



**MY REAL ESTATE SCHOOL**  
*Your Licensing Specialists*

# **ALABAMA LICENSE LAW**

# **&**

# **TRUST FUNDS**

***(Alabama State Exam Content)***

***Updated for Legislative Changes - February 2026***

***Act 2025-59 (Effective April 18, 2025) | Act 2025-380 (Effective October 1, 2025)***

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**FEES**

<b>FEE</b>	<b>DESCRIPTION</b>
<b>\$25.00</b>	Criminal records search; Change of company name, licensee's name, company address; Change of status from inactive to active
<b>\$30.00</b>	Recovery fund fee (when obtaining temporary active license); Education & research fee (\$7.50 per year for renewal)
<b>\$85.00</b>	Salesperson and company license fee per year
<b>\$95.00</b>	Broker's license fee per year
<b>\$150.00</b>	Penalty for non-renewal after August 31; Temporary license fee for one year; Initial broker's license fee
<b>\$200.00</b>	Appeal bond for party appealing decision

**Miscellaneous Fees**

- Disciplinary action fees: No less than \$100 nor exceeding \$5,000.00

**2025 UPDATE - Act 2025-380:**

Maximum disciplinary fine increased from \$2,500 to \$5,000 per violation, effective October 1, 2025.

- Witness in hearing pay: \$20.00/day plus \$0.56/mile

**EXAM ALERT:** Memorize the key fee amounts, especially \$25 for criminal records search, \$150 for late renewal penalty, and the new \$5,000 maximum disciplinary fine.

## WHO **MUST** BE LICENSED?

Any person, partnership, corporation, or branch office with the intention or expectation of receiving or collecting a fee, commission, or other valuable consideration from another to:

- Sell, exchange, purchase, rent, or lease real estate
- Offer to sell, exchange, purchase, rent, or lease real estate
- Negotiate or attempt to negotiate the listing, sale, exchange, purchase, or leasing of real estate
- List or offer or attempt to agree to list real estate for sale, rent, lease, exchange, or trade
- Auction, offer, or attempt or agree to auction real estate
- Buy or sell or offer to buy or sell, or otherwise deal in options on real estate
- Aid, attempt, or offer to aid in locating or obtaining for purchase, rent, or lease any real estate
- Procure or assist in procuring of prospects for the purpose of affecting the sale, exchange, lease, or rental of real estate
- Procure or assist in procuring of properties for the purpose of affecting the sale
- Present themselves, or be presented, as being able to perform an act for which a license is required

### **Auctioneers**

The law requires that one who auctions, or offers or attempts or agrees to auction real estate must be licensed. Persons commonly referred to as "ground men" are not required to be licensed, provided their activities shall be limited to relaying crowd participation bids to the auctioneer.

**EXAM ALERT:** The key phrase is "intention or expectation of receiving compensation." Without compensation expectations, many activities don't require a license.

## WHO DOES **NOT** NEED TO BE LICENSED?

1. An owner in the managing of or in consummating a real estate transaction involving their own real estate or the real estate of their spouse, child, or parent.
  - a. The term "owner" is defined as the individual owner themselves or, in the case of a corporation or partnership, a partner or corporate officer who has the authority of and does make management decisions affecting the overall policy of the corporation or partnership.
2. An attorney-in-fact performing their duties as an attorney-at-law.
3. Persons acting without compensation and in good faith under a duly executed power of attorney authorizing the consummation of a real estate transaction.
4. Persons or state/federally chartered financial institutions acting as a receiver, trustee, administrator, executor, or guardian, or acting under a court order or under authority of a trust instrument or will.
5. Public officers performing their official duties.
6. Persons performing general clerical or administrative duties for a broker.
7. Clerical/office employees - duties shall be limited to those normally attributed to such positions. No such employee shall physically show listed property, solicit or accept listings, negotiate sales or leases, hold themselves out as engaged in the real estate business, or perform any other act for which a license is required unless properly licensed.
8. Apartment building/complex managers - However, this exception shall NOT apply to a person acting as an on-site manager of a condominium complex.
9. Time-share sellers licensed as such, performing their duties.
10. Cemetery lot transactions - involving the sale, lease, or transfer of cemetery lots.

**EXAM ALERT:** Remember: Condominium managers DO need a license, but apartment managers do NOT. Also, clerical employees cannot show property or negotiate.

## LICENSE PERIOD

The licensing period begins on October 1 of a year designated by the commission as the first year and ends at midnight on September 30 of the year designated as the final year of that licensing period.

## CURRENT LICENSE PERIOD

- October 1 of each even-numbered year through September 30 of the next even-numbered year
- License renewal by: August 31
- CE completion by: September 30
- Failure to comply with these requirements will result in a late penalty of \$150.00 **AND** license inactivation until corrected

## APPLICATIONS FOR EXAMINATIONS AND LICENSES

1. Should any applicant for a real estate salesperson or broker's license falsely answer any questions on either the exam or license application, or misrepresent any facts relating to either application, it may be rejected by the commission, returned to the applicant, and the applicant may be charged with a Class A misdemeanor. Anyone whose application is rejected may request a hearing before the commission within 15 days.
2. The exam fee and application must be submitted to Pearson VUE. You may schedule your exam online. Bring 2 forms of ID. Unscheduled candidates (walk-ins) will not be admitted. The passing grade is 70%. Time limit: 3.5 hours.
3. All salesperson and broker applicants must complete all required coursework **PRIOR** to taking the state exam. Failure to do so will result in the applicant being required to retake and pass the state exam after the coursework has been successfully completed.

