

HB586 INTRODUCED



1 HB586
2 84RYSHF-1
3 By Representative Wilcox
4 RFD: Commerce and Small Business
5 First Read: 05-Mar-26



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SYNOPSIS:

Under existing law, a real estate wholesaler who holds a contractual right to transfer real estate but not legal ownership, can transfer that equitable interest for a fee without disclosing to the potential buyer that he or she is not the deed owner and without being licensed by the Alabama Real Estate Commission. Additionally, existing law does not provide certain consumer protections for victims of unsolicited investment-oriented real property solicitations.

This bill would establish the Alabama Property Deception Prevention Act to protect property owners from deceptive, fraudulent, and predatory real estate investment schemes by authorizing the Alabama Securities Commission to prosecute and regulate certain real estate transactions. This bill would grant the Alabama Securities Commission concurrent jurisdiction with the Alabama Real Estate Commission to investigate and discipline wholesalers.

This bill would require that real estate wholesalers be licensed by the Alabama Real Estate Commission and provide certain disclosures to all parties to a wholesaling contract.

This bill would require investment-oriented real property solicitations to contain certain consumer



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29 disclosures and authorize the Alabama Securities
30 Commission to enforce these rules and impose fines for
31 violations.

32 This bill would also make nonsubstantive,
33 technical revisions to update the existing code
34 language to current style.

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A BILL

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TO BE ENTITLED

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AN ACT

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41 Relating to consumer protection; to create the Alabama
42 Property Deception Prevention Act; to amend Sections 8-42-1,
43 8-42-2 and 8-42-3, Sections 34-27-2, as last amended by
44 2025-380, 2025 Regular Session, Sections 34-27-30 and
45 34-27-36, as last amended by 2025-308, 2025 Regular Session,
46 Code of Alabama 1975; to define "equitable interest" and "real
47 estate wholesaling,"; to require certain disclosures in
48 wholesaling transactions; to require a real estate wholesaler
49 to be licensed with the Alabama Real Estate Commission; to
50 provide that the Alabama Securities Commission has concurrent
51 jurisdiction with the Alabama Real Estate Commission to
52 regulate real estate wholesaling; to provide that failure to
53 provide the required disclosures may subject the wholesaler to
54 fines and penalties; to authorize the Alabama Real Estate
55 Commission to refer real estate wholesaling matters to the
56 Alabama Securities Commission for investigation and



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57 enforcement; Sections 8-42-1.1, 8-42-1.2, 8-42-1.3, and 8-42-4
58 are added to the Code of Alabama 1975; to authorize the
59 Alabama Securities Commission to enforce violations of
60 investment-oriented real property solicitation disclosure
61 requirements; to provide that the Alabama Securities
62 Commission has concurrent jurisdiction with the Alabama Real
63 Estate Commission to regulate real estate wholesaling; to
64 provide fines and penalties for wholesaling and unsolicited
65 offer violations; to provide for rescission of unsolicited
66 real estate contracts in certain circumstances; to authorize
67 the Alabama Securities Commission to establish standard
68 disclosure language for investment-oriented solicitations; and
69 to also make nonsubstantive, technical revisions to update the
70 existing code language to current style.

71 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

72 Section 1. This act shall be known and cited as the
73 Alabama Property Deception Prevention Act.

74 Section 2. Sections 8-42-1, 8-42-2 and 8-42-3, Section
75 34-27-2, as last amended by 2025-380, 2025 Regular Session,
76 Sections 34-27-30, and 34-27-36, as last amended by 2025-308,
77 2025 Regular Session, Code of Alabama 1975, are amended to
78 read as follows:

79 "§8-42-1

80 The Legislature finds and declares all of the
81 following:

82 (1) ~~Wholesaling real property occurs when a buyer~~
83 ~~enters into a contract for purchase and sale of a~~
84 ~~single-family residential property with the seller of the~~



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~~property thereby creating the buyer's equitable interest in the property, the buyer then finds a subsequent purchaser willing to pay a higher price for the property and then assigns its interest to the subsequent purchaser for a fee.~~

Many modern real estate schemes no longer focus on the legitimate purchase and ownership of property. Instead, they aim to extract economic value from property owners through resale, assignment, optioning, and complex contract structures. These schemes are carried out at scale by large entities operating through networks of affiliates and individuals. Although presented as real estate transactions, these arrangements function in practice as financial investment products secured by real estate and should be regulated with the same transparency and oversight as other financial investments and similar frauds. These practices most often harm seniors, long-term owners, heirs, and financially vulnerable families, and undermine confidence in the real estate market.

