

1 SB404
2 213687-1
3 By Senator Roberts
4 RFD: Governmental Affairs
5 First Read: 27-APR-21

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

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

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

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

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

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

1 This bill would also make nonsubstantive,
2 technical revisions to update the existing code
3 language to current style.

4
5 A BILL
6 TO BE ENTITLED
7 AN ACT

8
9 Relating to the Alabama Real Estate Commission; to
10 amend Sections 34-27-6, 34-27-7, 34-27-8, 34-27-32, 34-27-35,
11 and 34-27-36, Code of Alabama 1975; to provide for live
12 virtual online education courses and the content of certain
13 courses; to revise the method of appointing members to the
14 commission; to prohibit the commission from engaging in
15 political activity, hiring lobbyists, or otherwise engaging in
16 political speech or activity prohibited by law; to provide
17 further for the qualifications for licensure of a real estate
18 broker and real estate salesperson; to provide that the
19 licensee of any license providing faulty payment to the
20 commission be declared inactive; to repeal Sections 34-27-5
21 and 34-27-8.1, Code of Alabama 1975, providing for county
22 lists of licensees and legislative findings related to the
23 rulemaking authority of the commission; and to make
24 nonsubstantive, technical revisions to update the existing
25 code language to current style.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§34-27-6.

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

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

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

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

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

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

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

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

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

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

16 "(b) (1) The commission shall approve and regulate
17 schools that offer commission approved prelicense,
18 postlicense, and continuing education courses. The commission
19 shall be the board, commission, or agency with the sole and
20 exclusive authority to license proprietary schools and their
21 branches for the limited purpose of their offerings of
22 commission approved prelicense courses or postlicense courses,
23 or both.

24 "(2) The commission may adopt rules providing for
25 virtual online commission approved education courses for
26 prelicense, postlicense, and continuing education courses.
27 Certification requirements for virtual courses and instructors

1 are the same as certification requirements for in person
2 classroom courses and instructors.

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

22 "(d) The commission shall charge a license fee for
23 each licensed principal school and shall charge a fee for each
24 branch school in the amount of two hundred fifty dollars
25 (\$250) per year for each year or portion of a year remaining
26 in the respective license period. The renewal fee for each

1 school license shall be one hundred twenty-five dollars (\$125)
2 for each year of the license period.

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

7 "(f) Principal schools shall be clearly identified
8 by signage as appropriate for the location. The signage shall
9 set out the name of the principal school. Branch schools shall
10 be clearly identified by signage as appropriate for the
11 location. The signage shall set out the name of the branch
12 school and the name of the principal school.

13 "(g) The commission ~~shall have the authority to~~ may
14 reprimand, fine, suspend for a period up to two years, or
15 revoke the license or approval of any school, administrator,
16 or instructor for any violation of this section or any rule of
17 the commission. The fine shall be not less than one hundred
18 dollars (\$100) nor more than two thousand five hundred dollars
19 (\$2,500) per count.

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

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

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

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

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

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

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

26 "(l) The commission shall ~~promulgate~~ adopt rules and
27 ~~regulations~~ as necessary to accomplish the purpose of this

1 section in accordance with the Alabama Administrative
2 Procedure Act.

3 "§34-27-7.

4 "(a) (1) There is created the Alabama Real Estate
5 Commission to serve the public through the licensing and
6 regulating of real estate licensees. The commission shall
7 consist of ~~nine~~ 10 members appointed by the Governor with the
8 advice and consent of the Senate ~~as hereinafter provided~~. The
9 Governor's appointments to the commission, ~~except for the~~
10 ~~appointment of the consumer member made pursuant to subsection~~
11 ~~(e), shall be made from a list of three persons nominated by~~
12 ~~the~~. The governing body of the Alabama Professional Real
13 Estate Society the statewide professional real estate society
14 or trade association which has the largest licensee
15 membership, as evidenced by the filing of a verified list of
16 paid members with the Secretary of State ~~within 10 days of~~
17 ~~April 6, and annually by December 31 of each year thereafter~~.
18 ~~At least one of the persons nominated for each commission seat~~
19 ~~shall not be a member of the Real Estate Society or trade~~
20 ~~association. The Governor shall appoint one of the three~~
21 ~~nominated persons within 30 days following receipt of the~~
22 ~~list. If the Governor does not make an appointment within 30~~
23 ~~days, the said Real Estate Society or trade association shall~~
24 ~~provide the Governor a list of three additional nominees. The~~
25 ~~Governor, upon receipt of the second list of nominees, shall~~
26 ~~appoint one of the six nominees within 30 days following~~
27 ~~receipt of the nominees. Appointments made at times when the~~

