

# Alabama Real Estate License Laws & Rules



## Title 34 – Chapter 27 Chapter 790



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## **Code of Alabama – Title 34**

### **Chapter 27**

#### **Real Estate Brokers**

##### **Category: ARTICLE 1**

##### **Section 34-27-2. Definitions; exemptions from chapter**

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

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

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

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

(4) COMMISSIONER. A member of the commission.

(5) 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) 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) 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) LICENSEE. Any broker, salesperson, or company.

(9) 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.

(10) PERSON. A natural person.

(11) 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.

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

(12) 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) RECOVERY FUND. The Alabama Real Estate Recovery Fund.

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

(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.

(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.

**Category: ARTICLE 1**

**Section 34-27-3. Nonresident may not act except in cooperation with licensed broker of state; written co-brokerage agreement to be filed**

(a) A licensed broker of another state may act as co-broker with a licensed 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.

(b) Whenever an Alabama broker enters into a co-brokerage agreement with a nonresident broker to perform in Alabama any of the acts described in Section 34-27-30 the Alabama broker shall file within 10 days with the commission a copy of each such written agreement. By signing the agreement, the nonresident 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.

**Category: ARTICLE 1**

**Section 34-27-4. Real Estate Commission Revenue Fund and Real Estate Commission Proportionate Fund**

All fees, fines, charges, or other money, except as provided in Section 34-27-31, and except as provided in this section for multi-year licenses, collected by the commission shall be deposited in the State Treasury to the credit of the Real Estate Commission Revenue Fund and shall be disbursed by the state Comptroller on order of the executive director at the direction of the commission. A proportionate share of all money collected by the commission as license fees during each fiscal year of a multi-year license period or during the renewal period immediately preceding that first year, and all fees collected for research and education, shall be reserved in the State Treasury in the Real Estate Commission Proportionate Fund by the state Comptroller to be disbursed quarterly to the Real Estate Research and Education Center with the remainder to be disbursed for commission expenses incurred in that fiscal year or the subsequent fiscal years of that license period. The proportion for each fiscal year shall be determined by dividing the amount of money collected by the commission as license fees each fiscal year or during the renewal period immediately preceding the first year by the number of years within the multi-year license period. These sums may be invested by the State Treasurer in any investments which are legal for domestic life insurance companies under the laws of this state. Any interest or other income from investments in the proportionate fund shall be deposited into the Real Estate Commission Revenue Fund for expenditure by the commission. All other money including penalty fees collected by the commission shall be disbursed during the fiscal year in which they are collected. The state Comptroller and State Treasurer are directed to pay all expenses incurred by the commission in performing its responsibilities and exercising its authority from the Real Estate Commission Revenue Fund in the State Treasury on warrants of the state Comptroller drawn on the State Treasury on order of the executive director. The commission may not incur expenses that exceed the total fees and charges collected and paid into the State Treasury; or that exceed the amount appropriated by the Legislature. No funds shall be withdrawn or expended except as budgeted and allotted in accordance with Sections 41-4-80 through 41-4-96. All money remaining unexpended in the Real Estate

Commission Revenue Fund at the end of each fiscal year shall be retained by the commission for the following fiscal year.

**Category: ARTICLE 1**

**Section 34-27-5. County list of licensees**

The commission shall on the request of the probate judge of any county of this state provide the judge with a list of persons who are licensed by the commission and who reside in that county.

**Category: ARTICLE 1**

**Section 34-27-6. Real estate courses and schools**

(a) For purposes of this section and rules adopted pursuant thereto, the following terms shall have the following meanings:

(1) ADMINISTRATOR. A person designated by a principal school or branch school and approved by the commission to be the person responsible to the commission for all acts governed by this chapter and applicable rules which govern the operation of schools.

(2) APPROVED COURSE. Any course of instruction approved by the commission that satisfies commission requirements for prelicense education, postlicense education, or continuing education.

(3) APPROVED SCHOOL. Any proprietary educational institution offering only commission approved continuing education courses and any accredited college or university that offers any commission approved course.

(4) BRANCH SCHOOL. Any school under the ownership of a principal school which offers commission approved courses at a permanent location.

(5) INSTRUCTIONAL SITE. Any physical place where commission approved instruction is conducted apart from the principal school or branch school.

(6) INSTRUCTOR. A person approved by the commission to teach approved courses in the classroom or by distance education.

(7) LICENSED SCHOOL. Any proprietary school that offers commission approved prelicense courses or postlicense courses, or both, only after being licensed and bonded by the commission.

(8) PRINCIPAL SCHOOL. Any institution or organization which is the primary school and not a branch school that is approved by the commission.

(9) PROPRIETARY SCHOOL. Any school that is not an accredited college or university and which offers commission approved prelicense courses or postlicense courses, or both, only after being licensed and bonded by the commission. Each branch school shall be licensed separately.

(b) The commission shall approve and regulate schools that offer commission approved prelicense, postlicense, and continuing education courses. The commission shall be the board, commission, or agency with the sole and exclusive authority to license proprietary schools and their branches for the limited purpose of their offerings of commission approved prelicense courses or postlicense courses, or both.

(c) The commission shall require proprietary schools to furnish a surety bond payable to the commission in the amount of twenty thousand dollars (\$20,000) with a surety company authorized to do business in Alabama, which bond shall provide that the obligor therein shall pay up to twenty thousand dollars (\$20,000) in the aggregate sum of all judgments which shall be recovered against the school for damages arising from the school's collection of tuition or fees, or both, from students, but failing to provide the complete instruction for which such tuition or fees were collected. The bond shall remain in effect as long as the school is licensed. In the event the bond is revoked or cancelled by the surety company, the school shall have 10 days to obtain a new bond and file it with the commission. Failure to maintain a bond shall result in the immediate suspension of the licenses of the school and all of its branches. The bond shall be provided by the school and shall also cover any branch schools named in the bond or any endorsement or amendment thereto.

(d) The commission shall charge a license fee for each licensed principal school and shall charge a fee for each branch school in the amount of two hundred fifty dollars (\$250) per year for each year or portion of a year remaining in the respective license period. The renewal fee for each school license shall be one hundred twenty-five dollars (\$125) for each year of the license period.

(e) The commission shall require all schools to name and have approved by the commission a school administrator who shall be responsible to the commission for all actions of his or her respective school.

(f) Principal schools shall be clearly identified by signage as appropriate for the location. The signage shall set out the name of the principal school. Branch schools shall be clearly identified by signage as appropriate for the location. The signage shall set out the name of the branch school and the name of the principal school.

(g) The commission shall have the authority to reprimand, fine, suspend for a period up to two years, or revoke the license or approval of any school, administrator, or instructor for any violation of this section or any rule of the commission. The fine shall be not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per count.

(h) The commission shall approve, sponsor, contract for or conduct, or assist in sponsoring or conducting real estate courses for licensees, may charge fees, and may incur and pay the necessary expenses in connection therewith.

(i) The commission shall approve and regulate instructors who teach the commission approved prelicense, postlicense, and continuing education courses. The commission shall establish and collect fees as determined necessary, not to exceed fifty dollars (\$50) per instructor annually, to approved instructors who teach commission approved courses.

(j) The commission shall approve courses and establish and collect fees as determined necessary, not to exceed one hundred dollars (\$100) per application, to review each course.

(k) The commission shall establish one-year or multi-year approval periods for schools, instructors, administrators, and courses. Approval and license periods shall run from October 1 of the first year of the approval period through September 30 of the final year of the approval period.

(l) The commission shall promulgate rules and regulations as necessary to accomplish the purpose of this section in accordance with the Administrative Procedure Act.

**Category: ARTICLE 1**

**Section 34-27-7. Real Estate Commission - Created; composition; qualifications of members; appointment; terms; compensation; organization; executive director and assistant executive director generally; seal; records; immunity from suit**

(a) There is created the Alabama Real Estate Commission. The commission shall consist of nine members appointed by the Governor with the advice and consent of the Senate as hereinafter provided. The Governor's appointments to the commission, except for the appointment of the consumer member made pursuant to subsection (e), shall be made from a list of three persons nominated by the governing body of the Alabama Professional Real Estate Society or trade association which has the largest licensee membership, as evidenced by the filing of a verified list of paid members with the Secretary of State within 10 days of April 6, and annually by December 31 of each year thereafter. At least one of the persons nominated for each commission seat shall not be a member of the Real Estate Society or trade association. The Governor shall appoint one of the three nominated persons within 30 days following receipt of the list. If the Governor does not make an appointment within 30 days, the said Real Estate Society or trade association shall provide the Governor a list of three additional nominees. The Governor, upon receipt of the second list of nominees, shall appoint one of the six nominees within 30 days following receipt of the nominees. Appointments made at times when the Senate is not in session shall be effective ad interim. Any appointment made by the Governor while the Senate is in session shall be submitted not later than the third legislative day following the date of appointment. Any appointment made while the Senate is not in session shall be submitted not later than the third legislative day following the reconvening of the Legislature.

(b) Ad interim appointments may be made by the Governor when the Legislature is not in session only for vacancies occurring by reason of death or resignation of a board member. Ad interim appointments shall be confirmed by the Senate at the next following regular or special session of the Legislature. Failure by the Senate to confirm shall result in a vacancy on the board that shall be filled by appointment by the Governor and confirmation by the Senate while the Legislature is in session. Any vacancy not acted upon shall remain a vacancy until it is filled at a subsequent session of the Legislature in the manner prescribed in this section.

(c) Each of the original seven appointees and their successors shall have been a resident and citizen of this state for at least 10 years prior to his or her appointment and whose vocation for at least 10 years shall have been that of a real estate broker or real estate salesperson. No person convicted of a violation of any federal or state real estate license law shall be eligible to serve. Not more than one member from any United States Congressional District shall be appointed to serve at the same time. The members of the commission shall serve five-year terms. On and after April 7, 1988, no member shall serve for more than two consecutive terms of office, except, however, each member shall hold office until his or her successor is appointed by the Governor and confirmed by the Senate. The period of time

any member serves after the expiration of his or her term of office while awaiting the appointment and Senate confirmation of his or her successor shall not be considered as a consecutive term of office in determining the two consecutive terms of office limitation herein provided. All appointments shall expire on September 30 of the final year of a term, or on the date a successor to the member is appointed and confirmed. If a member does not serve his or her full term, the Governor shall appoint, in the same manner as original appointments are made, subject to confirmation by the Senate, a member to serve the unexpired portion of the term.

(d) On September 30, 1988, the Governor shall appoint one new member to the commission, subject to the confirmation of the Senate, who shall be a Black member who meets all of the other requirements of subsection (c), who shall serve no more than two consecutive terms of office, who shall be a full voting member, and who may be appointed from any congressional district in the state. Each successor Black member shall be appointed from a different congressional district, to be rotated equally among the remaining congressional districts.

(e) On October 1, 1996, the Governor shall appoint one new member to the commission, subject to the confirmation of the Senate, who shall be a consumer member. The consumer member of the commission shall serve no more than two consecutive terms of office, shall be a full voting member, and shall be initially appointed from any congressional district in the state. Each successor consumer member shall be appointed from a different congressional district, on a rotating basis, among the remaining congressional districts. The consumer member shall meet all of the following requirements, that he or she:

(1) Is 21 years of age or older.

(2) Has been a resident and citizen of this state for at least 10 years prior to appointment.

(3) Is a registered voter in this state.

(4) Has no felony convictions.

(5) Is the owner of real property.

(6) Has not been a licensed real estate broker or salesperson for the 10 years preceding appointment.

(7) Is not related to, by blood or marriage, or employed by, a real estate licensee.

(f) On the appointment of a new commissioner, the commission shall meet and select from its members a chair.

(g) Each member of the commission shall receive as full compensation three hundred dollars (\$300) per month. The members of the commission, its staff, and attorneys shall receive the same per diem and travel allowance paid to state employees for each day they meet to conduct the official business of the commission.

(h) The commission may employ an executive director and an assistant executive director, both of whom shall be exempted from the classified service under the general laws of the



state, and other staff members necessary to discharge its duties and administer this chapter. The executive director and assistant executive director shall be employed on the basis of their education, experience, and skills in administration and management. The commission shall advertise to seek quality applicants possessing the qualifications and shall conduct interviews of the top applicants. The assistant executive director shall act as and have authority of the executive director in his or her absence. The commission shall determine the duties and fix the compensation of the executive director, assistant executive director, and other staff members, subject to the general laws of the state.

(i) The commission shall adopt a seal by which it shall authenticate records and documents. Copies of all records and documents in the office of the commission duly certified and authenticated by the seal of the commission shall be received in evidence in all courts equally and with the same effect as the original. All public records kept in the office of the commission shall be open to public inspection during reasonable hours and under reasonable circumstances.

(j) No commissioner shall be liable for damages resulting from any act performed in carrying out his or her duties as a commissioner.

**Category: ARTICLE 1**

**Section 34-27-8. Real Estate Commission - Quorum; rules and regulations; agency disclosure clause**

(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 necessary for the administration of this chapter, and to otherwise do all things necessary and convenient for effecting this chapter.

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

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

The listing company \_\_\_\_\_ is:

(Two blocks may be checked)

\_\_\_\_ An agent of the seller.

\_\_\_\_ An agent of the buyer.

\_\_\_\_ An agent of both the seller and buyer and is acting as a limited consensual dual agent.

\_\_\_\_ Assisting the \_\_\_\_\_ buyer \_\_\_\_\_ seller as a transaction broker.

The selling company \_\_\_\_\_ is:

(Two blocks may be checked)

\_\_\_\_\_ An agent of the seller.

\_\_\_\_\_ An agent of the buyer.

\_\_\_\_\_ An agent of both the seller and buyer and is acting as a limited consensual dual agent.

\_\_\_\_\_ Assisting the \_\_\_\_\_ buyer \_\_\_\_\_ seller as a transaction broker.

**Category: ARTICLE 1**

**Section 34-27-10. Chapter cumulative**

(a) The requirements of this chapter shall be in addition to the requirements of existing or future laws or ordinances of any state, county, or municipality taxing, licensing, or regulating real estate brokers or salesmen.

(b) A licensee under this chapter shall not be subject to the requirements of Section 40-12-150 when he or she sells, offers to sell, or advertises for sale realty situated in another state or county.

(c) Licensees under this chapter shall be exempt from the provisions of Section 5-19-22.

**Category: ARTICLE 1**

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**Category: ARTICLE 1**

**Section 34-27-11. Penalties**

(a) Any person or corporation which violates any provision of this chapter commits a Class A misdemeanor and, on conviction, shall be punished accordingly.

(b) Any person who files with the commission any notice, statement, or other document or information required under the provisions of this chapter which is false or untrue or contains any material misstatement of fact commits a Class A misdemeanor and, on conviction, shall be punished accordingly.

**Category: ARTICLE 2**

**Section 34-27-30. Required**

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

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

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

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

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

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

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

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

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

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

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

**Category: ARTICLE 2**

**Section 34-27-30.2. Fees prohibited on signs advertising real property for sale by realtors; restrictions on signs**

(a) The rights of real estate licensees shall include the right to advertise real property for sale, lease, or transfer by other conveyance using signs affixed to or located on the real property. A municipal corporation or a political subdivision of the state may not impose any fee or tax for the use of signs affixed to or located on the real property which is for sale, lease, or transfer by other conveyance nor may a municipal corporation or a political

subdivision of the state impose any fee or tax for the use of signs near such property directing people to such property.

(b) Notwithstanding the foregoing, nothing in this section shall limit the ability of a political subdivision to enact and enforce reasonable restrictions on the size, height, and placement of signs on private property or public right-of-way and to impose monetary penalties for a violation of such restrictions.

**Category: ARTICLE 2**

**Section 34-27-31. Recovery Fund created; fees paid to fund; injured party's recovery from fund; procedures, appeals, etc.; licensee to report any legal action taken against him or her**

(a) The commission shall establish and maintain a Recovery Fund from which an aggrieved party may recover actual or compensatory damages, not including interest and court costs, sustained only within the State of Alabama as a result of conduct of a broker or salesperson in violation of Article 1 or 2 of this chapter or the rules and regulations of the commission.

