

HB382 ENGROSSED



1 HB382
2 JPITTN-2
3 By Representative Kiel
4 RFD: Commerce and Small Business
5 First Read: 04-Mar-25



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A BILL

TO BE ENTITLED

AN ACT

Relating to real estate transactions; to amend Sections 34-27-2, 34-27-3, 34-27-8, 34-27-32, 34-27-36, 34-27-81, 34-27-82, 34-27-83, 34-27-84, 34-27-85, and 34-27-86, Code of Alabama 1975, to further provide for penalties and fines for certain violations; to provide for handling declined methods of payment for license fees; to clarify when a real estate consumer agency disclosure form is required; to further clarify when a written brokerage agreement is required to establish a brokerage relationship; to provide for a licensee's use of any office of the company under which he or she is licensed; to further provide for the duties of a qualifying broker; to further provide for the duties of a licensee; and to add Section 34-27-39 to the Code of Alabama 1975, to establish the scope and operation of teams.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-27-2, 34-27-3, 34-27-8, 34-27-32, 34-27-36, 34-27-81, 34-27-82, 34-27-83, 34-27-84, 34-27-85 and 34-27-86, Code of Alabama 1975, are amended to read as follows:

"§34-27-2



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

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

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

(3) BUYER'S AGREEMENT. An agreement between a real estate company and a person through which the company agrees to assist the person with the purchase of real property in exchange for a fee, whether as a fiduciary or non-fiduciary.

~~(3)~~ (4) COMMISSION. The Alabama Real Estate Commission, except where the context requires that it means the fee paid to a broker or salesperson.

~~(4)~~ (5) COMMISSIONER. A member of the commission.

~~(5)~~ (6) COMPANY. Any sole proprietorship, corporation, partnership, branch office, or lawfully constituted business organization as the Legislature may provide for from time to time, which is licensed as a company under Articles 1 and 2 of this chapter.

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

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



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

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

(11) LISTING AGREEMENT. An agreement between a company and an owner wherein the company agrees to assist the owner in the sale of the owner's real property in exchange for a fee, whether as a fiduciary or non-fiduciary. The term includes an agreement giving the company the right to list or market the owner's real property upon the owner's future decision to sell the property.

~~(10)~~ (12) PERSON. A natural person.

~~(11)~~ (13) PLACE OF BUSINESS.

a. A licensed broker living in a rural area of this state who operates from his or her home, provided that he or she sets up and maintains an office for the conduct of the real estate business, which shall not be used for living purposes or occupancy other than the conduct of the real estate business. The office shall be used by the broker only and not as a place of business from which any additional licensee operates under his or her license. The office shall have a separate business telephone, separate entrance, and be properly identified as a real estate office.

b. All licensees located within the city limits or police jurisdiction of a municipality shall operate from a separate office located in the city limits or police

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jurisdiction. The office shall have a business telephone, meet all other regulations of the Real Estate Commission, and be properly identified as a real estate office. Hardship cases may be subject to waiver of this regulation upon application and approval by the commission.

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

(14) PRINCIPAL BROKER. As used in other states, the term has the same meaning as "qualifying broker" in this state.

~~(12)~~ (15) QUALIFYING BROKER. A broker under whom a sole proprietorship, corporation, partnership, branch office, or lawfully constituted business organization as the Legislature may from time to time provide is licensed, or a broker licensed as a company to do business as a sole proprietorship who is responsible for supervising the acts of the company or proprietorship and all real estate licensees licensed therewith.

~~(13)~~ (16) RECOVERY FUND. The Alabama Real Estate Recovery Fund.

~~(14)~~ (17) SALESPERSON. Any person licensed as a real estate salesperson under Articles 1 and 2 of this chapter.

(18) TEAM. Two or more licensees within the same company who work together to provide services for which a license is required and who hold themselves out to the public as a distinct group within the company.

(b) The licensing requirements of Articles 1 and 2 of



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113 this chapter shall not apply to any of the following persons
114 and transactions:

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

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

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

123 (4) Persons or a state or federally chartered financial
124 institution acting as a receiver, trustee, administrator,
125 executor, or guardian; or acting under a court order or under
126 authority of a trust instrument or will.

127 (5) Public officers performing their official duties.

