

1 HB402
2 191464-1
3 By Representative Gaston
4 RFD: Boards, Agencies and Commissions
5 First Read: 13-FEB-18

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8 SYNOPSIS: Under existing law, real estate salespersons
9 and brokers are licensed and regulated by the
10 Alabama Real Estate Commission.

11 This bill would add definitions, clarify
12 requirements for brokerage agreements and for
13 schools, administrators, and instructors offering
14 real estate courses, and add additional
15 requirements for schools, administrators, and
16 instructors offering real estate courses. This bill
17 would also require a real estate license for
18 certain lease and rental arrangements. This bill
19 would also increase the clock hours requirement for
20 continuing education for real estate license
21 holders.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 Relating to real estate; to amend Sections 34-27-2,
2 34-27-3, 34-27-6, 34-27-30, 34-27-32, 34-27-33, 34-27-34, and
3 34-27-35, Code of Alabama 1975, to add definitions, clarify
4 requirements for brokerage agreements and for schools,
5 administrators, and instructors offering real estate courses;
6 to add additional requirements for schools, administrators,
7 and instructors offering real estate courses; to require a
8 real estate license for certain lease and rental arrangements;
9 and to increase the clock hours requirement for continuing
10 education for real estate license holders.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 34-27-2, 34-27-3, 34-27-6,
13 34-27-30, 34-27-32, 34-27-33, 34-27-34, and 34-27-35, Code of
14 Alabama 1975, are amended to read as follows:

15 "§34-27-2.

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

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

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

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

26 "(4) COMMISSIONER. A member of the commission.

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

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

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

14 "(8) LICENSEE. Any broker, salesperson, or company.

15 "(9) LICENSE PERIOD. That period of time beginning
16 on October 1 of a year designated by the commission to be the
17 first year of a license period and ending on midnight
18 September 30 of the year designated by the commission as the
19 final year of that license period.

20 "(10) PERSON. A natural person.

21 "(11) PLACE OF BUSINESS.

22 "a. A licensed broker living in a rural area of this
23 state who operates from his or her home, provided that he or
24 she sets up and maintains an office for the conduct of the
25 real estate business, which shall not be used for living
26 purposes or occupancy other than the conduct of the real
27 estate business. The office shall be used by the broker only

1 and not as a place of business from which any additional
2 licensee operates under his or her license. The office shall
3 have a separate business telephone, separate entrance, and be
4 properly identified as a real estate office.

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

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

16 "(12) PROPERTY MANAGEMENT. The overall management of
17 real property for others for a fee, compensation, or other
18 valuable consideration, that includes those activities listed
19 in Section 34-27-30 that require a license.

20 "~~(12)~~ (13) QUALIFYING BROKER. A broker under whom a
21 sole proprietorship, corporation, partnership, branch office,
22 or lawfully constituted business organization as the
23 Legislature may from time to time provide is licensed, or a
24 broker licensed as a company to do business as a sole
25 proprietorship who is responsible for supervising the acts of
26 the company or proprietorship and all real estate licensees
27 licensed therewith.

1 "~~(13)~~(14) RECOVERY FUND. The Alabama Real Estate
2 Recovery Fund.

3 "~~(14)~~(15) SALESPERSON. Any person licensed as a real
4 estate salesperson under Articles 1 and 2 of this chapter.

5 "(b) The licensing requirements of Articles 1 and 2
6 of this chapter shall not apply to any of the following
7 persons and transactions:

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

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

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

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

21 "(5) Public officers performing their official
22 duties.

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

26 "(7) Persons acting as the manager for an apartment
27 building or complex. However, this exception shall not apply

1 to a person acting as an on-site manager of a condominium
2 building or complex.

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

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

8 "§34-27-3.

9 "(a) A licensed principal broker of another state
10 may act as co-broker, whether in sales or lease transactions,
11 with a licensed qualifying broker of this state by executing a
12 written agreement specifying each parcel of property covered
13 by the agreement ~~if the state in which the nonresident broker~~
14 ~~is licensed offers the same privileges to licensees of this~~
15 ~~state.~~ Co-brokerage agreements are limited to three per
16 calendar year per licensed principal broker in another state.
17 If the broker desires to engage in the sale or lease of
18 property in this state after engaging in three co-brokerage
19 agreements, that broker shall obtain an Alabama reciprocal
20 broker's license and be the principal broker in the real
21 estate company where he or she is licensed.