(2) Certain unfair service agreements provide a real estate company with the right to market, list, or assist in selling a residential property for up to 40 years, binding homeowners and successors in interest through a recorded memorandum and penalizing the homeowner or successor in interest for breach of the agreement.

(3) The practices of wholesaling residential real estate, and recording these unfair service agreements, pose a significant risk to Alabama homeowners if left unregulated.

(4) The lack of any restrictions enables predatory



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113 practices against homeowners, especially those who have lived
114 in a home for a long period of time, leading to financial
115 loss, equity theft and resulting in confusion for unsuspecting
116 subsequent purchasers.

117 (5) The Legislature concludes the following in the
118 interest of protecting Alabama ~~homeowners and home buyers~~
119 property owners:

120 a. Disclosure of the limited interest, marketing, and
121 assignment of the buyer's equitable interest in the
122 homeowner's property should be required of buyers engaging in
123 wholesaling.

124 b. Unfair service agreements create clouds on the
125 titles of Alabama homes and burden Alabama homeowners with
126 false promises, are against the public interest, and
127 constitute unreasonable restraints on the alienation of real
128 property.

129 c. Investment-oriented solicitations involving real
130 property present risks comparable to those of securities
131 transactions and warrant disclosure-based regulation.

132 d. Nothing in this section shall be construed to
133 infringe on the private property rights of an individual to
134 acquire real property for his or her own use, ownership, or
135 benefit.

136 e. Nothing in this section shall be construed to
137 require an individual to be licensed in order to acquire real
138 property for his or her own use, ownership, or benefit.

139 f. The Legislature finds that unsolicited offers to
140 purchase real property may present a heightened risk of



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141 unfairness, particularly when the purchase price is below the
142 real property's most recent tax assessed value, when the
143 seller is an individual in need of protective services and
144 vulnerable to elder abuse and exploitation as defined in
145 Chapter 9 of Title 38, or the seller did not receive the
146 professional assistance of a licensed real estate agent, as
147 defined in Chapter 27 of Title 34, or a licensed attorney, as
148 defined in Chapter 3 of Title 34."

149 "§8-42-2

150 (a) A person may acquire an equitable interest in a
151 single-family residential property as the buyer under a
152 contract for the purchase and sale of the property and then
153 may assign or offer to assign the interest for a fee if the
154 buyer discloses in writing ~~all of the following~~:

155 (1) To any potential subsequent purchaser or assignee,
156 ~~the nature of the buyer's equitable interest~~ that the seller
157 of the equitable interest is not the deed holder of the
158 property and is only offering to sell or assign his or her
159 equitable interest;

160 (2) To the seller of the property, the buyer's intent
161 to market or assign its equitable interest in the seller's
162 real estate prior to ~~commencing any~~ marketing ~~of~~ the
163 property;

164 (3) ~~To the seller of the property, the~~ The effective
165 date of any assignment of the buyer's interest to a subsequent
166 purchaser of the property at least three ~~business~~ calendar
167 days prior to the effective date of any assignment; and

168 (4) A fixed closing date with no automatic extensions



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169 in the contract that established the equitable interest.

170 (b) Written disclosure under subsection (a) shall be
171 required for the intent to market and transfer an equitable
172 interest in residential real property, as limited by
173 subsection (d), whether by assignment, novation, or any other
174 similar method of transferring an interest in real property.

175 (c) (1) A violation of this section is a Class C
176 misdemeanor.

177 (2) In addition to criminal penalties, a person
178 violating this section may be ~~liable to the person to whom~~
179 ~~disclosure is required in an amount equal to three times the~~
180 ~~fee or amount received by the buyer pursuant to the assignment~~
181 subject to civil fines and penalties as determined by the
182 commission pursuant to Sections 8-42-1.3 and 34-27-36.

183 (3) Enforcement of this section shall be governed by
184 Section 8-42-1.2.

185 (d) This section shall only apply to transactions
186 involving single-family residential property and shall not
187 apply to any other property transactions.

188 (e) This section shall not infringe on the right of the
189 parties to otherwise agree by contract.

190 (f) This section shall not apply to predevelopment
191 activity for residential subdivisions, condominiums, or other
192 residential predevelopment activity."

