

**HB586 ENGROSSED**



1 HB586  
2 2J582II-2  
3 By Representative Wilcox  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 05-Mar-26



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to consumer protection; to amend Sections 8-42-1, 8-42-2, and 8-42-3, Section 34-27-2, as last amended by 2025-380, 2025 Regular Session, Sections 34-27-30 and 34-27-36, as last amended by 2025-308, 2025 Regular Session, Code of Alabama 1975; to define "equitable interest" and "real estate wholesaling,"; to require certain disclosures in wholesaling transactions; to require a real estate wholesaler to be licensed with the Alabama Real Estate Commission; to provide that the Alabama Securities Commission has concurrent jurisdiction with the Alabama Real Estate Commission to regulate real estate wholesaling; to provide that failure to provide the required disclosures may subject the wholesaler to fines and penalties; to authorize the Alabama Real Estate Commission to refer real estate wholesaling matters to the Alabama Securities Commission for investigation and enforcement; Sections 8-42-1.1, 8-42-1.2, 8-42-1.3, and 8-42-4 are added to the Code of Alabama 1975; to authorize the Alabama Securities Commission to enforce violations of investment-oriented real property solicitation disclosure requirements; to provide that the Alabama Securities



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29 Commission has concurrent jurisdiction with the Alabama Real  
30 Estate Commission to regulate real estate wholesaling; to  
31 provide fines and penalties for wholesaling and unsolicited  
32 offer violations; to provide for rescission of unsolicited  
33 real estate contracts in certain circumstances; to authorize  
34 the Alabama Securities Commission to establish standard  
35 disclosure language for investment-oriented solicitations; and  
36 to also make nonsubstantive, technical revisions to update the  
37 existing code language to current style.

38 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

39

40 Section 1. Sections 8-42-1, 8-42-2, and 8-42-3, Section  
41 34-27-2, as last amended by 2025-380, 2025 Regular Session,  
42 Sections 34-27-30, and 34-27-36, as last amended by 2025-308,  
43 2025 Regular Session, Code of Alabama 1975, are amended to  
44 read as follows:

45 "§8-42-1

46 The Legislature finds and declares all of the  
47 following:

48 ~~(1) Wholesaling real property occurs when a buyer~~  
49 ~~enters into a contract for purchase and sale of a~~  
50 ~~single-family residential property with the seller of the~~  
51 ~~property thereby creating the buyer's equitable interest in~~  
52 ~~the property, the buyer then finds a subsequent purchaser~~  
53 ~~willing to pay a higher price for the property and then~~  
54 ~~assigns its interest to the subsequent purchaser for a fee.~~  
55 Many modern real estate schemes no longer focus on the  
56 legitimate purchase and ownership of property. Instead, they



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57 aim to extract economic value from property owners through  
58 resale, assignment, optioning, and complex contract  
59 structures. These schemes are carried out at scale by large  
60 entities operating through networks of affiliates and  
61 individuals. Although presented as real estate transactions,  
62 these arrangements function in practice as financial  
63 investment products secured by real estate and should be  
64 regulated with the same transparency and oversight as other  
65 financial investments and similar frauds. These practices most  
66 often harm seniors, long-term owners, heirs, and financially  
67 vulnerable families, and undermine confidence in the real  
68 estate market.

69 (2) Certain unfair service agreements provide a real  
70 estate company with the right to market, list, or assist in  
71 selling a residential property for up to 40 years, binding  
72 homeowners and successors in interest through a recorded  
73 memorandum and penalizing the homeowner or successor in  
74 interest for breach of the agreement.

75 (3) The practices of wholesaling residential real  
76 estate, and recording these unfair service agreements, pose a  
77 significant risk to Alabama homeowners if left unregulated.

78 (4) The lack of any restrictions enables predatory  
79 practices against homeowners, especially those who have lived  
80 in a home for a long period of time, leading to financial  
81 loss, equity theft and resulting in confusion for unsuspecting  
82 subsequent purchasers.

83 (5) The Legislature concludes the following in the  
84 interest of protecting Alabama ~~homeowners and home buyers~~



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85 property owners:

86 a. Disclosure of the limited interest, marketing, and  
87 assignment of the buyer's equitable interest in the  
88 homeowner's property should be required of buyers engaging in  
89 wholesaling.

90 b. Unfair service agreements create clouds on the  
91 titles of Alabama homes and burden Alabama homeowners with  
92 false promises, are against the public interest, and  
93 constitute unreasonable restraints on the alienation of real  
94 property.

95 c. Investment-oriented solicitations involving real  
96 property present risks comparable to those of securities  
97 transactions and warrant disclosure-based regulation.

98 d. Nothing in this section shall be construed to  
99 infringe on the private property rights of an individual to  
100 acquire real property for his or her own use, ownership, or  
101 benefit.

102 e. Nothing in this section shall be construed to  
103 require an individual to be licensed in order to acquire real  
104 property for his or her own use, ownership, or benefit.

105 f. The Legislature finds that unsolicited offers to  
106 purchase real property may present a heightened risk of  
107 unfairness, particularly when the purchase price is below the  
108 real property's most recent tax assessed value, when the  
109 seller is an individual in need of protective services and  
110 vulnerable to elder abuse and exploitation as defined in  
111 Chapter 9 of Title 38, or the seller did not receive the  
112 professional assistance of a licensed real estate agent, as



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113 defined in Chapter 27 of Title 34, or a licensed attorney, as  
114 defined in Chapter 3 of Title 34."