(b) Notwithstanding any other provision to the contrary, payments from the Recovery Fund are subject to the following conditions and limitations:

(1) The fund shall not be obligated for the acts or omissions of a broker or salesperson while acting on his or her own behalf or on behalf of his or her child, spouse, or parent regarding property in which he or she or his or her spouse, child, or parent has, or is attempting to acquire, an interest; or for the acts or omissions of an inactive licensee; or for the acts or omissions of a corporation, branch office, or partnership except through its licensed salespersons and brokers as individuals. The fund shall not be obligated for any judgment or settlement resulting from an act or omission of a broker or salesperson committed in conjunction with the marketing or development of a time-sharing project.

(2) Payments for claims based on judgments or settlements against any one person shall not exceed fifty thousand dollars (\$50,000) in the aggregate.

(3) Payments for claims arising out of the same transaction shall not exceed twenty-five thousand dollars (\$25,000) in the aggregate, regardless of the number of claimants.

(4) The fund shall not be liable for payments to a licensee or bonding company unless the licensee or bonding company was a principal party to a real estate transaction on which the judgment was based.

(c) (1) When any person makes application for an original license as a broker or salesperson, he or she shall pay, in addition to all other fees, a fee of thirty dollars (\$30) for deposit in the Recovery Fund. In the event the commission does not issue the license, this fee shall be returned to the applicant.

(2) Any salesperson licensee who has paid the additional fee and who has attained a broker license and has paid the additional broker fee shall be refunded, upon request, one of the additional fees and no other salesperson licensee shall be required to pay an additional fee upon attaining broker status.

(3) Payments made to the Recovery Fund in lieu of bond by a licensee shall be paid only one time when he or she is originally licensed by the commission.

(d) When the balance remaining in the Recovery Fund is less than five hundred thousand dollars (\$500,000), each broker and salesperson shall on order of the commission pay a fee of thirty dollars (\$30) per license for deposit in the Recovery Fund. A licensee on inactive status shall not be required to contribute to the fund at that time. A fee of thirty dollars (\$30) shall be paid at the time a license is activated.

(e) (1) When an aggrieved person commences an action for a judgment which may result in collection from the Recovery Fund, the aggrieved person shall notify the commission in writing, by certified mail, return receipt requested, to this effect at the time of the commencement of the action.

(2) When the commission receives the notice described in subdivision (e)(1), it may enter an appearance, file pleadings and motions, appear at court hearings, defend the action, or take whatever other action it deems appropriate either on the behalf and in the name of the defendant, or in its own name. The commission may also take any appropriate method of review either on behalf and in the name of the defendant, or in its own name. The commission may settle or compromise the claim. Any expenses incurred by the commission in defending, satisfying, or settling any claim shall be paid from the Recovery Fund.

(3) When an aggrieved person recovers a valid judgment in a court of competent jurisdiction against a broker or salesperson on the grounds described in subsection (a) above, which occurred on or after October 1, 1979, the aggrieved person may, on the termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, on 10 days' written notice to the commission, may apply to the court for an order directing payment out of the Recovery Fund of the amount unpaid on the judgment.

(4) The court shall proceed on the application immediately and, on hearing, the aggrieved person shall be required to show each of the following:

a. He or she is not the spouse, child, or parent of the debtor, or the personal representative of the spouse, child, or parent.

b. He or she has obtained a judgment, as described in subdivision (e)(3), stating the amount of the judgment and the amount owing on the judgment at the date of the application, and, that in the action, he or she had joined any and all bonding companies which issued corporate surety bonds to the judgment debtor as principal and all other necessary parties.

c. The following items, if recovered by him or her, have been applied to the actual compensatory damages awarded by the court:

1. Any amount recovered from the judgment creditor.
2. Any amount recovered from bonding companies.
3. Any amount recovered in out-of-court settlements.

(5) The court shall order that the Recovery Fund pay whatever sum it finds due under this section.

(6) Should the commission pay from the Recovery Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, all licenses of the licensee may be terminated by the commission. The commission may refuse to issue a new license to the former licensee until he or she has repaid in full, plus interest at the rate of 12 percent a year, the amount paid from the Recovery Fund. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this section.

(7) If the balance in the Recovery Fund is insufficient to satisfy a duly authorized claim or portion of a claim, the commission shall, when sufficient money has been deposited in the Recovery Fund, satisfy the unpaid claims or portions, plus interest at the rate of 12 percent a year in the order that the claims were originally filed.

(f) The sums received by the commission pursuant to this section shall be deposited into the State Treasury and held in a special fund to be known as the Real Estate Recovery Fund, and shall be held by the commission in trust for carrying out the purposes of the Recovery Fund. These sums may be invested by the State Treasurer in any investments which are legal for domestic life insurance companies under the laws of this state. Any interest or other income from investments of the Recovery Fund shall be deposited in the Real Estate Commission Revenue Fund with one-half being transmitted to the University of Alabama Real Estate Research and Education Center.

(g) The commission may transfer funds one time only from the Real Estate Recovery Fund to the University of Alabama Real Estate Research and Education Center. The amount of the transfer may not reduce the Real Estate Recovery Fund below six hundred thousand dollars (\$600,000).

(h) When, on order of the court, the commission has paid from the Recovery Fund any sum, the commission shall be subrogated to all the rights of the judgment creditor, and all his or her right, title, and interest in the judgment, to the extent of the amount paid from the Recovery Fund, shall be assigned to the commission. Any amount and interest recovered by the commission on the judgment shall be deposited to the fund.

(i) The failure of an aggrieved person to strictly comply with all of the provisions of this section shall constitute a waiver of any rights under this section.

(j) Each licensee shall notify the commission within 10 days after notice to him or her of the institution of any criminal prosecution against him or her, or of a civil summons and complaint against him or her, if the subject matter of the civil complaint involves a real estate transaction or involves the goodwill of an existing real estate business. The notification shall be in writing by certified mail and shall include a copy of the summons and complaint. If a criminal charge is made, it shall include the specific charge made against the licensee together with a copy of any indictment or information alleging the charges.

(k) Each licensee shall notify the commission in writing by certified mail within 10 days after he or she receives notice that any criminal verdict has been rendered against him or her, or that a criminal action pending against him or her has been dismissed, or that a civil action in which he or she was a defendant and which involved a real estate transaction or the goodwill of a real estate business has resulted in a judgment or been dismissed. The

notification shall be in writing and shall include a copy of the court order or other document giving the licensee notice.

**Category: ARTICLE 2**

**Section 34-27-32. Requirements for license; application; place of business; branch offices; multiple brokers; fees**

(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 real estate licensure 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 real estate licensure with Alabama. If the applicant's rejection for real estate licensure in any state is more than two years from the date of application for licensure with 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 real estate licensure with Alabama. If the applicant's real estate licensure revocation in any state, including Alabama, is more than two years from the date of application for licensure with Alabama then the applicant may not be issued an Alabama real estate license without the approval of the commissioners.

(4) Is at least 19 years old.

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

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

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

"I hereby appoint the Executive Director or the Assistant Executive Director of the Alabama Real Estate Commission as my agent upon whom all disciplinary, judicial, or other process or legal notices may be served. I agree that any service upon my agent shall be the same as service upon me and that certified copies of this appointment shall be deemed sufficient evidence and shall be admitted into evidence with the same force and effect as the original might be admitted. I agree that any lawful process against me which is served upon my agent shall be of the same legal force and validity as if personally served upon me and that this appointment shall continue in effect for as long as I have any liability remaining in the State of Alabama. I understand that my agent shall, within a reasonable time after service

upon him or her, mail a copy of the service by certified mail, return receipt requested, to me at my last known business address.

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

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Legal signature of applicant

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

(b) (1) A person who holds a current real estate salesperson license in another state, including persons who move to and become residents of Alabama, shall apply for a reciprocal salesperson license on a form prescribed by the commission. A person who holds a current broker license in another state, including persons who move to and become residents of Alabama, shall apply for a reciprocal broker license on a form prescribed by the commission. The applicant shall submit proof that he or she has a current real estate license in another state as evidenced by a certificate of licensure, together with any other information required by the commission. The applicant shall also show proof that he or she has completed at least six hours of course work in Alabama real estate which is approved 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. 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.

(c) 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 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 license in any state for at least 24 months of the 36-month period immediately preceding the date of application.

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

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

(4) Any other information requested by the commission.

(d) A person who does not hold a current real estate salesperson license in another state desiring to be a real estate salesperson in this state shall apply for a salesperson's license with the commission 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 furnish all of the following:

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

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

(3) Any other information required by the commission.

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

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

(g) If the applicant for a company or broker license maintains more than one place of business in the state, he or she shall have a company or branch office license for each separate location or branch office. Every application shall state the location of the company or branch office and the name of its qualifying broker. Each company or branch office shall be under the direction and supervision of a qualifying broker licensed at that address. No person may serve as qualifying broker at more than one location. The qualifying broker for the branch office and the qualifying broker for the company shall share equal responsibility for the real estate activities of all licensees assigned to the branch office or company.

(h) No person shall be a qualifying broker for more than one company or for a company and on his or her own behalf unless:

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

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

(3) He or she will be doing business from the same location.

A person licensed under a qualifying broker may be engaged by one or more companies with the same qualifying broker.

(i) A company license shall become invalid on the death or disability of a qualifying broker. Within 30 days 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 broker for no more than six months after the death or disability of its former qualifying broker. Unless the company designates a fully licensed broker as the qualifying broker within the six months, the company license shall be classified inactive by the commission.

(j) 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 be current to the issuance of the license.

(k) The commission may charge a fee of ten dollars (\$10) for furnishing any person a copy of a license, certificate, or other official record of the commissioner.

**Category: ARTICLE 2**

**Section 34-27-33. Examinations; temporary and original salesperson licenses; post license course requirements**

(a) (1) In addition to other requirements of this chapter, every applicant for a broker's or salesperson's license shall submit to a reasonable written examination. The commission shall conduct examinations at places and times it prescribes. The commission may contract with an independent testing agency to prepare, grade, or conduct the examination.

(2) Effective October 1, 2001, and thereafter, the fee for each examination and the provisions for payment and forfeiture shall be as specified in the contract with the independent testing agency.

(b) Within 90 days after passing the examination, the applicant shall secure a qualifying broker and meet all requirements of this chapter and the board shall issue an active license or classify the license as inactive. In order to obtain an active license, the applicant's qualifying broker shall sign and submit to the commission a sworn statement that the applicant is in his or her opinion honest, trustworthy, and of good reputation and that the broker accepts responsibility for the actions of the salesperson as set out in Section 34-27-31. The applicant's qualifying broker shall be licensed in Alabama.

(c) (1) On passing the examination and complying with all other conditions for licensure, a temporary license certificate shall be issued to the applicant. The applicant is not licensed until he or she or his or her qualifying broker actually receives the temporary license certificate. A temporary license shall be valid only for a period of one year following the first day of the month after its issuance.

(2) The holder of a temporary license shall not be issued an original license until he or she has satisfactorily completed a 30-hour post-license course prescribed by the commission. The holder of a temporary license must complete the course within six months of issuance of his or her temporary license and have his or her original license issued, otherwise his or her temporary license certificate shall automatically be placed on inactive status by the commission. During the remaining six months his or her temporary license is valid, the holder of a temporary license may complete the course and have his or her original license issued. If the holder of a temporary license does not complete the course and have his or her original license issued within one year following the first day of the month after its issuance, the temporary license shall automatically expire and lapse. A temporary license is not subject to renewal procedures in this chapter and may not be renewed.

(3) In order to have a temporary license issued to active status, the applicant shall pay the Recovery Fund fee specified in this chapter. The holder of a temporary license shall, upon satisfactory completion of the course, pay the original license fee specified in this chapter to have his or her original license issued. An applicant for an original license who

has paid the Recovery Fund fee specified in this chapter shall not be required to pay another Recovery Fund fee in order to have his or her original license issued.

(4) The holder of an original license who has satisfactorily completed the postlicense course and whose original license has been issued, shall not be subject to the continuing education requirements in this chapter for the first renewal of his or her original license.

(d) This section shall become effective for licenses issued beginning October 1, 1993.

**Category: ARTICLE 2**

**Section 34-27-34. Who may serve as qualifying broker; responsibility of qualifying broker; change of broker; termination of qualifying broker's status**

(a) (1) A broker may serve as qualifying broker for a salesperson or associate broker only if licensed in Alabama, his or her principal business is that of a real estate broker, and he or she shall be in a position to actually supervise the real estate activities of the associate broker or salesperson on a full-time basis.

(2) A salesperson or associate broker shall not perform acts for which a license is required unless licensed under a qualifying broker. A qualifying broker shall be held responsible to the commission and to the public for all acts governed by this chapter of each salesperson and associate broker licensed under him or her and of each company for which he or she is the qualifying broker. It shall be the duty of the qualifying broker to see that all transactions of every licensee engaged by him or her or any company for which he or she is the qualifying broker comply with this chapter. Additionally, the qualifying broker shall be responsible to an injured party for the damage caused by any violation of this chapter by any licensee engaged by the qualifying broker. This subsection does not relieve a licensee from liability that he or she would otherwise have.

(3) The qualifying brokers' supervision responsibilities, as prescribed herein, over the real estate activities of associate brokers and salespersons licensed under him or her are not intended to and should not be construed as creating an employer-employee relationship contrary to any expressed intent of the qualifying broker and licensee to the contrary.

(b) Any salesperson or associate broker who desires to change his or her qualifying broker shall give notice in writing to the commission, and shall send a copy of the notice to his or her qualifying broker. The new qualifying broker shall file with the commission a request for the transfer and a statement assuming liability for the licensee. On payment of a fee of twenty-five dollars (\$25), a new license certificate shall be issued to the salesperson or associate broker for the unexpired term of the original license. A fee of twenty-five dollars (\$25) shall also be charged for any of the following license changes:

(1) Change of qualifying broker by a company or sole proprietorship. The fee is paid for the license or licenses on which the current and new qualifying brokers' names appear. In cases where a company has a branch office or offices and the main office qualifying broker is changed, the fee is paid for each branch office license and for the license of each branch qualifying broker.

(2) Change of personal name of a qualifying broker. The fee is paid for the license or licenses on which the current qualifying broker's name appears.

(3) Change of personal name of a salesperson or associate broker. The fee is paid for the license on which the name appears.

(4) Change of business location. The fee is paid for the license or licenses on which the address appears.

(5) Change of business name. The fee is paid for the license or licenses on which the name appears.

(6) Change of status from inactive to active. The fee is paid for each license being changed from inactive to active status. No fee is charged for the change from active to inactive status.

(c) A person who wishes to terminate his or her status as qualifying broker for a licensee may do so by notifying the licensee and the commission in writing and sending the licensee's license certificate to the commission or verifying in writing to the commission that the certificate has been lost or destroyed.

(d) A person who wishes to terminate his or her status as a qualifying broker for a company may do so by submitting written notice to the company or qualifying broker of the parent company and the commission.

(e) A salesperson or associate broker shall not perform any act for which a license is required after his or her association with his or her qualifying broker has been terminated, or if he or she changes qualifying brokers, until a new active license has been issued by the commission.

## **Category: ARTICLE 2**

### **Section 34-27-35. License certificates generally**

(a) The commission shall prescribe the form and content of license certificates issued. Each qualifying broker's license certificate shall show the name and business address of the broker. The license certificate of each active salesperson or associate broker shall show his or her name and address. The license certificate of each active salesperson or associate broker shall be delivered or mailed to his or her qualifying broker. Each license certificate shall be kept by the qualifying broker and shall be publicly displayed at the address which appears on the license certificate.

(b) The commission may establish a one-year or multi-year license period.

