

HB13 INTRODUCED



1 HB13
2 U28MGDG-1
3 By Representative Hollis
4 RFD: Commerce and Small Business
5 First Read: 05-Feb-24
6 2024 Regular Session



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOPSIS:

Under existing law pertaining to licensing real estate companies, brokers, and salespersons, there is no provision limiting the number of co-brokerage agreements a licensed out-of-state broker may enter into with state licensed brokers.

Under existing law, there is no limit on the duration of a residential listing agreement.

Under existing law, there are no specific disclosures required of licensees dealing in equitable interests in a contract for purchase and sale of residential property.

This bill would provide certain requirements pertaining to training, qualifications, licensure, and license renewal for licensed real estate companies, brokers, salespersons, teams, schools that offer real estate training courses, and applicants for licensure.

This bill would provide certain restrictions on transactions between licensed out-of-state co-brokers and licensees of this state.

This bill would provide that the Alabama Real Estate Commission may impose penalties for a licensee's failure to disclose certain aspects of transactions involving the sale or assignment of an equitable



HB13 INTRODUCED

29 interest in a contract for the purchase and sale of
30 residential real estate.

31 This bill would further provide that the Alabama
32 Real Estate Commission may impose penalties for certain
33 conduct by licensees including, but not limited to, the
34 failure to specify the expiration date of a residential
35 listing agreement or for creating an encumbrance on the
36 property that is the subject of a residential listing
37 agreement by recording the listing agreement with a
38 probate officer.

39 This bill would also make nonsubstantive,
40 technical revisions to update the existing code
41 language to current style.

42

43

A BILL

44

TO BE ENTITLED

45

AN ACT

46

47 Relating to licensed real estate professionals and
48 companies; to amend Sections 34-27-2, 34-27-3, 34-27-6,
49 34-27-8, 34-27-32, 34-27-33, 34-27-34, 34-27-35, 34-27-36,
50 34-27-81, 34-27-82, 34-27-83, 34-27-84, 34-27-85, and
51 34-27-86, Code of Alabama 1975; to add Section 34-27-39; to
52 provide certain requirements related to training,
53 qualifications and licensure of real estate companies,
54 brokers, and salespersons; to provide restrictions on licensed
55 out-of-state co-broker transactions in the state; to impose
56 penalties for certain licensee conduct including certain



HB13 INTRODUCED

57 conduct related to the sale or assignment of an equitable
58 interest in a residential purchase and sale agreement and for
59 the failure to provide a specified expiration date of a
60 residential listing agreement; and to make nonsubstantive,
61 technical revisions to update the existing code language to
62 current style.

63 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

64 Section 1. Sections 34-27-2, and 34-27-3, Code of
65 Alabama 1975, are amended to read as follows:

66 "§34-27-2

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

70 (1) APARTMENT. A building or complex with more than
71 four individual units built primarily for residential leasing
72 purposes.

73 ~~(1)~~ (2) ASSOCIATE BROKER. Any broker other than a
74 qualifying broker.

75 ~~(2)~~ (3) BROKER. Any person licensed as a real estate
76 broker under Articles 1 and 2 of this chapter.

77 ~~(3)~~ (4) COMMISSION. The Alabama Real Estate Commission,
78 except where the context requires that it means the fee paid
79 to a broker or salesperson.

80 ~~(4)~~ (5) COMMISSIONER. A member of the commission.

81 ~~(5)~~ (6) COMPANY. Any sole proprietorship, corporation,
82 partnership, branch office, or lawfully constituted business
83 organization as the Legislature may provide for from time to
84 time, which is licensed as a company under Articles 1 and 2 of



HB13 INTRODUCED

85 this chapter.

86 ~~(6)~~ (7) ENGAGE. Contractual relationships between a
87 qualifying broker and an associate broker or salesperson
88 licensed under him or her whether the relationship is
89 employer-employee, independent contractor, or otherwise.

90 (8) EQUITABLE INTEREST IN A CONTRACT or EQUITABLE
91 INTEREST. Any interests or rights in a contract or agreement
92 to purchase residential real estate held by a party to the
93 contract or agreement.

94 ~~(7)~~ (9) INACTIVE LICENSE. A license which is being held
95 by the commission office by law, order of the commission, at
96 the request of the licensee, or which is renewable but is not
97 currently valid because of failure to renew.

98 ~~(8)~~ (10) LICENSEE. Any broker, salesperson, or company.

99 ~~(9)~~ (11) LICENSE PERIOD. That period of time beginning
100 on October 1 of a year designated by the commission to be the
101 first year of a license period and ending on midnight
102 September 30 of the year designated by the commission as the
103 final year of that license period.

104 (12) LISTING AGREEMENT. An agreement between a company
105 and an owner by which the company agrees to assist the owner
106 in the sale of the owner's real property in exchange for a
107 fee. The definition includes agreements giving the company the
108 right to list or market the owner's real property upon the
109 owner's future decision to sell the property.

110 (13) OWNER. A person or entity legally deeded real
111 property.

112 ~~(10)~~ (14) PERSON. A natural person.



HB13 INTRODUCED

113 ~~(11)~~ (15) PLACE OF BUSINESS.

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

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

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

135 (16) PRINCIPAL BROKER. As used in other states, having
136 the same meaning as "qualifying broker" in this state.

137 ~~(12)~~ (17) QUALIFYING BROKER. A broker under whom a sole
138 proprietorship, corporation, partnership, branch office, or
139 lawfully constituted business organization as the Legislature
140 may from time to time provide is licensed, or a broker



HB13 INTRODUCED

141 licensed as a company to do business as a sole proprietorship
142 who is responsible for supervising the acts of the company or
143 proprietorship and all real estate licensees licensed
144 therewith.

145 ~~(13)~~ (18) RECOVERY FUND. The Alabama Real Estate
146 Recovery Fund.

147 (19) RESIDENTIAL. Pertaining to real property located
148 in the state which is used primarily for personal, family, or
149 household purposes.

150 ~~(14)~~ (20) SALESPERSON. Any person licensed as a real
151 estate salesperson under Articles 1 and 2 of this chapter.

152 (21) TEAM. Licensees within the same company who group
153 together to share consumers, resources, knowledge, or
154 commissions.

155 (b) The licensing requirements of Articles 1 and 2 of
156 this chapter shall not apply to any of the following persons
157 and transactions:

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

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

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

166 (4) Persons or a state or federally chartered financial
167 institution acting as a receiver, trustee, administrator,
168 executor, or guardian; or acting under a court order or under



HB13 INTRODUCED

169 authority of a trust instrument or will.

170 (5) Public officers performing their official duties.

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

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

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

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

183 "§34-27-3

184 (a) A licensed principal broker of another state may
185 act as co-broker, whether in sales or lease transactions, with
186 a licensed qualifying broker of this state by executing a
187 written agreement specifying each parcel of property covered
188 by the agreement ~~if the state in which the nonresident broker~~
189 ~~is licensed offers the same privileges to licensees of this~~
190 ~~state.~~ Co-brokerage agreements are limited to three
191 transactions per calendar year, per licensed out-of-state
192 principal broker. Transactions may include multiple properties
193 if the properties are part of the same portfolio. No licensed
194 out-of-state principal broker shall use co-brokerage
195 agreements to engage in transactions totaling more than fifty
196 million dollars (\$50,000,000) in any one calendar year.



HB13 INTRODUCED

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

210 (c) All co-brokerage agreements with licensed
211 out-of-state co-brokers shall include all of the following
212 provisions:

213 (1) The Alabama broker shall require a listing or joint
214 listing of the property involved.

215 (2) The agreement shall specify all material terms,
216 including, but not limited to, the financial terms.

217 (3) The showing of property located in Alabama and any
218 negotiations pertaining to it shall be supervised by the
219 Alabama broker.

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

222 (5) The Alabama broker shall be liable for all acts of
223 the licensed out-of-state broker, as well as his or her own
224 acts, arising from the execution of the co-brokerage



HB13 INTRODUCED

225 agreement.

226 (6) The Alabama broker shall verify that the licensed
227 out-of-state broker is a licensed principal broker in another
228 state.

229 (7) Any earnest money deposited pursuant to the
230 agreement must be held in escrow by the Alabama broker unless
231 both the buyer and the seller agree in writing to relieve the
232 Alabama broker of this responsibility."

233 Section 2. Section 34-27-6, Code of Alabama 1975, is
234 amended to read as follows:

235 "§34-27-6

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

239 (1) ACCREDITED SCHOOL. Any nonprofit college or
240 university meeting the standards of an accrediting agency
241 recognized by the U.S. Department of Education and offering
242 any commission-approved course.

243 ~~(1)~~ (2) ADMINISTRATOR. A person designated by a
244 ~~principal-school or branch school~~ licensed by the commission
245 and approved by the commission to be the person responsible to
246 the commission for all acts governed by this chapter and
247 applicable rules which govern the operation of schools.

248 ~~(2)~~ (3) APPROVED COURSE. Any course of instruction
249 approved by the commission that satisfies commission
250 requirements for prelicense education, postlicense education,
251 or continuing education.

252 ~~(3) APPROVED SCHOOL. Any proprietary educational~~



HB13 INTRODUCED

253 ~~institution offering only commission approved continuing~~
254 ~~education courses and any accredited college or university~~
255 ~~that offers any commission approved course.~~

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

259 (5) CE-ONLY SCHOOL. Any private educational institution
260 or organization offering only commission-approved continuing
261 education courses.

262 (6) CONTINUING EDUCATION. Any professional course
263 required to renew or activate a license which shall be a
264 minimum of one hour upon approval of the commission.

265 (7) DISTANCE EDUCATION. Programs whereby instruction
266 does not take place in a traditional classroom setting but
267 rather where teacher and student are apart by distance or by
268 time and instruction takes place through other media.

269 ~~(5)~~ (8) INSTRUCTIONAL SITE. Any physical place where
270 commission-~~approved~~ instruction is conducted apart from the
271 principal school or branch school.

272 ~~(6)~~ (9) INSTRUCTOR. A person ~~approved~~ licensed by the
273 commission to teach approved courses in the classroom or by
274 distance education.

275 ~~(7)~~ (10) ~~LICENSED~~ PRELICENSE SCHOOL. Any ~~proprietary~~
276 school that is licensed by the commission and bonded,
277 including any for-profit college, that offers commission-
278 approved prelicense courses ~~or postlicense courses, or both,~~
279 ~~only after being licensed and bonded by the commission.~~

280 Prelicense schools may also offer continuing education



HB13 INTRODUCED

281 courses.

282 ~~(8)~~ (11) PRINCIPAL SCHOOL. Any institution or
283 organization which is the primary school and not a branch
284 school ~~that is approved~~ and is licensed by the commission.

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

290 (b) The commission shall ~~approve and regulate schools~~
291 ~~that offer commission approved prelicense, postlicense, and~~
292 ~~continuing education courses. The commission shall be the~~
293 ~~board, commission, or agency with~~ have the sole and exclusive
294 authority to license ~~proprietary and regulate~~ schools ~~and their~~
295 ~~branches for the limited purpose of their offerings of~~
296 ~~commission approved prelicense courses or postlicense courses,~~
297 ~~or both~~ that offer commission-approved prelicense and
298 continuing education courses.

299 (c) (1) The commission shall ~~require proprietary~~ require
300 prelicense principal schools to ~~furnish~~ obtain a surety bond
301 issued by a surety company authorized to do business in
302 Alabama, payable to the commission in ~~the amount of an amount~~
303 not to exceed twenty thousand dollars (\$20,000) ~~with a surety~~
304 ~~company authorized to do business in Alabama, which bond shall~~
305 provide. The bond shall provide that the bond obligor ~~therein~~
306 shall pay ~~up to~~ an amount not to exceed twenty thousand dollars
307 (\$20,000) in the aggregate sum of all judgments ~~which shall be~~
308 recovered against the school for damages arising from the



HB13 INTRODUCED

309 school's collection of tuition or fees, or both, from
310 students, but failing to provide the complete instruction for
311 which ~~such~~the tuition or fees were collected.

