

By the Committee on Regulated Industries and Senators Clary,
Harris, McKay, Williams and Kurth

315-1634-98

1 A bill to be entitled
2 An act relating to real estate; amending s.
3 475.15, F.S.; providing registration and
4 licensing requirements for additional business
5 entities; eliminating a conflicting provision
6 relating to automatic cancellation of the
7 registration of a real estate broker
8 partnership; amending s. 475.17, F.S.;
9 providing additional requirements for licensure
10 as a real estate broker; amending s. 475.183,
11 F.S.; revising the period after which
12 involuntarily inactive licenses expire;
13 revising the time for the required notice to
14 the licensee; amending s. 475.25, F.S.;
15 revising a ground for disciplinary action to
16 exempt licensees from the reporting of certain
17 violators; providing that violations of certain
18 standards of the Appraisal Foundation are
19 grounds for the Florida Real Estate Commission
20 to deny, revoke, or suspend the license of, or
21 to fine, real estate brokers or salespersons;
22 reenacting ss. 475.180(2)(b), 475.181(2),
23 475.22(2), 475.422(2), 475.482(1), F.S.,
24 relating to nonresident licenses, licensure,
25 refusal of a broker to comply with certain
26 requests or notices, furnishing of copies of
27 termite and roof inspection reports, and
28 recovery from the Real Estate Recovery Fund, to
29 incorporate the amendment to s. 475.25, F.S.,
30 in references thereto; amending s. 475.272,
31 F.S.; deleting a provision that restricts a

1 real estate licensee to operating as a single
2 agent or as a transaction broker; amending s.
3 475.278, F.S.; revising provisions relating to
4 disclosure of authorized brokerage
5 relationships and the corresponding duties of
6 real estate licensees; creating s. 475.279,
7 F.S.; authorizing signatures transmitted by
8 electronic means or facsimile; amending s.
9 475.451, F.S.; revising provisions relating to
10 the permitting of instructors for proprietary
11 real estate schools or state institutions;
12 providing permit renewal requirements; revising
13 references relating to examinations; amending
14 s. 475.452, F.S.; providing requirements
15 applicable to advance expenses, commissions, or
16 fees for brokers auctioning real property;
17 amending s. 475.484, F.S.; providing
18 applicability with respect to a conflict with
19 federal law in the disciplining of certain
20 licensees against whom a judgment has been paid
21 from the Real Estate Recovery Fund; creating s.
22 475.5016, F.S.; granting the department
23 authority to inspect and audit brokers and
24 brokerage offices; amending ss. 475.611 and
25 475.612, F.S.; redesignating registered
26 appraisers as registered assistant appraisers;
27 amending ss. 475.01, 475.011, 475.616, 475.618,
28 475.619, 475.620, 475.622, 475.623, 475.626,
29 475.627, 475.628, 475.629, 475.630, F.S., to
30 conform and correct references; creating s.
31 475.6145, F.S.; providing for a seal for the

1 Florida Real Estate Appraisal Board to
2 authenticate its proceedings, records, and
3 acts; creating s. 475.6147, F.S.; providing a
4 separate section relating to establishment of
5 fees applicable to the regulation of real
6 estate appraisers; amending s. 475.615, F.S.;
7 revising provisions relating to qualifications
8 for registration, licensure, or certification
9 of appraisers; providing for a charge for
10 application for a change in status of appraisal
11 licensure; amending s. 475.617, F.S.; revising
12 continuing education and experience
13 requirements for real estate appraisers;
14 amending s. 475.624, F.S.; revising a ground
15 for disciplinary action to exempt licensees
16 from the reporting of certain violators;
17 creating s. 475.6295, F.S.; granting the
18 department authority to inspect appraisers and
19 appraisal offices; amending s. 553.991, F.S.;
20 limiting the purpose of the "Florida Building
21 Energy-Efficiency Rating Act" to providing for
22 a statewide uniform system for rating the
23 energy efficiency of buildings; amending s.
24 553.994, F.S.; deleting the schedule for
25 phasing in the rating system; amending s.
26 553.996, F.S.; requiring provision of an
27 information brochure to prospective purchasers
28 of certain real property; deleting a provision
29 authorizing such prospective purchasers to
30 receive a rating on the property upon request;
31 providing an effective date.

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

2
3 Section 1. Paragraph (a) of subsection (1) of section
4 475.01, Florida Statutes, is amended to read:

5 475.01 Definitions.--

6 (1) As used in this part:

7 (a) "Broker" means a person who, for another, and for
8 a compensation or valuable consideration directly or
9 indirectly paid or promised, expressly or impliedly, or with
10 an intent to collect or receive a compensation or valuable
11 consideration therefor, appraises, auctions, sells, exchanges,
12 buys, rents, or offers, attempts or agrees to appraise,
13 auction, or negotiate the sale, exchange, purchase, or rental
14 of business enterprises or business opportunities or any real
15 property or any interest in or concerning the same, including
16 mineral rights or leases, or who advertises or holds out to
17 the public by any oral or printed solicitation or
18 representation that she or he is engaged in the business of
19 appraising, auctioning, buying, selling, exchanging, leasing,
20 or renting business enterprises or business opportunities or
21 real property of others or interests therein, including
22 mineral rights, or who takes any part in the procuring of
23 sellers, purchasers, lessors, or lessees of business
24 enterprises or business opportunities or the real property of
25 another, or leases, or interest therein, including mineral
26 rights, or who directs or assists in the procuring of
27 prospects or in the negotiation or closing of any transaction
28 which does, or is calculated to, result in a sale, exchange,
29 or leasing thereof, and who receives, expects, or is promised
30 any compensation or valuable consideration, directly or
31 indirectly therefor; and all persons who advertise rental

1 | property information or lists. A broker renders a
2 | professional service and is a professional within the meaning
3 | of s. 95.11(4)(a). Where the term "appraise" or "appraising"
4 | appears in the definition of the term "broker," it
5 | specifically excludes those appraisal services which must be
6 | performed only by a state-licensed or state-certified
7 | appraiser, and those appraisal services which may be performed
8 | by a registered assistant appraiser as defined in part II.
9 | The term "broker" also includes any person who is a general
10 | partner, officer, or director of a partnership or corporation
11 | which acts as a broker. The term "broker" also includes any
12 | person or entity who undertakes to list or sell one or more
13 | timeshare periods per year in one or more timeshare plans on
14 | behalf of any number of persons, except as provided in ss.
15 | 475.011 and 721.20.

16 | Section 2. Subsection (9) of section 475.011, Florida
17 | Statutes, is amended to read:

18 | 475.011 Exemptions.--This part does not apply to:

19 | (9) Any person registered, licensed, or certified by
20 | the department under part II as an appraiser or assistant
21 | appraiser performing appraisals in accordance with that part.

22 | Section 3. Section 475.15, Florida Statutes, is
23 | amended to read:

24 | 475.15 Registration and licensing of general partners,
25 | members, officers, and directors of a firm.--Each partnership,
26 | limited liability partnership, limited liability company, or
27 | corporation which acts as a broker shall register with the
28 | commission and shall renew the licenses or registrations of
29 | its members, officers, and directors for each license period.
30 | ~~The registration of a partnership is canceled automatically~~
31 | ~~during any period of time that the license or registration of~~

1 ~~any one or more of its partners is not in force.~~ However, if
2 the partnership is a limited partnership, only the general
3 partners must be licensed brokers or brokerage corporations
4 registered pursuant to this part. If the license or
5 registration of at least one active broker member is not in
6 force, the registration of a corporation, limited liability
7 company, limited liability partnership, or partnership is
8 canceled automatically during that period of time.

9 Section 4. Subsection (2) of section 475.17, Florida
10 Statutes, is amended to read:

11 475.17 Qualifications for practice.--

12 (2)(a) In addition to other requirements under this
13 part, the commission may require the satisfactory completion
14 of one or more of the educational courses or equivalent
15 courses conducted, offered, sponsored, prescribed, or approved
16 pursuant to s. 475.04, taken at an accredited college,
17 university, or community college, at an area technical center,
18 or at a registered real estate school, as a condition
19 precedent for any person to become licensed or to renew her or
20 his license as a broker, broker-salesperson, or salesperson.
21 The course or courses required for one to become initially
22 licensed shall not exceed a total of 63 classroom hours of 50
23 minutes each, inclusive of examination, for a salesperson and
24 72 classroom hours of 50 minutes each, inclusive of
25 examination, for a broker. The satisfactory completion of an
26 examination administered by the accredited college,
27 university, or community college, by the area technical
28 center, or by the registered real estate school shall be the
29 basis for determining satisfactory completion of the course.
30 However, notice of satisfactory completion shall not be issued
31 if the student has absences in excess of 8 classroom hours.

1 Such required course or courses must be made available by
2 correspondence or other suitable means to any person who, by
3 reason of hardship, as defined by rule, cannot attend the
4 place or places where the course is regularly conducted.

