

HB357 INTRODUCED



1 HB357
2 EJL5M9C-1
3 By Representative Hollis
4 RFD: Boards, Agencies and Commissions
5 First Read: 29-Jan-26



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4 SYNOPSIS:

5 Under existing law, a person holding an
6 equitable interest in real estate, defined as a right
7 in contract or agreement to sell or transfer that real
8 estate, may sell, assign, or offer to assign that right
9 for a fee under certain circumstances without
10 disclosing to the potential buyer that the person is
11 not the deed owner. Also under existing law, it is
12 unlawful for a person to sell real property for a fee
13 unless licensed with the Alabama Real Estate Commission
14 as a broker or salesperson.

15 This bill would provide that a person who holds
16 only an equitable interest in property is not exempt
17 from realtor and broker licensing requirements.

18 This bill would authorize the Alabama Real
19 Estate Commission to initiate disciplinary action and
20 impose penalties for a licensee's failure to disclose
21 certain aspects of the sale or assignment of equitable
22 interests, and failure to include a fixed closing date
23 in an equitable interest contract.

24 This bill would also make nonsubstantive,
25 technical revisions to update the existing code
26 language to current style.

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29 A BILL
30 TO BE ENTITLED
31 AN ACT

33 Relating to the Alabama Real Estate Commission; to
34 amend Sections 34-27-2 and 34-27-36, as last amended by
35 2025-380, 2025 Regular Session, Code of Alabama 1975; to
36 require the owner of an equitable interest in real estate to
37 be licensed by the commission if the owner transfers the
38 interest for a fee; to establish certain disclosures to be
39 used in equitable interest transactions; to provide that a
40 licensee's failure to provide equitable interest disclosures
41 or failure to include a closing date in an equitable interest
42 contract may subject the licensee to fines and penalties; and
43 would also make nonsubstantive, technical revisions to update
44 the existing code language to current style.

45 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

49 "§34-27-2

50 (a) For purposes of Articles 1 and 2 of this chapter,
51 the following terms have the following meanings:

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

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

56 (3) BUYER'S AGREEMENT. An agreement between a real



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57 estate company and a person ~~through~~ under which the company
58 agrees to assist the person with the purchase of real property
59 in exchange for a fee, whether as a fiduciary or
60 non-fiduciary.

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

64 (5) COMMISSIONER. A member of the commission.

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

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

74 (8) EQUITABLE INTEREST. Any interest or right in a
75 contract or agreement to purchase residential real estate held
76 by a party to that contract or agreement.

77 (9) INACTIVE LICENSE. A license which is being held by
78 the commission office by law, order of the commission, at the
79 request of the licensee, or which is renewable but is not
80 currently valid because of a failure to renew.

81 (9)(10) LICENSEE. Any broker, salesperson, or company.

82 (10)(11) LICENSE PERIOD. That period of time beginning
83 on October 1 of a year designated by the commission to be the
84 first year of a license period and ending on midnight



85 September 30 of the year designated by the commission as the
86 final year of that license period.

87 **(11) (12) LISTING AGREEMENT.** An agreement between a
88 company and an owner ~~wherein~~ under which the company agrees to
89 assist the owner in the sale of the owner's real property in
90 exchange for a fee, whether as a fiduciary or a non-fiduciary.
91 The term includes an agreement giving the company the right to
92 list or market the owner's real property upon the owner's
93 future decision to sell the property.

94 **(12) (13) PERSON.** A natural person.

95 **(13) (14) PLACE OF BUSINESS.**

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

107 b. All licensees located within the city limits or
108 police jurisdiction of a municipality shall operate from ~~a~~ an
109 office with a separate ~~office located in the city limits or~~
110 ~~police jurisdiction~~ address. The office shall have a business
111 telephone, ~~meet~~ comply with all other ~~regulations~~ commission
112 rules of the Real Estate Commission, and be properly



113 identified as a real estate office. Hardship cases may be
114 ~~subject to waiver of~~ exempt from this regulation upon
115 application and approval by the commission.

116 c. All business records and files shall be kept at the
117 place of business ~~as required by~~ in accordance with applicable
118 law or Real Estate Commission rules.

119 ~~(14)~~ (15) PRINCIPAL BROKER. As used in other states, the
120 term has the same meaning as "qualifying broker" in this
121 state.

122 ~~(15)~~ (16) QUALIFYING BROKER. A broker under whom a sole
123 proprietorship, corporation, partnership, branch office, or
124 lawfully constituted business organization, as the Legislature
125 may from time to time provide, is licensed, or a broker
126 licensed as a company to do business as a sole proprietorship
127 who is responsible for supervising the acts of the company or
128 proprietorship and all associated real estate licensees
129 ~~licensed therewith~~.

130 ~~(16)~~ (17) RECOVERY FUND. The Alabama Real Estate
131 Recovery Fund.