312 (2) The bond shall be obtained by the school and shall
313 also cover any branch schools named in the bond or any
314 endorsement or amendment of or to the bond.

315 (3) The bond shall remain in effect as long as the
316 school is licensed. In the event the bond is revoked or
317 ~~cancelled~~canceled by the surety company, the school shall have
318 10 days after cancellation or revocation to obtain a new bond
319 and file ~~it~~ the bond with the commission. Failure to maintain
320 a bond shall result in the immediate suspension of the
321 licenses of the school and all of its branches.

322 ~~The bond shall be provided by the school and shall also~~
323 ~~cover any branch schools named in the bond or any endorsement~~
324 ~~or amendment thereto.~~

325 (d) (1) The commission shall charge a license fee for
326 each ~~licensed~~prelicense principal school and ~~shall charge a~~
327 ~~fee for each~~ branch school in the amount of two hundred fifty
328 dollars (\$250) per year for each year or portion of a year
329 remaining in the respective license period. The renewal fee
330 for each ~~school license~~prelicense principal and branch school
331 shall be one hundred twenty-five dollars (\$125) for each year
332 of the license period.

333 (2) The commission shall charge a license fee for each
334 CE-only school in the amount of one hundred dollars (\$100) per
335 year for each year or remaining portion of a year in any
336 license period. The renewal fee for each CE-only school shall



HB13 INTRODUCED

337 be fifty dollars (\$50) for each year of any license period.

338 (e) (1) The commission shall require all schools to name
339 and have ~~approved~~licensed by the commission an ~~school~~
340 administrator who shall be responsible to the commission for
341 all actions of his or her respective school.

342 (2) Each administrator shall pay a license fee in the
343 amount of one hundred dollars (\$100) per year for each year or
344 remaining portion of a year of any license period. The renewal
345 fee for each administrator shall be fifty dollars (\$50) for
346 each year of the license period.

347 (f) ~~Principal~~Each schools ~~s~~ and branch school shall be
348 clearly identified by signage which shall indicate the name of
349 the school ~~as in a manner~~ appropriate for ~~the~~its location. The
350 signage shall set out the name of the principal school. Branch
351 schools shall be clearly identified by signage as appropriate
352 for the location. ~~The signage~~For branch schools the signage
353 shall set out the name of the branch school and the name of
354 the principal school.

355 (g) The commission ~~shall have the authority to~~ may
356 reprimand, fine, suspend for a period up to two years, or
357 revoke the license ~~or approval~~ of any school, administrator,
358 or instructor for any violation of this section or any rule of
359 the commission. The fine shall be not less than one hundred
360 dollars (\$100) nor ~~more~~greater than ~~two thousand five hundred~~
361 ~~dollars (\$2,500)~~five thousand dollars (\$5,000) per
362 ~~count~~violation.

363 (h) The commission shall approve, sponsor, contract for
364 or conduct, or assist in sponsoring or conducting, real estate



HB13 INTRODUCED

365 courses for licensees, may charge fees, and may incur and pay
366 the necessary related expenses ~~in connection therewith~~.

367 (i) (1) The commission shall ~~approve~~ license and regulate
368 instructors who teach the commission-~~approved~~ prelicense,
369 ~~postlicense~~, and continuing education courses. The commission
370 shall establish and collect fees as determined necessary, from
371 licensed instructors who teach commission-approved courses, in
372 an amount not to exceed fifty dollars (\$50) per instructor
373 annually, ~~to approved instructors who teach commission~~
374 ~~approved courses~~.

375 (2) The commission shall establish a continuing
376 education requirement for all active prelicense instructors.

377 (j) (1) An instructor, administrator, or school may
378 request that the commission issue or change its license to
379 inactive status. An instructor, administrator, or school
380 licensee whose license status is inactive shall be prohibited
381 from engaging in any of the following:

382 a. Teaching commission-approved courses if the licensee
383 is an instructor.

384 b. Offering commission-approved courses if the licensee
385 is a school.

386 c. Performing any duties of an administrator if the
387 licensee is an administrator, including, but not limited to,
388 registering students, advertising the school, reporting course
389 schedules to the commission, or entering student credit for
390 completed courses.

391 (2) The inactive license of an instructor,
392 administrator, or school must be renewed in the same manner as



HB13 INTRODUCED

393 an active license for an instructor, administrator, or school.

394 (3) A prelicense instructor whose license status is
395 inactive for three years or less and who renews his or her
396 license while its status is inactive may activate his or her
397 license for the first time during any license period by
398 meeting both of the following requirements:

399 a. Completing any continuing education requirement for
400 licensed instructors that remains incomplete from the previous
401 license period.

402 b. Paying a license activation fee.

403 c. If the license remains inactive for longer than
404 three years, the prelicense instructor must take required
405 training before activating his or her license. Once the
406 license is activated, a prelicense instructor will be
407 responsible for completing the then current continuing
408 education coursework requirement to renew the active license
409 for the next license period.

410 (4) In addition to any other requirements provided in
411 this section, any instructor, administrator, or a school which
412 is seeking to change its license status from inactive to
413 active shall be required to pay a license activation fee in
414 the amount of fifty dollars (\$50) per license.

415 (k) An active prelicense instructor with an inactive
416 broker license must remain current with continuing education
417 requirements for active brokers as well as the continuing
418 education requirements for active prelicense instructors.

419 (1) (1) All education licenses and approvals shall
420 expire at midnight on September 30 of the final year of each



HB13 INTRODUCED

421 license period. Each prelicense instructor must complete
422 required continuing education courses and provide proof of
423 completion to the commission on or before September 30 of the
424 final year of each license period.

425 (2) The continuing education coursework requirement
426 shall apply to each two-year education renewal. Coursework
427 hours completed in excess of the requirement shall not be
428 applicable to any subsequent renewal.

429 (3) An inactive status license of a prelicense
430 instructor shall be renewed in the same manner as for an
431 active prelicense instructor except that continuing education
432 coursework shall not be required while the license remains
433 inactive.

434 (m) Any prelicense instructor, administrator, or school
435 that fails to renew its license by the September 30 deadline
436 shall incur a late fee in the amount of two hundred dollars
437 (\$200) per license as of October 1 of the first year of the
438 new license period.

439 (n) (1) A prelicense instructor, administrator, or
440 school may renew an expired license during the twelve-month
441 period following the September 30 renewal deadline, provided
442 that the licensee shall not engage in any licensed activity
443 until the license is renewed.

444 (2) After the last day of the twelfth month following
445 the September 30 renewal deadline, an expired license shall
446 lapse and shall be subject to all requirements applicable to
447 an original license.

448 (3) The commission may allow late renewal of a lapsed



HB13 INTRODUCED

449 license upon a determination of hardship, provided that all
450 required fees are paid.

451 ~~(j)~~ (o) (1) The commission shall approve courses and
452 establish and collect fees ~~as determined~~ deemed necessary, not
453 to exceed one hundred dollars (\$100) per application, to
454 review each course.

455 (2) a. The commission may certify synchronous distance
456 education courses, and establish and collect fees deemed
457 necessary, in an amount not to exceed four hundred dollars
458 (\$400) per application.

459 b. The commission shall consider synchronous distance
460 education courses for certification based on the commission's
461 analysis of all of the following aspects of the course of
462 which it is part:

463 1. The course or program mission statement.

464 2. Course design.

465 3. Interactivity.

466 4. Delivery.

467 5. Equipment.

468 6. The learning environment.

469 7. Student support services.

470 8. Educational effectiveness and assessment of student
471 learning outcomes.

472 9. Commitment to ongoing support of the course.

473 ~~(k)~~ (p) The commission shall establish one-year or
474 multi-year ~~approval~~ license periods for schools, instructors,
475 administrators, and courses. ~~Approval and license~~ License
476 periods shall run from October 1 of the first year of the



HB13 INTRODUCED

477 ~~approval~~license period through September 30 of the final year
478 of the ~~approval~~license period.

479 ~~(l)~~ (q) The commission shall ~~promulgate~~adopt rules ~~and~~
480 ~~regulations~~ as necessary to accomplish the purpose of this
481 section in accordance with the Administrative Procedure Act."

482 Section 3. Section 34-27-8, Code of Alabama 1975, is
483 amended to read as follows:

484 "§34-27-8

485 (a) A majority of the commission members shall
486 constitute a quorum for the conduct of commission business.
487 The commission may adopt and enforce all rules and regulations
488 pursuant to the state administrative procedure statutes
489 necessary for the administration of this chapter, and to
490 otherwise do all things necessary and convenient for effecting
491 this chapter.

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

496 ~~(c) Each offer to purchase prepared after August 1,~~
497 ~~1998, shall have prominently displayed the following AGENCY~~
498 ~~DISCLOSURE clause which shall be completed and initialed as~~
499 ~~indicated:~~

500 ~~The listing company _____ is:~~

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

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

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

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



HB13 INTRODUCED

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

506 ~~_____ Assisting the _____ buyer _____ seller as a~~
507 ~~transaction broker.~~

508 ~~The selling company _____ is:~~

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

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

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

512 ~~_____ An agent of both the seller and buyer and is~~
513 ~~acting as a limited consensual dual agent.~~

514 ~~_____ Assisting the _____ buyer _____ seller as a~~
515 ~~transaction broker."~~

516 Section 4. Section 34-27-32, Code of Alabama 1975, is
517 amended to read as follows:

518 "§34-27-32

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

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

526 (2) Is a person whose application for real estate
527 licensure has not been rejected in any state on any grounds
528 other than failure to pass a written examination within the
529 two years prior to the application for real estate licensure
530 with Alabama. If the applicant's rejection for real estate
531 licensure in any state is more than two years from the date of
532 application for licensure with Alabama, then the applicant may



HB13 INTRODUCED

533 not be issued an Alabama real estate license without the
534 approval of the commissioners.

535 (3) Is a person whose real estate license has not been
536 revoked in any state within the two years prior to application
537 for real estate licensure with Alabama. If the applicant's
538 real estate licensure revocation in any state, including
539 Alabama, is more than two years from the date of application
540 for licensure with Alabama then the applicant may not be
541 issued an Alabama real estate license without the approval of
542 the commissioners.

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

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

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

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

560 "I hereby appoint the Executive Director or the



HB13 INTRODUCED

561 Assistant Executive Director of the Alabama Real Estate
562 Commission as my agent upon whom all disciplinary, judicial,
563 or other process or legal notices may be served. I agree that
564 any service upon my agent shall be the same as service upon me
565 and that certified copies of this appointment shall be deemed
566 sufficient evidence and shall be admitted into evidence with
567 the same force and effect as the original might be admitted. I
568 agree that any lawful process against me which is served upon
569 my agent shall be of the same legal force and validity as if
570 personally served upon me and that this appointment shall
571 continue in effect for as long as I have any liability
572 remaining in the State of Alabama. I understand that my agent
573 shall, within a reasonable time after service upon him or her,
574 mail a copy of the service by certified mail, return receipt
575 requested, to me at my last known business address.