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

1 nonresident principal broker agrees to abide by Alabama law,
2 and the rules and regulations of the commission; and further
3 agrees that civil actions may be commenced against him or her
4 in any court of competent jurisdiction in any county of this
5 state in which a claim may arise.

6 "§34-27-6.

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

10 "(1) ACCREDITED SCHOOL. Any nonprofit college or
11 university meeting the standards of an accrediting agency
12 recognized by the United States Department of Education and
13 offering any commission approved course.

14 "~~(1)~~ (2) ADMINISTRATOR. A person designated by a
15 principal school or branch school and approved by the
16 commission to be the person responsible to the commission for
17 all acts governed by this chapter and applicable rules which
18 govern the operation of schools.

19 "~~(2)~~ (3) APPROVED COURSE. Any course of instruction
20 approved by the commission that satisfies commission
21 requirements for prelicense education, postlicense education,
22 or continuing education.

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

26 "~~(3)~~ (5) ~~APPROVED~~ CONTINUING EDUCATION ONLY SCHOOL.
27 Any proprietary educational institution or organization, other

1 than accredited schools, offering only commission approved
2 continuing education courses ~~and any accredited college or~~
3 ~~university that offers any commission approved course.~~ The
4 term includes for-profit colleges.

5 ~~"(5)(6)~~ (6) INSTRUCTIONAL SITE. Any physical place where
6 commission approved instruction is conducted apart from the
7 principal school or branch school.

8 ~~"(6)(7)~~ (7) INSTRUCTOR. A person ~~approved~~ licensed by
9 the commission to teach approved courses in the classroom or
10 by distance education.

11 ~~"(7)(8)~~ (8) ~~LICENSED~~ PRE/POST LICENSE SCHOOL. Any
12 ~~proprietary unaccredited~~ school that offers commission
13 approved prelicense courses or ~~postlicense~~ post license
14 courses, or both, including continuing education courses, only
15 after being bonded and licensed ~~and bonded~~ by the commission.
16 The term includes for-profit colleges.

17 ~~"(8)(9)~~ (9) PRINCIPAL SCHOOL. Any institution or
18 organization which is the primary school and not a branch
19 school that is ~~approved~~ licensed by the commission.

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

25 ~~"(b) The commission shall approve and regulate~~
26 ~~schools that offer commission approved prelicense,~~
27 ~~postlicense, and continuing education courses. The commission~~

1 shall ~~be the board, commission, or agency with~~ have the sole
2 and exclusive authority to license and regulate ~~proprietary~~
3 schools ~~and their branches for the limited purpose of their~~
4 ~~offerings of commission~~ that offer commission approved real
5 estate prelicense courses or postlicense, post license, and
6 continuing education courses, or both.

7 "(c) The commission shall require ~~proprietary~~
8 pre/post license principal schools to furnish a surety bond
9 payable to the commission in the amount of twenty thousand
10 dollars (\$20,000) with a surety company authorized to do
11 business in Alabama, ~~which~~ and the bond shall provide that the
12 obligor ~~therein~~ shall pay up to twenty thousand dollars
13 (\$20,000) in the aggregate sum of all judgments which shall be
14 recovered against the school for damages arising from the
15 school's collection of tuition or fees, or both, from
16 students, but failing to provide the complete instruction for
17 which such tuition or fees were collected. The bond shall
18 remain in effect as long as the school is licensed. In the
19 event the bond is revoked or cancelled by the surety company,
20 the school shall have 10 days to obtain a new bond and file it
21 with the commission. Failure to maintain a bond shall result
22 in the immediate suspension of the licenses of the principal
23 school and all of its branches. The bond shall be provided by
24 the school and shall also cover any branch schools named in
25 the bond or any endorsement or amendment thereto.

26 "(d) The commission shall charge a license fee for
27 each ~~licensed principal~~ pre/post license school ~~and shall~~

1 ~~charge a fee for each branch school~~ in the amount of two
2 hundred fifty dollars (\$250) per year for each year or portion
3 of a year remaining in the respective license period. The
4 renewal fee for each pre/post license principal and branch
5 school license shall be one hundred twenty-five dollars (\$125)
6 for each year of the license period. The commission shall
7 charge a license fee for each continuing education only school
8 in the amount of fifty dollars (\$50) per year for each year or
9 portion of a year remaining in the respective license period.
10 The renewal fee for each continuing education only school
11 shall be twenty-five dollars (\$25) for each year of the
12 license period.