193 "§8-42-3

194 ~~(a) For purposes of this section the following terms~~
195 ~~have the following meanings:~~

196 ~~(1) RECORDING. Presenting a document to a county judge~~



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197 ~~of probate for official placement in the public land records.~~

198 ~~(2) RESIDENTIAL REAL ESTATE. Real property located in~~
199 ~~this state which is used primarily for a dwelling and contains~~
200 ~~one to four dwelling units.~~

201 ~~(3) SERVICE AGREEMENT. A contract under which a person~~
202 ~~agrees to provide services in connection with the purchase or~~
203 ~~sale of residential real estate.~~

204 ~~(4) SERVICE PROVIDER. An individual or entity that~~
205 ~~provides services to another party under a service agreement.~~

206 ~~(5) UNFAIR SERVICE AGREEMENT. A service agreement in~~
207 ~~which the services subject to the agreement are not performed~~
208 ~~within one year after the date upon which the agreement~~
209 ~~commences and provides any of the following:~~

210 ~~a. Purports to run with the land or to be binding on~~
211 ~~future owners of interests in the real property.~~

212 ~~b. Allows for assignment of the right to provide the~~
213 ~~service without notice and agreement of the owner of~~
214 ~~residential real estate.~~

215 ~~c. Purports to create a lien, encumbrance, or other~~
216 ~~real property security interest.~~

217 ~~(b)~~ (a) This chapter does not apply to any of the
218 following:

219 (1) A home warranty or ~~other type of~~ similar product
220 that covers the cost of maintenance ~~of~~ for a major ~~housing~~
221 home system, such as plumbing or electrical wiring, for a set
222 period of time from the date a house is sold.

223 (2) An insurance contract.

224 (3) An option to purchase or right of refusal to



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225 purchase real estate.

226 (4) A maintenance or repair agreement entered into by a
227 homeowners' association in a common interest community.

228 (5) Agreements to manage residential real estate.

229 (6) A declaration of any covenants, conditions, or
230 restrictions created in the formation of a homeowners'
231 association, a group of condominium owners, or other common
232 interest community, or an amendment to the declaration.

233 (7) A mortgage loan or commitment to make or receive a
234 mortgage loan.

235 (8) A security agreement under Alabama's Uniform
236 Commercial Code, relating to the sale or rental of personal
237 property or fixtures.

238 (9) Water, sewer, electrical, telephone, cable, or
239 other regulated utility service providers.

240 ~~(e)~~ (b) This section does not impair the rights granted
241 by a mechanic's or materialman's lien under Division 8 of
242 Article 5 of Chapter 11 of Title 35, or by ~~another~~ any other
243 judicially imposed lien.

244 ~~(d)~~ (c) If a service agreement is unfair under this
245 ~~section~~ chapter, it is unenforceable.

246 ~~(e)~~ (d) If a person enters into an unfair service
247 agreement with a consumer, that agreement shall be deemed a
248 deceptive act under the Deceptive Trade Practices Act,
249 commencing with Section 8-19-1.

250 ~~(f)~~ (e) (1) No person shall record or cause to be
251 recorded an unfair service agreement, or a notice or
252 memorandum of an unfair service agreement, in ~~the~~ this state.



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253 (2) If an unfair service agreement is recorded in this
254 state, ~~it~~ the agreement shall not be deemed to provide actual
255 or constructive notice against an otherwise bona fide
256 purchaser of the residential real property to which ~~it~~ the
257 agreement pertains, or against a creditor with a security
258 interest in ~~the residential real property to which it pertains~~
259 that property.

260 (3) A service provider who records or causes to be
261 recorded an unfair service agreement, or a notice or
262 memorandum ~~thereof~~ of an unfair service agreement, in this
263 state is liable to an affected party for statutory damages in
264 the amount of ten thousand dollars (\$10,000) ~~in statutory~~
265 ~~damages~~.

266 ~~(g)~~ (f) If an unfair service agreement, or a notice or
267 memorandum of an unfair service agreement, is recorded in the
268 state, any party with an interest in the residential real
269 property to which ~~it~~ the agreement pertains may take either or
270 both of the following actions:

271 (1) Apply to the circuit court in the county where the
272 recording ~~exists~~ is located to seek a court order declaring
273 the agreement ~~is~~ void ~~and of no effect~~.

274 (2) In addition to the statutory damages described in
275 subdivision ~~(f)~~ (e) (3), recover actual damages, plus costs and
276 attorney fees as may be proven against the service provider
277 who recorded the agreement."

278 "§34-27-2

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



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

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

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

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

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

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

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

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

306 (9) INACTIVE LICENSE. A license ~~which~~ that is being
307 held by the commission office by law, order of the commission,
308 at the request of the licensee, or which is renewable but is



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309 not currently valid because of a failure to renew.

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

315 ~~(9)~~ (11) LICENSEE. Any broker, salesperson, or company.

316 ~~(11)~~ (12) LISTING AGREEMENT. An agreement between a
317 company and an owner ~~wherein~~ under which the company agrees to
318 assist the owner in the sale of the owner's real property in
319 exchange for a fee, whether as a fiduciary or a non-fiduciary.
320 The term includes an agreement giving the company the right to
321 list or market the owner's real property upon the owner's
322 future decision to sell the property.