1 ~~Senate is not in session shall be effective ad interim. Any~~
2 ~~appointment made by the Governor while the Senate is in~~
3 ~~session shall be submitted not later than the third~~
4 ~~legislative day following the date of appointment. Any~~
5 ~~appointment made while the Senate is not in session shall be~~
6 ~~submitted not later than the third legislative day following~~
7 ~~the reconvening of the Legislature.~~, shall provide a list of
8 up to three qualified persons nominated for each position to
9 the Governor for consideration for appointment. The governing
10 body of any other statewide professional real estate society
11 or trade association, which files a verified list of paid
12 members with the Secretary of State annually by December 31 of
13 each year, may provide a list of up to three qualified persons
14 nominated for each position to the Governor for consideration
15 for appointment. All appointing authorities shall coordinate
16 their appointments so that diversity of gender, race, and
17 geographical areas is reflective of the makeup of this state.
18 Nine of the members shall each have been licensed as a real
19 estate broker or real estate salesperson for 10 years before
20 appointment. At least three of the 10 members shall be black
21 or African American. One member shall be a consumer member
22 appointed by the Governor, subject to confirmation by the
23 Senate.

24 "(2) The consumer member shall be at least 21 years
25 of age, not be employed by or affiliated with a real estate
26 licensee, not have a spouse or immediate family member who is
27 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.

7 "(4) In the event of a vacancy on the commission,
8 the Governor shall make an appointment, with the advice and
9 consent of the Senate, in the same manner as the original
10 appointment, to fill the vacancy for the remainder of the
11 unexpired term. Each board member shall hold over after the
12 expiration of his or her term until his or her successor shall
13 be duly appointed and qualified.

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

25 ~~"(b)(c) Each of the original seven appointees and~~
26 ~~their successors shall have been a resident and citizen of~~
27 ~~this state for at least 10 years prior to his or her~~

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

24 ~~"(d) On September 30, 1988, the Governor shall~~
25 ~~appoint one new member to the commission, subject to the~~
26 ~~confirmation of the Senate, who shall be a Black member who~~
27 ~~meets all of the other requirements of subsection (c), who~~

1 shall serve no more than two consecutive terms of office, who
2 shall be a full voting member, and who may be appointed from
3 any congressional district in the state. Each successor Black
4 member shall be appointed from a different congressional
5 district, to be rotated equally among the remaining
6 congressional districts.

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

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

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

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

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

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

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

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

1 "~~(f)~~ On (c) Each year on the appointment of a new
2 commissioner, the commission shall meet and select from its
3 members a chair and vice chair. The chair and vice chair
4 positions may not repeat in consecutive years and shall rotate
5 annually. All members shall be full voting members of the
6 commission.

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

13 "~~(h)~~ (e) The commission may employ an executive
14 director and an assistant executive director, both of whom
15 shall be exempted from the classified service under the
16 general laws of the state, and other staff members necessary
17 to discharge its duties and administer this chapter. The
18 executive director and assistant executive director shall be
19 employed on the basis of their education, experience, and
20 skills in administration and management. The commission shall
21 advertise to seek quality applicants possessing the
22 qualifications and shall conduct interviews of the top
23 applicants. The assistant executive director shall act as and
24 have authority of the executive director in his or her
25 absence. The commission shall determine the duties and fix the
26 compensation of the executive director, assistant executive

1 director, and other staff members, subject to the general laws
2 of the state.

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

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

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

17 "(1) Use his or her office to attempt to exert undue
18 pressure or influence directly or indirectly on licensees or
19 any professional real estate society or real estate trade
20 association operating in the state.

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

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

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

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

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

9 "(7) While serving on the commission, also serve on
10 any board that receives funding from the commission.

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

16 "§34-27-8.

17 "(a) The commission is a state occupational
18 licensing board established to regulate real estate licensees
19 for the benefit of the public. The commission may adopt rules
20 regulating the licensing of real estate brokers and
21 salespersons and may prohibit unqualified persons from being
22 licensed as real estate brokers or salespersons. A primary
23 goal of the commission is to prioritize consumer protection in
24 real estate transactions.

25 ~~"(a)(b)~~ A majority of the commission members shall
26 constitute a quorum for the conduct of commission business.
27 The commission may adopt and enforce all rules ~~and regulations~~

1 pursuant to the ~~state administrative procedure statutes~~
2 Alabama Administrative Procedure Act necessary for the
3 administration of this chapter, and to otherwise do all things
4 necessary and convenient for effecting this chapter.

