

## HB230 ENROLLED



1 HB230  
2 GMSP226-2  
3 By Representative Shedd  
4 RFD: Commerce and Small Business  
5 First Read: 06-Feb-25



## HB230 Enrolled

Enrolled, An Act,

Relating to real estate transactions; to clarify when a real estate consumer agency disclosure form is required; to further clarify when a written brokerage agreement is required to establish a brokerage relationship; and to provide when a licensee referral agreement must be in writing.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-27-81, 34-27-82, and 34-27-100 Code of Alabama 1975, are amended to read as follows:

"§34-27-81

As used in this article, the following words ~~shall~~ have the following meanings:

(1) AGENCY AGREEMENT. A written agreement between a broker and a client which creates a fiduciary relationship between the broker and ~~a principal, who is commonly referred to as a client~~ the client.

(2) BROKER. Any person licensed as a real estate broker pursuant to Articles 1 and 2 of this chapter.

(3) BROKERAGE AGREEMENT. A specific written agreement between a ~~brokerage firm~~ company as defined in Section 34-27-2 and a consumer which establishes a brokerage relationship. The brokerage agreement shall contain a statement of the terms and conditions of the brokerage services to be provided, including any compensation to be paid to or through the company. The term includes agency agreements and transaction brokerage agreements.

(4) BROKERAGE SERVICE. Any service, except for rental



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or property management services, provided by a broker or licensee to another person and includes all activities for which a real estate license is required under Articles 1 and 2 of this chapter.

(5) ~~CONSUMER. A person who obtains information, advice, or services concerning real estate from a real estate licensee.~~ CLIENT. A person who has an agency agreement with a broker for brokerage services whether he or she is the buyer or seller.

(6) ~~CLIENT. A person who has an agency agreement with a broker for brokerage service, whether he or she be buyer or seller.~~ CONSUMER. A person who obtains information, advice, or services concerning real estate from a real estate licensee.

(7) CUSTOMER. A person who is provided brokerage services by a ~~broker or~~ licensee but who is not a client of the broker.

(8) DUAL AGENCY. An agency relationship in which the same brokerage firm represents both the seller and the buyer in the same real estate transaction. once all parties have signed the consent agreement. Circumstances ~~which~~ that establish a dual agency include, but are not limited to, one of the following:

a. When two or more licensees licensed under the same broker each represent a different party to the transaction.

b. When one licensee represents both the buyer and seller in a real estate transaction.

(9) INFORMED CONSENT. A consumer's agreement to allow something to happen which is based upon full disclosure of



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facts needed to choose appropriate brokerage services.

(10) LICENSEE. Any broker, salesperson, or company as defined in Section 34-27-2.

(11) LIMITED CONSENSUAL DUAL AGENT. A licensee who, with the written informed consent of all parties to a contemplated real estate transaction, is engaged as an agent for both the buyer and seller. Circumstances which establish dual agency include, but are not limited to, one of the following:

a. When two or more licensees licensed under the same broker each represent a different party to the transaction.

b. When one licensee represents both the buyer and seller in a real estate transaction.

(12) MATERIAL FACT. A fact that is of significance to a reasonable party which affects the party's decision to enter into a real estate contract.

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

(14) REAL ESTATE TRANSACTION. The purchase, sale, lease and rental, option, or exchange of an interest in real estate.

(15) SINGLE AGENT. A licensee who is engaged by and represents only one party in a real estate transaction. A single agent ~~includes, but is not limited to, one~~ may be only



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85 one of the following:

86           a. Buyer's agent, which means a broker or licensee who  
87 is engaged by and represents only the buyer in a real estate  
88 transaction.

89           b. Seller's agent, which means a broker or licensee who  
90 is engaged by and represents only the seller in a real estate  
91 transaction.

92           (16) SUB-AGENT. A licensee who is empowered to act for  
93 another broker in performing real estate brokerage tasks for a  
94 principal, and who owes the same duties to the principal as  
95 the agent of the principal.

96           (17) TRANSACTION BROKER. A licensee who assists one or  
97 more parties in a contemplated real estate transaction without  
98 being an agent or fiduciary or advocate for the interest of  
99 that party to a transaction."

100           "§34-27-82

101           (a) When engaged in any real estate transaction, the  
102 licensee may act as a single agent, sub-agent, a limited  
103 consensual dual agent, or as a transaction broker.

104           (b) At the initial contact between a licensee and the  
105 consumer and until such time a broker enters into a specific  
106 written agreement to establish an agency relationship with one  
107 or more of the parties to a transaction, the licensee shall  
108 not be considered an agent of that consumer. An agency  
109 relationship shall not be assumed, implied, or created without  
110 a written bilateral agency agreement establishing the terms of  
111 the agency relationship. In the absence of a signed brokerage  
112 agreement between the parties, the transaction brokerage



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relationship shall remain in effect.

