

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4636

By Delegates Brooks and Roop

[Introduced January 21, 2026; referred to the

Committee on Government Organization]

1 A BILL to amend and reenact §30-40-3, §30-40-4, §30-40-5, §30-40-6, §30-40-11, §30-40-12,
2 §30-40-13, §30-40-14, §30-40-17, §30-40-19, §30-40-23, §30-40-25, and §30-40-26 of the
3 Code of West Virginia, 1931, as amended, relating to changing "salesperson" to "sales
4 agent" in the real estate code.

Be it enacted by the Legislature of West Virginia:

ARTICLE 40. WEST VIRGINIA REAL ESTATE LICENSE ACT.

§30-40-3. License required.

1 It is unlawful for any person to engage in directly or indirectly, or to advertise or hold himself
2 or herself out as engaging in or carrying on the business or act in the capacity of a real estate
3 broker, associate broker, or ~~salesperson~~ sales agent within this state without first obtaining a
4 license as provided for in this article. Prior to practicing real estate brokerage in this state, a license
5 shall be obtained from the commission even if the person or entity is licensed in another state and
6 is affiliated or otherwise associated with a licensed real estate broker in this state.

§30-40-4. Definitions.

1 Unless the context used clearly requires a different meaning, as used in this article:
2 "Applicant" means any person who is making application to the commission for a license.
3 "Associate broker" means any person who qualifies for a broker's license, but who is
4 employed or engaged by a licensed broker to engage in any activity regulated by this article, in the
5 name of and under the direct supervision of the licensed broker.

6 "Broker" means any person who for compensation or with the intention or expectation of
7 receiving or collecting compensation:

8 (1) Lists, sells, purchases, exchanges, options, rents, manages, leases, or auctions any
9 interest in real estate; or

10 (2) Directs or assists in the procuring of a prospect calculated or intended to result in a real
11 estate transaction; or

12 (3) Advertises or holds himself or herself out as engaged in, negotiates, or attempts to

13 negotiate, or offers to engage in any activity enumerated in subdivision (1) of this subsection.

14 "Cancelled" means a license that was not renewed by December 31 of the year in which
15 license expired;

16 "Commission" means the West Virginia Real Estate Commission as established §30-40-6
17 of this code.

18 "Compensation" means fee, commission, salary, or other valuable consideration, in the
19 form of money or otherwise.

20 "Designated broker" means a person holding a broker's license who has been appointed
21 by a partnership, association, corporation, or other form of business organization engaged in the
22 real estate brokerage business, to be responsible for the acts of the business and to whom the
23 partners, members, or board of directors have delegated full authority to conduct the real estate
24 brokerage activities of the business organization.

25 "Distance education" means courses of asynchronous instruction in which instruction
26 takes place through media where the teacher and student are separated by time.

27 "Entity" means a business, company, corporation, limited liability company, association, or
28 partnership.

29 "Expired" means a license that was not renewed by July 1.

30 "Inactive" means a licensee who is not authorized to conduct any real estate business and
31 is not required to comply with any continuing education requirements.

32 "License" means a license to act as a broker, associate broker, or salesperson sales agent.

33 "Licensee" means a person holding a license.

34 "Member" means a commissioner of the Real Estate Commission.

35 "Principal" means a person or entity that authorizes a licensee to act on his, her, or its
36 behalf.

37 "Property management" means the overseeing and management of commercial and
38 residential real estate properties. This includes taking care of all of the daily operations for a

39 property which may include, but is not limited to, collecting rent, collecting or holding security
40 deposits on behalf of the property owner, handling maintenance, paying vendors for repairs, and
41 fielding tenant complaints. The amount of responsibilities the property manager has depends on
42 their contract with the owner of the property.

43 "Real estate" means any interest or estate in land, and anything permanently affixed to
44 land.