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

579 _____ Legal Signature of Applicant"

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

583 (b) (1) a. A person who holds a current real estate
584 salesperson license in another state, including persons who
585 move to and become residents of Alabama, shall apply for a
586 reciprocal salesperson license ~~on a form prescribed by the~~
587 ~~commission~~. A person who holds a current broker license in
588 another state, including persons who move to and become



HB13 INTRODUCED

589 residents of Alabama, shall apply for a reciprocal broker
590 license ~~on a form prescribed by the commission.~~

591 b. The applicant shall submit proof that he or she has
592 a current real estate license in another state as evidenced by
593 a certificate of licensure, together with any other
594 information required by the commission. The applicant shall
595 also show proof that he or she has completed at least six
596 hours of course work in Alabama real estate which is approved
597 by the commission. Applicants for a reciprocal license shall
598 not be subject to the complete examination or temporary
599 license requirements of Section 34-27-33, but shall pass a
600 reasonable written examination prepared by the commission on
601 the subject of Alabama real estate. A person who holds a
602 reciprocal license shall show proof of completion of
603 continuing education either by meeting the requirements of
604 Section 34-27-35 or by showing proof that his or her other
605 state license remains active in that state.

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

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

615 (c) A person who does not hold a current real estate
616 broker license in another state desiring to be a real estate



HB13 INTRODUCED

617 broker in this state shall apply for a ~~broker's~~broker license
618 on a form prescribed by the commission which shall specify the
619 real estate office to which he or she is registered. Along
620 with the application, he or she shall submit all of the
621 following:

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

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

628 (3) Proof that he or she has completed a course in real
629 estate approved by the commission, which shall be a minimum of
630 60 clock hours.

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

632 (d) A person who does not hold a current real estate
633 salesperson license in another state desiring to be a real
634 estate salesperson in this state shall apply for a
635 ~~salesperson's~~salesperson license with the commission on a form
636 prescribed by the commission which shall specify the real
637 estate office to which he or she is registered. Along with the
638 application he or she shall furnish all of the following:

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

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

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



HB13 INTRODUCED

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

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

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

664 (h) (1) No person shall be a qualifying broker for more
665 than one company or for a company and on his or her own behalf
666 unless he or she meets all of the following requirements:

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

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

671 c. All companies for which he or she is and proposes to
672 be the qualifying broker share the same company address ~~(3)~~ He



HB13 INTRODUCED

673 ~~or she will be doing business from the same location.~~

674 (2) A person licensed under a qualifying broker may be
675 engaged by one or more companies with the same qualifying
676 broker.

677 (3) A person may utilize any office of a company under
678 which he or she is licensed.

679 (i) A company license shall become invalid on the death
680 or disability of a qualifying broker. Within 30 days after the
681 death or disability, the corporation, or the remaining
682 partners or the successor partnership, if any, may designate
683 another of its officers, members, or salespersons to apply for
684 a license as temporary qualifying broker. The person
685 designated as temporary qualifying broker shall either be a
686 broker or have been a salesperson for at least one year prior
687 to filing the application. If the application is granted, the
688 company may operate under that temporary qualifying broker for
689 no more than six months after the ~~death or disability of its~~
690 ~~former qualifying broker~~temporary qualifying broker license is
691 issued. Unless the company designates a fully licensed broker
692 as the qualifying broker within the six months, the company
693 license and all licenses under the company shall be classified
694 inactive by the commission.

695 (j) The commission shall require both state and
696 national criminal history background checks to issue a
697 license. Applicants shall submit required information and
698 fingerprints to the commission, Federal Bureau of
699 Investigation, Alabama State Law Enforcement Agency, or its
700 successor, or to a fingerprint processing service that may be



HB13 INTRODUCED

701 selected by the commission for this purpose. Criminal history
702 record information shall be provided to the commission from
703 both the State of Alabama and the Federal Bureau of
704 Investigation. The commission can use the provided criminal
705 history for the determination of the qualifications and
706 fitness of the applicant to hold a real estate license. The
707 applicant shall assume the cost of the criminal history check.
708 The criminal history ~~must~~shall be current to the issuance of
709 the license.

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

713 Section 5. Section 34-27-32, Code of Alabama 1975, is
714 amended to read as follows:

715 "§34-27-32

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

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

723 (2) Is a person whose application for real estate
724 licensure has not been rejected in any state on any grounds
725 other than failure to pass a written examination within the
726 two years prior to the application for real estate licensure
727 with Alabama. If the applicant's rejection for real estate
728 licensure in any state is more than two years from the date of



HB13 INTRODUCED

729 application for licensure with Alabama, then the applicant may
730 not be issued an Alabama real estate license without the
731 approval of the commissioners.

732 (3) Is a person whose real estate license has not been
733 revoked in any state within the two years prior to application
734 for real estate licensure with Alabama. If the applicant's
735 real estate licensure revocation in any state, including
736 Alabama, is more than two years from the date of application
737 for licensure with Alabama then the applicant may not be
738 issued an Alabama real estate license without the approval of
739 the commissioners.

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

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

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

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



HB13 INTRODUCED

757 "I hereby appoint the Executive Director or the
758 Assistant Executive Director of the Alabama Real Estate
759 Commission as my agent upon whom all disciplinary, judicial,
760 or other process or legal notices may be served. I agree that
761 any service upon my agent shall be the same as service upon me
762 and that certified copies of this appointment shall be deemed
763 sufficient evidence and shall be admitted into evidence with
764 the same force and effect as the original might be admitted. I
765 agree that any lawful process against me which is served upon
766 my agent shall be of the same legal force and validity as if
767 personally served upon me and that this appointment shall
768 continue in effect for as long as I have any liability
769 remaining in the State of Alabama. I understand that my agent
770 shall, within a reasonable time after service upon him or her,
771 mail a copy of the service by certified mail, return receipt
772 requested, to me at my last known business address.

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

776 _____ Legal Signature of Applicant"

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

780 (b) (1) a. A person who holds a current real estate
781 salesperson license in another state, including persons who
782 move to and become residents of Alabama, shall apply for a
783 reciprocal salesperson license ~~on a form prescribed by the~~
784 ~~commission~~. A person who holds a current broker license in



HB13 INTRODUCED

785 another state, including persons who move to and become
786 residents of Alabama, shall apply for a reciprocal broker
787 license ~~on a form prescribed by the commission.~~

788 b. The applicant shall submit proof that he or she has
789 a current real estate license in another state as evidenced by
790 a certificate of licensure, together with any other
791 information required by the commission. The applicant shall
792 also show proof that he or she has completed at least six
793 hours of course work in Alabama real estate which is approved
794 by the commission. Applicants for a reciprocal license shall
795 not be subject to the complete examination or temporary
796 license requirements of Section 34-27-33, but shall pass a
797 reasonable written examination prepared by the commission on
798 the subject of Alabama real estate. A person who holds a
799 reciprocal license shall show proof of completion of
800 continuing education either by meeting the requirements of
801 Section 34-27-35 or by showing proof that his or her other
802 state license remains active in that state.

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

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

812 (c) A person who does not hold a current real estate



HB13 INTRODUCED

813 broker license in another state desiring to be a real estate
814 broker in this state shall apply for a ~~broker's~~broker license
815 ~~on a form prescribed by the commission which shall specify the~~
816 ~~real estate office to which he or she is registered.~~ Along
817 with the application, he or she shall submit all of the
818 following:

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

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

825 (3) Proof that he or she has ~~completed a course in real~~
826 ~~estate approved by the commission, which shall be a minimum of~~
827 ~~60 clock hours.~~met all of the following requirements:

828 a. Successfully completed a course in broker basics
829 approved by the commission.

830 b. Passed a license examination within 90 days after
831 completion of the broker basics course.

832 c. Within 90 days after passing the license
833 examination, successfully completed a course in professional
834 development approved by the commission.

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

836 (d) A person who does not hold a current real estate
837 salesperson license in another state desiring to be a real
838 estate salesperson in this state shall apply for a
839 ~~salesperson's~~salesperson license with the commission ~~on a form~~
840 ~~prescribed by the commission which shall specify the real~~



HB13 INTRODUCED

841 ~~estate office to which he or she is registered.~~ Along with the
842 application he or she shall ~~furnish~~provide all of the
843 following:

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

846 (2) Proof that he or she has ~~successfully completed a~~
847 ~~course in real estate approved by the commission, which shall~~
848 ~~be a minimum of 60 clock hours.~~met all of the following
849 requirements:

850 a. Successfully completed a salesperson basics course
851 approved by the commission.

852 b. Passed a license examination within 90 days after
853 completing the salesperson basics course.

854 c. Within 90 days after passing the license
855 examination, successfully completed a course approved by the
856 commission in salesperson professional development.

857 (3) The name of the applicant's qualifying broker,
858 along with the information required pursuant to Section
859 34-27-33.

860 ~~(3)~~ (4) Any other information required by the
861 commission.

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

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

868 (g) If the applicant for a company or broker license



HB13 INTRODUCED

869 maintains more than one place of business in the state, he or
870 she shall have a company or branch office license for each
871 separate location or branch office. Every application shall
872 state the location of the company or branch office and the
873 name of its qualifying broker. Each company or branch office
874 shall be under the direction and supervision of a qualifying
875 broker licensed at that address. No person may serve as
876 qualifying broker at more than one location. The qualifying
877 broker for the branch office and the qualifying broker for the
878 company shall share equal responsibility for the real estate
879 activities of all licensees assigned to the branch office or
880 company.

881 (h) (1) No person shall be a qualifying broker for more
882 than one company or for a company and on his or her own behalf
883 unless he or she meets all of the following requirements:

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

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

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

891 (2) A person licensed under a qualifying broker may be
892 engaged by one or more companies with the same qualifying
893 broker.

894 (3) A person may utilize any office of a company under
895 which he or she is licensed.

896 (i) A company license shall become invalid on the death



HB13 INTRODUCED

897 or disability of a qualifying broker. Within 30 days after the
898 death or disability, the corporation, or the remaining
899 partners or the successor partnership, if any, may designate
900 another of its officers, members, or salespersons to apply for
901 a license as temporary qualifying broker. The person
902 designated as temporary qualifying broker shall either be a
903 broker or have been a salesperson for at least one year prior
904 to filing the application. If the application is granted, the
905 company may operate under that temporary qualifying broker for
906 no more than six months after the ~~death or disability of its~~
907 ~~former qualifying broker~~ temporary qualifying broker license is
908 issued. Unless the company designates a fully licensed broker
909 as the qualifying broker within the six months, the company
910 license and all licenses under the company shall be classified
911 inactive by the commission.

912 (j) The commission shall require both state and
913 national criminal history background checks to issue a
914 license. Applicants shall submit required information and
915 fingerprints to the commission, Federal Bureau of
916 Investigation, Alabama State Law Enforcement Agency, or its
917 successor, or to a fingerprint processing service that may be
918 selected by the commission for this purpose. Criminal history
919 record information shall be provided to the commission from
920 both the State of Alabama and the Federal Bureau of
921 Investigation. The commission can use the provided criminal
922 history for the determination of the qualifications and
923 fitness of the applicant to hold a real estate license. The
924 applicant shall assume the cost of the criminal history check.



HB13 INTRODUCED

925 The criminal history ~~must~~shall be current to the issuance of
926 the license.

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

930 Section 6. Section 34-27-33, Code of Alabama 1975, is
931 amended to read as follows:

932 "§34-27-33

933 (a) (1) ~~In addition to other requirements of this~~
934 ~~chapter~~Pursuant to Section 34-27-32, every applicant for a
935 ~~broker's~~broker or ~~salesperson's~~salesperson license shall
936 submit to a reasonable written examination. The commission
937 shall conduct examinations at places and times it prescribes.
938 The commission may contract with an independent testing agency
939 to prepare, grade, or conduct the examination.

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

944 (b) (1) Within 90 days after passing the examination,
945 the applicant shall complete a professional development course
946 approved by the commission, meet all of the requirements of
947 this chapter, and secure a qualifying broker. ~~and meet all~~
948 ~~requirements of this chapter and the board shall~~ Upon the
949 applicant doing so, the commission shall issue a temporary ~~an~~
950 ~~active~~ license or classify the license as inactive.

