

Activities That Require a Real Estate License

In the state of Alabama, a real estate license is required to conduct many real estate activities and is issued by the Alabama Real Estate Commission.

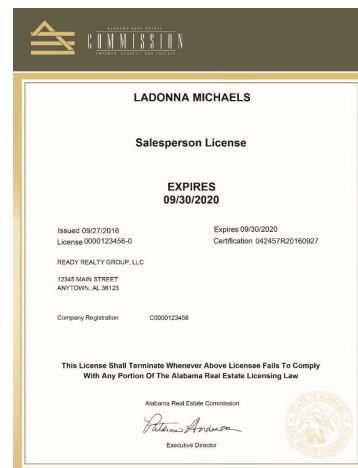
This section covers who needs a license, who does not need a license, how to earn a license, and all other aspects of individual licenses.



Activities That Require a Real Estate License

According to Alabama real estate license law, there are specific real estate activities that require an individual or company license in order to legally receive payment for services.

First, we will discuss the activities that require a license. Then we will discuss exceptions to this rule.



Activities that REQUIRE A LICENSE:

1. Selling, exchanging, purchasing, renting or leasing of real estate located in the State of Alabama.
2. Offering to sell, exchange, purchase, rent, or lease real estate located in the State of Alabama.
3. Negotiating for the sale, exchange, purchase, rent or lease of real estate located in the State of Alabama.
4. The listing or offering to list real property located in the State of Alabama for any of above functions.

**Activities that REQUIRE A LICENSE:**

5. Auctioning real property located in the State of Alabama. Auctioneers must have a license. Groundsmen, the people that help the auctioneer, do not need a license.
6. The buying, selling or dealing in options on real estate located in the State of Alabama.
7. Aiding in locating or obtaining real estate located in the State of Alabama for above functions.



Activities that REQUIRE A LICENSE:

8. Procuring potential buyers and renters for another individual who wishes to sale, exchange, lease or rent properties located in the State of Alabama.
9. Procuring real estate properties located in the State of Alabama for another individual to sale, exchange, lease or rent.
10. Presenting himself/herself as being able to perform an act for which a license is required.

**Exceptions to the Licensing Requirement**

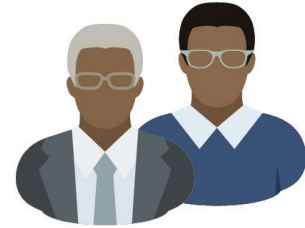
§ 34-27-2 (b); 790-X-1-.03

There are also certain situations where a real estate license is not required.



Activities and individuals that DO NOT REQUIRE A LICENSE:

1. Any owner that is managing or selling their own real estate or the real estate of their spouse, child or parent.
2. An attorney-at-law performing his or her duties as an attorney-at-law for a client.
3. An individual acting without compensation and in good faith under a duly executed power of attorney authorizing the consummation of a real estate transaction.

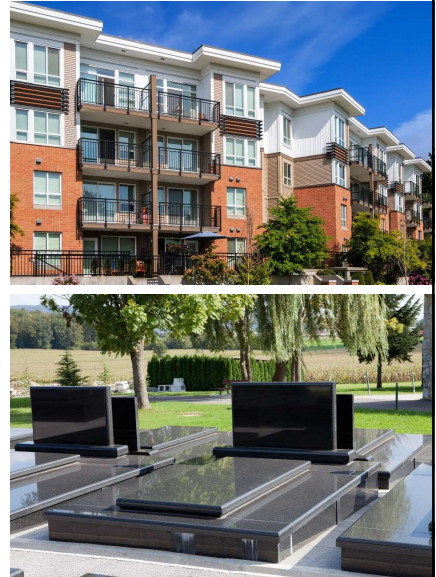
**Activities and individuals that DO NOT REQUIRE A LICENSE:**

4. An individual or a state or federally chartered financial institution acting as a receiver, trustee, administrator, executor, or guardian; or acting under a court order or under authority of a trust instrument or will.
5. A public officer performing his or her official duties.
6. An individual performing general clerical or administrative duties for a broker so long as the person does not physically show listed property. We will discuss "Unlicensed Assistants" in more detail later in this course.