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

9 "(d) The commission may not engage in political
10 activity. The commission may not use public resources,
11 property, materials, staff, or employee resources to engage in
12 political speech or activity including, but not limited to,
13 advocating for or against any nominee for, or appointee to, a
14 position on the commission. The commission may not hire
15 lobbyists, legislative consultants, or counsel, or other
16 vendors to engage in political speech or activity. The
17 executive director, or his or her staff designee, may provide
18 information relating to policy or positions, or both,
19 affecting the commission to any governmental body.

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 "~~(c)~~(f) Each offer to purchase prepared after August
2 1, 1998, shall have prominently displayed the following AGENCY
3 DISCLOSURE clause which shall be completed and initialed as
4 indicated:

5 "The listing company _____ is:

6 "(Two blocks may be checked)

7 "____ An agent of the seller.

8 "____ An agent of the buyer.

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

11 "____ Assisting the _____ buyer _____ seller as a
12 transaction broker.

13 "The selling company _____ is:

14 "(Two blocks may be checked)

15 "____ An agent of the seller.

16 "____ An agent of the buyer.

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

19 "____ Assisting the _____ buyer _____ seller as a
20 transaction broker.

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 for real estate
5 licensure has not been rejected in any state on any grounds
6 other than failure to pass a written examination within the
7 two years prior to the application for real estate licensure
8 with Alabama. If the applicant's rejection for real estate
9 licensure in any state is more than two years from the date of
10 application for licensure with Alabama, then the applicant may
11 not be issued an Alabama real estate license without the
12 approval of the commissioners.

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

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

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

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

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

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

1 mail a copy of the service by certified mail, return receipt
2 requested, to me at my last known business address.

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

6 " _____

7 "Legal Signature of Applicant"

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

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

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

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

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

25 "(1) Proof that he or she has had an active real
26 estate ~~salesperson's~~ salesperson license in any state for at

1 least 24 months of the 36-month period immediately preceding
2 the date of application.

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

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

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

11 "~~(4)~~ (5) Any other information requested by the
12 commission.

13 "(d) A person who does not hold a current real
14 estate salesperson license in another state desiring to be a
15 real estate salesperson in this state shall apply for a
16 ~~salesperson's~~ salesperson license with the commission on a
17 form prescribed by the commission which shall specify the real
18 estate office to which he or she is registered. Along with the
19 application he or she 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. Commencing on October 1,
25 2022, the 60 hour real estate course shall include all of the
26 following:

27 "a. Three hours of risk management training.

1 "b. Three hours of fair housing training.

2 "c. Three hours of ethics training.

3 "d. Fifty-one hours of commission approved
4 prelicense courses.

5 "(3) Any other information required by the
6 commission.

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

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

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

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

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

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

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

10 "(2) A person licensed under a qualifying broker may
11 be engaged by one or more companies with the same qualifying
12 broker.

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

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

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

19 "§34-27-35.

20 "(a) The commission shall prescribe the form and
21 content of license certificates issued. Each qualifying
22 ~~broker's~~ broker license certificate shall show the name and
23 business address of the broker. The license certificate of
24 each active salesperson or associate broker shall show his or
25 her name and address. The license certificate of each active
26 salesperson or associate broker shall be delivered or mailed
27 to his or her qualifying broker. Each license certificate

1 shall be kept by the qualifying broker and shall be publicly
2 displayed at the address which appears on the license
3 certificate.

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

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

23 "(2) Beginning with the license period effective
24 October 1, 2004, the renewal fee for a ~~broker's~~ broker license
25 shall be ninety-five dollars (\$95) per year for each year of
26 the license period. The original fee for each ~~salesperson's~~
27 salesperson license shall be eighty-five dollars (\$85) per

1 year for each year or portion of a year remaining in the
2 respective license period, and the renewal fee for each
3 ~~salesperson's~~ salesperson license shall be eighty-five dollars
4 (\$85) per year for each year of the license period. The
5 original fee for each company license shall be eighty-five
6 dollars (\$85) per year for each year or portion of a year
7 remaining in the respective license period, and the renewal
8 fee for each license shall be eighty-five dollars (\$85) per
9 year for each year of the license period.