951 (2) In order to obtain an active license, the
952 applicant's qualifying broker shall acknowledge ~~sign and~~



HB13 INTRODUCED

953 ~~submit~~ to the commission ~~a sworn statement~~ that the applicant
954 is in his or her opinion honest, trustworthy, and of good
955 reputation, and that the broker accepts responsibility for the
956 actions of the salesperson as set out in Section 34-27-31. The
957 applicant's qualifying broker shall ~~be licensed in~~ hold an
958 active Alabama license.

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

966 (2) a. The holder of a temporary license shall not be
967 issued an original license until he or she ~~has satisfactorily~~
968 ~~completed a 30-hour post-license course prescribed by the~~
969 ~~commission~~ submits to the commission both of the following:

970 1. Proof of successful completion of a 15-hour
971 orientation as prescribed by the commission, in the
972 applicant's real estate practice area.

973 2. A complete core competencies checklist on a form
974 prescribed by the commission and signed by the applicant's
975 qualifying broker.

976 b. ~~If the~~ The holder of a temporary license ~~must~~
977 ~~complete the course~~ fails to complete and submit the
978 application for an original license with required
979 documentation within ~~six months~~ 90 days ~~of~~ after issuance of his
980 or her temporary license, ~~and have his or her original license~~



HB13 INTRODUCED

981 ~~issued, otherwise~~ his or her temporary license ~~certificate~~
982 shall automatically be placed on inactive status by the
983 commission. ~~During the remaining six months his or her~~
984 ~~temporary license is valid, the holder of a temporary license~~
985 ~~may complete the course and have his or her original license~~
986 ~~issued. If the holder of a temporary license does not complete~~
987 ~~the course and have his or her original license issued within~~
988 ~~one year following the first day of the month after its~~
989 ~~issuance, the temporary license shall automatically expire and~~
990 ~~lapse. A temporary license is not subject to renewal~~
991 ~~procedures in this chapter and may not be renewed.~~

992 (3) An inactive temporary license must be renewed at
993 the proper time if an original license has not been issued. If
994 a temporary license remains inactive for more than three
995 years, the licensee must retake the salesperson professional
996 development course prior to activating the license.

997 ~~(3)~~ (4) In order to have the status of an inactive a
998 temporary license ~~issued~~changed to active status, the
999 applicant shall pay the Recovery Fund fee specified in this
1000 chapter. ~~The holder of a temporary license shall, upon~~
1001 ~~satisfactory completion of the course, pay the original~~
1002 ~~license fee specified in this chapter to have his or her~~
1003 ~~original license issued.~~ An applicant for an original license
1004 who has paid the Recovery Fund fee specified in this chapter
1005 shall not be required to pay another Recovery Fund fee in
1006 order to have his or her original license issued.

1007 ~~(4) The holder of an original license who has~~
1008 ~~satisfactorily completed the postlicense course and whose~~



HB13 INTRODUCED

1009 ~~original license has been issued, shall not be subject to the~~
1010 ~~continuing education requirements in this chapter for the~~
1011 ~~first renewal of his or her original license.~~

1012 ~~(d) This section shall become effective for licenses~~
1013 ~~issued beginning October 1, 1993."~~

1014 Section 7. Section 34-27-34, Code of Alabama 1975, is
1015 amended to read as follows:

1016 "§34-27-34

1017 (a) (1) ~~A broker may serve as qualifying broker for a~~
1018 ~~salesperson or associate broker only if licensed in Alabama,~~
1019 ~~his or her principal business is that of a real estate broker,~~
1020 ~~and he or she shall be in a position to actually supervise the~~
1021 ~~real estate activities of the associate broker or salesperson~~
1022 ~~on a full-time basis.~~ A person concurrently licensed as a broker
1023 in another state who has reciprocally obtained a broker
1024 license in this state may serve as a qualifying broker over a
1025 salesperson or associate broker if he or she meets all of the
1026 following requirements:

1027 a. Real estate is his or her principal business.

1028 b. He or she is in a position to actually supervise the
1029 real estate activities of the associate broker or salesperson
1030 on a full-time basis.

1031 c. He or she has held an active broker license for at
1032 least 24 of the last 36 months.

1033 (2) A person licensed as a broker in this state who is
1034 not currently licensed as a broker in another state may serve
1035 as qualifying broker over a salesperson or associate broker if
1036 he or she meets all of the following requirements:



HB13 INTRODUCED

1037 a. Real estate is his or her principal business.

1038 b. He or she is in a position to actually supervise the
1039 real estate activities of the associate broker or salesperson
1040 on a full-time basis.

1041 c. He or she has held an active broker license for at
1042 least 24 of the last 36 months.

1043 d. He or she has attended a qualifying broker training
1044 course provided by the commission.

1045 ~~(2)~~ (3) a. A salesperson or associate broker shall not
1046 perform acts for which a license is required unless licensed
1047 under a qualifying broker.

1048 b. A qualifying broker shall be held responsible to the
1049 commission and to the public for all acts governed by this
1050 chapter of each salesperson and associate broker licensed
1051 under him or her and of each company for which he or she is
1052 the qualifying broker. It shall be the duty of the qualifying
1053 broker to see that all transactions of every licensee engaged
1054 by him or her or any company for which he or she is the
1055 qualifying broker comply with this chapter.

1056 c. ~~A Additionally, the~~ qualifying broker shall be
1057 responsible to an injured party for the damage caused by any
1058 violation of this chapter by any licensee engaged by the
1059 qualifying broker. This subsection does not relieve a licensee
1060 from liability that he or she would otherwise have.

1061 ~~(3)~~ d. The qualifying ~~brokers'~~ broker's supervision
1062 responsibilities, as prescribed herein, over the real estate
1063 activities of associate brokers and salespersons licensed
1064 under him or her are not intended to create, and should not be



HB13 INTRODUCED

1065 construed as creating, an employer-employee relationship
1066 contrary to any expressed intent of the qualifying broker and
1067 licensee to the contrary.

1068 (b) (1) Any salesperson or associate broker who desires
1069 to change his or her qualifying broker shall give notice in
1070 writing to the commission, and shall send a copy of the notice
1071 to his or her qualifying broker. ~~The new qualifying broker~~
1072 ~~shall file with the commission a request for the transfer and~~
1073 ~~a statement assuming liability for the licensee.~~ In order to
1074 transfer a license, the applicant's new qualifying broker
1075 shall acknowledge to the commission that in his or her opinion
1076 the applicant is honest, trustworthy, of good reputation, and
1077 that the broker accepts responsibility for the actions of the
1078 salesperson under Section 34-27-31.

1079 (2) On payment of a fee of twenty-five dollars (\$25), a
1080 new license ~~certificate~~ shall be issued to the new qualifying
1081 broker on behalf of the salesperson or associate broker for
1082 the unexpired term of the original license. A fee of
1083 twenty-five dollars (\$25) shall also be charged for any of the
1084 following license changes:

1085 ~~(1)~~ a. Change of qualifying broker by a company or sole
1086 proprietorship. The fee ~~is~~ shall be paid for ~~the~~ each license ~~or~~
1087 ~~licenses~~ on which the current and new qualifying brokers'
1088 names appear. In cases where a company has a branch office or
1089 offices and the main office qualifying broker is changed, the
1090 fee is paid for each branch office license and for the license
1091 of each branch qualifying broker. This change must be made
1092 within 30 days of the name change.



HB13 INTRODUCED

1093 ~~(2)~~b. Change of personal name of a qualifying broker.
1094 Within 30 days following name change, the ~~The~~ fee ~~is~~shall be
1095 paid for the license or licenses on which the current
1096 qualifying broker's name appears.

1097 ~~(3)~~c. Change of personal name of a salesperson or
1098 associate broker. Within 30 days after the name change, the
1099 ~~The~~ fee ~~is~~shall be paid for the license on which the name
1100 appears.

1101 ~~(4)~~d. Change of business location. The fee is paid for
1102 the license or licenses on which the address appears.

1103 ~~(5)~~e. Change of business name. The fee is paid for the
1104 license or licenses on which the name appears.

1105 ~~(6)~~f. Change of license status from inactive to active.
1106 The fee is paid for each license being changed from inactive
1107 to active status. No fee is charged for the change from active
1108 to inactive status.

1109 (c) A ~~person~~qualifying broker who wishes to terminate
1110 his or her ~~status as qualifying broker~~responsibility for a
1111 licensee may do so by notifying the licensee and ~~the~~
1112 ~~commission in writing and sending the licensee's license~~
1113 ~~certificate to the commission or verifying in writing to the~~
1114 ~~commission that the certificate has been lost or destroyed~~
1115 placing the licensee's license on inactive status with the
1116 commission.

1117 (d) ~~A person~~An individual who wishes to terminate his
1118 or her status as a qualifying broker for a company may do so
1119 by submitting written notice to the company or ~~qualifying~~
1120 ~~broker~~officers of the parent company and the commission.



HB13 INTRODUCED

1121 (e) A salesperson or associate broker shall not perform
1122 any act for which a license is required after his or her
1123 association with his or her qualifying broker has been
1124 terminated, or if he or she changes qualifying brokers, until
1125 a new active license has been issued by the commission."

1126 Section 8. Section 34-27-35, Code of Alabama 1975, is
1127 amended to read as follows:

1128 "§34-27-35

1129 (a) The commission shall prescribe the form and content
1130 of license certificates issued. Each qualifying broker's
1131 license certificate shall show the name and business address
1132 of the broker. The license certificate of each active
1133 salesperson or associate broker shall show his or her name and
1134 address. The license certificate of each active salesperson or
1135 associate broker shall be delivered or mailed to his or her
1136 qualifying broker. Each license certificate shall be kept by
1137 the qualifying broker and shall be publicly displayed at the
1138 address which appears on the license certificate.

1139 (b) The commission may establish a one-year or
1140 multi-year license period.

1141 (c) (1) The fee for a temporary license shall be one
1142 hundred fifty dollars (\$150). The original fee for a
1143 ~~broker's~~broker license shall be one hundred fifty dollars
1144 (\$150). ~~and, beginning with the license period effective~~
1145 ~~October 1, 2002, the~~The renewal fee for a ~~broker's~~broker
1146 license shall be seventy-five dollars (\$75) per year for each
1147 year of the license period. The original fee for each
1148 ~~salesperson's~~salesperson license shall be sixty-five dollars



HB13 INTRODUCED

1149 (\$65) per year for each year or portion of a year remaining in
1150 the respective license period, and the renewal fee for each
1151 ~~salesperson's~~salesperson license shall be sixty-five dollars
1152 (\$65) per year for each year of the license period. The
1153 original fee for each company license shall be sixty-five
1154 dollars (\$65) per year for each year or portion of a year
1155 remaining in the respective license period, and the renewal
1156 fee for each license shall be sixty-five dollars (\$65) per
1157 year for each year of the license period.

1158 (2) ~~Beginning with the license period effective October~~
1159 ~~1, 2004, the~~The renewal fee for a ~~broker's~~broker license shall
1160 be ninety-five dollars (\$95) per year for each year of the
1161 license period. The original fee for each
1162 ~~salesperson's~~salesperson license shall be eighty-five dollars
1163 (\$85) per year for each year or portion of a year remaining in
1164 the respective license period, and the renewal fee for each
1165 ~~salesperson's~~salesperson license shall be eighty-five dollars
1166 (\$85) per year for each year of the license period. The
1167 original fee for each company license shall be eighty-five
1168 dollars (\$85) per year for each year or portion of a year
1169 remaining in the respective license period, and the renewal
1170 fee for each license shall be eighty-five dollars (\$85) per
1171 year for each year of the license period.

