

SB212 INTRODUCED



1 SB212
2 YMMSJ2N-1
3 By Senator Carnley
4 RFD: Banking and Insurance
5 First Read: 04-Mar-25



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SYNOPSIS:

Under existing law, a licensee of a real estate transaction must provide a written disclosure form to a consumer describing the types of brokerage services as required by the Real Estate Consumers Agency and Disclosure Act (RECAD), prior to a consumer disclosing any confidential information. This form is adopted by the Alabama Real Estate Commission. In addition, a licensee must inform the consumer of the brokerage services specifically provided by the licensee's company. A written agreement is required to establish an agency relationship but is not required to establish a transaction facilitator relationship.

This bill would provide that a consumer must receive a disclosure form from the real estate licensee prior to a licensee showing him or her a property, and the disclosure of the specific brokerage services the licensee's company provides must be in writing and include general information related to compensation of the licensee.

This bill would provide that after the disclosure, a consumer retains the option to enter into a brokerage agreement with the brokerage company; however, the consumer is not required to enter into a written brokerage agreement as a prerequisite to the



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29 licensee showing him or her a property.

30 This bill would further provide that a licensee
31 and consumer are only required to execute a written
32 brokerage agreement if the licensee will either list
33 the property for sale or submit an offer to a seller on
34 behalf of the consumer; and any brokerage agreement
35 entered into must provide terms of compensation to the
36 licensee and company.

37 This bill would provide for a licensee's use of
38 any office of the company under which he or she is
39 licensed.

40 This bill would further provide for penalties
41 and fines for certain violations.

42 This bill would provide for handling declined
43 methods of payment for license fees.

44 This bill would further provide for the duties
45 of qualifying brokers and licensees.

46 This bill would also establish the scope of
47 operation for teams.

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A BILL

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TO BE ENTITLED

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AN ACT

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55 Relating to real estate transactions; to amend Sections
56 34-27-2, 34-27-8, 34-27-32, 34-27-36, 34-27-81, 34-27-82,



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57 34-27-83, 34-27-84, 34-27-85, and 35-27-86, Code of Alabama
58 1975, to further provide for penalties and fines for certain
59 violations; to provide for handling declined methods of
60 payment for license fees; to clarify when a real estate
61 consumer agency disclosure form is required; to further
62 clarify when a written brokerage agreement is required to
63 establish a brokerage relationship; to provide for a licensee's
64 use of any office of the company under which he or she is
65 licensed; to further provide for the duties of a qualifying
66 broker; to further provide for the duties of a licensee; and
67 to add Section 34-27-39 to the Code of Alabama 1975, to
68 establish the scope and operation of teams.

69 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

70 Section 1. Sections 34-27-2, 34-27-8, 34-27-32,
71 34-27-36, 34-27-81, 34-27-82, 34-27-83, 34-27-84, 34-27-85 and
72 34-27-86, Code of Alabama 1975, are amended to read as
73 follows:

74 "§34-27-2

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

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

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

82 (3) BUYER'S AGREEMENT. An agreement between a real
83 estate company and a person through which the company agrees
84 to assist the person with the purchase of real property in



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85 exchange for a fee, whether as a fiduciary or non-fiduciary.

86 ~~(3)~~ (4) COMMISSION. The Alabama Real Estate Commission,
87 except where the context requires that it means the fee paid
88 to a broker or salesperson.

89 ~~(4)~~ (5) COMMISSIONER. A member of the commission.

90 ~~(5)~~ (6) COMPANY. Any sole proprietorship, corporation,
91 partnership, branch office, or lawfully constituted business
92 organization as the Legislature may provide for from time to
93 time, which is licensed as a company under Articles 1 and 2 of
94 this chapter.

95 ~~(6)~~ (7) ENGAGE. Contractual relationships between a
96 qualifying broker and an associate broker or salesperson
97 licensed under him or her whether the relationship is
98 employer-employee, independent contractor, or otherwise.

99 ~~(7)~~ (8) INACTIVE LICENSE. A license which is being held
100 by the commission office by law, order of the commission, at
101 the request of the licensee, or which is renewable but is not
102 currently valid because of failure to renew.

