

1 HB553
2 211579-1
3 By Representative Rowe
4 RFD: State Government
5 First Read: 18-MAR-21

8 SYNOPSIS: Under existing law, the Alabama Real Estate
9 Commission is responsible for licensing real estate
10 brokers and salespersons in the state.

11 This bill would provide further for
12 definitions and persons exempt from regulation.

13 This bill would authorize the commission to
14 provide for live virtual online education courses,
15 and would provide further for the content of
16 certain courses.

17 This bill would revise the method of
18 appointing members to the commission.

19 This bill would prohibit the commission from
20 engaging in political activity, hiring lobbyists,
21 or engaging in political speech or activity
22 otherwise prohibited by law.

23 This bill would require the commission to
24 publish the names of any financial institutions
25 holding commission funds on the website of the
26 commission.

1 This bill would provide further for the
2 qualifications for licensure of a real estate
3 broker and real estate salesperson.

4 This bill would provide that the license of
5 any licensee providing faulty payment to the
6 commission be declared inactive.

7 This bill would also make nonsubstantive,
8 technical revisions to update the existing code
9 language to current style.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT

14
15 Relating to the Alabama Real Estate Commission; to
16 amend Sections 34-27-2, 34-27-6, 34-27-7, 34-27-8, 34-27-32,
17 34-27-35, and 34-27-36, Code of Alabama 1975; to provide
18 further for definitions; to provide further for exemptions
19 from regulation; to provide for live virtual online education
20 courses and the content of certain courses; to revise the
21 method of appointing members to the commission; to prohibit
22 the commission from engaging in political activity, hiring
23 lobbyists, or otherwise engaging in political speech or
24 activity prohibited by law; to require the commission to
25 publish the names of financial institutions holding commission
26 funds on its website; to provide further for the
27 qualifications for licensure of a real estate broker and real

1 estate salesperson; to provide that the licensee of any
2 license providing faulty payment to the commission be declared
3 inactive; to repeal Sections 34-27-5 and 34-27-8.1, Code of
4 Alabama 1975, providing for county lists of licensees and
5 legislative findings related to the rulemaking authority of
6 the commission; and to make nonsubstantive, technical
7 revisions to update the existing code language to current
8 style.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 34-27-2, 34-27-6, 34-27-7,
11 34-27-8, 34-27-32, 34-27-35, and 34-27-36 of the Code of
12 Alabama 1975, are amended to read as follows:

13 "§34-27-2.

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

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

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

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

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

25 "(5) COMPANY. Any sole proprietorship, corporation,
26 partnership, branch office, or lawfully constituted business
27 organization as the Legislature may provide for from time to

1 time, which is licensed as a company under Articles 1 and 2 of
2 this chapter.

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

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

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

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

17 "(10) PERSON. A natural person.

18 "(11) PLACE OF BUSINESS.

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

1 have a separate business telephone, separate entrance, and be
2 properly identified as a real estate office.

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

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

15 "(12) PROPERTY MANAGEMENT SERVICES. The provision or
16 supervision of activities or services for another pursuant to
17 a property management agreement for a valuable consideration.
18 The activities and services shall include, but not be limited
19 to, all of the following:

20 "a. Marketing, including referring prospective
21 tenants.

22 "b. Leasing.

23 "c. Administrative, financial, or physical
24 maintenance and repairs.

25 "d. Overall management of real property.

26 "~~(12)~~ (13) QUALIFYING BROKER. A broker under whom a
27 sole proprietorship, corporation, partnership, branch office,

1 or lawfully constituted business organization as the
2 Legislature may from time to time provide is licensed, or a
3 broker licensed as a company to do business as a sole
4 proprietorship who is responsible for supervising the acts of
5 the company or proprietorship and all real estate licensees
6 licensed therewith.

7 "~~(13)~~ (14) RECOVERY FUND. The Alabama Real Estate
8 Recovery Fund.

9 "~~(14)~~ (15) SALESPERSON. Any person licensed as a real
10 estate salesperson under Articles 1 and 2 of this chapter.

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

14 "(1) Any owner in the managing of, or in
15 consummating a real estate transaction involving, his or her
16 own real estate or the real estate of his or her spouse or
17 child or parent.

18 "(2) An attorney-at-law performing his or her duties
19 as an attorney-at-law or a licensed certified public
20 accountant performing his or her duties as a certified public
21 accountant.

22 "(3) ~~Persons~~ Any person acting without compensation
23 and in good faith under a duly executed power of attorney
24 authorizing the consummation of a real estate transaction.

25 "(4) ~~Persons~~ Any person or a state or federally
26 chartered financial institution acting as a receiver, trustee,

1 administrator, executor, or guardian; or acting under a court
2 order or under authority of a trust instrument or will.

3 "(5) Public officers performing their official
4 duties.

5 "(6) ~~Persons~~ Any person performing general clerical
6 or administrative duties for a broker so long as the person
7 does not physically show listed property.

8 "(7) ~~Persons~~ Any person acting as the manager for an
9 apartment building or complex. ~~However, this~~ This exception
10 shall not apply to a person acting as an on-site manager of a
11 condominium building or complex.

