

# Alabama Real Estate Commission

## 60 Hour Broker Prelicense Course

**Goal of the course:** This course will prepare a real estate licensee for the responsibilities involved in performing the duties of a real estate qualifying broker in Alabama, including legal aspects of brokerage, business administration of a company, knowledge of important documents, training and supervision of agents, and other significant areas of the real estate brokerage and management.

**After completion of this course, the licensee will be able to:**

- Identify and comply with Alabama license law in the daily operation of a real estate company
- Guide licensees in their practice of real estate brokerage and other real estate services
- Meet qualifications for taking the Alabama real estate broker exam
- Identify ways to apply his/her knowledge to assist the Alabama Real Estate Commission in protecting the public

### **SECTION ONE – License Law, Fair Housing, Agency and Non-Agency**

**After completion of this section, the licensee will be able to:**

- Identify Alabama license law requirements, disciplinary actions, and other consequences for violations of the law
- Demonstrate how to comply with license law
- Evaluate the personal responsibilities and liabilities of a Qualifying Broker
- Identify the federal and state Fair Housing and ADA laws and their effect on real estate practices
- Develop policies and training to assist with compliance of equality in housing
- Implement a plan for staff and salesperson training in diversity and Fair Housing issues
- Identify the duties and responsibilities of agency representation
- Differentiate the role of a licensee when acting as an agent and a transaction broker

#### **I. Alabama License Law (6 hours)**

##### **A. License requirements**

1. Activities which require a license [§34-27-30]
2. Co-brokering [§34-27-3; Rules 790-X-1-.05 and 790-X-3-.13]
3. Requirements for a license [§34-27-32 and §34-27-33(a)(1), (b), (c)(1)]

##### **B. Application process and renewal**

1. License application
  - a. Salesperson prelicense course [§34-27-32(d)(2) and Rule 790-X-1-.06(5)(d)(h)(i)(j)(k)(n), (6)]
  - b. License examination [§34-27-33(a)(1)(3) and Rule 790-X-2-.02]
  - c. Temporary license [§34-27-33(c)(1)(2)(3) and Rule 790-X-2-.03]
  - d. Post license course [§34-27-33(c)(2)(4) and Rule 790-X-1-.06(5)(f)(h)(i)(m)]
  - e. Original license [§34-27-33(c)(2)(4) and Rule 790-X-2-.03(6)]
2. License renewal [§34-27-35]
  - a. Fees [§34-27-35(c)(2), (d)]
  - b. Process [§34-27-35(g), (h), (i)]
  - c. Education [§34-27-35(j)(1)(2)(3) and Rule 790-X-1-.11]

### **C. License Status**

1. Transferring a license [§34-27-34(b)(1)-(6) and Rule 790-X-2-.21]
2. Inactive status [§34-27-35(k)]
3. Reactivation of a license [§34-27-34(b)(6); §34-27-35(j)(1); Rule 790-X-1-.11]

### **D. Broker Licenses, Company Licenses and Place of Business**

1. Issuance of company and branch office licenses [§34-27-32 (e)(f)(g)(h)(i)]
2. Issuance of broker licenses [§34-27-32 (a)(b)(c) and §34-27-35(c)(1), (e); Rule 790-X-2-.04]
3. Renewal of company, branch, salesperson, and qualifying broker's licenses
4. Responsibilities of qualifying broker [§34-27-2(a)(12) and §34-27-34(a)(2)(3)]
5. Termination of qualifying broker status [§34-27-34(c)(d)(e)]
6. Serving as qualifying broker for more than one company [§34-27-32(h)(1)(2)(3)]
7. Temporary qualifying broker [§34-27-32(i) and Rule 790-X-2-.06]
8. Associate broker status [§34-27-2(a)(1)]
9. Operating from home [§34-27-2(a)(11) and Rule 790-X-2-.07]

