

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 790 Department or Agency Alabama Real Estate Commission

Rule No. 790-X-3-15

Rule Title: Broker Supervision

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 November 18, 2021

REC'D & FILED (DATE FILED)  
(STAMP)

**ALABAMA REAL ESTATE COMMISSION**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Alabama Real Estate Commission

**RULE NO. & TITLE:** Rule 790-X-3-.15  
Broker Supervision

**INTENDED ACTION:** New Rule

**SUBSTANCE OF PROPOSED ACTION:** Code of Alabama, 1975, §§ 34-27-8.1, 34-27-34 and 34-27-36 collectively render it a violation for a qualifying broker to fail to supervise the real estate activities performed by the qualifying broker's company or its licensees. The Code does not define failure to supervise. The new rule provides a list of activities or in-activities that constitute a failure to supervise by a qualifying broker. 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 January 20, 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 January 10, 2022.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**  
January 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-3-.15. Broker Supervision.**

Failure of a qualifying broker to properly supervise his/her company or those licensed under him/her shall include, but is not limited to, the following:

(1) Failing to maintain an active broker's license with the Commission and thereby compromising the licensing status of those licensed under the qualifying broker.

(2) Allowing a person not licensed by the commission to engage in activities requiring a license on behalf of the broker or brokerage firm.

(3) Allowing a licensee to conduct licensed activity for a company under which the licensee is not licensed.

(4) Allowing a person to engage in activities requiring an active real estate license while that person's license is expired, inactive, pending transfer, suspended, or revoked.

(5) Failing to take action to ensure that a licensee complies with any restrictions or conditions placed upon that person's license.

(6) Directing or instructing a licensee to take any action in violation of state, federal, or local laws or regulations while conducting licensed activity.

(7) Failing to take action to prevent a licensee from violating state, federal, or local law or regulations while conducting licensed activity, if the supervising broker or branch broker has actual knowledge or should reasonably have actual knowledge of the impending violation.

(8) Failing to timely take action to correct or mitigate a violation of license law or regulation after learning of the violation.

(9) Failing to ensure that all contracts and forms used by the licensee are reviewed for accuracy and compliance with applicable statutes, regulations, and office policies.

(10) Failing to ensure that all licensees can maintain reasonable and timely communication with the supervising broker, branch broker, or a competent designee.

(11) Failing to oversee and account for the proper handling of funds or property of others by the company or its licensees.

(12) Failing to ensure that the company's advertisements or its licensee's advertisements conform with license laws and regulations.

**Author:** Alabama Real Estate Commission.

**Statutory Authority:** Code of Ala., 1975, §§ 34-27-8.1, 34-27-32, 34-27-34, and 34-27-36.

**History:** Filed \_\_\_\_\_; effective \_\_\_\_\_.