

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 amending s. 489.103, F.S.; creating an

1 exemption, with exceptions, to construction
2 contracting requirements; amending s. 489.503,
3 F.S.; creating an exemption, with exceptions,
4 to the electrical and alarm system contracting
5 requirements; creating s. 475.2755, F.S.;
6 providing for the use of a designated
7 salesperson for a real estate transaction other
8 than a residential sale, under specified
9 conditions; providing duties of designated
10 salespersons; providing requirements for
11 disclosure; defining the terms "buyer" and
12 "seller," as used in this section; amending s.
13 475.274, F.S.; amending a cross-reference;
14 amending s. 475.2801, F.S.; amending a
15 cross-reference; amending s. 475.5015, F.S.;
16 amending a cross-reference; amending s.
17 475.276, F.S.; providing an exception to
18 requirement that real estate licensees provide
19 a notice of nonrepresentation; providing an
20 effective date.

21

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

23

24 Section 1. Paragraph (a) of subsection (1) of section
25 475.01, Florida Statutes, is amended to read:

26

475.01 Definitions.--

27

(1) As used in this part:

28

(a) "Broker" means a person who, for another, and for
29 a compensation or valuable consideration directly or
30 indirectly paid or promised, expressly or impliedly, or with
31 an intent to collect or receive a compensation or valuable

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

1 which acts as a broker. The term "broker" also includes any
2 person or entity who undertakes to list or sell one or more
3 timeshare periods per year in one or more timeshare plans on
4 behalf of any number of persons, except as provided in ss.
5 475.011 and 721.20.

6 Section 2. Subsection (9) of section 475.011, Florida
7 Statutes, is amended to read:

8 475.011 Exemptions.--This part does not apply to:

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

12 Section 3. Section 475.15, Florida Statutes, is
13 amended to read:

14 475.15 Registration and licensing of general partners,
15 members, officers, and directors of a firm.--Each partnership,
16 limited liability partnership, limited liability company, or
17 corporation which acts as a broker shall register with the
18 commission and shall renew the licenses or registrations of
19 its members, officers, and directors for each license period.
20 ~~The registration of a partnership is canceled automatically~~
21 ~~during any period of time that the license or registration of~~
22 ~~any one or more of its partners is not in force.~~ However, if
23 the partnership is a limited partnership, only the general
24 partners must be licensed brokers or brokerage corporations
25 registered pursuant to this part. If the license or
26 registration of at least one active broker member is not in
27 force, the registration of a corporation, limited liability
28 company, limited liability partnership, or partnership is
29 canceled automatically during that period of time.

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

1 475.17 Qualifications for practice.--

2 (2)(a) In addition to other requirements under this
3 part, the commission may require the satisfactory completion
4 of one or more of the educational courses or equivalent
5 courses conducted, offered, sponsored, prescribed, or approved
6 pursuant to s. 475.04, taken at an accredited college,
7 university, or community college, at an area technical center,
8 or at a registered real estate school, as a condition
9 precedent for any person to become licensed or to renew her or
10 his license as a broker, broker-salesperson, or salesperson.
11 The course or courses required for one to become initially
12 licensed shall not exceed a total of 63 classroom hours of 50
13 minutes each, inclusive of examination, for a salesperson and
14 72 classroom hours of 50 minutes each, inclusive of
15 examination, for a broker. The satisfactory completion of an
16 examination administered by the accredited college,
17 university, or community college, by the area technical
18 center, or by the registered real estate school shall be the
19 basis for determining satisfactory completion of the course.
20 However, notice of satisfactory completion shall not be issued
21 if the student has absences in excess of 8 classroom hours.
22 Such required course or courses must be made available by
23 correspondence or other suitable means to any person who, by
24 reason of hardship, as defined by rule, cannot attend the
25 place or places where the course is regularly conducted.

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

29 1. An active real estate salesperson's license for at
30 least 12 months during the preceding 5 years in the office of
31 one or more real estate brokers licensed in this state or any

1 other state, territory, or jurisdiction of the United States
2 or in any foreign national jurisdiction;

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

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

12

13 This paragraph does not apply to a person employed as a real
14 estate investigator by the Division of Real Estate, provided
15 the person has been employed as a real estate investigator for
16 at least 24 months. The person must be currently employed as a
17 real estate investigator to sit for the real estate broker's
18 examination and have held a valid and current salesperson's
19 license for at least 12 months.

20 (c) A person who has been licensed as a real estate
21 salesperson in Florida during the preceding 5 years may not be
22 licensed as a real estate broker unless, in addition to the
23 other requirements of law, she or he has completed the
24 salesperson postlicensure educational requirements, if these
25 requirements have been prescribed by the commission pursuant
26 to paragraph (3)(a).

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

29 475.183 Inactive status.--

30 (2) Any license which has been involuntarily inactive
31 for more than 2 ~~4~~ years shall automatically expire. Once a

1 license expires, it becomes null and void without any further
2 action by the commission or department. Ninety days ~~Two years~~
3 prior to expiration of the license, the department shall give
4 notice to the licensee. The commission shall prescribe by
5 rule a fee not to exceed \$100 for the late renewal of an
6 involuntarily inactive license. The department shall collect
7 the current renewal fee for each renewal period in which the
8 license was involuntarily inactive in addition to any
9 applicable late renewal fee.

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

12 475.25 Discipline.--

13 (1) The commission may deny an application for
14 licensure, registration, or permit, or renewal thereof; may
15 place a licensee, registrant, or permittee on probation; may
16 suspend a license, registration, or permit for a period not
17 exceeding 10 years; may revoke a license, registration, or
18 permit; may impose an administrative fine not to exceed \$1,000
19 for each count or separate offense; and may issue a reprimand,
20 and any or all of the foregoing, if it finds that the
21 licensee, registrant, permittee, or applicant:

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

25 (b) Has been guilty of fraud, misrepresentation,
26 concealment, false promises, false pretenses, dishonest
27 dealing by trick, scheme, or device, culpable negligence, or
28 breach of trust in any business transaction in this state or
29 any other state, nation, or territory; has violated a duty
30 imposed upon her or him by law or by the terms of a listing
31 contract, written, oral, express, or implied, in a real estate

1 transaction; has aided, assisted, or conspired with any other
2 person engaged in any such misconduct and in furtherance
3 thereof; or has formed an intent, design, or scheme to engage
4 in any such misconduct and committed an overt act in
5 furtherance of such intent, design, or scheme. It is
6 immaterial to the guilt of the licensee that the victim or
7 intended victim of the misconduct has sustained no damage or
8 loss; that the damage or loss has been settled and paid after
9 discovery of the misconduct; or that such victim or intended
10 victim was a customer or a person in confidential relation
11 with the licensee or was an identified member of the general
12 public.

13 (c) Has advertised property or services in a manner
14 which is fraudulent, false, deceptive, or misleading in form
15 or content.

16 (d)1. Has failed to account or deliver to any person,
17 including a licensee under this chapter, at the time which has
18 been agreed upon or is required by law or, in the absence of a
19 fixed time, upon demand of the person entitled to such
20 accounting and delivery, any personal property such as money,
21 fund, deposit, check, draft, abstract of title, mortgage,
22 conveyance, lease, or other document or thing of value,
23 including a share of a real estate commission if a civil
24 judgment relating to the practice of the licensee's profession
25 has been obtained against the licensee and said judgment has
26 not been satisfied in accordance with the terms of the
27 judgment within a reasonable time, or any secret or illegal
28 profit, or any divisible share or portion thereof, which has
29 come into the licensee's hands and which is not the licensee's
30 property or which the licensee is not in law or equity
31 entitled to retain under the circumstances. However, if the

1 licensee, in good faith, entertains doubt as to what person is
2 entitled to the accounting and delivery of the escrowed
3 property, or if conflicting demands have been made upon the
4 licensee for the escrowed property, which property she or he
5 still maintains in her or his escrow or trust account, the
6 licensee shall promptly notify the commission of such doubts
7 or conflicting demands and shall promptly:

8 a. Request that the commission issue an escrow
9 disbursement order determining who is entitled to the escrowed
10 property;

11 b. With the consent of all parties, submit the matter
12 to arbitration;

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

15 d. With the written consent of all parties, submit the
16 matter to mediation. The department may conduct mediation or
17 may contract with public or private entities for mediation
18 services. However, the mediation process must be successfully
19 completed within 90 days following the last demand or the
20 licensee shall promptly employ one of the other escape
21 procedures contained in this section. Payment for mediation
22 will be as agreed to in writing by the parties. The
23 department may adopt rules to implement this section.