323 (13) NET LISTING AGREEMENT. An agreement that
324 stipulates a net price to be received by the owner with the
325 excess due to be received by a licensee as commission.

326 ~~(12)~~ (14) PERSON. A natural person.

327 ~~(13)~~ (15) PLACE OF BUSINESS.

328 a. A licensed broker ~~living~~ residing in a rural area of
329 this state ~~who operates~~ and operating from his or her home,
330 provided that he or she ~~sets up~~ establishes and maintains an
331 office for the conduct of the real estate business, which
332 shall not be used for living purposes or occupancy other than
333 the conduct of the real estate business. The office shall be
334 used by the broker only and not as a place of business from
335 which any additional licensee operates under his or her
336 license. The office shall have a separate business telephone,



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337 have a separate entrance, and be properly identified as a real
338 estate office.

339 b. All licensees located within the city limits or
340 police jurisdiction of a municipality shall operate from ~~a~~ an
341 office with a separate ~~office located in the city limits or~~
342 ~~police jurisdiction~~ address. The office shall have a business
343 telephone, ~~meet~~ comply with all other ~~regulations~~ commission
344 rules ~~of the Real Estate Commission~~, and be properly
345 identified as a real estate office. Hardship cases may be
346 ~~subject to waiver of~~ exempt from this regulation upon
347 application and approval by the commission.

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

351 ~~(14)~~ (16) PRINCIPAL BROKER. As used in other states, the
352 term has the same meaning as "qualifying broker" in this
353 state.

354 ~~(15)~~ (17) QUALIFYING BROKER. A broker under whom a sole
355 proprietorship, corporation, partnership, branch office, or
356 lawfully constituted business organization, as the Legislature
357 may from time to time provide, is licensed, or a broker
358 licensed as a company to do business as a sole proprietorship
359 who is responsible for supervising the acts of the company or
360 proprietorship and all associated real estate licensees
361 ~~licensed therewith~~.

362 ~~(16)~~ (18) REAL ESTATE WHOLESALING. The practice of
363 assigning or marketing the assignment of an equitable interest
364 for profit.



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365 (19) RECOVERY FUND. The Alabama Real Estate Recovery
366 Fund.

367 ~~(17)~~ (20) RESIDENTIAL. Real property located in this
368 state which is used primarily for a dwelling and contains one
369 to four dwelling units.

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

372 ~~(18)~~ (22) TEAM. Two or more licensees within the same
373 company who work together to provide services for which a
374 license is required and who hold themselves out to the public
375 as a distinct group within the company.

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

379 (1) Any owner ~~in the~~ managing ~~of, or in or~~ consummating
380 a real estate transaction involving, ~~his or,~~ her, or its own
381 real estate or the real estate of his or her spouse, child, or
382 parent. This exception does not apply to real estate
383 wholesaling unless the sale is to a spouse, child, or parent,
384 or unless the property is in a predevelopment stage.

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

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

390 (4) Persons or a state or federally chartered financial
391 institution acting as a receiver, trustee, administrator,
392 executor, or guardian; or acting under a court order or under



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393 the authority of a trust instrument or will.

394 (5) Public officers performing their official duties.

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

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

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

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

407 (c) Notwithstanding subdivision (b)(1), the licensing
408 requirements in Articles 1 and 2 of this chapter shall apply
409 to any person or entity that engages in real estate
410 wholesaling, unless the sale is to a spouse, child, or parent,
411 or unless the property is in a predevelopment stage."

412 "§34-27-30

413 It shall be unlawful for any person, sole
414 proprietorship, partnership, corporation, branch office, or
415 lawfully constituted business organization, as the Legislature
416 may from time to time provide, for a fee, commission, or other
417 valuable consideration, or with the intention or expectation
418 of receiving or collecting a fee, commission, or other
419 valuable consideration from another, to do any of the
420 following unless licensed under Articles 1 and 2 of this



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421 chapter:

422 (1) Sell, exchange, purchase, rent, or lease real
423 estate situated within the State of Alabama.

424 (2) Offer to sell, exchange, purchase, rent, or lease
425 real estate situated within the State of Alabama.

426 (3) Negotiate or attempt to negotiate the listing,
427 sale, exchange, purchase, rental, or leasing of real estate
428 situated within the State of Alabama.

429 (4) List or offer or attempt or agree to list real
430 estate for sale, rental, lease, exchange, or trade situated
431 within the State of Alabama.

432 (5) Auction, offer, or attempt or agree to auction,
433 real estate situated within the State of Alabama.