45 "Salesperson" "Sales agent" means a person employed or engaged by or on behalf of a
46 broker to do or deal in any activity included in this article, in the name of and under the direct
47 supervision of a broker, other than an associate broker: *Provided*, That for the purposes of
48 receiving compensation, a salesperson sales agent may designate an entity to receive any
49 compensation payable to the salesperson sales agent, including, but not limited to, a limited
50 liability corporation or an S-corporation.

51 "Team" means any group of two or more associate brokers and/or salespersons sales
52 agents, and other non-licensed professionals, affiliated with the same broker or company acting as
53 one agent representative for the principal.

§30-40-5. Scope of practice; exceptions.

1 (a) The practice of real estate brokerage includes acting in the capacity of a broker,
2 associate broker, or salesperson sales agent as defined in §30-40-4 of this code.

3 (b) The practice of real estate brokerage does not include the activities normally performed
4 by an appraiser, mortgage company, lawyer, engineer, contractor, surveyor, home inspector, or
5 other professional who may perform an ancillary service in conjunction with a real estate
6 transaction.

7 (c) The provisions of this article do not apply to:

8 (1) Any person acting on his or her own behalf as owner or lessor of real estate.

9 (2) The regular employees of an owner of real estate, who perform any acts regulated by
10 this article, where the acts are incidental to the management of the real estate: *Provided*, That the

11 employee does not receive additional compensation for the act and does not perform the act as a
12 vocation.

13 (3) Attorneys-at-law: *Provided*, That attorneys-at-law shall be required to submit to the
14 written examination required under §30-40-12 of this code in order to qualify for a broker's license:
15 *Provided, however*, That an attorney-at-law who is licensed as a real estate broker prior to July 1,
16 1980, is exempt from the written examination required under §30-40-12 of this code.

17 (4) Any person holding, in good faith, a valid power of attorney from the owner or lessor of
18 the real estate.

19 (5) Any person acting as a receiver, trustee, administrator, executor, guardian,
20 conservator, or under the order of any court or under the authority of a deed of trust or will.

21 (6) A public officer while performing his or her official duties.

22 (7) Any person acquiring or disposing of any interest in timber or minerals, or acquiring or
23 disposing of properties for easements and rights of way.

24 (8) Any person employed exclusively to act as the management or rental agent for the real
25 estate of one person or entity.

26 (9) Any person properly licensed pursuant to the provisions of §19-2C-1 *et seq.* of this
27 code when conducting an auction, any portion of which contains any leasehold or estate in real
28 estate, only when the person so licensed is retained to conduct an auction by:

29 (A) A receiver or trustee in bankruptcy;

30 (B) A fiduciary acting under the authority of a deed of trust or will; or

31 (C) A fiduciary of a decedent's estate.

32 (10) Any person employed by a broker in a noncommissioned secretarial or clerical
33 capacity who may in the normal course of employment, be required to:

34 (A) Disseminate brokerage preprinted and predetermined real estate sales and rental
35 information;

36 (B) Accept and process rental reservations or bookings for a period not to exceed 30

37 consecutive days in a manner and procedure predetermined by the broker;

38 (C) Collect predetermined rental fees for the rentals which are to be promptly tendered to

39 the broker;

40 (D) Make appointments on behalf of the broker or licensed ~~salesperson~~ sales agent with

41 buyers and sellers of real estate and potential buyers and sellers of real estate; or

42 (E) Any combination thereof.

§30-40-6. Commission created; membership; appointment and removal of members; qualifications; terms; organization.

1 (a) The West Virginia Real Estate Commission is hereby continued. The members of the
2 commission in office on the date this section takes effect shall, unless sooner removed, continue
3 to serve until their respective terms expire and until their successors have been appointed and
4 qualified.

5 (b)(1) Commencing with the terms beginning with July 1, 2002, the commission shall
6 consist of five persons appointed for terms of four years by the Governor with the advice and
7 consent of the Senate. Four commissioners must be licensed under the provisions of this article
8 and one commissioner must be a citizen member who is not licensed under the provisions of this
9 article.