**EXAM ALERT:** Remember: 15 days to request a hearing if application rejected. Passing score is 70%. Time limit is 3.5 hours. Must complete coursework **BEFORE** exam.

## CRIMINAL RECORD SEARCH

The commission may charge any applicant a fee for a criminal record search in the same amount as charged by the Department of Public Safety or any other agency for the search. The current fee is \$25.00.

## RETURN OF LICENSE

A corporation, partnership, or individually owned company may withdraw consent for a broker or salesperson to continue doing business in its name by notifying the commission and the broker or salesperson in writing and returning the license to the commission.

## LICENSE RENEWAL

The renewal form shall be mailed by the commission to the licensee's place of business (if active) or residence (if inactive) prior to August 1 for the final year of each license period. Each licensee shall notify the commission in writing of any change in their business or residence address within 30 days of the change.

- **EXCEPTION:** A person holding a current Alabama license who moves to and becomes a resident of Alabama shall submit notice of change of address to the commission within 10 days.
- If for any reason a licensee fails to receive a renewal form, it shall be the responsibility of the licensee to notify the commission of this failure by August 10 of the renewal period.

**EXAM ALERT:** Address change deadlines: Generally 30 days, but only 10 days if moving TO Alabama. Must notify by August 10 if renewal form not received.

## RECIPROCAL LICENSE

If you hold a current license in another state, you may obtain a reciprocal license as follows:

1. Complete a 6-hour course in Alabama real estate law as specified in Rule 790-X-1-.18.
2. Take and pass the corresponding Alabama portion of the licensing examination
3. Submit with the application an official "Certificate of Licensure" form (license history) documenting that you hold a current license in another state. This certification must have been issued within 120 days of AREC's receipt of your reciprocal license application.
4. Upon passage of the exam, you will receive an application for licensure at the test center.

## NON-RESIDENT AND OUT-OF-STATE CO-BROKERAGE

**2025 UPDATE - Act 2025-380:** Out-of-state co-brokerage agreements are now limited to 3 agreements per year per out-of-state broker, not to exceed \$50,000,000 total annually.

1. A licensed broker of another state may act as co-broker with an Alabama broker by written agreement specifying each parcel of property covered, if the state in which the non-resident broker is licensed offers the same privileges to Alabama licensees.
2. Whenever an Alabama broker enters into a co-brokerage with a non-resident broker to perform in Alabama, the Alabama broker shall file within 10 days a copy of the agreement with the commission. By signing the agreement, the non-resident broker agrees to abide by Alabama law.
3. An Alabama licensed broker may enter into a co-brokerage agreement with a broker of another state. The Alabama broker shall require a listing or joint listing of the property involved. The written co-brokerage agreement shall specify all material terms, including financial terms.
4. The Alabama broker shall supervise the showing of property located in Alabama and negotiations pertaining thereto; in all advertising of real estate located in Alabama, the name of the Alabama broker shall appear.
5. The Alabama broker shall be liable for all acts of the out-of-state broker, as well as for their own acts, arising from the execution of any co-brokerage agreement.
6. The Alabama broker shall determine that the out-of-state broker is licensed as a broker in another state.
7. The Alabama broker must hold all earnest money pertaining to a co-brokerage agreement in escrow unless both buyer and seller agree in writing to relieve the Alabama broker of this responsibility.

**EXAM ALERT:** Key points: Alabama broker is **LIABLE** for out-of-state broker's acts. File co-brokerage agreement within 10 days. Alabama broker holds earnest money. **NEW:** Limited to 3 agreements/\$50M annually.

## REQUIREMENTS FOR SALESPERSON LICENSE

A license for a broker or salesperson shall be registered to a specific real estate office and shall be issued only to and held by a person who meets all of the following requirements:

1. Is trustworthy and competent to transact the business of a broker or salesperson in a manner that safeguards the interest of the public.
2. Is a person whose application or license has not been rejected or revoked in any state within 2 years prior on any grounds (other than failure to pass the exam.)
3. Is at least **19 years old**.
4. Is a United States citizen or is an alien with permanent resident status.
5. Has proof of high school graduation/diploma or equivalent.
6. Has proof of completion of a real estate course approved by AREC, minimum of 60 clock hours.
7. Any other information required by the AREC.

### Time Requirements for Course & Exam

REQUIREMENT	TIME ALLOWED
Complete 60-hour pre-license course	<b>1 year from start</b>
Pass state licensing exam	<b>6 months after course completion</b>
Apply for license after passing exam	<b>90 days</b>
Complete 30-hour post-license (active)	<b>6 months (+ 6 more if inactive)</b>
Complete post-license (inactive license)	<b>1 year</b>

### After Passing the Exam - Active License

- Within 90 days, find a company and secure the Qualifying Broker's signature on the application.
- You are NOT officially licensed until your qualifying broker receives the temporary license from AREC.
- Temporary license valid for 6 months following the first day of the month after issuance. • If post-license not completed in 6 months: license becomes INACTIVE.
- Additional 6 months to complete while inactive. If still not completed: license LAPSES.