13 "(e) The commission shall require all schools to
14 name ~~and have approved by the commission a school an~~
15 administrator, licensed by the commission, who shall be
16 responsible to the commission for all actions of his or her
17 respective school. Administrators of pre/post license and
18 continuing education only schools shall pay a license fee in
19 the amount of fifty dollars (\$50) per year for each year or
20 portion of a year remaining in the respective license period.
21 The renewal fee for each administrator shall be twenty-five
22 dollars (\$25) for each year of the license period.

23 "(f) Principal schools shall be clearly identified
24 by signage as appropriate for the location. The signage shall
25 set out the name of the principal school. Branch schools shall
26 be clearly identified by signage as appropriate for the

1 location. The signage shall set out the name of the branch
2 school and the name of the principal school.

3 "(g) The commission shall have the authority to
4 reprimand, fine, suspend for a period up to two years, or
5 revoke the license ~~or approval~~ of any school, administrator,
6 or instructor for any violation of this section or any rule of
7 the commission. The fine shall be not less than one hundred
8 dollars (\$100) nor more than two thousand five hundred dollars
9 (\$2,500) per count.

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

14 "(i) The commission shall ~~approve~~ license and
15 regulate instructors who teach the commission approved
16 prelicense, ~~postlicense~~ post license, and continuing education
17 courses. The commission shall establish and collect fees as
18 determined necessary, not to exceed fifty dollars (\$50) per
19 instructor annually, to ~~approved~~ license instructors who teach
20 commission approved courses. The commission shall impose a
21 continuing education requirement for all active pre/post
22 license instructors.

23 "(j) An instructor, administrator, or school may
24 request that the commission issue or transfer a license to
25 inactive status. Inactive instructors may not teach and
26 inactive schools shall not offer commission approved courses.
27 Inactive administrators may not perform any duties as an

1 administrator including, but not limited to, registering
2 students, advertising for the school, reporting course
3 schedules to the commission, or entering student credit for
4 courses completed. The license of an inactive instructor,
5 administrator, and school shall be renewed in the same manner
6 as the license for an active instructor, administrator, and
7 school. An inactive pre/post license instructor whose license
8 was renewed on inactive status may activate his or her license
9 for the first time in a license period by completing the
10 instructor continuing education requirement that remains
11 incomplete from the previous license period and paying a
12 license activation fee. Once active, an instructor shall be
13 responsible for completing the current instructor continuing
14 education requirement in order to renew the license on active
15 status for the next license period. A change of status from
16 inactive to active requires an activation fee of twenty-five
17 dollars (\$25) for each instructor, administrator, and school.

18 "(k) Active pre/post license instructors with an
19 inactive broker's license shall remain current with the
20 continuing education requirement mandated for active brokers
21 as well as the continuing education requirement for their
22 instructor license. At the time of broker license renewal, the
23 instructor license shall be placed on inactive status if the
24 continuing education requirement for the broker's license is
25 not satisfied.

26 "(l) All education licenses and approvals shall
27 expire at midnight on September 30 of the final year of each

1 license period. Each instructor for renewal of an active
2 pre/post license instructor license shall, on or before
3 September 30 of the final year of each license period, satisfy
4 the instructor continuing education requirement, in addition
5 to any other requirements for renewal. The instructor
6 continuing education requirement shall apply to each two-year
7 education renewal. Hours in excess of the requirement shall
8 not be cumulated or credited for the purpose of subsequent
9 renewals. An inactive pre/post license instructor license
10 shall be renewed in the same manner as an active pre/post
11 license instructor license with the exception that instructor
12 continuing education is not required as long as the instructor
13 license remains inactive.

14 "(m) Failure of instructors, administrators, and
15 schools to meet all requirements for renewal by the September
16 30 deadline shall result in an expired license which is
17 renewable until September 30 of the following year by renewing
18 the license and paying the license fee plus a late fee of
19 fifty dollars (\$50). Courses are not subject to the late fee
20 but are subject to renewal.

21 "(n) An expired license or approval may be renewed
22 late during the 12-month period following the September 30
23 renewal deadline. No licensed activity may take place while a
24 license is expired. Beyond the 12-month late renewal period,
25 expired licenses and approvals shall lapse and shall be
26 subject to all requirements applicable to an original license

1 or approval. The commission, upon determination of hardship,
2 may allow later renewal upon payment of all fees.