### **E. CE requirements and exemptions [§34-27-35(j)(1)(2); Rules 790-X-1-.11 and 790-X-1-.13]**

1. Who must take CE?
2. What courses must be taken?
3. When must CE be completed?
4. How many hours are required?

### **F. Recovery Fund [§34-27-31]**

1. Purpose of the fund
2. Payment into and from the fund

### **G. Trust accounts [Rule 790-X-3-.03 and *Advisory Trust Account Guidelines*]**

### **H. Estimated Closing Statements**

1. Estimated closing cost
2. Settlement Statements

### **I. Office audits and checklist**

### **J. Disciplinary action/fines [§34-27-36]**

1. Violations
  - a. Misrepresentation and dishonest dealings [§34-27-36 (a)(1)-(5), (26) and (27)]
  - b. Inducing a party to break a contract [§34-27-36(a)(13)]
  - c. Advertising [§34-27-36(a)(5)(6)(9)(15)]
  - d. Listing agreements [§34-27-36(a)(20)(25) and Rule 790-X-3-.05]
  - e. Failure to give proper disclosure [§34-27-8(c) and §34-27-36(a)(18)(21)]
  - f. Keeping appropriate records [§34-27-36(a)(8c)(31)]
  - g. Rebates [§34-27-36(a)(12)]
  - h. Paying/receiving commissions from unlicensed persons [§34-27-36(a)(11)(14)(17)]
  - i. Bad Checks [§34-27-36(a)(16)]
  - j. Failure to inform Commission of suit/judgment/other disposition [§34-27-31(i)(j) and §34-27-36(a)(23a&b)]
  - k. Lotteries [§34-27-36(a)(24)]
  - l. Handling of documents [§34-27-36(a)(10)(28)(29)(30)]
  - m. Violation of rule or order of Commission [§34-27-36(a)(19)]
  - n. Offers [Rule 790-X-3-.08]
2. Complaints [§34-27-37 and Rule 790-X-3-.10]
3. Hearings and rehearings [§34-27-37 and Rule 790-X-3-.07]

4. Appeals [§34-27-38]

**II. Fair Housing (3 hours)**

- A. Protected classes and ADA**
- B. Discriminatory practices**
- C. Advertising - HUD advertising guidelines**
- D. Enforcement and penalties for violation**
- E. Developing a company policy**
- F. Teaching diversity and proper handling of difficult questions**

**III. Agency Relationships (3 hours)**

- A. Types of agency**
  - 1. General
  - 2. Specific
  - 3. Universal
- B. Fiduciary responsibility**
- C. Dual agency**
- D. Alabama RECAD law [§34-27-81 through §34-27-88]**
  - 1. Types of brokerage services
  - 2. Written disclosure documents
  - 3. Agency disclosure office policy
  - 4. Minimum brokerage services

**SECTION TWO – Broker Administration/Management; Business Planning; Licensee Training & Supervision and Human Resources**

**After completion of this section, the licensee will be able to:**

- Practice ethical leadership
- Identify the basic elements of planning a business that involves the hiring, training and supervision of both employees and independent contractors
- Develop a brokerage business plan
- Implement the basic principles of operating a business including cash flow management, basic record keeping, organizational structure and planning for contingencies
- Identify specific laws, policies and guidelines for management to follow in regards to employee or licensee hiring, termination, EEO, tax reporting, record keeping, and safety
- Analyze the educational needs and plan how to organize specific methods of training new licensees, managers, and employees to properly and successfully employ their real estate skills
- Contrast policies and procedures for working with independent contractors vs. employees

**I. Broker Administration and Management (3 hours)**

- A. Practice ethical leadership of a real estate brokerage**
  - 1. Dealing with conflicts of interest in the business
  - 2. Dealing with conflicts of interest in the industry
- B. Recognize and avoid illegal and unethical practices**
  - 1. Broker and/or salesperson purchasing, selling, managing real property for themselves, their businesses, their partners, and/or their family members

