

By Senator Clary

315-967-98

1                                   A bill to be entitled  
2           An act relating to rulemaking authority with  
3           respect to professional regulation; amending s.  
4           475.17, F.S.; authorizing the Florida Real  
5           Estate Commission to adopt rules requiring  
6           written evidence to establish good character;  
7           amending s. 475.25, F.S.; authorizing the  
8           Florida Real Estate Commission to adopt rules  
9           concerning the advertising of property or  
10          services and extending certain time limits for  
11          licensees on probation; amending s. 475.182,  
12          F.S.; making brokers responsible for  
13          salespersons' compliance with renewal  
14          requirements and allowing the Florida Real  
15          Estate Commission to adopt related rules;  
16          amending s. 489.115, F.S.; providing for the  
17          adoption of rules relating to continuing  
18          education requirements by the Construction  
19          Industry Licensing Board; amending s. 489.1195,  
20          F.S.; authorizing the Construction Industry  
21          Licensing Board to adopt rules defining the  
22          qualifications for financially responsible  
23          officers; amending s. 492.105, F.S.;  
24          authorizing the Board of Professional  
25          Geologists to determine acceptable geology  
26          education; providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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30           Section 1. Paragraph (a) of subsection (1) of section  
31 475.17, Florida Statutes, is amended to read:

1           475.17 Qualifications for practice.--  
2           (1)(a) An applicant for licensure who is a natural  
3 person must be at least 18 years of age; hold a high school  
4 diploma or its equivalent; be honest, truthful, trustworthy,  
5 and of good character; and have a good reputation for fair  
6 dealing. An applicant for an active broker's license or a  
7 salesperson's license must be competent and qualified to make  
8 real estate transactions and conduct negotiations therefor  
9 with safety to investors and to those with whom the applicant  
10 may undertake a relationship of trust and confidence. If the  
11 applicant has been denied registration or a license or has  
12 been disbarred, or the applicant's registration or license to  
13 practice or conduct any regulated profession, business, or  
14 vocation has been revoked or suspended, by this or any other  
15 state, any nation, or any possession or district of the United  
16 States, or any court or lawful agency thereof, because of any  
17 conduct or practices which would have warranted a like result  
18 under this chapter, or if the applicant has been guilty of  
19 conduct or practices in this state or elsewhere which would  
20 have been grounds for revoking or suspending her or his  
21 license under this chapter had the applicant then been  
22 registered, the applicant shall be deemed not to be qualified  
23 unless, because of lapse of time and subsequent good conduct  
24 and reputation, or other reason deemed sufficient, it appears  
25 to the commission that the interest of the public and  
26 investors will not likely be endangered by the granting of  
27 registration. The commission may adopt rules requiring an  
28 applicant for licensure to provide written information to the  
29 commission regarding the applicant's good character.

30           Section 2. Subsection (1) of section 475.182, Florida  
31 Statutes, is amended to read:

1           475.182 Renewal of license; continuing education.--  
2           (1) The department shall renew a license upon receipt  
3 of the renewal application and fee. The renewal application  
4 for an active license as broker, broker-salesperson, or  
5 salesperson shall include proof satisfactory to the commission  
6 that the licensee has, since the issuance or renewal of her or  
7 his current license, satisfactorily completed at least 14  
8 classroom hours of 50 minutes each of a continuing education  
9 course during each biennium, as prescribed by the commission.  
10 The commission may accept as a substitute for such continuing  
11 education course, on a classroom-hour-for-classroom-hour  
12 basis, any satisfactorily completed education course that the  
13 commission finds is adequate to educate licensees within the  
14 intent of this section. However, the commission may not  
15 require, for the purpose of satisfactorily completing an  
16 approved correspondence course, a written examination that is  
17 to be taken at a centralized location and is to be monitored.  
18 The broker is responsible for ensuring, in accordance with  
19 rules adopted by the commission, that any salesperson  
20 registered with the broker has complied with the commission's  
21 requirements and the timely renewal of the license.

22           Section 3. Paragraph (c) of subsection (1) of section  
23 475.25, Florida Statutes, is amended, and subsection (4) is  
24 added to that section, to read:

25           475.25 Discipline.--

26           (1) The commission may deny an application for  
27 licensure, registration, or permit, or renewal thereof; may  
28 place a licensee, registrant, or permittee on probation; may  
29 suspend a license, registration, or permit for a period not  
30 exceeding 10 years; may revoke a license, registration, or  
31 permit; may impose an administrative fine not to exceed \$1,000

1 for each count or separate offense; and may issue a reprimand,  
2 and any or all of the foregoing, if it finds that the  
3 licensee, registrant, permittee, or applicant:

4 (c) Has advertised property or services in a manner  
5 which is fraudulent, false, deceptive, or misleading in form  
6 or content. The commission may adopt rules providing for the  
7 manner in which licensees advertise property or services.

8 (4) The commission may adopt rules allowing the  
9 Director of the Division of Real Estate to grant to a licensee  
10 placed on probation additional time within which to complete  
11 the terms of probation, but the rules must allow the licensee  
12 to appeal any denial to the commission.