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

7 "~~(k)~~(p) The commission shall establish one-year or
8 multi-year ~~approval~~ license periods for schools, instructors,
9 administrators, and courses. ~~Approval and license~~ License
10 periods shall run from October 1 of the first year of the
11 approval period through September 30 of the final year of the
12 ~~approval~~ license period.

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

16 "§34-27-30.

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

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

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

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

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

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

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

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

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

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

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

1 "(11) Enter into an agreement or contract for the
2 collection and escrow of security deposits, and enter into an
3 agreement or contract for the collection and escrow of rental
4 payments for properties situated within the this state.

5 "(12) Coordinate physical maintenance and repairs
6 for real property under rental or lease management agreement
7 with an Alabama real estate licensee, and situated within this
8 state, when the coordination of physical maintenance or
9 repairs does not require licensure pursuant to other state
10 regulatory agencies or boards, or when the real estate
11 licensee holds the license or licenses required by other state
12 regulatory agencies or boards to coordinate or perform the
13 physical maintenance or repairs.

14 "§34-27-32.

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

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

22 "(2) Is a person whose application for real estate
23 licensure has not been rejected in any state on any grounds
24 other than failure to pass a written examination within the
25 two years prior to the application for real estate licensure
26 with Alabama. If the applicant's rejection for real estate
27 licensure in any state is more than two years from the date of

1 application for licensure with Alabama, then the applicant may
2 not be issued an Alabama real estate license without the
3 approval of the commissioners.

4 "(3) Is a person whose real estate license has not
5 been revoked in any state within the two years prior to
6 application for real estate licensure with Alabama. If the
7 applicant's real estate licensure revocation in any state,
8 including Alabama, is more than two years from the date of
9 application for licensure with Alabama then the applicant may
10 not be issued an Alabama real estate license without the
11 approval of the commissioners.

12 "(4) Is at least 19 years old.

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

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

21 ""I, as a nonresident applicant for a real estate
22 license and as a licensee, agree that the Alabama Real Estate
23 Commission shall have jurisdiction over me in any and all of
24 my real estate related activities the same as if I were an
25 Alabama resident licensee. I agree to be subject to
26 investigations and disciplinary actions the same as Alabama
27 resident licensees. Further, I agree that civil actions may be

1 commenced against me in any court of competent jurisdiction in
2 any county of the State of Alabama.

3 "I hereby appoint the Executive Director or the
4 Assistant Executive Director of the Alabama Real Estate
5 Commission as my agent upon whom all disciplinary, judicial,
6 or other process or legal notices may be served. I agree that
7 any service upon my agent shall be the same as service upon me
8 and that certified copies of this appointment shall be deemed
9 sufficient evidence and shall be admitted into evidence with
10 the same force and effect as the original might be admitted. I
11 agree that any lawful process against me which is served upon
12 my agent shall be of the same legal force and validity as if
13 personally served upon me and that this appointment shall
14 continue in effect for as long as I have any liability
15 remaining in the State of Alabama. I understand that my agent
16 shall, within a reasonable time after service upon him or her,
17 mail a copy of the service by certified mail, return receipt
18 requested, to me at my last known business address.

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

22 _____
23 Legal Signature of Applicant"

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

4 "(b) (1) A person who holds a current real estate
5 salesperson license in another state, including persons who
6 move to and become residents of Alabama, shall apply for a
7 reciprocal salesperson license on a form prescribed by the
8 commission. A person who holds a current broker license in
9 another state, including persons who move to and become
10 residents of Alabama, shall apply for a reciprocal broker
11 license on a form prescribed by the commission. The applicant
12 shall submit proof that he or she has a current real estate
13 license in another state as evidenced by a certificate of
14 licensure, together with any other information required by the
15 commission. The applicant shall also show proof that he or she
16 has completed at least six hours of course work in Alabama
17 real estate which is approved by the commission. Applicants
18 for a reciprocal license shall not be subject to the complete
19 examination or temporary license requirements of Section
20 34-27-33, but shall pass a reasonable written examination
21 prepared by the commission on the subject of Alabama real
22 estate. Passing candidates shall submit a complete application
23 for licensure and fees within 90 days after passing the
24 examination or the exam score shall be null and void. A person
25 who holds a reciprocal license shall show proof of completion
26 of continuing education either by meeting the requirements of

1 Section 34-27-35 or by showing proof that his or her other
2 state license remains active in that state. The fees for
3 issuance and renewal of a reciprocal license shall be the same
4 as those for original licenses pursuant to Section 34-27-35.
5 The recovery fund fee for issuance of a reciprocal license
6 shall be the same as for an original license pursuant to
7 Section 34-27-31.