12 "(8) ~~Persons~~ Any person licensed as a time-share
13 ~~sellers~~ seller under Article 3 of this chapter performing an
14 act consistent with that article.

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

17 "(10) Any person who, as the owner or through
18 another person engaged by the owner, or as the owner of a
19 management company whose principals hold a controlling
20 ownership of the property, provides property management
21 services or community association management services, buys,
22 sells, leases, manages, auctions, or otherwise deals with
23 property owned by the person.

24 "(11) Any person employed by the owner of property
25 for the purpose of providing property management services or
26 community association management services, selling, buying,

1 leasing, managing, auctioning, or otherwise dealing with the
2 property.

3 "(12) Any person employed by a community association
4 for the purpose of providing community association management
5 services.

6 "(13) Any person employed by a broker to assist in
7 property management services on property for which the broker
8 has a written management agreement that the broker procured
9 from, and negotiated with, the owner, provided that the
10 activities of the person are explicitly authorized by the
11 broker in a written agreement between the broker and the
12 employee, and provided that those activities are limited to
13 one or more of the following:

14 "a. Delivering lease applications, leases, or
15 amendments to either to any person.

16 "b. Receiving lease applications, leases, or
17 amendments to either, security deposits, rental payments, or
18 any related payments for delivery to, and made payable to, the
19 broker or the owner.

20 "c. Showing rental units to any person, provided
21 that the employee is acting under the direct instructions of
22 the broker, and executing leases or rental agreements.

23 "d. Providing information authorized by the broker
24 about rental units, lease applications, or leases.

25 "e. Providing information to a tenant about the
26 status of the security deposit or rent payments of the tenant,

1 or to an owner about the financial accounts of the owner and
2 payments from the tenants to the owner.

3 "f. Performing any ministerial acts that are
4 explicitly authorized by the broker in a written agreement
5 between the broker and the employee. Any broker utilizing the
6 services of an authorized employee shall be responsible for
7 the activities of that employee under Articles 1 and 2 of this
8 chapter.

9 "(14) Any person who is a member of a community
10 association and provides community association management
11 services only to the community association for which the
12 person is a member.

13 "(15) Any person who performs only physical
14 maintenance on a property.

15 "(c) The exemptions provided in subsection (b) do
16 not apply to a person who uses or attempts to use those
17 exemptions for the purpose of evading licensure as required by
18 Articles 1 and 2 of this chapter.

19 "§34-27-6.

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

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

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

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

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

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

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

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

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

25 "(9) PROPRIETARY SCHOOL. Any school that is not an
26 accredited college or university and which offers commission
27 approved prelicense courses or postlicense courses, or both,

1 only after being licensed and bonded by the commission. Each
2 branch school shall be licensed separately.

3 "(b) (1) The commission shall approve and regulate
4 schools that offer commission approved prelicense,
5 postlicense, and continuing education courses. The commission
6 shall be the board, commission, or agency with the sole and
7 exclusive authority to license proprietary schools and their
8 branches for the limited purpose of their offerings of
9 commission approved prelicense courses or postlicense courses,
10 or both.

11 "(2) The commission shall adopt rules providing for
12 virtual online commission approved education courses for
13 prelicense, postlicense, and continuing education courses.
14 Certification requirements for virtual courses and instructors
15 are the same as certification requirements for in person
16 classroom courses and instructors.

17 "(c) The commission shall require proprietary
18 schools to furnish a surety bond payable to the commission in
19 the amount of twenty thousand dollars (\$20,000) with a surety
20 company authorized to do business in Alabama, which bond shall
21 provide that the obligor therein shall pay up to twenty
22 thousand dollars (\$20,000) in the aggregate sum of all
23 judgments which shall be recovered against the school for
24 damages arising from the school's collection of tuition or
25 fees, or both, from students, but failing to provide the
26 complete instruction for which such tuition or fees were
27 collected. The bond shall remain in effect as long as the

1 school is licensed. In the event the bond is revoked or
2 cancelled by the surety company, the school shall have 10 days
3 to obtain a new bond and file it with the commission. Failure
4 to maintain a bond shall result in the immediate suspension of
5 the licenses of the school and all of its branches. The bond
6 shall be provided by the school and shall also cover any
7 branch schools named in the bond or any endorsement or
8 amendment thereto.

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

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

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

26 "(g) The commission ~~shall have the authority to~~ may
27 reprimand, fine, suspend for a period up to two years, or

1 revoke the license or approval of any school, administrator,
2 or instructor for any violation of this section or any rule of
3 the commission. The fine shall be not less than one hundred
4 dollars (\$100) nor more than two thousand five hundred dollars
5 (\$2,500) per count.

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

10 "(1) The commission may approve courses with a
11 minimum duration of one hour of instruction for continuing
12 education credit and for virtual online or in person delivery.

13 "(2) A licensee may not earn more than nine hours of
14 continuing education credit in any one day.