10 (2) Each licensed commissioner, at the time of his or her appointment, must have been
11 licensed and practiced in this state as a real estate broker, associate broker or ~~salesperson~~ sales
12 agent as his or her primary vocation for a period of not less than ten years immediately preceding
13 the appointment. Each commissioner must have been a resident of this state for at least six years
14 prior to his or her appointment and must remain a resident during the appointment term. No more
15 than four commissioners shall belong to the same political party.

16 (3) The appointment of three licensed commissioners, whether for a full term or to fill a
17 vacancy, shall be made by the Governor with the advice and consent of the Senate. The
18 appointment of one licensed commissioner, whether for a full term or to fill a vacancy, shall be

19 made by the Governor from among three nominees selected by the West Virginia association of
20 realtors. If the appointment is for a full term, the nominations must be submitted to the Governor
21 not later than three months prior to the date on which the appointment becomes effective. If the
22 appointment is to fill a vacancy, the nominations must be submitted to the Governor within thirty
23 days after a request for the nominations has been made by the Governor to the West Virginia
24 association of realtors. If the association fails to submit nominations in accordance with the
25 requirements of this section, the Governor may make the appointment without the nominations.

26 (c) Any commissioner immediately and automatically forfeits his or her membership on the
27 commission if he or she has his or her license to practice as a real estate broker, associate broker
28 or salesperson sales agent suspended or revoked by the board, is convicted of a felony under the
29 laws of this state or of the United States, becomes a nonresident of this state, or holds any elective
30 public office or becomes a member of any political committee.

31 (d) No member of the commission may be removed from office by the Governor except for
32 official misconduct, incompetency, neglect of duty, gross immorality or other good cause, but then
33 only in the manner prescribed by law for the removal by the Governor of state elective officials.

34 (e) No member of the commission may serve more than two consecutive full terms and any
35 member having served two full terms may not be appointed for one year after completion of his or
36 her second full term. A member shall continue to serve until his or her successor has been
37 appointed and qualified.

38 (f) The Governor shall designate one member of the commission as chairman and the
39 members shall choose a vice chairman and a secretary, each of whom shall continue to serve in
40 their respective capacity until replaced.

41 (g) Three members shall constitute a quorum for the conduct of official business.

42 (h) Each commissioner shall receive the same compensation as is paid to members of the
43 Legislature for their interim duties as recommended by the citizens legislative compensation
44 commission and authorized by law for each day or portion thereof engaged in the discharge of

45 official duties. Each commissioner shall be reimbursed for his or her actual and necessary
46 expenses for each day or portion thereof engaged in the discharge of official duties in a manner
47 consistent with guidelines of the travel management office of the Department of Administration.

§30-40-11. Application for license.

1 The commission shall only issue an original license to an applicant if he or she:

2 (a) Submits an application, in writing, on a form prescribed by the commission which shall
3 contain, but is not limited to:

4 (1) The applicant's Social Security number;

5 (2) A clear record indicating all jurisdictions where the applicant holds or has held any
6 professional license;

7 (3) A clear record indicating if the applicant has been convicted of any criminal offense or if
8 there is any criminal charge pending against the applicant, or a member or officer of the brokerage
9 business, at the time of application;

10 (b) Is at least 18 years of age;

11 (c) Is a high school graduate or the holder of an equivalency diploma;

12 (d) Is trustworthy, of good moral character, and competent to transact the business of a
13 broker, associate broker, or salesperson sales agent;

14 (e) Has paid the appropriate fee, if any, which shall accompany all applications for original
15 license or renewal;

16 (f) Has submitted to a state and national criminal history record check, as set forth in this
17 subsection: *Provided*, That an applicant for a license who is an attorney at law may submit a letter
18 of good standing from the West Virginia State Bar in lieu of submitting to a state and national
19 criminal history record check;

20 (1) This requirement is found not to be against public policy.

