



**House Commerce and Small Business Reported  
Substitute for HB382**

A BILL

TO BE ENTITLED

AN ACT

Relating to real estate transactions; to amend Sections 34-27-2, 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, 34-27-8, 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.

(17) RESIDENTIAL PROPERTY. Real property located in the state which is used primarily as a dwelling.

~~(14)~~ (18) SALESPERSON. Any person licensed as a real estate salesperson under Articles 1 and 2 of this chapter.

(19) 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



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as a distinct group within the company.

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

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

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

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

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

(5) Public officers performing their official duties.

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

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

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

(9) Transactions involving the sale, lease, or transfer



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of cemetery lots."

"§34-27-8

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

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

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

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

~~(Two blocks may be checked)~~

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

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

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

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

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

~~(Two blocks may be checked)~~

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



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

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

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

"§34-27-36

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

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

a. A fine of not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500).

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

c. Issue a public reprimand.

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



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~~instance in which the licensee is found guilty of any of the~~  
~~following acts set out in this section. The commission may~~  
~~revoke or suspend a license~~ The suspension may continue until  
such time as the licensee has completed an approved continuing  
education course, ~~and/or~~ has made restitution to accounts  
containing funds to be held for other parties, or both. The  
commission may also stay the revocation or suspension of a  
license and require completion of an approved education course  
~~and/or~~, require the making of restitution to accounts  
containing funds to be held for other parties, or both.

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

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

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

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

(4) Making any false promises of a character likely to





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influence, persuade, or induce any person to enter into any contract or agreement.

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

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

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

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

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

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

(9) Placing a sign on any property offering it for



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sale, lease, or rent without the consent of the owner.

(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 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



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or her to advertise himself or herself as a real estate agent 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"



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agreement for sale of real property or any interest therein. A "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) a. Failing to ~~include a fixed date of expiration in a written listing agreement or failing to~~ leave a copy of the written residential listing agreement or written residential property management agreement with the principal.

b. Failing to include a fixed date of expiration, not to exceed one year from the date of commencement, in a written residential listing agreement, which can be extended in



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writing signed by the parties.

~~(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.

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

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

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

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

(b) If it appears that a person, ~~firm, corporation,~~ or ~~any~~ business entity has engaged, or is about to engage, in an act or practice constituting a violation of Article 1 or 2 of this chapter or any rule or order of the commission, the commission, through the Attorney General, may institute legal actions to enjoin the act or practice and to enforce compliance with Articles 1 and 2 of this chapter or any rule



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or order of the commission. To prevail in an action, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation.

(c)(1) Notwithstanding any other provisions of law, the commission may 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. 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



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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, 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.



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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:

(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.





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~~(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.

(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~~ 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~~



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~~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 seller in a real estate transaction.~~

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

~~(13)~~ (12) QUALIFYING BROKER. A broker under whom a corporation, partnership, branch office, or lawfully constituted business organization, as the Legislature may from time to time provide, is licensed, or a broker licensed 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.

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

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

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

b. Seller's agent, which means a broker or licensee who



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is engaged by and represents only the seller in a real estate transaction.

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

~~(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~~



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~~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



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

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



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the broker.

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



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~~(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 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



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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 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."





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673           "§34-27-85

674           (a) In addition to the duties enumerated in Section  
675 34-27-84, a licensee shall provide all of the following  
676 services to clients:

677           (1) Loyally represent the best interests of the client  
678 by placing the interests of the client ahead of the interests  
679 of any other party, unless loyalty to a client violates the  
680 duties of the licensee to other parties under Section  
681 34-27-84, or is otherwise prohibited by law.

682           (2) Disclose to the client all information known by the  
683 licensee that is material to the transaction and not  
684 discoverable by the client through reasonable investigation  
685 and observation, except for confidential information as  
686 provided in ~~subdivision (3) of subsection (a) of~~ Section  
687 34-27-84 (a) (3). A licensee shall have no affirmative duty to  
688 discover the information.

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

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

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



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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 ~~license~~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 ~~license~~license with Alabama. If the applicant's rejection for a real estate ~~license~~license in any state is



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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  
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



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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 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~~



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~~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 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.



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

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

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

826           (3) Proof that he or she has completed a course in real  
827 estate approved by the commission, which shall be a minimum of  
828 60 clock hours.

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 license with the commission on a form prescribed  
834 by the commission which shall specify the real estate office  
835 to which he or she is registered. Along with the application,   
836 he or she shall furnish all of the following:

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

839           (2) Proof that he or she has successfully completed a  
840 course in real estate approved by the commission, which shall



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841 be a minimum of 60 clock hours.

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

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

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

849 ~~(g)~~ (h) If the applicant for a company or broker license  
850 maintains more than one place of business in the state, he or  
851 she shall have a company or branch office license for each  
852 separate location or branch office. Every application shall  
853 state the location of the company or branch office and the  
854 name of its qualifying broker. Each company or branch office  
855 shall be under the direction and supervision of a qualifying  
856 broker licensed at that address. No person may serve as  
857 qualifying broker at more than one location. The qualifying  
858 broker for the branch office and the qualifying broker for the  
859 company shall share equal responsibility for the real estate  
860 activities of all licensees assigned to the branch office or  
861 company.

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

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

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



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

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

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

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

~~(j)~~ (m) The commission shall require both state and national criminal history background checks to issue a license. Applicants shall submit required information and





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897 fingerprints to the commission, Federal Bureau of  
898 Investigation, Alabama State Law Enforcement Agency, or its  
899 successor, or to a fingerprint processing service that may be  
900 selected by the commission for this purpose. Criminal history  
901 record information shall be provided to the commission from  
902 both the State of Alabama and the Federal Bureau of  
903 Investigation. The commission can use the provided criminal  
904 history for the determination of the qualifications and  
905 fitness of the applicant to hold a real estate license. The  
906 applicant shall assume the cost of the criminal history check.  
907 The criminal history ~~must~~shall be current to the issuance of  
908 the license.

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

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

915 §34-27-39

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

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



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

926 (d) The commission shall adopt rules addressing what  
927 words may or may not be used in a team name and how teams may  
928 advertise and market. At a minimum, any licensee who  
929 advertises as being part of a team shall do all of the  
930 following:

931 (1) Include the name of at least one of the team  
932 members in the advertisement.

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

935 (3) Include the term "team" or "group" in the team  
936 name.

937 (4) Receive written authorization from the qualifying  
938 broker of the licensee to include the team name in the  
939 advertisement.

940 Section 3. This act shall become effective on October  
941 1, 2025.