### After Passing the Exam - Inactive License

- Within 90 days of passing, apply for inactive license.
- You have 1 year to complete post-license or license will lapse.

**EXAM ALERT:** Key timeframes: 1 year for pre-license, 6 months to pass exam, 90 days to apply, 6 months for post-license (active) or 1 year (inactive).

## REQUIREMENTS FOR A BROKER'S LICENSE

- A person desiring to be a real estate broker in Alabama shall apply for a broker's license specifying the real estate office to which they are registered. Along with the application, they must submit:
- Proof of active real estate salesperson's license in any state for at least 24 of the 36 months immediately preceding the date of application.
- Proof of completion of a broker course approved by AREC, minimum of 60 hours.
- Any other information requested by the commission.
- If you hold a reciprocal salesperson's license, you must either get a broker's license in your original state then get a reciprocal broker's license in Alabama, OR take the 60-hour pre-license course in Alabama before taking the broker's exam.
- The salesperson's license automatically terminates upon issuance of the broker's license. The salesperson's license must be returned to the commission.

### **FUTURE CHANGE (2028):**

*Act 2025-379 (Effective October 1, 2028) will increase qualifying broker experience requirements from 24 months to 48 months (4 years) of active license experience, plus additional qualifying broker course requirements.*

## QUALIFYING BROKER

- Must be licensed in Alabama with real estate as their principal business.
- Must be in a position to actually supervise licensees on a FULL-TIME basis.
- Is held RESPONSIBLE to the commission and public for all acts of salespersons and associate brokers licensed under them.
- Is responsible to injured parties for damage caused by violations of any licensee they engage.
- Supervisory responsibilities do NOT create an employer-employee relationship contrary to expressed intent.
- To terminate as QB: notify licensee and commission in writing, send license to commission.
- QB for multiple companies at same location: must submit letter of consent from all officers of both companies to AREC.

**EXAM ALERT:** The QB is RESPONSIBLE for ALL acts of their licensees - heavily tested!  
QB must supervise FULL-TIME.

## ASSOCIATE BROKER

- An associate broker is a person who holds a broker's license but chooses to work under another qualifying broker rather than operate independently.
- Must be registered to a specific real estate office (same as salesperson)
- Subject to supervision by their qualifying broker
- Cannot serve as qualifying broker while in associate status
- Must pay over all funds to their qualifying broker immediately upon receipt
- QB is responsible for all acts of associate brokers licensed under them

## DEATH OR DISABILITY OF QUALIFYING BROKER

Within 30 days, the company must designate another qualifying broker. Alternative: designate someone with at least 1 year active salesperson's license as temporary QB for up to 6 months. Fee: \$150.00.

**EXAM ALERT:** Trust funds heavily tested! 7 days to disburse after closing. Interpleader for disputes. Cash deposited IMMEDIATELY. 30 days to designate new QB after death/disability.

## REAL ESTATE TEAMS

### 2025 UPDATE - Act 2025-380:

Alabama license law now includes specific requirements for real estate teams, effective October 1, 2025.

### Team Requirements

- Team leader must be designated with the qualifying broker.
- Team leader must maintain a list of all team members and provide it to the qualifying broker.
- A licensee may NOT be a member of more than one team.

### Team Advertising Requirements- *Advertisements must include:*

- The name of at least one team member
- The name of the company with whom the licensee is licensed
- The term "team" or "group" in the team's name
- Written authorization from the qualifying broker

**EXAM ALERT: NEW FOR 2025:** Team names must include 'team' or 'group.' Licensees can only belong to ONE team. Team leader must be designated with QB.

## DEPOSIT FUNDS (TRUST FUNDS)

Each real estate salesperson or associate broker shall pay over to their qualifying broker all funds coming into their possession immediately upon receipt. If past normal business hours, the next business day is acceptable.

### KEY TRUST FUND RULES

- Qualifying Brokers may hold earnest money during negotiations.
- Must deposit cash IMMEDIATELY into a federally insured Alabama bank once contract is furnished. Funds are to be held in trust unless QB is relieved in writing.
- Cash funds must be deposited IMMEDIATELY.
- If Multiple QB's are involved: listing company ideally deposits (any QB may do so).
- Disburse within 7 days of closing.
- If, for any reason, the transaction is not consummated or there is a disagreement where one or both parties refuse to sign the release, the broker can turn those trust monies over to the courts. This is called an interpleader action.

**EXAM ALERT: Trust funds is heavily tested!**

\*\*7 days to disburse after closing. \*\*Interpleader for disputes. \*\*Cash is deposited IMMEDIATELY.

## COMPANY LICENSE

Application for a company license shall be made by a qualifying broker on a prescribed form. The QB must be an officer, partner, or employee of the company. Must maintain a place of business. If maintaining more than one place of business, must have a company license for each branch office location with a QB licensed at each address.

**2025 UPDATE - Act 2025-380:**

Licensees may now use ANY branch office of their company to meet clients (effective Oct.2025)

## PLACE OF BUSINESS

Primary requirement: office must be in an area zoned for business or police jurisdiction.

### Exceptions

- Rural Broker: May operate sole proprietorship from home if: separate office (not for living), BROKER ONLY (no other licensees), separate phone, separate entrance, properly identified as real estate office.
- Handicapped Broker: Same exception as rural broker regardless of zoning/police jurisdiction.
- All licensees in city limits must operate from separate office in city limits.
- Office must have a designated business telephone and be properly identified.