24
25 If the licensee promptly employs one of the escape procedures
26 contained herein, and if she or he abides by the order or
27 judgment resulting therefrom, no administrative complaint may
28 be filed against the licensee for failure to account for,
29 deliver, or maintain the escrowed property.

30 2. Has failed to deposit money in an escrow account
31 when the licensee is the purchaser of real estate under a

1 contract where the contract requires the purchaser to place
2 deposit money in an escrow account to be applied to the
3 purchase price if the sale is consummated.

4 (e) Has violated any of the provisions of this chapter
5 or any lawful order or rule made or issued under the
6 provisions of this chapter or chapter 455.

7 (f) Has been convicted or found guilty of, or entered
8 a plea of nolo contendere to, regardless of adjudication, a
9 crime in any jurisdiction which directly relates to the
10 activities of a licensed broker or salesperson, or involves
11 moral turpitude or fraudulent or dishonest dealing. The record
12 of a conviction certified or authenticated in such form as to
13 be admissible in evidence under the laws of the state shall be
14 admissible as prima facie evidence of such guilt.

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

19 (h) Has shared a commission with, or paid a fee or
20 other compensation to, a person not properly licensed as a
21 broker, broker-salesperson, or salesperson under the laws of
22 this state, for the referral of real estate business, clients,
23 prospects, or customers, or for any one or more of the
24 services set forth in s. 475.01(1)(a). For the purposes of
25 this section, it is immaterial that the person to whom such
26 payment or compensation is given made the referral or
27 performed the service from within this state or elsewhere;
28 however, a licensed broker of this state may pay a referral
29 fee or share a real estate brokerage commission with a broker
30 licensed or registered under the laws of a foreign state so
31

1 long as the foreign broker does not violate any law of this
2 state.

3 (i) Has become temporarily incapacitated from acting
4 as a broker or salesperson with safety to investors or those
5 in a fiduciary relation with her or him because of
6 drunkenness, use of drugs, or temporary mental derangement;
7 but suspension of a license in such a case shall be only for
8 the period of such incapacity.

9 (j) Has rendered an opinion that the title to any
10 property sold is good or merchantable, except when correctly
11 based upon a current opinion of a licensed attorney at law, or
12 has failed to advise a prospective purchaser to consult her or
13 his attorney on the merchantability of the title or to obtain
14 title insurance.

15 (k) Has failed, if a broker, to immediately place,
16 upon receipt, any money, fund, deposit, check, or draft
17 entrusted to her or him by any person dealing with her or him
18 as a broker in escrow with a title company, banking
19 institution, credit union, or savings and loan association
20 located and doing business in this state, or to deposit such
21 funds in a trust or escrow account maintained by her or him
22 with some bank, credit union, or savings and loan association
23 located and doing business in this state, wherein the funds
24 shall be kept until disbursement thereof is properly
25 authorized; or has failed, if a salesperson, to immediately
26 place with her or his registered employer any money, fund,
27 deposit, check, or draft entrusted to her or him by any person
28 dealing with her or him as agent of the registered employer.
29 The commission shall establish rules to provide for records to
30 be maintained by the broker and the manner in which such
31 deposits shall be made.

1 (1) Has made or filed a report or record which the
2 licensee knows to be false, has willfully failed to file a
3 report or record required by state or federal law, has
4 willfully impeded or obstructed such filing, or has induced
5 another person to impede or obstruct such filing; but such
6 reports or records shall include only those which are signed
7 in the capacity of a licensed broker or salesperson.

8 (m) Has obtained a license by means of fraud,
9 misrepresentation, or concealment.

10 (n) Is confined in any county jail, postadjudication;
11 is confined in any state or federal prison or mental
12 institution; is under home confinement ordered in lieu of
13 institutional confinement; or, through mental disease or
14 deterioration, can no longer safely be entrusted to
15 competently deal with the public.

16 (o) Has been found guilty, for a second time, of any
17 misconduct that warrants her or his suspension or has been
18 found guilty of a course of conduct or practices which show
19 that she or he is so incompetent, negligent, dishonest, or
20 untruthful that the money, property, transactions, and rights
21 of investors, or those with whom she or he may sustain a
22 confidential relation, may not safely be entrusted to her or
23 him.

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

27 (q) Has violated any provision of s. 475.276 or s.
28 475.278, including the duties owed under those sections.

29 (r) Has failed in any written listing agreement to
30 include a definite expiration date, description of the
31 property, price and terms, fee or commission, and a proper

1 signature of the principal(s); and has failed to give the
2 principal(s) a legible, signed, true and correct copy of the
3 listing agreement within 24 hours of obtaining the written
4 listing agreement. The written listing agreement shall
5 contain no provision requiring the person signing the listing
6 to notify the broker of the intention to cancel the listing
7 after such definite expiration date.

8 (s) Has had a registration suspended, revoked, or
9 otherwise acted against in any jurisdiction. The record of the
10 disciplinary action certified or authenticated in such form as
11 to be admissible in evidence under the laws of the state shall
12 be admissible as prima facie evidence of such disciplinary
13 action.

14 (t) Has violated any standard for the development or
15 communication of a real estate appraisal or other provision of
16 the Uniform Standards of Professional Appraisal Practice, as
17 defined in s. 475.611, as approved and adopted by the
18 Appraisal Standards Board of the Appraisal Foundation, as
19 defined in s. 475.611. This paragraph does not apply to a real
20 estate broker or salesperson who, in the ordinary course of
21 business, performs a comparative market analysis. However, in
22 no event may this comparative market analysis be referred to
23 as an appraisal, as defined in s. 475.611.

24 Section 7. For the purpose of incorporating the
25 amendments to section 475.25, Florida Statutes, in references
26 thereto, paragraph (b) of subsection (2) of section 475.180,
27 Florida Statutes, is reenacted to read:

28 475.180 Nonresident licenses.--

29 (2)

30 (b) Any resident licensee who becomes a nonresident
31 shall, within 60 days, notify the commission of the change in

1 residency and comply with nonresident requirements. Failure to
2 notify and comply is a violation of the license law, subject
3 to the penalties in s. 475.25.

4 Section 8. For the purpose of incorporating the
5 amendments to section 475.25, Florida Statutes, in references
6 thereto, subsection (2) of section 475.181, Florida Statutes,
7 is reenacted to read:

8 475.181 Licensure.--

9 (2) The commission shall certify for licensure any
10 applicant who satisfies the requirements of ss. 475.17,
11 475.175, and 475.180. The commission may refuse to certify any
12 applicant who has violated any of the provisions of s. 475.42
13 or who is subject to discipline under s. 475.25. The
14 application shall expire 1 year from the date received if the
15 applicant fails to take the appropriate examination.

16 Section 9. For the purpose of incorporating the
17 amendments to section 475.25, Florida Statutes, in references
18 thereto, subsection (2) of section 475.22, Florida Statutes,
19 is reenacted to read:

20 475.22 Broker to maintain office and sign at entrance
21 of office; registered office outside state; broker required to
22 cooperate in investigation.--

23 (2) If a broker's registered office is located outside
24 the State of Florida, prior to registering such office or
25 branch office, the broker shall agree in writing to cooperate
26 and shall cooperate with any investigation initiated in
27 accordance with this chapter or commission rules including,
28 but not limited to, the broker promptly supplying any
29 documents requested by any authorized representative of the
30 department and by personally appearing at any designated
31 office of the department or other location in the state or

1 elsewhere as reasonably requested by the department. If the
2 department sends, by certified mail to the broker at the
3 broker's last known business address as registered with the
4 department, a notice or request to produce any documents or to
5 appear for an interview with an authorized representative of
6 the department and the broker fails to substantially comply
7 with that request or notice, then such failure by the broker
8 is a violation of the license law, subject to the penalties of
9 s. 475.25.

10 Section 10. For the purpose of incorporating the
11 amendments to section 475.25, Florida Statutes, in references
12 thereto, subsection (2) of section 475.422, Florida Statutes,
13 is reenacted to read:

14 475.422 Disclosure.--

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

17 Section 11. For the purpose of incorporating the
18 amendments to section 475.25, Florida Statutes, in references
19 thereto, subsection (1) of section 475.482, Florida Statutes,
20 is reenacted to read:

21 475.482 Real Estate Recovery Fund.--There is created
22 the Florida Real Estate Recovery Fund as a separate account in
23 the Professional Regulation Trust Fund.