5 (b) A person may not be licensed as a real estate
6 broker unless, in addition to the other requirements of law,
7 the person has held:

8 1. An active real estate salesperson's license for at
9 least 12 months during the preceding 5 years in the office of
10 one or more real estate brokers licensed in this state or any
11 other state, territory, or jurisdiction of the United States
12 or in any foreign national jurisdiction;

13 2. A current and valid real estate salesperson's
14 license for at least 12 months during the preceding 5 years in
15 the employ of a governmental agency for a salary and
16 performing the duties authorized in this part for real estate
17 licensees; or

18 3. A current and valid real estate broker's license
19 for at least 12 months during the preceding 5 years in any
20 other state, territory, or jurisdiction of the United States
21 or in any foreign national jurisdiction.

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23 This paragraph does not apply to a person employed as a real
24 estate investigator by the Division of Real Estate, provided
25 the person has been employed as a real estate investigator for
26 at least 24 months. The person must be currently employed as a
27 real estate investigator to sit for the real estate broker's
28 examination and have held a valid and current salesperson's
29 license for at least 12 months.

30 (c) A person who has been licensed as a real estate
31 salesperson in Florida during the preceding 5 years may not be

1 licensed as a real estate broker unless, in addition to the
2 other requirements of law, she or he has completed the
3 salesperson postlicensure educational requirements, if these
4 requirements have been prescribed by the commission pursuant
5 to paragraph (3)(a).

6 Section 5. Subsection (2) of section 475.183, Florida
7 Statutes, is amended to read:

8 475.183 Inactive status.--

9 (2) Any license which has been involuntarily inactive
10 for more than 2 ~~4~~ years shall automatically expire. Once a
11 license expires, it becomes null and void without any further
12 action by the commission or department. Ninety days ~~Two years~~
13 prior to expiration of the license, the department shall give
14 notice to the licensee. The commission shall prescribe by
15 rule a fee not to exceed \$100 for the late renewal of an
16 involuntarily inactive license. The department shall collect
17 the current renewal fee for each renewal period in which the
18 license was involuntarily inactive in addition to any
19 applicable late renewal fee.

20 Section 6. Subsection (1) of section 475.25, Florida
21 Statutes, is amended to read:

22 475.25 Discipline.--

23 (1) The commission may deny an application for
24 licensure, registration, or permit, or renewal thereof; may
25 place a licensee, registrant, or permittee on probation; may
26 suspend a license, registration, or permit for a period not
27 exceeding 10 years; may revoke a license, registration, or
28 permit; may impose an administrative fine not to exceed \$1,000
29 for each count or separate offense; and may issue a reprimand,
30 and any or all of the foregoing, if it finds that the
31 licensee, registrant, permittee, or applicant:

1 (a) Has violated any provision of s. 455.227(1) or ~~of~~
2 s. 475.42. However, licensees under this part are exempt from
3 the provisions of s. 455.227(1)(i).

4 (b) Has been guilty of fraud, misrepresentation,
5 concealment, false promises, false pretenses, dishonest
6 dealing by trick, scheme, or device, culpable negligence, or
7 breach of trust in any business transaction in this state or
8 any other state, nation, or territory; has violated a duty
9 imposed upon her or him by law or by the terms of a listing
10 contract, written, oral, express, or implied, in a real estate
11 transaction; has aided, assisted, or conspired with any other
12 person engaged in any such misconduct and in furtherance
13 thereof; or has formed an intent, design, or scheme to engage
14 in any such misconduct and committed an overt act in
15 furtherance of such intent, design, or scheme. It is
16 immaterial to the guilt of the licensee that the victim or
17 intended victim of the misconduct has sustained no damage or
18 loss; that the damage or loss has been settled and paid after
19 discovery of the misconduct; or that such victim or intended
20 victim was a customer or a person in confidential relation
21 with the licensee or was an identified member of the general
22 public.

23 (c) Has advertised property or services in a manner
24 which is fraudulent, false, deceptive, or misleading in form
25 or content.

26 (d)1. Has failed to account or deliver to any person,
27 including a licensee under this chapter, at the time which has
28 been agreed upon or is required by law or, in the absence of a
29 fixed time, upon demand of the person entitled to such
30 accounting and delivery, any personal property such as money,
31 fund, deposit, check, draft, abstract of title, mortgage,

1 conveyance, lease, or other document or thing of value,
2 including a share of a real estate commission if a civil
3 judgment relating to the practice of the licensee's profession
4 has been obtained against the licensee and said judgment has
5 not been satisfied in accordance with the terms of the
6 judgment within a reasonable time, or any secret or illegal
7 profit, or any divisible share or portion thereof, which has
8 come into the licensee's hands and which is not the licensee's
9 property or which the licensee is not in law or equity
10 entitled to retain under the circumstances. However, if the
11 licensee, in good faith, entertains doubt as to what person is
12 entitled to the accounting and delivery of the escrowed
13 property, or if conflicting demands have been made upon the
14 licensee for the escrowed property, which property she or he
15 still maintains in her or his escrow or trust account, the
16 licensee shall promptly notify the commission of such doubts
17 or conflicting demands and shall promptly:

18 a. Request that the commission issue an escrow
19 disbursement order determining who is entitled to the escrowed
20 property;

21 b. With the consent of all parties, submit the matter
22 to arbitration;

23 c. By interpleader or otherwise, seek adjudication of
24 the matter by a court; or

25 d. With the written consent of all parties, submit the
26 matter to mediation. The department may conduct mediation or
27 may contract with public or private entities for mediation
28 services. However, the mediation process must be successfully
29 completed within 90 days following the last demand or the
30 licensee shall promptly employ one of the other escape
31 procedures contained in this section. Payment for mediation

1 will be as agreed to in writing by the parties. The
2 department may adopt rules to implement this section.

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4 If the licensee promptly employs one of the escape procedures
5 contained herein, and if she or he abides by the order or
6 judgment resulting therefrom, no administrative complaint may
7 be filed against the licensee for failure to account for,
8 deliver, or maintain the escrowed property.

9 2. Has failed to deposit money in an escrow account
10 when the licensee is the purchaser of real estate under a
11 contract where the contract requires the purchaser to place
12 deposit money in an escrow account to be applied to the
13 purchase price if the sale is consummated.

14 (e) Has violated any of the provisions of this chapter
15 or any lawful order or rule made or issued under the
16 provisions of this chapter or chapter 455.

17 (f) Has been convicted or found guilty of, or entered
18 a plea of nolo contendere to, regardless of adjudication, a
19 crime in any jurisdiction which directly relates to the
20 activities of a licensed broker or salesperson, or involves
21 moral turpitude or fraudulent or dishonest dealing. The record
22 of a conviction certified or authenticated in such form as to
23 be admissible in evidence under the laws of the state shall be
24 admissible as prima facie evidence of such guilt.

25 (g) Has had a broker's or salesperson's license
26 revoked, suspended, or otherwise acted against, or has had an
27 application for such licensure denied, by the real estate
28 licensing agency of another state, territory, or country.

29 (h) Has shared a commission with, or paid a fee or
30 other compensation to, a person not properly licensed as a
31 broker, broker-salesperson, or salesperson under the laws of

1 this state, for the referral of real estate business, clients,
2 prospects, or customers, or for any one or more of the
3 services set forth in s. 475.01(1)(a). For the purposes of
4 this section, it is immaterial that the person to whom such
5 payment or compensation is given made the referral or
6 performed the service from within this state or elsewhere;
7 however, a licensed broker of this state may pay a referral
8 fee or share a real estate brokerage commission with a broker
9 licensed or registered under the laws of a foreign state so
10 long as the foreign broker does not violate any law of this
11 state.

12 (i) Has become temporarily incapacitated from acting
13 as a broker or salesperson with safety to investors or those
14 in a fiduciary relation with her or him because of
15 drunkenness, use of drugs, or temporary mental derangement;
16 but suspension of a license in such a case shall be only for
17 the period of such incapacity.

18 (j) Has rendered an opinion that the title to any
19 property sold is good or merchantable, except when correctly
20 based upon a current opinion of a licensed attorney at law, or
21 has failed to advise a prospective purchaser to consult her or
22 his attorney on the merchantability of the title or to obtain
23 title insurance.

24 (k) Has failed, if a broker, to immediately place,
25 upon receipt, any money, fund, deposit, check, or draft
26 entrusted to her or him by any person dealing with her or him
27 as a broker in escrow with a title company, banking
28 institution, credit union, or savings and loan association
29 located and doing business in this state, or to deposit such
30 funds in a trust or escrow account maintained by her or him
31 with some bank, credit union, or savings and loan association

1 | located and doing business in this state, wherein the funds
2 | shall be kept until disbursement thereof is properly
3 | authorized; or has failed, if a salesperson, to immediately
4 | place with her or his registered employer any money, fund,
5 | deposit, check, or draft entrusted to her or him by any person
6 | dealing with her or him as agent of the registered employer.
7 | The commission shall establish rules to provide for records to
8 | be maintained by the broker and the manner in which such
9 | deposits shall be made.

10 | (1) Has made or filed a report or record which the
11 | licensee knows to be false, has willfully failed to file a
12 | report or record required by state or federal law, has
13 | willfully impeded or obstructed such filing, or has induced
14 | another person to impede or obstruct such filing; but such
15 | reports or records shall include only those which are signed
16 | in the capacity of a licensed broker or salesperson.

17 | (m) Has obtained a license by means of fraud,
18 | misrepresentation, or concealment.