## CONTINUING EDUCATION

Original license holders who completed post-license are NOT subject to CE requirements for their first renewal.

### CONTINUING EDUCATION (CE) REQUIREMENTS

- Every license expires at midnight September 30 of the final year of each license period.
- Failure to renew within 12 months after license period = LAPSED license (treated as never licensed).
- Active license renewal: Complete 15 hours CE by September 30.
- Breakdown: 3 hours Risk Management (required) + 12 hours electives.

### Continuing Education (CE) Exemptions

- INACTIVE license renewal: CE is not required, but must complete 15 hours to ACTIVATE.
- Alabama legislators: may receive CE credit with official documentation filed by August 31.

### Research and Education Fund Fee

- Original fee: \$30.00 (paid with original broker's license or temporary salesperson's license).
- Renewal fee: \$7.50 per year (\$15.00 per license period).

## OFFERS

A licensee acting as an agent for a principal shall transmit ALL written offers received to their principal, as soon as possible and in the order received (for multiple offers).

**2025 UPDATE - Act 2025-59:** Written buyer agreement required BEFORE submitting an offer. Written seller agreement required BEFORE listing property. Consumers cannot be required to sign a binding agreement just to view a property.

## ESTIMATED CLOSING STATEMENTS

The licensee who procures a written offer from a buyer or presents a written offer to a seller in a residential transaction shall prepare and furnish them with a completed estimated closing statement at the time the offer is signed. This statement must contain the licensee's best estimates of all costs they are expected to have at closing and the approximate amounts of those costs. The licensee will also furnish an actual detailed closing statement showing all receipt of both statements by signature on the form.

## MISREPRESENTATION

- Client is NOT liable for broker's misrepresentation UNLESS client knew or should have known of it, OR broker was repeating client's misrepresentation.
- Licensee is NOT liable for false information if it was provided by client, customer, or another licensee - UNLESS licensee knew or should have known it was false (negligent misrepresentation).
- AREC duties supersede common law agency duties to the extent they are inconsistent.

**EXAM ALERT:** Key concept: 'Knew or should have known' = negligent misrepresentation. Licensees must verify suspicious information.

## DISCIPLINARY ACTIONS

The AREC or its staff may on its own, or on the verified complaint in writing of any person, investigate the actions and records of a licensee. The AREC may issue subpoenas and compel the testimony of witnesses and the production of records during an investigation. If probable cause is found, a formal complaint will be filed and the AREC will hold a hearing.

### 2025 UPDATE - Act 2025-380:

Maximum fine increased from \$2,500 to \$5,000 per violation (effective October 1, 2025). Bad checks to AREC no longer a license law violation - now handled administratively.

**AREC may: Revoke | Suspend | Fine (\$100 - \$5,000) | Reprimand**

## Disciplinary Actions / License Law Violations

- Procuring or attempting to procure a license for him/herself or another by fraud, misrepresentation or deceit, or by making a material misstatement of fact in an application for a license.
- Engaging in misrepresentation or dishonest or fraudulent acts when selling, buying, trading, or renting real property of their own or of a spouse, child or parent.
- Making a material misrepresentation, or failing to disclose to a potential purchaser or lessee any latent structural defect or any other defect known to the licensee.
- Latent structural defects and other defects do not refer to trivial or insignificant defects, but refer to those that would be a significant factor to a reasonable and prudent person in making a decision to purchase or lease
- Making any false promises of a character likely to influence, persuade, or induce any person to enter into any contractual agreement.
- Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents, salespersons, advertising or otherwise.

- Publishing or causing to be published any advertisement which deceives or which is likely to deceive the public or which in any manner tends to create a misleading impression or which fails to identify the person causing the advertisement to be placed as a licensed broker or salesperson.
- A licensed person may advertise property they own in the same way as any private party. However, the licensee must abide by all of the other provisions of the law in any and all real estate transactions that they are involved in.
- If a licensed person chooses to advertise their own property as if they are licensed, then all such advertising as well as all other activities must be conducted strictly in accordance with the rules of the AREC.
- Acting for more than one party in a transaction without the knowledge and consent in writing of all parties for whom they act.
- Failing within a reasonable time to properly account for or remit money coming into their possession that belongs to others, or commingling money belonging to others with their own funds. Failing to deposit and account for (at all times) funds belonging to or being held for others in a separate federally insured account at a financial institution in Alabama.
- Failing to keep (for at least 3 years) a complete record of funds belonging to others showing to whom the money belongs, date deposited, date of withdrawal, and other pertinent information. IF the transaction is not consummated or if there is a disagreement about dispersal, the qualifying broker shall not disburse any trust funds, except pursuant to a written agreement signed by all parties or pursuant to a court order. If the funds are to be disbursed, this should happen within 7 days.
- Placing a sign on any property offering it for sale, lease or rent without the consent of the owner.
- Failing to voluntarily furnish a copy of each listing contract, lease and other document to each party executing the document with reasonable promptness.
- Paying or dividing any profit, compensation, commission or fee to or with anyone other than a licensee or multiple listing services.
- Paying or receiving any rebate from any person in a real estate transaction.
- Inducing any party to a contract to break the contract, for the purpose of substituting a new contract, where the substitution is motivated by the personal gain of the licensee.
- If the licensee is a salesperson or associate broker, accepting a commission or other valuable consideration for performing any act for which a licensee is required from any person except their qualifying broker.
- Any advertising the salesperson may participate in, the company name must also be present and prominently displayed.
- Establishing an association by employment or otherwise, with an unlicensed person who is expected or required to act as a licensee or aiding, abetting or conspiring with a person to circumvent the requirements of this chapter.