(c) (1) The fee for a temporary license shall be one hundred fifty dollars (\$150). The original fee for a broker's license shall be one hundred fifty dollars (\$150) and, beginning with the license period effective October 1, 2002, the renewal fee for a broker's license shall be seventy-five dollars (\$75) per year for each year of the license period. The original fee for each salesperson's license shall be sixty-five dollars (\$65) per year for each year or portion of a year remaining in the respective license period, and the renewal fee for each salesperson's license shall be sixty-five dollars (\$65) per year for each year of the license period. The original fee for each company license shall be sixty-five dollars (\$65) per year for each year or portion of a year remaining in the respective license period, and the

renewal fee for each license shall be sixty-five dollars (\$65) per year for each year of the license period.

(2) Beginning with the license period effective October 1, 2004, the renewal fee for a broker's license shall be ninety-five dollars (\$95) per year for each year of the license period. The original fee for each salesperson's license shall be eighty-five dollars (\$85) per year for each year or portion of a year remaining in the respective license period, and the renewal fee for each salesperson's license shall be eighty-five dollars (\$85) per year for each year of the license period. The original fee for each company license shall be eighty-five dollars (\$85) per year for each year or portion of a year remaining in the respective license period, and the renewal fee for each license shall be eighty-five dollars (\$85) per year for each year of the license period.

(d) (1) The renewal research and education fee shall be two dollars and fifty cents (\$2.50) per year for each year of the license period and shall be paid at the time of license renewal by all brokers and salespersons in addition to the license renewal fees set out in this section. Collection of this fee shall apply to all broker and salesperson renewals, except that brokers who hold more than one broker's license shall pay the fee for only one license at each renewal.

(2) Beginning June 1, 2014, this fee shall be seven dollars and fifty cents (\$7.50), and the proceeds shall be distributed to the Alabama Center for Real Estate.

(e) The original research and education fee shall be thirty dollars (\$30) and shall be paid at the time of all applications received on and after October 15, 1995, for issuance of an original broker's license, and shall be paid at the time of all applications received on and after October 15, 1995, for issuance of a temporary salesperson's license. The original research and education fee shall also be paid by reciprocal salespersons. This is in addition to the original license fees set out in this section. This thirty dollar (\$30) original research and education fee is a one-time fee which no person shall be required to pay more than once.

(f) The license of a salesperson who is subsequently issued a broker's license automatically terminates upon the issuance of his or her broker's license certificate. The salesperson's license certificate shall be returned to the commission in order for a broker's license to be issued. No refund shall be made of any fee or Recovery Fund deposit pertaining to the salesperson's, broker's, or company's license.

(g) The commission shall prescribe a license renewal form, which shall accompany renewal fees which shall be filed on or before August 31 of the final year of each license period in order for the respective license to be renewed on a timely basis for the following license period. If any of the foregoing are filed during the period from September 1 through September 30 of the final year of a license period, the one hundred fifty dollar (\$150) penalty set out below shall be paid in addition to the renewal fees. Failure to meet this September 30 deadline shall result in the license being placed on inactive status on the following October 1, and the license shall be subject to all reactivation requirements. Reactivations shall be processed in the order received as evidenced by postmark or delivery date. Certified or registered mail may be used for reactivation in these cases. Licensees filing during the period from September 1 of the final year of a license period through September 30 of the initial year of a license period shall pay the required license fee, plus a penalty of one hundred fifty dollars (\$150).

(h) The renewal form shall be mailed by the commission to the licensee's place of business, if an active licensee, or to his or her residence, if an inactive licensee, prior to August 1 of the final year of each license period. Each licensee shall notify the commission in writing of any change in his or her business or residence address within 30 days of the change.

(i) Every license shall expire at midnight on September 30 of the final year of each license period. An expired license may be renewed during the 12-month period following the license period for which the license was current. A licensee who fails to renew before the end of the 12-month period following the license period for which the license was issued has a lapsed license, and shall be subject to all requirements applicable to persons who have never been licensed, however, the commission may upon determination of hardship, allow later renewal upon payment of all fees and penalties. An inactive license must be renewed in the same manner as an active license.

(j) (1) Each applicant for renewal of an active salesperson or broker license issued by the commission shall, on or before September 30 of the final year of each license period, submit proof of completion of not less than 15 clock hours of approved continuing education course work to the commission, in addition to any other requirements for renewal. Failure to meet this deadline shall result in the license being placed on inactive status on the following October 1, and the license shall be subject to all reactivation requirements. Reactivations shall be processed in the order received as evidenced by postmark or delivery date. Certified or registered mail may be used for reactivation in this case. Proof of attendance at the course work, whether or not the applicant attained a passing grade in the course, shall be sufficient to satisfy requirements for renewal. The 15 clock hours' course work requirement shall apply to each two-year license renewal, and hours in excess of 15 shall not be cumulated or credited for the purpose of subsequent license renewals. The commission shall develop standards for approval of courses, and shall require certification of the course work of the applicant.

Time served as a member of the state Legislature during each license renewal period shall be deemed the equivalent of the 15 hours course work and shall satisfy the requirements of this subsection.

(2) This section shall apply to renewals of licenses which expire after September 30, 1986. An applicant for first renewal who has been licensed for not more than one year shall not be required to comply with this section for the first renewal of the applicant's license. Any licensee reaching the age of 65 on or before September 30, 2000, and having been licensed 10 years prior to that date shall be exempt from this section.

(3) Continuing education shall not result in a passing or failing grade.

(k) A licensee may request that the commission issue his or her license to inactive status. Inactive licenses shall be held at the commission office until activated. No act for which a license is required shall be performed under an inactive license.

**Category: ARTICLE 2**

**Section 34-27-36. Disciplinary action - Generally**

(a) 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. 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 until such time as the licensee has completed an approved continuing education course and/or made restitution to accounts containing funds to be held for other parties. The commission may also stay the revocation or suspension of a license and require completion of an approved education course and/or the making of restitution to accounts containing funds to be held for other parties.

(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.

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

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

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

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

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

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

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

(11) Paying any profit, compensation, commission, or fee to, or dividing any profit, compensation, commission, or 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 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 except his or her qualifying broker.

(15) If a qualifying broker or company, allowing a salesperson or associate broker licensed under him or her to advertise himself or herself as a real estate agent without the name or trade name of the qualifying broker or company appearing prominently on the advertising; or if the licensee is a salesperson or associate broker, advertising himself or herself as a real estate agent without the name or trade name of the qualifying broker or company under whom the salesperson or associate broker is licensed appearing prominently on the advertising.

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

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

(20) If a broker, accepting a "net listing" agreement for sale of real property or any interest therein. A "net listing" 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) Misrepresenting or failing to disclose to any lender, guaranteeing agency, or any other interested party, the true terms of a sale of real estate.

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

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

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

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

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

(26) Conduct which constitutes or demonstrates dishonest dealings, bad faith, or untrustworthiness.

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

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

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

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

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

(b) If it appears that a person, firm, corporation, or any business entity has engaged, or is about to engage, in an act or practice constituting a violation of Article 1 or 2 of this chapter or any rule or order of the commission, the commission, through the Attorney General, may institute legal actions to enjoin the act or practice and to enforce compliance with Articles 1 and 2 of this chapter or any rule or order of the commission. To prevail in an action, it shall

not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation.

(c) (1) Notwithstanding any other provisions of law, the commission may 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. The order shall be entered by the executive director after a finding of probable cause by the commission staff. The order shall become final 15 days after its service upon the accused, unless the accused requests a hearing before the commission. Upon hearing the case and finding violations, the commission may 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 proper venue.

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

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

**Category: ARTICLE 2**

**Section 34-27-37. Disciplinary action - Procedure in action**

(a) An action against an accused shall begin by serving the accused either personally or by certified mail with a copy of the formal complaint against him or her. The accused shall be given at least 15 days' notice of the time, date, and place of hearing. If the commission refuses to license an applicant, notice of the refusal shall be given to the applicant, and he or she may, within 15 days after delivery of the notice, file a request for a hearing. The applicant or accused shall have an opportunity to be heard in person or by counsel, to offer testimony in his or her behalf, and to examine witnesses. Hearings shall be held in Montgomery County unless the commission decides to hold the hearing in the county in which the applicant or accused resides, maintains his or her principal place of business, or any other county in which the commission has scheduled a meeting. At hearings, all witnesses shall be sworn by a member of the commission, the executive director, the assistant executive director, or a hearing officer. The commission shall render a written order within 30 days from the final date of hearing. If the matter alleged in the complaint is

the subject of an action pending in any court, the commission may withhold rendering or implementing its order pending disposition of the court action.

(b) The commission may issue subpoenas for the attendance of witnesses and the production of records and documents, either at the instance of the commission or the accused. The process issued by the commission shall extend to all parts of the state, and such process shall be served by a person designated by the commission or by mailing the process by certified mail. A subpoenaed witness who appears in a proceeding before the commission shall receive fees, mileage, and expense allowances as authorized by the commission. All fees, mileage, and expense payments shall be taxed against the party or parties subpoenaing the witness.

(c) If in a proceeding before the commission, a subpoenaed witness fails or refuses to attend or refuses to testify or fails or refuses to produce subpoenaed documents or records, his or her attendance and testimony or the production of the documents and records shall be enforced by any circuit court of this state, in the same manner as the attendance and testimony of witnesses is enforced in civil cases.

(d) An accused, applicant, or other party to a case heard by the commission who is aggrieved by a final decision, may file an application for rehearing specifying grounds for relief within 30 days of receiving notice of the decision.

An application for rehearing does not modify the effective date of the decision and is appropriate only if the final decision is:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the commission;
- (3) In violation of a commission rule;
- (4) Made upon unlawful procedure;
- (5) Affected by other error of law;
- (6) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (7) Unreasonable, arbitrary, or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

Within 30 days from the filing of the application for rehearing the commission shall set a hearing date on the application, or shall enter an order without a hearing, or shall grant or deny the application. If the applicant is granted a rehearing, the commission will schedule a rehearing as soon as practicable. If the commission does not enter an order within 30 days from the filing of the application for rehearing, the application shall be deemed to be denied.

**Category: ARTICLE 2**

**Section 34-27-38. Disciplinary action - Appeals**

(a) Findings of the commission are final unless within 30 days after the date of the commission's final order, the applicant or accused files a notice of appeal in the Circuit Court of Montgomery County, or of the county of his or her residence, if an Alabama resident; or, if a corporation registered in Alabama, in the circuit court of the county of registration or the county in which the corporation has its principal place of business in Alabama. A party appealing a decision shall post a \$200 appeal bond with the clerk of the circuit court. The circuit clerk shall notify the commission of the appeal after the clerk has approved the appellant's bond.

(b) An appeal does not act as supersedeas, but the decision of the commission may be stayed by the court pending such appeal.

(c) The commission shall within 30 days of service of the notice of appeal, or within such additional time as the court may allow, file the record in the case with the circuit clerk. A complaint setting forth with particularity the issues raised on appeal shall be filed with the court and served on the commission by the appealing party within 30 days after the notice of appeal is filed. Thereafter the action shall be conducted in accordance with the Alabama Rules of Civil Procedure.

(d) The appeal shall be conducted by the court without a jury and shall be confined to the record. The commission's decision shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the commission as to the weight of the evidence on questions of fact. The court shall affirm or reverse, in part or in whole, or modify the commission decision or remand the case to the commission for further proceedings.

If the commission decision is affirmed in whole or in part, the cost of the appeal shall be taxed against the party taking the appeal. If the decision of the commission is not affirmed, the court shall tax the costs of appeal against the commission.

**Category: ARTICLE 4**

**Section 34-27-80. Short title**

This article shall be known and may be cited as the "Real Estate Consumer's Agency and Disclosure Act."

**Category: ARTICLE 4**

**Section 34-27-81. Definitions**

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

(1) AGENCY AGREEMENT. A written agreement between a broker and a client which creates a fiduciary relationship between the broker and a principal, who is commonly referred to as a client.

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

(3) **BROKERAGE AGREEMENT.** A specific written agreement between a brokerage firm and a consumer which establishes a brokerage relationship. The brokerage agreement shall contain a statement of the terms and conditions of the brokerage services to be provided.

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

(5) **CONSUMER.** A person who obtains information, advice, or services concerning real estate from a real estate licensee.

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

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

(8) **DUAL AGENCY.** An agency relationship in which the same brokerage firm represents both the seller and the buyer in the same real estate transaction. 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.

(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) **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) **QUALIFYING BROKER.** A broker under whom a corporation, partnership, branch office, or lawfully constituted business organization, as the Legislature may from time to time provide, is licensed, or a broker licensed 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.

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

(15) SINGLE AGENT. A licensee who is engaged by and represents only one party in a real estate transaction. A single agent includes, but is not limited to, one of the following:

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

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

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

(17) TRANSACTION BROKER. A licensee who assists one or more parties in a contemplated real estate transaction without being an agent or fiduciary or advocate for the interest of that party to a transaction.

**Category: ARTICLE 4**

**Section 34-27-82. Roles and duties of licensees; written disclosure documents; exceptions; brokerage agreements**

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

(b) At the initial contact between a licensee and the consumer and until such time a broker enters into a specific written agreement to establish an agency relationship with one or more of the parties to a transaction, the licensee shall not be considered an agent of that consumer. An agency relationship shall not be assumed, implied, or created without a written bilateral agreement establishing the terms of the agency relationship.

(c) As soon as reasonably possible and before any confidential information is disclosed to any other person by a licensee, the licensee shall provide a written disclosure form to a consumer for signature describing the alternative types of brokerage services, as identified in subsection (a), that are available to clients and customers of real estate brokerage companies. The licensee shall also inform a consumer as to the specific types of brokerage services that are provided by his or her company. A broker shall not be required to offer or engage in any one or in all of the alternative brokerage arrangements specified in subsection (a). The licensee will provide a written form to the consumer for their signature describing the alternative types of brokerage arrangements available. All rental or property management services are excluded from the requirements of this subsection.

(d) A licensee shall not be required to comply with the provisions of subsection (c) when engaged in transactions with any corporation, non-profit corporation, professional corporation, professional association, limited liability company, partnership, any partnership

created under the Uniform Partnership Act (commencing at Section 10-8A-101), real estate investment trust, business trust, charitable trust, family trust, or any governmental entity in transactions involving real estate.

(e) After disclosure, the consumer may make an affirmative election of a specific type of brokerage arrangement that is available from the real estate brokerage company. The brokerage agreement shall contain a statement of the terms and conditions of the brokerage services that the broker will provide. In the absence of a signed brokerage agreement between the parties, the transaction brokerage relationship shall remain in effect.

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

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

(h) Nothing in this section shall prohibit the consumer from entering into a written contract with a broker which contains provisions for services not specifically identified in the written disclosure form.

**Category: ARTICLE 4**

**Section 34-27-83. Agency disclosure office policy**

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

(a) The qualifying broker for each brokerage company shall provide every licensee a copy of the agency disclosure policy regarding the types of brokerage services offered by their company. This policy shall be explained to all licensees at least once a year.

(b) A form acknowledging receipt of the office policy statement and a satisfactory explanation of its contents shall be signed by each licensee and a copy retained by the brokerage company for three years

**Category: ARTICLE 4**

**Section 34-27-84. Obligations of licensees**

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

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

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

(3) To keep confidential any information given to the licensee in confidence, or any information obtained by the licensee that the licensee knows a reasonable individual would want to keep confidential, unless disclosure of this information is required by law, violates a fiduciary duty to a client, becomes public knowledge, or is authorized by the party in writing.

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

(5) When assisting a party in the negotiation of a real estate transaction, to present all written offers in a timely and truthful manner.

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

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

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

**Category: ARTICLE 4**

**Section 34-27-85. Services licensees required to provide**

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

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

(2) Disclose to the client all information known by the licensee that is material to the transaction and not 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 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 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 may provide brokerage services as a limited consensual dual agent only with the prior written, informed consent of all clients of the broker in the transaction.

**Category: ARTICLE 4**

#### **Section 34-27-86. Misrepresentation or false information given by licensee**

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

(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.