15 "(3) Students shall attend an entire course offering
16 before being awarded continuing education credit for that
17 course offering, and an instructor or school may not issue
18 credit to any student who does not complete an entire course
19 offering. Credit may not be awarded for time spent on meals or
20 other unrelated activities. An instructor may take a 10 minute
21 break after each 50 minutes of instruction.

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

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

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

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

15 "§34-27-7.

16 "(a) (1) There is created the Alabama Real Estate
17 Commission to serve the public through the licensing and
18 regulating of real estate licensees. The commission shall
19 consist of nine members appointed by the Governor with the
20 advice and consent of the Senate ~~as hereinafter provided. The~~
21 ~~Governor's appointments to the commission, except for the~~
22 ~~appointment of the consumer member made pursuant to subsection~~
23 ~~(e), shall be made~~ who shall be appointed from a list of three
24 qualified persons nominated for each position, provided by the
25 governing body of the Alabama Professional Real Estate Society
26 ~~or trade association which has the largest licensee~~
27 ~~membership, as evidenced by the filing of a verified list of~~

1 ~~paid members with the Secretary of State within 10 days of~~
2 ~~April 6, and annually by December 31 of each year thereafter.~~
3 ~~At least one of the persons nominated for each commission seat~~
4 ~~shall not be a member of the Real Estate Society or trade~~
5 ~~association. The Governor shall appoint one of the three~~
6 ~~nominated persons within 30 days following receipt of the~~
7 ~~list. If the Governor does not make an appointment within 30~~
8 ~~days, the said Real Estate Society or trade association shall~~
9 ~~provide the Governor a list of three additional nominees. The~~
10 ~~Governor, upon receipt of the second list of nominees, shall~~
11 ~~appoint one of the six nominees within 30 days following~~
12 ~~receipt of the nominees. Appointments made at times when the~~
13 ~~Senate is not in session shall be effective ad interim. Any~~
14 ~~appointment made by the Governor while the Senate is in~~
15 ~~session shall be submitted not later than the third~~
16 ~~legislative day following the date of appointment. Any~~
17 ~~appointment made while the Senate is not in session shall be~~
18 ~~submitted not later than the third legislative day following~~
19 ~~the reconvening of the Legislature. Association of Realtors.~~
20 ~~Eight of the members shall each have been licensed as a real~~
21 ~~estate broker or real estate salesperson for 10 years before~~
22 ~~appointment, and one member shall be a consumer.~~

23 "(2) The consumer member shall be at least 21 years
24 of age, not be employed by or affiliated with a real estate
25 licensee, not have a spouse or immediate family member who is
26 employed by or affiliated with a licensee, and not have held a

1 real estate license in the 10 years immediately preceding
2 appointment.

3 "(3) No person convicted of a violation of any
4 federal or state real estate license law shall be eligible to
5 serve. Each member of the board shall be a resident of this
6 state for at least 10 years before appointment and all
7 appointing authorities shall coordinate their appointments so
8 that diversity of gender, race, and geographical areas is
9 reflective of the makeup of this state.

10 "(4) In the event of a vacancy on the commission,
11 the Governor shall make an appointment, with the advice and
12 consent of the Senate, to fill the vacancy for the remainder
13 of the unexpired term, from a list of three qualified persons
14 supplied by the governing body of the Alabama Association of
15 Realtors. Each board member shall hold over after the
16 expiration of his or her term until his or her successor shall
17 be duly appointed and qualified.

18 ~~"(b) Ad interim appointments may be made by the~~
19 ~~Governor when the Legislature is not in session only for~~
20 ~~vacancies occurring by reason of death or resignation of a~~
21 ~~board member. Ad interim appointments shall be confirmed by~~
22 ~~the Senate at the next following regular or special session of~~
23 ~~the Legislature. Failure by the Senate to confirm shall result~~
24 ~~in a vacancy on the board that shall be filled by appointment~~
25 ~~by the Governor and confirmation by the Senate while the~~
26 ~~Legislature is in session. Any vacancy not acted upon shall~~

1 ~~remain a vacancy until it is filled at a subsequent session of~~
2 ~~the Legislature in the manner prescribed in this section.~~

3 ~~"(b)(c) Each of the original seven appointees and~~
4 ~~their successors shall have been a resident and citizen of~~
5 ~~this state for at least 10 years prior to his or her~~
6 ~~appointment and whose vocation for at least 10 years shall~~
7 ~~have been that of a real estate broker or real estate~~
8 ~~salesperson. No person convicted of a violation of any federal~~
9 ~~or state real estate license law shall be eligible to serve.~~
10 ~~Not more than one member from any United States Congressional~~
11 ~~District shall be appointed to serve at the same time. The~~
12 ~~members of the commission shall serve ~~five-year~~ four-year~~
13 ~~terms. On and after April 7, 1988, no No member shall serve~~
14 ~~for more than two consecutive terms of office, ~~except,~~~~
15 ~~however, each member shall hold office until his or her~~
16 ~~successor is appointed by the Governor and confirmed by the~~
17 ~~Senate. The period of time any member serves after the~~
18 ~~expiration of his or her term of office while awaiting the~~
19 ~~appointment and Senate confirmation of his or her successor~~
20 ~~shall not be considered as a consecutive term of office in~~
21 ~~determining the two consecutive terms of office limitation~~
22 ~~herein provided. All appointments shall expire on September 30~~
23 ~~of the final year of a term, or on the date a successor to the~~
24 ~~member is appointed and confirmed. If a member does not serve~~
25 ~~his or her full term, the Governor shall appoint, in the same~~
26 ~~manner as original appointments are made, subject to~~

1 confirmation by the Senate, a member to serve the unexpired
2 portion of the term.