- Misrepresenting or failing to disclose to any lender, guaranteeing agency or any interested party, the true terms of a sale of real estate.
- Failing to inform the buyer or seller at the time an offer is presented that they will be expected to pay certain closing costs and the approximate amount of those costs.
- Having entered a plea of guilty or nolo contendere to or having been found guilty of or convicted of a felony or crime involving moral turpitude.
- Having a final money judgment rendered against them which results from an act or omission occurring in the pursuit of their real estate business or involves the goodwill of a real estate business.
- Offering free lots or conducting lotteries for the purpose of influencing a party to purchase or lease real estate.
- Failing to include a fixed date of expiration in a written listing agreement or failing to leave a copy of the agreement with the principal.
- Listing contracts shall contain no provision for automatic extensions.
- Conduct that constitutes or demonstrates dishonest dealings, bad faith or untrustworthiness.
- Acting negligently or incompetently in performing an act for which a person is required to hold a real estate license.
- Failing or refusing on demand to produce a document, book or record in their possession concerning a real estate transaction conducted by them for inspection by the commission or its authorized personnel or representative.
- Failing within a reasonable time to provide information requested by the AREC during an investigation or after a formal complaint has been filed.
- Failing without cause to surrender to the rightful owner, on demand, a document or instrument coming into their possession.
- If a qualifying broker or company fails to keep in their files copies of all contracts, leases, listings and other records pertinent to real estate transactions for a period of 3 years.
- If it appears that a person, firm, corporation or any business entity has engaged, or is about to engage, in any act or practice constituting a violation of this chapter; the AREC, through the Attorney General, may institute legal actions to enjoin the act or practice and to enforce compliance with this chapter or any rules or order of the AREC.

**EXAM ALERT:** Heavily tested: Keep records 3 years. Disburse trust funds within 7 days. Company name in ALL advertising. Never accept compensation except from YOUR QB. New max fine: \$5,000.

## FORMAL COMPLAINTS

Staff of the AREC may, in response to a complaint from an outside party or upon its own initiative, develop a formal complaint charging a licensee or timeshare seller with any violation of AREC rules or regulations where there is probable cause to believe such a violation occurred.

A formal complaint drawn by the AREC shall include at least the following:

- The name of the party against whom the complaint is being made
- The legal authority and jurisdiction under which the charge is made
- The type of licenses held by the accused party and the date each license was issued
- The particular section(s) of the law and/or the specific rule or order alleged to have been violated
- A brief description of the act(s) or omission(s) upon which each allegation of violation is made
- AREC shall notify the licensee and qualifying broker in writing regarding the complaint
- AREC shall notify the complainant, licensee and qualifying broker in writing regarding the disposition of the complaint

## HEARINGS

- A hearing officer appointed by the AREC shall conduct all hearings on contested cases before the AREC.
- If a formal complaint is filed against a licensee, the AREC may proceed to hold a hearing at its discretion if the parties reach a settlement and wish the complaint withdrawn.
- An action against an accused shall begin by serving them, either personally or by certified mail, with a copy of the formal complaint against them.
- The accused will be given at least 15 days' notice of the time, date and place of hearing.
- If the AREC refuses to license an applicant, notice of the refusal will be given and they may, within 15 days, file a request for a hearing.
- The applicant or accused will have an opportunity to be heard in person or by counsel to offer testimony on their behalf and to examine witnesses.
- Hearing will be held in the county in which the applicant resides or where they maintain their principal place of business unless they agree to be heard in another county.
- If they do not maintain their place of business in Alabama, then the hearing will be held in their county of residence. If they neither reside nor maintain a place of business in Alabama, the hearing will be held in Montgomery County.
- AREC will render a written order within 30 days of the final date of hearing.
- A subpoenaed witness who appears in a proceeding will receive \$20.00 per diem, and \$0.56 per mile from home to the place of hearing and return.

- An accused who is aggrieved by a final decision may file for re-hearing within 30 days of receiving notice of the decision.
- Within 30 days from the filing, the AREC will set a hearing date, will enter an order without a hearing, or will grant or deny the application.
- If the applicant is granted a re-hearing, the AREC will schedule it as soon as practicable.
- If the AREC does not enter an order within 30 days from the filing, the application will be denied.

## APPEALS

- Findings of the commission are final unless within 30 days the applicant files a notice of appeal.
- A party appealing a decision will post a \$200.00 appeal bond with the circuit clerk of the circuit court.
- The appeal will be conducted by the court without a jury and will be confined to the record.
- The AREC's decision will be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the AREC as to the weight of the evidence on questions of fact.
- Any person or company who violates any provision of this chapter commits a Class "A" misdemeanor and, on conviction, shall be punished accordingly.

**EXAM ALERT:** Key deadlines: 15 days notice for hearing, 30 days to file for rehearing, 30 days to file appeal, \$200 appeal bond required.