115 "§8-42-2

116 (a) A person may acquire an equitable interest in a  
117 single-family residential property as the buyer under a  
118 contract for the purchase and sale of the property and then  
119 may assign or offer to assign the interest for a fee if the  
120 buyer discloses in writing ~~all of the following:~~

121 (1) To any potential subsequent purchaser or assignee,  
122 ~~the nature of the buyer's equitable interest~~ that the seller  
123 of the equitable interest is not the deed holder of the  
124 property and is only offering to sell or assign his or her  
125 equitable interest-;

126 (2) To the seller of the property, the buyer's intent  
127 to market or assign its equitable interest in the seller's  
128 real estate prior to ~~commencing any marketing of the~~  
129 property-;

130 (3) ~~To the seller of the property, the~~ The effective  
131 date of any assignment of the buyer's interest to a subsequent  
132 purchaser of the property at least three ~~business~~ calendar  
133 days prior to the effective date of any assignment-; and

134 (4) A fixed closing date with no automatic extensions  
135 in the contract that established the equitable interest.

136 (b) Written disclosure under subsection (a) shall be  
137 required for the intent to market and transfer an equitable  
138 interest in residential real property, as limited by  
139 subsection (d), whether by assignment, novation, or any other  
140 similar method of transferring an interest in real property.



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141 (c) (1) A violation of this section is a Class C  
142 misdemeanor.

143 (2) In addition to criminal penalties, a person  
144 violating this section may be ~~liable to the person to whom~~  
145 ~~disclosure is required in an amount equal to three times the~~  
146 ~~fee or amount received by the buyer pursuant to the assignment~~  
147 subject to civil fines and penalties as determined by the  
148 commission pursuant to Section 8-42-1.3 and by the Alabama  
149 Real Estate Commission pursuant to Section 34-27-36.

150 (3) Enforcement of this section shall be governed by  
151 Section 8-42-1.2.

152 (d) This section shall only apply to transactions  
153 involving single-family residential property and shall not  
154 apply to any other property transactions.

155 (e) This section shall not infringe on the right of the  
156 parties to otherwise agree by contract.

157 (f) This section shall not apply to predevelopment  
158 activity for residential subdivisions, condominiums, or other  
159 residential predevelopment activity."

160 "§8-42-3

161 ~~(a) For purposes of this section the following terms~~  
162 ~~have the following meanings:~~

163 ~~(1) RECORDING. Presenting a document to a county judge~~  
164 ~~of probate for official placement in the public land records.~~

165 ~~(2) RESIDENTIAL REAL ESTATE. Real property located in~~  
166 ~~this state which is used primarily for a dwelling and contains~~  
167 ~~one to four dwelling units.~~

168 ~~(3) SERVICE AGREEMENT. A contract under which a person~~



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169 ~~agrees to provide services in connection with the purchase or~~  
170 ~~sale of residential real estate.~~

171 ~~(4) SERVICE PROVIDER. An individual or entity that~~  
172 ~~provides services to another party under a service agreement.~~

173 ~~(5) UNFAIR SERVICE AGREEMENT. A service agreement in~~  
174 ~~which the services subject to the agreement are not performed~~  
175 ~~within one year after the date upon which the agreement~~  
176 ~~commences and provides any of the following:~~

177 ~~a. Purports to run with the land or to be binding on~~  
178 ~~future owners of interests in the real property.~~

179 ~~b. Allows for assignment of the right to provide the~~  
180 ~~service without notice and agreement of the owner of~~  
181 ~~residential real estate.~~

182 ~~c. Purports to create a lien, encumbrance, or other~~  
183 ~~real property security interest.~~

184 ~~(b)(a)~~ This chapter does not apply to any of the  
185 following:

186 (1) A home warranty or ~~other type of~~ similar product  
187 that covers the cost of maintenance ~~of~~ for a major ~~housing~~  
188 home system, such as plumbing or electrical wiring, for a set  
189 period of time from the date a house is sold.

190 (2) An insurance contract.

191 (3) An option to purchase or right of refusal to  
192 purchase real estate.

193 (4) A maintenance or repair agreement entered into by a  
194 homeowners' association in a common interest community.

195 (5) Agreements to manage residential real estate.

196 (6) A declaration of any covenants, conditions, or



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197 restrictions created in the formation of a homeowners'  
198 association, a group of condominium owners, or other common  
199 interest community, or an amendment to the declaration.

200 (7) A mortgage loan or commitment to make or receive a  
201 mortgage loan.

202 (8) A security agreement under Alabama's Uniform  
203 Commercial Code, relating to the sale or rental of personal  
204 property or fixtures.

205 (9) Water, sewer, electrical, telephone, cable, or  
206 other regulated utility service providers.

207 ~~(e)~~ (b) This section does not impair the rights granted  
208 by a mechanic's or materialman's lien under Division 8 of  
209 Article 5 of Chapter 11 of Title 35, or by ~~another~~ any other  
210 judicially imposed lien.

211 ~~(d)~~ (c) If a service agreement is unfair under this  
212 ~~section~~ chapter, it is unenforceable.

213 ~~(e)~~ (d) If a person enters into an unfair service  
214 agreement with a consumer, that agreement shall be deemed a  
215 deceptive act under the Deceptive Trade Practices Act,  
216 commencing with Section 8-19-1.

217 ~~(f)~~ (e) (1) No person shall record or cause to be  
218 recorded an unfair service agreement, or a notice or  
219 memorandum of an unfair service agreement, ~~in the~~ this state.

220 (2) If an unfair service agreement is recorded in this  
221 state, ~~it~~ the agreement shall not be deemed to provide actual  
222 or constructive notice against an otherwise bona fide  
223 purchaser of the residential real property to which ~~it~~ the  
224 agreement pertains, or against a creditor with a security



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225 interest in ~~the residential real property to which it pertains~~  
226 that property.