103 ~~(8)~~ (9) LICENSEE. Any broker, salesperson, or company.

104 ~~(9)~~ (10) LICENSE PERIOD. That period of time beginning
105 on October 1 of a year designated by the commission to be the
106 first year of a license period and ending on midnight
107 September 30 of the year designated by the commission as the
108 final year of that license period.

109 (11) LISTING AGREEMENT. An agreement between a company
110 and an owner wherein the company agrees to assist the owner in
111 the sale of the owner's real property in exchange for a fee,
112 whether as a fiduciary or non-fiduciary. The term includes an



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113 agreement giving the company the right to list or market the
114 owner's real property upon the owner's future decision to sell
115 the property.

116 ~~(10)~~ (12) PERSON. A natural person.

117 ~~(11)~~ (13) PLACE OF BUSINESS.

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

128 b. All licensees located within the city limits or
129 police jurisdiction of a municipality shall operate from a
130 separate office located in the city limits or police
131 jurisdiction. The office shall have a business telephone, meet
132 all other regulations of the Real Estate Commission, and be
133 properly identified as a real estate office. Hardship cases
134 may be subject to waiver of this regulation upon application
135 and approval by the commission.

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

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



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141 state.

142 ~~(12)~~ (15) QUALIFYING BROKER. A broker under whom a sole
143 proprietorship, corporation, partnership, branch office, or
144 lawfully constituted business organization as the Legislature
145 may from time to time provide is licensed, or a broker
146 licensed as a company to do business as a sole proprietorship
147 who is responsible for supervising the acts of the company or
148 proprietorship and all real estate licensees licensed
149 therewith.

150 ~~(13)~~ (16) RECOVERY FUND. The Alabama Real Estate
151 Recovery Fund.

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

154 ~~(14)~~ (18) SALESPERSON. Any person licensed as a real
155 estate salesperson under Articles 1 and 2 of this chapter.

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

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

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

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

168 (3) Persons acting without compensation and in good



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169 faith under a duly executed power of attorney authorizing the
170 consummation of a real estate transaction.

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

175 (5) Public officers performing their official duties.

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

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

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

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

188 "§34-27-8

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

196 (b) In addition to the powers granted in this section,



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197 the commission may adopt and enforce rules ~~and regulations~~
198 governing the requirements of agency disclosure by licensed
199 brokers and salespersons.

200 ~~(c) Each offer to purchase prepared after August 1,~~
201 ~~1998, shall have prominently displayed the following AGENCY~~
202 ~~DISCLOSURE clause which shall be completed and initialed as~~
203 ~~indicated:~~

204 ~~The listing company _____ is:~~

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

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

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

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

210 ~~_____ Assisting the _____ buyer _____ seller as a~~
211 ~~transaction broker.~~

212 ~~The selling company _____ is:~~

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

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

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

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

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

220 "§34-27-36

221 (a) (1) The commission or its staff may on its own, or
222 on the verified complaint in writing of any person,
223 investigate the actions and records of a licensee. The
224 commission may issue subpoenas and compel the testimony of



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225 witnesses and the production of records and documents during
226 an investigation. If probable cause is found, a formal
227 complaint shall be filed and the commission shall hold a
228 hearing on the formal complaint.

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

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

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

237 c. Issue a public reprimand.

238 d. Revoke or suspend any or all licenses held under
239 this chapter by the licensee. ~~The commission shall revoke or~~
240 ~~suspend the license or impose a fine of not less than one~~
241 ~~hundred dollars (\$100) nor more than two thousand five hundred~~
242 ~~dollars (\$2,500), or both, or reprimand the licensee in each~~
243 ~~instance in which the licensee is found guilty of any of the~~
244 ~~following acts set out in this section. The commission may~~
245 ~~revoke or suspend a license~~ The suspension may continue until
246 such time as the licensee has completed an approved continuing
247 education course, and/or has made restitution to accounts
248 containing funds to be held for other parties, or both. The
249 commission may also stay the revocation or suspension of a
250 license and require completion of an approved education course
251 ~~and/or,~~ require the making of restitution to accounts
252 containing funds to be held for other parties, or both.



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

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

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

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

270 (4) Making any false promises of a character likely to
271 influence, persuade, or induce any person to enter into any
272 contract or agreement.