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

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

24 ~~"(1) Is 21 years of age or older.~~

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

27 ~~"(3) Is a registered voter in this state.~~

1 ~~"(4) Has no felony convictions.~~

2 ~~"(5) Is the owner of real property.~~

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

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

7 ~~"(f) On~~ (c) Each year upon the appointment of a new
8 commissioner, the commission shall meet and select from its
9 members a chair and vice chair. The chair and vice chair
10 positions may not repeat in consecutive years and shall rotate
11 annually.

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

18 ~~"(h) (e)~~ The commission may employ an executive
19 director and an assistant executive director, both of whom
20 shall be exempted from the classified service under the
21 general laws of the state, and other staff members necessary
22 to discharge its duties and administer this chapter. The
23 executive director and assistant executive director shall be
24 employed on the basis of their education, experience, and
25 skills in administration and management. The commission shall
26 advertise to seek quality applicants possessing the desired
27 qualifications and shall conduct interviews of the top

1 applicants. The assistant executive director shall act as and
2 have authority of the executive director in his or her
3 absence. The commission shall determine the duties and fix the
4 compensation of the executive director, assistant executive
5 director, and other staff members, subject to the general laws
6 of the state.

7 "~~(i)~~(f) The commission shall adopt a seal by which
8 it shall authenticate records and documents. Copies of all
9 records and documents in the office of the commission duly
10 certified and authenticated by the seal of the commission
11 shall be received in evidence in all courts equally and with
12 the same effect as the original. All public records kept in
13 the office of the commission shall be open to public
14 inspection during reasonable hours and under reasonable
15 circumstances.

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

19 "(h) A commissioner is subject to the State Ethics
20 Law and may not do any of the following:

21 "(1) Use his or her office to attempt to exert undue
22 pressure or influence directly or indirectly on licensees or
23 realtor associations.

24 "(2) Use his or her office to eliminate competitors
25 in his or her market area.

1 "(3) Use his or her office to enrich himself,
2 herself, business partners or associates, family members, or
3 others.

4 "(4) Engage in ex parte conversations with a
5 licensee, representative of a licensee, or party to a pending
6 complaint being investigated or prosecuted by the commission.

7 "(5) Deliberate or vote upon any complaint for which
8 he or she has a conflict of interest.

9 "(6) Engage in conduct which brings shame, public
10 ridicule, or diminished confidence in the operations of the
11 commission.

12 "(7) While serving on the commission, also serve in
13 a leadership position in a realtor association or on any other
14 board that receives funding from the commission.

15 "(i) The commission staff shall annually provide
16 ethics training for commissioners. The commission shall
17 provide commissioners with resources, guidance, and
18 information to stay current with developments in state and
19 federal law for public officials and regulators.

20 "§34-27-8.

21 "(a) The commission is a state occupational
22 licensing board established to regulate real estate licensees
23 for the benefit of the public. The commission may adopt rules
24 regulating the licensing of real estate brokers and
25 salespersons and may prohibit unqualified persons from being
26 licensed as real estate brokers or salespersons. A primary

1 goal of the commission is to prioritize consumer protection in
2 real estate transactions.

3 ~~"(a)(b)~~ A majority of the commission members shall
4 constitute a quorum for the conduct of commission business.
5 The commission may adopt and enforce all rules ~~and regulations~~
6 pursuant to the ~~state administrative procedure statutes~~
7 Alabama Administrative Procedure Act necessary for the
8 administration of this chapter, and to otherwise do all things
9 necessary and convenient for effecting this chapter.

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

14 "(d) The commission may not engage in political
15 activity. The commission may not use public resources,
16 property, materials, staff, or employee resources to engage in
17 political speech or activity. The commission may not hire
18 lobbyists, legislative consultants, or counsel, or other
19 vendors to engage in political speech or activity.

20 "(e) The use of contract vendors by the commission
21 shall advance the core mission and purpose of the commission
22 and ensure the best use of licensee and public resources.
23 Nothing in this section shall be construed to limit the
24 ability of the commission to retain outside legal counsel on
25 an as needed basis to assist in any action necessary to
26 enforce this chapter.

1 "(f) The commission shall conspicuously post on the
2 commission website the names of any bank, credit union,
3 financial institution, and investment firm that holds
4 financial resources or public funds of the commission. The
5 commission shall also implement internal controls to ensure
6 commissioners do not have overlapping conflicts of interests,
7 serve as consultants for, or receive any direct or indirect
8 benefit from any listed institution including, but not limited
9 to, more favorable treatment in their business loans, business
10 projects, or personal affairs.