227 (3) A service provider who records or causes to be  
228 recorded an unfair service agreement, or a notice or  
229 ~~memorandum thereof~~ of an unfair service agreement, in this  
230 state is liable to an affected party for statutory damages in  
231 the amount of ten thousand dollars (\$10,000) ~~in statutory~~  
232 ~~damages.~~

233 ~~(g)~~ (f) If an unfair service agreement, or a notice or  
234 memorandum of an unfair service agreement, is recorded in the  
235 state, any party with an interest in the residential real  
236 property to which ~~it~~ the agreement pertains may take either or  
237 both of the following actions:

238 (1) Apply to the circuit court in the county where the  
239 recording ~~exists~~ is located to seek a court order declaring  
240 the agreement ~~is void and of no effect.~~

241 (2) In addition to the statutory damages described in  
242 subdivision ~~(f)~~ (e) (3), recover actual damages, plus costs and  
243 attorney fees as may be proven against the service provider  
244 who recorded the agreement."

245 "§34-27-2

246 (a) For purposes of Articles 1 and 2 of this chapter,  
247 the following terms have the following meanings:

248 (1) ASSOCIATE BROKER. Any broker other than a  
249 qualifying broker.

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

252 (3) BUYER'S AGREEMENT. An agreement between a real



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253 estate company and a person ~~through~~ under which the company  
254 agrees to assist the person with the purchase of real property  
255 in exchange for a fee, whether as a fiduciary or  
256 non-fiduciary.

257 (4) COMMISSION. The Alabama Real Estate Commission,  
258 except where the context requires that it means the fee paid  
259 to a broker or salesperson.

260 (5) COMMISSIONER. A member of the commission.

261 (6) COMPANY. Any sole proprietorship, corporation,  
262 partnership, branch office, or lawfully constituted business  
263 organization as the Legislature may provide for from time to  
264 time, which is licensed as a company under Articles 1 and 2 of  
265 this chapter.

266 (7) ENGAGE. Contractual relationships between a  
267 qualifying broker and an associate broker or salesperson  
268 licensed under him or her, whether the relationship is  
269 employer-employee, independent contractor, or otherwise.

270 (8) EQUITABLE INTEREST. Any interest or right in a  
271 contract or agreement to purchase residential real estate held  
272 by a party to that contract or agreement.

273 (9) INACTIVE LICENSE. A license ~~which~~ that is being  
274 held by the commission office by law, order of the commission,  
275 at the request of the licensee, or which is renewable but is  
276 not currently valid because of a failure to renew.

277 (10) LICENSE PERIOD. That period of time beginning on  
278 October 1 of a year designated by the commission to be the  
279 first year of a license period and ending on midnight  
280 September 30 of the year designated by the commission as the



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281 final year of that license period.

282 ~~(9)~~ (11) LICENSEE. Any broker, salesperson, or company.

283 ~~(11)~~ (12) LISTING AGREEMENT. An agreement between a  
284 company and an owner ~~wherein~~ under which the company agrees to  
285 assist the owner in the sale of the owner's real property in  
286 exchange for a fee, whether as a fiduciary or a non-fiduciary.  
287 The term includes an agreement giving the company the right to  
288 list or market the owner's real property upon the owner's  
289 future decision to sell the property.

290 (13) NET LISTING AGREEMENT. An agreement that  
291 stipulates a net price to be received by the owner with the  
292 excess due to be received by a licensee as commission.

293 ~~(12)~~ (14) PERSON. A natural person.

294 ~~(13)~~ (15) PLACE OF BUSINESS.

295 a. A licensed broker ~~living~~ residing in a rural area of  
296 this state ~~who operates~~ and operating from his or her home,  
297 provided that he or she ~~sets up~~ establishes and maintains an  
298 office for the conduct of the real estate business, which  
299 shall not be used for living purposes or occupancy other than  
300 the conduct of the real estate business. The office shall be  
301 used by the broker only and not as a place of business from  
302 which any additional licensee operates under his or her  
303 license. The office shall have a separate business telephone,  
304 have a separate entrance, and be properly identified as a real  
305 estate office.

306 b. All licensees located within the city limits or  
307 police jurisdiction of a municipality shall operate from ~~a~~ an  
308 office with a separate ~~office located in the city limits or~~



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309 ~~police jurisdiction~~ address. The office shall have a business  
310 telephone, ~~meet~~ comply with all other ~~regulations~~ commission  
311 rules ~~of the Real Estate Commission~~, and be properly  
312 identified as a real estate office. Hardship cases may be  
313 ~~subject to waiver of~~ exempt from this regulation upon  
314 application and approval by the commission.

315 c. All business records and files shall be kept at the  
316 place of business ~~as required by~~ in accordance with applicable  
317 law or Real Estate Commission rules.

318 ~~(14)~~ (16) PRINCIPAL BROKER. As used in other states, the  
319 term has the same meaning as "qualifying broker" in this  
320 state.

321 ~~(15)~~ (17) QUALIFYING BROKER. A broker under whom a sole  
322 proprietorship, corporation, partnership, branch office, or  
323 lawfully constituted business organization, as the Legislature  
324 may from time to time provide, is licensed, or a broker  
325 licensed as a company to do business as a sole proprietorship  
326 who is responsible for supervising the acts of the company or  
327 proprietorship and all associated real estate licensees  
328 ~~licensed therewith~~.

329 ~~(16)~~ (18) REAL ESTATE WHOLESALING. The practice of  
330 assigning or marketing the assignment of an equitable interest  
331 in residential property for profit.

332 (19) RECOVERY FUND. The Alabama Real Estate Recovery  
333 Fund.

334 ~~(17)~~ (20) RESIDENTIAL. Real property located in this  
335 state which is used primarily for a dwelling and contains one  
336 to four dwelling units.



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337           (21) SALESPERSON. Any person licensed as a real estate  
338 salesperson under Articles 1 and 2 of this chapter.

339           ~~(18)~~(22) TEAM. Two or more licensees within the same  
340 company who work together to provide services for which a  
341 license is required and who hold themselves out to the public  
342 as a distinct group within the company.