2. Bonuses and kickbacks
3. Lender fraud
4. Advertising

## **II. Business Planning (3 hours)**

### **A. Business objectives**

1. Scope of services to be offered
2. Organizational needs to meet goals

### **B. Basic principles of business operation**

1. Types of business organizations
2. Basic accounting for business activities
3. Transaction files

### **C. Marketing plan**

1. Sales goals
2. Media and materials
3. Pricing policies

### **D. Financial plan**

1. Initial estimate of capital requirements
2. Operating expense projections
3. Income requirements to break even

### **E. Action plan**

1. Timing
2. Implementation

### **F. Brokerage staffing needs and methods of recruiting**

1. Employees
2. Independent contractors

## **III. Human Resources (3 hours)**

### **A. Laws that affect Human Resources**

### **B. Recruiting, selecting and hiring licensees**

1. New licensee application and selection process
2. Independent contractor agreements

### **C. Hiring employees**

1. Advertising and recruiting
2. Background checks where appropriate
3. Federal and state taxes
4. Required forms and record keeping
5. Hiring of relatives and personal friends
6. Staff who also work directly for independent contractor licensees

### **D. Recognize and avoid unfair and illegal employment and management practices**

1. General federal and state laws
2. Equal Employment Opportunity Commission (EEOC) guidelines
3. Americans with Disabilities Act (ADA)
4. Documentation of performance of licensees and employees
5. Independent contractor agreements
6. Company policy statements and workplace rules

- E. Workman's compensation**
- F. Termination of employees**
  - 1. Voluntary
  - 2. Involuntary
- G. Termination of licensees**
  - 1. Transfer of license
  - 2. Current business
  - 3. Closing of licensee's company account

**IV. Licensee Training & Supervision (3 hours)**

- A. Training regarding the law and company policies**
  - 1. Brief review of License law, fair housing, ADA, trust funds, environmental laws
  - 2. Advertising
  - 3. Other laws
  - 4. Company policies
- B. Training for licensees and employees**
  - 1. Orientation programs
  - 2. On-going training in knowledge and techniques
  - 3. Advanced professionalism for licensees and employees
- C. Leadership of licensees – “Sales Force Supervision”**
  - 1. New licensee training
  - 2. Licensees' business plans
  - 3. Licensee “coaching”
  - 4. Understanding personalities and communication styles
  - 5. Timing and methods of commission distribution
  - 6. Licensee tax planning and accounting procedures
- D. Training licensees to have complete transaction files**
  - 1. AREC office audit/inspection requirements
  - 2. Legal issues/lawsuits
  - 3. Relocation services
  - 4. E & O insurance claim documentation
- E. Required notifications and reports to AREC**

**SECTION THREE – Listing & Buyer Agency Agreements; Sales Contracts; Offers & Counteroffers; Finance & RESPA**

**After completion of this section, the licensee will be able to:**

- Recognize the importance of RECAD including timely disclosures and proper listing and buyer agency agreements
- Analyze the elements of sales contracts and lease contracts and the potential for liability when preparing a contract for a customer or client
- Identify the requirements of a licensee to prepare estimated closing statements
- Differentiate between presenting an offer and negotiating an offer
- Improve communication and negotiation skills through critical listening techniques
- Identify various forms of financing
- Demonstrate how to coordinate the closing when financing is involved
- Create guidelines and procedures that will prevent RESPA violations

- Identify predatory lenders and lender fraud
- I. Listing and Buyer Agency Agreements (3 hours)**
    - A. RECAD - Overview**
    - B. Agency agreements**
      1. Buyer representation
      2. Seller representation
    - C. Listing agreements**
      1. Residential and commercial
      2. Land and new construction
      3. Other
  - II. Document Preparation Sales Contract for Buyers and Sellers (4 hours)**
    - A. Sales contract preparation**
      1. Residential and commercial
      2. Land and new construction
    - B. Disclosure documents required by law**
      1. Alabama RECAD documentation
      2. Lead based paint
      3. Affiliated business agreements
      4. Personal interests and relationships
    - C. Other Prevalent Forms**
      1. Seller's and Buyer's Disclosure
      2. Inspection Addenda/Walk Through
      3. Others
    - D. Estimated closing statements [*§34-27-36(a)(22) and Rule 790-X-3-.04*]**
      1. Estimated proceeds at closing for sellers
      2. Estimated closing costs for buyers
    - E. Closing Documentation**
  - III. Presenting or Negotiating Offers and Counteroffers (2 hours)**
    - A. Alabama law requirement**
    - B. Agency considerations**
      1. When acting as a transaction broker
      2. When acting as an agent
    - C. Seller and buyer presentations**
      1. Explain, without advising or advocating, the contents of the offer
      2. Explain, without advising or advocating, the consequences of changing the offer or countering
    - D. Seller and buyer negotiations**
      1. Explain, acting as an agent, the contents of the offer
      2. Explain, acting as an agent, the consequences of changing the offer or countering
      3. Using a CMA to advise seller or buyer about current market price
    - E. Multiple offers**
    - F. Backup offers**
    - G. FSBOs & other business models**