11 ~~"(c)~~(g) Each offer to purchase prepared after August
12 1, 1998, shall have prominently displayed the following AGENCY
13 DISCLOSURE clause which shall be completed and initialed as
14 indicated:

15 "The listing company _____ is:

16 "(Two blocks may be checked)

17 " An agent of the seller.

18 " An agent of the buyer.

19 " An agent of both the seller and buyer and is
20 acting as a limited consensual dual agent.

21 " Assisting the _____ buyer _____ seller as a
22 transaction broker.

23 "The selling company _____ is:

24 "(Two blocks may be checked)

25 " An agent of the seller.

26 " An agent of the buyer.

1 "____ An agent of both the seller and buyer and is
2 acting as a limited consensual dual agent.

3 "____ Assisting the _____ buyer _____ seller as a
4 transaction broker.

5 "§34-27-32.

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

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

13 "(2) Is a person whose application for real estate
14 licensure has not been rejected in any state on any grounds
15 other than failure to pass a written examination within the
16 two years prior to the application for real estate licensure
17 with Alabama. If the applicant's rejection for real estate
18 licensure in any state is more than two years from the date of
19 application for licensure with Alabama, then the applicant may
20 not be issued an Alabama real estate license without the
21 approval of the commissioners.

22 "(3) Is a person whose real estate license has not
23 been revoked in any state within the two years prior to
24 application for real estate licensure with Alabama. If the
25 applicant's real estate licensure revocation in any state,
26 including Alabama, is more than two years from the date of
27 application for licensure with Alabama then the applicant may

1 not be issued an Alabama real estate license without the
2 approval of the commissioners.

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

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

9 ~~"(6)~~ (5) Is a person who, if a nonresident, agrees to
10 sign an affidavit stating the following and in the following
11 form:

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

21 ""I hereby appoint the Executive Director or the
22 Assistant Executive Director of the Alabama Real Estate
23 Commission as my agent upon whom all disciplinary, judicial,
24 or other process or legal notices may be served. I agree that
25 any service upon my agent shall be the same as service upon me
26 and that certified copies of this appointment shall be deemed
27 sufficient evidence and shall be admitted into evidence with

1 the same force and effect as the original might be admitted. I
2 agree that any lawful process against me which is served upon
3 my agent shall be of the same legal force and validity as if
4 personally served upon me and that this appointment shall
5 continue in effect for as long as I have any liability
6 remaining in the State of Alabama. I understand that my agent
7 shall, within a reasonable time after service upon him or her,
8 mail a copy of the service by certified mail, return receipt
9 requested, to me at my last known business address.

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

13 " _____

14 "Legal Signature of Applicant"

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

18 "(b) (1) A person who holds a current real estate
19 salesperson license in another state, including persons who
20 move to and become residents of Alabama, shall apply for a
21 reciprocal salesperson license on a form prescribed by the
22 commission. A person who holds a current broker license in
23 another state, including persons who move to and become
24 residents of Alabama, shall apply for a reciprocal broker

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

21 "(2) A person who holds a current Alabama license
22 who moves to and becomes a resident of the state shall within
23 10 days submit to the commission notice of change of address
24 and all other license status changes.

25 "(c) A person who does not hold a current real
26 estate broker license in another state desiring to be a real
27 estate broker in this state shall apply for a broker's license

1 on a form prescribed by the commission which shall specify the
2 real estate office to which he or she is registered. Along
3 with the application, he or she shall submit all of the
4 following:

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

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

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

14 "(4) Commencing on October 1, 2022, proof that he or
15 she has held an active real estate license for at least 48 of
16 the 60 months immediately preceding the date of application.

17 "~~(4)~~ (5) Any other information requested by the
18 commission.

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

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

1 "(2) Proof that he or she has successfully completed
2 a course in real estate approved by the commission, which
3 shall be a minimum of 60 clock hours. The 60 hour real estate
4 course shall include all of the following:

5 "a. Three hours of risk management training.

6 "b. Three hours of fair housing training.

7 "c. Three hours of ethics training.

8 "d. Fifty-one hours of commission approved
9 prelicense courses.

10 "(3) Any other information required by the
11 commission.

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

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

18 "(g) If the applicant for a company or broker
19 license maintains more than one place of business in the
20 state, he or she shall have a company or branch office license
21 for each separate location or branch office. Every application
22 shall state the location of the company or branch office and
23 the name of its qualifying broker. Each company or branch
24 office shall be under the direction and supervision of a
25 qualifying broker licensed at that address. No person may
26 serve as qualifying broker at more than one location. The
27 qualifying broker for the branch office and the qualifying

1 broker for the company shall share equal responsibility for
2 the real estate activities of all licensees assigned to the
3 branch office or company.

4 "(h) (1) No person shall be a qualifying broker for
5 more than one company or for a company and on his or her own
6 behalf unless:

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

9 "~~(2)~~b. He or she files a copy of the written consent
10 with the commission.