21 (2) The criminal history record check shall be based on fingerprints submitted to the West
22 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

23 (3) The applicant shall meet all requirements necessary to complete the state and national
24 criminal history record check, including:

25 (A) Submitting fingerprints for the purposes set forth in this subsection; and

26 (B) Authorizing the commission, the West Virginia State Police, and the Federal Bureau of
27 Investigation to use all records submitted and produced for the purpose of screening the applicant
28 for a license.

29 (4) The results of the state and national criminal history record check may not be released
30 to or by a private entity except:

31 (A) To the individual who is the subject of the criminal history record check;

32 (B) With the written authorization of the individual who is the subject of the criminal history
33 record check; or

34 (C) Pursuant to a court order.

35 (5) The criminal history record check and related records are not public records for the
36 purposes of chapter 29B of this code.

37 (6) The applicant shall pay the actual costs of the fingerprinting and criminal history record
38 check.

39 (7) Before implementing the provisions of this subsection, the commission shall propose
40 rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code. The rules shall set
41 forth the requirements and procedures for the criminal history record check and must be
42 consistent with standards established by the Federal Bureau of Investigation and the National
43 Crime Prevention and Privacy Compact as authorized by 42 U. S. C. A. §14611. *et seq.*

§30-40-12. Qualifications for broker's license.

1 (a) An applicant for a broker's license shall:

2 (1) Submit evidence satisfactory to the commission of either: (i) Real estate experience as
3 a licensed real estate salesperson sales agent during the two years prior to the date of application
4 showing the applicant's representation of a buyer or seller in a minimum of 20 closed transactions;

5 if the applicant is engaged solely in the leasing or renting of real estate, representation of the
6 landlord or tenant in a minimum of 20 closed transactions of at least one year in duration; or if the
7 applicant is engaged solely in the management of a real estate brokerage company, active
8 involvement in a minimum of 20 closed transactions; or (ii) regardless of the number of years as a
9 licensed salesperson sales agent: a minimum of 40 closed transactions; if the applicant is
10 engaged solely in the leasing or renting of real estate, representation of the landlord or tenant in a
11 minimum of 40 closed transactions of at least one year duration; or if the applicant is engaged
12 solely in the management of a real estate brokerage company, active involvement in a minimum of
13 40 closed transactions. For the purposes of this section, a "closed transaction" means a
14 transaction that resulted in the real estate being conveyed from seller to buyer in which the
15 applicant represented the seller, buyer, or both, or a transaction that resulted in the consummation
16 of a lease of no less than one year in duration in which the applicant represented either the
17 landlord or tenant of the real estate;

18 (2) Submit satisfactory evidence of having completed the required education course as
19 provided for in §30-40-14 of this code; and

20 (3) Successfully pass the examination or examinations provided by the commission.

21 (b) No broker's license shall be issued in the name of an entity except through one of its
22 members or officers.

23 (c) No broker's license may be issued in the name of an entity unless each member or
24 officer who will engage in the real estate business, obtains a license as a real estate salesperson
25 sales agent or associate broker.

§30-40-13. Qualifications for salesperson's sales agent's license.

1 (a) An applicant for a salesperson's sales agent's license shall:

2 (1) Submit satisfactory evidence of having completed the required education course as
3 provided in §30-40-14 of this code; and

4 (2) Successfully pass the examination or examinations provided by the commission.

5 (b) No salesperson's sales agent's license may be issued in the name of an entity except
6 through one of its members or officers.

7 (c) No salesperson's sales agent's license may be issued in the name of an entity unless
8 each member or officer, who will engage in the real estate business, obtains a license as a real
9 estate salesperson sales agent or associate broker.

§30-40-14.

Prelicense

education.

7 (b) Applicants for a salesperson's sales agent's license shall provide evidence satisfactory
8 to the commission that he or she has completed 90 clock-hours, equivalent to six college semester
9 credit hours, in a course or courses approved by the commission.

10 (c) Any course required by subsection (a) or (b) of this section shall have been completed
11 during the three-year period preceding the date of application in order to be accepted by the
12 commission.

