

1 SB529  
2 117498-1  
3 By Senator Keahey  
4 RFD: Energy and Natural Resources  
5 First Read: 11-MAR-10

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8 SYNOPSIS: Under existing law, certain persons are  
9 exempt from the real estate licensing requirements.  
10 The exemptions include persons acting as managers  
11 for apartment buildings or complexes.

12 This bill would clarify the language that  
13 the exemption from the licensing requirements would  
14 only apply to the on-site manager and leasing staff  
15 of an apartment building.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT

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21 To amend Section 34-27-2, Code of Alabama 1975,  
22 relating to real estate licensing requirements and exemptions  
23 therefrom, to clarify the language that the exemption from the  
24 licensing requirements for certain apartment managers would  
25 only apply to the on-site manager and leasing staff of an  
26 apartment building.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Section 34-27-2, Code of Alabama 1975, is  
2 amended to read as follows:

3           "§34-27-2.

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

7           "(1) ASSOCIATE BROKER. Any broker other than a  
8 qualifying broker.

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

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

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

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

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

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

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

2           "(9) LICENSE PERIOD. That period of time beginning  
3 on October 1 of a year designated by the commission to be the  
4 first year of a license period and ending on midnight  
5 September 30 of the year designated by the commission as the  
6 final year of that license period.

7           "(10) PERSON. A natural person.

8           "(11) PLACE OF BUSINESS.

9           "a. A licensed broker living in a rural area of this  
10 state who operates from his or her home, provided that he or  
11 she sets up and maintains an office for the conduct of the  
12 real estate business, which shall not be used for living  
13 purposes or occupancy other than the conduct of the real  
14 estate business. The office shall be used by the broker only  
15 and not as a place of business from which any additional  
16 licensee operates under his or her license. The office shall  
17 have a separate business telephone, separate entrance, and be  
18 properly identified as a real estate office.

19           "b. All licensees located within the city limits or  
20 police jurisdiction of a municipality shall operate from a  
21 separate office located in the city limits or police  
22 jurisdiction. The office shall have a business telephone, meet  
23 all other regulations of the Real Estate Commission, and be  
24 properly identified as a real estate office. Hardship cases  
25 may be subject to waiver of this regulation upon application  
26 and approval by the commission.

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

4            "(12) QUALIFYING BROKER. A broker under whom a sole  
5 proprietorship, corporation, partnership, branch office, or  
6 lawfully constituted business organization as the Legislature  
7 may from time to time provide is licensed, or a broker  
8 licensed as a company to do business as a sole proprietorship  
9 who is responsible for supervising the acts of the company or  
10 proprietorship and all real estate licensees licensed  
11 therewith.

12            "(13) RECOVERY FUND. The Alabama Real Estate  
13 Recovery Fund.

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

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

19            "(1) Any owner in the managing of, or in  
20 consummating a real estate transaction involving, his or her  
21 own real estate or the real estate of his or her spouse or  
22 child or parent.

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

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

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

5           "(5) Public officers performing their official  
6 duties.

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

10           "(7) Persons acting as the on-site manager or  
11 leasing staff for an apartment building or complex if they  
12 have a designated office on the premises and their duties and  
13 responsibilities are limited to only one apartment building or  
14 complex site. However, this exception shall not apply to a  
15 person acting as an on-site manager of a condominium building  
16 or complex.

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

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

22           Section 2. This act shall become effective  
23 immediately following its passage and approval by the  
24 Governor, or its otherwise becoming law.