**Category: ARTICLE 4**

#### **Section 34-27-87. Duties supersede duties based on common law**

The duties of licensees as specified in this article or in rules promulgated by the Alabama Real Estate Commission shall supersede any duties of a licensee to a party to a real estate transaction which are based upon common law principles of agency to the extent that those common law duties are inconsistent with the duties of licensees as specified in this article.

**Category: ARTICLE 4**

#### **Section 34-27-88. Violations**

A violation or disregard of any provision of this article shall constitute a violation actionable by the commission pursuant to Section 34-27-36, as amended.

**Category: ARTICLE 5**

#### **Section 34-27-100. Definitions**

For the purposes of this article, the following terms shall have the following meanings:

(1) ACTUAL INTRODUCTION.

a. When the buyer, seller, landlord, or tenant has been referred to the real estate licensee by the person or entity seeking the referral fee prior to the time the customer has executed a real estate brokerage services disclosure form or waived execution in writing or the customer has executed a buyer's agency agreement, property listing agreement, or a transaction brokerage agreement; or

b. For real estate transactions in which the law of this state does not require the presentation of a real estate brokerage services disclosure form, when the buyer, seller, landlord, or tenant has been referred to the real estate licensee by the person or entity seeking the referral fee prior to any contact between the buyer, seller, landlord, or tenant and the real estate licensee during which their real estate business has been discussed.

(2) INTERFERENCE WITH A REAL ESTATE BROKERAGE RELATIONSHIP. Demanding a referral fee from a real estate licensee when reasonable cause for payment does not exist. The term "interference with a real estate brokerage relationship" may also include a threat by a third party to reduce, withhold, or eliminate any relocation or other benefits, or the actual reduction, withholding, or elimination of any relocation or other benefit, in order to generate a referral fee from a real estate broker when reasonable cause for payment does not exist. Notwithstanding the foregoing, either of the following shall not constitute interference with a real estate brokerage relationship:

a. Communications between an employer or its representative and an employee concerning relocation policies and benefits.

b. Advising a party of the right to allow a brokerage relationship to expire pursuant to its own terms or not to renew the brokerage relationship upon expiration.

(3) REAL ESTATE BROKERAGE RELATIONSHIP. A relationship entered into between a real estate broker or salesperson and a buyer, seller, landlord, or tenant under which the real estate broker or salesperson engages in any of the acts set forth in Alabama real estate license law, but the relationship does not exist prior to actual introduction of the relationship as provided in subdivision (1).

(4) REASONABLE CAUSE FOR PAYMENT. When an actual introduction of business has been made, a sub-agency relationship between brokers exists, a contractual referral fee relationship or other agreement exists, or a contractual cooperative brokerage relationship exists.

(5) REFERRAL FEE. Any fee or commission paid by a real estate licensee to any person or entity, other than a cooperative commission offered by a listing real estate broker to a selling real estate broker or by a selling real estate broker to a listing real estate broker.

**Category: ARTICLE 5**

**Section 34-27-101. Violations; damages**

(a) No licensed real estate broker shall be required to pay a referral fee or commission when reasonable cause for payment does not exist.

(b) No third party shall knowingly interfere with the real estate brokerage relationship of a real estate licensee.

(c) Any person aggrieved by a violation of any provision of this article may bring a civil action in any court of competent jurisdiction. The damages recoverable in such an action shall be actual damages and, in addition, the court may award an amount up to three times the amount of actual damages sustained as a result of any violation of this article, plus reasonable attorney fees and expenses.

## **Alabama Rules and Regulations**

### **Category: CHAPTER 790-X-1**

#### **Rule 790-X-1-.01. Organization**

(1) The public may obtain information or make submissions or requests to the Commission by addressing inquiries to the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, AL 36106. Licensing and other pertinent information can be obtained from the Commission's web site at [www.arec.alabama.gov](http://www.arec.alabama.gov).

(2) All applications and requests for which the Commission has prescribed the form must be made on the prescribed form, copies of which may be obtained from the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, AL 36106 and/or the Commission's web site at [www.arec.alabama.gov](http://www.arec.alabama.gov).

(3) The Commission may utilize advisory committees, working groups, and task forces for recommendations and studies of issues. The composition of these groups shall be determined by the Commission from time to time.

### **Category: CHAPTER 790-X-1**

#### **Rule 790-X-1-.02. Declaratory Rulings**

(1) The Commission may issue declaratory rulings to any person substantially affected by a rule with respect to the validity of the rule, or with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the Commission, or with respect to the meaning and scope of any order of the Commission. Such rulings shall be issued provided;

(a) the petitioner shows that he/she is substantially affected by the rule in question,

(b) sufficient facts are supplied in the request to permit the Commission to make a valid determination, and

(c) the request arises from an actual question or controversy.

(2) Such rulings will be made in accordance with the Alabama Administrative Procedure Act.

### **Category: CHAPTER 790-X-1**

#### **Rule 790-X-1-.03. License Requirements**

(1) Rental leasing and/or property management services for Alabama real estate licensees include but are not limited to:

(a) Rent or lease real estate situated within the State of Alabama.

(b) Offer to rent or lease real estate situated within the State of Alabama.

(c) Negotiate or attempt to negotiate the rental, or leasing of real estate situated within the State of Alabama.

(d) List or offer or attempt or agree to list real estate for rental or lease situated within

the State of Alabama.

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

(f) Procure or assist in procuring the prospects for the purpose of effecting the lease, or rental of real estate situated within the State of Alabama.

(g) Procure or assist in the procuring of properties for the purpose of effecting the lease, or rental of real estate situated within the State of Alabama.

(h) Entering into an agreement or contracting for the collection and escrow of security deposits, and entering into an agreement or contracting for the collection and escrow of rental payments for properties situated within the State of Alabama.

(i) Coordinate physical maintenance and repairs for real property under rental or lease management agreement with an Alabama real estate licensee, and situated within the State of Alabama, when the coordination of physical maintenance or repairs does not require licensure pursuant to other state regulatory agencies or boards, or when the real estate licensee holds the license or licenses required by other state regulatory agencies or boards to coordinate or perform the physical maintenance or repairs.

(2) Code of Ala. 1975, § 34-27-2(b)(1), exempts owners of real property from the licensing requirements of

Articles 1 and 2 of Chapter 27 when managing his own property or consummating a real estate transaction involving his own property. As used in Code of Ala. 1975, § 34-27-2(b)(1), the term "owner" is defined as the individual owner himself, or in the case of a corporation or partnership, a partner or corporate officer, who has authority to and does make management decisions affecting the overall policy of the corporation or partnership.

(3) Any person who elects to become licensed as a broker or salesman may advertise property of which he is the owner in the same way as any private party. However, such a licensee must abide by all of the other provisions of the law and the rules promulgated by the Commission in any and all real estate transactions in which he may be involved, whether the subject property is his own, the property of his spouse, child, parent, or is the property of a member of the public. If a person licensed as a broker or salesman chooses to advertise his own property as if he is a licensed broker or salesman, then all such advertising as well as all other activities involving such property must be conducted strictly in accordance with Chapter 27 of Title 34, Code of Ala.

1975, and the rules promulgated by the Alabama Real Estate Commission.

(4) Code of Ala. 1975, § 34-27-30(5), requires that one who auctions, or offers or attempts or agrees to auction real estate must be licensed under Articles 1 and 2. Persons commonly referred to as "ground men" are not required to be licensed, provided their activities shall be limited to relaying crowd participation bids to the auctioneer.

## **Category: CHAPTER 790-X-1**

### **Rule 790-X-1-.04. Clerical/Office Employees**

The duties of clerical or office employees of a real estate company shall be limited to the duties normally attributed to such positions. No such employee of a licensee or any other person shall physically show listed property, solicit or accept listings, negotiate sales or leases, hold himself out as engaged in the real estate business or perform any other act for which a license is required unless properly licensed.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.05. Out-Of-State Co-Brokerage Agreement**

(1) An Alabama licensed broker may enter into a co-brokerage agreement with a broker of another state, subject to the provisions of Code of Ala. 1975, § 34-27-3. The Alabama broker shall require a listing or joint listing of the property involved. The written co-brokerage agreements required by Code of Ala. 1975, § 34-27-3, shall specify all material terms of each agreement, including but not limited to its financial terms.

(2) The showing of property located in Alabama and negotiations pertaining thereto shall be supervised by the Alabama broker. In all advertising of real estate located in Alabama, the name of the Alabama broker shall appear.

(3) The Alabama broker shall be liable for all acts of the out-of-state broker, as well as for his own acts, arising from the execution of any co-brokerage agreement.

(4) The Alabama broker shall determine that the out-of-state broker is licensed as a broker in another state.

(5) All earnest money pertaining to a co-brokerage agreement must be held in escrow by the Alabama broker unless both the buyer and seller agree in writing to relieve the Alabama broker of this responsibility.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.06. Prelicense And Post License School Approval And Requirements**

(1) All schools and instructors teaching real estate courses shall agree to be governed by rules and regulations adopted by the Commission for the orderly operation of the schools.

(2) All prelicense courses shall have a definite beginning and ending date.

(3) The administrator shall, at least five (5) business days prior to the beginning of a prelicense or post license course, send information concerning the exact location, times and dates of the courses to the Commission via the electronic submission program provided by the Commission. Should changes occur in this information, instructors and administrators must submit the changes immediately via the electronic submission program provided by the Commission.

(4) The administrator shall, within three (3) business days of course completion, report the credit for students who successfully complete the prelicense or post license course to the Commission via the electronic submission program provided by the Commission. Business days are Monday through Friday and do not include federal holidays, state holidays and weekends.

(5) No prelicense or post license course shall be approved by the Commission unless the following requirements are fulfilled.

(a) Courses shall be taught by an approved instructor.

(b) All courses shall comply with the curriculum as prescribed by the Commission.

(c) The salesperson prelicense course shall be completed within one year from the start date of the course or the student will receive no credit for classes completed and shall begin the course again. Students enrolled in the salesperson prelicense course can receive no more than six (6) hours credit per day.

(d) The 60-clock hour broker prelicense course shall be completed in order to qualify for the broker's exam. The course shall be completed within one year from the start date of the course or the student will receive no credit for classes completed and shall begin the course again. Students enrolled in the broker prelicense course can receive no more than nine (9) hours credit per day.

(e) The 30-hour post license course is required for all temporary salesperson licensees, whether on active or inactive status, within the first year of licensure. In order to maintain an active license, the course shall be completed and the original (permanent) license issued within the first six months of licensure. Students enrolled in the post license course can receive no more than nine (9) hours credit per day. Students shall start the post license course at the beginning of any course module in the approved course outline as allowed by the instructor.

(f) At least 80% of the course hours in the prelicense and post license courses shall be presented by live instruction unless the course is an ARELLO certified distance education course.

(g) Instructors shall offer incremental assessments including a final course exam. Students shall pass all required incremental assessments and the required final course exam that adequately measures mastery of course content and make a minimum course grade of 70% to successfully complete the salesperson prelicense course.

(h) Instructors shall teach a minimum of 60 hours for the prelicense course and a minimum of 30 hours for the post license course. Ninety (90%) percent course attendance in the prelicense and post license courses is required of students to successfully complete the course. Any sessions taken by students to make up missed hours must cover topics that have not already been taken in the course. Instructors may take a 10-minute break after each 50 minutes of instruction. Meals and other unrelated activities cannot be counted as part of the course hours.

(i) Upon completing the course hours, passing all required incremental assessments and the required final exam, and obtaining a minimum course grade of 70% in the salesperson prelicense course, the administrator shall submit the course credit as directed by the Commission. Salesperson applicants shall not be allowed to schedule the salesperson examination until exam eligibility has been submitted.

(j) Instructors and administrators shall provide each student who completes the salesperson prelicense course with instructions on where to access the Commission-approved prelicense course evaluation. Instructors and administrators shall also provide each student in prelicense and post license courses with information explaining the licensing process and deadlines. Instructors and administrators shall provide information on how to obtain the Application for Real Estate Salesperson's Original License to all post license students.

(k) Upon completing the course hours, passing the course final exam and obtaining a

minimum course grade of 70% in the broker prelicense course, the administrator shall submit the course credit as directed by the Commission. Broker applicants shall not be allowed to schedule the broker examination until exam eligibility has been submitted. Broker applicants shall meet all qualifications for a broker's license prior to making application. Successfully passing the exam is only one of several qualifications that are identified in Section 34-27-32. Failure to meet all broker qualifications prior to applying for a broker's license shall result in the exam score being rendered null and void and may subject the broker applicant to disciplinary action by the Commission.

(l) A person shall be required to have a temporary license issued prior to taking a post license course and earning post license credit. Instructors and administrators shall obtain the temporary license number before allowing a student to enroll in the post license course. Salespersons who make a minimum course grade of 70% and complete the 30 hour post license course may check the Commission website to ensure their course credit has been accurately reported. The temporary salesperson shall submit the application and fees for an original (permanent) license within the time frame set forth in Section 34-27-33.

(m) Schools shall maintain permanent records showing attendance, exam answer sheets, licensing process and deadline forms, course credit submission via the electronic submission program provided by the Commission, and any other documentation required by the Commission for a minimum of four (4) years. If a school closes because it merges with another school or is bought by another school, the records for the previous four years shall be turned over to and become the responsibility of the new school. If a branch school closes, the records for the previous four years shall be turned over to and become the responsibility of the main school. In the event a school closes and there is no school to whom the records would revert, the records for the previous four years must be turned over to the Commission.

(6) Salesperson applicants shall pass the state licensing salesperson examination within six (6) months immediately following the date of successful completion of the salesperson prelicense course approved by the Commission. Salesperson applicants who fail to meet this requirement shall be required to again successfully complete the salesperson prelicense course and pass the state licensing salesperson examination.

(7) Broker applicants shall pass the state licensing broker examination within six (6) months immediately following the date of successful completion of the broker prelicense course approved by the Commission. Broker applicants who fail to meet this requirement shall be required to again successfully complete the broker prelicense course and pass the state licensing broker examination

#### **Category: CHAPTER 790-X-1**

#### **Rule 790-X-1-.07. Qualifications For Prelicense And Post License Instructors**

(1) Prelicense and post license instructor applicants shall meet the following qualifications for approval:

(a) All instructor applicants must apply on a form prescribed by the Commission.

(b) All instructors shall have written approval from the Alabama Real Estate Commission prior to teaching an approved course.

(c) All instructor applicants of prelicense and post license courses shall hold a current broker's license in order to attain approval and must maintain a current broker's license in order to continue approval to teach prelicense and post license courses.

(d) Instructor applicants shall not have been found guilty of violating any provision of the Real Estate License Law or any rule, regulation or order of the licensing authority in any state.

(e) All instructors will be periodically reviewed and evaluated by the Alabama Real Estate Commission.

(f) All instructors shall attend Commission sponsored orientation courses and seminars when directed to do so by the Commission. Failure to do so will result in instructor approval being revoked in accordance with Rule 790-X-1-.17.

(2) Full-time college and university prelicense and continuing education course instructors shall be qualified when certified by their respective educational institutions.

(3) Qualifications for all prelicense and post license instructor applicants other than those specified in paragraph (2) above shall be:

(a) Instructor applicants shall meet the qualifications as specified by the Commission. The Commission shall rate the individual's qualifications in education industry experience, and teaching experience. The qualifications will be evaluated using a point system. An individual shall obtain a minimum of 70 points to be approved as an instructor.

The five major areas of evaluation and maximum points per category are:

1. Active real estate license experience-20 points
2. Real estate education-20 points
3. Formal education-20 points
4. Teaching experience-30 points
5. Real estate and related experience-10 points

(b) Each major category shall be comprised of subcategories thereby allowing consideration of a variety of qualifications.

(c) The Commission shall require that an instructor applicant submit appropriate documentation in order to be awarded points in any category or subcategory. No points can be awarded without supporting documents. If appropriate documentation is not received within 10 days of submission of the application, the application shall be denied and the application fee and all documentation shall be returned.