132 ~~(17)~~ (18) RESIDENTIAL. Pertaining to real property
133 located in the state used primarily as a residence.

134 (19) SALESPERSON. Any person licensed as a real estate
135 salesperson under Articles 1 and 2 of this chapter.

136 ~~(18)~~ (20) TEAM. Two or more licensees within the same
137 company who work together to provide services for which a
138 license is required and who hold themselves out to the public
139 as a distinct group within the company.

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



141 this chapter shall not apply to any of the following persons
142 and transactions:

143 (1) Any owner ~~in the~~ managing ~~of, or in or~~ consummating
144 a real estate transaction involving ~~his~~ his or her own real
145 estate or the real estate of his or her spouse, child, or
146 parent. This exception does not apply to a person who is
147 merely the owner of an equitable interest in property that is
148 the subject of the transaction.

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

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

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

158 (5) Public officers performing their official duties.

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

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

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



169 (9) Transactions involving the sale, lease, or transfer
170 of cemetery lots.

171 (c) Notwithstanding subdivision (b) (1), the licensing
172 requirements in Articles 1 and 2 of this chapter shall apply
173 to any person selling an equitable interest in property unless
174 the sale is to a spouse, child, or parent."

175 "§34-27-36

176 (a) (1) The commission or its staff, on its own
177 initiative or on ~~the~~ a verified written complaint ~~in writing~~
178 ~~off~~ by any person, may investigate the actions and records of a
179 licensee. The commission may issue subpoenas and compel the
180 testimony of witnesses and the production of records and
181 documents during an investigation. If probable cause is found,
182 a formal complaint shall be filed, and the commission shall
183 hold a hearing on the formal complaint.

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

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

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

192 c. Issue a public reprimand.

193 d. Revoke or suspend any or all licenses held by the
194 licensee under this chapter ~~by the licensee~~. The suspension
195 may continue until ~~such time as~~ the licensee has completed an
196 approved continuing education course, has made restitution to



197 accounts containing funds to be held for other parties, or
198 both. The commission may also stay the revocation or
199 suspension of a license and require completion of an approved
200 education course, require the making of restitution to
201 accounts containing funds to be held for other parties, or
202 both.

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

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

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

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

219 (4) Making any false promises of a character likely to
220 influence, persuade, or induce any person to enter into any
221 contract or agreement.

222 (5) Pursuing a continued and flagrant course of
223 misrepresentation or ~~the making of~~ false promises through
224 agents or salespersons or any medium of advertising or



225 otherwise.

226 (6) Publishing or causing to be published any
227 advertisement that deceives or that is likely to deceive the
228 public, or that in any manner tends to create a misleading
229 impression.

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

233 (8)a. Failing, within a reasonable time, to properly
234 account for or remit money ~~coming that comes~~ into his or her
235 possession ~~which and~~ belongs to others, or commingling money
236 belonging to others with his or her own funds.

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

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

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

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

250 (11) Paying any profit, compensation, commission, or
251 fee to, or dividing any profit, compensation, commission, or
252 fee with, anyone other than a licensee or a multiple listing



253 service. This subdivision shall not prevent an associate
254 broker or salesperson from owning any lawfully constituted
255 business organization, including, but not limited to, a
256 corporation-~~or~~ limited liability company, or limited
257 liability corporation, for the purpose of receiving payments
258 contemplated in this subsection. The business organization
259 shall not be required to be licensed under this chapter, and
260 shall not engage in any other activity requiring a real estate
261 license.

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

264 (13) Inducing any party to a contract to breach the
265 contract for the purpose of substituting a new contract, where
266 the substitution is motivated by the~~personal gain of the~~
267 ~~licensee licensee's personal gain.~~

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

272 (15) If the licensee is a qualifying broker or company,
273 allowing a salesperson or associate broker licensed under him
274 or her to advertise himself or herself as a real estate agent
275 without the name or trade name of the qualifying broker or
276 company appearing prominently on the advertising; or, if the
277 licensee is a salesperson or associate broker, advertising
278 himself or herself as a real estate agent without the name or
279 trade name of the qualifying broker or company under whom the
280 salesperson or associate broker is licensed appearing



281 prominently on the advertising. For purposes of this
282 subdivision, "prominently" means using a font size that is
283 equal to or larger than any other name, text, or logo, other
284 than terms like "for sale" or "for lease," in the
285 advertisement and situated and sized for the purpose of
286 gaining the attention of consumers viewing the advertisement.

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

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

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

298 (19) ~~If a broker accepts~~ Accepting a "net listing"
299 agreement for the sale of real property or any interest
300 therein in real property where the licensee is not a buyer,
301 seller, or assigning buyer in the transaction. A "net listing"
302 agreement stipulates a net price to be received by the owner,
303 with ~~the~~ any excess due to be received by the broker as his or
304 her commission.

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

308 (21) Failing to inform the buyer or seller at the time



309 an offer is presented that he or she will be expected to pay
310 certain closing costs and the approximate amount of those
311 costs.