24 (1) The Florida Real Estate Recovery Fund shall be
25 disbursed as provided in s. 475.484, on order of the
26 commission, as reimbursement to any person, partnership, or
27 corporation adjudged by a court of competent civil
28 jurisdiction in this state to have suffered monetary damages
29 by reason of any act committed, as a part of any real estate
30 brokerage transaction involving real property in this state,
31 by any broker or salesperson who:

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

4 (b) Was neither the seller, buyer, landlord, or tenant
5 in the transaction nor an officer or a director of a
6 corporation or a member of a partnership which was the seller,
7 buyer, landlord, or tenant in the transaction; and

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

10

11 provided the act was a violation proscribed in s. 475.25 or s.
12 475.42.

13 Section 12. Section 475.272, Florida Statutes, is
14 amended to read:

15 475.272 Purpose.--In order to eliminate confusion and
16 provide for a better understanding on the part of customers in
17 real estate transactions, the Legislature finds that the
18 intent of the Brokerage Relationship Disclosure Act is to
19 provide that:

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

23 (2) Real estate licensees be required to disclose to
24 customers upon first contact in residential real estate
25 transactions that they are not and will not be represented by
26 a licensee in a real estate transaction unless they engage a
27 real estate licensee in an authorized form of representation,
28 either as a single agent or as a transaction broker;

29 (3) Disclosure requirements for real estate licensees
30 relating to nonrepresentation and authorized forms of
31 brokerage representation are established;

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

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

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

9 Section 13. Section 475.278, Florida Statutes, is
10 amended to read:

11 475.278 Authorized brokerage relationships; required
12 disclosures.--

13 (1) AUTHORIZED BROKERAGE RELATIONSHIPS.--A real estate
14 licensee in this state may enter into a brokerage relationship
15 as either a single agent or as a transaction broker with
16 potential buyers and sellers. A real estate licensee may not
17 operate as a disclosed or nondisclosed dual agent. As used in
18 this section, the term "dual agent" means a broker who
19 represents as a fiduciary both the prospective buyer and the
20 prospective seller in a real estate transaction. Once a
21 brokerage relationship is established, this part does not
22 prevent a licensee from changing from one brokerage
23 relationship to the other as long as the buyer or the seller,
24 or both, gives consent as required by subparagraph (3)(c)2.
25 before the change and the appropriate disclosure of duties as
26 provided in this part is made to the buyer or seller. This
27 part does not require a customer to enter into a brokerage
28 relationship with any real estate licensee.

29 (2) TRANSACTION BROKER RELATIONSHIP.--

30 (a) Transaction broker - duties of limited
31 representation.--A transaction broker provides a limited form

1 of representation to a buyer, a seller, or both in a real
2 estate transaction but does not represent either in a
3 fiduciary capacity or as a single agent. The duties of the
4 real estate licensee in this limited form of representation
5 include the following:

- 6 1. Dealing honestly and fairly;
- 7 2. Accounting for all funds;
- 8 3. Using skill, care, and diligence in the
9 transaction;
- 10 4. Disclosing all known facts that materially affect
11 the value of residential real property and are not readily
12 observable to the buyer;
- 13 5. Presenting all offers and counteroffers in a timely
14 manner, unless a party has previously directed the licensee
15 otherwise in writing;
- 16 6. Limited confidentiality, unless waived in writing
17 by a party. This limited confidentiality will prevent
18 disclosure that the seller will accept a price less than the
19 asking or listed price, that the buyer will pay a price
20 greater than the price submitted in a written offer, of the
21 motivation of any party for selling or buying property, that a
22 seller or buyer will agree to financing terms other than those
23 offered, or of any other information requested by a party to
24 remain confidential; and
- 25 7. Any additional duties that are mutually agreed to
26 with a party.

27 (b) Disclosure requirements.--Duties of a transaction
28 broker must be fully described and disclosed in writing to a
29 buyer or seller either as a separate and distinct disclosure
30 document or included as part of another document such as a
31 listing agreement or agreement for representation. The

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

9 (c) Contents of disclosure.--The required notice given
 10 under paragraph (b) must include the following information in
 11 the following form:

12
 13 TRANSACTION BROKER NOTICE
 14

15 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS
 16 TRANSACTION BROKERS DISCLOSE TO BUYERS AND SELLERS THEIR ROLE
 17 AND DUTIES IN PROVIDING A LIMITED FORM OF REPRESENTATION.

18
 19 As a transaction broker, (insert name of Real
 20 Estate Firm and its Associates), provides to you a limited
 21 form of representation that includes the following duties:

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

- 1 1. Dealing honestly and fairly;
- 2 2. Loyalty;
- 3 3. Confidentiality;
- 4 4. Obedience;
- 5 5. Full disclosure;
- 6 6. Accounting for all funds;
- 7 7. Skill, care, and diligence in the transaction; ~~and~~
- 8 8. Presenting all offers and counteroffers in a timely
- 9 manner, unless a party has previously directed the licensee
- 10 otherwise in writing; and-
- 11 9. Disclosing all known facts that materially affect
- 12 the value of residential real property and are not readily
- 13 observable.
- 14 (b) Disclosure requirements.--
- 15 1. Single agent disclosure.--Duties of a single agent
- 16 must be fully described and disclosed in writing to a buyer or
- 17 seller either as a separate and distinct disclosure document
- 18 or included as part of another document such as a listing
- 19 agreement or other agreement for representation. The
- 20 disclosure must be made before, or at the time of, entering
- 21 into a listing agreement or an agreement for representation.
- 22 When incorporated into other documents, the required notice
- 23 must be of the same size type, or larger, as other provisions
- 24 of the document and must be conspicuous in its placement so as
- 25 to advise customers of the duties of a single agent, except
- 26 that the first sentence of the information identified in
- 27 paragraph (c) must be printed in uppercase and bold type.
- 28 2. Transition to transaction broker disclosure.--A
- 29 single agent relationship may be changed to a transaction
- 30 broker relationship at any time during the relationship
- 31 between an agent and principal, provided the agent gives the

1 disclosure required under paragraph (2)(b) and the principal
2 gives to the agent consent as required under subparagraph
3 (c)2. before a change in relationship. This disclosure must be
4 in writing to the principal either as a separate and distinct
5 document or included as part of other documents such as a
6 listing agreement or other agreements for representation. When
7 incorporated into other documents, the required notice must be
8 of the same size type, or larger, as other provisions of the
9 document and must be conspicuous in its placement so as to
10 advise customers of the duties of limited representation,
11 except that the first sentence of the information identified
12 in subparagraph (c)2. must be printed in uppercase and bold
13 type.

14 (c) Contents of disclosure.--

15 1. Single agent duties disclosure.--The notice
16 required under subparagraph (b)1. must include the following
17 information in the following form:

18

19

SINGLE AGENT NOTICE

20

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

23

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

27

1. Dealing honestly and fairly;

28

2. Loyalty;

29

3. Confidentiality;

30

4. Obedience;

31

5. Full disclosure;

- 1 6. Accounting for all funds;
- 2 7. Skill, care, and diligence in the transaction; ~~and~~
- 3 8. Presenting all offers and counteroffers in a timely
- 4 manner, unless a party has previously directed the licensee
- 5 otherwise in writing; ~~and~~-

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

9

10

11

.....

12 Date

Signature

13

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

18

19 CONSENT TO TRANSITION TO TRANSACTION BROKER

20

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

28

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

31

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

4 (a) Dealing honestly and fairly;

5 (b) Disclosing all known facts that materially affect
6 the value of the residential real property which are not
7 readily observable to the buyer; and

8 (c) Accounting for all funds entrusted to the
9 licensee.

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

12 475.279 Facsimile signatures or writing
13 accepted.--When any act performed under part I of this chapter
14 must be performed in writing or acknowledged with a signature,
15 the provision of an instrument or writing by electronic means
16 or facsimile, including a signature transmitted by electronic
17 means or facsimile, is binding and sufficient.

18 Section 15. Section 475.451, Florida Statutes, is
19 amended to read:

20 475.451 Schools teaching real estate practice.--

21 (1) Each person, school, or institution, except
22 approved and accredited colleges, universities, community
23 colleges, and area technical centers in this state, which
24 offers or conducts any course of study in real estate
25 practice, teaches any course prescribed by the commission as a
26 condition precedent to licensure or renewal of licensure as a
27 broker or salesperson, or teaches any course designed or
28 represented to enable or assist applicants for licensure as
29 brokers or salespersons to pass examinations for such
30 licensure ~~conducted by the department~~ shall, before commencing
31 or continuing further to offer or conduct such course or

1 courses, obtain a permit from the department and abide by the
2 regulations imposed upon such person, school, or institution
3 by this chapter and rules of the commission adopted pursuant
4 to this chapter. The exemption for colleges, universities,
5 community colleges, and area technical centers is limited to
6 transferable college credit courses offered by such
7 institutions.