## ALABAMA REAL ESTATE COMMISSION

The Alabama Real Estate Commission consists of 9 members:

- One from each congressional district (7)
- One at large who must be black
- One at large who represents consumers

### The Commissioners

- Must have been a real estate broker or salesperson for at least ten years
- Must have been a resident of Alabama for at least ten years
- Will not be liable for damages, etc.
- Are paid \$300.00 per month plus the same per diem and travel allowance paid to state employees for each day they meet to conduct official business
- Are appointed by the governor with the advice of the Senate
- Serve five year terms
- Cannot serve more than two consecutive terms
- Appointments expire on September 30 of the final year of the term

In the event of an office inspection of a real estate company, its qualifying broker shall ensure that the business records required to be kept under state law are made available to AREC representatives. The AREC representatives at the AREC's expense may take photocopies of records that the licensee is required to maintain.

**EXAM ALERT:** Commission has 9 members, appointed by Governor, 5-year terms, \$300/month compensation. At least 10 years as licensee and Alabama resident required.

## RECOVERY FUND

The Recovery Fund was established as a way for the public to recover damages from licensees when they have obtained a judgment against a licensee and are unable to collect otherwise.

### Payment **INTO** the Fund

- When a person makes an application for a temporary active license as a broker or salesperson, they shall pay in addition to all other fees a \$30.00 deposit into the Recovery Fund.
- A salesperson, upon obtaining a broker's license, will not be required to pay an additional Recovery Fund fee.
- When the balance remaining in the Recovery Fund is less than \$500,000, each active licensee shall, on order of the commission, pay a fee of \$30 per license for deposit into the Recovery Fund.
- A licensee on inactive status shall NOT be required to contribute to the fund. A fee of \$30.00 shall be paid at the time the license is activated.

### Payment **FROM** the Fund

- Payment for a claim based on a judgment or settlement against any one person will not exceed \$25,000.
- Payments for multiple claims arising out of the same transaction will not exceed \$25,000 per instance, or \$50,000 in the aggregate (total paid out), regardless of the number of claimants.
- When an aggrieved person commences an action for a judgment that may result in collection from the Recovery Fund, the aggrieved person shall notify the AREC in writing, certified mail with return receipt requested, to this effect at the time of the commencement of the actions. When AREC receives the notice, it may settle or compromise the claim. Any expenses incurred by AREC in defending, satisfying, or settling any claim shall be paid from the Recovery Fund.
- When an aggrieved person recovers valid judgment in a court against a licensee, the AREC may terminate all licenses of the licensee. AREC may refuse to issue a new license to the former licensee until they have repaid in full, plus 12% interest, the amount paid from the Recovery Fund. A discharge in bankruptcy will NOT relieve a person from the penalties and disabilities
- If a licensee receives notice that a verdict has been rendered against them, or that a criminal or civil action has been dismissed, the licensee shall notify the AREC in the same way stated above.
- AREC may transfer funds one time only from the Recovery Fund to the University of Alabama Real Estate Research and Education Center. The amount of the transfer may not reduce the Recovery Fund below \$600,000. Each licensee shall notify the AREC within 10 days after notice to them of any criminal prosecution against them, or of a civil summons and complaint against them, if the matter involved a real estate transaction or the goodwill of an existing real estate business. The notification shall be in writing, by certified mail, and shall include a copy of the summons and complaint.

**EXAM ALERT:** Recovery Fund: \$30 fee, \$25K max per claim, \$50K aggregate max, \$500K minimum fund balance, 12% interest to repay. Bankruptcy does NOT discharge obligations!

# RECAD

*(Real Estate Consumer Agency Disclosure Act)*

The Real Estate Consumer's Agency Disclosure, commonly known as RECAD, is a required form that Alabama real estate licensees must provide to consumers prior to performing any brokerage services—including showing or listing a property.

Along with RECAD, licensees must also provide an Agency Disclosure Office Policy and obtain a signed brokerage agreement before submitting an offer for a buyer or listing a seller's property. These disclosures explain the different types of agency relationships available so consumers can understand how a licensee may represent them and where the agent's loyalties lie. While agency statutes vary across the country, the underlying purpose remains the same—to ensure transparency and help buyers and sellers make informed decisions about their representation.

One key area where states differ is how they handle the conflict of interest when a company represents both the buyer and seller in the same transaction. Alabama addresses this through Dual Agency when one licensee represents both parties, and through Designated Single Agency when two licensees within the same company separately represent the buyer and seller.

**2025 UPDATES - Act 2025-59 & Act 2025-380:**

- "Transaction Broker" **renamed** to "Transaction Facilitator" (*terms are synonymous*)
- "Limited Consensual Dual Agency" **replaced with** "Dual Agency" (*one licensee represents both*)
- "Designated Single Agency" created (*two licensees in same company represent parties separately*)
- Sub-agency **ELIMINATED** from Alabama law
- RECAD must be provided **BEFORE** performing any brokerage services
- Written brokerage agreement required **BEFORE** submitting offer (buyer) or listing (seller)
- Consumers **CANNOT** be required to sign binding agreement just to view property

## AREC Rules Governing Agency Disclosure

Each offer to purchase prepared shall have prominently displayed the following Agency Disclosure clause that shall be completed and initialed as indicated:

The Listing Company \_\_\_\_\_ is: (2 blocks may be checked)

- An Agent of the Seller
- An Agent of the Buyer
- An agent of both the seller and buyer and is acting as a Dual Agent
- Assisting the buyer/seller as a Transaction Facilitator

## Terms & Definitions Relating to RECAD

**Agency Agreement** – A written agreement between a broker and a client that creates a fiduciary relationship between the broker and a principal, who is commonly referred to as a client.