11 "~~(3)~~c. He or she will be doing business from the
12 same location.

13 "(2) A person licensed under a qualifying broker may
14 be engaged by one or more companies with the same qualifying
15 broker.

16 "(i) A company license shall become invalid on the
17 death or disability of a qualifying broker. Within 30 days
18 after the death or disability, the corporation, or the
19 remaining partners or the successor partnership, if any, may
20 designate another of its officers, members, or salespersons to
21 apply for a license as temporary qualifying broker. The person
22 designated as temporary qualifying broker shall either be a
23 broker or have been a salesperson for at least one year prior
24 to filing the application. Commencing on October 1, 2022, a
25 salesperson designated as a temporary qualifying broker shall
26 have held a salesperson license for at least four of the five
27 years immediately preceding the date of application. If the

1 application is granted, the company may operate under that
2 broker for no more than six months after the death or
3 disability of its former qualifying broker. Unless the company
4 designates a fully licensed broker as the qualifying broker
5 within the six months, the company license shall be classified
6 inactive by the commission.

7 "(j) The commission shall require both state and
8 national criminal history background checks to issue a
9 license. Applicants shall submit required information and
10 fingerprints to the commission, Federal Bureau of
11 Investigation, Alabama State Law Enforcement Agency, or its
12 successor, or to a fingerprint processing service that may be
13 selected by the commission for this purpose. Criminal history
14 record information shall be provided to the commission from
15 both the State of Alabama and the Federal Bureau of
16 Investigation. The commission can use the provided criminal
17 history for the determination of the qualifications and
18 fitness of the applicant to hold a real estate license. The
19 applicant shall assume the cost of the criminal history check.
20 The criminal history ~~must~~ shall be current to the issuance of
21 the license.

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

25 "§34-27-35.

26 "(a) The commission shall prescribe the form and
27 content of license certificates issued. Each qualifying

1 ~~broker's~~ broker license certificate shall show the name and
2 business address of the broker. The license certificate of
3 each active salesperson or associate broker shall show his or
4 her name and address. The license certificate of each active
5 salesperson or associate broker shall be delivered or mailed
6 to his or her qualifying broker. Each license certificate
7 shall be kept by the qualifying broker and shall be publicly
8 displayed at the address which appears on the license
9 certificate.

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

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

1 sixty-five dollars (\$65) per year for each year of the license
2 period.

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

17 "(d) (1) The renewal research and education fee
18 shall be two dollars and fifty cents (\$2.50) per year for each
19 year of the license period and shall be paid at the time of
20 license renewal by all brokers and salespersons in addition to
21 the license renewal fees set out in this section. Collection
22 of this fee shall apply to all broker and salesperson
23 renewals, except that brokers who hold more than one ~~broker's~~
24 broker license shall pay the fee for only one license at each
25 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
5 be 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~~ broker license, and shall be
8 paid at the time of all applications received on and after
9 October 15, 1995, for issuance of a temporary ~~salesperson's~~
10 salesperson license. The original research and education fee
11 shall also be paid by reciprocal salespersons. This is in
12 addition to the original license fees set out in this section.
13 This thirty dollar (\$30) original research and education fee
14 is a one-time fee which no person shall be required to pay
15 more than once.

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

25 "(g) The commission shall prescribe a license
26 renewal form, which shall accompany renewal fees which shall
27 be filed on or before August 31 of the final year of each

1 license period in order for the respective license to be
2 renewed on a timely basis for the following license period. If
3 any of the foregoing are filed during the period from
4 September 1 through September 30 of the final year of a
5 license period, the one hundred fifty dollar (\$150) penalty
6 set out below shall be paid in addition to the renewal fees.
7 Failure to meet this September 30 deadline shall result in the
8 license being placed on inactive status on the following
9 October 1, and the license shall be subject to all
10 reactivation requirements. Reactivations shall be processed in
11 the order received as evidenced by postmark or delivery date.
12 Certified or registered mail may be used for reactivation in
13 these cases. Licensees filing during the period from September
14 1 of the final year of a license period through September 30
15 of the initial year of a license period shall pay the required
16 license fee, plus a penalty of one hundred fifty dollars
17 (\$150).

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

25 "(i) Every license shall expire at midnight on
26 September 30 of the final year of each license period. An
27 expired license may be renewed during the 12-month period

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

10 "(j) (1) Each applicant for renewal of an active
11 salesperson or broker license issued by the commission ~~shall~~,
12 on or before September 30 of the final year of each license
13 period, shall submit proof of completion of not less than 15
14 clock hours of approved continuing education course work to
15 the commission, in addition to any other requirements for
16 renewal. The 15 hours of continuing education course work
17 shall include three hours of a commission approved risk
18 management course, one hour of a commission approved fair
19 housing course, one hour of a commission approved ethics
20 course, and 10 hours of other commission approved courses.
21 Failure to meet this deadline shall result in the license
22 being placed on inactive status on the following October 1,
23 and the license shall be subject to all reactivation
24 requirements. Reactivations shall be processed in the order
25 received as evidenced by postmark or delivery date. Certified
26 or registered mail may be used for reactivation in this case.
27 Proof of attendance at the course work, whether or not the

1 applicant attained a passing grade in the course, shall be
2 sufficient to satisfy requirements for renewal. The 15 clock
3 hours' course work requirement shall apply to each two-year
4 license renewal, and hours in excess of 15 shall not be
5 cumulated or credited for the purpose of subsequent license
6 renewals. The commission shall develop standards for approval
7 of courses, and shall require certification of the course work
8 of the applicant. Time served as a member of the ~~state~~
9 Legislature during each license renewal period shall be deemed
10 the equivalent of the 15 hours course work and shall satisfy
11 the requirements of this subsection.