434 (6) Buy or sell or offer to buy or sell, or otherwise
435 deal in options on real estate situated within the State of
436 Alabama.

437 (7) Aid, attempt, or offer to aid in locating or
438 obtaining for purchase, rent, or lease any real estate
439 situated within the State of Alabama.

440 (8) Procure or assist in procuring of prospects for the
441 purpose of effecting the sale, exchange, lease, or rental of
442 real estate situated within the State of Alabama.

443 (9) Procure or assist in the procuring of properties
444 for the purpose of effecting the sale, exchange, lease, or
445 rental of real estate situated within the State of Alabama.

446 (10) Present himself or herself, or be presented, as
447 being able to perform an act for which a license is required.

448 (11) Real estate wholesaling."



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449 "§34-27-36

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

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

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

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

466 c. Issue a public reprimand.

467 d. Revoke or suspend any or all licenses held by the
468 licensee under this chapter ~~by the licensee~~. The suspension
469 may continue until ~~such time as~~ the licensee has completed an
470 approved continuing education course, has made restitution to
471 accounts containing funds to be held for other parties, or
472 both. The commission may also stay the revocation or
473 suspension of a license and require completion of an approved
474 education course, require the making of restitution to
475 accounts containing funds to be held for other parties, or
476 both.



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

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

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

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

493 (4) Making any false promises of a character likely to
494 influence, persuade, or induce any person to enter into any
495 contract or agreement.

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

500 (6) Publishing or causing to be published any
501 advertisement that deceives or that is likely to deceive the
502 public, or that in any manner tends to create a misleading
503 impression.

504 (7) Acting for more than one party in a transaction



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505 without the knowledge and written consent of all parties for
506 whom he or she acts.

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

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

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

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

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

524 (11) Paying any profit, compensation, commission, or
525 fee to, or dividing any profit, compensation, commission, or
526 fee with, anyone other than a licensee or a multiple listing
527 service. This subdivision shall not prevent an associate
528 broker or salesperson from owning any lawfully constituted
529 business organization, including, but not limited to, a
530 corporation ~~or~~ , limited liability company, , or limited
531 liability corporation, for the purpose of receiving payments
532 contemplated in this subsection. The business organization



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533 shall not be required to be licensed under this chapter, and
534 shall not engage in any other activity requiring a real estate
535 license.

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

538 (13) Inducing any party to a contract to breach the
539 contract for the purpose of substituting a new contract, where
540 the substitution is motivated by the ~~personal gain of the~~
541 licensee licensee's personal gain.

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

546 (15) If the licensee is a qualifying broker or company,
547 allowing a salesperson or associate broker licensed under him
548 or her to advertise himself or herself as a real estate agent
549 without the name or trade name of the qualifying broker or
550 company appearing prominently on the advertising; or, if the
551 licensee is a salesperson or associate broker, advertising
552 himself or herself as a real estate agent without the name or
553 trade name of the qualifying broker or company under whom the
554 salesperson or associate broker is licensed appearing
555 prominently on the advertising. For purposes of this
556 subdivision, "prominently" means using a font size that is
557 equal to or larger than any other name, text, or logo, other
558 than terms like "for sale" or "for lease," in the
559 advertisement and situated and sized for the purpose of
560 gaining the attention of consumers viewing the advertisement.



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

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

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

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

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

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

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



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

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

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

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

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

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

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

612 (29) Failing without cause to surrender to the rightful
613 owner, on demand, a document or instrument ~~coming~~ that comes
614 into ~~his or her~~ the licensee's or its possession.

615 (30) If a qualifying broker or company, failing to keep
616 in his, her, or its files copies of all contracts, leases,



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617 listings, and other records pertinent to real estate
618 transactions for a period of three years.

619 (31) When engaging in real estate wholesaling, failing
620 to provide the required buyer and seller disclosures pursuant
621 to Section 8-42-2.

622 (c) If it appears that a person or business entity has
623 engaged, or is about to engage, in an act or practice
624 constituting a violation of Article 1 or 2 of this chapter or
625 any rule or order of the commission, the commission, through
626 the Attorney General or the Alabama Securities Commission, may
627 institute legal actions to enjoin the act or practice and to
628 enforce compliance with Articles 1 and 2 of this chapter or
629 any rule or order of the commission. To prevail in an action,
630 it shall not be necessary to allege or prove either that an
631 adequate remedy at law does not exist or that substantial or
632 irreparable damage would result from the continued violation.

