25-362-00

A bill to be entitled 1 2 An act relating to real estate brokers; amending s. 475.25, F.S.; authorizing brokers 3 4 to disburse certain escrow funds to condominium 5 purchasers who exercise a statutory right of 6 recission; providing an effective date. 7 8 Be It Enacted by the Legislature of the State of Florida: 9 10 Section 1. Paragraph (d) of subsection (1) of section 475.25, Florida Statutes, is amended to read: 11 12 475.25 Discipline.--(1) The commission may deny an application for 13 14 licensure, registration, or permit, or renewal thereof; may 15 place a licensee, registrant, or permittee on probation; may suspend a license, registration, or permit for a period not 16 17 exceeding 10 years; may revoke a license, registration, or permit; may impose an administrative fine not to exceed \$1,000 18 19 for each count or separate offense; and may issue a reprimand, and any or all of the foregoing, if it finds that the 20 21 licensee, registrant, permittee, or applicant: 22 (d)1. Has failed to account or deliver to any person, including a licensee under this chapter, at the time which has 23 been agreed upon or is required by law or, in the absence of a 24 25 fixed time, upon demand of the person entitled to such 26 accounting and delivery, any personal property such as money, 27 fund, deposit, check, draft, abstract of title, mortgage, 28 conveyance, lease, or other document or thing of value, including a share of a real estate commission if a civil 29 30 judgment relating to the practice of the licensee's profession 31 has been obtained against the licensee and said judgment has

not been satisfied in accordance with the terms of the judgment within a reasonable time, or any secret or illegal profit, or any divisible share or portion thereof, which has come into the licensee's hands and which is not the licensee's property or which the licensee is not in law or equity entitled to retain under the circumstances. However, if the licensee, in good faith, entertains doubt as to what person is entitled to the accounting and delivery of the escrowed property, or if conflicting demands have been made upon the licensee for the escrowed property, which property she or he still maintains in her or his escrow or trust account, the licensee shall promptly notify the commission of such doubts or conflicting demands and shall promptly:

- a. Request that the commission issue an escrow disbursement order determining who is entitled to the escrowed property;
- b. With the consent of all parties, submit the matter to arbitration;
- c. By interpleader or otherwise, seek adjudication of the matter by a court; or
- d. With the written consent of all parties, submit the matter to mediation. The department may conduct mediation or may contract with public or private entities for mediation services. However, the mediation process must be successfully completed within 90 days following the last demand or the licensee shall promptly employ one of the other escape procedures contained in this section. Payment for mediation will be as agreed to in writing by the parties. The department may adopt rules to implement this section.

If the licensee promptly employs one of the escape procedures contained herein, and if she or he abides by the order or judgment resulting therefrom, no administrative complaint may be filed against the licensee for failure to account for, deliver, or maintain the escrowed property. Furthermore, disciplinary action may not be taken against a licensee for disbursing deposit funds held in escrow to a condominium purchaser who validly exercises a right of recission under chapter 718.

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

Section 2. This act shall take effect July 1, 2000.

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## SENATE SUMMARY

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Allows a real estate broker to disburse certain deposit funds held in escrow without incurring disciplinary action by the Florida Real Estate Commission.

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