Activities and individuals that DO NOT REQUIRE A LICENSE:

7. An individual acting as the manager for an apartment building or apartment complex. However, an individual acting as an on-site manager of a condominium building or condominium complex does need a license.
8. An individual licensed as time-share seller does not need a real estate license.
9. Transactions involving the sale, lease, or transfer of cemetery lots.

**Activities and individuals that DO NOT REQUIRE A LICENSE:**

Let's discuss these situations in a little more detail:

1. **Any owner that is managing or selling their own real estate or the real estate of their spouse, child or parent.**

Any individual can sell their own property or the property of their spouse, child or parent without a license, but they must be doing so without the promise of compensation.

The Commission limits this exemption to the individual's immediate family, meaning spouse, child or parent. Any other type of relative (grandparents, brothers, sisters, uncles, aunts, nieces, nephews, etc.) is not included in this exemption.



Activities and individuals that DO NOT REQUIRE A LICENSE:**2. An attorney-at-law when performing professional duties for a client.**

If an individual hires an attorney to help him with a real estate transaction, the hired attorney does not need a real estate license as long as the tasks involving real estate are part of his job description.

**Activities and individuals that DO NOT REQUIRE A LICENSE:****3. An individual acting, without compensation and in good faith, under a duly authorized power of attorney.**

An individual without a real estate license can help someone sell their property as long as he has a duly authorized power of attorney, acts in good faith and no compensation is being offered.



Activities and individuals that DO NOT REQUIRE A LICENSE:

- 4. An individual/state/financial institution acting as a receiver, trustee, administrator, executor, or guardian; or acting under a court order, trust instrument or will.**

If it has become your legal obligation because you have been named or appointed by a judge or legal document as the person in charge, you may buy and sell property for the estate as needed without a real estate license.

**Activities and individuals that DO NOT REQUIRE A LICENSE:**

- 5. A public officer performing his official duties.**

A government employee does not need a real estate license as long as he is performing his official duties.



Activities and individuals that DO NOT REQUIRE A LICENSE:**6. An individual performing general clerical or administrative duties for a broker.**

There are certain activities that an unlicensed assistant cannot do and if done, would be a violation of license law. We'll cover these activities in detail in the next unit.

**Activities and individuals that DO NOT REQUIRE A LICENSE:****7. An office manager/supervisor of an apartment complex.**

The Alabama Real Estate Commission defines “apartments” as multi-family buildings with 5 or more units under the same roof owned by the same owner.

Single-family homes, housing buildings of with 1-to-4 units, condos and co-ops are NOT treated the same as apartments and fall under the jurisdiction of the AREC.



Activities and individuals that DO NOT REQUIRE A LICENSE:

With that in mind, let's examine each situation where this rule applies:

- **LICENSE NOT REQUIRED:** Apartment complexes
- **LICENSE REQUIRED:** Property management business
- **LICENSE REQUIRED:** Condominiums and condominium buildings

**LICENSE NOT REQUIRED: Apartment complexes**

An individual acting as the office manager or property manager for an apartment building or complex is exempt from the licensing requirements.

This means a license is not required for the person sitting in the office preparing leases such as an office manager or supervisor.



LICENSE REQUIRED: Property management business

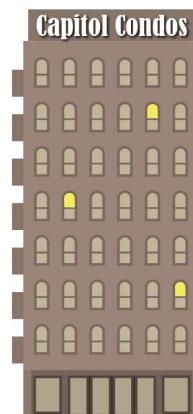
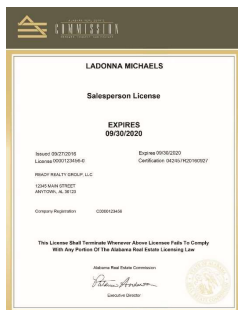
If an individual operates a property management business managing other individual's single-family dwellings, 1-to-4 unit residential buildings (such as a duplex), co-ops, commercial properties, or anything other than apartments, a license would be required.

**LICENSE REQUIRED: Condominiums and condominium buildings**

A **condominium** refers to a *particular type of ownership*, NOT to a particular type of building.