343           (b) The licensing requirements of Articles 1 and 2 of  
344 this chapter shall not apply to any of the following persons  
345 and transactions:

346           (1) Any owner ~~in the managing of, or in or~~ consummating  
347 a real estate transaction involving ~~his or, her, or its~~ own  
348 real estate or the real estate of his or her spouse, child, or  
349 parent. This exception does not apply to real estate  
350 wholesaling unless the sale is to a spouse, child, or parent,  
351 or unless the property is in a predevelopment stage.

352           (2) An attorney-at-law performing his or her duties as  
353 an attorney-at-law.

354           (3) Persons acting without compensation and in good  
355 faith under a duly executed power of attorney authorizing the  
356 consummation of a real estate transaction.

357           (4) Persons or a state or federally chartered financial  
358 institution acting as a receiver, trustee, administrator,  
359 executor, or guardian; or acting under a court order or under  
360 the authority of a trust instrument or will.

361           (5) Public officers performing their official duties.

362           (6) Persons performing general clerical or  
363 administrative duties for a broker ~~so long as,~~ provided the  
364 person does not physically show listed property.



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365 (7) Persons acting as the manager ~~for~~ of an apartment  
366 building or complex. However, this exception shall not apply  
367 to a person acting as an on-site manager of a condominium  
368 building or complex.

369 (8) Persons licensed as time-share sellers under  
370 Article 3 of this chapter ~~performing~~ who perform an act  
371 consistent with that article.

372 (9) Transactions involving the sale, lease, or transfer  
373 of cemetery lots.

374 (c) Notwithstanding subdivision (b)(1), the licensing  
375 requirements in Articles 1 and 2 of this chapter shall apply  
376 to any person or entity that engages in real estate  
377 wholesaling, unless the sale is to a spouse, child, or parent,  
378 or unless the property is in a predevelopment stage."

379 "§34-27-30

380 It shall be unlawful for any person, sole  
381 proprietorship, partnership, corporation, branch office, or  
382 lawfully constituted business organization, as the Legislature  
383 may from time to time provide, for a fee, commission, or other  
384 valuable consideration, or with the intention or expectation  
385 of receiving or collecting a fee, commission, or other  
386 valuable consideration from another, to do any of the  
387 following unless licensed under Articles 1 and 2 of this  
388 chapter:

389 (1) Sell, exchange, purchase, rent, or lease real  
390 estate situated within the State of Alabama.

391 (2) Offer to sell, exchange, purchase, rent, or lease  
392 real estate situated within the State of Alabama.



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393 (3) Negotiate or attempt to negotiate the listing,  
394 sale, exchange, purchase, rental, or leasing of real estate  
395 situated within the State of Alabama.

396 (4) List or offer or attempt or agree to list real  
397 estate for sale, rental, lease, exchange, or trade situated  
398 within the State of Alabama.

399 (5) Auction, offer, or attempt or agree to auction,  
400 real estate situated within the State of Alabama.

401 (6) Buy or sell or offer to buy or sell, or otherwise  
402 deal in options on real estate situated within the State of  
403 Alabama.

404 (7) Aid, attempt, or offer to aid in locating or  
405 obtaining for purchase, rent, or lease any real estate  
406 situated within the State of Alabama.

407 (8) Procure or assist in procuring of prospects for the  
408 purpose of effecting the sale, exchange, lease, or rental of  
409 real estate situated within the State of Alabama.

410 (9) Procure or assist in the procuring of properties  
411 for the purpose of effecting the sale, exchange, lease, or  
412 rental of real estate situated within the State of Alabama.

413 (10) Present himself or herself, or be presented, as  
414 being able to perform an act for which a license is required.

415 (11) Real estate wholesaling."

416 "§34-27-36

417 (a) (1) The commission or its staff, on its own  
418 initiative or on ~~the~~ a verified written complaint ~~in writing~~  
419 ~~of~~ by any person, may investigate the actions and records of a  
420 licensee. The commission may issue subpoenas and compel the



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421 testimony of witnesses and the production of records and  
422 documents during an investigation. If probable cause is found,  
423 a formal complaint shall be filed, and the commission shall  
424 hold a hearing on the formal complaint.

425 (2) In each instance in which a licensee is found in  
426 violation of any of the conduct prohibited in subsection (b),  
427 the commission may impose any of the following penalties:

428 a. A fine of not less than one hundred dollars (\$100)  
429 nor more than five thousand dollars (\$5,000).

430 b. Require the licensee to complete an approved  
431 education course or courses in addition to completing the  
432 existing continuing education requirements.

433 c. Issue a public reprimand.

434 d. Revoke or suspend any or all licenses held by the  
435 licensee under this chapter ~~by the licensee~~. The suspension  
436 may continue until ~~such time as~~ the licensee has completed an  
437 approved continuing education course, has made restitution to  
438 accounts containing funds to be held for other parties, or  
439 both. The commission may also stay the revocation or  
440 suspension of a license and require completion of an approved  
441 education course, require the making of restitution to  
442 accounts containing funds to be held for other parties, or  
443 both.

444 (b) A licensee is prohibited from doing all of the  
445 following:

446 (1) Procuring or attempting to procure a license for  
447 himself or herself or another by fraud, misrepresentation, or  
448 deceit, or by making a material misstatement of fact in an



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449 application for a license.

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

453 (3) Making a material misrepresentation or failing to  
454 disclose to a potential purchaser or lessee any latent  
455 structural defect or any other defect known to the licensee.  
456 Latent structural defects and other defects do not refer to  
457 trivial or insignificant defects but refer to those defects  
458 that would be a significant factor to a reasonable and prudent  
459 person in making a decision to purchase or lease.

460 (4) Making any false promises of a character likely to  
461 influence, persuade, or induce any person to enter into any  
462 contract or agreement.