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

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

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

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

325 (25) Conduct that constitutes or demonstrates dishonest
326 dealings, bad faith, or untrustworthiness.

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

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

335 (28) Failing within a reasonable time to provide
336 information requested by the commission during an



337 investigation or after a formal complaint has been filed.

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

341 (30) If a qualifying broker or company, failing to keep
342 in his, her, or its files copies of all contracts, leases,
343 listings, and other records pertinent to real estate
344 transactions for a period of three years.

345 (31) When selling, offering to sell, assigning, or
346 offering to assign an equitable interest in a contract to
347 purchase residential real estate:

348 a. Failing to disclose in writing to a potential buyer
349 that the holder of the equitable interest is not the deed
350 holder of the property and is only offering to sell or assign
351 his or her equitable interest; or

352 b. Failing to disclose in writing to a seller both of
353 the following:

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

356 2. The assignment of the interest within three calendar
357 days following the assignment.

358 c. Failing to include a fixed closing date with no
359 automatic extension in the contract that establishes the
360 equitable interest.

361 (c) If it appears that a person or business entity has
362 engaged, or is about to engage, in an act or practice
363 constituting a violation of Article 1 or 2 of this chapter or
364 any rule or order of the commission, the commission, through



365 the Attorney General, may institute legal actions to enjoin
366 the act or practice and to enforce compliance with Articles 1
367 and 2 of this chapter or any rule or order of the commission.
368 To prevail in an action, it shall not be necessary to allege
369 or prove either that an adequate remedy at law does not exist
370 or that substantial or irreparable damage would result from
371 the continued violation.

372 (d) (1) Notwithstanding any other provisions of law, the
373 commission may issue an order requiring any accused person or
374 business entity to cease and desist from engaging in
375 activities requiring a license under this chapter when the
376 accused person or business entity is not licensed under this
377 chapter. The order shall be entered by the executive director
378 after a finding of probable cause by the commission staff. The
379 order shall become final 15 days after its service upon the
380 accused, unless the accused requests a hearing before the
381 commission. Upon hearing the case and finding violations, the
382 commission may do any of the following:

383 a. ~~make~~ Make the cease and desist order final.

384 b. ~~and the commission may impose~~ Impose a fine for each
385 violation in an amount consistent with the range of fines
386 applicable to licensees.

387 c. ~~, and in addition, may impose~~ Impose a fine in the
388 amount of any gain or economic benefit ~~that was~~ derived from
389 the violation.

390 d. ~~, and in addition, may impose~~ Impose a fine in the
391 amount of the ~~commission's~~ costs incurred by the commission.

392 ~~Any fines not paid as ordered shall be enforceable in any~~



393 ~~court with competent jurisdiction and proper venue.~~

394 (2) Notwithstanding any other provisions of law, the
395 commission may decline to issue an order requiring any accused
396 person or business entity to cease and desist from engaging in
397 activities requiring a license under this chapter when the
398 accused person or business entity is not licensed under this
399 chapter. In this instance, the commission shall ~~proceed to~~
400 give appropriate notice of the violations and hold a hearing.
401 Upon hearing the case and finding violations, the commission
402 may:

403 a. ~~impose~~ Impose a fine for each violation in an amount
404 consistent with the range of fines applicable to licensees;

405 b. ~~, and in addition, may impose~~ Impose a fine in the
406 amount of any gain or economic benefit ~~that was~~ derived from
407 the violation;

408 c. ~~, and in addition, may impose~~ Impose a fine in the
409 amount of the commission's costs incurred. ~~Any fine or fines~~
410 ~~not paid as ordered shall be enforceable in any court with~~
411 ~~competent jurisdiction and proper venue.~~

412 (3) Any fine or fines imposed by this subsection that
413 are not paid as ordered shall be enforceable in any court of
414 competent jurisdiction and proper venue.

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

417 (f) The commission shall notify the complainant,
418 licensee, and qualifying broker in writing ~~regarding~~ of the
419 disposition of the complaint.

420 (g) If a licensee presents a form of payment to the



421 commission~~r~~ or to any third party on the commission's behalf~~r~~
422 ~~which~~ that is declined or rejected by a financial institution
423 or merchant service company, the licensee shall have 30 days,
424 ~~upon~~ from electronic notification~~from~~ by the commission, to
425 submit full and valid payment~~for~~ of the initial fee or fine
426 ~~and~~, plus an additional fee for submitting the faulty payment,
427 not to exceed the maximum amount allowed by Section 8-8-15.
428 Failure to submit full and valid payment within 30 days of
429 electronic notification by the commission shall result in the
430 licensee's license becoming inactive until the licensee
431 submits full payment. Failure to submit full and valid payment
432 within six months after electronic notification by the
433 commission shall result in the licensee's license lapsing."

434 Section 2. This act shall become effective on October
435 1, 2026.