

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1946 of the Regular Session

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: H3/31/05

A Bill

HOUSE BILL 2817

5 By: Representative Lamoureux  
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8 **For An Act To Be Entitled**

9 AN ACT TO PROHIBIT INTERFERENCE WITH REAL ESTATE  
10 LICENSEE RELATIONSHIPS; AND FOR OTHER PURPOSES.  
11

12 **Subtitle**

13 AN ACT TO PROHIBIT INTERFERENCE WITH  
14 REAL ESTATE LICENSEE RELATIONSHIPS.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code Title 17, Chapter 42, is amended to add an  
20 additional subchapter to read as follows:

21 17-42-701. Definitions.

22 As used in this subchapter:

23 (1) "Actual introduction" means the referral of a principal to a  
24 licensee by the person or entity seeking the referral fee before the  
25 principal and licensee have engaged in material discussions regarding a  
26 specific real estate transaction;

27 (2)(A) "Interference with a licensee relationship" means:

28 (i) A demand for a referral fee from a licensee when  
29 reasonable cause for payment does not exist;

30 (ii) A threat to reduce, withhold, or eliminate any  
31 relocation or other benefits or the actual reduction, withholding, or  
32 elimination of any relocation or other benefit for the purpose of obtaining a  
33 referral fee from a licensee when reasonable cause for payment does not  
34 exist; or

35 (iii) An attempt to induce a principal to breach or



1 terminate a representation agreement for the purpose of replacing that  
2 agreement with another representation agreement in order to obtain a referral  
3 fee.

4 (B) "Interference with a licensee relationship" does not  
5 mean:

6 (i) Communications between an employer or an  
7 employer's representative and an employee concerning relocation policies and  
8 benefits if the communication does not involve advice about or encouragement  
9 to terminate or amend an existing representation agreement; and

10 (ii) Advice to a principal about the right to allow  
11 a licensee relationship to expire under its own terms or not to renew the  
12 licensee relationship upon its expiration;

13 (3) "Licensee relationship" means an agreement between a  
14 licensee and a principal under which the licensee agrees to act as a  
15 principal broker as defined in § 17-42-103;

16 (4) "Principal" means the buyer, seller, landlord, or tenant in  
17 a licensee relationship;

18 (5) "Reasonable cause for payment" means the creation of a  
19 cooperative or subagency relationship between licensees or a representation  
20 agreement as the result of an actual introduction of business;

21 (6)(A) "Referral fee" means any mutually agreed-upon fee,  
22 commission, or other consideration to be paid by a licensee to any person or  
23 entity.

24 (B) "Referral fee" does not mean a cooperative commission  
25 offered by a listing licensee to a selling licensee or by a selling licensee  
26 to a listing licensee; and

27 (7)(A) "Representation agreement" means an agreement between a  
28 principal and a licensee in which the licensee agrees to perform any of the  
29 activities of a principal broker.

30 (B) "Representation agreement" includes:

31 (i) A buyer's agency agreement, a property listing  
32 agreement, a cooperative brokerage agreement; and

33 (ii) Any agreement containing any of the agreements  
34 described in subdivision (7)(B)(i) of this section.

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36 17-42-702. Interference with licensee relationships prohibited.

1 (a) No person shall knowingly interfere with the licensee relationship  
2 between a licensee and a person or entity.

3 (b) No licensee shall be liable for a referral fee when reasonable  
4 cause for payment does not exist.

5 (c)(1) Any person or entity aggrieved by a violation of this  
6 subchapter may bring a civil action in any court of competent jurisdiction.

7 (2) The damages recoverable in an action under subdivision  
8 (c)(1) of this section shall be:

9 (A) The actual damages; and

10 (B) Reasonable attorney’s fees and expenses.

11 (d) Nothing in this subchapter is intended to:

12 (1) Create a presumption that if reasonable cause for payment of  
13 a referral fee exists, a legal right to the referral fee exists; or

14 (2) Authorize the payment of a referral fee that is otherwise  
15 prohibited by law or regulation of the Arkansas Real Estate Commission.

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*/s/ Lamoureux*

*APPROVED: 04/11/2005*

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