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

12 "(c) A person who does not hold a current real
13 estate broker license in another state desiring to be a real
14 estate broker in this state ~~apply for a broker's license on a~~
15 ~~form prescribed by the commission which shall specify~~ shall
16 submit a complete application for licensure and fees within 90
17 days after passing the examination or the exam score shall be
18 null and void. The applicant shall specify whether the license
19 shall be issued to inactive status to be held by the
20 commission or to active status with the real estate office to
21 which he or she ~~is~~ shall be registered. Along with the
22 application, he or she shall submit all of the following:

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

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

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

6 "(4) Any other information requested by the
7 commission.

8 "(d) A person who does not hold a current real
9 estate salesperson license in another state desiring to be a
10 real estate salesperson in this state shall ~~apply for a~~
11 ~~salesperson's license with the commission on a form prescribed~~
12 ~~by the commission which shall specify~~ submit a complete
13 application for licensure and fees within 90 days after
14 passing the examination or the exam score shall be null and
15 void. The applicant shall specify whether the license shall be
16 issued to inactive status to be held by the commission or to
17 active status with the real estate office to which he or she
18 ~~is~~ will be registered. Along with the application he or she
19 shall furnish all of the following:

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

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

25 "(3) Any other information required by the
26 commission.

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

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

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

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

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

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

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

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

6 "(i) A company license shall become invalid on the
7 death or disability of a qualifying broker. Within 30 days
8 after the death or disability, the corporation, or the
9 remaining partners or the successor partnership, if any, may
10 designate another of its officers, members, or salespersons to
11 apply for a license as temporary qualifying broker. The person
12 designated as temporary qualifying broker shall either be a
13 broker or have been a salesperson for at least one year prior
14 to filing the application. If the application is granted, the
15 company may operate under that temporary qualifying broker for
16 no more than six months after the ~~death or disability of its~~
17 ~~former qualifying broker~~ temporary qualifying broker's license
18 has been issued. Unless the company designates a fully
19 licensed broker as the qualifying broker within the six
20 months, the company license and all licensees licensed under
21 the temporary qualifying broker shall be ~~classified~~ placed
22 inactive by the commission.

23 "(j) The commission shall require both state and
24 national criminal history background checks to issue a
25 license. Applicants shall submit required information and
26 fingerprints to the commission, Federal Bureau of
27 Investigation, Alabama State Law Enforcement Agency, or its

1 successor, or to a fingerprint processing service that may be
2 selected by the commission for this purpose. Criminal history
3 record information shall be provided to the commission from
4 both the State of Alabama and the Federal Bureau of
5 Investigation. The commission can use the provided criminal
6 history for the determination of the qualifications and
7 fitness of the applicant to hold a real estate license. The
8 applicant shall assume the cost of the criminal history check.
9 The criminal history must be current to the issuance of the
10 license.

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

14 "§34-27-33.

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

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

25 "(b) Within 90 days after passing the examination,
26 the applicant shall ~~secure a qualifying broker and~~ submit the
27 appropriate fees, a complete application on a form prescribed

1 by the commission, and meet all requirements of this chapter
2 ~~and the board.~~The commission shall issue an active license to
3 the real estate office to which he or she shall be registered
4 or ~~classify~~ issue the license ~~as~~ to inactive status to be held
5 by the commission. In order to obtain an active license, the
6 applicant's qualifying broker shall sign and submit to the
7 commission a sworn statement that the applicant is in his or
8 her opinion honest, trustworthy, and of good reputation and
9 that the broker accepts responsibility for the actions of the
10 salesperson as set out in Section ~~34-27-31~~ 34-27-34. The
11 applicant's qualifying broker shall ~~be licensed in~~ hold an
12 active Alabama license.