1172 (d) ~~(1)~~ The renewal research and education fee shall be
1173 ~~two~~seven dollars and fifty cents ~~(\$2.50)~~ (\$7.50) per year for
1174 each year of the license period and shall be paid at the time
1175 of license renewal by all brokers and salespersons in addition
1176 to the license renewal fees set out in this section.



HB13 INTRODUCED

1177 Collection of this fee shall apply to all broker and
1178 salesperson renewals, except that brokers who hold more than
1179 one ~~broker's~~broker license shall pay the fee for only one
1180 license at each renewal.

1181 ~~(2) Beginning June 1, 2014, this fee shall be seven~~
1182 ~~dollars and fifty cents (\$7.50), and the~~The proceeds shall be
1183 distributed to the Alabama Center for Real Estate.

1184 (e) The original research and education fee shall be
1185 thirty dollars (\$30) and shall be paid at the time of all
1186 applications received ~~on and after October 15, 1995,~~ for
1187 issuance of an original ~~broker's~~broker license, and shall be
1188 paid at the time of all applications received ~~on and after~~
1189 ~~October 15, 1995,~~ for issuance of a temporary
1190 ~~salesperson's~~salesperson license. The original research and
1191 education fee shall also be paid by reciprocal salespersons.
1192 This is in addition to the original license fees set out in
1193 this section. This thirty dollar (\$30) original research and
1194 education fee is a one-time fee which no person shall be
1195 required to pay more than once.

1196 (f) The license of a salesperson who is subsequently
1197 issued a ~~broker's~~broker license automatically terminates upon
1198 the issuance of his or her ~~broker's~~broker license certificate.
1199 The ~~salesperson's~~salesperson license certificate shall be
1200 returned to the commission in order for a ~~broker's~~broker
1201 license to be issued. No refund shall be made of any fee or
1202 Recovery Fund deposit pertaining to the ~~salesperson's,~~
1203 ~~broker's, or company's~~salesperson, broker, or company license
1204 once it has been in effect.



HB13 INTRODUCED

1205 (g) The commission shall prescribe a license renewal
1206 form, which shall accompany renewal fees ~~which~~and shall be
1207 filed on or before August 31 of the final year of each license
1208 period in order for the respective license to be renewed on a
1209 timely basis for the following license period. If any of the
1210 foregoing are filed during the period from September 1 through
1211 September 30 of the final year of a license period, the one
1212 hundred fifty dollar (\$150) penalty set out below shall be
1213 paid in addition to the renewal fees. Failure to meet this
1214 September 30 deadline shall result in the license being placed
1215 on inactive status on the following October 1, and the license
1216 shall be subject to all reactivation requirements.
1217 Reactivations shall be processed in the order received as
1218 evidenced by postmark or delivery date. Certified or
1219 registered mail may be used for reactivation in these cases.
1220 Licensees filing during the period from September 1 of the
1221 final year of a license period through September 30 of the
1222 initial year of a license period shall pay the required
1223 license fee, plus a penalty of one hundred fifty dollars
1224 (\$150).

1225 (h) The renewal form shall be mailed by the commission
1226 to the licensee's place of business, if an active licensee, or
1227 to his or her residence, if an inactive licensee, prior to
1228 August 1 of the final year of each license period. Each
1229 licensee shall notify the commission in writing of any change
1230 in his or her business or residence address within 30 days of
1231 the change.

1232 (i) Every license shall expire at midnight on September



HB13 INTRODUCED

1233 30 of the final year of each license period. An expired
1234 license may be renewed during the 12-month period following
1235 the license period for which the license was current. A
1236 licensee who fails to renew before the end of the 12-month
1237 period following the license period for which the license was
1238 issued has a lapsed license, and shall be subject to all
1239 requirements applicable to persons who have never been
1240 licensed, however, the commission may upon determination of
1241 hardship, allow later renewal upon payment of all fees and
1242 penalties. An inactive license must be renewed in the same
1243 manner as an active license.

1244 (j) (1) Each applicant for renewal of an active
1245 salesperson or broker license issued by the commission shall,
1246 on or before September 30 of the final year of each license
1247 period, submit proof of completion of not less than 15 clock
1248 hours of approved continuing education course work to the
1249 commission, in addition to any other requirements for renewal.
1250 Failure to meet this deadline shall result in the license
1251 being placed on inactive status on the following October 1,
1252 and the license shall be subject to all reactivation
1253 requirements. Reactivations shall be processed in the order
1254 received as evidenced by postmark or delivery date. Certified
1255 or registered mail may be used for reactivation in this case.
1256 Proof of attendance at the course work, whether or not the
1257 applicant attained a passing grade in the course, shall be
1258 sufficient to satisfy requirements for renewal. The 15 clock
1259 hours' course work requirement shall apply to each two-year
1260 license renewal, and hours in excess of 15 shall not be



HB13 INTRODUCED

1261 cumulated or credited for the purpose of subsequent license
1262 renewals. The commission shall develop standards for approval
1263 of courses, and shall require certification of the course work
1264 of the applicant.

1265 Time served as a member of the state Legislature during
1266 each license renewal period shall be deemed the equivalent of
1267 the 15 hours course work and shall satisfy the requirements of
1268 this subsection.

1269 (2) This section shall apply to renewals of licenses
1270 which expire after September 30, 1986. An applicant for first
1271 renewal who has been licensed for not more than one year shall
1272 not be required to comply with this section for the first
1273 renewal of the applicant's license. Any licensee reaching the
1274 age of 65 on or before September 30, 2000, and having been
1275 licensed 10 years prior to that date shall be exempt from this
1276 section.

1277 (3) Continuing education shall not result in a passing
1278 or failing grade.

1279 (k) A licensee may request that the commission issue
1280 his or her license ~~to~~as inactive status. Inactive licenses
1281 shall be held at the commission office until activated. No act
1282 for which a license is required shall be performed under an
1283 inactive license.

1284 (1) If a licensee presents a form of payment to the
1285 commission, or to any third party on the commission's behalf,
1286 which is declined or rejected by a financial institution or
1287 merchant service company, the licensee shall have 30 days upon
1288 electronic notification from the commission to submit full and



HB13 INTRODUCED

1289 valid payment for the initial fee or fine and an additional
1290 fee for submitting the faulty payment, not to exceed the
1291 maximum amount allowed by Section 8-8-15. Failure to submit
1292 full and valid payment within 30 days of electronic
1293 notification by the commission will result in the license
1294 becoming inactive. Failure to submit full and valid payment
1295 within six months after electronic notification by the
1296 commission will result in the license lapsing."

1297 Section 9. Section 34-27-35, Code of Alabama 1975, is
1298 amended to read as follows:

1299 "§34-27-35

1300 (a) The commission shall prescribe the form and content
1301 of license certificates issued. Each qualifying broker's
1302 license certificate shall show the name and business address
1303 of the broker. The license certificate of each active
1304 salesperson or associate broker shall show his or her name and
1305 address. The license certificate of each active salesperson or
1306 associate broker shall be delivered or mailed to his or her
1307 qualifying broker. Each license certificate shall be kept by
1308 the qualifying broker and shall be publicly displayed at the
1309 address which appears on the license certificate.

1310 (b) The commission may establish a one-year or
1311 multi-year license period.

1312 (c) (1) The fee for a temporary license shall be one
1313 hundred fifty dollars (\$150). The original fee for a
1314 ~~broker's~~broker license shall be one hundred fifty dollars
1315 (\$150) ~~and, beginning with the license period effective~~
1316 ~~October 1, 2002, the renewal fee for a broker's license shall~~



HB13 INTRODUCED

1317 ~~be seventy-five dollars (\$75) per year for each year of the~~
1318 ~~license period. The original fee for each salesperson's~~
1319 ~~license shall be sixty-five dollars (\$65) per year for each~~
1320 ~~year or portion of a year remaining in the respective license~~
1321 ~~period, and the renewal fee for each salesperson's license~~
1322 ~~shall be sixty-five dollars (\$65) per year for each year of~~
1323 ~~the license period. The original fee for each company license~~
1324 ~~shall be sixty-five dollars (\$65) per year for each year or~~
1325 ~~portion of a year remaining in the respective license period,~~
1326 ~~and the renewal fee for each license shall be sixty-five~~
1327 ~~dollars (\$65) per year for each year of the license period.~~

1328 (2) ~~Beginning with the license period effective October~~
1329 ~~1, 2004, the~~The renewal fee for a ~~broker's~~broker license shall
1330 be ninety-five dollars (\$95) per year for each year of the
1331 license period. The original fee for each
1332 ~~salesperson's~~salesperson license shall be eighty-five dollars
1333 (\$85) per year for each year or portion of a year remaining in
1334 the respective license period, and the renewal fee for each
1335 ~~salesperson's~~salesperson license shall be eighty-five dollars
1336 (\$85) per year for each year of the license period. The
1337 original fee for each company license shall be eighty-five
1338 dollars (\$85) per year for each year or portion of a year
1339 remaining in the respective license period, and the renewal
1340 fee for each license shall be eighty-five dollars (\$85) per
1341 year for each year of the license period.

1342 (d) ~~(1)~~ The renewal research and education fee shall be
1343 ~~two~~seven dollars and fifty cents ~~(\$2.50)~~ (\$7.50) per year for
1344 each year of the license period and shall be paid at the time



HB13 INTRODUCED

1345 of license renewal by all brokers and salespersons in addition
1346 to the license renewal fees set out in this section.
1347 Collection of this fee shall apply to all broker and
1348 salesperson renewals, except that brokers who hold more than
1349 one ~~broker's~~broker license shall pay the fee for only one
1350 license at each renewal.

1351 ~~(2) Beginning June 1, 2014, this fee shall be seven~~
1352 ~~dollars and fifty cents (\$7.50), and the~~The proceeds shall be
1353 distributed to the Alabama Center for Real Estate.

1354 (e) The original research and education fee shall be
1355 thirty dollars (\$30) and shall be paid at the time of all
1356 applications received ~~on and after October 15, 1995,~~ for
1357 issuance of an original ~~broker's~~broker license, and shall be
1358 paid at the time of all applications received ~~on and after~~
1359 ~~October 15, 1995,~~ for issuance of a temporary
1360 ~~salesperson's~~salesperson license. The original research and
1361 education fee shall also be paid by reciprocal salespersons.
1362 This is in addition to the original license fees set out in
1363 this section. This thirty dollar (\$30) original research and
1364 education fee is a one-time fee which no person shall be
1365 required to pay more than once.

1366 (f) The license of a salesperson who is subsequently
1367 issued a ~~broker's~~broker license automatically terminates upon
1368 the issuance of his or her ~~broker's~~broker license ~~certificate.~~
1369 ~~The salesperson's license certificate shall be returned to the~~
1370 ~~commission in order for a broker's license to be issued.~~ No
1371 refund shall be made of any fee or Recovery Fund deposit
1372 pertaining to the ~~salesperson's, broker's, or~~



HB13 INTRODUCED

1373 ~~company's~~salesperson, broker, or company license once it has
1374 been in effect.

