

Real Estate Bill Summary

1. Definitions (Effective 10/01/24)

Under existing law, there is no definition of equitable interest (p.4 line 85), listing agreement (p.4 line 99), owner (p.4 line 105), principal broker (p.5 line 130), residential (p.6 line 142), accredited school (p.9 line 230), ce-only school (p.9 line 250), continuing education (p.10 line 253), distance education (p.10 line 256), and prelicense school (p.10 line 266). This bill would define those terms.

2. Co-brokerage Agreements (Effective 10/01/24)

Currently, out-of-state principal brokers may collaborate with a licensed Alabama principal broker to conduct real estate transactions in Alabama without first obtaining an Alabama license (p.7 line 175). Under existing law, there is no statutory provision that limits the number of co-brokerage agreements an out-of-state broker may enter within this state. This bill would limit out-of-state principal brokers to entering into a maximum of three co-brokerage transactions per year (p.7 line 181). A portfolio (a single transaction consisting of multiple properties) is considered one transaction for the purpose of this bill. This bill would prevent out-of-state principal brokers from using co-brokerage agreements to engage in transactions totaling more than fifty million dollars in a calendar year (p.7 line 187). This bill ensures out-of-state licensees conducting large amounts of real estate transactions in Alabama must obtain an Alabama real estate license.

3. CE-Only School (Effective 10/1/27)

Under existing law ce-only schools are approved and do not pay approval fees for registration. Under this bill, they would pay an initial one-time fee of \$100 and a renewal fee of \$100 every 2 years. (p.12 line 331.) This parallels the cost of a prelicense school and reflects the significant administrative costs involved.

4. Increased Fines (Effective 10/1/27 (school & instructors) and 10/1/24 (individual licensees))

Under existing law, fines for licensees violating real estate license law range from \$100-\$2,500. Under this bill, it would increase the maximum amount the Commissioners can fine a violator to \$5,000 per count. (p.13 line 354 and p.54 line 1499.) These have not been increased since 11/1/2005.

5. Activation Fee for Instructors, Administrators, and Schools (Effective 10/1/27)

Currently if an instructor, administrator, or school's status is inactive, there is no fee to activate it. This bill would create a fee of \$50 to activate a status. This parallels the cost of a non-educational licensee to activate their license which incurs administrative costs. The Commission does not charge any licensee for moving their status from active to inactive. (p.15 line 406.)

6. Certification of Distance Education Courses (Effective 10/01/27)

Under existing law, the commission does not certify synchronous distance education courses. The certification is done by ARELLO (Association of Real Estate License Law Officials) at an initial cost of \$500. Under this bill the Commission would be able to certify synchronous distance education courses (p.16 line 448). The Commission would be able to charge up to \$400 per application. Synchronous distance education is a course with defined attendance time allowing an instructor to offer live instruction virtually while students are in different locations.

7. Company Office (Effective 10/1/24)

Currently, licensees may only meet clients at the office location at which they are licensed with the Commission. If the company has a branch office licensed with the Commission in another location, the licensee may not meet a client at that location because they are not licensed under that location. Under this bill, it would allow a licensee to meet a client at any branch office for which their company is licensed with the Commission. (p.24 line 670.)

8. Notification (Effective 10/1/24)

Under existing law, there is no notification requirement by the Commission to notify licensees upon certain events. This bill would require the Commission, two weeks prior to inactivating the license, to notify a company and all licensees under that company if the company has a temporary qualifying broker in place due to death or incapacity of its qualifying broker that their licenses are about to inactivate because a qualifying broker has not been put in place. (p.25 line 687.) This bill also would require a qualifying broker who wishes to terminate their status as the qualifying broker to notify officers of company, in addition to the parent company and Commission (who they already have to notify) that they are terminating their status. (p.40 line 1114.)

9. Requirements for Salesperson and Broker Licenses (Effective 10/01/26)

Under existing law, a person seeking a real estate license must complete a 60-hour pre-license course and take the state exam. Upon passing the exam, salespersons are given a temporary salesperson license. Salespersons must then take a post-license course before receiving their original salesperson license. There is no professional development course

required for applicants for a broker license or temporary salesperson license and there is no requirement for a person to complete a specialty course prior to obtaining an original salesperson license. Before obtaining a temporary salesperson license, this bill would require applicants to take a professional development course (p.30 line 840). This professional development course will replace the current post-license course so the applicant will have more knowledge prior to practicing with their license. This bill would also require a similar course for a broker license (p.30 line 819). It would require a person to complete a 15-hour specialty orientation course in residential sales, commercial sales, property management, new build, or land prior to obtaining an original license (p.35 line 970). This enhanced education will offer more protection for brokers, licensees, and consumers, likely resulting in less license law violations.

10. Transfer of License to New Company (Effective 10/1/24)

Under current law, the original qualifying broker of a licensee only attests to the character of the licensee upon initial acceptance of their license. Once the licensee moves to a new company, the new broker does not have to attest to this. This bill will require the new qualifying broker to acknowledge to the Commission that in their opinion the applicant is still honest, trustworthy, of good reputation, and the broker accepts responsibility for the actions of the licensee. (p.39 line 1079.)

11. Requirements for Serving as Qualifying Broker (Effective 10/01/26)

Under existing law, a person can serve as a qualifying broker as soon as they are licensed as a broker. This bill would require brokers to complete a qualifying broker training provided by the commission, or, if the commission is unable to provide it, to approve other providers to teach it, and to be actively licensed as a broker for 24 of the last 36 months prior to serving as a qualifying broker (p.37 line 1031). A person seeking to serve as a qualifying broker must also satisfy minimum experience requirements that the Commission may adopt by administrative rule. This additional experience will offer more protection for brokers, licensees, and consumers, while increasing the quality of broker supervision, likely resulting in less license law violations.