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

277 (6) Publishing or causing to be published any
278 advertisement which deceives or which is likely to deceive the
279 public, or which in any manner tends to create a misleading
280 impression or which fails to identify the person causing the



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281 advertisement to be placed as a licensed broker or
282 salesperson.

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

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

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

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

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

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

303 (11) Paying any profit, compensation, commission, or
304 fee to, or dividing any profit, compensation, commission, or
305 fee with, anyone other than a licensee or multiple listing
306 service. This subdivision shall not prevent an associate
307 broker or salesperson from owning any lawfully constituted
308 business organization, including, but not limited to, a



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309 corporation or limited liability company or limited liability
310 corporation, for the purpose of receiving payments
311 contemplated in this subsection. The business organization
312 shall not be required to be licensed under this chapter, and
313 shall not engage in any other activity requiring a real estate
314 license.

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

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

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

325 (15) If the licensee is a qualifying broker or company,
326 allowing a salesperson or associate broker licensed under him
327 or her to advertise himself or herself as a real estate agent
328 without the name or trade name of the qualifying broker or
329 company appearing prominently on the advertising; or if the
330 licensee is a salesperson or associate broker, advertising
331 himself or herself as a real estate agent without the name or
332 trade name of the qualifying broker or company under whom the
333 salesperson or associate broker is licensed appearing
334 prominently on the advertising. For purposes of this
335 subdivision, "prominently" means using a font size that is
336 equal to or larger than any other name, text, or logo, other



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337 than terms like "for sale" or "for lease," in the
338 advertisement and situated and sized for the purpose of
339 gaining the attention of consumers viewing the advertisement.

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

342 ~~(17)~~ (16) Establishing an association, by employment or
343 otherwise, with an unlicensed person who is expected or
344 required to act as a licensee, or aiding, abetting, or
345 conspiring with a person to circumvent the requirements of
346 this chapter.

347 ~~(18)~~ (17) Failing to disclose to an owner the licensee's
348 intention to acquire, directly or indirectly, an interest in
349 property which he or she or his or her associates have been
350 employed to sell.

351 ~~(19)~~ (18) Violating or disregarding any provision of
352 this chapter or any rule, regulation, or order of the
353 commission.

354 ~~(20)~~ (19) If a broker, ~~accepting~~ accepts a "net listing"
355 agreement for sale of real property or any interest therein. A
356 "net listing" agreement ~~is one that~~ stipulates a net price to
357 be received by the owner with the excess due to be received by
358 the broker as his or her commission.

359 ~~(21)~~ (20) Misrepresenting or failing to disclose to any
360 lender, guaranteeing agency, or any other interested party,
361 the true terms of a sale of real estate.

362 ~~(22)~~ (21) Failing to inform the buyer or seller at the
363 time an offer is presented that he or she will be expected to
364 pay certain closing costs and the approximate amount of those



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365 costs.

366 ~~(23)~~ (22) a. Having entered a plea of guilty or nolo
367 contendere to, or having been found guilty of or convicted of
368 a felony or a crime involving moral turpitude.

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

373 ~~(24)~~ (23) Offering free lots or conducting lotteries for
374 the purpose of influencing a party to purchase or lease real
375 estate.

376 ~~(25)~~ (24) a. Failing to ~~include a fixed date of~~
377 ~~expiration in a written listing agreement or failing to~~ leave
378 a copy of the written residential listing agreement or written
379 residential property management agreement with the principal.

380 b. Failing to include a fixed date of expiration, not
381 to exceed one year from the date of commencement, in a written
382 residential listing agreement, which can be extended in
383 writing signed by the parties.

384 ~~(26)~~ (25) Conduct which constitutes or demonstrates
385 dishonest dealings, bad faith, or untrustworthiness.

386 ~~(27)~~ (26) Acting negligently or incompetently in
387 performing an act for which a person is required to hold a
388 real estate license.

389 ~~(28)~~ (27) Failing or refusing on demand to produce a
390 document, book, or record in his or her possession concerning
391 a real estate transaction conducted by him or her for
392 inspection by the commission or its authorized personnel or



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393 representative.