463 (5) Pursuing a continued and flagrant course of  
464 misrepresentation or ~~the making of~~ false promises through  
465 agents or salespersons or any medium of advertising or  
466 otherwise.

467 (6) Publishing or causing to be published any  
468 advertisement that deceives or that is likely to deceive the  
469 public, or that in any manner tends to create a misleading  
470 impression.

471 (7) Acting for more than one party in a transaction  
472 without the knowledge and written consent of all parties for  
473 whom he or she acts.

474 (8)a. Failing, within a reasonable time, to properly  
475 account for or remit money ~~coming~~ that comes into his or her  
476 possession ~~which~~ and belongs to others, or commingling money



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477 belonging to others with his or her own funds.

478           b. Failing to deposit and account for at all times all  
479 funds belonging to others, or being held for others, in a  
480 separate federally insured account or accounts ~~in~~ at a  
481 financial institution located in Alabama.

482           c. Failing to keep ~~for at least three years~~ a complete  
483 record of funds belonging to others showing to whom the money  
484 belongs, the date deposited, the date of withdrawal, and other  
485 pertinent information for at least three years.

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

488           (10) Failing to voluntarily furnish a copy of each  
489 listing, contract, lease, and other document to each party  
490 executing the document with reasonable promptness.

491           (11) Paying any profit, compensation, commission, or  
492 fee to, or dividing any profit, compensation, commission, or  
493 fee with, anyone other than a licensee or a multiple listing  
494 service. This subdivision shall not prevent an associate  
495 broker or salesperson from owning any lawfully constituted  
496 business organization, including, but not limited to, a  
497 corporation ~~or~~, limited liability company, or limited  
498 liability corporation, for the purpose of receiving payments  
499 contemplated in this subsection. The business organization  
500 shall not be required to be licensed under this chapter, and  
501 shall not engage in any other activity requiring a real estate  
502 license.

503           (12) Paying or receiving any rebate from any person in  
504 a real estate transaction.



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505 (13) Inducing any party to a contract to breach the  
506 contract for the purpose of substituting a new contract, l where  
507 the substitution is motivated by the ~~personal gain of the~~  
508 licensee licensee's personal gain.

509 (14) If the licensee is a salesperson or associate  
510 broker, accepting a commission or other valuable consideration  
511 for performing any act for which a license is required from  
512 any person or company, l except his or her qualifying broker.

513 (15) If the licensee is a qualifying broker or company,  
514 allowing a salesperson or associate broker licensed under him  
515 or her to advertise himself or herself as a real estate agent  
516 without the name or trade name of the qualifying broker or  
517 company appearing prominently on the advertising; or, l if the  
518 licensee is a salesperson or associate broker, advertising  
519 himself or herself as a real estate agent without the name or  
520 trade name of the qualifying broker or company under whom the  
521 salesperson or associate broker is licensed appearing  
522 prominently on the advertising. For purposes of this  
523 subdivision, "prominently" means using a font size that is  
524 equal to or larger than any other name, text, or logo, other  
525 than terms like "for sale" or "for lease," in the  
526 advertisement and situated and sized for the purpose of  
527 gaining the attention of consumers viewing the advertisement.

528 (16) Establishing an association, by employment or  
529 otherwise, with an unlicensed person who is expected or  
530 required to act as a licensee, or aiding, abetting, or  
531 conspiring with a person to circumvent the requirements of  
532 this chapter.



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533 (17) Failing to disclose to an owner the licensee's  
534 intention to acquire, directly or indirectly, an interest in  
535 property which he or she or his or her associates have been  
536 employed to sell.

537 (18) Violating or disregarding any provision of this  
538 chapter or any rule, regulation, or order of the commission.

539 (19) ~~If a broker accepts~~ Accepting a "net listing"  
540 agreement for the sale of real property or any interest  
541 ~~therein~~ in real property where the licensee is not a buyer,  
542 seller, or assigning buyer in the transaction. ~~A "net listing"~~  
543 ~~agreement stipulates a net price to be received by the owner~~  
544 ~~with the excess due to be received by the broker as his or her~~  
545 ~~commission.~~

546 (20) Misrepresenting or failing to disclose to any  
547 lender, guaranteeing agency, or any other interested party,  
548 the true terms of a sale of real estate.

549 (21) Failing to inform the buyer or seller at the time  
550 an offer is presented that he or she will be expected to pay  
551 certain closing costs and the approximate amount of those  
552 costs.

553 (22)a. Having entered a plea of guilty or nolo  
554 contendere to, or having been found guilty of or convicted of,  
555 a felony or a crime involving moral turpitude.

556 b. Having a final money judgment rendered against him  
557 or her which results from an act or omission occurring in the  
558 pursuit of his or her real estate business or involves the  
559 goodwill of an existing real estate business.

560 (23) Offering free lots or conducting lotteries for the



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561 purpose of influencing a party to purchase or lease real  
562 estate.

563 (24) Failing to include a fixed date of expiration in a  
564 written listing agreement or failing to leave a copy of the  
565 agreement with the principal.

566 (25) Conduct that constitutes or demonstrates dishonest  
567 dealings, bad faith, or untrustworthiness.

568 (26) Acting negligently or incompetently in performing  
569 an act for which a person is required to hold a real estate  
570 license.

571 (27) Failing or refusing, on demand, to produce a  
572 document, book, or record in ~~his or her~~ the licensee's  
573 possession concerning a real estate transaction conducted by  
574 him or her for inspection by the commission ~~or,~~ its authorized  
575 personnel, or representative.

576 (28) Failing within a reasonable time to provide  
577 information requested by the commission during an  
578 investigation or after a formal complaint has been filed.

579 (29) Failing without cause to surrender to the rightful  
580 owner, on demand, a document or instrument ~~coming~~ that comes  
581 into his or her the licensee's or its possession.

