

1 HB422
2 175244-1
3 By Representatives Lee, Faust, McMillan, Rich, Williams (JD),
4 Ball and McCutcheon
5 RFD: Boards, Agencies and Commissions
6 First Read: 15-MAR-16

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a person whose
9 application for real estate licensure was rejected
10 or real estate license was revoked in any state on
11 any grounds other than failure to pass a written
12 examination within the two years prior to the
13 application may not be licensed. Also, a person
14 whose license has been revoked may not be
15 relicensed without approval of the commissioners.

16 This bill would provide that a person whose
17 application was rejected or real estate license was
18 revoked in any state more than two years prior to
19 the application may not be licensed without
20 approval of the commissioners.

21 This bill, before a real estate license
22 could be issued, would require the commission to
23 conduct both state and national criminal history
24 background checks and require each applicant to
25 submit required information to the appropriate
26 state and federal agencies or a fingerprint
27 processing service.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
5

6 To amend Sections 34-27-32, Code of Alabama 1975,
7 relating to the Alabama Real Estate License Law; to provide
8 that an applicant for real estate licensure in this state
9 whose application for real estate licensure in another state
10 has been rejected more than two years from the date of his or
11 her application for real estate licensure in this state may
12 not be issued a license without the approval of the
13 commissioners; to require the commission to conduct both state
14 and national criminal history background checks before a real
15 estate license could be issued; and to require each applicant
16 to submit required information to the appropriate state and
17 federal agencies or a fingerprint processing service.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 34-27-32, Code of Alabama 1975,
20 is amended to read as follows:

21 "§34-27-32.

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

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

4 "~~(2)~~ Is a person whose application ~~or license~~ for
5 real estate licensure has not been rejected ~~or revoked~~ in any
6 state ~~within two years prior to date of application~~ on any
7 grounds other than failure to pass a written examination
8 within the two years prior to the application for real estate
9 licensure with Alabama. Any applicant whose license has been
10 ~~revoked shall meet all the requirements imposed on an original~~
11 ~~applicant for a license and shall not be relicensed~~ If the
12 applicant's rejection for real estate licensure in any state
13 is more than two years from the date of application for
14 licensure with Alabama, then the applicant may not be issued
15 an Alabama real estate license without the approval of the
16 commissioners.

17 "(3) Is a person whose real estate license has not
18 been revoked in any state within the two years prior to
19 application for real estate licensure with Alabama. If the
20 applicant's real estate licensure revocation in any state,
21 including Alabama, is more than two years from the date of
22 application for licensure with Alabama then the applicant may
23 not be issued an Alabama real estate license without the
24 approval of the commissioners.

25 "~~(3)~~ (4) Is at least 19 years old.

26 "~~(4)~~ (5) Is a citizen of the United States or, if not
27 a citizen of the United States, a person who is legally

1 present in the United States with appropriate documentation
2 from the federal government, or is an alien with permanent
3 resident status.

4 "~~(5)~~ (6) Is a person who, if a nonresident, agrees to
5 sign an affidavit stating the following and in the following
6 form:

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

16 "I hereby appoint the Executive Director or the
17 Assistant Executive Director of the Alabama Real Estate
18 Commission as my agent upon whom all disciplinary, judicial,
19 or other process or legal notices may be served. I agree that
20 any service upon my agent shall be the same as service upon me
21 and that certified copies of this appointment shall be deemed
22 sufficient evidence and shall be admitted into evidence with
23 the same force and effect as the original might be admitted. I
24 agree that any lawful process against me which is served upon
25 my agent shall be of the same legal force and validity as if
26 personally served upon me and that this appointment shall
27 continue in effect for as long as I have any liability

1 remaining in the State of Alabama. I understand that my agent
2 shall, within a reasonable time after service upon him or her,
3 mail a copy of the service by certified mail, return receipt
4 requested, to me at my last known business address.

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

8 _____
9 Legal signature of applicant"

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

13 "(b) (1) A person who holds a current real estate
14 salesperson license in another state, including persons who
15 move to and become residents of Alabama, shall apply for a
16 reciprocal salesperson license on a form prescribed by the
17 commission. A person who holds a current broker license in
18 another state, including persons who move to and become
19 residents of Alabama, shall apply for a reciprocal broker
20 license on a form prescribed by the commission. The applicant
21 shall submit proof that he or she has a current real estate
22 license in another state as evidenced by a certificate of
23 licensure, together with any other information required by the
24 commission. The applicant shall also show proof that he or she

1 has completed at least six hours of course work in Alabama
2 real estate which is approved by the commission. Applicants
3 for a reciprocal license shall not be subject to the complete
4 examination or temporary license requirements of Section
5 34-27-33, but shall pass a reasonable written examination
6 prepared by the commission on the subject of Alabama real
7 estate. A person who holds a reciprocal license shall show
8 proof of completion of continuing education either by meeting
9 the requirements of Section 34-27-35 or by showing proof that
10 his or her other state license remains active in that state.
11 The fees for issuance and renewal of a reciprocal license
12 shall be the same as those for original licenses pursuant to
13 Section 34-27-35. The recovery fund fee for issuance of a
14 reciprocal license shall be the same as for an original
15 license pursuant to Section 34-27-31.

16 "(2) A person who holds a current Alabama license
17 who moves to and becomes a resident of the state shall within
18 10 days submit to the commission notice of change of address
19 and all other license status changes.

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

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

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

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

10 "(4) Any other information requested by the
11 commission.

12 "(d) A person who does not hold a current real
13 estate salesperson license in another state desiring to be a
14 real estate salesperson in this state shall apply for a
15 salesperson's license with the commission on a form prescribed
16 by the commission which shall specify the real estate office
17 to which he or she is registered. Along with the application
18 he or she shall furnish all of the following:

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

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

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

26 "(e) An application for a company license or branch
27 office license shall be made by a qualifying broker on a form

1 prescribed by the commission. The qualifying broker shall be
2 an officer, partner, or employee of the company.

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

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

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

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

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

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

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

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

18 ~~"(j) The commission may charge any applicant a fee
19 for a criminal record search of the applicant in the same
20 amount as is charged the commission by the Department of
21 Public Safety or other agency for the search. The commission
22 shall require both state and national criminal history
23 background checks to issue a license. Applicants shall submit
24 required information and fingerprints to the commission,
25 Federal Bureau of Investigation, Alabama State Law Enforcement
26 Agency, or its successor, or to a fingerprint processing
27 service that may be selected by the commission for this~~

1 purpose. Criminal history record information shall be provided
2 to the commission from both the State of Alabama and the
3 Federal Bureau of Investigation. The commission can use the
4 provided criminal history for the determination of the
5 qualifications and fitness of the applicant to hold a real
6 estate license. The applicant shall assume the cost of the
7 criminal history check. The criminal history must be current
8 to the issuance of the license.

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

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