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

131 (7) Persons acting as the manager for an apartment
132 building or complex. However, this exception shall not apply
133 to a person acting as an on-site manager of a condominium
134 building or complex.

135 (8) Persons licensed as time-share sellers under
136 Article 3 of this chapter performing an act consistent with
137 that article.

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

140 "§34-27-3

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(a) (1) Co-brokerage agreements between a licensed principal broker of another state and licensed qualifying broker of this state are governed by this section.

(2) A licensed principal broker of another state may act as co-broker in a sale or lease transaction with a licensed qualifying broker of this state by executing a written agreement specifying each parcel of property covered by the agreement~~if the state in which the nonresident broker is licensed offers the same privileges to licensees of this state.~~

(3) A co-brokerage agreement is limited to three transactions per calendar year, per licensed out-of-state principal broker. A transaction may include multiple properties if the properties are part of the same portfolio.

(4) A licensed out-of-state principal broker shall not use a co-brokerage agreement to engage in transactions in Alabama totaling more than fifty million dollars (\$50,000,000) in any calendar year.

(b) Whenever an Alabama qualifying broker enters into a co-brokerage agreement with a ~~nonresident-licensed out-of-state principal broker~~ to perform ~~in Alabama~~ any of the acts described in Section 34-27-30 in Alabama, the Alabama qualifying broker shall file ~~within 10 days~~ with the commission a copy of each such written agreement not more than 10 days after the agreement is signed by all of the parties. By signing the agreement, the ~~nonresident-licensed out-of-state principal broker~~ agrees to abide by Alabama law₇ and the rules ~~and regulations~~ of the commission; and further



agrees that civil actions may be commenced against him or her in any court of competent jurisdiction in any county of this state in which a claim may arise. Complaints against the licensed out-of-state principal broker related to the Alabama transaction governed by a co-brokerage agreement shall also be forwarded to the state governmental body with regulatory authority over the out-of-state principal broker's license.

(c) All co-brokerage agreements with licensed out-of-state principal brokers for transactions occurring in Alabama shall include all of the following provisions and acknowledgments:

(1) A listing or joint listing of the property involved.

(2) A specification of all material terms, including, but not limited to, the financial terms.

(3) That an Alabama broker shall supervise the showing of property located in Alabama and any subsequent negotiations.

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

(5) That the Alabama broker shall verify that the licensed out-of-state broker is a licensed principal broker in another state.

(6) That any earnest money deposited pursuant to the agreement shall be held in escrow by the Alabama qualifying broker unless both the buyer and the seller agree in writing to relieve the Alabama qualifying broker of this responsibility."



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197 "§34-27-8

198 (a) A majority of the commission members shall
199 constitute a quorum for the conduct of commission business.
200 The commission may adopt and enforce all rules~~and regulations~~
201 pursuant to the ~~state administrative procedure statutes~~Alabama
202 Administrative Procedure Act necessary for the administration
203 of this chapter, and to otherwise do all things necessary and
204 convenient for effecting this chapter.

205 (b) In addition to the powers granted in this section,
206 the commission may adopt and enforce rules~~and regulations~~
207 governing the requirements of agency disclosure by licensed
208 brokers and salespersons.

209 ~~(c) Each offer to purchase prepared after August 1,~~
210 ~~1998, shall have prominently displayed the following AGENCY~~
211 ~~DISCLOSURE clause which shall be completed and initialed as~~
212 ~~indicated:~~

213 The listing company _____ is:

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

215 _____ ~~An agent of the seller.~~

216 _____ ~~An agent of the buyer.~~

217 _____ ~~An agent of both the seller and buyer and is~~
218 ~~acting as a limited consensual dual agent.~~

219 _____ ~~Assisting the _____ buyer _____ seller as a~~
220 ~~transaction broker.~~

221 The selling company _____ is:

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

223 _____ ~~An agent of the seller.~~

224 _____ ~~An agent of the buyer.~~



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225 ~~_____ An agent of both the seller and buyer and is~~
226 ~~acting as a limited consensual dual agent.~~

227 ~~_____ Assisting the _____ buyer _____ seller as a~~
228 ~~transaction broker."~~

229 "\$34-27-36

230 (a) (1) The commission or its staff may on its own, or
231 on the verified complaint in writing of any person,
232 investigate the actions and records of a licensee. The
233 commission may issue subpoenas and compel the testimony of
234 witnesses and the production of records and documents during
235 an investigation. If probable cause is found, a formal
236 complaint shall be filed and the commission shall hold a
237 hearing on the formal complaint.