19 | (n) Is confined in any county jail, postadjudication;
20 | is confined in any state or federal prison or mental
21 | institution; is under home confinement ordered in lieu of
22 | institutional confinement; or, through mental disease or
23 | deterioration, can no longer safely be entrusted to
24 | competently deal with the public.

25 | (o) Has been found guilty, for a second time, of any
26 | misconduct that warrants her or his suspension or has been
27 | found guilty of a course of conduct or practices which show
28 | that she or he is so incompetent, negligent, dishonest, or
29 | untruthful that the money, property, transactions, and rights
30 | of investors, or those with whom she or he may sustain a
31 |

1 confidential relation, may not safely be entrusted to her or
2 him.

3 (p) Has failed to inform the commission in writing
4 within 30 days after pleading guilty or nolo contendere to, or
5 being convicted or found guilty of, any felony.

6 (q) Has violated any provision of s. 475.276 or s.
7 475.278, including the duties owed under those sections.

8 (r) Has failed in any written listing agreement to
9 include a definite expiration date, description of the
10 property, price and terms, fee or commission, and a proper
11 signature of the principal(s); and has failed to give the
12 principal(s) a legible, signed, true and correct copy of the
13 listing agreement within 24 hours of obtaining the written
14 listing agreement. The written listing agreement shall
15 contain no provision requiring the person signing the listing
16 to notify the broker of the intention to cancel the listing
17 after such definite expiration date.

18 (s) Has had a registration suspended, revoked, or
19 otherwise acted against in any jurisdiction. The record of the
20 disciplinary action certified or authenticated in such form as
21 to be admissible in evidence under the laws of the state shall
22 be admissible as prima facie evidence of such disciplinary
23 action.

24 (t) Has violated any standard for the development or
25 communication of a real estate appraisal or other provision of
26 the Uniform Standards of Professional Appraisal Practice, as
27 defined in s. 475.611, as approved and adopted by the
28 Appraisal Standards Board of the Appraisal Foundation, as
29 defined in s. 475.611. This paragraph does not apply to a real
30 estate broker or salesperson who, in the ordinary course of
31 business, performs a comparative market analysis. However, in

1 no event may this comparative market analysis be referred to
2 as an appraisal, as defined in s. 475.611.

3 Section 7. For the purpose of incorporating the
4 amendments to section 475.25, Florida Statutes, in references
5 thereto, paragraph (b) of subsection (2) of section 475.180,
6 Florida Statutes, is reenacted to read:

7 475.180 Nonresident licenses.--

8 (2)

9 (b) Any resident licensee who becomes a nonresident
10 shall, within 60 days, notify the commission of the change in
11 residency and comply with nonresident requirements. Failure to
12 notify and comply is a violation of the license law, subject
13 to the penalties in s. 475.25.

14 Section 8. For the purpose of incorporating the
15 amendments to section 475.25, Florida Statutes, in references
16 thereto, subsection (2) of section 475.181, Florida Statutes,
17 is reenacted to read:

18 475.181 Licensure.--

19 (2) The commission shall certify for licensure any
20 applicant who satisfies the requirements of ss. 475.17,
21 475.175, and 475.180. The commission may refuse to certify any
22 applicant who has violated any of the provisions of s. 475.42
23 or who is subject to discipline under s. 475.25. The
24 application shall expire 1 year from the date received if the
25 applicant fails to take the appropriate examination.

26 Section 9. For the purpose of incorporating the
27 amendments to section 475.25, Florida Statutes, in references
28 thereto, subsection (2) of section 475.22, Florida Statutes,
29 is reenacted to read:

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1 475.22 Broker to maintain office and sign at entrance
2 of office; registered office outside state; broker required to
3 cooperate in investigation.--

4 (2) If a broker's registered office is located outside
5 the State of Florida, prior to registering such office or
6 branch office, the broker shall agree in writing to cooperate
7 and shall cooperate with any investigation initiated in
8 accordance with this chapter or commission rules including,
9 but not limited to, the broker promptly supplying any
10 documents requested by any authorized representative of the
11 department and by personally appearing at any designated
12 office of the department or other location in the state or
13 elsewhere as reasonably requested by the department. If the
14 department sends, by certified mail to the broker at the
15 broker's last known business address as registered with the
16 department, a notice or request to produce any documents or to
17 appear for an interview with an authorized representative of
18 the department and the broker fails to substantially comply
19 with that request or notice, then such failure by the broker
20 is a violation of the license law, subject to the penalties of
21 s. 475.25.

22 Section 10. For the purpose of incorporating the
23 amendments to section 475.25, Florida Statutes, in references
24 thereto, subsection (2) of section 475.422, Florida Statutes,
25 is reenacted to read:

26 475.422 Disclosure.--

27 (2) Failure to comply with this section may subject
28 the licensee to disciplinary action pursuant to s. 475.25.

29 Section 11. For the purpose of incorporating the
30 amendments to section 475.25, Florida Statutes, in references
31

1 thereto, subsection (1) of section 475.482, Florida Statutes,
2 is reenacted to read:

3 475.482 Real Estate Recovery Fund.--There is created
4 the Florida Real Estate Recovery Fund as a separate account in
5 the Professional Regulation Trust Fund.

6 (1) The Florida Real Estate Recovery Fund shall be
7 disbursed as provided in s. 475.484, on order of the
8 commission, as reimbursement to any person, partnership, or
9 corporation adjudged by a court of competent civil
10 jurisdiction in this state to have suffered monetary damages
11 by reason of any act committed, as a part of any real estate
12 brokerage transaction involving real property in this state,
13 by any broker or salesperson who:

14 (a) Was, at the time the alleged act was committed,
15 the holder of a current, valid, active real estate license
16 issued under this part;

17 (b) Was neither the seller, buyer, landlord, or tenant
18 in the transaction nor an officer or a director of a
19 corporation or a member of a partnership which was the seller,
20 buyer, landlord, or tenant in the transaction; and

21 (c) Was acting solely in the capacity of a real estate
22 licensee in the transaction;

23

24 provided the act was a violation proscribed in s. 475.25 or s.
25 475.42.

26 Section 12. Section 475.272, Florida Statutes, is
27 amended to read:

28 475.272 Purpose.--In order to eliminate confusion and
29 provide for a better understanding on the part of customers in
30 real estate transactions, the Legislature finds that the

31

1 intent of the Brokerage Relationship Disclosure Act is to
2 provide that:

3 (1) Disclosed dual agency as an authorized form of
4 representation by a real estate licensee in this state is
5 expressly revoked;

6 (2) Real estate licensees be required to disclose to
7 customers upon first contact in residential real estate
8 transactions that they are not and will not be represented by
9 a licensee in a real estate transaction unless they engage a
10 real estate licensee in an authorized form of representation,
11 either as a single agent or as a transaction broker;

12 (3) Disclosure requirements for real estate licensees
13 relating to nonrepresentation and authorized forms of
14 brokerage representation are established;

15 ~~(4) Florida law provides that real estate licensees~~
16 ~~will operate as single agents or in a limited representative~~
17 ~~capacity known as transaction brokers;~~

18 (4)~~(5)~~ Single agents may represent either a buyer or a
19 seller, but not both, in a real estate transaction; and

20 (5)~~(6)~~ Transaction brokers provide a limited form of
21 nonfiduciary representation to a buyer, a seller, or both in a
22 real estate transaction.

23 Section 13. Section 475.278, Florida Statutes, is
24 amended to read:

25 475.278 Authorized brokerage relationships; required
26 disclosures.--

27 (1) AUTHORIZED BROKERAGE RELATIONSHIPS.--A real estate
28 licensee in this state may enter into a brokerage relationship
29 as either a single agent or as a transaction broker with
30 potential buyers and sellers. A real estate licensee may not
31 operate as a disclosed or nondisclosed dual agent. As used in

1 | this section, the term "dual agent" means a broker who
2 | represents as a fiduciary both the prospective buyer and the
3 | prospective seller in a real estate transaction. Once a
4 | brokerage relationship is established, this part does not
5 | prevent a licensee from changing from one brokerage
6 | relationship to the other as long as the buyer or the seller,
7 | or both, gives consent as required by subparagraph (3)(c)2.
8 | before the change and the appropriate disclosure of duties as
9 | provided in this part is made to the buyer or seller. This
10 | part does not require a customer to enter into a brokerage
11 | relationship with any real estate licensee.