633 (d) (1) Notwithstanding any other provisions of law, the
634 commission may issue an order requiring any accused person or
635 business entity to cease and desist from engaging in
636 activities requiring a license under this chapter when the
637 accused person or business entity is not licensed under this
638 chapter. The order shall be entered by the executive director
639 after a finding of probable cause by the commission staff. The
640 order shall become final 15 days after its service upon the
641 accused, unless the accused requests a hearing before the
642 commission. Upon hearing the case and finding violations, the
643 commission may do any of the following:

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



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

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

651 ~~d., and in addition, may impose~~ Impose a fine in the
652 amount of the ~~commission's~~ costs incurred by the commission.
653 ~~Any fines not paid as ordered shall be enforceable in any~~
654 ~~court with competent jurisdiction and proper venue.~~

655 (2) Notwithstanding any other provisions of law, the
656 commission may decline to issue an order requiring any accused
657 person or business entity to cease and desist from engaging in
658 activities requiring a license under this chapter when the
659 accused person or business entity is not licensed under this
660 chapter. In this instance, the commission shall ~~proceed to~~
661 give appropriate notice of the violations and hold a hearing.
662 Upon hearing the case and finding violations, the commission
663 may:

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

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

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



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673 d. In matters involving real estate wholesaling, refer
674 the matter to the Alabama Securities Commission for
675 investigation and adjudication.

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

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

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

684 (g) If a licensee presents a form of payment to the
685 commission~~r~~ or to any third party on the commission's behalf~~r~~
686 ~~which~~ that is declined or rejected by a financial institution
687 or merchant service company, the licensee shall have 30 days,
688 ~~upon~~ from electronic notification~~from~~ by the commission, to
689 submit full and valid payment~~for~~ of the initial fee or fine
690 ~~and,~~ plus an additional fee for submitting the faulty payment,
691 not to exceed the maximum amount allowed by Section 8-8-15.
692 Failure to submit full and valid payment within 30 days of
693 electronic notification by the commission shall result in the
694 licensee's license becoming inactive until the licensee
695 submits full payment. Failure to submit full and valid payment
696 within six months after electronic notification by the
697 commission shall result in the licensee's license lapsing."

698 Section 3. Sections 8-42-1.1, 8-42-1.2, 8-42-1.3, and
699 8-42-4, are added to the Code of Alabama 1975, to read as
700 follows:



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701 §8-42-1.1

702 For purposes of this chapter the following terms have
703 the following meanings:

704 (1) CLOSING. The transfer of legal title to real
705 property from a property owner to another person or entity
706 through the delivery of a deed or other instrument of
707 conveyance for consideration.

708 (2) COMMISSION. The Alabama Securities Commission.

709 (3) CONTACT. Any communication delivered by mail,
710 courier, email, text message, social media message, telephone
711 call, voicemail, prerecorded message, or similar method.

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

715 (5) INVESTMENT-ORIENTED REAL PROPERTY SOLICITATION. Any
716 communication, offer, agreement, or transaction involving real
717 property in which the expected economic benefit to the
718 offeror, directly or indirectly, is derived primarily from
719 resale, assignment, appreciation, fee extraction, or
720 contractual arbitrage, rather than occupancy or personal use
721 by the offeror.

722 (6) OFFEREE. A real property owner who receives a
723 purchase offer.

724 (7) OFFEROR. A person or entity acting directly or
725 indirectly on behalf of another who makes an offer to purchase
726 real property.

727 (8) REAL ESTATE WHOLESALING. The practice of assigning
728 or marketing the assignment of an equitable interest for



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729 profit.

730 (9) RECORDING. Presenting a document to a county judge
731 of probate for official placement in the public land records.

732 (10) RESIDENTIAL REAL ESTATE. Real property located in
733 this state which is used primarily for a dwelling and contains
734 one to four dwelling units.

735 (11) SELLER. An offeree who signs a purchase contract.

736 (12) SERVICE AGREEMENT. A contract under which a person
737 agrees to provide services in connection with the purchase or
738 sale of residential real estate.

739 (13) SERVICE PROVIDER. An individual or entity that
740 provides services to another party under a service agreement.

741 (14) UNFAIR SERVICE AGREEMENT. A service agreement in
742 which the services subject to the agreement are not performed
743 within one year after the date upon which the agreement
744 commences and provides any of the following:

745 a. Purports to run with the land or to be binding on
746 future owners of interests in the real property.

747 b. Allows for assignment of the right to provide the
748 service without notice and agreement of the owner of
749 residential real estate.

750 c. Purports to create a lien, encumbrance, or other
751 real property security interest.

752 (15) UNSOLICITED COMMUNICATION. Any communication sent
753 to a real property owner when the owner has not requested or
754 invited the contact, given prior consent to be contacted, or
755 entered into a written agreement with the sender concerning
756 the property.