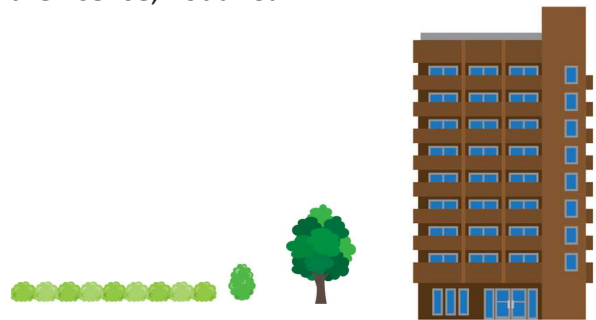
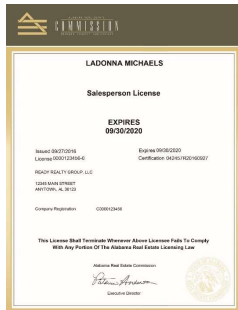
Since each unit has a different owner, a license is required to handle any transaction involving a condominium.

In other words, in the eyes of the law, each unit in the condominium building is viewed as an individual house and, just like an individual house, a license would be required.



Activities and individuals that DO NOT REQUIRE A LICENSE:**8. An individual licensed as a timeshare seller.**

A **timeshare** is ownership of a specific interval of time, not ownership of real property. Since a timeshare seller is selling TIME and not REAL ESTATE, the selling of timeshares requires a **timeshare license**, not a real estate license.

**Activities and individuals that DO NOT REQUIRE A LICENSE:****9. Transactions involving the sale, lease, or transfer of cemetery lots.**

Although an individual selling cemetery lots is literally selling land, the portions are small and a license is not required.



Unlicensed Assistants

§ 34-27-2(b)(6); 790-X-1-.04.

Virtually every office has an administrative assistant on staff and real estate companies are no exception.

Because it is not uncommon for an unlicensed assistant to work directly with a licensee in a brokerage setting, the Alabama real estate license law stipulates what is allowed and what is not.

The law permits routine activities expected of such positions but draws the line at tasks where a license would be required.



Unlicensed Assistants

According to Alabama real estate license law, an unlicensed assistant cannot “hold himself out as engaged in the real estate business or perform any other act for which a license is required unless properly licensed.”

Former General Counsel Charles L. Sowell further elaborated on this topic in an article titled “Unlicensed Assistants” in the AREC newsletter *Briefly Legal*.

You can read the entire article on the Commission’s website:

https://arec.alabama.gov/arec/pages/media/publications/briefly_legal.aspx



Specifically, Unlicensed Assistants CANNOT:

- **Procure prospects.**
Including conducting door-to-door visits or making canvassing-type telephone calls.
- **Solicit or accept listings.**
Including preparing or discussing a listing or property management agreement with an owner.

**Specifically, Unlicensed Assistants CANNOT:**

- **Physically show listed properties.**
Including showing any property to a potential prospect or participating at an open house for any purpose. It also includes driving or accompanying a prospect to a property.
- **Negotiate sales or leases.**
Including discussing, presenting, negotiating and/or preparing the terms of a sale or rental of real estate and asking a prospect to sign an offer to purchase or lease.
- **Receive a sales commission.**
Commissions are reserved for licensed real estate agents per IRS regulations. Unlicensed assistants are either salaried and hourly employees.



Unlicensed Assistants CAN:

- Answer the telephone, forward calls, take messages, and make appointments for licensees.
- Send listing information to a multiple listing service, filling out the necessary forms.
- Deliver information and forms to a mortgage company and closing attorney or agent as part of the preparation for closing.
- Make and deliver copies of any public record.
- Get keys from a client/owner and have keys made.

**Unlicensed Assistants CAN:**

- Write and place advertising in newspaper and other forms of publication.
- Receive and deposit funds to be held in trust for others including earnest money, security deposits, and rental payments.
- Type forms and perform company bookkeeping.
- Place signs on property.



Unlicensed Assistants CAN:

- Arrange for and oversee repairs.
- Make rental collection calls to tenants.
- Answer questions about a property as long as the answers are available in some pre-printed form.