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

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

22 "(e) The original research and education fee shall
23 be thirty dollars (\$30) and shall be paid at the time of all
24 applications received on and after October 15, 1995, for
25 issuance of an original ~~broker's~~ broker license, and shall be
26 paid at the time of all applications received on and after
27 October 15, 1995, for issuance of a temporary ~~salesperson's~~

1 salesperson license. The original research and education fee
2 shall also be paid by reciprocal salespersons. This is in
3 addition to the original license fees set out in this section.
4 This thirty dollar (\$30) original research and education fee
5 is a one-time fee which no person shall be required to pay
6 more than once.

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

16 "(g) The commission shall prescribe a license
17 renewal form, which shall accompany renewal fees which shall
18 be filed on or before August 31 of the final year of each
19 license period in order for the respective license to be
20 renewed on a timely basis for the following license period. If
21 any of the foregoing are filed during the period from
22 September 1 through September 30 of the final year of a
23 license period, the one hundred fifty dollar (\$150) penalty
24 set out below shall be paid in addition to the renewal fees.
25 Failure to meet this September 30 deadline shall result in the
26 license being placed on inactive status on the following
27 October 1, and the license shall be subject to all

1 reactivation requirements. Reactivations shall be processed in
2 the order received as evidenced by postmark or delivery date.
3 Certified or registered mail may be used for reactivation in
4 these cases. Licensees filing during the period from September
5 1 of the final year of a license period through September 30
6 of the initial year of a license period shall pay the required
7 license fee, plus a penalty of one hundred fifty dollars
8 (\$150).

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

16 "(i) Every license shall expire at midnight on
17 September 30 of the final year of each license period. An
18 expired license may be renewed during the 12-month period
19 following the license period for which the license was
20 current. A licensee who fails to renew before the end of the
21 12-month period following the license period for which the
22 license was issued has a lapsed license, and shall be subject
23 to all requirements applicable to persons who have never been
24 licensed, however, the commission may upon determination of
25 hardship, allow later renewal upon payment of all fees and
26 penalties. An inactive license must be renewed in the same
27 manner as an active license.

1 "(j) (1) Each applicant for renewal of an active
2 salesperson or broker license issued by the commission ~~shall~~,
3 on or before September 30 of the final year of each license
4 period, shall submit proof of completion of not less than 15
5 clock hours of approved continuing education course work to
6 the commission, in addition to any other requirements for
7 renewal. Commencing on October 1, 2022, the 15 hours of
8 continuing education course work shall include three hours of
9 a commission approved risk management course, one hour of a
10 commission approved fair housing course, one hour of a
11 commission approved ethics course, and 10 hours of other
12 commission approved courses. Failure to meet this deadline
13 shall result in the license being placed on inactive status on
14 the following October 1, and the license shall be subject to
15 all reactivation requirements. Reactivations shall be
16 processed in the order received as evidenced by postmark or
17 delivery date. Certified or registered mail may be used for
18 reactivation in this case. Proof of attendance at the course
19 work, whether or not the applicant attained a passing grade in
20 the course, shall be sufficient to satisfy requirements for
21 renewal. The 15 clock hours' course work requirement shall
22 apply to each two-year license renewal, and hours in excess of
23 15 shall not be cumulated or credited for the purpose of
24 subsequent license renewals. The commission shall develop
25 standards for approval of courses, and shall require
26 certification of the course work of the applicant.

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

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

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

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

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

27 "§34-27-36.

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

22 "(1) Procuring or attempting to procure, a license,
23 for himself or herself or another, by fraud,
24 misrepresentation, or deceit, or by making a material
25 misstatement of fact in an application for a license.

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

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

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

14 "(5) Pursuing a continued and flagrant course of
15 misrepresentation or the making of false promises through
16 agents or salespersons or any medium of advertising or
17 otherwise.

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

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

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

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

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

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

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

18 "(11) Paying any profit, compensation, commission,
19 or fee to, or dividing any profit, compensation, commission,
20 or fee with, anyone other than a licensee or multiple listing
21 service. This subdivision shall not prevent an associate
22 broker or salesperson from owning any lawfully constituted
23 business organization, including, but not limited to, a
24 corporation or limited liability company or limited liability
25 corporation, for the purpose of receiving payments
26 contemplated in this ~~subsection~~ subdivision. The business
27 organization shall not be required to be licensed under this

1 chapter, and shall not engage in any other activity requiring
2 a real estate license.

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

5 "(13) Inducing any party to a contract to break the
6 contract for the purpose of substituting a new contract, where
7 the substitution is motivated by the personal gain of the
8 licensee.

