

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Representative(s) Betancourt, Clarke, and Bilirakis offered the following:

Amendment to Amendment (092299) (with title amendment)

On page 1, between lines 16 and 17,

insert:

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

475.01 Definitions.--

(1) As used in this part:

(j) "Salesperson" means a person who performs any act specified in the definition of "broker," but who performs such act under the employment ~~direction, control, or management~~ of another person. A salesperson renders a professional service and is a professional within the meaning of s. 95.11(4)(a). Nothing in this definition shall be construed to limit a salesperson from registering as an officer or director of a brokerage corporation or a general partner of a brokerage partnership. A salesperson may also form a partnership, limited liability company, limited liability partnership, or

Amendment No. ____ (for drafter's use only)

1 corporation with brokers and other salespersons. However, any
2 partnership, limited liability company, limited liability
3 partnership, or corporation formed by a salesperson must
4 include the salesperson's registered employer as a member or a
5 partner.

6 Section 2. Subsections (4) and (5) of section 475.011,
7 Florida Statutes, are amended to read:

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

9 (4) Any salaried employee of an owner, or of a
10 registered broker for an owner, of an apartment community who
11 works in an onsite rental office of the apartment community in
12 a leasing capacity, provided the salaried employee works
13 without any other compensation being paid in addition to the
14 salary;

15 (5) Any person employed for a salary as a manager of a
16 condominium or cooperative apartment complex as a result of
17 any activities or duties which the person may have in relation
18 to the renting of individual units within such condominium or
19 cooperative apartment complex if rentals arranged by the
20 person are for periods no greater than 1 year, provided the
21 person works without any other compensation being paid in
22 addition to the salary;

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

25 475.15 Registration and licensing of general partners,
26 members, officers, and directors of a firm.--Each partnership,
27 limited liability partnership, limited liability company, or
28 corporation which acts as a broker shall register with the
29 commission and shall renew the licenses or registrations of
30 its members, officers, and directors for each license period.

31 However, if the ~~partnership is a limited partnership, only the~~

Amendment No. ____ (for drafter's use only)

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

7 Section 4. Subsection (1) of section 475.22, Florida
8 Statutes, is amended to read:

9 475.22 Broker to maintain office and sign at entrance
10 of office; registered office outside state; broker required to
11 cooperate in investigation.--

12 (1) Each active broker shall maintain an office, which
13 shall consist of at least one enclosed room in a building of
14 stationary construction. Each active broker shall maintain a
15 sign on or about the entrance of her or his principal office
16 and each branch office, which sign may be easily observed and
17 read by any person about to enter such office ~~and shall be of~~
18 ~~such form and minimum dimensions as shall be prescribed by the~~
19 ~~commission. Each sign shall contain the name of the broker,~~
20 together with the trade name, if any. For a partnership or
21 corporation, the sign shall contain the name of the firm or
22 corporation or trade name of the firm or corporation, together
23 with the name of at least one of the brokers. At a minimum,
24 the words "licensed real estate broker" or "lic. real estate
25 broker" shall appear on the office entrance signs.

26 Section 5. Paragraphs (d), (h), and (k) of subsection
27 (1) of section 475.25, Florida Statutes, are amended to read:

28 475.25 Discipline.--

29 (1) The commission may deny an application for
30 licensure, registration, or permit, or renewal thereof; may
31 place a licensee, registrant, or permittee on probation; may

Amendment No. ____ (for drafter's use only)

1 suspend a license, registration, or permit for a period not
2 exceeding 10 years; may revoke a license, registration, or
3 permit; may impose an administrative fine not to exceed \$1,000
4 for each count or separate offense; and may issue a reprimand,
5 and any or all of the foregoing, if it finds that the
6 licensee, registrant, permittee, or applicant:

7 (d)1. Has failed to account or deliver to any person,
8 including a licensee under this chapter, at the time which has
9 been agreed upon or is required by law or, in the absence of a
10 fixed time, upon demand of the person entitled to such
11 accounting and delivery, any personal property such as money,
12 fund, deposit, check, draft, abstract of title, mortgage,
13 conveyance, lease, or other document or thing of value,
14 including a share of a real estate commission if a civil
15 judgment relating to the practice of the licensee's profession
16 has been obtained against the licensee and said judgment has
17 not been satisfied in accordance with the terms of the
18 judgment within a reasonable time, or any secret or illegal
19 profit, or any divisible share or portion thereof, which has
20 come into the licensee's hands and which is not the licensee's
21 property or which the licensee is not in law or equity
22 entitled to retain under the circumstances. However, if the
23 licensee, ~~in good faith,~~ entertains doubt as to what person is
24 entitled to the accounting and delivery of the escrowed
25 property, ~~or if conflicting demands have been made upon the~~
26 ~~licensee for the escrowed property, which property she or he~~
27 ~~still maintains in her or his escrow or trust account,~~ the
28 licensee shall promptly notify the commission of such doubts
29 or conflicting demands and shall promptly:

30 a. Request that the commission issue an escrow
31 disbursement order determining who is entitled to the escrowed

Amendment No. ____ (for drafter's use only)

1 property;

2 b. With the consent of all parties, submit the matter
3 to arbitration;

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

6 d. With the written consent of all parties, submit the
7 matter to mediation. The department may conduct mediation or
8 may contract with public or private entities for mediation
9 services. However, the mediation process must be successfully
10 completed within 90 days following the last demand or the
11 licensee shall promptly employ one of the other escape
12 procedures contained in this section. Payment for mediation
13 will be as agreed to in writing by the parties. The
14 department may adopt rules to implement this section.

