

Bill No. CS for SB 340

Amendment No. \_\_\_\_

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Clary moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	On page 4, line 3, through page 5, line 15, delete		
15	those lines		
16			
17	and insert:		
18	Section 1. Paragraphs (a) and (g) of subsection (1) of		
19	section 475.01, Florida Statutes, are amended to read:		
20	475.01 Definitions.--		
21	(1) As used in this part:		
22	(a) "Broker" means a person who, for another, and for		
23	a compensation or valuable consideration directly or		
24	indirectly paid or promised, expressly or impliedly, or with		
25	an intent to collect or receive a compensation or valuable		
26	consideration therefor, appraises, auctions, sells, exchanges,		
27	buys, rents, or offers, attempts or agrees to appraise,		
28	auction, or negotiate the sale, exchange, purchase, or rental		
29	of business enterprises or business opportunities or any real		
30	property or any interest in or concerning the same, including		
31	mineral rights or leases, or who advertises or holds out to		

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1 the public by any oral or printed solicitation or  
2 representation that she or he is engaged in the business of  
3 appraising, auctioning, buying, selling, exchanging, leasing,  
4 or renting business enterprises or business opportunities or  
5 real property of others or interests therein, including  
6 mineral rights, or who takes any part in the procuring of  
7 sellers, purchasers, lessors, or lessees of business  
8 enterprises or business opportunities or the real property of  
9 another, or leases, or interest therein, including mineral  
10 rights, or who directs or assists in the procuring of  
11 prospects or in the negotiation or closing of any transaction  
12 which does, or is calculated to, result in a sale, exchange,  
13 or leasing thereof, and who receives, expects, or is promised  
14 any compensation or valuable consideration, directly or  
15 indirectly therefor; and all persons who advertise rental  
16 property information or lists. A broker renders a  
17 professional service and is a professional within the meaning  
18 of s. 95.11(4)(a). Where the term "appraise" or "appraising"  
19 appears in the definition of the term "broker," it  
20 specifically excludes those appraisal services which must be  
21 performed only by a state-licensed or state-certified  
22 appraiser, and those appraisal services which may be performed  
23 by a registered assistant appraiser as defined in part II.  
24 The term "broker" also includes any person who is a general  
25 partner, officer, or director of a partnership or corporation  
26 which acts as a broker. The term "broker" also includes any  
27 person or entity who undertakes to list or sell one or more  
28 timeshare periods per year in one or more timeshare plans on  
29 behalf of any number of persons, except as provided in ss.  
30 475.011 and 721.20.

31 (g) "First contact" means at the commencement of the

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1 initial meeting of or communication between a licensee and a  
2 seller or buyer; however, the term does not include:

3 1. A bona fide "open house" or model home showing that  
4 does not involve eliciting confidential information; the  
5 execution of a contractual offer or an agreement for  
6 representation; or negotiations concerning price, terms, or  
7 conditions of a potential sale;

8 2. Unanticipated casual encounters between a licensee  
9 and a seller or buyer that do not involve eliciting  
10 confidential information; the execution of a contractual offer  
11 or an agreement for representation; or negotiations concerning  
12 price, terms, or conditions of a potential sale;

13 3. Responding to general factual questions from a  
14 prospective buyer or seller concerning properties that have  
15 been advertised for sale; ~~or~~

16 4. Situations in which a licensee's communications  
17 with a customer are limited to providing general factual  
18 information, oral or written, about the qualifications,  
19 background, and services of the licensee or the licensee's  
20 brokerage firm; ~~or-~~

21 5. Onsite sales of new construction by a transaction  
22 broker, the owner of the property, or a single agent  
23 representing the owner.

24  
25 In any of the situations described in subparagraphs 1.-5.  
26 ~~1.-4.~~, "first contact" occurs when the communications between  
27 the licensee and the prospective seller or buyer proceed in  
28 any way beyond the conditions or limitations described in  
29 subparagraphs 1.-5.1.-4.

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1 ===== T I T L E   A M E N D M E N T =====

2 And the title is amended as follows:

3           On page 1, line 2, after the semicolon

4

5 insert:

6           amending s. 475.01, F.S.; amending definitions

7           of terms used in pt. I of ch. 475, F.S.;

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