12 | (2) TRANSACTION BROKER RELATIONSHIP.--

13 | (a) Transaction broker - duties of limited
14 | representation.--A transaction broker provides a limited form
15 | of representation to a buyer, a seller, or both in a real
16 | estate transaction but does not represent either in a
17 | fiduciary capacity or as a single agent. The duties of the
18 | real estate licensee in this limited form of representation
19 | include the following:

- 20 | 1. Dealing honestly and fairly;
- 21 | 2. Accounting for all funds;
- 22 | 3. Using skill, care, and diligence in the
23 | transaction;
- 24 | 4. Disclosing all known facts that materially affect
25 | the value of residential real property and are not readily
26 | observable to the buyer;
- 27 | 5. Presenting all offers and counteroffers in a timely
28 | manner, unless a party has previously directed the licensee
29 | otherwise in writing;
- 30 | 6. Limited confidentiality, unless waived in writing
31 | by a party. This limited confidentiality will prevent

1
2 As a transaction broker, (insert name of Real
3 Estate Firm and its Associates), provides to you a limited
4 form of representation that includes the following duties:
5 1. Dealing honestly and fairly;
6 2. Accounting for all funds;
7 3. Using skill, care, and diligence in the
8 transaction;
9 4. Disclosing all known facts that materially affect
10 the value of residential real property and are not readily
11 observable to the buyer;
12 5. Presenting all offers and counteroffers in a timely
13 manner, unless a party has previously directed the licensee
14 otherwise in writing;
15 6. Limited confidentiality, unless waived in writing
16 by a party. This limited confidentiality will prevent
17 disclosure that the seller will accept a price less than the
18 asking or listed price, that the buyer will pay a price
19 greater than the price submitted in a written offer, of the
20 motivation of any party for selling or buying property, that a
21 seller or buyer will agree to financing terms other than those
22 offered, or of any other information requested by a party to
23 remain confidential; and
24 7. Any additional duties that are entered into by this
25 or by separate written agreement.
26
27 Limited representation means that a buyer or seller is not
28 responsible for the acts of the licensee. Additionally,
29 parties are giving up their rights to the undivided loyalty of
30 the licensee. This aspect of limited representation allows a
31 licensee to facilitate a real estate transaction by assisting

1 both the buyer and the seller, but a licensee will not work to
2 represent one party to the detriment of the other party when
3 acting as a transaction broker to both parties.

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7 Date Signature
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10 Signature

11 (3) SINGLE AGENT RELATIONSHIP.--

12 (a) Single agent - duties.--The duties of a real
13 estate licensee owed to a buyer or seller who engages the real
14 estate licensee as a single agent include the following:

- 15 1. Dealing honestly and fairly;
- 16 2. Loyalty;
- 17 3. Confidentiality;
- 18 4. Obedience;
- 19 5. Full disclosure;
- 20 6. Accounting for all funds;
- 21 7. Skill, care, and diligence in the transaction; ~~and~~
- 22 8. Presenting all offers and counteroffers in a timely
23 manner, unless a party has previously directed the licensee
24 otherwise in writing; ~~and-~~

25 9. Disclosing all known facts that materially affect
26 the value of residential real property and are not readily
27 observable.

28 (b) Disclosure requirements.--

29 1. Single agent disclosure.--Duties of a single agent
30 must be fully described and disclosed in writing to a buyer or
31 seller either as a separate and distinct disclosure document

1 or included as part of another document such as a listing
2 agreement or other agreement for representation. The
3 disclosure must be made before, or at the time of, entering
4 into a listing agreement or an agreement for representation.
5 When incorporated into other documents, the required notice
6 must be of the same size type, or larger, as other provisions
7 of the document and must be conspicuous in its placement so as
8 to advise customers of the duties of a single agent, except
9 that the first sentence of the information identified in
10 paragraph (c) must be printed in uppercase and bold type.

11 2. Transition to transaction broker disclosure.--A
12 single agent relationship may be changed to a transaction
13 broker relationship at any time during the relationship
14 between an agent and principal, provided the agent gives the
15 disclosure required under paragraph (2)(b) and the principal
16 gives to the agent consent as required under subparagraph
17 (c)2. before a change in relationship. This disclosure must be
18 in writing to the principal either as a separate and distinct
19 document or included as part of other documents such as a
20 listing agreement or other agreements for representation. When
21 incorporated into other documents, the required notice must be
22 of the same size type, or larger, as other provisions of the
23 document and must be conspicuous in its placement so as to
24 advise customers of the duties of limited representation,
25 except that the first sentence of the information identified
26 in subparagraph (c)2. must be printed in uppercase and bold
27 type.

28 (c) Contents of disclosure.--

29 1. Single agent duties disclosure.--The notice
30 required under subparagraph (b)1. must include the following
31 information in the following form:

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SINGLE AGENT NOTICE

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS SINGLE AGENTS DISCLOSE TO BUYERS AND SELLERS THEIR DUTIES.

As a single agent, (insert name of Real Estate Entity and its Associates) owe to you the following duties:

- 1. Dealing honestly and fairly;
- 2. Loyalty;
- 3. Confidentiality;
- 4. Obedience;
- 5. Full disclosure;
- 6. Accounting for all funds;
- 7. Skill, care, and diligence in the transaction; ~~and~~
- 8. Presenting all offers and counteroffers in a timely

manner, unless a party has previously directed the licensee otherwise in writing; ~~and~~

9. Disclosing all known facts that materially affect the value of residential real property and are not readily observable.

.....
Date	Signature

2. Transition disclosure.--The notice required under subparagraph (b)2. must include the following information in the following form as well as the information required in paragraph (2)(c):

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CONSENT TO TRANSITION TO TRANSACTION BROKER

FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER OR SELLER AS A SINGLE AGENT TO CHANGE FROM A SINGLE AGENT RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN ORDER FOR THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE TRANSACTION BY PROVIDING A LIMITED FORM OF REPRESENTATION TO BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP CANNOT OCCUR WITHOUT YOUR PRIOR WRITTEN CONSENT.

.....I agree that my agent may assume the role and duties of a transaction broker. [must be initialed or signed]

(4) NO BROKERAGE RELATIONSHIP - DUTIES.--A real estate licensee owes to a customer with whom the licensee has no brokerage relationship the following duties:

- (a) Dealing honestly and fairly;
- (b) Disclosing all known facts that materially affect the value of the residential real property which are not readily observable to the buyer; and
- (c) Accounting for all funds entrusted to the licensee.

Section 14. Section 475.279, Florida Statutes, is created to read:

475.279 Facsimile signatures or writing
accepted.--When any act performed under part I of this chapter
must be performed in writing or acknowledged with a signature,
the provision of an instrument or writing by electronic means
or facsimile, including a signature transmitted by electronic
means or facsimile, is binding and sufficient.

1 Section 15. Section 475.451, Florida Statutes, is
2 amended to read:

3 475.451 Schools teaching real estate practice.--

4 (1) Each person, school, or institution, except
5 approved and accredited colleges, universities, community
6 colleges, and area technical centers in this state, which
7 offers or conducts any course of study in real estate
8 practice, teaches any course prescribed by the commission as a
9 condition precedent to licensure or renewal of licensure as a
10 broker or salesperson, or teaches any course designed or
11 represented to enable or assist applicants for licensure as
12 brokers or salespersons to pass examinations for such
13 licensure ~~conducted by the department~~ shall, before commencing
14 or continuing further to offer or conduct such course or
15 courses, obtain a permit from the department and abide by the
16 regulations imposed upon such person, school, or institution
17 by this chapter and rules of the commission adopted pursuant
18 to this chapter. The exemption for colleges, universities,
19 community colleges, and area technical centers is limited to
20 transferable college credit courses offered by such
21 institutions.

22 (2) An applicant for a permit to operate a proprietary
23 real estate school, to be a chief administrator of a
24 proprietary real estate school or a state institution, or to
25 be an instructor for a proprietary real estate school or a
26 state institution must meet the qualifications for practice
27 set forth in s. 475.17(1) and the following minimal
28 requirements:

29 (a) "School permitholder" means the ~~is defined as that~~
30 individual who is responsible for directing the overall
31 operation of a proprietary real estate school. A school

1 permitholder ~~she or he~~ must be the holder of a license as a
2 broker, either active or voluntarily inactive, or must have
3 passed an instructor's examination approved by the commission
4 ~~administered by the department~~. A school permitholder must
5 also meet the requirements of a school instructor if ~~she or he~~
6 ~~is~~ actively engaged in teaching.

7 (b) "Chief administrative person" means the ~~is defined~~
8 ~~as that~~ individual who is responsible for the administration
9 of the overall policies and practices of the institution or
10 proprietary real estate school. A chief administrative person
11 ~~she or he~~ must also meet the requirements of a school
12 instructor if ~~she or he is~~ actively engaged in teaching.

13 (c) "School instructor" means an ~~is defined as that~~
14 individual who ~~actively~~ instructs persons in the classroom in
15 noncredit college courses in a college, university, or
16 community college or courses in an area technical center or
17 proprietary real estate school.

18 1. Before commencing to provide such instruction, the
19 applicant ~~instruct noncredit college courses in a college,~~
20 ~~university, or community college, or courses in an area~~
21 ~~technical center or proprietary real estate school, she or he~~
22 must certify the applicant's ~~her or his~~ competency and obtain
23 an instructor permit by meeting one of the following
24 requirements:

25 a. Hold a bachelor's degree in a business-related
26 subject, such as real estate, finance, accounting, business
27 administration, or its equivalent and hold a valid broker's
28 license in this state.

29 b. Hold a bachelor's degree, have extensive real
30 estate experience, as defined by rule, and hold a valid
31 broker's license in this state.

1 c. Pass an instructor's examination approved by the
2 commission administered by the Division of Real Estate.

3 2. Any requirement by the commission for a teaching
4 demonstration or practical examination must apply to all
5 school instructor applicants.