238 (2) In each instance in which a licensee is found in
239 violation of any of the conduct prohibited in subsection (b),
240 the commission may impose any of the following penalties:

241 a. A fine of not less than one hundred dollars (\$100)
242 nor more than five thousand dollars (\$5,000).

243 b. Require the licensee to complete an approved
244 education course or courses in addition to completing the
245 existing continuing education requirements.

246 c. Issue a public reprimand.

247 d. Revoke or suspend any or all licenses held under
248 this chapter by the licensee. ~~The commission shall revoke or~~
249 ~~suspend the license or impose a fine of not less than one~~
250 ~~hundred dollars (\$100) nor more than two thousand five hundred~~
251 ~~dollars (\$2,500), or both, or reprimand the licensee in each~~
252 ~~instance in which the licensee is found guilty of any of the~~



253 ~~following acts set out in this section. The commission may~~
254 ~~revoke or suspend a license~~ The suspension may continue until
255 such time as the licensee has completed an approved continuing
256 education course, ~~and/or~~ has made restitution to accounts
257 containing funds to be held for other parties, or both. The
258 commission may also stay the revocation or suspension of a
259 license and require completion of an approved education course
260 ~~and/or~~, require the making of restitution to accounts
261 containing funds to be held for other parties, or both.

262 (b) A licensee is prohibited from doing all of the
263 following:

264 (1) Procuring or attempting to procure, a license, for
265 himself or herself or another, by fraud, misrepresentation, or
266 deceit, or by making a material misstatement of fact in an
267 application for a license.

268 (2) Engaging in misrepresentation or dishonest or
269 fraudulent acts when selling, buying, trading, or renting real
270 property of his or her own or of a spouse, ~~or~~ child, or
271 parent.

272 (3) Making a material misrepresentation, or failing to
273 disclose to a potential purchaser or lessee any latent
274 structural defect or any other defect known to the licensee.
275 Latent structural defects and other defects do not refer to
276 trivial or insignificant defects but refer to those defects
277 that would be a significant factor to a reasonable and prudent
278 person in making a decision to purchase or lease.

279 (4) Making any false promises of a character likely to
280 influence, persuade, or induce any person to enter into any



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281 contract or agreement.

282 (5) Pursuing a continued and flagrant course of
283 misrepresentation or the making of false promises through
284 agents or salespersons or any medium of advertising or
285 otherwise.

286 (6) Publishing or causing to be published any
287 advertisement which deceives or which is likely to deceive the
288 public, or which in any manner tends to create a misleading
289 ~~impression or which fails to identify the person causing the~~
290 ~~advertisement to be placed as a licensed broker or~~
291 ~~salesperson.~~

292 (7) Acting for more than one party in a transaction
293 without the knowledge and written ~~consent in writing~~ of all
294 parties for whom he or she acts.

295 (8)a. Failing, within a reasonable time, to properly
296 account for or remit money coming into his or her possession
297 which belongs to others, or commingling money belonging to
298 others with his or her own funds.

299 b. Failing to deposit and account for at all times all
300 funds belonging to, or being held for others, in a separate
301 federally insured account or accounts in a financial
302 institution located in Alabama.

303 c. Failing to keep for at least three years a complete
304 record of funds belonging to others showing to whom the money
305 belongs, date deposited, date of withdrawal, and other
306 pertinent information.

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



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(10) Failing to voluntarily furnish a copy of each listing, contract, lease, and other document to each party executing the document with reasonable promptness.

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

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

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

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

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

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without the name or trade name of the qualifying broker or company appearing prominently on the advertising; or if the licensee is a salesperson or associate broker, advertising himself or herself as a real estate agent without the name or trade name of the qualifying broker or company under whom the salesperson or associate broker is licensed appearing prominently on the advertising. For purposes of this subdivision, "prominently" means using a font size that is equal to or larger than any other name, text, or logo, other than terms like "for sale" or "for lease," in the advertisement and situated and sized for the purpose of gaining the attention of consumers viewing the advertisement.

~~(16) Presenting to the commission, as payment for a fee or fine, a check that is returned unpaid.~~

~~(17)~~ (16) Establishing an association, by employment or otherwise, with an unlicensed person who is expected or required to act as a licensee, or aiding, abetting, or conspiring with a person to circumvent the requirements of this chapter.