~~(c) As soon as reasonably possible and before any confidential information is disclosed to any other person by a licensee, the~~ The licensee shall provide a written disclosure form to a consumer for signature describing the alternative types of brokerage services, as identified in subsection (a), that are available to clients and customers of real estate brokerage companies, as soon as reasonably possible and before any confidential information is disclosed to any other person by a licensee. Such disclosure must occur at least prior to a licensee providing any brokerage service, which includes a licensee showing a property as to a prospective buyer but does not include a seller's agent conducting an open house as to prospective buyers. As part of the disclosure, the licensee shall also provide ~~inform~~ a consumer as to ~~in writing~~ the specific types of brokerage services that are provided by his or her company, as required by Section 34-27-83, which shall also include general information on how the company and licensee are compensated for the brokerage services. A broker shall not be required to offer or engage in any one or in all of the alternative brokerage arrangements ~~services~~ specified in subsection (a). The licensee will provide a written form to the consumer for their signature describing the alternative types of brokerage arrangements available. All rental or property management services are excluded from the requirements of this subsection.

(d) A licensee shall not be required to comply with the provisions of subsection (c) when engaged in transactions with



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any corporation, ~~non-profit~~nonprofit corporation, professional corporation, professional association, limited liability company, partnership, any partnership created under the Uniform Partnership Act, ~~commencing at Section 10-8A-101~~, real estate investment trust, business trust, charitable trust, family trust, or any governmental entity in transactions involving real estate.

(e) After disclosure, the consumer may make an affirmative election of a specific type of brokerage ~~arrangement~~service that is available from the real estate ~~brokerage~~ company by signing a brokerage agreement. The brokerage agreement shall contain a statement of the terms and conditions of the brokerage services that the company will provide, as provided in Section 34-27-81. The consumer or customer may not be required to enter into a written brokerage agreement in order for a licensee to show a property to the consumer or customer. Notwithstanding the application of subsection (d), a written brokerage agreement is required prior to a licensee either listing for sale or submitting an offer on a property on behalf of a consumer, customer, or client for compensation. In the absence of a signed brokerage agreement between the parties, the transaction brokerage relationship shall remain in effect.

(f) When serving as a transaction broker, the duties of the licensee to all the parties to a real estate transaction are limited to those which are enumerated in Section 34-27-84. A signed brokerage agreement between the parties or, in the absence of a signed brokerage agreement, the continuation of



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the transaction brokerage relationship, shall constitute informed consent by the consumer as to the services the consumer shall receive from the broker.

(g) Disclosure forms shall be provided to buyers and sellers. All real estate ~~brokerage firms~~ companies operating within the State of Alabama shall use the same agency disclosure forms. Disclosure forms describing the alternative types of brokerage services identified above shall be written by the Alabama Real Estate Commission.

(h) Nothing in this section shall prohibit the consumer from entering into a written contract with a broker which contains provisions for services not specifically identified in the written disclosure form."

"§34-27-100

For the purposes of this article, the following terms shall have the following meanings:

(1) ACTUAL INTRODUCTION. ~~a. When~~ Either: (i) when the buyer, seller, landlord, or tenant has been referred to the real estate licensee by the person or entity seeking the referral fee prior to the time the customer has executed a real estate brokerage services disclosure form or waived execution in writing or the customer has executed a buyer's agency agreement, property listing agreement, or a transaction brokerage agreement; or

~~b. For~~ (ii) for real estate transactions in which the law of this state does not require the presentation of a real estate brokerage services disclosure form, when the buyer, seller, landlord, or tenant has been referred to the real





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estate licensee by the person or entity seeking the referral fee prior to any contact between the buyer, seller, landlord, or tenant and the real estate licensee during which their real estate business has been discussed. Any such referral agreement between real estate licensees must be in writing. Any attempt to present an unlawful referral agreement is prohibited.

(2) INTERFERENCE WITH A REAL ESTATE BROKERAGE RELATIONSHIP. Demanding a referral fee from a real estate licensee when reasonable cause for payment does not exist. The term "interference with a real estate brokerage relationship" may also include a threat by a third party to reduce, withhold, or eliminate any relocation or other benefits, or the actual reduction, withholding, or elimination of any relocation or other benefit, in order to generate a referral fee from a real estate broker when reasonable cause for payment does not exist. Notwithstanding the foregoing, ~~either~~ neither of the following shall ~~not~~ constitute interference with a real estate brokerage relationship:

a. Communications between an employer or its representative and an employee concerning relocation policies and benefits.

b. Advising a party of the right to allow a brokerage relationship to expire pursuant to its own terms or not to renew the brokerage relationship upon expiration.

(3) REAL ESTATE BROKERAGE RELATIONSHIP. A relationship entered into between a real estate broker or salesperson and a buyer, seller, landlord, or tenant under which the real estate



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broker or salesperson engages in any of the acts set forth in Alabama real estate license law, but the relationship does not exist prior to actual introduction of the relationship as provided in subdivision (1).

(4) REASONABLE CAUSE FOR PAYMENT. When an actual introduction of business has been made, a subagency relationship between brokers exists, a contractual referral fee relationship or other agreement exists, or a contractual cooperative brokerage relationship exists.

(5) REFERRAL FEE. Any fee or commission paid by a real estate licensee to any person or entity, other than a cooperative commission offered by a listing real estate broker to a selling real estate broker or by a selling real estate broker to a listing real estate broker."

Section 2. This act shall become effective 30 days after the enactment of this bill.



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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and  
was passed by the House 13-Feb-25.

John Treadwell  
Clerk

Senate

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**05-Mar-25**

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Passed