6 3. The department shall renew an instructor permit
7 upon receipt of a renewal application and fee. The renewal
8 application shall include proof that the permitholder has,
9 since the issuance or renewal of the current permit, Every
10 second year, each instructor must recertify her or his
11 competency by presenting to the commission evidence of her or
12 his having successfully completed a minimum of 15 classroom
13 hours of instruction in real estate subjects or instructional
14 techniques, as prescribed by the commission. The commission
15 shall adopt rules providing for the renewal of instructor
16 permits at least every 2 years. Any permit that is not renewed
17 at the end of the permit period established by the department
18 shall automatically revert to involuntarily inactive status.

19
20 The department may require an applicant to submit names of
21 persons having knowledge concerning the applicant and the
22 enterprise; may propound interrogatories to such persons and
23 to the applicant concerning the character of the applicant,
24 including the taking of fingerprints for processing through
25 the Federal Bureau of Investigation; and shall make such
26 investigation of the applicant or the school or institution as
27 it may deem necessary to the granting of the permit. If an
28 objection is filed, it shall be considered in the same manner
29 as objections or administrative complaints against other
30 applicants for licensure by the department.

31

1 (3) It is unlawful for any person, school, or
2 institution to offer the courses described in subsection (1)
3 or to conduct classes in such courses, regardless of the
4 number of pupils, whether by correspondence or otherwise,
5 without first procuring a permit, or to guarantee that its
6 pupils will pass any examinations required for licensure ~~given~~
7 ~~by the department~~, or to represent that the issuance of a
8 permit is any recommendation or endorsement of the person,
9 school, or institution to which it is issued or of any course
10 of instruction given thereunder.

11 (4) Any person who violates this section commits ~~is~~
12 ~~guilty of~~ a misdemeanor of the second degree, punishable as
13 provided in s. 775.082 or s. 775.083.

14 (5) The location of classes and frequency of class
15 meetings shall be in the discretion of the school offering
16 real estate courses, so long as such courses conform to s.
17 475.17(2).

18 (6) Any course prescribed by the commission as a
19 condition precedent to any person's becoming initially
20 licensed as a salesperson may be taught in any real estate
21 school through the use of a video tape of instruction by a
22 currently permitted ~~licensed~~ instructor from any such school.
23 The commission may require that any such video tape course
24 have a single session of live instruction by a currently
25 permitted ~~licensed~~ instructor from any such school; however,
26 this requirement shall not exceed 3 classroom hours. All
27 other prescribed courses, except the continuing education
28 course required by s. 475.182, shall be taught by a currently
29 permitted ~~licensed~~ school instructor personally in attendance
30 at such course. The continuing education course required by
31 s. 475.182 may be taught by an equivalent correspondence

1 course; however, any such course of correspondence shall be
2 required to have a final examination, prepared and
3 administered by the school issuing the correspondence course.
4 The continuing education requirements provided in this section
5 or provided in any other section in this chapter do not apply
6 with respect to any attorney who is otherwise qualified under
7 the provisions of this chapter.

8 (7) Any person holding a school instructor permit on
9 October 1, 1983, is exempt from the instructor examination
10 requirements of paragraph (2)(c) as long as the person
11 continuously holds such a permit and complies with all other
12 requirements of this chapter.

13 (8) A permitholder under ~~pursuant to~~ this section may
14 be issued additional permits whenever it is clearly shown that
15 the requested additional permits are necessary to the conduct
16 of the business of a real estate school and that the
17 additional permits will not be used in a manner likely to be
18 prejudicial to any person, including a licensee or a
19 permitholder under this chapter.

20 Section 16. Subsection (6) is added to section
21 475.452, Florida Statutes, to read:

22 475.452 Advance fees; deposit; accounting; penalty;
23 damages.--

24 (6) This section does not apply to a real estate
25 broker auctioning real property if in advance of the auction
26 the broker and seller have entered into a written agreement
27 specifically providing for anticipated expenses to be incurred
28 and paid. However, any trust funds received by the broker in
29 advance of the auction may not be disbursed or otherwise used
30 as an advance commission or fee for services without the

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1 broker's first having complied with the provisions of this
2 subsection.

3 Section 17. Subsection (7) of section 475.484, Florida
4 Statutes, is amended to read:

5 475.484 Payment from the fund.--

6 (7) Upon the payment of any amount from the Real
7 Estate Recovery Fund in settlement of a claim in satisfaction
8 of a judgment against a broker or salesperson as described in
9 s. 475.482(1), the license of such broker or salesperson shall
10 be automatically suspended upon the date of payment from the
11 fund. The license of such broker or salesperson may not be
12 reinstated until the licensee has repaid in full, plus
13 interest, the amount paid from the fund. No further
14 administrative action is necessary. A discharge of bankruptcy
15 does not relieve a licensee from the penalties and
16 disabilities provided in this section, except to the extent
17 that this subsection conflicts with 11 U.S.C. s. 525, in which
18 case the commission may order the license not to be suspended
19 or otherwise discriminated against.

20 Section 18. Section 475.5016, Florida Statutes, is
21 created to read:

22 475.5016 Authority to inspect and audit.--Duly
23 authorized agents and employees of the department shall have
24 the power to inspect and audit in a lawful manner at all
25 reasonable hours any broker or brokerage office licensed under
26 this chapter, for the purpose of determining if any of the
27 provisions of this chapter, chapter 455, or any rule adopted
28 under authority of either chapter is being violated.

29 Section 19. Paragraphs (a), (e), and (l) of subsection
30 (1) and subsection (2) of section 475.611, Florida Statutes,
31 are amended to read:

1 475.611 Definitions.--

2 (1) As used in this part, the term:

3 (a) "Appraisal" or "appraisal services" means the
4 services provided by certified ~~or~~ licensed appraisers, or
5 registered assistant appraisers, and includes:

6 1. "Appraisal assignment" denotes an engagement for
7 which a person is employed or retained to act, or could be
8 perceived by third parties or the public as acting, as an
9 agent or a disinterested third party in rendering an unbiased
10 analysis, opinion, review, or conclusion relating to the
11 nature, quality, value, or utility of specified interests in,
12 or aspects of, identified real property.

13 2. "Analysis assignment" denotes appraisal services
14 that relate to the employer's or client's individual needs or
15 investment objectives and includes specialized marketing,
16 financing, and feasibility studies as well as analyses,
17 opinions, and conclusions given in connection with activities
18 such as real estate brokerage, mortgage banking, or real
19 estate counseling.

20 (e) "Appraiser" means any person who is a registered
21 assistant real estate appraiser, licensed real estate
22 appraiser, or a certified real estate appraiser. An appraiser
23 renders a professional service and is a professional within
24 the meaning of s. 95.11(4)(a).

25 (1) "Registered assistant appraiser" means a person
26 who is registered with the department as qualified to perform
27 appraisal services under the supervision of a licensed or
28 certified appraiser.

29 (2) Wherever the word "operate" or "operating" appears
30 in this part with respect to a registered assistant appraiser,
31 licensed appraiser, or certified appraiser; in any order,

1 rule, or regulation of the board; in any pleading, indictment,
2 or information under this part section; in any court action or
3 proceeding; or in any order or judgment of a court, it shall
4 be deemed to mean the commission of one or more acts described
5 in this part section as constituting or defining a registered
6 assistant appraiser, licensed appraiser, or certified
7 appraiser, not including, however, any of the exceptions
8 stated therein. A single act is sufficient to bring a person
9 within the meaning of this subsection section, and each act,
10 if prohibited herein, constitutes a separate offense.

11 Section 20. Section 475.612, Florida Statutes, is
12 amended to read:

13 475.612 Certification, ~~or~~ licensure, or registration
14 required.--

15 (1) A person may not use the title "certified real
16 estate appraiser," "licensed real estate appraiser," or
17 "registered assistant real estate appraiser," or any
18 abbreviation or words to that effect, or issue an appraisal
19 report in connection with any federally related transaction,
20 unless such person is certified, licensed, or registered by
21 the department under ~~pursuant to this part section~~. However,
22 the work upon which an appraisal report is based may be
23 performed by a person who is not a certified ~~or~~ licensed
24 appraiser ~~or~~ registered assistant appraiser if the report is
25 approved and signed by a certified or licensed appraiser.

26 (2) This section does not preclude a broker,
27 salesperson, or broker-salesperson who is not a certified ~~or~~ licensed
28 real estate appraiser ~~or~~ registered assistant real
29 estate appraiser from appraising real estate for compensation.
30 Such persons may continue to provide appraisals and appraisal
31 services for compensation so long as they do not represent

1 themselves as certified,~~or~~ licensed, or registered under this
2 part section.

3 (3) This section does ~~shall~~ not apply to a real estate
4 broker or salesperson who, in the ordinary course of business,
5 performs a comparative market analysis and/or gives an opinion
6 of the value of real estate. However, in no event may this
7 opinion be referred to or construed as an appraisal.

8 (4) This section does ~~shall~~ not prevent any state
9 court or administrative law judge from certifying as an expert
10 witness in any legal or administrative proceeding an appraiser
11 who is not certified, licensed, or registered; nor does ~~shall~~
12 it prevent any appraiser from testifying, with respect to the
13 results of an appraisal.