394 ~~(29)~~ (28) Failing within a reasonable time to provide
395 information requested by the commission during an
396 investigation or after a formal complaint has been filed.

397 ~~(30)~~ (29) Failing without cause to surrender to the
398 rightful owner, on demand, a document or instrument coming
399 into his or her possession.

400 ~~(31)~~ (30) If a qualifying broker or company, failing to
401 keep in ~~their~~ his, her, or its files copies of all contracts,
402 leases, listings, and other records pertinent to real estate
403 transactions for a period of three years.

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

415 (c) (1) Notwithstanding any other provisions of law, the
416 commission may issue an order requiring any accused person,
417 firm, corporation, or business entity to cease and desist from
418 engaging in activities requiring a license under this chapter
419 when the accused person, firm, corporation, or business entity
420 is not licensed under this chapter. The order shall be entered



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421 by the executive director after a finding of probable cause by
422 the commission staff. The order shall become final 15 days
423 after its service upon the accused, unless the accused
424 requests a hearing before the commission. Upon hearing the
425 case and finding violations, the commission may make the cease
426 and desist order final and the commission may impose a fine
427 for each violation in an amount consistent with the range of
428 fines applicable to licensees, and in addition, may impose a
429 fine in the amount of any gain or economic benefit that was
430 derived from the violation, and in addition, may impose a fine
431 in the amount of the commission's costs incurred. Any fines
432 not paid as ordered shall be enforceable in any court with
433 competent jurisdiction and proper venue.

434 (2) Notwithstanding any other provisions of law, the
435 commission may decline to issue an order requiring any accused
436 person, firm, corporation, or business entity to cease and
437 desist from engaging in activities requiring a license under
438 this chapter when the accused person, firm, corporation, or
439 business entity is not licensed under this chapter. In this
440 instance, the commission shall proceed to give appropriate
441 notice of the violations and hold a hearing ~~thereon~~. Upon
442 hearing the case and finding violations, the commission may
443 impose a fine for each violation in an amount consistent with
444 the range of fines applicable to licensees, and in addition,
445 may impose a fine in the amount of any gain or economic
446 benefit that was derived from the violation, and in addition,
447 may impose a fine in the amount of the commission's costs
448 incurred. Any fine or fines not paid as ordered shall be



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449 enforceable in any court with competent jurisdiction and
450 proper venue.

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

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

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

470 "§34-27-81

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

473 (1) AGENCY AGREEMENT. A written brokerage agreement
474 between a ~~broker~~company and a ~~client~~consumer which creates a
475 fiduciary relationship between the company's qualifying
476 broker, including any licensees designated by the qualifying



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477 broker to sign the agreement, and the consumer~~a principal~~, who
478 becomes~~is commonly referred to as~~ a client of the qualifying
479 broker and designated licensee through the agreement.

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

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

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

495 ~~(5)~~ (6) CONSUMER. A person who obtains information,
496 advice, or services concerning real estate from a real estate
497 licensee.

498 ~~(6)~~ (5) CLIENT. A person who has an agency agreement
499 with a broker for brokerage service, whether he or she be
500 buyer or seller.

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

504 (8) DUAL AGENCY. An agency relationship in which ~~the~~



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505 ~~same brokerage firm~~ licensee, with the informed written
506 consent of all parties to a transaction, represents both the
507 seller and the buyer in the same real estate transaction once
508 all parties have signed the consent agreement. ~~Circumstances~~
509 ~~which establish a dual agency include, but are not limited to,~~
510 ~~one of the following:~~

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

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

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

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

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

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

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

530 ~~(12)~~ (11) MATERIAL FACT. A fact that is of significance
531 to a reasonable party which affects the party's decision to
532 enter into a real estate contract.



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533 ~~(13)~~ (12) QUALIFYING BROKER. A broker under whom a
534 corporation, partnership, branch office, or lawfully
535 constituted business organization, as the Legislature may from
536 time to time provide, is licensed, or a broker licensed to do
537 business as a sole proprietorship who is responsible for
538 supervising the acts of the company, or proprietorship and all
539 real estate licensees licensed therewith.

