

House Bill 869 (COMMITTEE SUBSTITUTE)

By: Representatives Powell of the 32nd, Maxwell of the 17th, and Harrell of the 106th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 40 of Title 43 of the Official Code of Georgia Annotated, relating to real
2 estate brokers and salespersons, so as to change certain provisions relating to the
3 responsibilities of brokers and qualifying brokers to review certain documents; to change
4 certain provisions relating to actions that constitute unfair trade practices; to provide for
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 40 of Title 43 of the Official Code of Georgia Annotated, relating to real estate
9 brokers and salespersons, is amended by revising subsection (c) of Code Section 43-40-18,
10 relating to management of firm and licensed affiliates and compliance with local ordinances,
11 as follows:

12 "(c) The real estate brokerage activities of each firm shall be under the direct management
13 and supervision of a broker or qualifying broker. The broker or qualifying broker shall be
14 responsible for establishing, implementing, and continuing procedures for:

15 (1) Reviewing all advertising to ensure compliance with this chapter and its rules and
16 regulations;

17 (2) Providing programs for study and review of this chapter and its rules and regulations
18 for all licensed associates;

19 (3) Reviewing for compliance with this chapter and its rules and regulations all listing
20 contracts, leases, sales contracts, and management agreements, ~~and offers~~ to buy, sell,
21 lease, or exchange real property and any offer to buy, sell, lease, or exchange real
22 property accepted within the time limit of said offer secured or negotiated by the firm's
23 associates. This review shall take place within 30 days of the date of the offer or contract;

24 (4) Systematic review of the firm's trust accounting practices in order to assure their
25 compliance with this chapter and its rules and regulations;

26 (5) Ensuring that the firm utilizes only licensed personnel to perform those acts of a
 27 licensee which require licensure and that when it pays compensation to an individual
 28 licensee, other than another firm, the license of such individual licensee was assigned to
 29 the firm by the commission at the time such individual licensee earned the compensation
 30 paid;

31 (6) Ensuring that proper disbursements are made from trust accounts;

32 (7) Providing continuing and reasonable safekeeping for all records related to real estate
 33 transactions which this chapter and its rules and regulations require a broker to maintain;

34 (8) Providing all licensed personnel with written policies and procedures under which
 35 they are expected to operate;

36 (9) Seeing that the firm and all licensed affiliates enter into a written agreement
 37 specifying the terms under which the licensee will be compensated for work during the
 38 time of their affiliation and specifying how the licensee will be compensated for work
 39 begun but not completed prior to the termination of their affiliation. Other than to
 40 determine that such agreements are entered into by licensees and their firm, the
 41 commission shall not regulate the content of such agreements or enforce their provisions;
 42 and

43 (10) Assuring that an individual with appropriate management authority is reasonably
 44 available to assist licensees and the public in real estate transactions handled by the firm."

45 SECTION 2.

46 Said chapter is further amended by revising paragraphs (20) and (27) of subsection (b) of
 47 Code Section 43-40-25, relating to violations by licensees, schools, and instructors,
 48 sanctions, and unfair trade practices, as follows:

49 ~~"(20) Failure by a broker to deliver to the seller in every real estate transaction, at the~~
 50 ~~time said transaction is consummated, a complete, detailed closing statement showing all~~
 51 ~~of the receipts and disbursements handled by such broker for the seller or failure to~~
 52 ~~deliver to the buyer a complete statement showing all money received in said transaction~~
 53 ~~from such buyer and how and for what the same was disbursed; the broker shall retain~~
 54 ~~true copies of such statements in the broker's files~~ Failing to timely ensure that his or her
 55 client or customer receives a copy of the closing statement from a real estate transaction
 56 if the closing statement is provided to the licensee at closing. The broker shall retain true
 57 copies of such closing statements in the broker's files;"

58 "(27) Failing to keep for a period of three years a true and correct copy of all sales
 59 contracts, closing statements if provided to the licensee, any offer or other document that
 60 resulted in the depositing of trust funds, accounting records related to the maintenance
 61 of any trust account required by this chapter, and other documents relating to real estate

62 closings or transactions or failing to produce such documents at the reasonable request
63 of the commission or any of its agents for their inspection;"

64 **SECTION 3.**

65 All laws and parts of laws in conflict with this Act are repealed.