1375 (g) The commission shall prescribe a license renewal
1376 form, which shall accompany renewal fees and which shall be
1377 filed on or before ~~August 31~~September 30 of the final year of
1378 each license period in order for the respective license to be
1379 renewed on a timely basis for the following license period. ~~If~~
1380 ~~any of the foregoing are filed during the period from~~
1381 ~~September 1 through September 30 of the final year of a~~
1382 ~~license period, the one hundred fifty dollar (\$150) penalty~~
1383 ~~set out below shall be paid in addition to the renewal fees.~~
1384 Failure to meet this September 30 deadline shall result in the
1385 license expiring and being placed on inactive status on ~~the~~
1386 ~~following~~ October 1, and the license shall be subject to all
1387 reactivation requirements. ~~Reactivations shall be processed in~~
1388 ~~the order received as evidenced by postmark or delivery date.~~
1389 ~~Certified or registered mail may be used for reactivation in~~
1390 ~~these cases.~~ Licensees filing ~~during the period from September~~
1391 ~~1 of the final year of a license period through~~after September
1392 30 of the initial year of a license period shall pay the
1393 required license fee, plus a penalty of one hundred fifty
1394 dollars (\$150).

1395 (h) ~~The renewal form shall be mailed by the commission~~
1396 ~~to the licensee's place of business, if an active licensee, or~~
1397 ~~to his or her residence, if an inactive licensee, prior to~~
1398 ~~August 1 of the final year of each license period.~~ Each
1399 licensee shall notify the commission in writing of any change
1400 in his or her business or residence address within 30 days of



HB13 INTRODUCED

1401 the change.

1402 (i) Every license shall expire at midnight on September
1403 30 of the final year of each license period, except for a
1404 temporary salesperson whose license becomes inactive 90 days
1405 after issuance or a temporary broker whose license expires six
1406 months after issuance. An expired license may be renewed
1407 during the 12-month period following the license period for
1408 which the license was current. A licensee who fails to renew
1409 before the end of the 12-month period following the license
1410 period for which the license was issued has a lapsed license,
1411 and shall be subject to all requirements applicable to persons
1412 who have never been licensed, however, the commission may upon
1413 determination of hardship, allow later renewal upon payment of
1414 all fees and penalties. An inactive license must be renewed in
1415 the same manner as an active license.

1416 (j) (1) Each applicant for renewal of an active
1417 salesperson or broker license issued by the commission shall,
1418 on or before September 30 of the final year of each license
1419 period, ~~submit~~ confirm through the commission's website proof
1420 of completion of ~~not less than 15 clock~~ his or her continuing
1421 education requirement hours of approved continuing education
1422 course work ~~to the commission,~~ in addition to any other
1423 requirements for renewal. A maximum of six one-clock-hour
1424 courses shall be accepted by the commission as part of a
1425 licensee's continuing education requirement. Failure to meet
1426 this deadline shall result in the license being placed on
1427 inactive status on the following October 1, and the license
1428 shall be subject to all reactivation requirements.



HB13 INTRODUCED

1429 (2) a. ~~Reactivations shall be processed in the order~~
1430 ~~received as evidenced by postmark or delivery date. Certified~~
1431 ~~or registered mail may be used for reactivation in this case.~~
1432 Proof of ~~attendance at the~~completion of course work, whether
1433 or not the applicant attained a passing grade in the course,
1434 shall be sufficient to satisfy requirements for renewal. The
1435 ~~15 clock hours' course work~~continuing education requirement
1436 shall apply to each two-year license renewal, and hours in
1437 excess of 15 shall not be ~~accumulated or credited for the~~
1438 ~~purpose of~~applicable to subsequent license renewals. The
1439 commission shall develop standards for approval of courses,
1440 and shall require certification of the course work of the
1441 applicant. No continuing education course shall be approved by
1442 the commission unless the course is at least 60 minutes of
1443 instruction.

1444 b. Time served as a member of the state Legislature
1445 during each license renewal period shall be deemed the
1446 equivalent of the ~~15 hours course work~~continuing education
1447 requirement and shall satisfy the requirements of this
1448 subsection.

1449 (3) ~~(2) This section shall apply to renewals of licenses~~
1450 ~~which expire after September 30, 1986.~~ An applicant for first
1451 renewal of an original license who has been licensed for not
1452 more than one year shall not be required to comply with this
1453 section for the first renewal of the applicant's license. ~~Any~~
1454 ~~licensee reaching the age of 65 on or before September 30,~~
1455 ~~2000, and having been licensed 10 years prior to that date~~
1456 ~~shall be exempt from this section.~~



HB13 INTRODUCED

1457 ~~(3)~~ (4) Continuing education shall not result in a
1458 passing or failing grade.

1459 (k) A licensee may request that the commission issue
1460 his or her license ~~to~~ in an inactive status. Inactive licenses
1461 shall be held at the commission office until activated. No act
1462 for which a license is required shall be performed under an
1463 inactive license.

1464 (1) If a licensee presents a form of payment to the
1465 commission, or to any third party on the commission's behalf,
1466 which is declined or rejected by a financial institution or
1467 merchant service company, the licensee shall have 30 days upon
1468 electronic notification from the commission to submit full and
1469 valid payment for the initial fee or fine and an additional
1470 fee for submitting the faulty payment, not to exceed the
1471 maximum amount allowed by Section 8-8-15. Failure to submit
1472 full and valid payment within 30 days of electronic
1473 notification by the commission will result in the license
1474 becoming inactive. Failure to submit full and valid payment
1475 within six months after electronic notification by the
1476 commission will result in the license lapsing."

1477 Section 10. Section 34-27-36, Code of Alabama 1975, is
1478 amended to read as follows:

1479 "§34-27-36

1480 (a) (1) The commission or its staff may on its own, or
1481 on the verified complaint in writing of any person,
1482 investigate the actions and records of a licensee. The
1483 commission may issue subpoenas and compel the testimony of
1484 witnesses and the production of records and documents during



HB13 INTRODUCED

1485 an investigation. If probable cause is found, a formal
1486 complaint shall be filed and the commission shall hold a
1487 hearing on the formal complaint.

1488 (2) In each instance in which a person or entity
1489 engages in any of the acts described in subsection (b) or is
1490 found in violation of any of the conduct prohibited in
1491 subsection (b), the commission may impose any of the following
1492 penalties:

1493 a. Impose a fine of not less than one hundred dollars
1494 (\$100) nor more than five thousand dollars (\$5,000).

1495 b. Require completion of approved education course or
1496 courses in addition to the existing continuing education
1497 requirements.

1498 c. Issue a public reprimand.

1499 d. Revoke or suspend any or all licenses held under

1500 this chapter by the person or entity ~~The commission shall~~
1501 ~~revoke or suspend the license or impose a fine of not less~~
1502 ~~than one hundred dollars (\$100) nor more than two thousand~~
1503 ~~five hundred dollars (\$2,500), or both, or reprimand the~~
1504 ~~licensee in each instance in which the licensee is found~~
1505 ~~guilty of any of the following acts set out in this section.~~

1506 ~~The commission may revoke or suspend a license~~ until such time
1507 as the licensee has completed an approved continuing education
1508 course, and/or has made restitution to accounts containing
1509 funds to be held for other parties, or both. The commission
1510 may also stay the revocation or suspension of a license and
1511 require completion of an approved education course ~~and/or,~~
1512 require the making of restitution to accounts containing funds



HB13 INTRODUCED

1513 to be held for other parties, or both.

1514 (b) A licensee is prohibited from doing any of the
1515 following:

1516 (1) Procuring or attempting to procure, a license, for
1517 himself or herself or another, by fraud, misrepresentation, or
1518 deceit, or by making a material misstatement of fact in an
1519 application for a license.

1520 (2) Engaging in misrepresentation or dishonest or
1521 fraudulent acts when selling, buying, trading, or renting real
1522 property of his or her own or of a spouse or child or parent.

1523 (3) Making a material misrepresentation, or failing to
1524 disclose to a potential purchaser or lessee any latent
1525 structural defect or any other defect known to the licensee.
1526 Latent structural defects and other defects do not refer to
1527 trivial or insignificant defects but refer to those defects
1528 that would be a significant factor to a reasonable and prudent
1529 person in making a decision to purchase or lease.

1530 (4) Making any false promises of a character likely to
1531 influence, persuade, or induce any person to enter into any
1532 contract or agreement.

1533 (5) Pursuing a continued and flagrant course of
1534 misrepresentation or the making of false promises through
1535 agents or salespersons or any medium of advertising or
1536 otherwise.

1537 (6) Publishing or causing to be published any
1538 advertisement which deceives or which is likely to deceive the
1539 public, or which in any manner tends to create a misleading



HB13 INTRODUCED

1540 impression or which fails to identify the person causing the
1541 advertisement to be placed as a licensed broker or
1542 salesperson.

1543 (7) Acting for more than one party in a transaction
1544 without the knowledge and consent in writing of all parties
1545 for whom he or she acts.

1546 (8)a. Failing, within a reasonable time, to properly
1547 account for or remit money coming into his or her possession
1548 which belongs to others, or commingling money belonging to
1549 others with his or her own funds.

1550 b. Failing to deposit and account for at all times all
1551 funds belonging to, or being held for others, in a separate
1552 federally insured account or accounts in a financial
1553 institution located in Alabama.

1554 c. Failing to keep for at least three years a complete
1555 record of funds belonging to others showing to whom the money
1556 belongs, date deposited, date of withdrawal, and other
1557 pertinent information.

1558 (9) Placing a sign on any property offering it for
1559 sale, lease, or rent without the consent of the owner.

1560 (10) Failing to voluntarily furnish a copy of each
1561 listing, contract, lease, and other document to each party
1562 executing the document with reasonable promptness.

1563 (11) Paying any profit, compensation, commission, or
1564 fee to, or dividing any profit, compensation, commission, or
1565 fee with, anyone other than a licensee or multiple listing
1566 service. This subdivision shall not prevent an associate
1567 broker or salesperson from owning any lawfully constituted



HB13 INTRODUCED

1568 business organization, including, but not limited to, a
1569 corporation or limited liability company or limited liability
1570 corporation, for the purpose of receiving payments
1571 contemplated in this subsection. The business organization
1572 shall not be required to be licensed under this chapter, and
1573 shall not engage in any other activity requiring a real estate
1574 license.

1575 (12) Paying or receiving any rebate from any person in
1576 a real estate transaction.

1577 (13) Inducing any party to a contract to ~~break~~breach
1578 the contract for the purpose of substituting a new contract,
1579 where the substitution is motivated by the personal gain of
1580 the licensee.

1581 (14) If the licensee is a salesperson or associate
1582 broker, accepting a commission or other valuable consideration
1583 for performing any act for which a license is required from
1584 any person except his or her qualifying broker.

1585 (15) If the licensee is a qualifying broker or company,
1586 allowing a salesperson or associate broker licensed under him
1587 or her to advertise himself or herself as a real estate agent
1588 without the name or trade name of the qualifying broker or
1589 company appearing prominently on the advertising; or if the
1590 licensee is a salesperson or associate broker, advertising
1591 himself or herself as a real estate agent without the name or
1592 trade name of the qualifying broker or company under whom the
1593 salesperson or associate broker is licensed appearing
1594 prominently on the advertising. For purposes of this
1595 subdivision, "prominently" means use of a font size that is



HB13 INTRODUCED

1596 equal to or larger in size than any other text or logo in the
1597 advertisement and situated and sized for the purpose of
1598 gaining the attention of consumers viewing the advertisement.

1599 (16) ~~Presenting to the commission, as payment for a fee~~
1600 ~~or fine, a check that is returned unpaidd.~~ Failing, as the
1601 buyer's agent, to notify the listing agent in writing within
1602 three business days in the event that the buyer has not
1603 deposited earnest money in accordance with a contract
1604 requiring the buyer to deposit escrow funds with any person or
1605 entity.

1606 b. Failing, as the listing agent, to notify his or her
1607 client immediately if no written receipt of escrow funds has
1608 been provided to the listing agent within three business days
1609 of the time specified by the contract for deposit of escrow
1610 funds.

1611 (17) Establishing an association, by employment or
1612 otherwise, with an unlicensed person who is expected or
1613 required to act as a licensee, or aiding, abetting, or
1614 conspiring with a person to circumvent the requirements of
1615 this chapter.

