

HB357 INTRODUCED



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



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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A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-27-2 and 34-27-36, Code of Alabama 1975, as last amended by Act 2025-380, 2025 Regular Session, are amended to read as follows:

"§34-27-2

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

(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



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estate company and a person ~~through~~ under 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.

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

(5) COMMISSIONER. A member of the commission.

(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.

(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.

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

(9) 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 a failure to renew.

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

~~(10)~~ (11) 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



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

~~(11)~~ (12) LISTING AGREEMENT. An agreement between a company and an owner ~~wherein~~ under which 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 a 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.

~~(12)~~ (13) PERSON. A natural person.

~~(13)~~ (14) PLACE OF BUSINESS.

a. A licensed broker ~~living~~ residing in a rural area of this state ~~who operates~~ and operating from his or her home, provided that he or she ~~sets up~~ establishes 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, have a 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~~ an office with a separate ~~office located in the city limits or police jurisdiction~~ address. The office shall have a business telephone, ~~meet~~ comply with all other ~~regulations~~ commission rules of the Real Estate Commission, and be properly



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identified as a real estate office. Hardship cases may be ~~subject to waiver of~~ exempt from 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~~ in accordance with applicable law or Real Estate Commission rules.

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

~~(15)~~ (16) 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 associated real estate licensees ~~licensed therewith.~~

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

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

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

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

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



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

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

(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 the 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,~~ provided the person does not physically show listed property.

(7) Persons acting as the manager ~~for~~ of 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~~ who perform an act consistent with that article.



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

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

"§34-27-36

(a)(1) The commission or its staff, on its own initiative or on ~~the~~ a verified written complaint ~~in writing~~ of by any person, may 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 five thousand dollars (\$5,000).

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 by the licensee under this chapter ~~by the licensee~~. The suspension may continue until ~~such time as~~ the licensee has completed an approved continuing education course, has made restitution to



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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, 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, 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 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



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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



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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 breach the contract for the purpose of substituting a new contract, where the substitution is motivated by the ~~personal gain of the licensee~~ licensee's personal gain.

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

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



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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) 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.

(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.

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

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

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

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



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

(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.

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

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

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

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

(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.

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



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investigation or after a formal complaint has been filed.

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

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

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

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

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

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

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

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

(c) If it appears that a person or 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



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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 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.

(d) (1) Notwithstanding any other provisions of law, the commission may issue an order requiring any accused person or business entity to cease and desist from engaging in activities requiring a license under this chapter when the accused person 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 do any of the following:

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

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

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

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

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



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~~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 or business entity to cease and desist from engaging in activities requiring a license under this chapter when the accused person or business entity is not licensed under this chapter. In this instance, the commission shall ~~proceed to~~ give appropriate notice of the violations and hold a hearing. Upon hearing the case and finding violations, the commission may:

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

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

c. ~~and in addition, may impose~~ 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.~~

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

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

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

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



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commission~~r~~ or to any third party on the commission's behalf~~r~~,
~~which~~ that is declined or rejected by a financial institution
or merchant service company, the licensee shall have 30 days,
~~upon~~ from electronic notification~~from~~ by the commission, to
submit full and valid payment~~for~~ of the initial fee or fine
~~and,~~ plus 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 shall result in the
licensee's license becoming inactive until the licensee
submits full payment. Failure to submit full and valid payment
within six months after electronic notification by the
commission shall result in the licensee's license lapsing."

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