

HB230 ENROLLED



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



1 Enrolled, An Act,

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

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11 "§34-27-81

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

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

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

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

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



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

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

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

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

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

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

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

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



57 facts needed to choose appropriate brokerage services.

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

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

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

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

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

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

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

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



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



113 relationship shall remain in effect.

114 (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~~ 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.

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



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

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

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



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

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

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

182 "§34-27-100

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

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

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



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

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

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

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

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



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

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

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

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

HB230 Enrolled



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250 Speaker of the House of Representatives
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255 President and Presiding Officer of the Senate
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258 House of Representatives
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260 I hereby certify that the within Act originated in and
261 was passed by the House 13-Feb-25.

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263 John Treadwell
264 Clerk
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270 Senate **05-Mar-25** Passed
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