## **H. Potential problems**

### **IV. Finance (3 hours)**

- A. Types of financing**
- B. Understanding financing between accepted offer and closing**
- C. Understanding the HUD-1 or Settlement Statement**
- D. Qualifying clients (pre-qualifying vs. pre-approval)**
- E. Documentation for in-house mortgage broker**
- F. Good faith estimate vs. estimate of closing costs**
- G. RESPA**
- H. Predatory lenders**
- I. Flipping property**
- J. Mortgage loan fraud**

## **SECTION FOUR – Trust Accounts; Risk Management; Advertising Laws; Valuation of Real Property**

**After completion of this section, the licensee will be able to:**

- Summarize the License law requirements for brokerage trust accounts and procedures for handling funds
- Identify problems with trust accounts and penalties for mishandling funds
- Explain risk management practices
- Identify areas of risk in real estate brokerage advertising
- Develop techniques for training and monitoring licensees' advertising
- Differentiate between real estate market value and the price
- Demonstrate how to establish value in various ways
- Explain the difference between the service a licensee provides in assisting a customer or client in establishing value and a professional appraisal

### **I. Trust Accounts, Earnest Money, and Security Deposits (3 hours)**

- A. Define a trust account**
- B. Opening a trust account**
- C. Accounting procedures in the office**
- D. Keeping records and documentation**
- E. Receiving and releasing earnest money and other trust monies**
- F. Receiving and releasing tenant security deposits**
- G. Methods to avoid liabilities – AREC “Advisory Trust Account Guidelines” (*Appendix A5*)**
- H. License law §34-27-36(a)(8) and Rule 790-X-3-.03**

### **II. Risk Management, Property Representation, and Environmental Issues (3 hours)**

- A. Brokerage and broker's duties to several parties**
  - 1. Public
  - 2. Clients
  - 3. Customers
  - 4. Licensees
  - 5. Other real estate companies

6. Alabama Real Estate Commission

- B. Do not call/fax/email policies**
- C. Inspections (licensee's role)**
- D. Licensed and unlicensed assistants**
- E. Unwarranted expertise (ex: tax advice)**
- F. Gifts, kickbacks, and rebates**
- G. Licensee owned property**
- H. Lender fraud**
- I. E&O insurance**
- J. Anti-trust**
- K. Environmental issues**
  - 1. Hazardous substances
  - 2. Hazardous situations
  - 3. Property representation and the duty to speak
  - 4. Disclosures and buyer beware

### **III. Advertising Laws (2 hours)**

- A. Fair housing**
- B. Antitrust**
- C. Truth in lending**
- D. Licensee owned property**
- E. Internet**
- F. Minimum services**
- G. Puffing/misrepresentation**

### **IV. Valuation of Real Property (4 hours)**

- A. The difference between market value and the price of property**
  - 1. Relationship and motivation of the parties
  - 2. Timing and purpose of the appraisal
  - 3. Accuracy of information
- B. The effect of the local economy on real estate prices**
  - 1. External influences
  - 2. Non-diversifiable risks
  - 3. Monopolies
- C. The appraisal process and different types of appraisal reports**
  - 1. Uniform Standards of Professional Appraisal Practice
  - 2. Uniform Residential Appraisal Report
  - 3. Land and Project Feasibility Studies
- D. The importance of the Secondary Mortgage Market and the dependence of lenders on estimates of true market value to properly evaluate borrowers and their collateral**
  - 1. Liquidity in the marketplace
  - 2. Standardization of mortgage quality
  - 3. Risk/reward for FNMA securities certificate holders
- E. Factors that influence the value of real property**
  - 1. Principles of value
  - 2. Elements of risk and effects on rates of return