8 (2) An applicant for a permit to operate a proprietary
9 real estate school, to be a chief administrator of a
10 proprietary real estate school or a state institution, or to
11 be an instructor for a proprietary real estate school or a
12 state institution must meet the qualifications for practice
13 set forth in s. 475.17(1) and the following minimal
14 requirements:

15 (a) "School permitholder" means the ~~is defined as that~~
16 individual who is responsible for directing the overall
17 operation of a proprietary real estate school. A school
18 permitholder ~~she or he~~ must be the holder of a license as a
19 broker, either active or voluntarily inactive, or must have
20 passed an instructor's examination approved by the commission
21 ~~administered by the department~~. A school permitholder must
22 also meet the requirements of a school instructor if ~~she or he~~
23 ~~is~~ actively engaged in teaching.

24 (b) "Chief administrative person" means the ~~is defined~~
25 ~~as that~~ individual who is responsible for the administration
26 of the overall policies and practices of the institution or
27 proprietary real estate school. A chief administrative person
28 ~~she or he~~ must also meet the requirements of a school
29 instructor if ~~she or he is~~ actively engaged in teaching.

30 (c) "School instructor" means an ~~is defined as that~~
31 individual who ~~actively~~ instructs persons in the classroom in

1 noncredit college courses in a college, university, or
2 community college or courses in an area technical center or
3 proprietary real estate school.

4 1. Before commencing to provide such instruction, the
5 applicant instruct noncredit college courses in a college,
6 university, or community college, or courses in an area
7 technical center or proprietary real estate school, she or he
8 must certify the applicant's her or his competency and obtain
9 an instructor permit by meeting one of the following
10 requirements:

11 a. Hold a bachelor's degree in a business-related
12 subject, such as real estate, finance, accounting, business
13 administration, or its equivalent and hold a valid broker's
14 license in this state.

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

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

20 2. Any requirement by the commission for a teaching
21 demonstration or practical examination must apply to all
22 school instructor applicants.

23 3. The department shall renew an instructor permit
24 upon receipt of a renewal application and fee. The renewal
25 application shall include proof that the permitholder has,
26 since the issuance or renewal of the current permit, Every
27 second year, each instructor must recertify her or his
28 competency by presenting to the commission evidence of her or
29 his having successfully completed a minimum of 15 classroom
30 hours of instruction in real estate subjects or instructional
31 techniques, as prescribed by the commission. The commission

1 shall adopt rules providing for the renewal of instructor
2 permits at least every 2 years. Any permit that is not renewed
3 at the end of the permit period established by the department
4 shall automatically revert to involuntarily inactive status.

5
6 The department may require an applicant to submit names of
7 persons having knowledge concerning the applicant and the
8 enterprise; may propound interrogatories to such persons and
9 to the applicant concerning the character of the applicant,
10 including the taking of fingerprints for processing through
11 the Federal Bureau of Investigation; and shall make such
12 investigation of the applicant or the school or institution as
13 it may deem necessary to the granting of the permit. If an
14 objection is filed, it shall be considered in the same manner
15 as objections or administrative complaints against other
16 applicants for licensure by the department.

17 (3) It is unlawful for any person, school, or
18 institution to offer the courses described in subsection (1)
19 or to conduct classes in such courses, regardless of the
20 number of pupils, whether by correspondence or otherwise,
21 without first procuring a permit, or to guarantee that its
22 pupils will pass any examinations required for licensure ~~given~~
23 ~~by the department~~, or to represent that the issuance of a
24 permit is any recommendation or endorsement of the person,
25 school, or institution to which it is issued or of any course
26 of instruction given thereunder.

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

30 (5) The location of classes and frequency of class
31 meetings shall be in the discretion of the school offering

1 real estate courses, so long as such courses conform to s.
2 475.17(2).

3 (6) Any course prescribed by the commission as a
4 condition precedent to any person's becoming initially
5 licensed as a salesperson may be taught in any real estate
6 school through the use of a video tape of instruction by a
7 currently permitted ~~licensed~~ instructor from any such school.
8 The commission may require that any such video tape course
9 have a single session of live instruction by a currently
10 permitted ~~licensed~~ instructor from any such school; however,
11 this requirement shall not exceed 3 classroom hours. All
12 other prescribed courses, except the continuing education
13 course required by s. 475.182, shall be taught by a currently
14 permitted ~~licensed~~ school instructor personally in attendance
15 at such course. The continuing education course required by
16 s. 475.182 may be taught by an equivalent correspondence
17 course; however, any such course of correspondence shall be
18 required to have a final examination, prepared and
19 administered by the school issuing the correspondence course.
20 The continuing education requirements provided in this section
21 or provided in any other section in this chapter do not apply
22 with respect to any attorney who is otherwise qualified under
23 the provisions of this chapter.

24 (7) Any person holding a school instructor permit on
25 October 1, 1983, is exempt from the instructor examination
26 requirements of paragraph (2)(c) as long as the person
27 continuously holds such a permit and complies with all other
28 requirements of this chapter.

29 (8) A permitholder under ~~pursuant to~~ this section may
30 be issued additional permits whenever it is clearly shown that
31 the requested additional permits are necessary to the conduct

1 of the business of a real estate school and that the
2 additional permits will not be used in a manner likely to be
3 prejudicial to any person, including a licensee or a
4 permitholder under this chapter.

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

7 475.452 Advance fees; deposit; accounting; penalty;
8 damages.--

9 (6) This section does not apply to a real estate
10 broker auctioning real property if in advance of the auction
11 the broker and seller have entered into a written agreement
12 specifically providing for anticipated expenses to be incurred
13 and paid. However, any trust funds received by the broker in
14 advance of the auction may not be disbursed or otherwise used
15 as an advance commission or fee for services without the
16 broker's first having complied with the provisions of this
17 subsection.

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

20 475.484 Payment from the fund.--

21 (7) Upon the payment of any amount from the Real
22 Estate Recovery Fund in settlement of a claim in satisfaction
23 of a judgment against a broker or salesperson as described in
24 s. 475.482(1), the license of such broker or salesperson shall
25 be automatically suspended upon the date of payment from the
26 fund. The license of such broker or salesperson may not be
27 reinstated until the licensee has repaid in full, plus
28 interest, the amount paid from the fund. No further
29 administrative action is necessary. A discharge of bankruptcy
30 does not relieve a licensee from the penalties and
31 disabilities provided in this section, except to the extent

1 that this subsection conflicts with 11 U.S.C. s. 525, in which
2 case the commission may order the license not to be suspended
3 or otherwise discriminated against.

4 Section 18. Section 475.5016, Florida Statutes, is
5 created to read:

6 475.5016 Authority to inspect and audit.--Duly
7 authorized agents and employees of the department shall have
8 the power to inspect and audit in a lawful manner at all
9 reasonable hours any broker or brokerage office licensed under
10 this chapter, for the purpose of determining if any of the
11 provisions of this chapter, chapter 455, or any rule adopted
12 under authority of either chapter is being violated.

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

16 475.611 Definitions.--

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

18 (a) "Appraisal" or "appraisal services" means the
19 services provided by certified or~~7~~ licensed appraisers~~7~~ or
20 registered assistant appraisers, and includes:

21 1. "Appraisal assignment" denotes an engagement for
22 which a person is employed or retained to act, or could be
23 perceived by third parties or the public as acting, as an
24 agent or a disinterested third party in rendering an unbiased
25 analysis, opinion, review, or conclusion relating to the
26 nature, quality, value, or utility of specified interests in,
27 or aspects of, identified real property.

28 2. "Analysis assignment" denotes appraisal services
29 that relate to the employer's or client's individual needs or
30 investment objectives and includes specialized marketing,
31 financing, and feasibility studies as well as analyses,

1 opinions, and conclusions given in connection with activities
2 such as real estate brokerage, mortgage banking, or real
3 estate counseling.

4 (e) "Appraiser" means any person who is a registered
5 assistant real estate appraiser, licensed real estate
6 appraiser, or a certified real estate appraiser. An appraiser
7 renders a professional service and is a professional within
8 the meaning of s. 95.11(4)(a).

9 (1) "Registered assistant appraiser" means a person
10 who is registered with the department as qualified to perform
11 appraisal services under the supervision of a licensed or
12 certified appraiser.

