

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.

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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For An Act To Be Entitled

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

Subtitle

12 AN ACT TO PROHIBIT INTERFERENCE WITH
13 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
36 terminate a representation agreement for the purpose of replacing that



1 agreement with another representation agreement in order to obtain a referral
2 fee.

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

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

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

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

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

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

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

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

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

29 (B) "Representation agreement" includes:

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

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

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35 17-42-702. Interference with licensee relationships prohibited.

36 (a) No person shall knowingly interfere with the licensee relationship

1 between a licensee and a person or entity.

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

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

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

8 (A) The actual damages; and

9 (B) Reasonable attorney's fees and expenses.

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

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

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

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16 /s/ Lamoureux
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