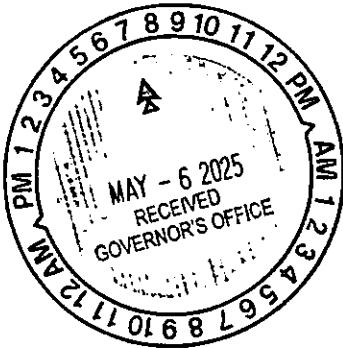




ACT #2025 - 380

- 1 HB382
- 2 JPITTN-3
- 3 By Representative Kiel
- 4 RFD: Commerce and Small Business
- 5 First Read: 04-Mar-25





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Enrolled, An Act,

Relating to real estate transactions; to amend Sections 34-27-2, 34-27-3, 34-27-8, 34-27-32, 34-27-36, 34-27-81, 34-27-82, 34-27-83, 34-27-84, 34-27-85, and 34-27-86, Code of Alabama 1975, to further provide for penalties and fines for certain violations; to provide for handling declined methods of payment for license fees; to clarify when a real estate consumer agency disclosure form is required; to further clarify when a written brokerage agreement is required to establish a brokerage relationship; to provide for a licensee's use of any office of the company under which he or she is licensed; to further provide for the duties of a qualifying broker; to further provide for the duties of a licensee; and to add Section 34-27-39 to the Code of Alabama 1975, to establish the scope and operation of teams.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-27-2, 34-27-3, 34-27-8, 34-27-32, 34-27-36, 34-27-81, 34-27-82, 34-27-83, 34-27-84, 34-27-85 and 34-27-86, Code of Alabama 1975, are amended to read as follows:

"§34-27-2

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

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



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

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

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

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

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

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

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

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

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



final year of that license period.

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

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

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

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

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



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

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

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

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

~~(14)~~ (17) SALESPERSON. Any person licensed as a real estate salesperson under Articles 1 and 2 of this chapter.

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

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



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

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

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

(5) Public officers performing their official duties.

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

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

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

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

"§34-27-3

(a) (1) Co-brokerage agreements between a licensed principal broker of another state and licensed qualifying broker of this state are governed by this section.

(2) A licensed principal broker of another state may act as co-broker in a sale or lease transaction with a



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licensed qualifying broker of this state by executing a written agreement specifying each parcel of property covered by the agreement ~~if the state in which the nonresident broker is licensed offers the same privileges to licensees of this state.~~

(3) A co-brokerage agreement is limited to three transactions per calendar year, per licensed out-of-state principal broker. A transaction may include multiple properties if the properties are part of the same portfolio.

(4) A licensed out-of-state principal broker shall not use a co-brokerage agreement to engage in transactions in Alabama totaling more than fifty million dollars (\$50,000,000) in any calendar year.

(b) Whenever an Alabama qualifying broker enters into a co-brokerage agreement with a ~~nonresident~~ licensed out-of-state principal broker to perform ~~in Alabama~~ any of the acts described in Section 34-27-30 in Alabama, the Alabama qualifying broker shall file ~~within 10 days~~ with the commission a copy of each such written agreement not more than 10 days after the agreement is signed by all of the parties. By signing the agreement, the ~~nonresident~~ licensed out-of-state principal broker agrees to abide by Alabama law, and the rules ~~and regulations~~ of the commission; and further agrees that civil actions may be commenced against him or her in any court of competent jurisdiction in any county of this state in which a claim may arise. Complaints against the licensed out-of-state principal broker related to the Alabama transaction governed by a co-brokerage agreement shall also be



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forwarded to the state governmental body with regulatory authority over the out-of-state principal broker's license.

(c) All co-brokerage agreements with licensed out-of-state principal brokers for transactions occurring in Alabama shall include all of the following provisions and acknowledgments:

(1) A listing or joint listing of the property involved.

(2) A specification of all material terms, including, but not limited to, the financial terms.

(3) That an Alabama broker shall supervise the showing of property located in Alabama and any subsequent negotiations.

(4) That the name of the Alabama broker shall appear in all advertising of real property located in the state.

(5) That the Alabama broker shall verify that the licensed out-of-state broker is a licensed principal broker in another state.

(6) That any earnest money deposited pursuant to the agreement shall be held in escrow by the Alabama qualifying broker unless both the buyer and the seller agree in writing to relieve the Alabama qualifying broker of this responsibility."

"§34-27-8

(a) A majority of the commission members shall constitute a quorum for the conduct of commission business. The commission may adopt and enforce all rules ~~and regulations~~ pursuant to the ~~state administrative procedure statutes~~ Alabama



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197 Administrative Procedure Act necessary for the administration
198 of this chapter, and to otherwise do all things necessary and
199 convenient for effecting this chapter.