(4) Instructors cannot earn continuing education credit for courses taught.

#### **Category: CHAPTER 790-X-1**

#### **Rule 790-X-1-.08. Instructor Approval And Utilization**

Each real estate prelicense, post license and continuing education course and the instructor(s) responsible for conducting each course shall be approved by the Alabama Real Estate Commission. An approved instructor shall be present at each session of an approved real estate course. Unapproved guest speakers with expertise in particular areas may be



used in prelicense courses and post license courses at any time without limitation so long as the approved instructor is present during their respective presentations to guarantee satisfaction of all course requirements. An unapproved guest speaker can be used for a portion of a continuing education course so long as the approved instructor is present during the presentation. Multiple unapproved guest speakers can be used in a single continuing education course so long as the approved instructor is present during the entire course.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.09. Qualifications For Continuing Education Instructors**

(1) A continuing education instructor shall be defined as an instructor who is approved to teach only continuing education courses. All instructors who are approved to teach prelicense and post license courses are also approved to teach continuing education courses and shall not be required to qualify under this rule.

(2) Every continuing education instructor applicant shall apply for approval on a form prescribed by the Commission along with the appropriate fee. No instructor may begin teaching a course offered for continuing education credit until he/she has received written approval from the Commission.

(a) Continuing education instructor applicants shall not have been found guilty of violating any provision of the Real Estate License Law or any rule, regulation or order of the licensing authority in any state.

(b) Continuing education instructors shall be periodically reviewed and evaluated by the Alabama Real Estate Commission.

(c) Continuing education instructors shall attend Commission sponsored orientation courses and seminars when directed to do so by the Commission. Failure to do so shall result in instructor approval being revoked in accordance with Rule 790-X-1-.17.

(3) A person seeking approval to teach approved continuing education courses may seek approval in his/her principal occupation by possessing one of the following qualifications:

(a) Bachelor's degree in the field of instruction plus at least two years experience in the field of instruction;

(b) Teaching experience consisting of at least 75 hours in the application field within 3 years immediately preceding the date of the instructor's application plus 3 years full time experience in the field of instruction;

(c) Six years full time experience in the profession, trade or occupation in the field of instruction;

(d) Any combination of at least six years of full time experience relevant to the application field and college level education with course work in the field of instruction.

(4) All instructor applicants qualifying under (3) above shall submit documentation of qualifications and a resume outlining experience, education and/or teaching experience in the applicable field. If appropriate documentation is not received within 10 days of

submission of the application, the application shall be denied and the application fee and all documentation shall be returned.

(5) Approved instructors shall not earn continuing education credit for teaching courses.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.10. Application, Fees And Renewal Requirements For Instructors, Courses, And School Administrators**

(1) License and approval periods begin on October 1 of each odd numbered year and conclude on September 30 of the second year of the period.

(2) Instructor approval: Instructors shall submit application for approval as required by the Commission. The initial fee for instructor approval shall be \$50 per year or any portion thereof except that instructors who teach only elective continuing education shall pay an initial fee of \$25 per year or any portion thereof.

(3) Course approval: Instructors shall submit application for course approval as required by the Commission. Applications shall include an outline, learning objectives and learning strategies. The initial course review fee shall be \$100. An initial course constitutes either one being submitted for the first time or an existing course which incurs substantial changes as determined by the Commission. With the exception of distance education courses, all courses for which the Commission supplies a course outline do not require the \$100 initial course review fee for approval.

(4) School licensure: Proprietary schools that offer prelicense and post license courses shall submit application for licensure as required by the Commission and the initial license fee shall be \$250 per year or any portion thereof.

(a) Application for school licensure shall include appropriate license fee and verification of surety bond.

(b) Any proprietary school offering prelicense and/or post license courses in more than one location shall have a licensed branch school for each location using the same application procedure as the principal school.

(c) Any change of the name or address of a licensed school requires a written notice to be sent to the Commission within ten (10) days of making the change in order for a new license to be issued.

(5) School approval. Schools that offer only continuing education courses and accredited colleges and universities shall submit application for approval as required by the Commission. There is no fee for school approvals.

(6) Administrator approval: All schools shall name an individual associated with the school to serve as the administrator. The administrator shall be the person responsible for all course offerings and activities related to real estate education that are offered at the school and all acts governed by applicable rules which govern the operation of the school. Administrators shall submit application as required by the Commission. If an Administrator leaves a school, a new Administrator shall be approved within ten business days for the

school to continue offering courses. If an Administrator is not approved within ten days, the school shall become inactive until an Administrator is approved.

(7) Renewal reminders for instructors, courses, schools and administrators shall be sent by August 1 of the second year of the approval period.

(8) Instructor renewal: Instructors shall renew their instructor approval no later than September 30 of the second year of each approval period. Failure to meet this deadline shall result in the instructor being placed on inactive status until the instructor meets all renewal requirements. If placed on inactive status, the instructor shall not teach any classes until the approval is renewed. If renewal requirements are not met by December 31 of the first year of the next approval period, the approval shall not be renewed and the instructor shall apply as an original applicant and meet all requirements applicable to new instructors. The fee for instructor renewal shall be \$100 for the two year approval period. For those who teach only elective continuing education the fee shall be \$50 for the two year approval period.

(a) Preliminary and post license instructors shall complete 12 hours of instructor training courses approved by the Commission no later than September 30 of the second year of each approval period. These instructor training courses shall be taken in addition to the continuing education courses required for renewal of a salesperson or broker license. Instructor training courses may not be used to satisfy requirements for renewal of a real estate license nor may courses taken for real estate license renewal be used to satisfy requirements for instructor renewal.

(b) Instructor applicants approved in the second year of the approval period, instructors who teach only continuing education courses or full time college instructors shall not be required to complete 12 hours of instructor training courses for renewal of instructor approval.

(9) Course Renewal: In order to retain approval for each course, the instructor shall submit the renewal fee and an updated outline, learning objectives and learning strategies. Instructors shall renew courses no later than September 30 of the second year of each approval period. Failure by instructors to meet the September 30 deadline for course renewal shall result in course approval being placed on inactive status until the instructor meets all renewal requirements. If course renewal requirements are not met by December 31 of the first year of the next approval period, the course may not be renewed and the instructor shall submit a new course application and meet all requirements applicable to new courses. The fee for course renewal shall be \$50 per course for the two year approval period. All courses for which the Commissioner supplies a course outline do not require the \$50 renewal fee.

(10) Administrator renewal: Administrators shall renew their approval no later than September 30 of the second year of each approval period. Failure to meet this deadline shall result in both the administrator approval and school license or approval being placed on inactive status until the renewal requirements are met. If renewal requirements are not met by December 31 of the first year of the next approval period, the approval may not be renewed and the administrator shall apply as an original applicant and meet all requirements applicable to new administrators.

(11) School renewal: Administrators shall renew the school licensure or approval online as required by the Commission no later than September 30 of the second year of each license

or approval period. Failure to meet this deadline shall result in the school being placed on inactive status. If placed on inactive status, the school shall not offer any more classes until the licensure or approval is renewed. If renewal requirements are not met by December 31 of the first year of the next approval period, the licensure or approval may not be renewed and the school shall apply as an original applicant and meet all requirements applicable to new schools. The license renewal fee for proprietary schools which offer prelicense and post license courses shall be \$250 for the two year license period.

(12) Instructors who teach only college credit courses shall not be required to pay either the initial instructor or course application fee or the instructor or course renewal fee and shall not be subject to instructor renewal requirements.

(13) All instructors shall attend training programs as directed by the Commission in order to retain approval.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.11. Course Content For Continuing Education**

(1) To meet continuing education requirements, licensees shall complete fifteen (15) clock hours each license period as set out below:

(a) Three (3) clock hours in Risk Management – Level 1. In this level, brokers and salespersons shall take the Risk Management: Avoiding Violations course.

(b) Three (3) clock hours in Risk Management – Level 2. In this level, brokers and salespersons shall take the Risk Management for Brokers course or the Risk Management for Salespersons course or an industry-specific Risk Management course such as commercial real estate or property management approved for Level 2 credit by the Commission.

(c) Nine (9) clock hours in Commission-approved courses

(2) The curriculum for continuing education courses offered for elective credit shall consist of subjects which are "core" real estate and which will assist the licensee in fulfilling the Commission's statutory duty of protecting the public. Some examples of acceptable subject matter are License Law, RECAD (Real Estate Consumer's Agency and Disclosure Act), real estate ethics, real estate financing, appraisal and valuation, fair housing, truth-in-lending, agency relationships, agency disclosure, liability of real estate agents, writing contracts, handling escrow funds, environmental issues, negotiating techniques, listing and buyer presentations, writing and presenting offers, showing property, sales skills, communication skills, marketing, certain financial calculator courses, computer courses which are real estate specific and how to utilize technology in the practice of real estate. Examples of unacceptable subject matter are motivational courses, personal development courses, sales meetings, in-house training and orientation courses. All course topics and content are subject to approval by the Commission.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.12. Continuing Education Course Approval And Requirements**

(1) All instructors of continuing education courses shall apply for course approval on a form prescribed by the Commission along with a \$100 course review fee and all required documents. Applications for courses shall be submitted online as required by the Commission.

(2) Approved continuing education courses shall be taken from a Commission approved school and taught only by approved instructors. Otherwise those completing the course shall not receive credit toward meeting continuing education requirements.

(3) In order to be approved for continuing education credit, courses shall contain a minimum of three (3) clock hours of instruction. A licensee shall not earn more than nine (9) hours of continuing education credit in any one day. Upon special request courses which contain one and one-half (1 1/2) hours may be approved by the Commission.

(4) Administrators shall not advertise courses out as approved, enroll students or conduct classes for which students expect to earn continuing education credit prior to the course instructor receiving written approval from the Commission. Course instructors shall submit the course application to the Commission at least 14 days prior to the proposed beginning date of the course.

(5) Administrators shall report all required course information including the exact location, times and dates of the courses to the Commission via the electronic submission program provided by the Commission at least five (5) business days prior to the beginning of each course. Should changes occur in this information, the administrator shall submit the changes immediately via the electronic submission program provided by the Commission. Business days are Monday through Friday and do not include federal holidays, state holidays and weekends.

(6) Administrators shall within 10 days of course completion, report credit for the students who successfully completed the course to the Commission via the electronic submission program provided by the Commission. Credit completed on or before September 30 of a renewal year shall be entered before midnight of September 30 to avoid possible disciplinary action.

(7) Each school shall maintain permanent records for its students showing attendance, course credit submission via the electronic submission program provided by the Commission, and any other documentation required by the Commission for a minimum of four (4) years. If a school closes because it merges with another school or is bought by another school, the records for the previous four years shall be turned over to and become the responsibility of the new school. If a branch school closes, the records for the previous four years shall be turned over to and become the responsibility of the principal school. In the event a school closes and there is no school to whom the records would revert, the records for the previous four years must be turned over to the Commission.

(8) No more than one-third of any continuing education class can be presented through video unless the course is an ARELLO certified distance education course.

(9) Students shall attend 100% of the course offering in order to be awarded continuing education credit. Instructors may take a 10-minute break after each 50 minutes of instruction. Credit shall not be given for time spent on meals or other unrelated activities. The instructor and school shall not issue credit to students who do not attend 100% of the course offering.

(10) Prior to becoming licensed, a person shall not earn real estate continuing education credit.

(11) Any licensee who completes the entire 60 hour broker prelicense course or the entire 30 hour post license course shall earn 15 clock hours of continuing education credit which shall satisfy all continuing education requirements for the current license period.

(12) Instructors and schools shall provide each student in any approved continuing education class with instructions on how they can check continuing education credit and electronically submit a course evaluation on the Commission's website.

(13) Any licensee who completes a continuing education classroom course in another state which is approved by any state may receive credit in Alabama for successful completion of that course by submitting appropriate documentation as prescribed by the Commission including verification of approval by any state, the number of hours for which the course is approved, and course completion. Such courses shall count as elective continuing education credit only. These courses shall not be subject to renewal procedures, instructor application and fee or the course review fee.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.13. Exemptions From Continuing Education Requirements**

(1) Continuing education requirements do not have to be met in order for a license to be renewed on inactive status. However, in order to activate the license, the licensee shall complete the 15 clock hour continuing education requirement.

(2) Licensees shall be exempt from meeting continuing education requirements only if they were both 65 years old prior to October 1, 2000 and held a real estate license continuously from October 1, 1990 – September 30, 2000. For purposes of meeting this exemption licensure can be active, inactive, or a combination thereof.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.14. Student Attendance Participation Standards**

(1) Administrators and instructors shall take steps to ensure that all students comply with the following participation standards:

(a) A student shall direct his/her attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction.

(b) A student shall refrain from engaging in activities which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class such as personal conversations, talking on cell phones, and anything else that causes distracting noise.

(2) Administrators shall not submit course credit to the Commission for a student who fails to comply with the student attendance participation standards prescribed in Paragraph (1)(a) & (b) of this Rule.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.15. School And Instructor Advertising Regulations**

(1) No administrator and no instructor shall make, or cause to be made, any statement, or representation, oral, written, or visual in connection with the operation of a school or the offering of a course, if such person knows or reasonably should know the statement or representation to be false, inaccurate, or misleading.

(2) All school advertising shall contain the licensed or approved name of the school. A school shall not advertise in conjunction with any other business establishment unless the administrator submits a written statement to the Commission that the school will be responsible to ensure that all advertising complies with the laws and rules which govern advertising.

(3) No reference whatsoever shall be made in any newspaper, advertising brochures, etc. as to "pass/fail ratio" by any school/course sponsor or instructor approved by the Alabama Real Estate Commission with the exception that administrators and instructors may advertise that pass/fail rates can be viewed on the Alabama Real Estate Commission's website.

(4) There shall be no advertising which guarantees or alludes to a guarantee of passing the state examination.

(5) Failure by administrators and instructors to comply with advertising laws and rules shall result in disciplinary action as set forth in Commission rules.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.16. Audits Of Approved Schools And Instructors**

(1) All schools and instructors shall be subject to audit to ensure compliance with the Real Estate License Law and the Rules and Regulations of the Alabama Real Estate Commission. In the event of such an audit, the responsible individual shall make available to the authorized representative of the Commission all documentation and information requested which is necessary for the audit. This information may include but is not limited to:

(a) a list of all guest lecturers and substitutes within the past six (6) months

(b) attendance records, credit entry verification, and licensing process and deadline forms when appropriate

- (c) classroom facilities as set forth in Commission rules
- (d) school advertisements
- (e) course examinations and answer sheets when appropriate
- (f) classroom management as set forth in Commission rules
- (g) any provision identified in Commission rules that could lead to disciplinary action

(2) The Commission representative(s) may make photocopies of records which the education provider is required to maintain by the Real Estate License Law or by Rules and Regulations of the Commission.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.17. Disciplinary Actions For Instructors, Administrators And Schools.**

The Commission may take disciplinary action against an instructor, an administrator or a school in accordance with §34-27-6 for violation of any of the following:

- (1) Is a party to any falsification of any document or other information provided to the Commission.
- (2) Publishes or causes to be published any advertising which is not in accordance with Commission rules.
- (3) Is guilty or has been found guilty of violating or disregarding any provision of the Alabama Real Estate License Law or any rule, regulation or order of the Commission.
- (4) Engages in conduct which constitutes or demonstrates dishonest dealings, bad faith or untrustworthiness.
- (5) Fails to file with the Commission, either by paper or electronically, accurate and complete records or fails to furnish any documents at the request of the Commission by the required deadlines.
- (6) Awards credit to any student who fails to comply with the student attendance participation standards as set forth in Commission rules.
- (7) Fails to obtain a license for each location where the school offers a prelicense or post license course.
- (8) Does an inadequate job of teaching the curriculum required by the Commission or submitted to be approved by the Commission as evidenced by the use of inaccurate, inappropriate and outdated teaching materials/information student's poor performance on the state examination, student evaluations and/or Commission audits. This shall include failing to teach the content contained in the detailed content outline approved by the Commission.