3. Principle of substitution

**F. Appraisal from a licensed appraiser**

**G. Residential**

1. CMA
2. CRV

**H. Commercial**

1. Income approach (Capitalization)
2. User property cost approach

**I. Land**

1. Development property
2. Agricultural property
3. Timberland

**J. New Homes**

**K. Capital Gain Tax**

1. Personal residence
2. Investment property
3. 1031 Tax Deferred Exchange

**SECTION FIVE – Property Management; Commercial Real Estate, New Construction; Preparation for Simulation Broker Exam**

**After completion of this section, the licensee will be able to:**

- Recognize and balance a property manager’s fiduciary obligations to the owner with a licensee’s legal obligations due the tenant
- Properly document the relationships with management agreements and leases
- Create a management plan with leasing, operating and capital expenditure budgets
- Plan physical preventive maintenance programs
- Manage operating funds and property management trust accounts
- Identify commercial real estate economic cycles
- Identify the motivations of investors, developers and users of commercial property
- Estimate income property values and develop a marketing plan for sale and/or leasing of income property
- Identify land development procedures
- Identify construction terms
- Recognize the importance of understanding builder relationships, project marketing, and new home construction contracts
- Identify primary and secondary topic issues and how they will be addressed within a simulation exam
- Discuss effective information gathering and decision making skills

**I. Property Management (3 hours)**

**A. Duties and obligations owed by the property manager to the owner and tenants**

1. Alabama license law and common law of agency

**B. Management agreements and leases**

1. Property management agreements
2. Scope of authority

3. Termination
4. Leases
- C. Develop operating and capital expenditure budgets**
  1. The budgeting process
  2. Distributions and reports
- D. Conduct physical preventive maintenance programs**
  1. Regular inspections
  2. Negligence
  3. Theft prevention
  4. Insurance audits
- E. Manage operating funds and trust accounts**
  1. Provisions of Alabama license law

## **II. Commercial Real Estate (3 hours)**

- A. Economic cycles of commercial real estate**
  1. The role of the Federal Reserve System in the local economy
  2. Global economic implications for local business
  3. The effect of competition and education
- B. Estimating income producing property values**
  1. Understanding risk and return
  2. Utilizing the IRV formula to establish price
  3. Understanding the Consumer Price Index
- C. Identifying the goals of investors, developers and users of commercial and industrial property**
  1. Types of income properties
  2. Types of Commercial Purchasers
- D. Develop a marketing plan for sale and/or lease of income property**
  1. Media and materials
  2. Databases
  3. When to sell or rent
- E. Preparation of specialized commercial documentation**
  1. Documentation
  2. Dealing with 1031 Exchanges
  3. Permitting and regulatory approvals
- F. Analyze elements of risks and opportunities inherent in dealing in commercial property**
  1. No income equals little or no value
  2. Comprehensive plans and zoning
  3. Guarding against inflation

## **III. New Construction (3 hours)**

- A. Land development**
  1. Highest and best use
  2. Research
  3. Public utilities / private utilities
  4. Planning, zoning and permitting

5. Hazardous waste, sinkholes and wetlands
6. Development plan

**B. New home sales considerations**

1. Builders' expectations for sales associates
2. The reality of the business

**C. Construction terms and timetables**

1. Stages of home or building construction
2. Blueprints
3. Systems
4. Architecture
5. Features and benefits as sales tools

**D. Builder relationships**

1. Inventory
2. Representation

**E. Project marketing**

1. Target market
2. Marketing / advertising plan
3. Marketing budget

**F. New construction contracts**

1. Lot reservations
2. Sales contracts
3. Plans & specifications
4. Addendums
5. Warranty
6. Covenants and restrictions

**G. Servicing the sale**

1. Creating value
2. Service after the sale

**IV. Examination Preparation (3 hours)**

**A. Exam format**

1. Alternative testing questions
2. Multiple choice questions

**B. General test taking strategies**