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

204 ~~(c) Each offer to purchase prepared after August 1,~~
205 ~~1998, shall have prominently displayed the following AGENCY~~
206 ~~DISCLOSURE clause which shall be completed and initialed as~~
207 ~~indicated:~~

208 ~~The listing company _____ is:~~

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

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

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

212 ~~_____ An agent of both the seller and buyer and is~~

213 ~~acting as a limited consensual dual agent.~~

214 ~~_____ Assisting the _____ buyer _____ seller as a~~

215 ~~transaction broker.~~

216 ~~The selling company _____ is:~~

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

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

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

220 ~~_____ An agent of both the seller and buyer and is~~

221 ~~acting as a limited consensual dual agent.~~

222 ~~_____ Assisting the _____ buyer _____ seller as a~~

223 ~~transaction broker."~~

224 "\$34-27-36



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

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

a. A fine of not less than one hundred dollars (\$100) nor more than 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 under this chapter by the licensee. ~~The commission shall revoke or suspend the license or impose a fine of not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500), or both, or reprimand the licensee in each instance in which the licensee is found guilty of any of the following acts set out in this section. The commission may revoke or suspend a license~~ The suspension may continue until such time as the licensee has completed an approved continuing education course, and/or has made restitution to accounts containing funds to be held for other parties, or both. The



commission may also stay the revocation or suspension of a license and require completion of an approved education course ~~and/or~~, require the making of restitution to accounts containing funds to be held for other parties, or both.

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

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

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

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

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

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



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

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

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

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

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

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

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

307 (11) Paying any profit, compensation, commission, or
308 fee to, or dividing any profit, compensation, commission, or



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fee with, anyone other than a licensee or multiple listing service. This subdivision shall not prevent an associate broker or salesperson from owning any lawfully constituted business organization, including, but not limited to, a corporation or limited liability company or limited liability corporation, for the purpose of receiving payments contemplated in this subsection. The business organization shall not be required to be licensed under this chapter, and shall not engage in any other activity requiring a real estate license.

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

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

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



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

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

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

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

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

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

~~(21)~~ (20) Misrepresenting or failing to disclose to any lender, guaranteeing agency, or any other interested party,



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365 the true terms of a sale of real estate.

366 ~~(22)~~ (21) Failing to inform the buyer or seller at the
367 time an offer is presented that he or she will be expected to
368 pay certain closing costs and the approximate amount of those
369 costs.

370 ~~(23)~~ (22) a. Having entered a plea of guilty or nolo
371 contendere to, or having been found guilty of or convicted of
372 a felony or a crime involving moral turpitude.

373 b. Having a final money judgment rendered against him
374 or her which results from an act or omission occurring in the
375 pursuit of his or her real estate business or involves the
376 goodwill of an existing real estate business.

377 ~~(24)~~ (23) Offering free lots or conducting lotteries for
378 the purpose of influencing a party to purchase or lease real
379 estate.

380 ~~(25)~~ (24) Failing to include a fixed date of expiration
381 in a written listing agreement or failing to leave a copy of
382 the agreement with the principal.

383 ~~(26)~~ (25) Conduct which constitutes or demonstrates
384 dishonest dealings, bad faith, or untrustworthiness.

385 ~~(27)~~ (26) Acting negligently or incompetently in
386 performing an act for which a person is required to hold a
387 real estate license.

388 ~~(28)~~ (27) Failing or refusing on demand to produce a
389 document, book, or record in his or her possession concerning
390 a real estate transaction conducted by him or her for
391 inspection by the commission or its authorized personnel or
392 representative.



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393 ~~(29)~~ (28) Failing within a reasonable time to provide
394 information requested by the commission during an
395 investigation or after a formal complaint has been filed.

396 ~~(30)~~ (29) Failing without cause to surrender to the
397 rightful owner, on demand, a document or instrument coming
398 into his or her possession.

399 ~~(31)~~ (30) If a qualifying broker or company, failing to
400 keep in ~~their~~ his, her, or its files copies of all contracts,
401 leases, listings, and other records pertinent to real estate
402 transactions for a period of three years.

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

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



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

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



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449 proper venue.

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

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

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

469 "§34-27-81

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

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



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477 becomes ~~is commonly referred to as~~ a client of the qualifying
478 broker and designated licensee through the agreement.

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

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

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

494 ~~(5)~~ (6) CONSUMER. A person who obtains information,
495 advice, or services concerning real estate from a real estate
496 licensee.

497 ~~(6)~~ (5) CLIENT. A person who has an agency agreement
498 with a broker for brokerage service, whether he or she be
499 buyer or seller.

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

503 (8) DUAL AGENCY. An agency relationship in which ~~the~~
504 same brokerage firm licensee, with the informed written



consent of all parties to a transaction, represents both the
seller and the buyer in the same real estate transactiononce
all parties have signed the consent agreement.~~Circumstances~~
~~which establish a dual agency include, but are not limited to,~~
~~one of the following:~~

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

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

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

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

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

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

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

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

~~(13)~~ (12) QUALIFYING BROKER. A broker under whom a



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

539 ~~(14)~~ (13) REAL ESTATE TRANSACTION. The purchase, sale,
540 lease and rental, option, or exchange of an interest in real
541 estate.