12. Time frames (Effective 10/1/24)

Under existing law, there is not a timeframe specified for notifying the Commission of the change of qualifying broker. Under this bill, they would notify the Commission within 30 days. (p.40 line 1097.)

13. CE (Effective 10/1/26)

Under existing law, one hour continuing education courses were not accepted by the commission. This bill would allow a maximum of 6 one-clock hour courses for ce-credit. (p.52 line 1429.)

14. Violations (Effective 10/1/24)

Under current law, the Commission would have to suspend a license in order to order the respondent to do further education. This bill would not require the Commission to suspend them. (p.54 line 1505.)

15. Bad Checks (Effective 10/01/24)

Under existing law, it is a disciplinary violation for a real estate licensee to present to the commission, as payment for a fee or fine, a check that is returned unpaid. This bill would remove that violation from the list of disciplinary violations (p.58 line 1607). This bill would cause the license of any real estate licensee, who presents a form of payment to the commission that is declined or rejected by a financial institution or merchant service company, to become inactive, if payment is not made within thirty days, and lapsed, if payment is not made within six months (p.47 line 1289). Historically, many well-meaning licensees have violated license law by incorrectly inputting checking account numbers or not recognizing the vendor on their bill and stopping payment. This section will remove that violation while still providing protection for the Commission.

16. Advertising (Effective 10/1/24)

Under existing law, there is no definition of “prominent” in relation to advertising the name or trade name of the qualifying broker or company. This bill would define “prominent” as use of a font size that is equal to or larger in size than any other text or logo in the advertisement and situated and sized for the purpose of gaining the attention of consumers viewing the advertisement. (p.58 line 1602.). This is for consumer protection and to make our laws clearer for our licensees.

17. Tracking Escrow Trust Funds (Effective 10/01/24)

Under existing law, there is no specific requirement that licensees track the deposit of escrow trust funds. This bill would require the licensee working with the buyer to notify the licensee working with the seller, or the unrepresented seller, in writing within 3 business days when the buyer has not deposited earnest money in accordance with a contract requiring the buyer to deposit escrow funds with any person or entity. (p.58 line 1608). This bill would require the licensee working with the seller to notify the seller within 24 hours of notification that escrow funds have not been deposited as the contract

dictated. This is a consumer protection measure to ensure that earnest money is deposited timely at the assigned location and the failure to notify would become a violation of license law.

18. Regulating the Duration of Listing Agreements (Effective 10/01/24)

Under existing license law, there is no limit to the duration of a listing agreement. This bill would limit the duration of a residential listing agreement to one year and would prohibit licensees from recording a listing agreement with a probate court to encumber the property that is the subject of the listing agreement (p.60 line 1656). It would only allow for extension if in writing signed by all parties. (p.60 line 1658) This addresses a predatory practice and brings these issues under the jurisdiction of the Commission to better protect citizens.

19. Regulating Dealing in Equitable Interests in Contracts / Wholesaling (Effective 10/01/24)

Under existing law, there is no specific regulation of licensees or the public when dealing in an equitable interest in a contract. This bill would require anyone, when assigning or offering to assign an equitable interest in a contract to purchase real estate, to be licensed. This bill would require licensees, when selling an equitable interest in a contract to purchase real estate, to disclose to the buyer that the seller does not hold title to the property (p.61 line 1683). Additionally, they must disclose to the seller the intent to assign the seller's real estate prior to offering to assign the interest, the assignment of the interest, and must include a fixed date of closing with no automatic extension in the contract that establishes the equitable interest. (p.60 line 1696) Without regulation by the Commission, wholesaling has the potential to lead to predatory practices, leaving consumers unprotected. This bill holds wholesalers to the same licensing requirements as other real estate professionals. This is to protect consumers by ensuring that they understand the terms of the agreement. Also, the definition of owner is added to clarify that an owner is a person or entity legally deeded real property (p.4 line 105). This definition prevents marketing or listing only the equitable interest in property (commonly known as "wholesaling") without a real estate license. This bill would further clarify that a net listing would only be illegal if you were not a buyer, seller, nor an assigning buyer in the subject property. (p.59 line 1633.)

20. Teams (will no longer become effective) – **TO BE REMOVED FROM HB 13**

While it was in the originally filed HB 13, it is to be removed from the substituted version of HB 13 at the request of AAR. Under existing law, real estate teams are not recognized, licensed, or otherwise regulated. This bill would have defined and registered real estate teams and would have allowed for their regulation Teams would have been defined as licensees within the same company that group together to share consumers, resources, knowledge, and/or commission. Within the last decade, the formation of real estate teams has become a leading trend. While teams have enhanced the real estate industry in some capacities, the Commission has received an increasing number of complaints about teams' advertising practices. Specifically, some teams have advertised in a manner that would mislead a consumer to believe that the team is actually a licensed company. By licensing teams, the Commission could formalize their formation and provide oversight to protect both consumers and licensees.

21. RECAD (Real Estate Consumer Agency Disclosure) (Effective 10/01/24)

Under existing law, if one licensee for a company represents a buyer and another licensee within the same company represents the seller in the same transaction, dual agency is created. This bill would allow for one licensee in a company to represent a buyer and another licensee in that same company to represent the seller in the same transaction without dual agency being automatically created and instead creates 2 designated single agents (p.66 line 1833). This bill would minimize dual agency and instead dual agency will exist when a licensee with informed written consent represents all parties to a transaction. This bill would also replace the term transaction broker with transaction facilitator to better represent the actual services being provided, however, the bill also sets forth that the transaction broker and transaction facilitator are synonymous under the law. For years licensees have requested an updated version of RECAD.

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