~~(18)~~ (17) Failing to disclose to an owner the licensee's intention to acquire, directly or indirectly, an interest in property which he or she or his or her associates have been employed to sell.

~~(19)~~ (18) Violating or disregarding any provision of this chapter or any rule, regulation, or order of the commission.

~~(20)~~ (19) If a broker, ~~accepting~~ accepts a "net listing" agreement for sale of real property or any interest therein. A



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"net listing" agreement ~~is one that~~ stipulates a net price to be received by the owner with the excess due to be received by the broker as his or her commission.

~~(21)~~ (20) Misrepresenting or failing to disclose to any lender, guaranteeing agency, or any other interested party, the true terms of a sale of real estate.

~~(22)~~ (21) Failing to inform the buyer or seller at the time an offer is presented that he or she will be expected to pay certain closing costs and the approximate amount of those costs.

~~(23)~~ (22) a. Having entered a plea of guilty or nolo contendere to, or having been found guilty of or convicted of a felony or a crime involving moral turpitude.

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

~~(24)~~ (23) Offering free lots or conducting lotteries for the purpose of influencing a party to purchase or lease real estate.

~~(25)~~ (24) Failing to include a fixed date of expiration in a written listing agreement or failing to leave a copy of the agreement with the principal.

~~(26)~~ (25) Conduct which constitutes or demonstrates dishonest dealings, bad faith, or untrustworthiness.

~~(27)~~ (26) Acting negligently or incompetently in performing an act for which a person is required to hold a real estate license.



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393 ~~(28)~~ (27) Failing or refusing on demand to produce a
394 document, book, or record in his or her possession concerning
395 a real estate transaction conducted by him or her for
396 inspection by the commission or its authorized personnel or
397 representative.

398 ~~(29)~~ (28) Failing within a reasonable time to provide
399 information requested by the commission during an
400 investigation or after a formal complaint has been filed.

401 ~~(30)~~ (29) Failing without cause to surrender to the
402 rightful owner, on demand, a document or instrument coming
403 into his or her possession.

404 ~~(31)~~ (30) If a qualifying broker or company, failing to
405 keep in ~~their~~ his, her, or its files copies of all contracts,
406 leases, listings, and other records pertinent to real estate
407 transactions for a period of three years.

408 (b) If it appears that a person, ~~firm, corporation,~~ or
409 ~~any~~ business entity has engaged, or is about to engage, in an
410 act or practice constituting a violation of Article 1 or 2 of
411 this chapter or any rule or order of the commission, the
412 commission, through the Attorney General, may institute legal
413 actions to enjoin the act or practice and to enforce
414 compliance with Articles 1 and 2 of this chapter or any rule
415 or order of the commission. To prevail in an action, it shall
416 not be necessary to allege or prove either that an adequate
417 remedy at law does not exist or that substantial or
418 irreparable damage would result from the continued violation.

419 (c) (1) Notwithstanding any other provisions of law, the
420 commission may issue an order requiring any accused person,



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firm, corporation, or business entity to cease and desist from engaging in activities requiring a license under this chapter when the accused person, firm, corporation, or business entity is not licensed under this chapter. The order shall be entered by the executive director after a finding of probable cause by the commission staff. The order shall become final 15 days after its service upon the accused, unless the accused requests a hearing before the commission. Upon hearing the case and finding violations, the commission may make the cease and desist order final and the commission may impose a fine for each violation in an amount consistent with the range of fines applicable to licensees, and in addition, may impose a fine in the amount of any gain or economic benefit that was derived from the violation, and in addition, may impose a fine in the amount of the commission's costs incurred. Any fines not paid as ordered shall be enforceable in any court with competent jurisdiction and proper venue.

(2) Notwithstanding any other provisions of law, the commission may decline to issue an order requiring any accused person, firm, corporation, or business entity to cease and desist from engaging in activities requiring a license under this chapter when the accused person, firm, corporation, or business entity is not licensed under this chapter. In this instance, the commission shall proceed to give appropriate notice of the violations and hold a hearing ~~thereon~~. Upon hearing the case and finding violations, the commission may impose a fine for each violation in an amount consistent with the range of fines applicable to licensees, and in addition,



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may impose a fine in the amount of any gain or economic benefit that was derived from the violation, and in addition, may impose a fine in the amount of the commission's costs incurred. Any fine or fines not paid as ordered shall be enforceable in any court with competent jurisdiction and proper venue.