14 (5) This section does ~~shall~~ not apply to any full-time
15 graduate student who is enrolled in a degree program in
16 appraising at a college or university in this state, if the
17 student is acting under the direct supervision of a certified
18 or licensed appraiser or licensed broker and is engaged only
19 in appraisal activities related to the approved degree
20 program. Any appraisal report by the student must be issued in
21 the name of the supervising individual.

22 (6) This section does ~~shall~~ not apply to any employee
23 of a local, state, or federal agency who performs appraisal
24 services within the scope of her or his employment. However,
25 this exemption does ~~shall~~ not apply where any local, state, or
26 federal agency requires an employee to be registered,
27 licensed, or certified to perform appraisal services.

28 Section 21. Section 475.6145, Florida Statutes, is
29 created to read:

30 475.6145 Seal.--The board shall adopt a seal by which
31 it shall authenticate its proceedings, records, and acts.

1 Copies of the proceedings, records, and acts of the board, and
2 certificates purporting to relate the facts concerning such
3 proceedings, records, and acts, which are signed by the board
4 chair, the custodian of such records, or any other person
5 authorized to make such certification and which are
6 authenticated by such seal, shall be prima facie evidence of
7 such proceedings, records, and acts in all courts of this
8 state.

9 Section 22. Section 475.6147, Florida Statutes, is
10 created to read:

11 475.6147 Fees.--

12 (1) The board by rule may establish fees to be paid
13 for application, licensing and renewal, certification and
14 recertification, reinstatement, and recordmaking and
15 recordkeeping. The fee for initial application may not exceed
16 \$150, and the combined cost of the application and examination
17 may not exceed \$300. The initial license fee and the license
18 renewal fee may not exceed \$150 for each year of the duration
19 of the license. The board may also establish by rule a late
20 renewal penalty. The board shall establish fees that are
21 adequate to ensure its continued operation. Fees shall be
22 based on estimates made by the department of the revenue
23 required to implement this part and other provisions of law
24 relating to the regulation of real estate appraisers.

25 (2) Application and license fees shall be refunded
26 upon a determination by the board that the state is not
27 entitled to the fees or that only a portion of the resources
28 have been expended in the processing of the application or
29 shall be refunded if for any other reason the application is
30 not completely processed. The board shall implement this
31 subsection by rule.

1 Section 23. Section 475.615, Florida Statutes, is
2 amended to read:

3 475.615 Qualifications for registration, licensure, or
4 certification.--

5 (1) Any person desiring to act as a registered
6 assistant appraiser or as a licensed or certified appraiser
7 must make application in writing to the department in such
8 form and detail as the board shall prescribe. Each applicant
9 must be at least 18 years of age and hold a high school
10 diploma or its equivalent. At the time of application, a
11 person must furnish evidence of successful completion of
12 required education and evidence of required experience, if
13 any.

14 (2) The board is authorized to waive or modify any
15 education, experience, or examination requirements established
16 in this section in order to conform with any such requirements
17 established by the Appraisal Qualifications Board of the
18 Appraisal Foundation and recognized by the Appraisal
19 Subcommittee or any successor body recognized by federal law.

20 (3) Appropriate fees, as set forth in the rules of the
21 board pursuant to s. 475.6147, and fingerprints for processing
22 through appropriate law enforcement agencies must accompany
23 all applications for registration, licensure, and
24 certification.

25 (4) In the event that the applicant is currently a
26 registered assistant appraiser or a licensed or certified
27 appraiser and is making application to obtain a different
28 status of appraisal licensure, should such application be
29 received by the department within 180 days prior to through
30 180 days after the applicant's scheduled renewal, the charge
31

1 for the application shall be established by the rules of the
2 board pursuant to s. 475.6147.

3 (5)~~(4)~~ At the time of filing a notarized application
4 for registration, licensure, or certification, the applicant
5 must sign a pledge to comply with the Uniform Standards of
6 Professional Appraisal Practice upon registration, licensure,
7 or certification, and must indicate in writing that she or he
8 understands the types of misconduct for which disciplinary
9 proceedings may be initiated. The application shall expire 1
10 year from the date received, if the applicant for
11 registration, licensure, or certification fails to take the
12 appropriate examination.

13 (6)~~(5)~~ All applicants must be competent and qualified
14 to make real estate appraisals with safety to those with whom
15 they may undertake a relationship of trust and confidence and
16 the general public. If any applicant has been denied
17 registration, licensure, or certification, or has been
18 disbarred, or the applicant's registration, license, or
19 certificate to practice or conduct any regulated profession,
20 business, or vocation has been revoked or suspended by this or
21 any other state, any nation, or any possession or district of
22 the United States, or any court or lawful agency thereof,
23 because of any conduct or practices which would have warranted
24 a like result under this part ~~section~~, or if the applicant has
25 been guilty of conduct or practices in this state or elsewhere
26 which would have been grounds for disciplining her or his
27 registration, license, or certification under this part
28 ~~section~~ had the applicant then been a registered assistant
29 appraiser or a~~licensed,~~ or certified appraiser, the
30 applicant shall be deemed not to be qualified unless, because
31 of lapse of time and subsequent good conduct and reputation,

1 or other reason deemed sufficient, it appears to the board
2 that the interest of the public is not likely to be endangered
3 by the granting of registration, licensure, or certification.

4 ~~(7)(6)~~ No applicant seeking to become registered,
5 licensed, or certified under this part ~~section~~ may be rejected
6 solely by virtue of membership or lack of membership in any
7 particular appraisal organization.

8 Section 24. Subsections (3) and (4) of section
9 475.616, Florida Statutes, are amended to read:

10 475.616 Examination requirements.--To be licensed or
11 certified as an appraiser, the applicant must demonstrate, by
12 passing a written examination, that she or he possesses:

13 (3) An understanding of the standards for the
14 development and communication of real estate appraisals as
15 provided in this part ~~section~~.

16 (4) An understanding of the types of misconduct for
17 which disciplinary proceedings may be initiated against a
18 licensed or certified appraiser, as set forth in this part
19 ~~section~~.

20 Section 25. Section 475.617, Florida Statutes, is
21 amended to read:

22 475.617 Education and experience requirements.--

23 (1) To be registered as an assistant appraiser, an
24 applicant must present evidence satisfactory to the board that
25 she or he has successfully completed at least ~~up to~~ 75 hours
26 of approved academic courses in subjects related to real
27 estate appraisal, which shall include coverage of the Uniform
28 Standards of Professional Appraisal Practice from a nationally
29 recognized or state-recognized appraisal organization, area
30 technical center, accredited community college, college, or
31 university, state or federal agency or commission, or

1 proprietary real estate school that holds a permit pursuant to
2 s. 475.451. The board may increase the required number of
3 hours to no more than 100 hours. A classroom hour is defined
4 as 50 minutes out of each 60-minute segment. Past courses may
5 be approved on an hour-for-hour basis.

6 (2) To be licensed as an appraiser, an applicant must
7 present evidence satisfactory to the board that she or he:

8 (a) Has 2 years of experience in real property
9 appraisal as defined by rule.

10 (b) Has successfully completed at least 90 ~~75~~
11 classroom hours, inclusive of examination, of approved
12 academic courses in subjects related to real estate appraisal,
13 which shall include coverage of the Uniform Standards of
14 Professional Appraisal Practice from a nationally recognized
15 or state-recognized appraisal organization, area technical
16 center, accredited community college, college, or university,
17 state or federal agency or commission, or proprietary real
18 estate school that holds a permit pursuant to s. 475.451. The
19 board may increase the required number of hours to no more
20 than 120 hours. A classroom hour is defined as 50 minutes out
21 of each 60-minute segment. Past courses may be approved by
22 the board and substituted on an hour-for-hour basis.

23 (3) To be certified as a residential appraiser, an
24 applicant must present satisfactory evidence to the board that
25 she or he:

26 (a) Has 2,500 hours ~~2 years~~ of experience obtained
27 over a 24-month period in real property appraisal as defined
28 by rule.

29 (b) Has successfully completed at least 120 ~~up to 165~~
30 classroom hours, inclusive of examination, of approved
31 academic courses in subjects related to real estate appraisal,

1 which shall include coverage of the Uniform Standards of
2 Professional Appraisal Practice from a nationally recognized
3 or state-recognized appraisal organization, area technical
4 center, accredited community college, college, or university,
5 state or federal agency or commission, or proprietary real
6 estate school that holds a permit pursuant to s. 475.451. The
7 board may increase the required number of hours to no more
8 than 165 hours. A classroom hour is defined as 50 minutes out
9 of each 60-minute segment. Past courses may be approved by
10 the board and substituted on an hour-for-hour basis.

11 (4) To be certified as a general appraiser, an
12 applicant must present evidence satisfactory to the board that
13 she or he:

14 (a) Has 3,000 hours ~~2-years~~ of experience obtained
15 over a 30-month period in real property appraisal as defined
16 by rule.

17 (b) Has successfully completed at least 180 ~~165~~
18 classroom hours, inclusive of examination, of approved
19 academic courses in subjects related to real estate appraisal,
20 which shall include coverage of the Uniform Standards of
21 Professional Appraisal Practice from a nationally recognized
22 or state-recognized appraisal organization, area technical
23 center, accredited community college, college, or university,
24 state or federal agency or commission, or proprietary real
25 estate school that holds a permit pursuant to s. 475.451. The
26 board may increase the required number of hours to no more
27 than 225 hours. A classroom hour is defined as 50 minutes out
28 of each 60-minute segment. Past courses may be approved by
29 the board and substituted on an hour-for-hour basis.