13 (2) Wherever the word "operate" or "operating" appears
14 in this part with respect to a registered assistant appraiser,
15 licensed appraiser, or certified appraiser; in any order,
16 rule, or regulation of the board; in any pleading, indictment,
17 or information under this part ~~section~~; in any court action or
18 proceeding; or in any order or judgment of a court, it shall
19 be deemed to mean the commission of one or more acts described
20 in this part ~~section~~ as constituting or defining a registered
21 assistant appraiser, licensed appraiser, or certified
22 appraiser, not including, however, any of the exceptions
23 stated therein. A single act is sufficient to bring a person
24 within the meaning of this subsection ~~section~~, and each act,
25 if prohibited herein, constitutes a separate offense.

26 Section 20. Section 475.612, Florida Statutes, is
27 amended to read:

28 475.612 Certification, ~~or~~ licensure, or registration
29 required.--

30 (1) A person may not use the title "certified real
31 estate appraiser," "licensed real estate appraiser," or

1 "registered assistant real estate appraiser," or any
2 abbreviation or words to that effect, or issue an appraisal
3 report in connection with any federally related transaction,
4 unless such person is certified, licensed, or registered by
5 the department under ~~pursuant to~~ this part ~~section~~. However,
6 the work upon which an appraisal report is based may be
7 performed by a person who is not a certified or, licensed
8 appraiser, or registered assistant appraiser if the report is
9 approved and signed by a certified or licensed appraiser.

10 (2) This section does not preclude a broker,
11 salesperson, or broker-salesperson who is not a certified or,
12 licensed real estate appraiser, or registered assistant real
13 estate appraiser from appraising real estate for compensation.
14 Such persons may continue to provide appraisals and appraisal
15 services for compensation so long as they do not represent
16 themselves as certified, or licensed, or registered under this
17 part section.

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

23 (4) This section does ~~shall~~ not prevent any state
24 court or administrative law judge from certifying as an expert
25 witness in any legal or administrative proceeding an appraiser
26 who is not certified, licensed, or registered; nor does ~~shall~~
27 it prevent any appraiser from testifying, with respect to the
28 results of an appraisal.

29 (5) This section does ~~shall~~ not apply to any full-time
30 graduate student who is enrolled in a degree program in
31 appraising at a college or university in this state, if the

1 student is acting under the direct supervision of a certified
2 or licensed appraiser or licensed broker and is engaged only
3 in appraisal activities related to the approved degree
4 program. Any appraisal report by the student must be issued in
5 the name of the supervising individual.

6 (6) This section does ~~shall~~ not apply to any employee
7 of a local, state, or federal agency who performs appraisal
8 services within the scope of her or his employment. However,
9 this exemption does ~~shall~~ not apply where any local, state, or
10 federal agency requires an employee to be registered,
11 licensed, or certified to perform appraisal services.

12 Section 21. Section 475.6145, Florida Statutes, is
13 created to read:

14 475.6145 Seal.--The board shall adopt a seal by which
15 it shall authenticate its proceedings, records, and acts.
16 Copies of the proceedings, records, and acts of the board, and
17 certificates purporting to relate the facts concerning such
18 proceedings, records, and acts, which are signed by the board
19 chair, the custodian of such records, or any other person
20 authorized to make such certification and which are
21 authenticated by such seal, shall be prima facie evidence of
22 such proceedings, records, and acts in all courts of this
23 state.

24 Section 22. Section 475.6147, Florida Statutes, is
25 created to read:

26 475.6147 Fees.--

27 (1) The board by rule may establish fees to be paid
28 for application, licensing and renewal, certification and
29 recertification, reinstatement, and recordmaking and
30 recordkeeping. The fee for initial application may not exceed
31 \$150, and the combined cost of the application and examination

1 may not exceed \$300. The initial license fee and the license
2 renewal fee may not exceed \$150 for each year of the duration
3 of the license. The board may also establish by rule a late
4 renewal penalty. The board shall establish fees that are
5 adequate to ensure its continued operation. Fees shall be
6 based on estimates made by the department of the revenue
7 required to implement this part and other provisions of law
8 relating to the regulation of real estate appraisers.

9 (2) Application and license fees shall be refunded
10 upon a determination by the board that the state is not
11 entitled to the fees or that only a portion of the resources
12 have been expended in the processing of the application or
13 shall be refunded if for any other reason the application is
14 not completely processed. The board shall implement this
15 subsection by rule.

16 Section 23. Section 475.615, Florida Statutes, is
17 amended to read:

18 475.615 Qualifications for registration, licensure, or
19 certification.--

20 (1) Any person desiring to act as a registered
21 assistant appraiser or as a~~7~~licensed~~7~~or certified appraiser
22 must make application in writing to the department in such
23 form and detail as the board shall prescribe. Each applicant
24 must be at least 18 years of age and hold a high school
25 diploma or its equivalent. At the time of application, a
26 person must furnish evidence of successful completion of
27 required education and evidence of required experience, if
28 any.

29 (2) The board is authorized to waive or modify any
30 education, experience, or examination requirements established
31 in this section in order to conform with any such requirements

1 established by the Appraisal Qualifications Board of the
2 Appraisal Foundation and recognized by the Appraisal
3 Subcommittee or any successor body recognized by federal law.

4 (3) Appropriate fees, as set forth in the rules of the
5 board pursuant to s. 475.6147, and fingerprints for processing
6 through appropriate law enforcement agencies must accompany
7 all applications for registration, licensure, and
8 certification.

9 (4) In the event that the applicant is currently a
10 registered assistant appraiser or a licensed or certified
11 appraiser and is making application to obtain a different
12 status of appraisal licensure, should such application be
13 received by the department within 180 days prior to through
14 180 days after the applicant's scheduled renewal, the charge
15 for the application shall be established by the rules of the
16 board pursuant to s. 475.6147.

17 ~~(5)~~(4) At the time of filing a notarized application
18 for registration, licensure, or certification, the applicant
19 must sign a pledge to comply with the Uniform Standards of
20 Professional Appraisal Practice upon registration, licensure,
21 or certification, and must indicate in writing that she or he
22 understands the types of misconduct for which disciplinary
23 proceedings may be initiated. The application shall expire 1
24 year from the date received, if the applicant for
25 registration, licensure, or certification fails to take the
26 appropriate examination.

27 ~~(6)~~(5) All applicants must be competent and qualified
28 to make real estate appraisals with safety to those with whom
29 they may undertake a relationship of trust and confidence and
30 the general public. If any applicant has been denied
31 registration, licensure, or certification, or has been

1 | disbarred, or the applicant's registration, license, or
2 | certificate to practice or conduct any regulated profession,
3 | business, or vocation has been revoked or suspended by this or
4 | any other state, any nation, or any possession or district of
5 | the United States, or any court or lawful agency thereof,
6 | because of any conduct or practices which would have warranted
7 | a like result under this part ~~section~~, or if the applicant has
8 | been guilty of conduct or practices in this state or elsewhere
9 | which would have been grounds for disciplining her or his
10 | registration, license, or certification under this part
11 | ~~section~~ had the applicant then been a registered assistant
12 | appraiser or a~~licensed,~~or certified appraiser, the
13 | applicant shall be deemed not to be qualified unless, because
14 | of lapse of time and subsequent good conduct and reputation,
15 | or other reason deemed sufficient, it appears to the board
16 | that the interest of the public is not likely to be endangered
17 | by the granting of registration, licensure, or certification.

18 | ~~(7)(6)~~ No applicant seeking to become registered,
19 | licensed, or certified under this part ~~section~~ may be rejected
20 | solely by virtue of membership or lack of membership in any
21 | particular appraisal organization.

22 | Section 24. Subsections (3) and (4) of section
23 | 475.616, Florida Statutes, are amended to read:

24 | 475.616 Examination requirements.--To be licensed or
25 | certified as an appraiser, the applicant must demonstrate, by
26 | passing a written examination, that she or he possesses:

27 | (3) An understanding of the standards for the
28 | development and communication of real estate appraisals as
29 | provided in this part ~~section~~.

30 | (4) An understanding of the types of misconduct for
31 | which disciplinary proceedings may be initiated against a

1 licensed or certified appraiser, as set forth in this part
2 section.