(9) Takes no action to correct problems as identified in Commission audits.

(10) After receiving written warning from the Commission, continues to make inaccurate comments to students regarding course content or continues to offer opinions represented as being the law or principles of law to students which are in conflict with any material contained in a Commission prescribed or approved course.

(11) Engages in unprofessional behavior and/or inappropriate conduct in the classroom including but not limited to regular tardiness, disorganization, the use of profanity, ridicule, and sarcasm directed at subject matter, students or others, telling offensive jokes, and making inappropriate remarks unrelated to the subject matter.

(12) Fails to identify course objectives and display adequate knowledge of subject matter in presentation of information and answering of student questions.

(13) Fails to utilize a variety of teaching methods to accommodate visual, auditory, and tactile learning styles. Instructors shall not limit instruction to lecture, reading text material, utilizing audio-visual technology, or studying questions similar to those on the licensing examination which do not utilize interactive instructional techniques. Examples of interactive instructional techniques include but are not limited to role play, case studies, games, group work, etc.

(14) A revocation of instructor or school license or approval shall be for a period of two years. Any instructor or school whose license or approval has been suspended or revoked shall not be relicensed, reapproved, or reinstated without meeting all current instructor or school requirements and receiving approval from the Commission.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.18. Reciprocal License Requirements**

(1) Applicants for a reciprocal license shall have a current license in a qualifying state either on active or inactive status which is not a reciprocal or nonresident license. A qualifying state is one in which the applicant completed prelicense course work and passed a comprehensive examination which contained general real estate in addition to state law. This shall be evidenced by a certification of licensure (license history) that is obtained from the qualifying state within the 120 days immediately prior to the issuance of an Alabama license. For initial licensure as a reciprocal salesperson or broker, at minimum the certification of licensure shall show:

(a) Name and address of the licensee; and

(b) Status of the license (current, renewed, not renewed, expired, lapsed, etc.) and

(c) Type of license (salesperson, broker, etc.); and

(d) Period of time the license has been active and inactive over at least the previous 36 months; and

(e) If the applicant passed an examination; and

(f) Whether the examination consisted of the national and state portion or only the state portion; and

(g) Record of any disciplinary action against the licensee; and

(h) Any other documentation the Commission may require.

(2) Persons who hold an entry level license in the qualifying state; i.e., a salesperson license in most states, shall apply for a reciprocal salesperson license in Alabama provided all other eligibility requirements are met. For single licensing states, the first level of broker licensing equates to salesperson licensing in Alabama.

(3) Persons who hold a license that is beyond entry level in a qualifying state, i.e., a broker license in most states, shall apply for a reciprocal broker license in Alabama provided all other eligibility requirements are met. For single licensing states, the second level of licensing or higher equates to broker licensing in Alabama.

(4) If potential reciprocal applicants have questions regarding their eligibility for licensure, they shall submit a "Request for Determination of Reciprocal Licensing Eligibility" along with a certification of licensure to the Commission for review and determination of eligibility. The form may be obtained from the Commission's website.

(5) In addition to license requirements in Section 34-27-32(a) and (b) of License Law, applicants for a reciprocal salesperson or a reciprocal broker license shall meet the following requirements before applying for a reciprocal license.

(a) Complete six (6) hours of reciprocal salesperson prelicense or reciprocal broker prelicense coursework prescribed by the Commission in order to qualify for the reciprocal license examination. These six hours of coursework shall not qualify for continuing education credit.

(b) Pass the reciprocal salesperson or reciprocal broker license examination offered by the testing agency under contract with the Commission. The examination appointment shall be made and the examination fee paid to the testing agency as published in the Candidate Handbook. When the registration has been processed, the applicant shall be notified of the time to report to the exam center. Unscheduled candidates shall not be admitted.

(6) An examination fee shall be paid for each scheduled examination whether or not the applicant takes the exam unless the applicant is rescheduled in accordance with policies as specified in the Candidate Handbook. Applicants who fail the examination may retake the examination by following application procedures as outlined in the Alabama Candidate Handbook.

(7) Reciprocal salesperson and reciprocal broker license applicants shall pass the examination within six (6) months immediately following the date of completion of the reciprocal prelicense course approved by the Commission. Reciprocal applicants who fail to meet this requirement shall be required to again successfully complete the appropriate reciprocal prelicense course and pass the appropriate reciprocal license examination.

(8) The passing grade for both the reciprocal salesperson and reciprocal broker examinations shall be seventy (70). A time limit of one hour is allotted for completion of the required examination.

(9) Upon completing the course hours the administrator shall electronically submit the course credit to the Commission. Reciprocal applicants shall not be allowed to schedule the reciprocal salesperson examination or reciprocal broker examination until course credit has been submitted.

(10) Instructors and administrators shall provide each student who completes the reciprocal salesperson or reciprocal broker prelicense course with instructions on where to access the Commission-approved prelicense course evaluation. Instructors and administrators shall also provide each student with information explaining the licensing process and deadlines.

(11) Reciprocal licensees shall meet continuing education requirements by complying with either paragraph (a) or paragraphs (b) and (c) below:

(a) Complete the appropriate 15 hours of continuing education courses approved by the Alabama Real Estate Commission.

(b) Submit to the Commission a certification of licensure or letter that is issued by the regulatory agency in the state where prelicense course work was completed and the licensing examination was passed. The certification of licensure or letter shall at minimum show:

1. the type of license
2. the license is active and current at least through October 1 of the calendar year during which the Alabama license is being renewed.
3. a full licensing examination, not just state portion, was passed in that state.

(c) The certification of licensure or letter in paragraph (b) above shall be dated no earlier than June 1 of the final year of the Alabama license period and shall be received by the Commission no later than September 30 of the final year of the Alabama license period.

(12) If continuing education requirements are not satisfied by the prescribed deadline the reciprocal licensee shall be automatically placed on inactive status and subject to all reactivation requirements as provided in § 34-27-35, Code of Ala. 1975.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.19. Classroom Facilities**

Courses shall be conducted in a facility that provides an appropriate learning environment. At a minimum, the classroom shall:

- (1) be of sufficient size to accommodate comfortably all enrolled students;
- (2) be adequately equipped with student desks, worktables with chairs or other seating having a writing surface and arranged so that the writing surface is in front of students allowing students to have an unobstructed view of the instructor and opportunities for interaction;
- (3) have adequate light, heat, cooling, ventilation, and public-address equipment;

(4) be free of distractions that disrupt class sessions; and

(5) be accessible to persons with disabilities as required by the Americans with Disabilities Act.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.20. Petition For Adoption, Amendment, Or Repeal Of Rule**

(1) Any person desiring to propose that the Alabama Real Estate Commission adopt, amend, or repeal any rule may petition for such a rule change on a form made available upon request by the Commission.

(2) The Commission shall consider any petition submitted under this Rule and shall, within sixty (60) days after receipt of petition, either deny the petition on its merits in writing, stating the reason for denial, or shall initiate rule-making procedures on the proposed action in accordance with the Alabama Administrative Procedure Act.

**Category: CHAPTER 790-X-1**

**Rule 790-X-1-.21. Distance Education Courses**

Distance education courses are programs whereby instruction does not take place in a traditional classroom setting but rather where teacher and student are apart and instruction takes place through other media. Distance education courses include but are not limited to those which are presented through interactive classrooms, computer conferencing, interactive computer and the Internet. Distance education courses may be offered by approved instructors of primary or secondary providers.

(1) A primary provider is defined as a course developer who has a proprietary interest in the course. Primary providers may have their own instructors deliver courses and/or may market the courses to secondary providers. If a primary provider offers distance education courses directly to Alabama licensees, the provider shall be a school licensed or approved by the Commission.

(2) A secondary provider is defined as a school which obtains a distance education course from a primary provider. The secondary provider shall have approved instructors who are responsible for enrolling students, providing course orientation, monitoring student progress, answering student questions, administering and grading exams, verifying and reporting course completion and verifying student identity. Any school providing any of these services, other than administering a final exam, shall be deemed to be a secondary provider. The secondary provider shall be a school licensed or approved by the Commission.

(3) Instructors of distance education courses shall be approved by the Alabama Real Estate Commission. Instructors shall not receive approval until they receive the Distance Education Instructor Certification from IDECC (International Distance Education Certification Center), which is a subsidiary of ARELLO (Association of Real Estate License Law Officials), and submit verification of the certification to the Commission. The Distance Education Instructor

Certification shall be renewed and kept current in order for the instructor to continue offering distance education courses.

(4) Administrators of schools offering the prelicense course shall provide students with licensing requirements and information on how to schedule to take the licensing examination. Administrators of schools offering the post license course shall provide students with original salesperson license requirements and an application.

(5) All distance education courses developed by approved primary providers shall be approved by the Commission prior to being marketed to secondary providers who will offer the courses to Alabama licensees. Additionally, all distance education courses that will be offered to Alabama licensees by either primary or secondary providers shall be approved by the Commission. Any course containing major content errors or which fails to meet curriculum requirements shall be denied. The revised course may be submitted at a later date along with a new application and course review fee.

(6) Approved instructors who submit any distance education course for approval shall submit the Course Summary Certificate number from ARELLO or IDECC along with the course application and fee. For secondary providers, the Course Summary Certificate from ARELLO or IDECC shall be the same number received by the primary provider.

(7) All distance education courses of primary providers shall be certified by ARELLO or IDECC before being submitted to the Commission for approval and shall retain certification in order to retain Commission approval. This includes prelicense, post license and continuing education courses. College credit courses offered through distance education at approved colleges and universities shall be exempt from ARELLO or IDECC certification.

(8) Secondary providers shall only offer courses which primary providers have had certified by ARELLO or IDECC. The instructor for a secondary provider shall not be required to obtain ARELLO or IDECC certification for courses.

(9) Instructors of approved distance education courses shall submit to the Commission their procedures for enrolling students, monitoring their progress, answering student questions, administering and grading exams, verifying and reporting course completion and verifying student identity. Instructors shall provide course requirements to all students in writing electronically or by mail when a distance education course is purchased. These requirements include, but are not limited to, submission of required forms, specific course deadlines, and the process for license examination scheduling.

(10) ARELLO or IDECC certified distance education courses shall follow curriculum requirements as specified by the Commission. Instructors who teach courses developed by another school or organization shall review the course for accuracy and applicability of content prior to submitting it to the Alabama Real Estate Commission for review and approval.

(11) Administrators shall give distance education students instructions on how they can electronically submit a course evaluation to the Commission.

(12) Distance education courses of primary providers shall continue to be ARELLO or IDECC certified in order to continue their approval with the Alabama Real Estate Commission. If ARELLO or IDECC certification is discontinued for any reason, approval by the Alabama Real Estate Commission shall be simultaneously discontinued for all primary and secondary providers who offer the affected course.

(13) The Commission may withdraw approval for any distance education course that is not offered in accordance with Commission requirements for distance education courses.

(14) The Commission may withdraw approval or otherwise discipline instructors and schools in accordance with Rule 790-X-1-.17 for any instructor who teaches distance education courses that do not comply with all applicable rules and statutes.

(15) In order to successfully complete the prelicense or post license course, students shall take and score a minimum of 70% on a proctored final examination administered in an educational facility or library by an approved real estate instructor, an approved school administrator, a qualified library employee or volunteer who is not in the real estate business, or a current or retired education professional who is not in the real estate business.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.01. Documentation Required For License Issuance**

The following items shall be required for documentation of licensing requirements:

(1) All applicants shall be at least 19 years of age as evidenced by a copy of a valid driver's license, U. S. passport, birth certificate or any other documentation acceptable to the Alabama Real Estate Commission.

(2) All applicants for a temporary salesperson, original salesperson, or broker's license shall certify on the appropriate application form that he or she is either a citizen of the United States, or is a permanent resident alien, or is legally present in the United States. Additionally, every applicant shall provide documentation of their status. This documentation shall be in the form of a photocopy of any one of the below listed documents, and shall be attached to the application form submitted to the commission office:

(a) Driver license or non-driver identification issued by any state of the United States; or

(b) Birth certificate issued by any state in the United States; or

(c) Permanent Resident Card, commonly known as a green card; or

(d) Any visa issued by the United States; or

(e) Any other documentation issued by the United States indicating legal presence in the United States.

(3) All applicants shall document their state of residence as evidenced by a photocopy of any one of the below listed documents:

- (a) current driver's license; or
- (b) car tag receipt; or
- (c) deed to a home; or
- (d) lease agreement on a home or residential apartment; or
- (e) property tax bill; or
- (f) voter's registration card; or
- (g) other document acceptable to the Alabama Real Estate Commission.

(4) All applicants for a reciprocal license shall submit an official Certificate of Licensure form (license history) from the state where the applicant holds a current license. The Certification of Licensure shall be issued within the 120 day period prior to the issuance of the Alabama license. At minimum it shall show:

- (a) Name and address of the licensee; and
- (b) Status of the license (current, renewed, not renewed, expired, lapsed, etc.) and
- (c) Type of license (salesperson, broker, etc.); and
- (d) Period of time the license has been active and inactive over at least the previous 36 months; and
- (e) If the applicant passed an examination; and
- (f) Whether the examination consisted of the national and state portion or only the state portion; and
- (g) Record of any disciplinary action against the licensee; and
- (h) Any other documentation the Commission may require.

(5) All applicants who completed high school in the United States, except those applying for a reciprocal license and those who were home schooled, shall show proof of high school graduation by providing a photocopy of one of the below listed documents:

- (a) High school diploma; or
- (b) High school transcripts showing graduation date; or
- (c) GED Certificate; or

(d) College diploma; or

(e) College transcripts showing completion of a minimum of two full terms (quarters or semesters); or

(f) Teaching certificate; or

(g) DD-214 showing verification of high school completion.

(6) All applicants who were home schooled in the United States shall provide a notarized transcript and a letter of recommendation from the home school group leader. Diplomas shall not be accepted.

(7) All applicants who completed high school outside the United States shall provide one of the following:

(a) A transcript from a United States college showing that the applicant's high school education was sufficient to allow the applicant to be admitted into a post-secondary education program; or

(b) A Document-by-Document Evaluation Report verifying the equivalence of the foreign high school graduate's education to that of an American high school education. The Document Evaluation shall be conducted through an education credential evaluation service that holds membership in the National Association of Credential Evaluation Services (NACES.)

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.02. Applications For Examination And Licensure**

(1) Should any applicant for a real estate broker's or salesperson's license falsely answer any questions on either his/her examination or license application or misrepresent any facts relating to either application, said application may be rejected by the Commission and returned to the applicant. Any applicant whose application is not deemed acceptable may request a hearing before the Commission relative to such rejection.

(2) Any real estate broker who knowingly signs a license application stating the applicant under his/her sponsorship is of good reputation and is trustworthy may be held liable for such statements; and should a routine investigation of the applicant's background prove otherwise, the sponsoring broker may be subject to a fine or revocation or suspension of his/her license.

(3) All temporary salesperson and original broker license applications shall contain a recent photograph.

(4) The examination appointment shall be made and the examination fee paid to the testing agency as published in the Candidate Handbook. When the registration has been processed, the applicant shall be notified of the time to report to the exam center. Unscheduled candidates shall not be admitted.



(5) An examination fee shall be paid for each scheduled examination whether or not the applicant takes the exam unless the applicant is rescheduled in accordance with policies as specified in the Candidate Handbook.

(6) Applicants who fail the examination may retake the examination by following application procedures as outlined in the Alabama Candidate Handbook.

(7) The passing grade for both the salesperson and broker examinations shall be seventy (70). A time limit of three and one-half (3 1/2) hours is hereby set and allotted for completion of the required examination.

(8) All salesperson and broker applicants shall complete all required course work, including passing the course final examination, prior to taking the state examination.

(9) Salesperson applicants shall show successful proof of completion of the 60 hour salesperson prelicense course in the exam provider's electronic eligibility database prior to scheduling the salesperson examination.