1616 (18) Failing to disclose to an owner the licensee's
1617 intention to acquire, directly or indirectly, an interest in
1618 property which he or she or his or her associates have been
1619 employed to sell.

1620 (19) Violating or disregarding any provision of this
1621 chapter or any rule, regulation, or order of the commission.

1622 (20) If a broker, ~~accepting~~ accepts a "net listing"
1623 agreement for sale of real property or any interest therein. A



HB13 INTRODUCED

1624 "net listing" is one that stipulates a net price to be
1625 received by the owner with the excess due to be received by
1626 the broker as his or her commission.

1627 (21) Misrepresenting or failing to disclose to any
1628 lender, guaranteeing agency, or any other interested party,
1629 the true terms of a sale of real estate.

1630 (22) Failing to inform the buyer or seller at the time
1631 an offer is presented that he or she will be expected to pay
1632 certain closing costs and the approximate amount of those
1633 costs.

1634 (23)a. Having entered a plea of guilty or nolo
1635 contendere to, or having been found guilty of or convicted of
1636 a felony or a crime involving moral turpitude.

1637 b. Having a final money judgment rendered against him
1638 or her which results from an act or omission occurring in the
1639 pursuit of his or her real estate business or involves the
1640 goodwill of an existing real estate business.

1641 (24) Offering free lots or conducting lotteries for the
1642 purpose of influencing a party to purchase or lease real
1643 estate.

1644 (25) a. Failing to ~~include a fixed date of expiration in~~
1645 ~~a written listing agreement or failing to~~ leave a copy of the
1646 written residential listing agreement or written residential
1647 property management agreement with the principal.

1648 b. Failing to include a fixed date of expiration, not
1649 to exceed one year from the date of commencement, in a written
1650 residential listing agreement.

1651 c. Recording or filing a residential listing agreement



HB13 INTRODUCED

1652 with a probate court or probate office to encumber the
1653 property that is the subject of the listing agreement.

1654 (26) Conduct which constitutes or demonstrates
1655 dishonest dealings, bad faith, or untrustworthiness.

1656 (27) Acting negligently or incompetently in performing
1657 an act for which a person is required to hold a real estate
1658 license.

1659 (28) Failing or refusing on demand to produce a
1660 document, book, or record in his or her possession concerning
1661 a real estate transaction conducted by him or her for
1662 inspection by the commission or its authorized personnel or
1663 representative.

1664 (29) Failing within a reasonable time to provide
1665 information requested by the commission during an
1666 investigation or after a formal complaint has been filed.

1667 (30) Failing without cause to surrender to the rightful
1668 owner, on demand, a document or instrument coming into his or
1669 her possession.

1670 (31) If the licensee is a qualifying broker or company,
1671 failing to keep ~~in their files~~ copies of all contracts,
1672 leases, listings, and other records pertinent to real estate
1673 transactions for a period of three years.

1674 (32) When selling, offering to sell, assigning, or
1675 offering to assign an equitable interest in a contract to
1676 purchase residential real estate:

1677 a. Failing to disclose in writing to a potential buyer
1678 that the holder of the equitable interest is not the deed
1679 holder of the property and is only offering to sell or assign



HB13 INTRODUCED

1680 his or her equitable interest; or

1681 b. Failing to disclose in writing to a seller both of
1682 the following:

1683 1. The intent to assign an equitable interest in the
1684 seller's real estate prior to offering to assign the interest.

1685 2. The assignment of the interest within three calendar
1686 days following the assignment.

1687 ~~(b)~~ (c) If it appears that a person, ~~firm, corporation,~~
1688 or ~~any~~ business entity has engaged, or is about to engage, in
1689 an act or practice constituting a violation of Article 1 or 2
1690 of this chapter or any rule or order of the commission, the
1691 commission, through the Attorney General, may institute legal
1692 actions to enjoin the act or practice and to enforce
1693 compliance with Articles 1 and 2 of this chapter or any rule
1694 or order of the commission. To prevail in an action, it shall
1695 not be necessary to allege or prove either that an adequate
1696 remedy at law does not exist or that substantial or
1697 irreparable damage would result from the continued violation.

1698 ~~(e)~~ (d) (1) Notwithstanding any other provisions of law,
1699 the commission may issue an order requiring any accused
1700 person, firm, corporation, or business entity to cease and
1701 desist from engaging in activities requiring a license under
1702 this chapter when the accused person, firm, corporation, or
1703 business entity is not licensed under this chapter. The order
1704 shall be entered by the executive director after a finding of
1705 probable cause by the commission staff. The order shall become
1706 final 15 days after its service upon the accused, unless the
1707 accused requests a hearing before the commission. Upon hearing



HB13 INTRODUCED

1708 the case and finding violations, the commission may make the
1709 cease and desist order final and the commission may impose a
1710 fine for each violation in an amount consistent with the range
1711 of fines applicable to licensees, and in addition, may impose
1712 a fine in the amount of any gain or economic benefit that was
1713 derived from the violation, and in addition, may impose a fine
1714 in the amount of the commission's costs incurred. Any fines
1715 not paid as ordered shall be enforceable in any court with
1716 competent jurisdiction and proper venue.

1717 (2) Notwithstanding any other provisions of law, the
1718 commission may decline to issue an order requiring any accused
1719 person, firm, corporation, or business entity to cease and
1720 desist from engaging in activities requiring a license under
1721 this chapter when the accused person, firm, corporation, or
1722 business entity is not licensed under this chapter. In this
1723 instance, the commission shall proceed to give appropriate
1724 notice of the violations and hold a hearing thereon. Upon
1725 hearing the case and finding violations, the commission may
1726 impose a fine for each violation in an amount consistent with
1727 the range of fines applicable to licensees, and in addition,
1728 may impose a fine in the amount of any gain or economic
1729 benefit that was derived from the violation, and in addition,
1730 may impose a fine in the amount of the commission's costs
1731 incurred. Any fine or fines not paid as ordered shall be
1732 enforceable in any court with competent jurisdiction and
1733 proper venue.

1734 ~~(d)~~ (e) The commission shall notify the licensee and
1735 qualifying broker in writing regarding the complaint.



HB13 INTRODUCED

1736 ~~(e)~~ (f) The commission shall notify the complainant,
1737 licensee, and qualifying broker in writing regarding the
1738 disposition of the complaint."

1739 Section 11. Section 34-27-39 is added to the Code of
1740 Alabama 1975, to read as follows:

1741 §34-27-39

1742 (a) No licensee shall advertise or market as a team,
1743 group, or other affiliation unless actively licensed as a team
1744 by the commission.

1745 (b) The leader of any licensed team shall at a minimum
1746 be a licensed Alabama associate broker.

1747 (c) A broker wishing to license a team must complete
1748 the team license application established by the commission.
1749 The application must be authorized by the leader of the
1750 proposed team and the team leader's qualifying broker. The
1751 application must include the name and license number of all
1752 licensees that will initially be a member of the team.

1753 (d) The commission may establish a one-year or
1754 multi-year team license period.

1755 (e) The original fee for each team license shall be one
1756 hundred dollars (\$100) per year or portion of a year remaining
1757 in the respective license period, and the renewal fee for each
1758 team license shall be one hundred dollars (\$100) per year for
1759 each year of the license period. Team licenses must be renewed
1760 by September 30 of the final year of a licensing period, or
1761 the team shall be inactivated and subject to reactivation
1762 requirements. The fee to reactivate a team shall be fifty
1763 dollars (\$50).



HB13 INTRODUCED

1764 (f) To dissolve a team, the request must be made as
1765 prescribed by the commission and approved by the team leader
1766 and the team leader's qualifying broker.

1767 (g) To change the name of a team, the fee shall be
1768 fifty dollars (\$50), and the request must be made as
1769 prescribed by the commission and approved by the team leader
1770 and the team leader's qualifying broker.

1771 (h) To add or remove a member from a team, the fee
1772 shall be twenty-five dollars (\$25) per member who is added or
1773 removed. The request must be made as prescribed by the
1774 commission and approved by the team leader and the team
1775 leader's qualifying broker.

1776 (i) The team leader, the team leader's qualifying
1777 broker, and the company's qualifying broker are all
1778 responsible for supervising team members.

1779 (j) The team leader and the team leader's qualifying
1780 broker are responsible for notifying the team members if a
1781 team member is removed from a team or the team is dissolved or
1782 inactivated.

1783 (k) No person shall be a member on more than one
1784 licensed team.

1785 (l) The commission shall adopt rules addressing teams
1786 and what words may or may not be used in a team name and how
1787 teams may advertise and market.

1788 Section 12. Sections 34-27-81, 34-27-82, 34-27-83,
1789 34-27-84, 34-27-85, and 34-27-86, Code of Alabama 1975, are
1790 amended to read as follows:

1791 "§34-27-81



HB13 INTRODUCED

1792 As used in this article, the following words ~~shall~~ have
1793 the following meanings:

1794 (1) AGENCY AGREEMENT. A written agreement between a
1795 broker and a client which creates a fiduciary relationship
1796 between the broker and a ~~principal, who is commonly referred~~
1797 ~~to as a client~~consumer.

1798 (2) BROKER. Any person licensed as a real estate broker
1799 pursuant to Articles 1 and 2 of this chapter.

1800 (3) BROKERAGE AGREEMENT. A specific written agreement
1801 between a ~~brokerage firm~~real estate company and a consumer
1802 which establishes a brokerage relationship. The brokerage
1803 agreement shall contain a statement of the terms and
1804 conditions of the brokerage services to be provided.

1805 (4) BROKERAGE SERVICE. Any service, except for rental
1806 or property management services, provided by a broker or
1807 licensee to another person and includes all activities for
1808 which a real estate license is required under Articles 1 and 2
1809 of this chapter.

1810 (5) ~~CONSUMER. A person who obtains information, advice,~~
1811 ~~or services concerning real estate from a real estate~~
1812 ~~licensee~~CLIENT. A person who has an agency agreement with a
1813 broker for brokerage service, whether he or she is buyer or
1814 seller.

1815 (6) ~~CLIENT. A person who has an agency agreement with a~~
1816 ~~broker for brokerage service, whether he or she be buyer or~~
1817 ~~seller~~CONSUMER. A person who obtains information, advice, or
1818 services concerning real estate from a real estate licensee.

1819 (7) CUSTOMER. A person who is provided brokerage



HB13 INTRODUCED

1820 services by a broker or licensee but who is not a client of
1821 the broker.

1822 (8) DESIGNATED SINGLE AGENT. An agency agreement in
1823 which two or more licensed individuals under the same
1824 qualifying broker each represent a different party in the
1825 transaction, as designated by the qualifying broker. In this
1826 circumstance, neither the qualifying broker nor other
1827 licensees involved in the transaction shall be assumed to have
1828 imputed knowledge.

1829 ~~(8)~~ (9) DUAL AGENCY. An agency relationship agreement in
1830 which the same brokerage firm licensee, with informed written
1831 consent of all parties to a transaction, represents both the
1832 seller and the buyer in the same real estate transaction once
1833 all parties have signed the agreement. Circumstances which
1834 establish a dual agency include, but are not limited to, one
1835 of the following:

1836 ~~a. When two or more licensees licensed under the same~~
1837 ~~broker each represent a different party to the transaction.~~

1838 ~~b. When one licensee represents both the buyer and~~
1839 ~~seller in a real estate transaction.~~

1840 (10) IMPUTED KNOWLEDGE. Knowledge attributed to a party
1841 because of his or her position, relationship to another party,
1842 or responsibility for another party.

