written,  
2009 informed consent of all clients of the ~~broker~~licensee in the  
2010 transaction."

2011 "§34-27-86

2012 (a) A client is not liable for a misrepresentation made  
2013 by a ~~broker~~licensee in connection with the ~~broker~~licensee  
2014 providing brokerage services unless the client knows or should  
2015 have known of the misrepresentation or the ~~broker~~licensee is



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2016 repeating a misrepresentation made by the client to the  
2017 ~~broker~~licensee.

2018 (b) A licensee shall not be liable for providing false  
2019 information to a party in a real estate transaction if the  
2020 false information was provided to the licensee by a client of  
2021 the licensee or by a customer or by another licensee unless  
2022 the licensee knows or should have known that the information  
2023 was false."

2024 Section 12. Sections 1, 3, 4, 8, 10, and 11 shall  
2025 become effective on October 1, 2024; Sections 5, 6, and 9  
2026 shall become effective on October 1, 2026, and shall apply to  
2027 licenses issued or renewed on or after October 1, 2026;  
2028 Section 7 shall become effective on October 1, 2026; and  
2029 Section 2 shall become effective on October 1, 2027, and shall  
2030 apply to licenses issued or renewed on or after October 1,  
2031 2027.