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757 §8-42-1.2

758 (a) The commission shall have authority under this
759 chapter to administer, implement, and enforce all regulated
760 conduct, individuals, and entities in this chapter, along with
761 issuing licenses for these activities. This authority extends
762 to regulating investment-oriented real estate solicitations,
763 recorded service agreements, unfair service agreements,
764 unsolicited offers, and related practices. This exclusive
765 authority applies regardless of any license an individual or
766 entity may hold under any other legal provision. The Alabama
767 Real Estate Commission shall have concurrent authority with
768 the commission to regulate assignments or offerings of
769 assignments of equitable interests.

770 (b) The commission may adopt rules necessary to carry
771 out this chapter, including, but not limited to, rules
772 governing:

773 (1) Consumer complaint intake and resolution
774 procedures;

775 (2) Establishment of a consumer complaint hotline that
776 allows consumers to verify the licenses of regulated entities
777 under this chapter.

778 (2) Disclosure forms and content;

779 (3) Examination, reporting, and recordkeeping
780 requirements;

781 (4) Other than real estate wholesaling, which is
782 licensed by the Alabama Real Estate Commission, any licensing,
783 permitting, or registration program and fees established by
784 rule;



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785 (5) Any renewal, suspension, or revocation program
786 established by rule;

787 (6) Penalty schedules and remedial measures;

788 (7) Defining additional unfair, deceptive, or abusive
789 practices; or

790 (8) Definitions and standards necessary to preclude
791 circumvention of this chapter.

792 (c) The commission may:

793 (1) Conduct investigations and examinations;

794 (2) Require the production of documents and testimony;

795 (3) Issue subpoenas;

796 (4) Issue cease and desist orders;

797 (5) Suspend, revoke, or condition any license, permit,
798 or registration established by rule;

799 (6) Impose administrative fines and penalties for each
800 violation;

801 (7) Order restitution, rescission, disgorgement, or
802 other remedial relief;

803 (8) Prosecute criminal violations where authorized by
804 law; or

805 (9) Coordinate with other agencies as authorized by
806 law.

807 (d) The commission may bring an action in any court of
808 appropriate jurisdiction for:

809 (1) Injunctive or other relief;

810 (2) Civil penalties;

811 (3) Restitution, rescission, or disgorgement;

812 (4) Enforcement of administrative orders;



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813 (5) Recovery of investigative and enforcement costs; or
814 (6) Appointment of a receiver.

815 (e) Nothing in this chapter shall be construed to limit
816 criminal prosecution under any provision of law or to require
817 exhaustion of administrative remedies before criminal
818 enforcement.

819 (f) Enforcement under this chapter shall be in addition
820 to, not in lieu of, remedies available under the Deceptive
821 Trade Practices Act.

822 (g) Any contractual provision attempting to waive
823 rights, remedies, or protections under this chapter is void
824 and unenforceable as against public policy.

825 (h) The authority granted under this chapter applies to
826 individual violations as well as to patterns or practices of
827 conduct, whether arising under a single section or multiple
828 sections of this chapter.

829 (i) The existence or nonexistence of an enforcement
830 action by the commission or other governmental agency pursuant
831 to this section shall not bar or diminish any private right of
832 action.

833 §8-42-1.3

834 (a) The commission may impose administrative fines and
835 penalties per violation. The civil penalty shall not exceed
836 one hundred thousand dollars (\$100,000) per violation,
837 provided that the aggregate civil penalty assessed in a single
838 administrative order shall not exceed ten million dollars
839 (\$10,000,000). Each day an act, omission, or violation
840 continues shall constitute a separate violation.



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841 (b) In determining the amount of any civil penalty, the
842 commission shall consider all relevant factors, including:

843 (1) The nature, gravity, and duration of the violation,
844 including any irreparable harm or risk of harm to property
845 owners;

846 (2) The degree of culpability, intent, or recklessness
847 demonstrated by the violator;

848 (3) The facts, circumstances, and conduct in connection
849 with the investment-oriented real estate activity at issue;

850 (4) The economic benefit, compensation, or other
851 financial gain obtained, directly or indirectly, as a result
852 of the violation;

853 (5) Any prior history of violations of this chapter,
854 the Alabama Securities Act, or related consumer protection
855 laws; and

856 (6) The violator's ability to pay the assessed penalty.

857 (c) In any action or administrative proceeding arising
858 from an unsolicited contract, the following factors may be
859 considered in determining whether the transaction was unfair
860 or deceptive, without automatically creating a right of
861 rescission:

862 (1) The age of the victim.

863 (2) Whether any offer to purchase is below the real
864 property's most recent tax assessed value.

865 (3) Whether the victim received the professional
866 assistance of a licensed real estate agent, as defined in
867 Chapter 27 of Title 34, or a licensed attorney, as defined in
868 Chapter 3 of Title 34.