542 ~~(15)~~ (14) SINGLE AGENT. A licensee who is engaged by and
543 represents through an agency agreement only one party in a
544 real estate transaction. A single agent ~~includes, but is not~~
545 ~~limited to, one~~ may be only one of the following:

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

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

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

556 ~~(17)~~ (15) TRANSACTION ~~BROKER~~ FACILITATOR. A licensee who
557 assists one or more parties in a contemplated real estate
558 transaction without being an agent or fiduciary or advocate
559 for the interest of that party to a transaction. The term has
560 the same meaning as "Transaction Broker" provided in Act



561 98-618."

562 "§34-27-82

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

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

577 ~~(c) As soon as reasonably possible and before any~~
578 ~~confidential information is disclosed to any other person by a~~
579 ~~licensee, the~~The licensee shall provide a written disclosure
580 form to a consumer for signature describing the alternative
581 types of brokerage services, as identified in subsection (a),
582 that are available to clients and customers of real estate
583 brokerage companies, as soon as reasonably possible and before
584 any confidential information is disclosed to any other person
585 by a licensee. Such disclosure must occur at least prior to a
586 licensee providing any brokerage service, which includes a
587 licensee showing a property as to a prospective buyer but does
588 not include a seller's agent conducting an open house as to



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

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

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



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

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

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



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

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

654 The listing licensee, _____ is:

655 . An agent of the seller.

656 A dual agent.

657 Assisting the seller as a transaction facilitator.

658 The selling licensee, _____ is:

659 An agent of the buyer.

660 A dual agent.

661 Assisting the buyer as a transaction facilitator.

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

666 "§34-27-83

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

671 ~~(a)~~ (1) The qualifying broker for each ~~brokerage~~ real
672 estate company shall provide every licensee a copy of the



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

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

681 "§34-27-84

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

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

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

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

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

700 (5) When assisting a party in the negotiation of a real



701 estate transaction, to present all written offers in a timely
702 and truthful manner.

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

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

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

718 "§34-27-85

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

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

727 (2) Disclose to the client all information known by the
728 licensee that is material to the transaction and not



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discoverable by the client through reasonable investigation and observation, except for confidential information as provided in ~~subdivision (3) of subsection (a) of Section~~ 34-27-84 (a) (3). A licensee shall have no affirmative duty to discover the information.

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

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

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

"§34-27-86

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

(b) A licensee shall not be liable for providing false information to a party in a real estate transaction if the false information was provided to the licensee by a client of



the licensee or by a customer or by another licensee unless the licensee knows or should have known that the information was false."

"§34-27-32

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

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

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

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



785 without the approval of the commissioners.

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

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

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

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

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



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

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

822 _____ Legal Signature of Applicant"

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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

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

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

894 ~~(g)~~ (h) If the applicant for a company or broker license
895 maintains more than one place of business in the state, he or
896 she shall have a company or branch office license for each



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

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

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

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

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

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

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

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



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

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



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953 the license.

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

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

960 §34-27-39

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

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

970 (c) A team does not require licensure or registration
971 with the commission as a separate business organization.

972 (d) No person shall be a member on more than one team.

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

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

980 (2) Include the name of the company with whom the



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981 licensee is licensed in the advertisement.

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

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

987 Section 3. This act shall become effective on October
988 1, 2025.



[Signature]

Speaker of the House of Representatives

[Signature]

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and
was passed by the House 04-Apr-25.

John Treadwell
Clerk

Senate

06-May-25

Passed

APPROVED

5-14-2025

TIME

8:00 pm

[Signature]
GOVERNOR

Alabama Secretary Of State

Act Num....: 2025-380
Bill Num...: H-382

Recv'd 05/14/25 12:58pmKCW

ENGROSSED

SPONSOR

Kiel

CO-SPONSORS

HOUSE ACTION

I HEREBY CERTIFY THAT THE
RESOLUTION AS REQUIRED IN
SECTION C OF ACT NO. 81-889
WAS ADOPTED AND IS ATTACHED
TO THE BILL, H.B. 382

YEAS 106 NAYS 0

JOHN TREADWELL, Clerk

I HEREBY CERTIFY THAT THE
NOTICE & PROOF IS ATTACHED
TO THE BILL, H.B. _____
AS REQUIRED IN THE GENERAL
ACTS OF ALABAMA, 1975 ACT NO.
919.

JOHN TREADWELL, Clerk

CONFERENCE COMMITTEE

House Conferees _____

SENATE ACTION

DATE: 4-25 2021
RD 1 RFD FRED

This Bill was referred to the Standing Committee
of the Senate on

FRED

and was acted upon by such Committee in
session and is by order of the Committee
returned therefrom with a favorable report
w/amend(s) 0 w/sub 0 by a vote of
yeas 12 nays 0 abstain 0
this 23rd day of April 20 25
X _____, Chair

DATE: 4-25 2021
RF AD RD 2 CAL

DATE: _____ 20____
RE-REFERRED ☐ RE-COMMITTED ☐
Committee _____

I hereby certify that the Resolution as
required in Section C of Act No. 81-889
was adopted and is attached to the Bill,
HB _____.

YEAS _____ NAYS _____

PATRICK HARRIS,
Secretary

FURTHER SENATE ACTION (OVER)