582 (30) If a qualifying broker or company, failing to keep  
583 in his, her, or its files copies of all contracts, leases,  
584 listings, and other records pertinent to real estate  
585 transactions for a period of three years.

586 (31) When engaging in real estate wholesaling, failing  
587 to provide the required buyer and seller disclosures pursuant  
588 to Section 8-42-2.



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589 (c) If it appears that a person or business entity has  
590 engaged, or is about to engage, in an act or practice  
591 constituting a violation of Article 1 or 2 of this chapter or  
592 any rule or order of the commission, the commission, through  
593 the Attorney General or the Alabama Securities Commission, may  
594 institute legal actions to enjoin the act or practice and to  
595 enforce compliance with Articles 1 and 2 of this chapter or  
596 any rule or order of the commission. To prevail in an action,  
597 it shall not be necessary to allege or prove either that an  
598 adequate remedy at law does not exist or that substantial or  
599 irreparable damage would result from the continued violation.

600 (d) (1) Notwithstanding any other provisions of law, the  
601 commission may issue an order requiring any accused person or  
602 business entity to cease and desist from engaging in  
603 activities requiring a license under this chapter when the  
604 accused person or business entity is not licensed under this  
605 chapter. The order shall be entered by the executive director  
606 after a finding of probable cause by the commission staff. The  
607 order shall become final 15 days after its service upon the  
608 accused, unless the accused requests a hearing before the  
609 commission. Upon hearing the case and finding violations, the  
610 commission may do any of the following:

611 a. ~~make~~ Make the cease and desist order final.

612 b. ~~and the commission may impose~~ Impose a fine for each  
613 violation in an amount consistent with the range of fines  
614 applicable to licensees.

615 c. ~~, and in addition, may impose~~ Impose a fine in the  
616 amount of any gain or economic benefit ~~that was~~ derived from



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617 the violation.

618 ~~d., and in addition, may impose~~ Impose a fine in the  
619 amount of the ~~commission's~~ costs incurred by the commission.

620 ~~Any fines not paid as ordered shall be enforceable in any~~  
621 ~~court with competent jurisdiction and proper venue.~~

622 (2) Notwithstanding any other provisions of law, the  
623 commission may decline to issue an order requiring any accused  
624 person or business entity to cease and desist from engaging in  
625 activities requiring a license under this chapter when the  
626 accused person or business entity is not licensed under this  
627 chapter. In this instance, the commission shall ~~proceed to~~  
628 give appropriate notice of the violations and hold a hearing.  
629 Upon hearing the case and finding violations, the commission  
630 may:

631 ~~a. impose~~ Impose a fine for each violation in an amount  
632 consistent with the range of fines applicable to licensees;

633 ~~b., and in addition, may impose~~ Impose a fine in the  
634 amount of any gain or economic benefit ~~that was~~ derived from  
635 the violation;

636 ~~c., and in addition, may impose~~ Impose a fine in the  
637 amount of the commission's costs incurred. ~~Any fine or fines~~  
638 ~~not paid as ordered shall be enforceable in any court with~~  
639 ~~competent jurisdiction and proper venue.;~~ or

640 d. In matters involving real estate wholesaling, refer  
641 the matter to the Alabama Securities Commission for  
642 investigation and adjudication.

643 (3) Any fine or fines imposed by this subsection that  
644 are not paid as ordered shall be enforceable in any court of



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645 competent jurisdiction and proper venue.

646 (e) The commission shall notify the licensee and  
647 qualifying broker in writing regarding the complaint.

648 (f) The commission shall notify the complainant,  
649 licensee, and qualifying broker in writing ~~regarding~~ of the  
650 disposition of the complaint.

651 (g) If a licensee presents a form of payment to the  
652 commission, or to any third party on the commission's behalf,  
653 ~~which~~ that is declined or rejected by a financial institution  
654 or merchant service company, the licensee shall have 30 days,  
655 ~~upon~~ from electronic notification ~~from~~ by the commission, to  
656 submit full and valid payment ~~for~~ of the initial fee or fine  
657 ~~and,~~ plus an additional fee for submitting the faulty payment,  
658 not to exceed the maximum amount allowed by Section 8-8-15.  
659 Failure to submit full and valid payment within 30 days of  
660 electronic notification by the commission shall result in the  
661 licensee's license becoming inactive until the licensee  
662 submits full payment. Failure to submit full and valid payment  
663 within six months after electronic notification by the  
664 commission shall result in the licensee's license lapsing."

665 Section 2. Sections 8-42-1.1, 8-42-1.2, 8-42-1.3, and  
666 8-42-4, are added to the Code of Alabama 1975, to read as  
667 follows:

668 §8-42-1.1

669 For purposes of this chapter the following terms have  
670 the following meanings:

671 (1) CLOSING. The transfer of legal title to real  
672 property from a property owner to another person or entity



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673 through the delivery of a deed or other instrument of  
674 conveyance for consideration.

675 (2) COMMISSION. The Alabama Securities Commission.

676 (3) CONTACT. Any communication delivered by mail,  
677 courier, email, text message, social media message, telephone  
678 call, voicemail, prerecorded message, or similar method.

679 (4) EQUITABLE INTEREST. Any interest or right in a  
680 contract or agreement to purchase residential real estate held  
681 by a party to that contract or agreement.

682 (5) INVESTMENT-ORIENTED REAL PROPERTY SOLICITATION. Any  
683 communication, offer, agreement, or transaction involving real  
684 property in which the expected economic benefit to the  
685 offeror, directly or indirectly, is derived primarily from  
686 resale, assignment, appreciation, fee extraction, or  
687 contractual arbitrage, rather than occupancy or personal use  
688 by the offeror.