**Broker** – Any person licensed as a real estate broker.

**Brokerage Agreement** – A specific written agreement between a brokerage firm and a consumer that establishes a brokerage relationship.

**Brokerage Services** – Any service, except for rental 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.

**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 service, whether they are a buyer or a seller.

**Customer** – A person who is provided brokerage services by a broker or licensee but who is not a client of the broker.

**Dual Agency** – An agency relationship in which the same brokerage firm or ONE licensee represents both buyer and seller. Requires WRITTEN CONSENT of all parties. (2025 UPDATE: Formerly called "Limited Consensual Dual Agency")

**Designated Single Agency (NEW 2025)** – Two different licensees in the SAME company each represent buyer and seller SEPARATELY, with each owing full fiduciary duties to their respective client.

**Informed Consent** – A consumer's agreement to allow something to happen which is based upon full disclosure of facts needed to choose appropriate brokerage services.

**Licensee** – Any broker, salesperson or company.

**Material Fact** – A fact that is significant to a reasonable party that affects the party's decision to enter into a real estate contract.

**Qualifying Broker** – A broker under whom a corporation, partnership or branch office is licensed, or a broker licensed to do business as a sole proprietorship that is responsible for supervising the acts of all real estate licensees licensed therewith.

**Real Estate Transaction** – The purchase, sale, lease and rental option or exchange of an interest in real estate.

**Single Agent** – A licensee who is engaged by and represents only one party.

**Transaction Facilitator** – A licensee who assists one or more parties in a contemplated real estate transaction without being an agent or fiduciary or advocate for the interest of that party to a transaction. (2025 UPDATE: Formerly called "Transaction Broker" - terms are synonymous)

## Roles & Duties of Licensees

- When engaged in any real estate transaction, the licensee may act as a single agent, a dual agent, a designated single agent, or as a transaction facilitator.
- At the initial contact between a licensee and the consumer, and until such time a broker enters into a specific written agreement to establish an agency relationship with one or more parties, the licensee shall not be considered an agent of that consumer.
- An agency relationship shall not be assumed, implied or created without a written bilateral agreement establishing the terms of the agency relationship.
- The licensee shall provide a written disclosure form (RECAD) to consumer BEFORE performing any brokerage services, including showing property, and before any confidential information is disclosed.
- A broker shall not be required to offer or engage in any one of the alternative brokerage arrangements specified.
- The licensee is required to sign this form. The consumer is asked to sign, but is not required to.
- A licensee shall not be required to comply with RECAD provisions when engaged in transactions with any company or governmental entity versus a person in transactions involving real estate.

## Agency Disclosure Office Policy

- Any broker acting in a real estate transaction shall adopt a written agency disclosure office policy that specifically enumerates the types of brokerage service arrangements a licensee may offer or accept.
- The qualifying broker for each brokerage company shall provide every licensee a copy of the agency disclosure policy regarding the types of brokerage services offered by their company.
- This policy shall be explained to all licensees at least once a year.
- Each licensee shall sign a form acknowledging receipt of the office policy statement and a satisfactory explanation of its contents, and a copy retained by the brokerage company for 3 years.
- Under RECAD, a qualifying broker may choose to offer the following services to the public: single agency, dual agency, designated single agency, and transaction facilitation.
- Under RECAD, a qualifying broker is not limited to offering only one of these and is not required to offer all of these services.
- All qualifying brokers shall include in their office policy a copy of the disclosure form required by the Alabama Real Estate Commission.

## Obligations of Licensees to ALL Parties

*Licensees have the following obligations to all parties in a real estate transaction:*

- To provide brokerage services to all parties honestly and in good faith.
- To exercise reasonable skill and care in providing services to all parties.
- To keep confidential information given to the licensee in confidence, or any information obtained by the licensee that they know a reasonable person would want to keep confidential; unless disclosure of this information is required by law, violates a fiduciary duty to a client, becomes public knowledge or is authorized by the party in writing.
- To account for all property coming into their possession that belongs to others. When assisting a party in the negotiation, to present all written offers in a timely and truthful manner and in order received.
- To act on behalf of the licensee or their immediate family, or on behalf of any other individual in which the licensee has a personal interest, only with prior timely written disclosure of this interest to all parties.
- A licensee may provide requested information that affects a transaction to any party who requests the information, unless disclosure is prohibited by law or in this article.

## Services Licensees are Required to Provide CLIENTS

- Loyal represent the best interests of the client by placing their interest ahead of the interests of any other party, unless loyalty to the client violates the duties of the licensee to other parties or is prohibited by law.
- Disclose to the client all information known by the licensee that is material to the transaction and not discoverable by the client through reasonable investigation and observation, except for confidential information. A licensee will have no affirmative duty to discover the information.
- Fulfill any obligation required by the agency agreement and any lawful instructions of the client that are within the scope of the agency agreement that are not inconsistent with other duties as enumerated in this article.