(10) Broker applicants shall show proof of successful completion of the 60 hour broker prelicense course in the exam provider's electronic eligibility database prior to scheduling the broker examination.

(11) Reciprocal salesperson and broker applicants shall show successful completion of the six (6) hours of reciprocal prelicense coursework in the exam provider's electronic eligibility database prior to scheduling the reciprocal salesperson examination or the reciprocal broker examination.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.03. Issuance Of Temporary And Original Salesperson Licenses**

(1) A person shall be required to have a temporary license issued prior to taking a post license course and earning post license credit. The license holder shall provide the temporary license number to the instructor before he/she will be allowed to begin the post license course.

(2) The expiration date on a temporary license shall be six months from the first day of the month following its issuance, i.e.; the expiration date shall be midnight on the last day of the last month of the six-month period. After that, the license shall be valid, although inactive, for another six months as prescribed by statute. After this one-year period, the inactive temporary license shall lapse if the holder fails to complete the 30-hour post license course, submit a completed original salesperson application and fee, and have the original (permanent) license issued. The inactive temporary license shall lapse at midnight on the last day of the last month of the one-year period.

(3) A temporary license may be on active status only during the six months following its issuance. During the remaining six months in which the temporary license holder has to complete the post license course, the temporary license may only be on inactive status. The license may be activated with the issuance of the original (permanent) license.

(4) A temporary license holder may transfer a license via the regular transfer procedures anytime during the first six months after the issuance of the temporary license.

(5) The application for the original (permanent) license shall be received in the Commission office on or before the date the temporary license would lapse. Therefore, the original license application, appropriate fees and proof of completion of the post license course shall be received in the Commission office on or before midnight on the last day of the month which is one year from the first day of the month following the issuance of the temporary license.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.04. Additional Broker License**

(1) A broker doing business in the name of a corporation or partnership and who also desires to do business as a sole proprietorship or for another corporation or partnership located at the same address must obtain and submit to the Commission a letter of consent from all officers of the corporation, or partners of the partnership.

(2) A corporation, partnership, or sole proprietorship may grant permission for its qualifying broker to be qualifying broker for another corporation, partnership or sole proprietorship doing business in the same location. Any licensee licensed under a broker who serves as qualifying broker for more than one corporation, partnership or sole proprietorship operating from the same address may operate under either corporation, partnership or sole proprietorship sharing the same qualifying broker.

(3) A qualifying broker for a real estate company may serve as an associate broker for another real estate company at the same location.

(4) A broker may serve as a qualifying broker for a real estate company and a vacation timesharing plan provided that both are located at the same address.

(5) A broker shall hold a separate license for each firm which he represents as a broker.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.05. Names On Application For Licenses**

An application for temporary salesperson, original salesperson, broker, reciprocal license or license renewal shall include the full legal name of the applicant. If the applicant, in licensed real estate activities, uses or desires to use any name other than their full legal name or use a shortening of their name that does not use the same letters in the same order as a portion of their full legal name, then the applicant shall include that nickname or assumed name on their application.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.07. Place Of Business And Signage**

A place of business shall be identified by a sign which sets out the name of the company as licensed with the commission. In places where an exterior sign is permitted a sign shall be posted outside of the office so that it is plainly and readily visible to the public. In places where an exterior sign is not permitted, an interior sign shall be posted. The interior sign shall be in keeping with the building restrictions, and if permitted, shall be posted in the entry area and on the door of the office or suite of offices. Appropriate files and records shall be maintained in the place of business.

**Rule 790-X-08 through 12 Repealed**

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.13. Activation Of Inactive License**

A total of 15 clock hours of approved continuing education shall be completed to activate an inactive license when the license is activated for the first time in a license period. An additional 15 hours of approved continuing education coursework shall be completed to renew the license on active status for the next license period.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.14. Evidence Of Transfer**

(1) Any license(s) subject to any type of transfer may be mailed by certified or registered mail, return receipt requested, to the Commission office, together with the required form(s), license certificate(s), and fee(s).

(2) The certified or registered mail paid receipt shall be retained by the sender and will serve as evidence of new license(s) issued by the Commission. The effective date of the transfer shall be the date of mailing as shown by the mail receipt, provided all necessary forms and fees were submitted, completed, and paid.

(3) In cases where all necessary forms and fees are not submitted, completed, and paid within ten (10) days of the commission's receiving of the mailing, the attempted transfer shall be null and void and the Commission shall return all submitted forms and fees to the sender as soon as practicable, together with notice to the licensees involved that the attempted transfer was not completed.

(4) In cases where an attempted transfer is not completed, the qualifying broker under whose authority any licensee acts shall be responsible for those actions.

(5) Routinely mailed transfers are not governed by this rule.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.15. Return Of License**

A corporation, partnership or individually owned company may withdraw consent for a broker or salesman to continue doing business in its name by notifying the Commission and the broker or salesman in writing and returning to the Commission the license of the broker or salesman for whom consent is withdrawn.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.16. Renewals**

(1) If for any reason a licensee fails to receive a renewal form, it shall be the responsibility of the licensee to notify the Commission of this failure by August 10 of the renewal period.

(2) Only the renewal of a license shall be affected with a renewal form. Any changes constituting a transfer must be submitted in accordance with established transfer procedures.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.17. Display Of License**

The real estate licenses of all companies, branch offices, brokers, and salespersons shall be publicly displayed at the place of business. The qualifying broker shall be responsible for displaying only those licenses which show the current status of the licensee.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.18. Veteran Exemption**

Pursuant to Code of Ala. 1975, §§ 40-12-340 through 352, a business or occupations license exemption of \$25.00 for each, the state, county and municipality, with no deadline, is provided for any permanent resident of Alabama who is a veteran and who has physical disabilities of twenty-five percent (25%) or more, whether service connected or not, who conducts his business as a means of livelihood through his personal efforts and has not more than one employee and whose property is valued at less than \$5,000.00 and net income is less than \$2,500.00.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.19. Holding Of Timeshare License And Real Estate License**

A person may hold a vacation timesharing seller's license and a real estate license under separate qualifying brokers at separate locations provided that, in addition to meeting all other requirements for licensure, the licensee obtains written consent to hold both licenses on a form prescribed by the Commission and signed by both of the licensee's qualifying brokers.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.20. Recovery Fund Fee Exemption**

Any licensee whose original license is issued on inactive status shall not be required to pay a real estate recovery fund fee for that license until such time as the license is activated. For such a license to be activated, the initial recovery fund fee and any supplemental recovery fund fee shall be submitted to the Commission along with all other appropriate documentation and fees.

**Rule 790-X-2-22 and 23 have been repealed**

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.24. Condominium Sales And Leasing Office**

(1) When a real estate company maintains an on-site office in a condominium building or complex, this office shall not be considered a branch office, and shall not be required to have a branch office license, provided all the following conditions shall be met:

(a) Licensed persons shall be present to show property for sale or rent and to engage in all other activities requiring a real estate license; and

(b) Unlicensed persons may be in the office, and may engage in clerical functions including taking reservations, as long as licensed persons are present to consummate the rental agreements; and

(c) The activities of all licensed and unlicensed persons in the office shall be confined to the business of that one condominium building or complex.

**Category: CHAPTER 790-X-2**

**Rule 790-X-2-.25. Model Home Sales Office**

(1) When a real estate company maintains an office at a residential subdivision or development this office shall not be considered a branch office, and shall not be required to have a branch office license, provided all the following conditions shall be met:

(a) The company shall have a listing agreement covering all first-time sales of all the lots in the subdivision or development; and

(b) Sales activities shall be limited to the first-time sales, and no re-sales shall be permitted from this office; and

(c) Only licensed persons shall be present at the office to show property for sale and to engage in the other activities requiring a real estate license; and

(d) No other business activities of the company shall be conducted at this office. The activities of all persons in the office shall be confined to the business of that one subdivision or development.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.01. Change Of Address**

It shall be a violation for any licensee to change the address of his place of business as set out on his numbered license certificate and fail to notify the Commission in writing within thirty (30) days after such change has been made. Such notification shall include both the old and new addresses of the company. To effect a change of business address, the qualifying broker must return to the Commission the company license plus all broker and salesperson licenses. A \$25.00 transfer fee must be included for each license issued to that company.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.02. Returned Check Fee**

The Commission may charge a fee for a check, draft or other negotiable instrument returned to the Commission unpaid up to the maximum amount allowed by § 8-8-15 Code of Ala. 1975.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.03. Deposit Of Funds**

(1) The deposit and accounting for at all times of all funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama shall require that the qualifying broker be a customer of the financial institution holding all such accounts and the qualifying broker shall be one of the persons with authority to deposit and withdraw funds and to write or make checks as necessary on all such accounts.

(2) Each real estate salesperson or associate broker shall pay over to his or her qualifying broker all funds coming into his or her possession in trust for other parties immediately upon receipt of same.

(3) Each qualifying broker is responsible for deposit of all funds belonging to others coming into his or her possession or of a salesperson or associate broker licensed under him or her where such funds are to be held in trust, unless the qualifying broker is expressly relieved of such responsibility in writing. In cases where the funds are U. S. currency, i.e. cash as opposed to a check or note, these funds shall be deposited immediately. In cases where a check is received as earnest money and the contract form states that the check is to be held for a specific length of time or until the occurrence of a specific event, then the check shall be deposited when the contract form states, or if no time for deposit is specified in the contract form, then the check shall be deposited when the offer becomes a contract.

(4) Funds to be held in trust under a contract for sale involving more than one qualifying broker shall be held and deposited by any of the qualifying brokers involved in the sale. All funds to be held in trust, whether by contract for sale, or by lease or property management agreement, shall be held and deposited by the qualifying broker who is providing these services to the owner. In cases where a successor qualifying broker is to provide these services, the first broker shall provide a complete accounting of the funds and shall transfer the funds to the successor broker. The qualifying broker who is currently providing services

to the owner shall be responsible to the public and to the commission for all funds. Upon request by the Commission or its authorized representative, each qualifying broker shall promptly account for any trust funds being held by that qualifying broker.

(5) Disbursement of funds held in trust: Unless otherwise stated in this rule, each qualifying broker shall promptly disburse to the appropriate party or parties any trust funds within 7 business days of the consummation of the transaction for which the funds were deposited. If for any reason the transaction is not consummated, or if for any reason there is a disagreement involving to whom trust funds should be disbursed, the qualifying broker shall not disburse any trust funds except pursuant to a written agreement signed by all parties or pursuant to a court order.

(6) Disbursement of security deposits held in trust under a lease agreement:

(a) Residential leases security deposits: Refer to Alabama Code Section 35-9A-201 Security Deposits; Prepaid Rent, and 35-9A-205 Limitation of Liability. Alabama Code Sections 35-9A-201 and 35-9A-205 have priority and qualifying brokers shall comply with their instruction.

(b) Commercial leases security deposits:

Upon termination of the tenancy, money held for the landlord by a qualifying broker as security may be applied to the payment of accrued rent and the amount of damages that the landlord has suffered by reason of the tenant's noncompliance of the lease all as itemized by the qualifying broker in a written notice delivered to the tenant together with the amount due within 60 calendar days after termination of the tenancy and delivery of possession.

If the qualifying broker does not refund the entire deposit, the qualifying broker, within the 60-calendar day period, shall provide the tenant an itemized list of amounts withheld.

Upon vacating the premises, the tenant may provide to the qualifying broker a valid forwarding address, in writing, to which the deposit or itemized accounting, or both, may be mailed. If the tenant fails to provide a valid forwarding address, the qualifying broker shall mail, by first class mail, the deposit or itemized accounting or both, to the tenant at the address of the property. Any deposit unclaimed by the tenant as well as any check outstanding shall be forfeited by the tenant after a period of 90 calendar days.

The qualifying broker's mailing, by first class mail, to the address provided in writing by the tenant, within 60 calendar days of the refund or itemized accounting, or both, is sufficient compliance with this chapter.

(c) Security deposits and trust funds subject to a management termination by a landlord or the qualifying broker: If a landlord and/or qualifying broker terminates a management agreement for leased properties, the qualifying broker shall provide an accounting of all security deposits, prepaid rents and other related escrows, and provide such accounting to the landlord or new manager of the property, within seven (7) business days of the management termination effective date, along with payment of funds. A qualifying broker, who is the manager of leased properties, whose leases include security deposits, is relieved of liability under the lease agreements and this chapter as to events occurring after written notice to the tenant of the termination of management and name of the new management.

(d) Security deposits subject to a sale of the property: If a landlord conveys property subject to a rental agreement in a good faith sale to a bona fide purchaser, the qualifying broker shall provide an accounting of all security deposits, prepaid rents and other related escrows, and provide such accounting to the purchaser of the property, within seven (7) business days of the closing of the sale, along with payment of funds, if such funds are not already transferred via sale closing documents. Upon the date of accounting and payment, the qualifying broker is relieved of trust funds liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the sale and name of the new management.

(7) This Rule shall not prohibit a broker from depositing with the appropriate court any trust funds which are the subject of disagreement among or between parties under the rules of interpleader or other lawful procedure.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.04. Estimated Closing Statement**

(1) The licensee who procures a written offer from a buyer in a single family residential transaction shall prepare and furnish to the buyer a complete estimated closing statement at the time the offer is signed by the purchaser. This statement must contain the licensee's best estimates of all costs the buyer is expected to have at closing and the approximate amounts of those costs. The buyer must acknowledge receipt of the estimated closing statement by signature on the form.

(2) The licensee who presents a written offer to a seller in a single family residential transaction shall prepare and furnish to the seller a complete estimated closing statement at the time the offer is presented to the seller. This statement must contain the licensee's best estimates of all costs the seller is expected to have at closing and the approximate amounts of those costs. The seller must acknowledge receipt of the estimated closing statement by signature on the form.

(3) For purposes of records retention, it is sufficient that each licensee retain in his or her qualifying broker's file the statements required of him or her under this rule. It is not necessary that cooperating brokers maintain both buyer's and seller's statements.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.05. Automatic Extensions**

Listing contracts shall contain no provision for automatic extensions.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.06. Probable Cause Determination**

The investigator to whom a particular matter is assigned, in consultation with the Attorney General or his representative and the Executive Director, shall determine whether probable cause exists regarding that matter for filing a formal complaint and/or holding a hearing for the refusal, suspension or revocation of a license or the fining or reprimanding of a licensee.



**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.07. Hearings**

(1) If a formal complaint is filed against a licensee, the Commission may proceed to hold a hearing on the matter of the complaint at its discretion if the party or parties initiating the complaint and the party or parties against whom the complaint was made reach a settlement and wish the complaint withdrawn.

(2) Any licensee or unlicensed person or unlicensed entity charged with a violation of the Alabama Real Estate License Law has a right to a hearing. The right to a hearing may be waived by the accused. Settlement procedures including a plea of guilty and/or consent to disciplinary action may be utilized by agreement between the accused and the commission.

(3) The complainant(s) or respondent(s) who desire to have witnesses testify in their behalf may request that the Commission issue subpoenas for such witnesses by depositing with the Commission required funds in the form of a cashier's check or certified check, made payable to the Alabama Real Estate Commission.

(4) The per diem and mileage cost of witnesses for interested parties in a complaint hearing shall be twenty dollars (\$20.00) per diem. Mileage for subpoenaed witnesses will be the same as that as set from time to time under the requirements of § 36-7-22, Code of Ala. 1975, for persons traveling on official business for the State and as published by the State of Alabama Department of Finance, Office of the State Comptroller.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.08. Offers Made To Licensee**

A real estate licensee who is acting as an agent for a principal shall transmit to his principal all written offers received regarding the property under consideration.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.09. Office Inspections**

(1) The staff of the Alabama Real Estate Commission is authorized to make an inspection of any licensed real estate company to ensure that such company is in compliance with the Real Estate License Law and the Rules and Regulations of the Commission.