§30-40-17. Place of business; branch offices; display of certificates; custody of license certificates; change of address; change of employer by a salesperson sales agent or associate broker; license certificates; term of license.

6 is properly licensed by the commission as a branch office: *Provided*, That a nonresident broker
7 who maintains a definite place of business in his or her jurisdiction of residence may not be
8 required to maintain an office in this state;

9 (2) Conspicuously display his or her branch office license in each branch office;

10 (3) Make application to the commission before changing the address of any office or within
11 10 days after any change;

12 (4) Maintain in his or her custody and control the license of each associate broker and
13 ~~salesperson~~ sales agent affiliated with him or her; and

14 (5) Promptly return the license of any associate broker or ~~salesperson~~ sales agent whose
15 affiliation with the broker is terminated.

16 (b) Every person holding an associate broker's or ~~salesperson's~~ sales agent's license
17 under the provisions of this article shall:

18 (1) Conduct real estate brokerage activities only under the direct supervision and control of
19 his or her affiliated broker, which shall be designated in the license certificate; and

20 (2) Promptly make application to the commission of any change of employing broker:
21 *Provided*, That it shall be unlawful to perform any act contained in this article, either directly or
22 indirectly, after affiliation has been terminated until the associate broker or ~~salesperson~~ sales
23 agent has made application to the commission for a change of affiliated broker and the application
24 is approved.

25 (c) The commission shall issue a license certificate which shall:

26 (1) Be in such form and size as shall be prescribed by the commission;

27 (2) Display the seal of the commission and shall contain such other information as the
28 commission may prescribe: *Provided*, That a ~~salesperson's~~ sales agent's and an associate
29 broker's license shall show the name of the broker by whom he or she is affiliated;

30 (3) If an active licensee, be mailed or delivered to the broker's main office address;

31 (4) If an inactive licensee, be held in the commission office; and

32 (5) Be valid for a period that coincides with the fiscal year beginning on July 1 and ending
33 on June 30.

§30-40-19. Refusal, suspension, or revocation of a license.

3 (1) Obtains, renews, or attempts to obtain or renew a license, for himself, herself, or
4 another, through the submission of any application or other writing that contains false, fraudulent,
5 or misleading information;

6 (2) Makes any substantial misrepresentation;

9 (4) Pursues a course of misrepresentation or makes false promises or representations
10 through agents or any medium of advertising or otherwise:

11 (5) Uses misleading or false advertising:

12 (6) Uses any trade name or insignia of membership in any organization in which the
13 licensee is not a member;

14 (7) Acts for more than one party in a transaction without the knowledge and written consent
15 of all parties for whom he or she acts:

16 (8) Fails, within a reasonable time, to account for or to remit moneys or other assets
17 coming into his or her possession, which belong to others:

18 (9) Commingles moneys belonging to others with his or her own funds;

19 (10) Advertises or displays a "for sale", "for rent", or other such sign on any property
20 without an agency relationship being established or without the owner's knowledge and written
21 consent:

22 (11) Advertises any property on terms other than those authorized by the owner;

23 (12) Fails to disclose, on the notice of agency relationship form promulgated by the

24 commission, whether the licensee represents the seller, buyer, or both;

25 (13) Fails to voluntarily furnish copies of the notice of agency relationship, listing contract,

26 sale contract, lease contract, or any other contract to each party executing the same;

27 (14) Pays or receives any rebate, profit, compensation, commission, or other valuable

28 consideration, resulting from a real estate transaction, to or from any person other than the

29 licensee's principal: *Provided*, That this subsection may not be construed to prevent the sharing of

30 compensation or other valuable consideration between licensed brokers;

31 (15) Induces any person to a contract to break the contract for the purpose of substituting a

32 new contract with a third party;

33 (16) Accepts compensation as a ~~salesperson~~ sales agent or associate broker for any act

34 specified in this article from any person other than his or her broker;

35 (17) Pays compensation to any person for acts or services performed either in violation of

36 this article or the real estate licensure laws of any other jurisdiction;