3 Section 25. Section 475.617, Florida Statutes, is
4 amended to read:

5 475.617 Education and experience requirements.--

6 (1) To be registered as an assistant appraiser, an
7 applicant must present evidence satisfactory to the board that
8 she or he has successfully completed at least ~~up to~~ 75 hours
9 of approved academic courses in subjects related to real
10 estate appraisal, which shall include coverage of the Uniform
11 Standards of Professional Appraisal Practice from a nationally
12 recognized or state-recognized appraisal organization, area
13 technical center, accredited community college, college, or
14 university, state or federal agency or commission, or
15 proprietary real estate school that holds a permit pursuant to
16 s. 475.451. The board may increase the required number of
17 hours to no more than 100 hours. A classroom hour is defined
18 as 50 minutes out of each 60-minute segment. Past courses may
19 be approved on an hour-for-hour basis.

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

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

24 (b) Has successfully completed at least 90 ~~75~~
25 classroom hours, inclusive of examination, of approved
26 academic courses in subjects related to real estate appraisal,
27 which shall include coverage of the Uniform Standards of
28 Professional Appraisal Practice from a nationally recognized
29 or state-recognized appraisal organization, area technical
30 center, accredited community college, college, or university,
31 state or federal agency or commission, or proprietary real

1 estate school that holds a permit pursuant to s. 475.451. The
2 board may increase the required number of hours to no more
3 than 120 hours. A classroom hour is defined as 50 minutes out
4 of each 60-minute segment. Past courses may be approved by
5 the board and substituted on an hour-for-hour basis.

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

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

12 (b) Has successfully completed at least 120 ~~up to 165~~
13 classroom hours, inclusive of examination, of approved
14 academic courses in subjects related to real estate appraisal,
15 which shall include coverage of the Uniform Standards of
16 Professional Appraisal Practice from a nationally recognized
17 or state-recognized appraisal organization, area technical
18 center, accredited community college, college, or university,
19 state or federal agency or commission, or proprietary real
20 estate school that holds a permit pursuant to s. 475.451. The
21 board may increase the required number of hours to no more
22 than 165 hours. A classroom hour is defined as 50 minutes out
23 of each 60-minute segment. Past courses may be approved by
24 the board and substituted on an hour-for-hour basis.

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

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

31

1 (b) Has successfully completed at least 180 ~~165~~
2 classroom hours, inclusive of examination, of approved
3 academic courses in subjects related to real estate appraisal,
4 which shall include coverage of the Uniform Standards of
5 Professional Appraisal Practice from a nationally recognized
6 or state-recognized appraisal organization, area technical
7 center, accredited community college, college, or university,
8 state or federal agency or commission, or proprietary real
9 estate school that holds a permit pursuant to s. 475.451. The
10 board may increase the required number of hours to no more
11 than 225 hours. A classroom hour is defined as 50 minutes out
12 of each 60-minute segment. Past courses may be approved by
13 the board and substituted on an hour-for-hour basis.

14 (5) Each applicant must furnish, under oath, a
15 detailed statement of the experience for each year of
16 experience she or he claims. Upon request, the applicant
17 shall furnish to the board, for its examination, copies of
18 appraisal reports or file memoranda to support the claim for
19 experience.

20 Section 26. Subsection (4) of section 475.618, Florida
21 Statutes, is amended to read:

22 475.618 Renewal of registration, license,
23 certification, or instructor permit; continuing education.--

24 (4) At least 60 days prior to the end of the
25 registration, license, certification, or instructor permit
26 period, the department shall cause to be mailed a notice of
27 renewal and possible reversion to the last known address of
28 the registered assistant ~~registrant~~, licensee,
29 certificateholder, or permitholder.

30 Section 27. Subsection (2) of section 475.619, Florida
31 Statutes, is amended to read:

1 475.619 Inactive status.--

2 (2) Any registration, license, or certification which
3 has been inactive for more than 4 years shall automatically
4 expire. Once a registration, license, or certification
5 expires, it becomes null and void without any further action
6 by the board or department. Two years prior to the expiration
7 of the registration, license, or certification, the department
8 shall give notice by mail to the registered assistant
9 ~~registrant~~, licensee, or certificateholder at her or his last
10 known address. The board shall prescribe by rule a fee not to
11 exceed \$100 for the late renewal of an inactive registration,
12 license, or certification. The department shall collect the
13 current renewal fee for each renewal period in which the
14 registration, license, or certification was inactive, in
15 addition to any applicable late renewal fee.

16 Section 28. Section 475.620, Florida Statutes, is
17 amended to read:

18 475.620 Corporations and partnerships ineligible for
19 licensure or certification.--

20 (1) A license or certification may not be issued under
21 this part ~~section~~ to a corporation, partnership, firm, or
22 group. However, an appraiser licensed or certified under this
23 part ~~section~~ may provide an appraisal report for or on behalf
24 of a corporation, partnership, firm, or group, if the report
25 is prepared by, or under the personal direction of, such
26 appraiser and is reviewed and signed by her or him.

27 (2) The term "state-registered assistant appraiser,"
28 "state-licensed appraiser," or "state-certified appraiser" may
29 only be used to refer to an individual who is registered,
30 licensed, or certified under this part ~~section~~ and may not be
31 used following or immediately in connection with the name or

1 signature of a corporation, partnership, firm, or group, or in
2 such manner that it could be interpreted as implying
3 registration, licensure, or certification under this part
4 ~~section~~ of a corporation, partnership, firm, or group, or
5 anyone other than an individual appraiser. Corporations,
6 partnerships, firms, or groups which employ certified or,
7 licensed appraisers, or registered assistant appraisers who
8 provide appraisal reports, as defined by this part section,
9 may represent to the public and advertise that they offer
10 appraisals performed by registered, licensed, or certified
11 appraisers.

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

14 475.622 Display and disclosure of licensure, or
15 certification, or registration.--

16 (1) Each appraiser registered, licensed, or certified
17 under this part section shall place her or his registration,
18 license, or certification number adjacent to or immediately
19 beneath the designation "state-registered assistant real
20 estate appraiser," "state-licensed real estate appraiser,"
21 "state-certified residential real estate appraiser," or
22 "state-certified general real estate appraiser," or their
23 appropriate abbreviations as defined by rule, as applicable,
24 when such term is used in an appraisal report or in a contract
25 or other instrument used by the appraiser in conducting real
26 property appraisal activities. The applicable designation
27 shall be included in any newspaper, telephone directory, or
28 other advertising medium, as defined by rule, used by the
29 appraiser.

30 (2) A registered assistant appraiser or, licensed, or
31 certified appraiser may not sign any appraisal report or

1 communicate same without disclosing in writing that she or he
2 is a state-registered assistant appraiser or, state-licensed,
3 state-certified residential, or state-certified general
4 appraiser, as applicable, even if the appraisal performed is
5 outside of the scope of the appraiser's registration,
6 licensure, or certification as an appraiser.

7 Section 30. Section 475.623, Florida Statutes, is
8 amended to read:

9 475.623 Registration of office location.--Each
10 appraiser registered, licensed, or certified under this part
11 ~~section~~ shall furnish in writing to the department each
12 business address from which she or he operates in the
13 performance of appraisal services. Each appraiser must notify
14 the department of any change of address within 10 days on a
15 form provided by the department.

16 Section 31. Section 475.624, Florida Statutes, is
17 amended to read:

18 475.624 Discipline.--The board may deny an application
19 for registration, licensure, or certification; may investigate
20 the actions of any appraiser registered, licensed, or
21 certified under this part section; ~~and~~ may reprimand or impose
22 an administrative fine not to exceed \$5,000 for each count or
23 separate offense against any such appraiser; and may ~~revoke,~~
24 or suspend, for a period not to exceed 10 years, the
25 registration, license, or certification of any such appraiser,
26 or place any such appraiser on probation, if it finds that the
27 registered assistant registrant, licensee, or
28 certificateholder:

29 (1) Has violated any provisions of this part or ~~of s.~~
30 455.227(1); however, licensees under this part are exempt from
31 the provisions of s. 455.227(1)(i).

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

21 (3) Has advertised services in a manner which is
22 fraudulent, false, deceptive, or misleading in form or
23 content.

24 (4) Has violated any of the provisions of this section
25 or any lawful order or rule issued under the provisions of
26 this section or chapter 455.

27 (5) Has been convicted or found guilty of, or entered
28 a plea of nolo contendere to, regardless of adjudication, a
29 crime in any jurisdiction which directly relates to the
30 activities of a registered assistant appraiser or ~~licensed~~,
31 or certified appraiser, or which involves moral turpitude or

1 fraudulent or dishonest conduct. The record of a conviction
2 certified or authenticated in such form as admissible in
3 evidence under the laws of the state shall be admissible as
4 prima facie evidence of such guilt.