(2) In the event of an office inspection of a real estate company, its qualifying broker shall ensure that the business records required to be kept under state law or by the Rules and Regulations of the Commission are made available to such Commission representatives. These records may include but are not limited to:

- a. real estates licenses issued a company or broker
- b. R.E.C.A.D office policy
- c. files for closed transactions

- d. all pending sales files
- e. all property management contracts, lease agreements and rental records
- f. copies of the past six months bank statements with canceled checks for all escrow or trust accounts
- g. copies of recent bank reconciliation performed on all escrow or trust accounts
- h. checkbook and or electronic records of check registers for all escrow or trust accounts
- i. duplicate deposit tickets with validated bank receipts for all escrow or trust accounts
- j. any lists, ledgers or records documenting the funds held in escrow purposes. The office will all also be audited for the place of business signage under Administrative Code [790-X-2-.07](#) and place of business requirements under § [34-27-2\(a\)\(11\)](#).

(3) The Commission representative(s), at the Commission's expense, may make photocopies of records which the licensee is required to maintain by the Real Estate License Law or by Rules and Regulations of the Commission.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.10. Requirement Of A Formal Complaint**

(1) The Commission staff may, in response to a complaint from an outside party or upon its own initiative, develop a Formal Complaint charging a licensee or timeshare seller with any violation of Code of Ala. 1975, Chapter 27 of Title 34, or a Commission Rule or Regulation where there is probable cause to believe that such a violation occurred.

(2) A Formal Complaint drawn by the Commission shall include at least the following:

- a. the name(s) of the party (or parties) against whom the complaint is being made;
- b. the legal authority and jurisdiction under which the charge is made;
- c. the type of license(s) held by the accused party (or parties) and the date each license was issued, and/or in the case of a charge of a violation by a timeshare developer or owner, the date the respective time-sharing plan was registered;
- d. the particular section(s) of the law and/or the specific rule or order alleged to have been violated; and
- e. a brief description of the act(s) or omission(s) upon which each allegation of violation is made.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.11. Hearing Officer**

(1) All hearings on contested cases before the Alabama Real Estate Commission shall be conducted by a hearing officer appointed by the Commission.

(2) The hearing officer shall have the authority to do all things necessary to ensure that such hearings are conducted in accordance with Alabama law and the Rules and Regulations of the Alabama Real Estate Commission.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.13. Agency/Brokerage Services Disclosure**

**Agency/Brokerage Services Disclosure**

1. The Real Estate Consumers Agency and Disclosure Act (RECAD) requires the Alabama Real Estate Commission to write a Real Estate Brokerage Services Disclosure form which describes the alternative types of brokerage services available to consumers in Alabama transactions. The use of this form is mandatory as required by RECAD and this rule. Additionally, the Commission has written a Consumer Information Booklet which is optional and may be used by any licensees who choose to use it.
2. Licensees, except those engaged in rental or property management services, and those in transactions set out in Section 34-27-82(d), are required to provide the Real Estate Brokerage Services Disclosure form to the consumer as soon as reasonably possible for his or her signature. Consumers are not required by law to sign the form, although the licensee should encourage that it be signed. If the consumer declines to sign, the licensee shall make a note to this effect on the form. The texts of the optional Consumer Information Booklet and the mandatory form follow:

**A Consumer Information Booklet**

**What Consumers Need to Know When Working with a Real Estate Broker**

As real estate transactions have become more complex and varied, the types of real estate brokerage arrangements available to the public have evolved to meet the changing needs of consumers entering this market. This booklet is intended to provide buyers and sellers with a description of the different types of brokerage arrangements so that consumers can choose the type of brokerage services best suited to their needs.

**Know Your Rights**

At the initial contact between a licensee (both sales persons and brokers) and the public, the licensee shall be considered to be a transaction broker. As soon as reasonably possible and before the exchange of confidential information, Alabama law requires the licensee to provide you with a written disclosure form that describes different types of brokerage arrangements. You are encouraged to read and sign this disclosure form. After disclosure you may then choose the type of brokerage agreement best suited to your needs. This brokerage agreement will contain a statement of the specific brokerage services the broker will provide. In the absence of a signed brokerage agreement, the transaction brokerage relationship will remain in effect. Make sure you talk to the real estate licensee with whom you are working to determine the type of services you need or will receive under alternative brokerage arrangements.

**Customer or Client?**

The most important thing you need to know when working with a real estate licensee is whether you are a client or a customer. A licensee owes certain duties to a client that are different from the services the licensee performs for a customer.

## **Agent and Client**

An agent is a person who acts for or represents you in negotiations with other parties. The client or principal is the person the agent represents. The licensee when acting as an agent must loyally represent the best interest of the client by placing the interests of the client ahead of the interests of any other party. In a real estate transaction, when a real estate salesperson is employed as an agent, the salesperson is obligated to negotiate the best price and terms for his or her client.

## **What is a Customer?**

A customer is a person who is provided services by a real estate broker, but who is not a client of the broker. In this case, the real estate licensee is not acting as an agent. The actual services you receive from a real estate broker depend on the arrangement that is established between you and the licensee. The different types of real estate agreements are described below. There are basically three types of real estate brokerage relationships that can be established between the consumer and a real estate licensee: Single agency, limited consensual dual agency, and a transaction brokerage arrangement.

## **Transaction Brokerage**

Transaction brokerage describes a brokerage arrangement whereby the real estate licensee assists one or more parties, who are customers, in a contemplated real estate transaction, without being the agent, fiduciary, or advocate of that party to the transaction. This means that real estate brokers and salespeople can act as intermediaries between buyers and sellers. With this type of brokerage arrangement, home buyers and sellers are customers and not clients of the licensees with whom they are working. The basic function of the licensee is to bring buyers and sellers together so that a real estate sale can be completed. Sellers will employ the licensee to help market their real estate by identifying qualified buyers and showing their properties to prospective purchasers. This will usually also involve advertising properties for sale in newspapers and other media. Sellers will commonly also rely on the expertise, experience, and advice of the real estate licensee to help make their property ready for sale and determine an appropriate asking price. Buyers, in turn, rely on the services of brokers to find and show them suitable real estate that they can afford and have the desired characteristics. Real estate professionals may also help consumers obtain mortgage financing as well as assist them with finalizing the real estate sale and recording the deed and other documents associated with the sale.

Transaction brokerage arrangements are usually best suited for consumers who are primarily interested in the marketing services and expertise that can be provided by real estate professionals, but who do not need an agent to represent them in the negotiations for the sale or purchase of real estate. Under transaction brokerage, the licensee must provide brokerage services to all parties honestly and in good faith and avoid showing favoritism to either buyer or seller. Alabama law also requires all licensees exercise reasonable care and skill when providing brokerage services, answer all questions completely and accurately, and present all written purchase offers to sellers promptly and in a truthful manner. Licensees must also keep confidential any information given to them in confidence, unless disclosure of this information is required by law. For sellers, this means that licensees must answer a buyer's questions about the condition of the property completely and honestly. In addition, the buyer must be told about any hidden defects known to the licensee that could affect the health or safety of occupants.

## **Single Agency**

A single agency arrangement describes a relationship whereby the real estate licensee represents only one party in a real estate sales transaction. In the case of a single agency brokerage arrangement, the real estate licensee represents either the buyer or the seller, but not both parties to the real estate transaction. This type of brokerage arrangement is most appropriate for consumers who need the advice and negotiating skills of real estate professionals in addition to their marketing services. If a seller enters into a single agency agreement with a real estate broker, the broker is referred to as a seller's agent. Under this arrangement the broker must represent only the seller in the negotiations with buyers. Here the broker will seek the highest possible price and best possible sale terms for the seller. This type of brokerage arrangement can involve the use of subagents, especially in situations where properties are marketed through a multiple listing service.

Subagents are empowered to act for another broker in performing real estate services for that broker. The subagent owes the same duties to the broker's client as the broker. If a broker is an agent of the seller, then the subagent is also the seller's agent. When examining properties advertised through a multiple listing service it is important for buyers to determine whether the licensee that is showing them properties is acting in the capacity of a transaction broker, seller's agent or as a subagent of the seller. Buyers should exercise care with respect to the information they reveal to licensees working as seller agents. For example, if you are the customer it would not be wise to tell a licensee the maximum price you would be willing to pay for a particular property when considering making a formal purchase offer. If you are the customer, the broker's primary responsibility is to the seller. In this case, the licensee, as the seller's agent, must convey such information to the seller.

A buyer's agent describes a real estate licensee who is employed by and represents only the buyer in a real estate transaction. This relationship is created by a written contract. This contract should clearly state the service the agent will perform for the buyer as well as specify how the licensee is paid for services rendered in connection with the real estate sale. In this case, the buyer is the client or principal and the real estate broker is the agent of and represents the buyer in dealings with sellers.

This type of real estate brokerage agreement should be used when the buyer needs guidance and representation when negotiating with sellers to purchase real estate. Buyers moving to a new location and who are unfamiliar with local market conditions would be those consumers most likely to benefit from this type of agency arrangement. It is becoming increasingly common in multiple listing situations for the selling broker (a licensee working with and showing properties to the buyer) to be an agent of the buyer and the listing broker to represent the owner-seller. Here, both the buyer and seller, working through their respective agents, could negotiate at arm's length with the benefit of professional help.

## **Limited Consensual Dual Agent**

Limited consensual dual agency is an agency relationship where the real estate brokerage company represents both the buyer and the seller in the same real estate transaction. Consensual dual agency requires the licensee to obtain the written consent of both the buyer and the seller to act as their agent. The two most common circumstances where dual agency is encountered are (1) when two or more salespersons licensed under the same broker each represent a different party to the transaction, and (2) when one licensee represents both the buyer and seller in the same sales transaction.

One major advantage of limited consensual dual agency is that it allows broader marketing opportunities than single agency arrangements. With this type of contract, salespeople can show houses of owners that they represent as agents to their buyer clients. Consensual dual agency is common in the larger real estate markets where real estate companies often have a large number of properties listed for sale. Many of these properties may be desirable to their buyers. With a dual agency agreement, these properties can be shown to their buyer clients.

In the case of dual agency, the principle function of the licensee is to help both parties reach mutually satisfactory outcome to their negotiations. The dual agent must avoid showing favoritism to either party and refrain from revealing confidential information that could prove detrimental to one side or the other. Although buyers and sellers may not benefit from the full range of services or agent loyalty that could otherwise be provided with a single agency arrangement, consensual dual agency does offer consumers more assistance and guidance than would be possible under a transaction brokerage arrangement.

When considering signing a dual agency agreement, it is very important that you talk with the broker to determine the types of services that will be provided, and what types of information you will share with the broker and broker's other clients.

## **Conclusion**

After reading this consumer information booklet, you should sign a brokerage agreement that contains a statement of the services to be provided by the real estate professional. Remember, if you do not sign a brokerage agreement, by law, the licensee working with you will be considered a transaction broker. Ask your real estate licensee to clarify and explain anything in this booklet that you do not fully understand before signing a contract for real estate brokerage services. You are encouraged to sign the disclosure form and retain a copy for your records.

### **THIS IS FOR INFORMATION PURPOSES THIS IS NOT A CONTRACT REAL ESTATE BROKERAGE SERVICES DISCLOSURE**

\*Alabama law requires you, the consumer, to be informed about the types of services which real estate licensees may perform. The purpose of this disclosure is to give you a summary of these services.

A SINGLE AGENT is a licensee who represents only one party in a sale. That is, a single agent represents his or her client. The client may be either the seller or the buyer. A single agent must be completely loyal and faithful to the client.

A SUBAGENT is another agent/licensee who also represents only one party in a sale. A subagent helps the agent represent the same client. The client may be either the seller or the buyer. A subagent must also be completely loyal and faithful to the client.

A LIMITED CONSENSUAL DUAL AGENT is a licensee for both the buyer and the seller. This may only be done with the written, informed consent of all parties. This type of agent must also be loyal and faithful to the client, except where the duties owed to the clients conflict with one another.

A TRANSACTION BROKER assists one or more parties, who are customers, in a sale. A transaction broker is not an agent and does not perform the same services as an agent.

\*Alabama law imposes the following obligations on all real estate licensees to all parties, no matter their relationship:

1. To provide services honestly and in good faith;
2. To exercise reasonable care and skill;
3. To keep confidential any information gained in confidence, unless disclosure is required by law or duty to a client, the information becomes public knowledge, or disclosure is authorized in writing;
4. Present all written offers promptly to the seller;
5. Answer your questions completely and accurately.

Further, even if you are working with a licensee who is not your agent, there are many things the licensee may do to assist you. Some examples are:

1. Provide information about properties;
2. Show properties;
3. Assist in making a written offer;
4. Provide information on financing.

You should choose which type of service you want from a licensee, and sign a brokerage service agreement. If you do not sign an agreement, by law the licensee working with you is a transaction broker.

The licensee's broker is required by law to have on file an office policy describing the company's brokerage services. You should feel free to ask any questions you have.

The Alabama Real Estate Commission requires the real estate licensee to sign, date, and provide you a copy of this form. Your signature is not required by law or rule, but would be appreciated.

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Name of licensee \_\_\_\_\_.  
Signature \_\_\_\_\_.  
Date \_\_\_\_\_.  
Consumer name \_\_\_\_\_.  
Signature \_\_\_\_\_.  
(Acknowledgment for Receipt Purposes, Only)  
Date \_\_\_\_\_.

**Category: CHAPTER 790-X-3**

**Rule 790-X-3-.14. Agency/Brokerage Office Policy**

(1) The Real Estate Consumers Agency and Disclosure Act (RECAD) requires the qualifying broker to adopt and maintain an agency disclosure office policy which sets out the types of

brokerage services which his or her company and licensees may offer or accept. The purpose of this rule is to specify the form and content of the office policy. Any format for the office policy is acceptable, including the use of devices such as loose-leaf ring notebooks.

(2) The qualifying broker shall provide all of his or her licensees with a copy of the office policy. The qualifying broker shall explain the office policy to all of his or her licensees at least once a year.

(3) The qualifying broker shall have all of his or her licensees sign a form which acknowledges that he or she has received a copy and a satisfactory explanation of the contents of the office policy.

(4) Under RECAD a qualifying broker may choose to offer the following services to the public: single agency, sub-agency, limited consensual dual agency, and transaction brokerage. Under RECAD a qualifying broker is not limited to offering only one of these services and is not required to offer all of these services.

- a. A single agent is engaged by and represents only one party in a real estate transaction. Buyers' agents and sellers' agents are examples of single agents. A written agency agreement with the client is required for a qualifying broker and his or her licensees to become a single agent. All qualifying brokers who offer single agency shall include a copy of their agency agreement form(s) in their office policy.
- b. A subagent acts for and helps another broker in performing brokerage services for a client. A subagent owes the same duties to the client (also called the principal) which the agent owes to the client. A written agency agreement with the client's qualifying broker is required for a qualifying broker and his or her licensees to become a subagent. All qualifying brokers who offer sub-agency shall obtain written permission from their client to do so and shall include a copy of their sub-agency agreement form(s) in their office policy.
- c. A limited consensual dual agent is an agent for both the buyer and the seller. A limited consensual dual agent represents more than one client in a transaction and owes the duties of agents set out in RECAD, except where the duties to one client will violate the duties owed to other clients. A written agreement is required for a qualifying broker and his or her licensees to become a limited consensual dual agent. All qualifying brokers who offer limited consensual dual agency shall include their limited consensual dual agency agreement form(s) in their office policy.
- d. A transaction broker assists one or more parties without being an agent or fiduciary or advocate for that party. A transaction broker may provide brokerage services to consumers or customers with or without a written agreement. All qualifying brokers who offer transaction broker services by written agreement shall include their transaction brokerage agreement form(s) in their office policy.

(5) All qualifying brokers shall include in their office policy a copy of the disclosure form required by Alabama Real Estate Commission Rule [790-X-3-.13](#). Further, all qualifying brokers shall include a copy of their sales contract forms containing the agency disclosure required to be in each offer to purchase by Section [34-27-8](#) Code of Ala. 1975, as amended.