37 (18) Pays compensation to any person knowing that they will pay a portion or all of that

38 which is received, in a manner that would constitute a violation of this article if it were paid directly

39 by a licensee of this state;

40 (19) Violates any provision of this article, any rule, or any order or final decision issued by

41 the commission;

42 (20) Procures an attorney for any client or customer, or solicits legal business for any

43 attorney-at-law;

44 (21) Engages in the unlawful or unauthorized practice of law as defined by the Supreme

45 Court of Appeals of West Virginia;

46 (22) Commits or is a party to any material fraud, misrepresentation, concealment,

47 conspiracy, collusion, trick, scheme, or other device whereby any other person relies upon the

48 word, representation, or conduct of the licensee;

49 (23) Continues in the capacity of, or accepts the services of, any broker, associate broker,

50 or salesperson sales agent who is not properly licensed;

51 (24) Fails to disclose any information within his or her knowledge or to produce any
52 document, book, or record in his or her possession for inspection of and copying by the
53 commission or its duly authorized representatives;

54 (25) Accepts payment other than cash or its equivalent as earnest money or other deposit
55 unless this fact is disclosed in the contract to which the deposit relates;

56 (26) Accepts, takes, or charges any undisclosed compensation on expenditures made by
57 or on behalf of the licensee's principal;

58 (27) Discriminates against any person involved in a real estate transaction which is in
59 violation of any federal or state anti-discrimination law, including any fair housing law;

60 (28) Fails to preserve for five years following its consummation, records relating to any real
61 estate transaction;

62 (29) Fails to maintain accurate records on the broker's trust fund account;

63 (30) If a broker, fails to supervise all associate brokers and salespersons sales agents
64 affiliated with him or her;

65 (31) Breaches a fiduciary duty owed by a licensee to his or her principal in a real estate
66 transaction;

67 (32) Directs any party to a real estate transaction in which the licensee is involved, to any
68 lending institution for financing or to any affiliated business with the expectation of receiving a
69 financial incentive, rebate, or other compensation, without first obtaining from his or her principal
70 the signed acknowledgment of and consent to the receipt of the financial incentive, rebate, or other
71 compensation: *Provided*, That this subsection may not be construed to prevent the sharing of
72 compensation or other valuable consideration between licensed brokers;

73 (33) Represents to any lending institution, or other interested party either verbally or
74 through the preparation of false documents, an amount in excess of the true and actual sale price
75 of the real estate or terms differing from those actually agreed upon;

(34) Fails to disclose to an owner the licensee's true position if he or she directly or indirectly through a third party, purchases for himself or herself or acquires or intends to acquire any interest in or any option to purchase the property;

(35) Lends a broker's license to any person, including a ~~salesperson~~ sales agent, or permits a ~~salesperson~~ sales agent to operate as a broker;

(36) Has been convicted in a court of competent jurisdiction in this or any other jurisdiction of forgery, embezzlement, obtaining money under false pretense, bribery, larceny, extortion, conspiracy to defraud, any other similar offense, a crime involving moral turpitude, or a felony;

(37) Engages in any act or conduct which constitutes or demonstrates bad faith, incompetency, untrustworthiness, or dishonest, fraudulent, or improper dealing;

(38) Induces any person to alter, modify, or change another licensee's fee or commission for brokerage services, without that licensee's prior written consent;

(39) Negotiates a real estate transaction directly with any person that is represented exclusively by another broker, unless the conduct is specifically authorized by the other broker;

(40) Obtains, negotiates, or attempts to obtain or negotiate a contract whereby the broker is entitled to a commission only to the extent that the sales price exceeds a given amount, commonly referred to as a net listing;

(41) Fails or refuses, on demand, to furnish copies of a document to a person whose signature is affixed to the document:

(42) In the case of an associate broker or ~~salesperson~~ sales agent, represents or attempts to represent a broker other than his or her employing broker:

(43) Fails to reduce a bona fide offer to writing:

(44) Guarantees, or authorizes or permits another licensee to guarantee, future profits which may result from a real estate transaction;

100 (45) Is disciplined by another jurisdiction if at least one of the grounds for that discipline is
101 the same as or equivalent to one of the grounds for discipline in this article; or

102 (46) Engages in any other act or omission in violation of professional conduct requirements
103 of licensees established by legislative rule of the commission.