30 (5) Each applicant must furnish, under oath, a
31 detailed statement of the experience for each year of

1 | experience she or he claims. Upon request, the applicant
2 | shall furnish to the board, for its examination, copies of
3 | appraisal reports or file memoranda to support the claim for
4 | experience.

5 | Section 26. Subsection (4) of section 475.618, Florida
6 | Statutes, is amended to read:

7 | 475.618 Renewal of registration, license,
8 | certification, or instructor permit; continuing education.--

9 | (4) At least 60 days prior to the end of the
10 | registration, license, certification, or instructor permit
11 | period, the department shall cause to be mailed a notice of
12 | renewal and possible reversion to the last known address of
13 | the registered assistant ~~registrant~~, licensee,
14 | certificateholder, or permitholder.

15 | Section 27. Subsection (2) of section 475.619, Florida
16 | Statutes, is amended to read:

17 | 475.619 Inactive status.--

18 | (2) Any registration, license, or certification which
19 | has been inactive for more than 4 years shall automatically
20 | expire. Once a registration, license, or certification
21 | expires, it becomes null and void without any further action
22 | by the board or department. Two years prior to the expiration
23 | of the registration, license, or certification, the department
24 | shall give notice by mail to the registered assistant
25 | ~~registrant~~, licensee, or certificateholder at her or his last
26 | known address. The board shall prescribe by rule a fee not to
27 | exceed \$100 for the late renewal of an inactive registration,
28 | license, or certification. The department shall collect the
29 | current renewal fee for each renewal period in which the
30 | registration, license, or certification was inactive, in
31 | addition to any applicable late renewal fee.

1 Section 28. Section 475.620, Florida Statutes, is
2 amended to read:

3 475.620 Corporations and partnerships ineligible for
4 licensure or certification.--

5 (1) A license or certification may not be issued under
6 this part ~~section~~ to a corporation, partnership, firm, or
7 group. However, an appraiser licensed or certified under this
8 part ~~section~~ may provide an appraisal report for or on behalf
9 of a corporation, partnership, firm, or group, if the report
10 is prepared by, or under the personal direction of, such
11 appraiser and is reviewed and signed by her or him.

12 (2) The term "state-registered assistant appraiser,"
13 "state-licensed appraiser," or "state-certified appraiser" may
14 only be used to refer to an individual who is registered,
15 licensed, or certified under this part ~~section~~ and may not be
16 used following or immediately in connection with the name or
17 signature of a corporation, partnership, firm, or group, or in
18 such manner that it could be interpreted as implying
19 registration, licensure, or certification under this part
20 ~~section~~ of a corporation, partnership, firm, or group, or
21 anyone other than an individual appraiser. Corporations,
22 partnerships, firms, or groups which employ certified or,
23 licensed appraisers, or registered assistant appraisers who
24 provide appraisal reports, as defined by this part ~~section~~,
25 may represent to the public and advertise that they offer
26 appraisals performed by registered, licensed, or certified
27 appraisers.

28 Section 29. Section 475.622, Florida Statutes, is
29 amended to read:

30 475.622 Display and disclosure of licensure, or
31 certification, or registration.--

1 (1) Each appraiser registered, licensed, or certified
2 under this ~~part section~~ shall place her or his registration,
3 license, or certification number adjacent to or immediately
4 beneath the designation "state-registered assistant real
5 estate appraiser," "state-licensed real estate appraiser,"
6 "state-certified residential real estate appraiser," or
7 "state-certified general real estate appraiser," or their
8 appropriate abbreviations as defined by rule, as applicable,
9 when such term is used in an appraisal report or in a contract
10 or other instrument used by the appraiser in conducting real
11 property appraisal activities. The applicable designation
12 shall be included in any newspaper, telephone directory, or
13 other advertising medium, as defined by rule, used by the
14 appraiser.

15 (2) A registered assistant appraiser ~~or~~ licensed ~~or~~
16 certified appraiser may not sign any appraisal report or
17 communicate same without disclosing in writing that she or he
18 is a state-registered assistant appraiser ~~or~~ state-licensed,
19 state-certified residential, or state-certified general
20 appraiser, as applicable, even if the appraisal performed is
21 outside of the scope of the appraiser's registration,
22 licensure, or certification as an appraiser.

23 Section 30. Section 475.623, Florida Statutes, is
24 amended to read:

25 475.623 Registration of office location.--Each
26 appraiser registered, licensed, or certified under this part
27 ~~section~~ shall furnish in writing to the department each
28 business address from which she or he operates in the
29 performance of appraisal services. Each appraiser must notify
30 the department of any change of address within 10 days on a
31 form provided by the department.

1 Section 31. Section 475.624, Florida Statutes, is
2 amended to read:

3 475.624 Discipline.--The board may deny an application
4 for registration, licensure, or certification; may investigate
5 the actions of any appraiser registered, licensed, or
6 certified under this part section; ~~and~~ may reprimand or impose
7 an administrative fine not to exceed \$5,000 for each count or
8 separate offense against any such appraiser; and may, ~~revoke,~~
9 or suspend, for a period not to exceed 10 years, the
10 registration, license, or certification of any such appraiser,
11 or place any such appraiser on probation, if it finds that the
12 registered assistant registrant, licensee, or
13 certificateholder:

14 (1) Has violated any provisions of this part or ~~of~~ s.
15 455.227(1); however, licensees under this part are exempt from
16 the provisions of s. 455.227(1)(i).

17 (2) Has been guilty of fraud, misrepresentation,
18 concealment, false promises, false pretenses, dishonest
19 conduct, culpable negligence, or breach of trust in any
20 business transaction in this state or any other state, nation,
21 or territory; has violated a duty imposed upon her or him by
22 law or by the terms of a contract, whether written, oral,
23 express, or implied, in an appraisal assignment; has aided,
24 assisted, or conspired with any other person engaged in any
25 such misconduct and in furtherance thereof; or has formed an
26 intent, design, or scheme to engage in such misconduct and
27 committed an overt act in furtherance of such intent, design,
28 or scheme. It is immaterial to the guilt of the registered
29 assistant registrant, licensee, or certificateholder that the
30 victim or intended victim of the misconduct has sustained no
31 damage or loss; that the damage or loss has been settled and

1 | paid after discovery of the misconduct; or that such victim or
2 | intended victim was a customer or a person in confidential
3 | relation with the registered assistant ~~registrant~~, licensee,
4 | or certificateholder, or was an identified member of the
5 | general public.

6 | (3) Has advertised services in a manner which is
7 | fraudulent, false, deceptive, or misleading in form or
8 | content.

9 | (4) Has violated any of the provisions of this section
10 | or any lawful order or rule issued under the provisions of
11 | this section or chapter 455.

12 | (5) Has been convicted or found guilty of, or entered
13 | a plea of nolo contendere to, regardless of adjudication, a
14 | crime in any jurisdiction which directly relates to the
15 | activities of a registered assistant appraiser ~~or licensed~~,
16 | or certified appraiser, or which involves moral turpitude or
17 | fraudulent or dishonest conduct. The record of a conviction
18 | certified or authenticated in such form as admissible in
19 | evidence under the laws of the state shall be admissible as
20 | prima facie evidence of such guilt.

21 | (6) Has had a registration, license, or certification
22 | as an appraiser revoked, suspended, or otherwise acted
23 | against, or has been disbarred, or has had her or his
24 | registration, license, or certificate to practice or conduct
25 | any regulated profession, business, or vocation revoked or
26 | suspended by this or any other state, any nation, or any
27 | possession or district of the United States, or has had an
28 | application for such registration, licensure, or certification
29 | to practice or conduct any regulated profession, business, or
30 | vocation denied by this or any other state, any nation, or any
31 | possession or district of the United States.

1 (7) Has become temporarily incapacitated from acting
2 as an appraiser with safety to those in a fiduciary
3 relationship with her or him because of drunkenness, use of
4 drugs, or temporary mental derangement; however, suspension of
5 a license,~~or certification, or registration~~ in such cases
6 shall only be for the period of such incapacity.

7 (8) Is confined in any county jail, postadjudication;
8 is confined in any state or federal prison or mental
9 institution; or, through mental disease or deterioration, can
10 no longer safely be entrusted to deal with the public or in a
11 confidential capacity.

12 (9) Has failed to inform the board in writing within
13 30 days after pleading guilty or nolo contendere to, or being
14 convicted or found guilty of, any felony.

15 (10) Has been found guilty, for a second time, of any
16 misconduct that warrants disciplinary action, or has been
17 found guilty of a course of conduct or practice which shows
18 that she or he is incompetent, negligent, dishonest, or
19 untruthful to an extent that those with whom she or he may
20 sustain a confidential relationship may not safely do so.

21 (11) Has made or filed a report or record, either
22 written or oral, which the registered assistant, licensee, or
23 certificateholder knows to be false; has willfully failed to
24 file a report or record required by state or federal law; has
25 willfully impeded or obstructed such filing, or has induced
26 another person to impede or obstruct such filing. However,
27 such reports or records shall include only those which are
28 signed or presented in the capacity of a registered assistant
29 appraiser or licensed or certified appraiser.