13 Section 4. Paragraph (b) of subsection (4) of section  
14 489.115, Florida Statutes, is amended to read:

15 489.115 Certification and registration; endorsement;  
16 reciprocity; renewals; continuing education.--

17 (4)

18 (b)1. Each certificateholder or registrant shall  
19 provide proof, in a form established by rule of the board,  
20 that the certificateholder or registrant has completed at  
21 least 14 classroom hours of at least 50 minutes each of  
22 continuing education courses during each biennium since the  
23 issuance or renewal of the certificate or registration. The  
24 board shall establish by rule that a portion of the required  
25 14 hours must deal with the subject of workers' compensation  
26 and workplace safety. The board shall by rule establish  
27 criteria for the approval of continuing education courses and  
28 providers, including requirements relating to the content of  
29 courses and standards for approval of providers, and may by  
30 rule establish criteria for accepting alternative nonclassroom  
31 continuing education on an hour-for-hour basis. The board

1 shall prescribe by rule the continuing education, if any,  
2 which is required during the first biennium of initial  
3 licensure. A person who has been licensed for less than an  
4 entire biennium must not be required to complete the full 14  
5 hours of continuing education.

6           2. In addition, the board may approve specialized  
7 continuing education courses on compliance with the wind  
8 resistance provisions for one and two family dwellings  
9 contained in the State Minimum Building Codes and any  
10 alternate methodologies for providing such wind resistance  
11 which have been approved for use by the Board of Building  
12 Codes and Standards. Division I certificateholders or  
13 registrants who demonstrate proficiency upon completion of  
14 such specialized courses may certify plans and specifications  
15 for one and two family dwellings to be in compliance with the  
16 code or alternate methodologies, as appropriate, except for  
17 dwellings located in floodways or coastal hazard areas as  
18 defined in ss. 60.3D and E of the National Flood Insurance  
19 Program.

20           Section 5. Subsection (1) of section 489.1195, Florida  
21 Statutes, is amended to read:

22           489.1195 Responsibilities.--

23           (1) A qualifying agent is a primary qualifying agent  
24 unless he or she is a secondary qualifying agent under this  
25 section.

26           (a) All primary qualifying agents for a business  
27 organization are jointly and equally responsible for  
28 supervision of all operations of the business organization;  
29 for all field work at all sites; and for financial matters,  
30 both for the organization in general and for each specific  
31 job.

1           (b) Upon approval by the board, a business entity may  
2 designate a financially responsible officer for purposes of  
3 certification or registration. A financially responsible  
4 officer shall be responsible for all financial aspects of the  
5 business organization and may not be designated as the primary  
6 qualifying agent. The designated financially responsible  
7 officer shall furnish evidence of the financial  
8 responsibility, credit, and business reputation of either  
9 himself, or the business organization he desires to qualify,  
10 as determined appropriate by the board.

11           (c) Where a business organization has a certified or  
12 registered financially responsible officer, the primary  
13 qualifying agent shall be responsible for all construction  
14 activities of the business organization, both in general and  
15 for each specific job.

16           (d) The board shall adopt rules prescribing the  
17 qualifications for financially responsible officers, including  
18 net worth, cash, and bonding requirements. These  
19 qualifications must be at least as extensive as the  
20 requirements for the financial responsibility of qualifying  
21 agents.

22           Section 6. Paragraph (d) of subsection (1) of section  
23 492.105, Florida Statutes, is amended to read:

24           492.105 Licensure by examination; requirements;  
25 fees.--

26           (1) Any person desiring to be licensed as a  
27 professional geologist shall apply to the department to take  
28 the licensure examination. The written licensure examination  
29 shall be designed to test an applicant's qualifications to  
30 practice professional geology, and shall include such subjects  
31 as will tend to ascertain the applicant's knowledge of the

1 theory and the practice of professional geology and may  
2 include such subjects as are taught in curricula of accredited  
3 colleges and universities. The department shall examine each  
4 applicant who the board certifies:

5 (d) Fulfills the following educational requirements at  
6 a college or university the geological curricula of which meet  
7 the criteria established by an accrediting agency recognized  
8 by the United States Department of Education:

9 1. Graduation from such college or university with a  
10 major in geology or other related science acceptable to the  
11 board ~~department~~; and

12 2. Satisfactory completion of at least 30 semester  
13 hours of geological courses, 24 of which must be at the third  
14 or fourth year or graduate level.

15 Section 7. This act shall take effect upon becoming a  
16 law.

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19 SENATE SUMMARY

20 Authorizes the Florida Real Estate Commission to adopt  
21 rules requiring evidence of applicants' good character,  
22 prescribing advertising guidelines, and granting certain  
23 extensions for licensees on probation. Authorizes the  
24 Construction Industry Licensing Board to adopt rules  
25 relating to continuing education requirements. Authorizes  
26 the Board of Professional Geologists to adopt rules  
27 relating to licensing requirements.  
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