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

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

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

1 "(1) The license of any licensee who presents a form
2 of payment to the commission that is declined or rejected by a
3 financial institution or merchant service company shall be an
4 inactive license until the licensee submits full payment for
5 the initial fee or fine, and an additional penalty fee for
6 submitting the faulty payment, in an amount not to exceed the
7 maximum bad check charge provided in Section 8-8-15.

8 "§34-27-36.

9 "(a) The commission or its staff may on its own, or
10 on the verified complaint in writing of any person,
11 investigate the actions and records of a licensee. The
12 commission may issue subpoenas and compel the testimony of
13 witnesses and the production of records and documents during
14 an investigation. If probable cause is found, a formal
15 complaint shall be filed and the commission shall hold a
16 hearing on the formal complaint. The commission shall revoke
17 or suspend the license or impose a fine of not less than one
18 hundred dollars (\$100) nor more than two thousand five hundred
19 dollars (\$2,500), or both, or reprimand the licensee in each
20 instance in which the licensee is found guilty of any of the
21 following acts set out in this section. The commission may
22 revoke or suspend a license until such time as the licensee
23 has completed an approved continuing education course ~~and/or~~
24 or made restitution to accounts containing funds to be held
25 for other parties, or both. The commission may also stay the
26 revocation or suspension of a license and require completion
27 of an approved education course ~~and/or~~ or the making of

1 restitution to accounts containing funds to be held for other
2 parties, or both.

3 "(1) Procuring or attempting to procure, a license,
4 for himself or herself or another, by fraud,
5 misrepresentation, or deceit, or by making a material
6 misstatement of fact in an application for a license.

7 "(2) Engaging in misrepresentation or dishonest or
8 fraudulent acts when selling, buying, trading, or renting real
9 property of his or her own or of a spouse or child or parent.

10 "(3) Making a material misrepresentation, or failing
11 to disclose to a potential purchaser or lessee any latent
12 structural defect or any other defect known to the licensee.
13 Latent structural defects and other defects do not refer to
14 trivial or insignificant defects but refer to those defects
15 that would be a significant factor to a reasonable and prudent
16 person in making a decision to purchase or lease.

17 "(4) Making any false promises of a character likely
18 to influence, persuade, or induce any person to enter into any
19 contract or agreement.

20 "(5) Pursuing a continued and flagrant course of
21 misrepresentation or the making of false promises through
22 agents or salespersons or any medium of advertising or
23 otherwise.

24 "(6) Publishing or causing to be published any
25 advertisement which deceives or which is likely to deceive the
26 public, or which in any manner tends to create a misleading
27 impression or which fails to identify the person causing the

1 advertisement to be placed as a licensed broker or
2 salesperson.

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

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

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

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

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

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

23 "(11) Paying any profit, compensation, commission,
24 or fee to, or dividing any profit, compensation, commission,
25 or fee with, anyone other than a licensee or multiple listing
26 service. This subdivision shall not prevent an associate
27 broker or salesperson from owning any lawfully constituted

1 business organization, including, but not limited to, a
2 corporation or limited liability company or limited liability
3 corporation, for the purpose of receiving payments
4 contemplated in this ~~subsection~~ subdivision. The business
5 organization shall not be required to be licensed under this
6 chapter, and shall not engage in any other activity requiring
7 a real estate license.

8 "(12) Paying or receiving any rebate from any person
9 in a real estate transaction.

10 "(13) Inducing any party to a contract to break the
11 contract for the purpose of substituting a new contract, where
12 the substitution is motivated by the personal gain of the
13 licensee.

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

18 "(15) If a qualifying broker or company, allowing a
19 salesperson or associate broker licensed under him or her to
20 advertise himself or herself as a real estate agent without
21 the name or trade name of the qualifying broker or company
22 appearing prominently on the advertising; or if the licensee
23 is a salesperson or associate broker, advertising himself or
24 herself as a real estate agent without the name or trade name
25 of the qualifying broker or company under whom the salesperson
26 or associate broker is licensed appearing prominently on the
27 advertising.

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

3 "~~(17)~~ (16) Establishing an association, by employment
4 or otherwise, with an unlicensed person who is expected or
5 required to act as a licensee, or aiding, abetting, or
6 conspiring with a person to circumvent the requirements of
7 this chapter.