1843 ~~(9)~~ (11) INFORMED CONSENT. A consumer's agreement to
1844 allow something to happen which is based upon full disclosure
1845 of facts needed to choose appropriate brokerage services.

1846 ~~(10)~~ (12) LICENSEE. Any broker, salesperson, or company.

1847 ~~(11) LIMITED CONSENSUAL DUAL AGENT. A licensee who,~~



HB13 INTRODUCED

1848 ~~with the written informed consent of all parties to a~~
1849 ~~contemplated real estate transaction, is engaged as an agent~~
1850 ~~for both the buyer and seller. Circumstances which establish~~
1851 ~~dual agency include, but are not limited to, one of the~~
1852 ~~following:~~

1853 ~~a. When two or more licensees licensed under the same~~
1854 ~~broker each represent a different party to the transaction.~~

1855 ~~b. When one licensee represents both the buyer and~~
1856 ~~seller in a real estate transaction.~~

1857 ~~(12)~~ (13) MATERIAL FACT. A fact that is of significance
1858 to a reasonable party which affects the party's decision to
1859 enter into a real estate contract.

1860 ~~(13)~~ (14) QUALIFYING BROKER. A broker under whom a
1861 corporation, partnership, branch office, or lawfully
1862 constituted business organization, as the Legislature may from
1863 time to time provide, is licensed, or a broker licensed to do
1864 business as a sole proprietorship who is responsible for
1865 supervising the acts of the company, or proprietorship and all
1866 real estate licensees licensed therewith.

1867 ~~(14)~~ (15) REAL ESTATE TRANSACTION. The purchase, sale,
1868 lease and rental, option, or exchange of an interest in real
1869 estate.

1870 ~~(15)~~ (16) SINGLE AGENT. A licensee who has an agency
1871 agreement and is engaged by and represents only one party in a
1872 real estate transaction. A single agent ~~includes, but is not~~
1873 ~~limited to, one~~ may be only one of the following:

1874 a. Buyer's agent, which means a broker or licensee who
1875 is engaged by and represents only the buyer in a real estate



HB13 INTRODUCED

1876 transaction.

1877 b. Seller's agent, which means a broker or licensee who
1878 is engaged by and represents only the seller in a real estate
1879 transaction.

1880 ~~(16) SUB-AGENT. A licensee who is empowered to act for~~
1881 ~~another broker in performing real estate brokerage tasks for a~~
1882 ~~principal, and who owes the same duties to the principal as~~
1883 ~~the agent of the principal.~~

1884 (17) TRANSACTION ~~BROKER~~FACILITATOR. The term has the
1885 same meaning as "Transaction Broker" provided in Act 98-618.
1886 The term also includes a licensee who assists one or more
1887 parties in a contemplated real estate transaction without
1888 being an agent or fiduciary or advocate for the interest of
1889 that party to a transaction."

1890 "§34-27-82

1891 (a) When engaged in any real estate transaction, the
1892 licensee may act as a single agent, ~~sub-agent, a limited~~
1893 ~~consensual~~-dual agent, or as a transaction ~~broker~~facilitator.

1894 (b) At the initial contact between a licensee and the
1895 consumer and until such time a ~~broker~~licensee enters into a
1896 specific written agreement to establish an agency relationship
1897 with one or more of the parties to a transaction, the licensee
1898 shall be considered a transaction facilitator and not ~~be~~
1899 ~~considered~~-an agent of that consumer. An agency relationship
1900 shall not be assumed, implied, or created without a written
1901 bilateral agreement signed by the licensee and the consumer
1902 establishing the terms of the agency relationship.

1903 (c) As soon as reasonably possible and before any



HB13 INTRODUCED

1904 confidential information is disclosed to any other person by a
1905 licensee, the licensee shall provide a written disclosure form
1906 to a consumer for signature describing the ~~alternative~~ types
1907 of brokerage services, as identified in subsection (a), that
1908 are available to clients and customers of real estate
1909 brokerage companies. The licensee shall also inform a consumer
1910 as to the specific types of brokerage services that are
1911 provided by his or her company. A broker shall not be required
1912 to offer or engage in any one or in all of the ~~alternative~~
1913 brokerage ~~arrangements~~services specified in subsection (a).
1914 The licensee will provide a written form to the consumer for
1915 their signature describing the ~~alternative~~ types of brokerage
1916 ~~arrangements~~services available. All rental or property
1917 management services are excluded from the requirements of this
1918 subsection.

1919 (d) A licensee shall not be required to comply with the
1920 provisions of subsection (c) when engaged in transactions with
1921 any corporation, ~~non-profit~~nonprofit corporation, professional
1922 corporation, professional association, limited liability
1923 company, partnership, any partnership created under the
1924 Uniform Partnership Act (commencing at Section 10-8A-101),
1925 real estate investment trust, business trust, charitable
1926 trust, family trust, or any governmental entity in
1927 transactions involving real estate.

1928 (e) After disclosure, the consumer may make an
1929 affirmative election of a specific type of brokerage
1930 ~~arrangement~~service that is available from the real estate
1931 brokerage company. The brokerage agreement shall contain a



HB13 INTRODUCED

1932 statement of the terms and conditions of the brokerage
1933 services that the ~~broker~~company will provide. In the absence
1934 of a signed brokerage agreement between the parties, the
1935 transaction ~~brokerage~~facilitator relationship shall remain in
1936 effect.

1937 (f) When serving as a transaction ~~broker~~facilitator,
1938 the duties of the licensee to all the parties to a real estate
1939 transaction are limited to those which are enumerated in
1940 Section 34-27-84. A signed brokerage agreement between the
1941 parties or, in the absence of a signed brokerage agreement,
1942 the continuation of the transaction ~~brokerage~~facilitator
1943 relationship, shall constitute informed consent by the
1944 consumer as to the services the consumer shall receive from
1945 the broker.

1946 (g) Disclosure forms shall be provided to buyers and
1947 sellers. All real estate ~~brokerage—firms~~companies operating
1948 within the State of Alabama shall use the same agency
1949 disclosure forms. Disclosure forms describing the alternative
1950 types of brokerage services identified above shall be written
1951 by the Alabama Real Estate Commission.

1952 (h) Each offer to purchase shall prominently display a
1953 representation disclosure clause in the following form,
1954 completed and initialed as indicated:

1955 The listing licensee, _____, is:

1956 An agent of the seller.

1957 A dual agent.

1958 Assisting the seller as a transaction facilitator.

1959 The selling licensee, _____, is:



HB13 INTRODUCED

- 1960 An agent of the buyer.
- 1961 A dual agent.
- 1962 Assisting the buyer as a transaction facilitator.

1963 ~~(h)~~ (i) Nothing in this section shall prohibit the
1964 consumer from entering into a written contract with a
1965 qualifying broker which contains provisions for services not
1966 specifically identified in the written disclosure form."

1967 "§34-27-83

1968 Any qualifying broker acting in a real estate
1969 transaction shall adopt a written agency disclosure office
1970 policy which specifically enumerates the types of brokerage
1971 ~~service arrangements~~ services a licensee may offer or accept.

1972 (a) The qualifying broker for each ~~brokerage~~ real estate
1973 company shall provide every licensee a copy of the agency
1974 disclosure policy regarding the types of brokerage services
1975 offered by their company. This policy shall be explained to
1976 all licensees at least once a year.

1977 (b) A form acknowledging receipt of the agency
1978 disclosure office policy ~~statement~~ and a satisfactory
1979 explanation of its contents shall be signed by each licensee
1980 and a copy retained by the ~~brokerage~~ real estate company for
1981 three years."

1982 "§34-27-84

1983 (a) Licensees shall have all of the following
1984 obligations to all parties in a real estate transaction:

1985 (1) To provide brokerage services to all parties to the
1986 transaction honestly and in good faith.

1987 (2) To exercise reasonable skill and care in providing



HB13 INTRODUCED

1988 brokerage services to all parties.

1989 (3) To keep confidential any information given to the
1990 licensee in confidence, or any information obtained by the
1991 licensee that the licensee knows a reasonable individual would
1992 want to keep confidential, unless disclosure of this
1993 information is required by law, ~~violates a fiduciary duty to a~~
1994 ~~client, becomes public knowledge,~~ or is authorized by the
1995 party in writing, or the information becomes public knowledge,
1996 or the failure to disclose the information violates a
1997 fiduciary duty to a client.

1998 (4) To account for all property coming into the
1999 possession of the licensee that belongs to any party to the
2000 real estate transaction.

2001 (5) When assisting a party in the negotiation of a real
2002 estate transaction, to present all written offers in a timely
2003 and truthful manner.

2004 (6) To act on behalf of the licensee or his or her
2005 immediate family, or on behalf of any other individual,
2006 organization, or business entity in which the licensee has a
2007 personal interest only with prior timely written disclosure of
2008 this interest to all parties to the transaction.

2009 (b) A licensee may provide requested information which
2010 affects a transaction to any party who requests the
2011 information, unless disclosure of the information is
2012 prohibited by law or in this article.

2013 (c) When accepting an agreement to list an owner's
2014 property for sale, the ~~broker or his or her~~ licensee shall, at
2015 a minimum, accept delivery of and present to the consumer all



HB13 INTRODUCED

2016 offers, counteroffers, and addenda to assist the consumer in
2017 negotiating offers, counteroffers, and addenda, and to answer
2018 the consumer's questions relating to the transaction."

2019 "§34-27-85

2020 (a) In addition to the duties enumerated in Section
2021 34-27-84, a licensee shall provide all of the following
2022 services to clients:

2023 (1) Loyally represent the best interests of the client
2024 by placing the interests of the client ahead of the interests
2025 of any other party, unless loyalty to a client violates the
2026 duties of the licensee to other parties under Section
2027 34-27-84, or is otherwise prohibited by law.

2028 (2) Disclose to the client all information known by the
2029 licensee that is material to the transaction and not
2030 discoverable by the client through reasonable investigation
2031 and observation, except for confidential information as
2032 provided in subdivision (a) (3) ~~of subsection (a)~~ of Section
2033 34-27-84. A licensee shall have no affirmative duty to
2034 discover the information.

2035 (3) Fulfill any obligation required by the agency
2036 agreement, and any lawful instructions of the client that are
2037 within the scope of the agency agreement, that are not
2038 inconsistent with other duties as enumerated in this article.

2039 (b) A ~~broker~~licensee who represents more than one
2040 client in a real estate transaction owes the duties as
2041 specified in subsection (a) to each client, except where the
2042 duties to one client will violate the fiduciary duties of the
2043 licensee to other clients.



HB13 INTRODUCED

2044 (c) A ~~broker~~licensee may provide brokerage services as
2045 a ~~limited-consensual~~-dual agent only with the prior written,
2046 informed consent of all clients of the ~~broker~~licensee in the
2047 transaction."

2048 "§34-27-86

2049 (a) A client is not liable for a misrepresentation made
2050 by a ~~broker~~licensee in connection with the ~~broker~~licensee
2051 providing brokerage services unless the client knows or should
2052 have known of the misrepresentation or the ~~broker~~licensee is
2053 repeating a misrepresentation made by the client to the
2054 ~~broker~~licensee.

2055 (b) A licensee shall not be liable for providing false
2056 information to a party in a real estate transaction if the
2057 false information was provided to the licensee by a client of
2058 the licensee or by a customer or by another licensee unless
2059 the licensee knows or should have known that the information
2060 was false."

2061 Section 13. Sections 1, 3, 4, 7, 8, 10, and 12 shall
2062 become effective on October 1, 2024; Sections 5, 6, 9, and 11
2063 shall become effective on October 1, 2026, and shall apply to
2064 licenses issued or renewed on or after that date; and Section
2065 2 shall become effective on October 1, 2027, and shall apply
2066 to licenses issued or renewed on or after that date.