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

(e) The commission shall notify the complainant, licensee, and qualifying broker in writing regarding the disposition of the complaint.

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

"§34-27-81

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

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(1) AGENCY AGREEMENT. A written brokerage agreement between a ~~broker~~company and a ~~client~~consumer which creates a fiduciary relationship between the company's qualifying broker, including any licensees designated by the qualifying broker to sign the agreement, and the consumer~~a principal~~, who ~~becomes~~is commonly referred to as a client of the qualifying broker and designated licensee through the agreement.

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

(3) BROKERAGE AGREEMENT. A specific written agreement between a ~~brokerage firm~~company as defined by Section 34-27-2 and a consumer which establishes a brokerage relationship. The brokerage agreement shall contain a statement of the terms and conditions of the brokerage services to be provided, including any compensation to be paid to or through the company. The term includes agency agreements and transaction facilitator agreements.

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

~~(5)~~ (6) CONSUMER. A person who obtains information, advice, or services concerning real estate from a real estate licensee.

~~(6)~~ (5) CLIENT. A person who has an agency agreement with a broker for brokerage service, whether he or she be buyer or seller.



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

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

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

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

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

(10) LICENSEE. Any broker, salesperson, or company as defined in Section 34-27-2.

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

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

~~b. When one licensee represents both the buyer and~~



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533 ~~seller in a real estate transaction.~~

534 ~~(12)~~ (11) MATERIAL FACT. A fact that is of significance
535 to a reasonable party which affects the party's decision to
536 enter into a real estate contract.

537 ~~(13)~~ (12) QUALIFYING BROKER. A broker under whom a
538 corporation, partnership, branch office, or lawfully
539 constituted business organization, as the Legislature may from
540 time to time provide, is licensed, or a broker licensed to do
541 business as a sole proprietorship who is responsible for
542 supervising the acts of the company, or proprietorship and all
543 real estate licensees licensed therewith.

544 ~~(14)~~ (13) REAL ESTATE TRANSACTION. The purchase, sale,
545 lease and rental, option, or exchange of an interest in real
546 estate.

547 ~~(15)~~ (14) SINGLE AGENT. A licensee who is engaged by and
548 represents through an agency agreement only one party in a
549 real estate transaction. A single agent ~~includes, but is not~~
550 ~~limited to, one~~ may be only one of the following:

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

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

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



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~~(17)~~ (15) TRANSACTION ~~BROKER~~ FACILITATOR. A licensee who assists one or more parties in a contemplated real estate transaction without being an agent or fiduciary or advocate for the interest of that party to a transaction. The term has the same meaning as "Transaction Broker" provided in Act 98-618."

"§34-27-82

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

(b) At the initial contact between a licensee and the consumer and until such time a broker enters into a specific written agreement to establish an agency relationship with one or more of the parties to a transaction, the licensee shall ~~not be considered~~ a transaction facilitator and not an agent of that consumer. An agency relationship shall not be assumed, implied, or created without a written bilateral agency agreement signed by the licensee and the consumer establishing the terms of the agency relationship. In the absence of a signed brokerage agreement between the parties, the transaction facilitator relationship shall remain in effect.

(c) ~~As soon as reasonably possible and before any confidential information is disclosed to any other person by a licensee, the~~ The licensee shall provide a written disclosure form to a consumer for signature describing the ~~alternative~~ types of brokerage services, as identified in subsection (a), that are available to clients and customers of real estate brokerage companies, as soon as reasonably possible and before



any confidential information is disclosed to any other person by a licensee. Such disclosure must occur at least prior to a licensee providing any brokerage service, which includes a licensee showing a property as to a prospective buyer but does not include a seller's agent conducting an open house as to prospective buyers. As part of the disclosure, the ~~The~~ licensee shall also ~~provide~~inform a consumer ~~as to~~in writing the specific types of brokerage services that are provided by his or her company, as required by Section 34-27-83, which shall also include general information on how the company and licensee are compensated for the brokerage services. A broker shall not be required to offer or engage in any one or in all of the ~~alternative brokerage arrangements services~~ specified in subsection (a). ~~The licensee will provide a written form to the consumer for their signature describing the alternative types of brokerage arrangements available.~~ All rental or property management services are excluded from the requirements of this subsection.