104 (b) The provisions of this section shall be liberally construed in order to carry out the
105 objectives and purposes of this article.

106 (c) As used in this section:

107 (1) The words "convicted in a court of competent jurisdiction" mean a plea of guilty or nolo
108 contendere entered by a person or a verdict of guilt returned against a person at the conclusion of
109 a trial;

110 (2) A certified copy of a conviction order entered in a court is sufficient evidence to
111 demonstrate a person has been convicted in a court of competent jurisdiction.

112 (d) Every person licensed by the commission has an affirmative duty to report, in a timely
113 manner, any known or observed violation of this article or the rules, orders, or final decisions of the
114 commission.

115 (e) The revocation of a broker's license shall automatically suspend the license of every
116 associate broker and ~~salesperson~~ sales agent affiliated with the broker: *Provided*, That the
117 commission shall issue a replacement license for any licensee so affected to a new broker, without
118 charge, if a proper application is submitted to the commission during the same license term.

§30-40-23. Single act evidence of practice.

1 One act by any person in consideration of receiving compensation, or with the expectation
2 or intention of receiving such compensation, or upon the promise of receiving compensation for
3 any act or service contained in this article shall constitute and consider the person a broker,
4 associate broker or ~~salesperson~~ sales agent subject to the provisions of this article.

§30-40-25. Collection of compensation.

1 No person may bring or maintain any action in any court of this state for the recovery of
2 compensation for the performance of any act or service for which a broker's license is required,
3 without alleging and proving that he or she was the holder of a valid broker's license at all times

4 during the performance or rendering of any act or service: *Provided*, That an associate broker or
5 ~~salesperson~~ sales agent may institute suit in his or her own name for the recovery of
6 compensation from his or her affiliated broker for acts or services performed while affiliated with
7 the broker.

§30-40-26. Duties of licensees.

1 Every broker, associate broker, and ~~salesperson~~ sales agent owes certain inherent duties
2 to the consumer which are required by virtue of the commission granting a license under this
3 article. The duties include, but are not limited to:

4 (a) At the time of securing any contract whereby the broker is obligated to represent a
5 principal to a real estate transaction, every licensee shall supply a true legible copy of the contract
6 to each person signing the contract.

7 (b) Any contract in which a broker is obligated to represent a principal to a real estate
8 transaction shall contain a definite expiration date, and no provision may be included in any
9 contract whereby the principal is required to notify the broker of his or her intention to cancel the
10 contract after the definite expiration date.

11 (c) No provision may be inserted in any contract for representation that would obligate the
12 person signing the contract to pay a fee, commission, or other valuable consideration to the
13 broker, after the contract's expiration date, if the person subsequently enters into a contract for
14 representation with a different broker.

15 (d) Every licensee shall disclose in writing, on the notice of agency relationship form
16 promulgated by the commission, whether the licensee represents the seller, the buyer, the seller
17 and the buyer, the landlord, the tenant, or the landlord and the tenant. The disclosure shall be
18 made prior to any person signing any contract for representation by a licensee or a contract for the
19 sale or purchase of real estate.

20 (e) Every licensee shall promptly deliver to his or her principal, every written offer received.

21 (f) Every licensee shall make certain that all the terms and conditions of a real estate

22 transaction are contained in any contract prepared by the licensee.

23 (g) At the time of securing the signature of any party to a contract, the licensee shall deliver
24 a true copy of the contract to the person whose signature was obtained.

25 (h) Upon the final acceptance or ratification of any contract, the licensee shall promptly
26 deliver a true copy to each party that has signed the contract.

NOTE: The purpose of this bill is to replace "salesperson" with "sales agent" in the real estate code.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.