15
16 In the alternative, a licensee may promptly disburse property
17 from a licensee's escrow account without notifying the
18 commission or employing one of the procedures listed in
19 sub-subparagraphs a.-d. and, notwithstanding any civil
20 liability that may exist, no administrative complaint may be
21 filed against a licensee solely because the licensee disbursed
22 escrowed property without first notifying the commission or
23 employing one of the procedures listed in sub-subparagraphs
24 a.-d.~~If the licensee promptly employs one of the escape~~
25 ~~procedures contained herein, and if she or he abides by the~~
26 ~~order or judgment resulting therefrom, no administrative~~
27 ~~complaint may be filed against the licensee for failure to~~
28 ~~account for, deliver, or maintain the escrowed property. If~~
29 ~~the buyer of a residential condominium unit delivers to a~~
30 ~~licensee written notice of the buyer's intent to cancel the~~
31 ~~contract for sale and purchase, as authorized by s. 718.503,~~

Amendment No. ____ (for drafter's use only)

1 ~~or if the buyer of real property in good faith fails to~~
2 ~~satisfy the terms in the financing clause of a contract for~~
3 ~~sale and purchase, the licensee may return the escrowed~~
4 ~~property to the purchaser without notifying the commission or~~
5 ~~initiating any of the procedures listed in sub-subparagraphs~~
6 ~~a.-d.~~

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

12 (h) Has shared a commission with, or paid a fee or
13 other compensation to, a person not properly licensed as a
14 broker, broker-salesperson, or salesperson under the laws of
15 this state, for the referral of real estate business, clients,
16 prospects, or customers, or for any one or more of the
17 services set forth in s. 475.01(1)(a). For the purposes of
18 this section, it is immaterial that the person to whom such
19 payment or compensation is given made the referral or
20 performed the service from within this state or elsewhere;
21 however, a licensed broker of this state may pay a referral
22 fee or share a real estate brokerage commission with a broker
23 licensed or registered under the laws of a foreign state so
24 long as the foreign broker does not violate any law of this
25 state. However, when a broker has compensated a salesperson or
26 a legal entity formed and controlled by a salesperson, that
27 salesperson may compensate persons associated with the
28 salesperson or legal entity.

29 (k) Has failed, if a broker, to immediately place,
30 upon receipt, any money, fund, deposit, check, or draft
31 entrusted to her or him by any person dealing with her or him

Amendment No. ____ (for drafter's use only)

1 as a broker in an escrow account ~~with a title company, banking~~
2 ~~institution, credit union, or savings and loan association~~
3 ~~located and doing business~~ in this state in a manner
4 consistent with the broker's fiduciary obligations and
5 requirements of timely disbursement, ~~or to deposit such funds~~
6 ~~in a trust or escrow account maintained by her or him with~~
7 ~~some bank, credit union, or savings and loan association~~
8 ~~located and doing business in this state,~~ wherein the funds
9 shall be kept and, with the written consent of the parties to
10 a transaction, invested in a manner not inconsistent with s.
11 18.10(2), until disbursement thereof is properly authorized;
12 or has failed, if a salesperson, to immediately place with her
13 or his registered employer any money, fund, deposit, check, or
14 draft entrusted to her or him by any person dealing with her
15 or him as agent of the registered employer. The commission
16 shall establish rules to provide for records to be maintained
17 by the broker ~~and the manner in which such deposits shall be~~
18 ~~made.~~ A broker may place and maintain up to \$5,000 of personal
19 or brokerage business funds in the broker's escrow account and
20 shall be provided a reasonable amount of time to correct
21 escrow account errors if there is no shortage of funds and
22 such errors pose no significant threat to economically harm
23 the public. It is the intent of the Legislature that, in the
24 event of legal proceedings concerning a broker's escrow
25 account, the disbursement of escrowed funds shall not be
26 delayed due to any dispute over the personal or brokerage
27 funds that may be present in the escrow account.

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

31 And the title is amended as follows:

Amendment No. ____ (for drafter's use only)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

On page 6, line 20, of the amendment
after the semicolon, insert:
amending s. 475.01, F.S.; revising a
definition; amending s. 475.011, F.S.;
clarifying application of certain exemptions;
amending s. 475.15, F.S.; deleting a provision
requiring only general partners of a limited
partnership to be registered; amending s.
475.22, F.S.; specifying certain sign
requirements; amending s. 475.25, F.S.;
revising certain provisions relating to
disciplinary actions; providing an alternative
procedure for disbursing moneys from an escrow
account; authorizing salespersons to compensate
certain associated persons under certain
circumstances; authorizing brokers to place and
maintain moneys in an escrow account under
certain circumstances; providing procedures for
withdrawal of moneys from the account;
providing legislative intent;