30 (12) Has obtained or attempted to obtain a
31 registration, license, or certification by means of knowingly

1 making a false statement, submitting false information,
2 refusing to provide complete information in response to an
3 application question, or engaging in fraud, misrepresentation,
4 or concealment.

5 (13) Has paid money or other valuable consideration,
6 except as required by this section, to any member or employee
7 of the board to obtain a registration, license, or
8 certification under this section.

9 (14) Has violated any standard for the development or
10 communication of a real estate appraisal or other provision of
11 the Uniform Standards of Professional Appraisal Practice.

12 (15) Has failed or refused to exercise reasonable
13 diligence in developing an appraisal or preparing an appraisal
14 report.

15 (16) Has failed to communicate an appraisal without
16 good cause.

17 (17) Has accepted an appraisal assignment if the
18 employment itself is contingent upon the appraiser reporting a
19 predetermined result, analysis, or opinion, or if the fee to
20 be paid for the performance of the appraisal assignment is
21 contingent upon the opinion, conclusion, or valuation reached
22 upon the consequences resulting from the appraisal assignment.

23 (18) Has failed to timely notify the department of any
24 change in business location, or has failed to fully disclose
25 all business locations from which she or he operates as a
26 registered assistant real estate appraiser or~~licensed~~or
27 certified real estate appraiser.

28 Section 32. Paragraph (a) of subsection (1) of section
29 475.626, Florida Statutes, is amended to read:

30 475.626 Violations and penalties.--

31 (1) VIOLATIONS.--

1 (a) No person shall operate or attempt to operate as a
2 registered assistant appraiser or~~licensed~~or certified
3 appraiser without being the holder of a valid and current
4 registration, license, or certification.

5 Section 33. Subsections (1) and (2) of section
6 475.627, Florida Statutes, are amended to read:

7 475.627 Appraisal course instructors.--

8 (1) Where the course or courses to be taught are
9 prescribed by the board or approved precedent to registration,
10 licensure, certification, or renewal as a registered assistant
11 appraiser, licensed appraiser, or certified residential
12 appraiser, before commencing to instruct noncredit college
13 courses in a college, university, or community college, or
14 courses in an area technical center or proprietary real estate
15 school, a person must certify her or his competency by meeting
16 one of the following requirements:

17 (a) Hold a valid certification as a residential real
18 estate appraiser in this or any other state.

19 (b) Pass an appraiser instructor's examination which
20 shall test knowledge of residential appraisal topics.

21 (2) Where the course or courses to be taught are
22 prescribed by the board or approved precedent to registration,
23 licensure, certification, or renewal as a registered assistant
24 appraiser, licensed appraiser, or certified appraiser, before
25 commencing to instruct noncredit college courses in a college,
26 university, or community college, or courses in an area
27 technical center or proprietary real estate school, a person
28 must certify her or his competency by meeting one of the
29 following requirements:

30 (a) Hold a valid certification as a general real
31 estate appraiser in this or any other state.

1 (b) Pass an appraiser instructor's examination which
2 shall test knowledge of residential and nonresidential
3 appraisal topics.

4 Section 34. Section 475.628, Florida Statutes, is
5 amended to read:

6 475.628 Professional standards for ~~licensed and~~
7 ~~certified~~ appraisers registered, licensed, or certified under
8 this part.--Each appraiser registered, licensed, or certified
9 under this part ~~section~~ shall comply with the Uniform
10 Standards of Professional Appraisal Practice. Statements on
11 appraisal standards which may be issued for the purpose of
12 clarification, interpretation, explanation, or elaboration
13 through the Appraisal Foundation shall also be binding on any
14 appraiser registered, licensed, or certified under this part
15 ~~section~~.

16 Section 35. Section 475.629, Florida Statutes, is
17 amended to read:

18 475.629 Retention of records.--An appraiser
19 registered, licensed, or certified under this part ~~section~~
20 shall retain, for at least 5 years, original or true copies of
21 any contracts engaging the appraiser's services, appraisal
22 reports, and supporting data assembled and formulated by the
23 appraiser in preparing appraisal reports. The period for
24 retention of the records applicable to each engagement of the
25 services of the appraiser runs from the date of the submission
26 of the appraisal report to the client. These records must be
27 made available by the appraiser for inspection and copying by
28 the department on reasonable notice to the appraiser. If an
29 appraisal has been the subject of or has served as evidence
30 for litigation, reports and records must be retained for at
31 least 2 years after the trial.

1 Section 36. Section 475.6295, Florida Statutes, is
2 created to read:

3 475.6295 Authority to inspect.--Duly authorized agents
4 and employees of the department shall have the power to
5 inspect in a lawful manner at all reasonable hours any
6 appraiser or appraisal office licensed under this chapter, for
7 the purpose of determining if any of the provisions of this
8 chapter, chapter 455, or any rule adopted under authority of
9 either chapter is being violated.

10 Section 37. Paragraph (c) of subsection (2) of section
11 475.630, Florida Statutes, is amended to read:

12 475.630 Temporary practice.--

13 (2) In order to register with the board, the appraiser
14 must:

15 (c) Agree in writing to cooperate with any
16 investigation initiated under this part ~~section~~ by promptly
17 supplying such documents that any authorized representative of
18 the department may request. If the department sends a notice
19 by certified mail to the last known address of a nonresident
20 appraiser to produce documents or to appear in conjunction
21 with an investigation and the nonresident appraiser fails to
22 comply with that request, the board may impose on that
23 nonresident appraiser any disciplinary action or penalty
24 authorized under this part ~~section~~.

25 Section 38. Section 553.991, Florida Statutes, is
26 amended to read:

27 553.991 Purpose.--The purpose of this part is to
28 provide for a statewide uniform system for rating the energy
29 efficiency of buildings ~~and to ensure that those ratings are~~
30 ~~disclosed to prospective purchasers at their request.~~ It is
31 in the interest of the state to encourage the consideration of

1 the energy-efficiency rating system in the market so as to
2 provide market rewards for energy-efficient buildings and to
3 those persons or companies designing, building, or selling
4 energy-efficient buildings.

5 Section 39. Section 553.994, Florida Statutes, is
6 amended to read:

7 553.994 Applicability.--The rating system shall apply
8 to all public, commercial, and ~~existing~~ residential buildings
9 in the state, ~~and may be applied to new residential buildings,~~
10 ~~except as identified by the department by rule in accordance~~
11 ~~with the procedures of chapter 120, according to the following~~
12 ~~schedule:~~

13 ~~(1) For new residential buildings, by January 1, 1994.~~

14 ~~(2) For existing residential buildings, by January 1,~~
15 ~~1995.~~

16 ~~(3) For new public buildings, by January 1, 1994.~~

17 ~~(4) For existing public buildings, by July 1, 1994.~~

18 ~~(5) For new commercial buildings, by January 1, 1995.~~

19 ~~(6) For existing commercial buildings, by January 1,~~
20 ~~1996.~~

21 Section 40. Section 553.996, Florida Statutes, is
22 amended to read:

23 553.996 Energy-efficiency ~~rating disclosure~~
24 information brochure.--

25 ~~(1)(a) In accordance with the schedules in s. 553.994,~~
26 ~~the prospective purchaser of real property with a building for~~
27 ~~occupancy located thereon shall be provided written~~
28 ~~notification that the purchaser may have the building's~~
29 ~~energy-efficiency rating determined. Such notice shall be~~
30 ~~provided at the time of, or prior to, the purchaser's~~
31 ~~execution of the contract for sale and purchase.~~

1 ~~(b) The energy efficiency rating of a residential or~~
2 ~~commercial building shall be provided upon request of the~~
3 ~~prospective purchaser, in writing, at the time of, or prior~~
4 ~~to, the purchaser's execution of the contract for sale and~~
5 ~~purchase.~~

6 (2) A prospective purchaser of real property with a
7 building for occupancy located thereon ~~Concurrent with the~~
8 ~~provisions of subsection (1), the prospective purchaser shall~~
9 be provided with a copy of an information brochure, at the
10 time of or prior to the purchaser's execution of the contract
11 for sale and purchase, notifying the purchaser of the option
12 for an energy-efficiency rating on the building. Such brochure
13 shall be prepared, made available for distribution, and
14 provided at no cost by the department. Such brochure shall
15 contain information relevant to that class of building,
16 including, but not limited to:

17 (1)~~(a)~~ How to analyze the building's energy-efficiency
18 rating.

19 (2)~~(b)~~ Comparisons to statewide averages for new and
20 existing construction of that class.

21 (3)~~(c)~~ Information concerning methods to improve the
22 building's energy-efficiency rating.

23 (4)~~(d)~~ A notice to residential purchasers that the
24 energy-efficiency rating may qualify the purchaser for an
25 energy-efficient mortgage from lending institutions.

26 Section 41. This act shall take effect July 1 of the
27 year in which enacted.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 340

Reinstates the current \$1,000 cap on disciplinary fines (the original bill raised the cap to \$5,000).

Authorizes signatures by electronic means or facsimile.

Clarifies the Florida Real Estate Appraisal Board's ability to establish education and experience requirements.