

By Senator Sullivan

22-1168-00

1                                   A bill to be entitled  
2           An act relating to real estate brokers;  
3           amending s. 475.25, F.S.; authorizing brokers  
4           to give certain price or value opinions;  
5           amending s. 475.278, F.S.; clarifying  
6           provisions; exempting brokers from disclosure  
7           requirements with respect to specific  
8           transactions; amending s. 475.612, F.S.;  
9           authorizing brokers to give certain price or  
10          value opinions; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14           Section 1. Paragraph (t) of subsection (1) of section  
15 475.25, Florida Statutes, is amended to read:

16           475.25 Discipline.--

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

26           (t) Has violated any standard for the development or  
27 communication of a real estate appraisal or other provision of  
28 the Uniform Standards of Professional Appraisal Practice, as  
29 defined in s. 475.611, as approved and adopted by the  
30 Appraisal Standards Board of the Appraisal Foundation, as  
31 defined in s. 475.611. This paragraph does not apply to a real

1 estate broker or salesperson who, in the ordinary course of  
2 business, performs a comparative market analysis, gives a  
3 broker price opinion, or gives an opinion on the value of real  
4 estate. However, in no event may this comparative market  
5 analysis or other opinion be referred to as an appraisal, as  
6 defined in s. 475.611.

7 Section 2. Paragraph (c) or subsection (2), paragraph  
8 (c) of subsection (3), and subsection (5) of section 475.278,  
9 Florida Statutes, are amended to read:

10 475.278 Authorized brokerage relationships; required  
11 disclosures.--

12 (2) TRANSACTION BROKER RELATIONSHIP.--

13 (c) Contents of disclosure.--The required notice given  
14 under paragraph (b) must include the following information in  
15 the following form:

16  
17 IMPORTANT NOTICE

18  
19 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS  
20 NOTICE TO ~~ALL~~ POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

21  
22 You should not assume that any real estate broker or  
23 salesperson represents you unless you agree to engage a real  
24 estate licensee in an authorized brokerage relationship,  
25 either as a single agent or as a transaction broker. You are  
26 advised not to disclose any information you want to be held in  
27 confidence until you make a decision on representation.

28  
29 TRANSACTION BROKER NOTICE

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

4  
5 As a transaction broker, ..... (insert name of Real  
6 Estate Firm and its Associates), provides to you a limited  
7 form of representation that includes the following duties:

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

29  
30 Limited representation means that a buyer or seller is not  
31 responsible for the acts of the licensee. Additionally,

1 parties are giving up their rights to the undivided loyalty of  
2 the licensee. This aspect of limited representation allows a  
3 licensee to facilitate a real estate transaction by assisting  
4 both the buyer and the seller, but a licensee will not work to  
5 represent one party to the detriment of the other party when  
6 acting as a transaction broker to both parties.

7  
8 .....  
9 Date Signature  
10  
11 .....  
12 Signature  
13

14 (3) SINGLE AGENT RELATIONSHIP.--

15 (c) Contents of disclosure.--

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

19  
20 IMPORTANT NOTICE

21  
22 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS  
23 NOTICE TO ~~ALL~~ POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.  
24

25 You should not assume that any real estate broker or  
26 salesperson represents you unless you agree to engage a real  
27 estate licensee in an authorized brokerage relationship,  
28 either as a single agent or as a transaction broker. You are  
29 advised not to disclose any information you want to be held in  
30 confidence until you make a decision on representation.  
31

SINGLE AGENT NOTICE

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

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

1. Dealing honestly and fairly;
2. Loyalty;
3. Confidentiality;
4. Obedience;
5. Full disclosure;
6. Accounting for all funds;
7. Skill, care, and diligence in the transaction;
8. Presenting all offers and counteroffers in a timely  
manner, unless a party has previously directed the licensee  
otherwise in writing; and
9. Disclosing all known facts that materially affect  
the value of residential real property and are not readily  
observable.

.....  
Date Signature

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

1                            CONSENT TO TRANSITION TO  
 2                            TRANSACTION BROKER  
 3

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

11  
 12 .....I agree that my agent may assume the role and duties  
 13 of a transaction broker. [must be initialed or signed]  
 14

15           (5) APPLICABILITY.--

16           (a) Residential sales.--The real estate licensee  
 17 disclosure requirements of this section apply to all  
 18 residential sales. As used in this subsection, the term  
 19 "residential sale" means the sale of improved residential  
 20 property of four units or fewer, the sale of unimproved  
 21 residential property intended for use of four units or fewer,  
 22 or the sale of agricultural property of 10 acres or fewer.

23           (b) Disclosure limitations.--The real estate licensee  
 24 disclosure requirements of this section do not apply to:  
 25 residential transactions for which there is no brokerage  
 26 relationship between the potential buyer or seller and the  
 27 licensee; transactions in which a licensee knows that the  
 28 potential seller or buyer is represented by a single agent or  
 29 a transaction broker; or transactions in which an owner is  
 30 selling new residential units built by the owner when the  
 31 circumstances or setting should reasonably inform the

1 potential buyer that the owner's employee or single agent is  
2 acting on behalf of the owner, whether because of the location  
3 of the sales office, office signage, placards, or  
4 identification badges worn by the owner's employee or single  
5 agent;nonresidential transactions; the rental or leasing of  
6 real property, unless an option to purchase all or a portion  
7 of the property improved with four or fewer residential units  
8 is given; auctions; appraisals; an open house or model home  
9 showing that does not involve eliciting confidential  
10 information; the execution of a contractual offer or an  
11 agreement for representation or negotiations concerning price,  
12 terms, or conditions of a potential sale; unanticipated casual  
13 conversations between a licensee and a seller or buyer which  
14 do not involve eliciting confidential information; responding  
15 to general factual questions from a prospective buyer or  
16 seller concerning properties that have been advertised for  
17 sale; situations in which a licensee's communications with a  
18 customer are limited to providing general factual information,  
19 oral or written, concerning the qualifications, background,  
20 and services of the licensee or the licensee's brokerage firm;  
21 and dispositions of any interest in business enterprises or  
22 business opportunities, except for property with four or fewer  
23 residential units.

24 Section 3. Subsection (3) of section 475.612, Florida  
25 Statutes, is amended to read:

26 475.612 Certification, licensure, or registration  
27 required.--

28 (3) This section does not apply to a real estate  
29 broker or salesperson who, in the ordinary course of business,  
30 performs a comparative market analysis, gives a broker price  
31 opinion, or ~~and/or~~ gives an opinion of the value of real

1 estate. However, such an ~~in no event may this~~ opinion or  
2 analysis may not be referred to as or construed to be ~~as~~ an  
3 appraisal.

4 Section 4. This act shall take effect July 1, 2000.

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SENATE SUMMARY

Revises provisions related to real estate brokers. Allows  
brokers to give broker price opinions or opinions on the  
value of real estate. Exempts brokers from disclosure  
requirements with respect to specific transactions.