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

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

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

25 ~~"(17)~~ (16) Establishing an association, by employment
26 or otherwise, with an unlicensed person who is expected or
27 required to act as a licensee, or aiding, abetting, or

1 conspiring with a person to circumvent the requirements of
2 this chapter.

3 ~~"(18)~~ (17) Failing to disclose to an owner the
4 licensee's intention to acquire, directly or indirectly, an
5 interest in property which he or she or his or her associates
6 have been employed to sell.

7 ~~"(19)~~ (18) Violating or disregarding any provision of
8 this chapter or any rule, ~~regulation,~~ or order of the
9 commission.

10 ~~"(20)~~ (19) If a broker, accepting a "net listing"
11 agreement for sale of real property or any interest therein. A
12 "net listing" is one that stipulates a net price to be
13 received by the owner with the excess due to be received by
14 the broker as his or her commission.

15 ~~"(21)~~ (20) Misrepresenting or failing to disclose to
16 any lender, guaranteeing agency, or any other interested
17 party, the true terms of a sale of real estate.

18 ~~"(22)~~ (21) Failing to inform the buyer or seller at
19 the time an offer is presented that he or she will be expected
20 to pay certain closing costs and the approximate amount of
21 those costs.

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

26 "b. Having a final money judgment rendered against
27 him or her which results from an act or omission occurring in

1 the pursuit of his or her real estate business or involves the
2 goodwill of an existing real estate business.

3 ~~"(24)~~ (23) Offering free lots or conducting lotteries
4 for the purpose of influencing a party to purchase or lease
5 real estate.

6 ~~"(25)~~ (24) Failing to include a fixed date of
7 expiration in a written listing agreement or failing to leave
8 a copy of the agreement with the principal.

9 ~~"(26)~~ (25) Conduct which constitutes or demonstrates
10 dishonest dealings, bad faith, unprofessional behavior, or
11 untrustworthiness.

12 ~~"(27)~~ (26) Acting negligently or incompetently in
13 performing an act for which a person is required to hold a
14 real estate license.

15 ~~"(28)~~ (27) Failing or refusing on demand to produce a
16 document, book, or record in his or her possession concerning
17 a real estate transaction conducted by him or her for
18 inspection by the commission or its authorized personnel or
19 representative.

20 ~~"(29)~~ (28) Failing within a reasonable time to
21 provide information requested by the commission during an
22 investigation or after a formal complaint has been filed.

23 ~~"(30)~~ (29) Failing without cause to surrender to the
24 rightful owner, on demand, a document or instrument coming
25 into his or her possession.

26 ~~"(31)~~ (30) If a qualifying broker or company, failing
27 to keep in their files copies of all contracts, leases,

1 listings, and other records pertinent to real estate
2 transactions for a period of three years.

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

14 "(c) (1) Notwithstanding any other provisions of law,
15 the commission may issue an order requiring any accused
16 person, firm, corporation, or business entity to cease and
17 desist from engaging in activities requiring a license under
18 this chapter when the accused person, firm, corporation, or
19 business entity is not licensed under this chapter. The order
20 shall be entered by the executive director after a finding of
21 probable cause by the commission staff. The order shall become
22 final 15 days after its service upon the accused, unless the
23 accused requests a hearing before the commission. Upon hearing
24 the case and finding violations, the commission may make the
25 cease and desist order final and the commission may impose a
26 fine for each violation in an amount consistent with the range
27 of fines applicable to licensees, and in addition, may impose

1 a fine in the amount of any gain or economic benefit that was
2 derived from the violation, and in addition, may impose a fine
3 in the amount of the commission's costs incurred. Any fines
4 not paid as ordered shall be enforceable in any court with
5 competent jurisdiction and proper venue.

6 "(2) Notwithstanding any other provisions of law,
7 the commission may decline to issue an order requiring any
8 accused person, firm, corporation, or business entity to cease
9 and desist from engaging in activities requiring a license
10 under this chapter when the accused person, firm, corporation,
11 or business entity is not licensed under this chapter. In this
12 instance, the commission shall proceed to give appropriate
13 notice of the violations and hold a hearing thereon. Upon
14 hearing the case and finding violations, the commission may
15 impose a fine for each violation in an amount consistent with
16 the range of fines applicable to licensees, and in addition,
17 may impose a fine in the amount of any gain or economic
18 benefit that was derived from the violation, and in addition,
19 may impose a fine in the amount of the commission's costs
20 incurred. Any fine or fines not paid as ordered shall be
21 enforceable in any court with competent jurisdiction and
22 proper venue.

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

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

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

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