5 (6) Has had a registration, license, or certification
6 as an appraiser revoked, suspended, or otherwise acted
7 against, or has been disbarred, or has had her or his
8 registration, license, or certificate to practice or conduct
9 any regulated profession, business, or vocation revoked or
10 suspended by this or any other state, any nation, or any
11 possession or district of the United States, or has had an
12 application for such registration, licensure, or certification
13 to practice or conduct any regulated profession, business, or
14 vocation denied by this or any other state, any nation, or any
15 possession or district of the United States.

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

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

27 (9) Has failed to inform the board in writing within
28 30 days after pleading guilty or nolo contendere to, or being
29 convicted or found guilty of, any felony.

30 (10) Has been found guilty, for a second time, of any
31 misconduct that warrants disciplinary action, or has been

1 found guilty of a course of conduct or practice which shows
2 that she or he is incompetent, negligent, dishonest, or
3 untruthful to an extent that those with whom she or he may
4 sustain a confidential relationship may not safely do so.

5 (11) Has made or filed a report or record, either
6 written or oral, which the registered assistant, licensee, or
7 certificateholder knows to be false; has willfully failed to
8 file a report or record required by state or federal law; has
9 willfully impeded or obstructed such filing, or has induced
10 another person to impede or obstruct such filing. However,
11 such reports or records shall include only those which are
12 signed or presented in the capacity of a registered assistant
13 appraiser or licensed or certified appraiser.

14 (12) Has obtained or attempted to obtain a
15 registration, license, or certification by means of knowingly
16 making a false statement, submitting false information,
17 refusing to provide complete information in response to an
18 application question, or engaging in fraud, misrepresentation,
19 or concealment.

20 (13) Has paid money or other valuable consideration,
21 except as required by this section, to any member or employee
22 of the board to obtain a registration, license, or
23 certification under this section.

24 (14) 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.

27 (15) Has failed or refused to exercise reasonable
28 diligence in developing an appraisal or preparing an appraisal
29 report.

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

1 (17) Has accepted an appraisal assignment if the
2 employment itself is contingent upon the appraiser reporting a
3 predetermined result, analysis, or opinion, or if the fee to
4 be paid for the performance of the appraisal assignment is
5 contingent upon the opinion, conclusion, or valuation reached
6 upon the consequences resulting from the appraisal assignment.

7 (18) Has failed to timely notify the department of any
8 change in business location, or has failed to fully disclose
9 all business locations from which she or he operates as a
10 registered assistant real estate appraiser or ~~licensed~~ or
11 certified real estate appraiser.

12 Section 32. Paragraph (a) of subsection (1) of section
13 475.626, Florida Statutes, is amended to read:

14 475.626 Violations and penalties.--

15 (1) VIOLATIONS.--

16 (a) No person shall operate or attempt to operate as a
17 registered assistant appraiser or ~~licensed~~ or certified
18 appraiser without being the holder of a valid and current
19 registration, license, or certification.

20 Section 33. Subsections (1) and (2) of section
21 475.627, Florida Statutes, are amended to read:

22 475.627 Appraisal course instructors.--

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

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

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

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

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

16 (b) Pass an appraiser instructor's examination which
17 shall test knowledge of residential and nonresidential
18 appraisal topics.

19 Section 34. Section 475.628, Florida Statutes, is
20 amended to read:

21 475.628 Professional standards for ~~licensed and~~
22 ~~certified~~ appraisers registered, licensed, or certified under
23 this part.--Each appraiser registered, licensed, or certified
24 under this part ~~section~~ shall comply with the Uniform
25 Standards of Professional Appraisal Practice. Statements on
26 appraisal standards which may be issued for the purpose of
27 clarification, interpretation, explanation, or elaboration
28 through the Appraisal Foundation shall also be binding on any
29 appraiser registered, licensed, or certified under this part
30 section.

31

1 Section 35. Section 475.629, Florida Statutes, is
2 amended to read:

3 475.629 Retention of records.--An appraiser
4 registered, licensed, or certified under this part ~~section~~
5 shall retain, for at least 5 years, original or true copies of
6 any contracts engaging the appraiser's services, appraisal
7 reports, and supporting data assembled and formulated by the
8 appraiser in preparing appraisal reports. The period for
9 retention of the records applicable to each engagement of the
10 services of the appraiser runs from the date of the submission
11 of the appraisal report to the client. These records must be
12 made available by the appraiser for inspection and copying by
13 the department on reasonable notice to the appraiser. If an
14 appraisal has been the subject of or has served as evidence
15 for litigation, reports and records must be retained for at
16 least 2 years after the trial.

17 Section 36. Section 475.6295, Florida Statutes, is
18 created to read:

19 475.6295 Authority to inspect.--Duly authorized agents
20 and employees of the department shall have the power to
21 inspect in a lawful manner at all reasonable hours any
22 appraiser or appraisal office licensed under this chapter, for
23 the purpose of determining if any of the provisions of this
24 chapter, chapter 455, or any rule adopted under authority of
25 either chapter is being violated.

26 Section 37. Paragraph (c) of subsection (2) of section
27 475.630, Florida Statutes, is amended to read:

28 475.630 Temporary practice.--

29 (2) In order to register with the board, the appraiser
30 must:

31

1 (c) Agree in writing to cooperate with any
2 investigation initiated under this part ~~section~~ by promptly
3 supplying such documents that any authorized representative of
4 the department may request. If the department sends a notice
5 by certified mail to the last known address of a nonresident
6 appraiser to produce documents or to appear in conjunction
7 with an investigation and the nonresident appraiser fails to
8 comply with that request, the board may impose on that
9 nonresident appraiser any disciplinary action or penalty
10 authorized under this part ~~section~~.

11 Section 38. Section 553.991, Florida Statutes, is
12 amended to read:

13 553.991 Purpose.--The purpose of this part is to
14 provide for a statewide uniform system for rating the energy
15 efficiency of buildings ~~and to ensure that those ratings are~~
16 ~~disclosed to prospective purchasers at their request.~~ It is
17 in the interest of the state to encourage the consideration of
18 the energy-efficiency rating system in the market so as to
19 provide market rewards for energy-efficient buildings and to
20 those persons or companies designing, building, or selling
21 energy-efficient buildings.

22 Section 39. Section 553.994, Florida Statutes, is
23 amended to read:

24 553.994 Applicability.--The rating system shall apply
25 to all public, commercial, and ~~existing~~ residential buildings
26 in the state, ~~and may be applied to new residential buildings,~~
27 ~~except as identified by the department by rule in accordance~~
28 ~~with the procedures of chapter 120, according to the following~~
29 ~~schedule:~~

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

31

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

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

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

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

6 ~~(6) For existing commercial buildings, by January 1,~~
7 ~~1996.~~

8 Section 40. Section 553.996, Florida Statutes, is
9 amended to read:

10 553.996 Energy-efficiency ~~rating disclosure~~
11 information brochure.--

12 ~~(1)(a) In accordance with the schedules in s. 553.994,~~
13 ~~the prospective purchaser of real property with a building for~~
14 ~~occupancy located thereon shall be provided written~~
15 ~~notification that the purchaser may have the building's~~
16 ~~energy-efficiency rating determined. Such notice shall be~~
17 ~~provided at the time of, or prior to, the purchaser's~~
18 ~~execution of the contract for sale and purchase.~~

19 ~~(b) The energy-efficiency rating of a residential or~~
20 ~~commercial building shall be provided upon request of the~~
21 ~~prospective purchaser, in writing, at the time of, or prior~~
22 ~~to, the purchaser's execution of the contract for sale and~~
23 ~~purchase.~~

24 ~~(2)~~ A prospective purchaser of real property with a
25 building for occupancy located thereon ~~Concurrent with the~~
26 ~~provisions of subsection (1), the prospective purchaser shall~~
27 ~~be provided with a copy of an information brochure, at the~~
28 time of or prior to the purchaser's execution of the contract
29 for sale and purchase, notifying the purchaser of the option
30 for an energy-efficiency rating on the building. Such brochure
31 shall be prepared, made available for distribution, and

1 provided at no cost by the department. Such brochure shall
2 contain information relevant to that class of building,
3 including, but not limited to:

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

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

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

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

13 Section 41. Subsection (17) is added to section
14 489.103, Florida Statutes, to read:

15 489.103 Exemptions.--This part does not apply to:

16 (17) Contracting for repair, maintenance, remodeling,
17 or improvement by any person licensed under part I of chapter
18 475 while acting as the owner's agent pursuant to that
19 license, where all work requiring a contractor is performed by
20 a contractor who has a current, valid certificate or
21 registration issued under this part to perform such work, and
22 where the aggregate contract for labor, materials, and all
23 other items is less than \$5,000; however, this exemption does
24 not apply:

25 (a) If the repair, maintenance, remodeling, or
26 improvement is a part of a larger or major operation, whether
27 undertaken by the same or a different contractor, or in which
28 a division of the operation is made in contracts of amounts
29 less than \$5,000 for the purpose of evading this part or
30 otherwise.