**EXAM ALERT:** RECAD must be provided BEFORE any brokerage services. Licensee MUST sign. Consumer signature NOT required but recommended. Written brokerage agreement required BEFORE submitting offer or listing property.

(AREC RECAD Disclosure Form on next pages)

**THIS IS PROVIDED FOR INFORMATION PURPOSES. THIS IS NOT A CONTRACT.**

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## **REAL ESTATE BROKERAGE SERVICES DISCLOSURE**

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➤ Alabama law requires you, the consumer, to be informed about the types of services that real estate licensees may perform. The Alabama Real Estate Commission requires the real estate licensee to sign, date, and provide you a copy of this form. Your signature is not required by law or rule, but it would be appreciated. The purpose of this disclosure is to give you a summary of these services.

A **SINGLE AGENT** is a licensee who represents only one party in a sale. That is, a single agent represents his or her client. The client may be the seller or the buyer. The licensee when acting as an agent must represent the best interests of the client by placing the interests of the client ahead of the interests of any other party. In a real estate transaction, when a real estate licensee is employed as an agent, the licensee is obligated to advise and advocate for the best interests of his or her client. A single agent must be loyal and faithful to the client.

When two or more licensees under the same qualifying broker are in separate agency agreements with a different party in the same transaction, the qualifying broker can designate those licensees as single agents as to the licensee's client. The designation must be in writing and done as soon as reasonably possible. A designated single agent is not a dual agent, and neither the qualifying broker, the designated single agent, nor any other licensee involved in the transaction shall be assumed to have knowledge to any other party with whom the licensee has not entered an agency agreement.

A **DUAL AGENT** is a licensee, who is an individual, acting as an agent for both the buyer and the seller. This may only be done with the written, informed consent of all parties. This type of agent must also be loyal and faithful to each client, except where the duties owed to the clients' conflict with one another.

A **TRANSACTION FACILITATOR** assists one or more parties, who are customers, in a sale. Transaction facilitator describes a brokerage arrangement whereby the real estate licensee assists one or more parties, who are customers, in a contemplated real estate transaction, without being the agent, fiduciary, or advocate of that party to the transaction. The transaction facilitator can act as an intermediary between buyers and sellers. A licensee can serve as a transaction facilitator to a single party or to both the buyer and seller. A licensee can also represent one party as an agent and serve as a transaction facilitator for the other party in the transaction. In the absence of an agency agreement, a licensee is presumed to be acting as a transaction facilitator for any otherwise unrepresented party to whom the licensee is providing services.

➤ **Alabama law imposes the following obligations on all real estate licensees to all parties in a real estate transaction:**

1. To provide services honestly and in good faith;
2. To exercise reasonable care and skill;
3. To keep confidential any information gained in confidence, unless disclosure is required by law or duty to a client, the information becomes public knowledge, or disclosure is authorized in writing;
4. To present all written offers in a timely and truthful manner when assisting a party in the negotiation of a real estate transaction; and
5. To act on behalf of the licensee or his or her immediate family, or on behalf of any other individual, organization, or business entity in which the licensee has personal interest only with a timely written disclosure of this interest to all parties to the transaction.



**➤ Further, even if you are working with a licensee who is not your agent, there are many things the licensee may do to assist you.**

Some examples are:

1. Provide information about properties;
2. Show properties;
3. Assist in making a written offer; or
4. Provide information on financing.

You may choose which type of service you want from a licensee and sign a brokerage service agreement. If you do not sign an agreement, by law the licensee working with you is a transaction facilitator. A written agreement is required by law prior to a licensee listing a property on your behalf or submitting an offer on your behalf for compensation.

The licensee's broker is required by law to have on file an agency disclosure office policy describing the company's brokerage services and general information on how the company and licensee are compensated for the brokerage services. That agency disclosure office policy is required, in addition to this form, to be provided to you prior to the licensee providing you any brokerage services. You should feel free to ask any questions you have.

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Name of Licensee

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Licensee's Signature

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Date

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Name of Consumer

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Consumer's Signature (Acknowledgement for Receipt Purposes Only)

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Date



## **Summary of Changes Made to RECAD by ACT 2025-59**

*Effective April 18, 2025*

### **When Working with the BUYER:**

- Provide RECAD prior to performing any brokerage services, including showing the property. Document that you provided RECAD by having the consumer sign and date. If the consumer declines to sign, document that on the form.
- Provide the Agency Disclosure Office Policy to the consumer at the same time as the RECAD is provided. Document that you provided the policy by having the consumer sign and date.
- Enter into a signed brokerage agreement with the consumer prior to submitting an offer to purchase on behalf of the consumer.

### **When Working with the SELLER:**

- Provide RECAD prior to performing any brokerage services, including listing the property. Document that you provided RECAD by having the consumer sign and date.
- Provide the Agency Disclosure Office Policy to the consumer at the same time as the RECAD is provided.
- Enter into a signed brokerage agreement with the consumer prior to listing the property.

### **When Acting as a PROPERTY MANAGER:**

- RECAD has never been required when acting as a property manager. Property management companies must still have an Agency Disclosure Office Policy, but that policy does not have to be provided to consumers of the property management services. ACT 2025-59 makes no changes to this area.

*\*This is not required when representing a business or governmental entity, as opposed to an individual.*