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

(e) After disclosure, the consumer may make an



617 affirmative election of a specific type of brokerage
618 ~~arrangement~~service that is available from the real estate
619 ~~brokerage company~~ by signing a brokerage agreement. The
620 brokerage agreement shall contain a statement of the terms and
621 conditions of the brokerage services that the broker will
622 provide. The consumer or customer may not be required to enter
623 into a written brokerage agreement in order for a licensee to
624 show a property to a consumer or customer. Notwithstanding
625 subsection (d), a written brokerage agreement is required
626 prior to a licensee either listing for sale or submitting an
627 offer on a property on behalf of a customer or client for
628 compensation. In the absence of a signed brokerage agreement
629 ~~between the parties, the transaction brokerage relationship~~
630 ~~shall remain in effect.~~

631 (f) When serving as a transaction ~~broker~~facilitator,
632 the duties of the licensee to all the parties to a real estate
633 transaction are limited to those which are enumerated in
634 Section 34-27-84. A signed brokerage agreement between the
635 parties or, in the absence of a signed brokerage agreement,
636 the continuation of the transaction ~~brokerage~~facilitator
637 relationship, shall constitute informed consent by the
638 consumer as to the services the consumer shall receive from
639 the broker.

640 (g) When two or more licensees under the same
641 qualifying broker are in separate agency agreements with a
642 different party in the same transaction, the qualifying broker
643 can designate those licensees as single agents as to the
644 licensee's client. A designated single agent is not a dual



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agent, and neither the qualifying broker, the designated single agent, nor any other licensee involved in the transaction shall be assumed to have knowledge to any other party with whom the licensee has not entered into an agency agreement.

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

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

The listing licensee, _____ is:

An agent of the seller.

A dual agent.

Assisting the seller as a transaction facilitator.

The selling licensee, _____ is:

An agent of the buyer.

A dual agent.

Assisting the buyer as a transaction facilitator.

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

"§34-27-83

Any qualifying broker acting in a real estate



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

~~(a)~~ (1) The qualifying broker for each ~~brokerage~~ real estate company shall provide every licensee a copy of the agency disclosure policy regarding the types of brokerage services offered by their company. This policy shall be explained to all licensees at least once a year.

~~(b)~~ (2) A form acknowledging receipt of the agency disclosure office policy statement and a satisfactory explanation of its contents shall be signed by each licensee and a copy retained by the ~~brokerage~~ real estate company for three years."

"§34-27-84

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

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

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

(3) To keep confidential any information given to the licensee in confidence, or any information obtained by the licensee that the licensee knows a reasonable individual would want to keep confidential, unless: (i) disclosure of this information is required by law, violates a fiduciary duty to a client, becomes public knowledge, or (ii) the disclosure is authorized by the party in writing; (iii) the information becomes public knowledge; or (iv) failure to disclose the



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information violates a fiduciary duty to a client.

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

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

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

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

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

"§34-27-85

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

(1) Loyal represent the best interests of the client by placing the interests of the client ahead of the interests



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

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

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

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

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

"§34-27-86

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



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

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

"§34-27-32

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

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

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

(3) Is a person whose real estate license has not been revoked in any state within the two years prior to application



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for a real estate licensure with license in Alabama. If the applicant's real estate license~~licensure~~ revocation in any state, including Alabama, is more than two years from the date of application for ~~licensure with~~a license in Alabama then the applicant may not be issued an Alabama real estate license without the approval of the commissioners.

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

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

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

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

"I hereby appoint the Executive Director or the Assistant Executive Director of the Alabama Real Estate Commission as my agent upon whom all disciplinary, judicial, or other process or legal notices may be served. I agree that any service upon my agent shall be the same as service upon me

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

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

_____ Legal Signature of Applicant"

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

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

b. The applicant shall submit proof that he or she has a current real estate license in another state as evidenced by



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

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

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

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



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869 following:

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

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

876 (3) Proof that he or she has completed a course in real
877 estate approved by the commission, which shall be a minimum of
878 60 clock hours.