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

20 "(2) The holder of a temporary license shall not be
21 issued an original license until he or she has satisfactorily
22 completed a 30-hour ~~post-license~~ post license course
23 prescribed by the commission. The holder of a temporary
24 license ~~must~~ shall complete the course within six months of
25 issuance of his or her temporary license, submit an
26 application for an original license on a form prescribed by
27 the commission, and have his or her original license issued to

1 ~~either active or inactive status., otherwise his or her~~
2 ~~temporary license certificate shall automatically be placed on~~
3 ~~inactive status by the commission. During the remaining six~~
4 ~~months his or her temporary license is valid, the holder of a~~
5 ~~temporary license may complete the course and have his or her~~
6 ~~original license issued.~~ If the holder of a temporary license
7 does not complete the course and have his or her original
8 license issued within one year following the first day of the
9 month after its issuance, the temporary license shall
10 automatically expire and lapse. A temporary license is not
11 subject to renewal procedures in this chapter and may not be
12 renewed.

13 "(3) In order to have a temporary license issued to
14 active status, the applicant shall pay the Recovery Fund fee
15 specified in this chapter. ~~The holder of a temporary license~~
16 ~~shall, upon satisfactory completion of the course, pay the~~
17 ~~original license fee specified in this chapter to have his or~~
18 ~~her original license issued.~~ An applicant for an original
19 license who has paid the Recovery Fund fee specified in this
20 chapter shall not be required to pay another Recovery Fund fee
21 in order to have his or her original license issued.

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

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

3 "§34-27-34.

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

10 "(2) A salesperson or associate broker shall not
11 perform acts for which a license is required unless licensed
12 under a qualifying broker. A qualifying broker shall be held
13 responsible to the commission and to the public for all acts
14 governed by this chapter of each salesperson and associate
15 broker licensed under him or her and of each company for which
16 he or she is the qualifying broker. It shall be the duty of
17 the qualifying broker to see that all transactions of every
18 licensee engaged by him or her or any company for which he or
19 she is the qualifying broker comply with this chapter.

20 Additionally, the qualifying broker shall be responsible to an
21 injured party for the damage caused by any violation of this
22 chapter by any licensee engaged by the qualifying broker. This
23 subsection does not relieve a licensee from liability that he
24 or she would otherwise have.

25 "(3) The qualifying brokers' supervision
26 responsibilities, as prescribed herein, over the real estate
27 activities of associate brokers and salespersons licensed

1 under him or her are not intended to and should not be
2 construed as creating an employer-employee relationship
3 contrary to any expressed intent of the qualifying broker and
4 licensee to the contrary.

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

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

23 "(2) Change of personal name of a qualifying broker.
24 The fee is paid for the license or licenses on which the
25 current qualifying broker's name appears. This change shall be
26 completed within 30 days of the name change.

1 "(3) Change of personal name of a salesperson or
2 associate broker. The fee is paid for the license on which the
3 name appears. This change shall be completed within 30 days of
4 the name change.

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

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

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

13 "(c) A person who wishes to terminate his or her
14 status as qualifying broker for a licensee may do so by
15 notifying the licensee and placing the license on inactive
16 status with the commission.~~the commission in writing and~~
17 ~~sending the licensee's license certificate to the commission~~
18 ~~or verifying in writing to the commission that the certificate~~
19 ~~has been lost or destroyed.~~

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

24 "(e) A salesperson or associate broker shall not
25 perform any act for which a license is required after his or
26 her association with his or her qualifying broker has been

1 terminated, or if he or she changes qualifying brokers, until
2 a new active license has been issued by the commission.

3 "§34-27-35.

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

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

16 "(c) (1) The fee for a temporary license shall be one
17 hundred fifty dollars (\$150). The original fee for a broker's
18 license shall be one hundred fifty dollars (\$150) and,
19 beginning with the license period effective October 1, 2002,
20 the renewal fee for a broker's license shall be seventy-five
21 dollars (\$75) per year for each year of the license period.
22 The original fee for each salesperson's license shall be
23 sixty-five dollars (\$65) per year for each year or portion of
24 a year remaining in the respective license period, and the
25 renewal fee for each salesperson's license shall be sixty-five
26 dollars (\$65) per year for each year of the license period.
27 The original fee for each company license shall be sixty-five

1 dollars (\$65) per year for each year or portion of a year
2 remaining in the respective license period, and the renewal
3 fee for each license shall be sixty-five dollars (\$65) per
4 year for each year of the license period.

