

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 790 Department or Agency Alabama Real Estate Commission

Rule No. 790-X-1-03

Rule Title: Licensing Requirements

         New   ✓   Amend          Repeal          Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?   Yes  

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?   Yes  

Is there another, less restrictive method of regulation available that could adequately protect the public?   No  

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?   No  

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?   N/A  

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?   Yes  

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule?   No  

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Does the proposed rule have an economic impact?   No  

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer                   Vaughn T Poe                  

Date April 1, 2022

REC'D & FILED (DATE FILED)  
APR 1 2022 (STAMP)

**ALABAMA REAL ESTATE COMMISSION**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Alabama Real Estate Commission

**RULE NO. & TITLE:** Rule 790-X-1-.03  
Licensing Requirements

**INTENDED ACTION:** Amend Rule

**SUBSTANCE OF PROPOSED ACTION:** The current rule, when read together with licensing statutes, is not clear as to which laws apply to licensees when licensees are conducting transactions wherein the licensee is a principal party to the transaction. This amendment clarifies the circumstances when licensees acting as a principal party to a transaction are governed by statutes and regulations applicable to licensees. streamlines the determination of eligibility process for real estate license applicants. A copy of the proposed rule amendment may be found on the Commission's website, [www.arec.alabama.gov](http://www.arec.alabama.gov).

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** Comments can be presented at the public hearing scheduled at 9:00 a.m. on May 19, 2022 during the regularly scheduled Commission Meeting to be held at the Alabama Real Estate Commission located at 1201 Carmichael Way, Montgomery, Alabama. Additionally, written comments may be addressed to Vaughn Poe, Executive Director, Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama 36106. Written comments must be received in the Commission office no later than 4:30 p.m. on June 10, 2022.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**  
June 10, 2022

**CONTACT PERSON AT AGENCY:** Barbi Lee, Alabama Real Estate Commission,  
1201 Carmichael Way, Montgomery, Alabama 36106. (334) 242-5544.

*Vaughn T Poe*  
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Vaughn T. Poe  
Executive Director

**Rule 790-X-1-.03. License Requirements.**

(1) Rental leasing and/or property management services for Alabama real estate licensees include but are not limited to:

(a) Rent or lease real estate situated within the State of Alabama.

(b) Offer to rent or lease real estate situated within the State of Alabama.

(c) Negotiate to attempt to negotiate the rental or leasing of real estate situated within the State of Alabama.

(d) List or offer or attempt or agree to list real estate for rental or lease situated within the State of Alabama.

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

(f) Procure or assist in procuring the prospects for the purpose of effecting the lease, or rental of real estate situated within the State of Alabama.

(g) Procure or assist in the procuring of properties for the purpose of effecting the lease, or rental of real estate situated within the State of Alabama.

(h) Entering into an agreement or contracting for the collection and escrow of security deposits, and entering into an agreement or contracting for the collection and escrow of rental payments for properties situated within the State of Alabama.

(i) Coordinate physical maintenance and repairs for real property under rental or lease management agreement with an Alabama real estate licensee, and situated within the State of Alabama, when the coordination of physical maintenance or repairs does not require licensure pursuant to other state regulatory agencies or boards, or when the real estate licensee holds the license or licenses required by other state regulatory agencies or boards to coordinate or perform the physical maintenance or repairs.

(2) Code of Ala. 1975, § 34-27-2(b)(1), exempts owners of real property from the licensing requirements of Articles 1 and 2 of Chapter 27 when managing his own property or consummating a real estate transaction involving his own property. As used in Code of Ala. 1975, § 34-27-2(b)(1), the term "owner" is defined as the individual owner himself, or in the case of a corporation or partnership, a partner or corporate officer, who has authority to and does make management decisions affecting the overall policy of the corporation or partnership.

~~(3) Any person who elects to become licensed as a broker or salesman may advertise property of which he is the owner in the same way as any private party. However, such a licensee must abide by all of the other provisions of the law and the rules promulgated by the Commission in any and all real estate transactions in which he may be involved, whether the subject property is his own, the property of his spouse, child, parent, or is the property of a member of the public. If a person licensed as a broker or salesman chooses to advertise his own property as if he is a licensed broker or salesman, then all such advertising as well as all other activities involving such property must be conducted strictly in accordance with Chapter 27 of Title 34, Code of Ala. 1975, and the rules promulgated by the Alabama Real Estate Commission.~~

(3) When engaging in a transaction in which the licensee is a principal party to the transaction, the licensee is governed by the provisions in Chapter 27 of Title 34, Code of Ala. 1975, that apply to licensees and the rules promulgated by the Alabama Real Estate Commission that apply to licensees only if:

(a) the licensee advertises, markets, or otherwise conveys that the licensee is engaging in the transaction through the licensee's broker or company;  
or

(b) the licensee seeks to or does obtain compensation for acting as a licensee in the transaction.

This rule does not prevent a company from enacting policies and procedures for their licensees engaging in transactions in which their licensees are the principal party.

~~(3)~~(4) Code of Ala. 1975, § 34-27-30(5), requires that one who auctions, or offers or attempts or agrees to auction real estate must be licensed under Articles 1 and 2. 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.

**Author:** Alabama Real Estate Commission

**Statutory Authority:** Code of Ala. 1975, §§34-27-2, 34-27-8, 34-27-30.

**History:** Filed September 30, 1982. **Amended:** Filed August 15, 1985. **Amended:** Filed June 30, 2017; effective August 14, 2017. **Amended:** \_\_\_\_\_; effective

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