540 ~~(14)~~ (13) REAL ESTATE TRANSACTION. The purchase, sale,
541 lease and rental, option, or exchange of an interest in real
542 estate.

543 ~~(15)~~ (14) SINGLE AGENT. A licensee who is engaged by and
544 represents through an agency agreement only one party in a
545 real estate transaction. A single agent ~~includes, but is not~~
546 ~~limited to, one~~ may be only one of the following:

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

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

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

557 ~~(17)~~ (15) TRANSACTION ~~BROKER~~ FACILITATOR. A licensee who
558 assists one or more parties in a contemplated real estate
559 transaction without being an agent or fiduciary or advocate
560 for the interest of that party to a transaction. The term has



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561 the same meaning as "Transaction Broker" provided in Act
562 98-618."

563 "§34-27-82

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

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

578 (c) ~~As soon as reasonably possible and before any~~
579 ~~confidential information is disclosed to any other person by a~~
580 ~~licensee, the~~The licensee shall provide a written disclosure
581 form to a consumer for signature describing the ~~alternative~~
582 types of brokerage services, as identified in subsection (a),
583 that are available to clients and customers of real estate
584 brokerage companies, as soon as reasonably possible and before
585 any confidential information is disclosed to any other person
586 by a licensee. Such disclosure must occur at least prior to a
587 licensee providing any brokerage service, which includes a
588 licensee showing a property as to a prospective buyer but does



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589 not include a seller's agent conducting an open house as to
590 prospective buyers. As part of the disclosure, the ~~The~~
591 licensee shall also provide~~inform~~ a consumer ~~as to~~ in writing
592 the specific types of brokerage services that are provided by
593 his or her company, as required by Section 34-27-83, which
594 shall also include general information on how the company and
595 licensee are compensated for the brokerage services. A broker
596 shall not be required to offer or engage in any one or in all
597 of the ~~alternative~~ brokerage ~~arrangements~~ services specified
598 in subsection (a). ~~The licensee will provide a written form to~~
599 ~~the consumer for their signature describing the alternative~~
600 ~~types of brokerage arrangements available.~~ All rental or
601 property management services are excluded from the
602 requirements of this subsection.

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

612 (e) After disclosure, the consumer may make an
613 affirmative election of a specific type of brokerage
614 ~~arrangement~~ service that is available from the real estate
615 ~~brokerage~~ company by signing a brokerage agreement. The
616 brokerage agreement shall contain a statement of the terms and



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617 conditions of the brokerage services that the broker will
618 provide. The consumer or customer may not be required to enter
619 into a written brokerage agreement in order for a licensee to
620 show a property to a consumer or customer. Notwithstanding
621 subsection (d), a written brokerage agreement is required
622 prior to a licensee either listing for sale or submitting an
623 offer on a property on behalf of a customer or client for
624 compensation. ~~In the absence of a signed brokerage agreement~~
625 ~~between the parties, the transaction brokerage relationship~~
626 ~~shall remain in effect.~~

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

636 (g) When two or more licensees under the same
637 qualifying broker are in separate agency agreements with a
638 different party in the same transaction, the qualifying broker
639 can designate those licensees as single agents as to the
640 licensee's client. A designated single agent is not a dual
641 agent, and neither the qualifying broker, the designated
642 single agent, nor any other licensee involved in the
643 transaction shall be assumed to have knowledge to any other
644 party with whom the licensee has not entered into an agency



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645 agreement.

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

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

655 The listing licensee, _____ is:

656 _____ An agent of the seller.

657 _____ A dual agent.

658 _____ Assisting the seller as a transaction facilitator.

659 The selling licensee, _____ is:

660 _____ An agent of the buyer.

661 _____ A dual agent.

662 _____ Assisting the buyer as a transaction facilitator.

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

667 "§34-27-83

668 Any qualifying broker acting in a real estate
669 transaction shall adopt a written agency disclosure office
670 policy which specifically enumerates the types of brokerage
671 ~~service arrangements~~ services a licensee may offer or accept.

672 ~~(a)~~ (1) The qualifying broker for each ~~brokerage~~ real



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673 estate company shall provide every licensee a copy of the
674 agency disclosure policy regarding the types of brokerage
675 services offered by their company. This policy shall be
676 explained to all licensees at least once a year.