689 (6) OFFEREE. A real property owner who receives a  
690 purchase offer.

691 (7) OFFEROR. A person or entity acting directly or  
692 indirectly on behalf of another who makes an offer to purchase  
693 real property.

694 (8) REAL ESTATE WHOLESALING. The practice of assigning  
695 or marketing the assignment of an equitable interest in  
696 residential property for profit.

697 (9) RECORDING. Presenting a document to a county judge  
698 of probate for official placement in the public land records.

699 (10) RESIDENTIAL REAL ESTATE. Real property located in  
700 this state which is used primarily for a dwelling and contains



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701 one to four dwelling units.

702 (11) SELLER. An offeree who signs a purchase contract.

703 (12) SERVICE AGREEMENT. A contract under which a person  
704 agrees to provide services in connection with the purchase or  
705 sale of residential real estate.

706 (13) SERVICE PROVIDER. An individual or entity that  
707 provides services to another party under a service agreement.

708 (14) UNFAIR SERVICE AGREEMENT. A service agreement in  
709 which the services subject to the agreement are not performed  
710 within one year after the date upon which the agreement  
711 commences and provides any of the following:

712 a. Purports to run with the land or to be binding on  
713 future owners of interests in the real property.

714 b. Allows for assignment of the right to provide the  
715 service without notice and agreement of the owner of  
716 residential real estate.

717 c. Purports to create a lien, encumbrance, or other  
718 real property security interest.

719 (15) UNSOLICITED COMMUNICATION. Any communication sent  
720 to a real property owner when the owner has not requested or  
721 invited the contact, given prior consent to be contacted, or  
722 entered into a written agreement with the sender concerning  
723 the property.

724 §8-42-1.2

725 (a) The commission shall have authority under this  
726 chapter to administer, implement, and enforce all regulated  
727 conduct, individuals, and entities in this chapter, along with  
728 issuing licenses for these activities. This authority extends



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729 to regulating investment-oriented real estate solicitations,  
730 recorded service agreements, unfair service agreements,  
731 unsolicited offers, and related practices. This exclusive  
732 authority applies regardless of any license an individual or  
733 entity may hold under any other legal provision. The Alabama  
734 Real Estate Commission shall have concurrent authority with  
735 the commission to regulate assignments or offerings of  
736 assignments of equitable interests. This authority shall not  
737 preclude the Board of Commissioners of the Alabama State Bar  
738 from pursuing professional licensing violations under Chapter  
739 3 of Title 34.

740 (b) The commission may adopt rules necessary to carry  
741 out this chapter, including, but not limited to, rules  
742 governing:

743 (1) Consumer complaint intake and resolution  
744 procedures;

745 (2) Establishment of a consumer complaint hotline that  
746 allows consumers to verify the licenses of regulated entities  
747 under this chapter.

748 (2) Disclosure forms and content;

749 (3) Examination, reporting, and recordkeeping  
750 requirements;

751 (4) Other than real estate wholesaling, which is  
752 licensed by the Alabama Real Estate Commission, any licensing,  
753 permitting, or registration program and fees established by  
754 rule;

755 (5) Any renewal, suspension, or revocation program  
756 established by rule;



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- 757 (6) Penalty schedules and remedial measures;
- 758 (7) Defining additional unfair, deceptive, or abusive  
759 practices; or
- 760 (8) Definitions and standards necessary to preclude  
761 circumvention of this chapter.
- 762 (c) The commission may:
- 763 (1) Conduct investigations and examinations;
- 764 (2) Require the production of documents and testimony;
- 765 (3) Issue subpoenas;
- 766 (4) Issue cease and desist orders;
- 767 (5) Suspend, revoke, or condition any license, permit,  
768 or registration established by rule;
- 769 (6) Impose administrative fines and penalties for each  
770 violation;
- 771 (7) Order restitution, rescission, disgorgement, or  
772 other remedial relief;
- 773 (8) Prosecute criminal violations where authorized by  
774 law; or
- 775 (9) Coordinate with other agencies as authorized by  
776 law.
- 777 (d) The commission may bring an action in any court of  
778 appropriate jurisdiction for:
- 779 (1) Injunctive or other relief;
- 780 (2) Civil penalties;
- 781 (3) Restitution, rescission, or disgorgement;
- 782 (4) Enforcement of administrative orders;
- 783 (5) Recovery of investigative and enforcement costs; or
- 784 (6) Appointment of a receiver.



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785 (e) Nothing in this chapter shall be construed to limit  
786 criminal prosecution under any provision of law or to require  
787 exhaustion of administrative remedies before criminal  
788 enforcement.

789 (f) Enforcement under this chapter shall be in addition  
790 to, not in lieu of, remedies available under the Deceptive  
791 Trade Practices Act.

792 (g) Any contractual provision attempting to waive  
793 rights, remedies, or protections under this chapter is void  
794 and unenforceable as against public policy.

795 (h) The authority granted under this chapter applies to  
796 individual violations as well as to patterns or practices of  
797 conduct, whether arising under a single section or multiple  
798 sections of this chapter.

799 (i) The existence or nonexistence of an enforcement  
800 action by the commission or other governmental agency pursuant  
801 to this section shall not bar or diminish any private right of  
802 action.

803 §8-42-1.3

804 (a) The commission may impose administrative fines and  
805 penalties per violation. The civil penalty shall not exceed  
806 one hundred thousand dollars (\$100,000) per violation,  
807 provided that the aggregate civil penalty assessed in a single  
808 administrative order shall not exceed ten million dollars  
809 (\$10,000,000). Each day an act, omission, or violation  
810 continues shall constitute a separate violation.