31

1 (b) To a person who advertises that he or she is
2 qualified to engage in contracting.

3 Section 42. Subsection (17) is added to section
4 489.503, Florida Statutes, to read:

5 489.503 Exemptions.--This part does not apply to:

6 (17) Contracting for repair, maintenance, remodeling,
7 or improvement by any person licensed under part I of chapter
8 475 while acting as the owner's agent pursuant to that
9 license, where all work requiring a contractor is performed by
10 a contractor who has a current, valid certificate or
11 registration issued under this part to perform such work, and
12 where the aggregate contract for labor, materials, and all
13 other items is less than \$5,000; however, this exemption does
14 not apply:

15 (a) If the repair, maintenance, remodeling, or
16 improvement is a part of a larger or major operation, whether
17 undertaken by the same or a different contractor, or in which
18 a division of the operation is made in contracts of amounts
19 less than \$5,000 for the purpose of evading this part or
20 otherwise.

21 (b) To a person who advertises that he or she is
22 qualified to engage in contracting.

23 Section 43. Section 475.2755, Florida Statutes, is
24 created to read:

25 475.2755 Designated salesperson.--

26 (1) For purposes of this part, in any real estate
27 transaction other than a residential sale as defined in s.
28 475.276, if the buyer and seller have assets of \$1 million or
29 more, the broker, at the request of the customers, may
30 designate salespersons to act as single agents for different
31 customers in the same transaction. Such designated

1 salespersons have the duties of a single agent as outlined in
2 s. 475.278(3), including disclosure requirements as provided
3 in s. 475.278(3)(b) and (c). In addition to meeting those
4 disclosure requirements, the buyer and seller as customers
5 must both sign disclosure forms stating that their assets meet
6 the test as described in this paragraph and requesting that
7 the broker use the designated-salesperson form of
8 representation.

9 (2) In lieu of the transition disclosure requirement
10 set forth in s. 475.278(3)(c)2., the required disclosure
11 notice must include the following provisions:

12 (a) The designated salesperson may not disclose,
13 except to the broker or persons specified by the broker,
14 information made confidential by request or at the instruction
15 of the customer whom the designated salesperson is
16 representing.

17 (b) The designated salesperson may disclose
18 information that is allowed to be disclosed or required to be
19 disclosed by this part.

20 (c) A designated salesperson may disclose to his or
21 her broker, or to persons specified by the broker,
22 confidential information of a customer for the purpose of
23 seeking advice or assistance for the benefit of the customer
24 with regard to a transaction. The broker must keep this
25 information confidential and must not use the information to
26 the detriment of the other party.

27 (3) As used in this section, the term "buyer" or the
28 term "seller" means, respectively, a transferee or a lessee in
29 a real property transaction, or the transferor or lessor in a
30 real property transaction.

31

1 Section 44. Section 475.274, Florida Statutes, is
2 amended to read:

3 475.274 Scope of coverage.--The authorized brokerage
4 relationships described in ss. 475.2755 and ~~s.475.278~~ apply
5 in all brokerage activities as defined in s. 475.01(1)(a). The
6 disclosure requirements of ss. 475.276 and 475.278 apply only
7 to residential sales as defined in s. 475.276.

8 Section 45. Section 475.2801, Florida Statutes, is
9 amended to read:

10 475.2801 Rules.--The commission may adopt rules
11 establishing disciplinary guidelines, notices of
12 noncompliance, and citations for violations of ss. 475.2755,
13 475.276, and 475.278.

14 Section 46. Section 475.5015, Florida Statutes, is
15 amended to read:

16 475.5015 Brokerage business records.--Each broker
17 shall keep and make available to the department such books,
18 accounts, and records as will enable the department to
19 determine whether such broker is in compliance with the
20 provisions of this chapter. Each broker shall preserve at
21 least one legible copy of all books, accounts, and records
22 pertaining to her or his real estate brokerage business for at
23 least 5 years from the date of receipt of any money, fund,
24 deposit, check, or draft entrusted to the broker or, in the
25 event no funds are entrusted to the broker, for at least 5
26 years from the date of execution by any party of any listing
27 agreement, offer to purchase, rental property management
28 agreement, rental or lease agreement, or any other written or
29 verbal agreement which engages the services of the broker. If
30 any brokerage record has been the subject of or has served as
31 evidence for litigation, relevant books, accounts, and records

1 must be retained for at least 2 years after the conclusion of
2 the civil action or the conclusion of any appellate
3 proceeding, whichever is later, but in no case less than a
4 total of 5 years as set above. Disclosure documents required
5 under ss. 475.2755, 475.276, and 475.278 shall be retained by
6 the real estate licensee in all transactions that result in a
7 written contract to purchase and sell real property.

8 Section 47. Section 475.276, Florida Statutes, is
9 amended to read:

10 475.276 Notice of nonrepresentation.--

11 (1) APPLICABILITY.--

12 (a) Residential sales.--The real estate licensee
13 disclosure requirements of this section and s. 475.278 apply
14 to all residential sales. As used in this section, the term
15 "residential sales" means the sale of improved residential
16 property of four units or fewer, the sale of unimproved
17 residential property intended for use of four units or fewer,
18 or the sale of agricultural property of 10 acres or fewer.

19 (b) Disclosure limitations.--The real estate licensee
20 disclosure requirements of this section and s. 475.278 do not
21 apply to: nonresidential transactions; the rental or leasing
22 of real property, unless an option to purchase all or a
23 portion of the property improved with four or fewer
24 residential units is given; auctions; appraisals; and
25 dispositions of any interest in business enterprises or
26 business opportunities, except for property with four or fewer
27 residential units.

28 (2) NOTICE REQUIREMENT.--Unless otherwise exempted by
29 this part, all real estate licensees are required to provide
30 to any potential seller or buyer at first contact the notice
31

1 of nonrepresentation as outlined in subsection (3), except in
2 situations where:

3 (a) A licensee knows that the potential seller or
4 buyer is represented by a single agent or a transaction
5 broker; or

6 (b) An owner is selling new residential units built by
7 the owner, and the circumstances or setting of the first
8 contact should reasonably inform the potential buyer that the
9 owner's employee or single agent is acting on behalf of the
10 owner, whether by the location of the sales office, by office
11 signage, placards, or identification badges worn by the
12 owner's employee or single agent.

13

14 If first contact between a licensee and a customer occurs
15 during the course of a telephone conversation or any other
16 communication in which the licensee is unable to provide the
17 required notice of nonrepresentation, the licensee shall
18 provide an oral notice and thereafter provide the required
19 notice of nonrepresentation at the time of the first
20 face-to-face contact, execution of a brokerage relationship
21 agreement, or execution of a contractual agreement for
22 purchase and sale, whichever occurs first.

23 (3) CONTENTS OF NOTICE.--

24 (a) Required information.--The notice required under
25 subsection (2) must contain the following information:

26

27 NOTICE OF NONREPRESENTATION

28

29 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS
30 NOTICE AT FIRST CONTACT TO ALL POTENTIAL SELLERS AND BUYERS OF
31 REAL ESTATE.

1
2 You are hereby notified that (insert name of
3 brokerage firm) and I do not represent you in any capacity.
4 You should not assume that any real estate broker or
5 salesperson represents you unless you agree to engage a real
6 estate licensee in an authorized brokerage relationship,
7 either as a single agent or as a transaction broker. You are
8 advised not to disclose any information you want to be held in
9 confidence until you make a decision on representation. Your
10 signature below acknowledges receipt of this form and does not
11 establish a brokerage relationship.

12
13
14
15 Date (Signature Optional)

16
17
18
19 (Signature Optional)

20 (b) Required format.--The notice required under
21 subsection (2) must be printed as a separate and distinct form
22 on paper no smaller than 8 1/2 inches by 11 inches. Nothing
23 may be added to the form except a brokerage firm logo
24 containing only the firm name, address, and relevant phone
25 numbers. The form title and first sentence are to be in bold
26 typeface of no less than 16-point type. The remainder of the
27 form must be of 12-point type or larger.

28 Section 48. This act shall take effect July 1 of the
29 year in which enacted.

30
31