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

880 ~~(d)~~(e) A person who does not hold a current real estate
881 salesperson license in another state desiring to be a real
882 estate salesperson in this state shall apply for a
883 salesperson's license with the commission on a form prescribed
884 by the commission which shall specify the real estate office
885 to which he or she is registered. Along with the application,
886 he or she shall furnish all of the following:

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

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

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

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



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

899 ~~(g)~~ (h) If the applicant for a company or broker license
900 maintains more than one place of business in the state, he or
901 she shall have a company or branch office license for each
902 separate location or branch office. Every application shall
903 state the location of the company or branch office and the
904 name of its qualifying broker. Each company or branch office
905 shall be under the direction and supervision of a qualifying
906 broker licensed at that address. No person may serve as
907 qualifying broker at more than one location. The qualifying
908 broker for the branch office and the qualifying broker for the
909 company shall share equal responsibility for the real estate
910 activities of all licensees assigned to the branch office or
911 company.

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

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

917 (2) He or she files a copy of the written consent with
918 the commission.

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

922 (j) A person licensed under a qualifying broker may be
923 engaged by one or more companies with the same qualifying
924 broker.



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925 (k) An individual may use any office of a company under
926 which he or she is licensed.

927 ~~(i)~~ (l) A company license shall become invalid on the
928 death or disability of a qualifying broker. Within 30 days
929 after the death or disability, the corporation, or the
930 remaining partners or the successor partnership, if any, may
931 designate another of its officers, members, or salespersons to
932 apply for a license as temporary qualifying broker. The person
933 designated as temporary qualifying broker shall either be a
934 broker or have been a salesperson for at least one year prior
935 to filing the application. If the application is granted, the
936 company may operate under that temporary qualifying broker for
937 no more than six months after the ~~death or disability of its~~
938 ~~former qualifying broker~~ commission issues the temporary
939 qualifying broker license. Unless the company designates a
940 fully licensed broker as the qualifying broker within the ~~six~~
941 ~~months~~ six-month period, the company license and all licenses
942 under the company shall be classified inactive by the
943 commission after two weeks prior electronic notice.

944 ~~(j)~~ (m) The commission shall require both state and
945 national criminal history background checks to issue a
946 license. Applicants shall submit required information and
947 fingerprints to the commission, Federal Bureau of
948 Investigation, Alabama State Law Enforcement Agency, or its
949 successor, or to a fingerprint processing service that may be
950 selected by the commission for this purpose. Criminal history
951 record information shall be provided to the commission from
952 both the State of Alabama and the Federal Bureau of

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Investigation. The commission can use the provided criminal history for the determination of the qualifications and fitness of the applicant to hold a real estate license. The applicant shall assume the cost of the criminal history check. The criminal history ~~must~~shall be current to the issuance of the license.

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

Section 2. Section 34-27-39 is added to the Code of Alabama 1975, to read as follows:

§34-27-39

(a) A licensee who acts as a member of a team, or holds himself or herself or to be a member of a team, shall be subject to this section.

(b) The leader of any team shall be designated as team leader with the qualifying broker. The qualifying broker cannot delegate to the team leader the responsibilities and duties of the qualifying broker. The team leader shall maintain a list of the members of the team and provide the list to the qualifying broker.

(c) A team does not require licensure or registration with the commission as a separate business organization.

(d) No person shall be a member on more than one team.

(e) The commission shall adopt rules addressing what words may or may not be used in a team name and how teams may advertise and market. At a minimum, any licensee who



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981 advertises as being part of a team shall do all of the
982 following:

983 (1) Include the name of at least one of the team
984 members in the advertisement.

985 (2) Include the name of the company with whom the
986 licensee is licensed in the advertisement.

987 (3) Include the term "team" or "group" in the team
988 name.

989 (4) Receive written authorization from the qualifying
990 broker of the licensee to include the team name in the
991 advertisement.

992 Section 3. This act shall become effective on October
993 1, 2025.



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House of Representatives

997 Read for the first time and referred04-Mar-25
998 to the House of Representatives
999 committee on Commerce and Small
1000 Business
1001
1002 Read for the second time and placed06-Mar-25
1003 on the calendar:
1004 1 amendment
1005
1006 Read for the third time and passed04-Apr-25
1007 as amended
1008 Yeas 101
1009 Nays 0
1010 Abstains 0
1011
1012 John Treadwell
1013 Clerk
1014