5 "(2) Beginning with the license period effective
6 October 1, 2004, the renewal fee for a broker's license shall
7 be ninety-five dollars (\$95) per year for each year of the
8 license period. The original fee for each salesperson's
9 license shall be eighty-five dollars (\$85) per year for each
10 year or portion of a year remaining in the respective license
11 period, and the renewal fee for each salesperson's license
12 shall be eighty-five dollars (\$85) per year for each year of
13 the license period. The original fee for each company license
14 shall be eighty-five dollars (\$85) per year for each year or
15 portion of a year remaining in the respective license period,
16 and the renewal fee for each license shall be eighty-five
17 dollars (\$85) per year for each year of the license period.

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

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

4 (e) The original research and education fee shall be
5 thirty dollars (\$30) and shall be paid at the time of all
6 applications received on and after October 15, 1995, for
7 issuance of an original broker's license, and shall be paid at
8 the time of all applications received on and after October 15,
9 1995, for issuance of a temporary salesperson's license. The
10 original research and education fee shall also be paid by
11 reciprocal salespersons. This is in addition to the original
12 license fees set out in this section. This thirty dollar (\$30)
13 original research and education fee is a one-time fee which no
14 person shall be required to pay more than once.

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

23 (g) The commission shall prescribe a license
24 renewal form, which shall accompany renewal fees which shall
25 be filed on or before August 31 of the final year of each
26 license period in order for the respective license to be
27 renewed on a timely basis for the following license period. If

1 any of the foregoing are filed during the period from
2 September 1 through September 30 of the final year of a
3 license period, the one hundred fifty dollar (\$150) ~~penalty~~
4 late fee set out below shall be paid in addition to the
5 renewal fees. Failure to meet this September 30 deadline shall
6 result in the license being placed on inactive status on the
7 following October 1, and the license shall be subject to all
8 reactivation requirements. Reactivations shall be processed in
9 the order received as evidenced by postmark or delivery date.
10 Certified or registered mail may be used for reactivation in
11 these cases. Licensees filing during the period from September
12 1 of the final year of a license period through September 30
13 of the initial year of a license period shall pay the required
14 license fee, plus a ~~penalty~~ late fee of one hundred fifty
15 dollars (\$150).

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

23 "(i) Every salesperson, broker, or company license
24 shall expire at midnight on September 30 of the final year of
25 each license period except for temporary salespersons whose
26 licenses expire one year following the last day of the month
27 after issuance and temporary brokers whose licenses expire six

1 months after issuance. An expired license may be renewed
2 during the 12-month period following the license period for
3 which the license was current. A licensee who fails to renew
4 before the end of the 12-month period following the license
5 period for which the license was issued has a lapsed license,
6 and shall be subject to all requirements applicable to persons
7 who have never been licensed, however, the commission may upon
8 determination of hardship, allow later renewal upon payment of
9 all fees and penalties. An inactive license ~~must~~ shall be
10 renewed in the same manner as an active license.

11 "(j) (1) Each applicant for renewal of an active
12 salesperson or broker license issued by the commission shall,
13 on or before September 30 of the final year of each license
14 period, ~~submit proof of completion of~~ complete not less than
15 ~~15~~ 18 clock hours of approved continuing education course work
16 ~~to the commission~~, in addition to any other requirements for
17 renewal. Failure to meet this deadline shall result in the
18 license being placed on inactive status on the following
19 October 1, and the license shall be subject to all
20 reactivation requirements. Reactivations shall be processed in
21 the order received as evidenced by postmark or delivery date.
22 Certified or registered mail may be used for reactivation in
23 this case. Proof of attendance at the course work, whether or
24 not the applicant attained a passing grade in the course,
25 shall be sufficient to satisfy continuing education
26 requirements for renewal. The ~~15~~ 18 clock hours' course work
27 requirement shall apply to each two-year license renewal, and

1 hours in excess of ~~15~~ 18 shall not be cumulated or credited
2 for the purpose of subsequent license renewals. The commission
3 shall develop standards for approval of courses, and shall
4 require certification of the course work of the applicant.

5 "Time served as a member of the state Legislature
6 during each license renewal period shall be deemed the
7 equivalent of the ~~15 hours~~ 18 hours' course work and shall
8 satisfy the requirements of this subsection.

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

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

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

24 Section 2. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.