811 (b) In determining the amount of any civil penalty, the  
812 commission shall consider all relevant factors, including:



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813 (1) The nature, gravity, and duration of the violation,  
814 including any irreparable harm or risk of harm to property  
815 owners;

816 (2) The degree of culpability, intent, or recklessness  
817 demonstrated by the violator;

818 (3) The facts, circumstances, and conduct in connection  
819 with the investment-oriented real estate activity at issue;

820 (4) The economic benefit, compensation, or other  
821 financial gain obtained, directly or indirectly, as a result  
822 of the violation;

823 (5) Any prior history of violations of this chapter,  
824 the Alabama Securities Act, or related consumer protection  
825 laws; and

826 (6) The violator's ability to pay the assessed penalty.

827 (c) In any action or administrative proceeding arising  
828 from an unsolicited contract, the following factors may be  
829 considered in determining whether the transaction was unfair  
830 or deceptive, without automatically creating a right of  
831 rescission:

832 (1) The age of the victim.

833 (2) Whether any offer to purchase is below the real  
834 property's most recent tax assessed value.

835 (3) Whether the victim received the professional  
836 assistance of a licensed real estate agent, as defined in  
837 Chapter 27 of Title 34, or a licensed attorney, as defined in  
838 Chapter 3 of Title 34.

839 (d) Civil penalties under this section may be assessed  
840 for any violation occurring within five years after the



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841 discovery of the fraud.

842 §8-42-4

843 (a) This section shall govern every unsolicited  
844 electronic, telephonic, or video communication, or written  
845 inquiry, solicitation, or mailing by any individual or entity,  
846 whether acting as a principal, investor, intermediary, or  
847 agent, that makes an investment-oriented real property  
848 solicitation and that expresses an interest in any of the  
849 following:

850 (1) Buying real property or an option to buy real  
851 property from the addressee.

852 (2) Buying the real property to which the written  
853 inquiry or mailing is addressed.

854 (3) Offering services relating to the sale of real  
855 estate.

856 (b) (1) Any unsolicited communication or solicitation  
857 governed by this section that constitutes an  
858 investment-oriented real property solicitation by any  
859 individual or entity that expresses an interest in: (i) buying  
860 real property or an option to buy real property from the  
861 addressee; (ii) buying the real property to which such written  
862 inquiry or mailing is addressed; or (iii) offering services  
863 relating to the sale of real estate, shall include consumer  
864 protection disclosures as required by the commission.

865 (2) The Commission shall, pursuant to its rulemaking  
866 authority and in accordance with the Alabama Administrative  
867 Procedures Act, establish standard disclosure language for  
868 consumer protection that shall be included in any



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869 investment-oriented, unsolicited real estate offers as defined  
870 in this chapter. The disclosures shall include:

871 a. Notice that the offer may be below fair market  
872 value;

873 b. A statement encouraging the real property owner to  
874 seek guidance from a licensed real estate agent or attorney of  
875 the owner's choice;

876 c. A statement that the owner has no obligation or duty  
877 to respond to the solicitation; and

878 d. Contact information for the commission and a  
879 statement that the owner may verify the identity,  
880 registration, licensure status, and legitimacy of the offeror  
881 through the commission.

882 (3) Enforcement of violations of this subsection shall  
883 be carried out in accordance with Section 8-42-1.2.

884 (c) A seller may rescind a contract to sell real  
885 property entered into as a result of an unsolicited offer  
886 within seven days after the contract is executed and before  
887 closing if the seller did not receive the professional  
888 assistance of a licensed real estate agent, as defined in  
889 Chapter 27 of Title 34, or a licensed attorney, as defined in  
890 Chapter 3 of Title 34. The seller shall have the right to a  
891 seven-day rescission period starting from the date the  
892 contract is signed until the closing date. Parties may agree  
893 to extend this rescission right up to one day before closing,  
894 but the extension must be agreed upon in writing and included  
895 in the contract. A rescission must expire at least one day  
896 prior to closing, providing a minimum of eight days between



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897 the contract being signed and the closing.

898 (d) A seller who uses the professional assistance of a  
899 licensed real estate agent or a licensed attorney of the  
900 seller's choosing when the contract is signed does not have a  
901 right to rescind the contract unless agreed to by the parties  
902 and written in the contract. In no instance shall a right to  
903 rescind be extended beyond the closing date. This section  
904 shall be interpreted to protect the seller and to ensure the  
905 transaction's finality at closing.

906 (e) If the seller meets the criteria in subsection (c)  
907 and rescinds the contract within the seven-day period:

- 908 (1) The seller owes no penalty, fee, or damages;  
909 (2) Any contractual penalty provision is void; and  
910 (3) Any funds received shall be returned within seven  
911 days after cancellation.

912 (f) (1) If real property meets the criteria in  
913 subsection (c), then it may not close prior to the expiration  
914 of the seven-day cancellation period. No deed, assignment,  
915 memorandum, lien, option, encumbrance, or other instrument  
916 conveying or affecting an interest in real property may be  
917 delivered, assigned, transferred, or recorded during a  
918 seven-day cancellation period. This includes:

- 919 a. Assignment of the purchase contract;  
920 b. Double closings; and  
921 c. Conveyance to a third party.

922 (2) Any instrument executed or recorded in violation of  
923 this subsection is voidable at the election of the seller.

924 (3) Any third party acquiring an interest during the



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925 seven-day period takes subject to the seller's statutory right  
926 to rescission.

927 (g) Violations of this section shall be enforced in  
928 accordance with Section 8-42-1.2.

929 (h) This chapter does not apply to properties that are:

930 (i) subject to an active written listing agreement with a  
931 licensed real estate broker; (ii) marketed for sale by the  
932 property owner or to an individual attempting to acquire an  
933 interest in real estate from another person with whom he or  
934 she has an existing business or personal relationship; or  
935 (iii) where the property interest being acquired is for the  
936 purchaser's personal use or benefit.

937 Section 3. This act shall become effective on October  
938 1, 2026.