8 "~~(18)~~ (17) Failing to disclose to an owner the
9 licensee's intention to acquire, directly or indirectly, an
10 interest in property which he or she or his or her associates
11 have been employed to sell.

12 "~~(19)~~ (18) Violating or disregarding any provision of
13 this chapter or any rule, ~~regulation,~~ or order of the
14 commission.

15 "~~(20)~~ (19) If a broker, accepting a "net listing"
16 agreement for sale of real property or any interest therein. A
17 "net listing" is one that stipulates a net price to be
18 received by the owner with the excess due to be received by
19 the broker as his or her commission.

20 "~~(21)~~ (20) Misrepresenting or failing to disclose to
21 any lender, guaranteeing agency, or any other interested
22 party, the true terms of a sale of real estate.

23 "~~(22)~~ (21) Failing to inform the buyer or seller at
24 the time an offer is presented that he or she will be expected
25 to pay certain closing costs and the approximate amount of
26 those costs.

1 "~~(23)~~ (22) a. Having entered a plea of guilty or nolo
2 contendere to, or having been found guilty of or convicted of
3 a felony or a crime involving moral turpitude, or a federal or
4 state fair housing violation.

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

9 "~~(24)~~ (23) Offering free lots or conducting lotteries
10 for the purpose of influencing a party to purchase or lease
11 real estate.

12 "~~(25)~~ (24) Failing to include a fixed date of
13 expiration in a written listing agreement or failing to leave
14 a copy of the agreement with the principal.

15 "~~(26)~~ (25) Conduct which constitutes or demonstrates
16 dishonest dealings, bad faith, unprofessional behavior, or
17 untrustworthiness.

18 "~~(27)~~ (26) Acting negligently or incompetently in
19 performing an act for which a person is required to hold a
20 real estate license.

21 "~~(28)~~ (27) Failing or refusing on demand to produce a
22 document, book, or record in his or her possession concerning
23 a real estate transaction conducted by him or her for
24 inspection by the commission or its authorized personnel or
25 representative.

1 "~~(29)~~ (28) Failing within a reasonable time to
2 provide information requested by the commission during an
3 investigation or after a formal complaint has been filed.

4 "~~(30)~~ (29) Failing without cause to surrender to the
5 rightful owner, on demand, a document or instrument coming
6 into his or her possession.

7 "~~(31)~~ (30) If a qualifying broker or company, failing
8 to keep in their files copies of all contracts, leases,
9 listings, and other records pertinent to real estate
10 transactions for a period of three years.

11 "(b) If it appears that a person, firm, corporation,
12 or any business entity has engaged, or is about to engage, in
13 an act or practice constituting a violation of Article 1 or 2
14 of this chapter or any rule or order of the commission, the
15 commission, through the Attorney General, may institute legal
16 actions to enjoin the act or practice and to enforce
17 compliance with Articles 1 and 2 of this chapter or any rule
18 or order of the commission. To prevail in an action, it shall
19 not be necessary to allege or prove either that an adequate
20 remedy at law does not exist or that substantial or
21 irreparable damage would result from the continued violation.

22 "(c) (1) Notwithstanding any other provisions of law,
23 the commission may issue an order requiring any accused
24 person, firm, corporation, or business entity to cease and
25 desist from engaging in activities requiring a license under
26 this chapter when the accused person, firm, corporation, or
27 business entity is not licensed under this chapter. The order

1 shall be entered by the executive director after a finding of
2 probable cause by the commission staff. The order shall become
3 final 15 days after its service upon the accused, unless the
4 accused requests a hearing before the commission. Upon hearing
5 the case and finding violations, the commission may make the
6 cease and desist order final and the commission may impose a
7 fine for each violation in an amount consistent with the range
8 of fines applicable to licensees, and in addition, may impose
9 a fine in the amount of any gain or economic benefit that was
10 derived from the violation, and in addition, may impose a fine
11 in the amount of the commission's costs incurred. Any fines
12 not paid as ordered shall be enforceable in any court with
13 competent jurisdiction and proper venue.

14 "(2) Notwithstanding any other provisions of law,
15 the commission may decline to issue an order requiring any
16 accused person, firm, corporation, or business entity to cease
17 and desist from engaging in activities requiring a license
18 under this chapter when the accused person, firm, corporation,
19 or business entity is not licensed under this chapter. In this
20 instance, the commission shall proceed to give appropriate
21 notice of the violations and hold a hearing thereon. Upon
22 hearing the case and finding violations, the commission may
23 impose a fine for each violation in an amount consistent with
24 the range of fines applicable to licensees, and in addition,
25 may impose a fine in the amount of any gain or economic
26 benefit that was derived from the violation, and in addition,
27 may impose a fine in the amount of the commission's costs

1 incurred. Any fine or fines not paid as ordered shall be
2 enforceable in any court with competent jurisdiction and
3 proper venue.

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

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

9 Section 2. Sections 34-27-5 and 34-27-8.1, Code of
10 Alabama 1975, providing for county lists of licensees and
11 legislative findings related to the rulemaking authority of
12 the commission, are repealed.

13 Section 3. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.