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

682 "§34-27-84

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

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

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

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

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



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

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

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

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

719 "§34-27-85

720 (a) In addition to the duties enumerated in Section
721 34-27-84, a licensee shall provide all of the following
722 services to clients:

723 (1) Loyally represent the best interests of the client
724 by placing the interests of the client ahead of the interests
725 of any other party, unless loyalty to a client violates the
726 duties of the licensee to other parties under Section
727 34-27-84, or is otherwise prohibited by law.

728 (2) Disclose to the client all information known by the



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729 licensee that is material to the transaction and not
730 discoverable by the client through reasonable investigation
731 and observation, except for confidential information as
732 provided in ~~subdivision (3) of subsection (a) of~~ Section
733 34-27-84 (a) (3). A licensee shall have no affirmative duty to
734 discover the information.

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

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

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

748 "§34-27-86

749 (a) A client is not liable for a misrepresentation made
750 by a ~~broker~~licensee in connection with the ~~broker~~licensee
751 providing brokerage services unless the client knows or should
752 have known of the misrepresentation or the ~~broker~~licensee is
753 repeating a misrepresentation made by the client to the
754 ~~broker~~licensee.

755 (b) A licensee shall not be liable for providing false
756 information to a party in a real estate transaction if the



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757 false information was provided to the licensee by a client of
758 the licensee or by a customer or by another licensee unless
759 the licensee knows or should have known that the information
760 was false."

761 "§34-27-32

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

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

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

779 (3) Is a person whose real estate license has not been
780 revoked in any state within the two years prior to application
781 for a real estate ~~license~~with license in Alabama. If the
782 applicant's real estate ~~license~~license revocation in any
783 state, including Alabama, is more than two years from the date
784 of application for ~~license~~with a license in Alabama then the



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785 applicant may not be issued an Alabama real estate license
786 without the approval of the commissioners.

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

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

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

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

804 "I hereby appoint the Executive Director or the
805 Assistant Executive Director of the Alabama Real Estate
806 Commission as my agent upon whom all disciplinary, judicial,
807 or other process or legal notices may be served. I agree that
808 any service upon my agent shall be the same as service upon me
809 and that certified copies of this appointment shall be deemed
810 sufficient evidence and shall be admitted into evidence with
811 the same force and effect as the original might be admitted. I
812 agree that any lawful process against me which is served upon



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

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

823 _____ Legal Signature of Applicant"

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

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

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



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841 by the commission. Applicants for a reciprocal license shall
842 not be subject to the complete examination or temporary
843 license requirements of Section 34-27-33, but shall pass a
844 reasonable written examination prepared by the commission on
845 the subject of Alabama real estate. A person who holds a
846 reciprocal license shall show proof of completion of
847 continuing education either by meeting the requirements of
848 Section 34-27-35 or by showing proof that his or her other
849 state license remains active in that state.

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

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

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

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



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869 of application.

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

872 (3) Proof that he or she has completed a course in real
873 estate approved by the commission, which shall be a minimum of
874 60 clock hours.

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

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

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

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

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

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

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

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



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897 she shall have a company or branch office license for each
898 separate location or branch office. Every application shall
899 state the location of the company or branch office and the
900 name of its qualifying broker. Each company or branch office
901 shall be under the direction and supervision of a qualifying
902 broker licensed at that address. No person may serve as
903 qualifying broker at more than one location. The qualifying
904 broker for the branch office and the qualifying broker for the
905 company shall share equal responsibility for the real estate
906 activities of all licensees assigned to the branch office or
907 company.

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

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

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

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

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

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

923 ~~(i)~~ (l) A company license shall become invalid on the
924 death or disability of a qualifying broker. Within 30 days



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

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



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953 The criminal history ~~must~~shall be current to the issuance of
954 the license.

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

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

961 §34-27-39

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

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

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

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

977 (1) Include the name of at least one of the team
978 members in the advertisement.

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



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981 (3) Include the term "team" or "group" in the team
982 name.

983 (4) Receive written authorization from the qualifying
984 broker of the licensee to include the team name in the
985 advertisement.

986 Section 3. This act shall become effective on October
987 1, 2025.