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869 (d) Civil penalties under this section may be assessed
870 for any violation occurring within five years after the
871 discovery of the fraud.

872 §8-42-4

873 (a) This section shall govern every unsolicited
874 electronic, telephonic, or video communication, or written
875 inquiry, solicitation, or mailing by any individual or entity,
876 whether acting as a principal, investor, intermediary, or
877 agent, that makes an investment-oriented real property
878 solicitation and that expresses an interest in any of the
879 following:

880 (1) Buying real property or an option to buy real
881 property from the addressee.

882 (2) Buying the real property to which the written
883 inquiry or mailing is addressed.

884 (3) Offering services relating to the sale of real
885 estate.

886 (b) (1) Any unsolicited communication or solicitation
887 governed by this section that constitutes an
888 investment-oriented real property solicitation by any
889 individual or entity that expresses an interest in: (i) buying
890 real property or an option to buy real property from the
891 addressee; (ii) buying the real property to which such written
892 inquiry or mailing is addressed; or (iii) offering services
893 relating to the sale of real estate, shall include consumer
894 protection disclosures as required by the commission.

895 (2) The Commission shall, pursuant to its rulemaking
896 authority and in accordance with the Alabama Administrative



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897 Procedures Act, establish standard disclosure language for
898 consumer protection that shall be included in any
899 investment-oriented, unsolicited real estate offers as defined
900 in this chapter. The disclosures shall include:

901 a. Notice that the offer may be below fair market
902 value;

903 b. A statement encouraging the real property owner to
904 seek guidance from a licensed real estate agent or attorney of
905 the owner's choice;

906 c. A statement that the owner has no obligation or duty
907 to respond to the solicitation; and

908 d. Contact information for the commission and a
909 statement that the owner may verify the identity,
910 registration, licensure status, and legitimacy of the offeror
911 through the commission.

912 (3) Enforcement of violations of this subsection shall
913 be carried out in accordance with Section 8-42-1.2.

914 (c) A seller may rescind a contract to sell real
915 property entered into as a result of an unsolicited offer
916 within seven days after the contract is executed and before
917 closing if the seller did not receive the professional
918 assistance of a licensed real estate agent, as defined in
919 Chapter 27 of Title 34, or a licensed attorney, as defined in
920 Chapter 3 of Title 34. The seller shall have the right to a
921 seven-day rescission period starting from the date the
922 contract is signed until the closing date. Parties may agree
923 to extend this rescission right up to one day before closing,
924 but the extension must be agreed upon in writing and included



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925 in the contract. A rescission must expire at least one day
926 prior to closing, providing a minimum of eight days between
927 the contract being signed and the closing.

928 (d) A seller who uses the professional assistance of a
929 licensed real estate agent or a licensed attorney of the
930 seller's choosing when the contract is signed does not have a
931 right to rescind the contract unless agreed to by the parties
932 and written in the contract. In no instance shall a right to
933 rescind be extended beyond the closing date. This section
934 shall be interpreted to protect the seller and to ensure the
935 transaction's finality at closing.

936 (e) If the seller meets the criteria in subsection (c)
937 and rescinds the contract within the seven-day period:

- 938 (1) The seller owes no penalty, fee, or damages;
939 (2) Any contractual penalty provision is void; and
940 (3) Any funds received shall be returned within seven
941 days after cancellation.

942 (f) (1) If real property meets the criteria in
943 subsection (c), then it may not close prior to the expiration
944 of the seven-day cancellation period. No deed, assignment,
945 memorandum, lien, option, encumbrance, or other instrument
946 conveying or affecting an interest in real property may be
947 delivered, assigned, transferred, or recorded during a
948 seven-day cancellation period. This includes:

- 949 a. Assignment of the purchase contract;
950 b. Double closings; and
951 c. Conveyance to a third party.

952 (2) Any instrument executed or recorded in violation of



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953 this subsection is voidable at the election of the seller.

954 (3) Any third party acquiring an interest during the
955 seven-day period takes subject to the seller's statutory right
956 to rescission.

957 (g) Violations of this section shall be enforced in
958 accordance with Section 8-42-1.2.

959 (h) This chapter does not apply to properties that are:

960 (i) subject to an active written listing agreement with a
961 licensed real estate broker; (ii) marketed for sale by the
962 property owner or to an individual attempting to acquire an
963 interest in real estate from another person with whom he or
964 she has an existing business or personal relationship; or
965 (iii) where the property interest being acquired is for the
966 purchaser's personal use or benefit.

967 Section 4. This act shall become effective on October
968 1, 2026.

969