

1                                   A bill to be entitled  
2           An act relating to real estate appraisers;  
3           amending s. 475.611, F.S.; revising and  
4           providing definitions applicable to regulation  
5           of real estate appraisers; providing that  
6           licenses for the category of licensed appraiser  
7           shall not be issued after a specified date;  
8           redesignating registered assistant appraisers  
9           as registered trainee appraisers; amending s.  
10          475.612, F.S.; conforming terminology;  
11          authorizing real estate brokers,  
12          broker-salespersons, and salespersons to  
13          provide valuation services without being  
14          regulated as appraisers; authorizing brokers  
15          and salespersons to give price opinions without  
16          being regulated as appraisers; removing  
17          authorization for graduate students in  
18          appraising to be supervised by licensed  
19          brokers; amending s. 475.613, F.S.; granting  
20          the Florida Real Estate Appraisal Board power  
21          by rule to establish standards for and regulate  
22          supervisory appraisers; removing obsolete  
23          language; amending s. 475.6147, F.S.;  
24          clarifying applicability of fee provisions to  
25          certification and registration; amending s.  
26          475.617, F.S.; clarifying experience  
27          requirements for certification of residential  
28          and general appraisers; conforming terminology;  
29          creating s. 475.6175, F.S.; requiring  
30          postlicensure education for registered trainee  
31          appraisers to maintain registration; requiring

1 completion of such education prior to the  
2 second renewal following initial registration;  
3 requiring requalification for subsequent  
4 registration as a trainee appraiser;  
5 authorizing a physical hardship extension;  
6 amending s. 475.618, F.S.; revising continuing  
7 education requirements to authorize and provide  
8 for certification of distance learning courses  
9 by independent certification organizations;  
10 conforming terminology; amending s. 475.6221,  
11 F.S.; requiring a registered trainee appraiser  
12 to perform appraisal services under the direct  
13 supervision of a licensed or certified  
14 appraiser; providing that a registered trainee  
15 appraiser may only receive compensation through  
16 or from the primary supervisory appraiser;  
17 creating s. 475.6222, F.S.; providing  
18 requirements for supervision of registered  
19 trainee appraisers; amending s. 475.6295, F.S.;  
20 clarifying authority to inspect appraisers and  
21 appraisal offices; creating s. 475.631, F.S.;  
22 providing for reciprocity for nonresident  
23 appraisers; requiring an irrevocable consent to  
24 suits and actions and providing for service of  
25 process or pleading; requiring resident  
26 appraisers who become nonresidents to notify  
27 the board and comply with nonresident  
28 requirements; providing penalties; authorizing  
29 the board to adopt rules for regulation of  
30 nonresident appraisers; amending ss. 475.01,  
31 475.011, 475.615, 475.619, 475.620, 475.622,

1 475.624, 475.626, and 475.627, F.S.; conforming  
2 terminology; amending s. 475.001, F.S.;  
3 conforming terminology; amending s. 475.01,  
4 F.S.; redesignating "broker-salespersons" as  
5 "broker associates" and "salespersons" as  
6 "sales associates"; expanding the definition of  
7 "transaction broker"; amending s. 475.011,  
8 F.S.; conforming terminology; amending ss.  
9 475.02 and 475.04, F.S.; conforming  
10 terminology; creating s. 475.161, F.S.;  
11 providing for licensing of broker associates  
12 and sales associates; amending s. 475.17, F.S.;  
13 revising qualifications for practice;  
14 authorizing additional subjects for  
15 postlicensure education; restricting approval  
16 of distance learning courses to instances of  
17 hardship; conforming terminology; amending s.  
18 475.175, F.S.; revising requirements to take  
19 the license examination; revising requirements  
20 with respect to notice of completion of  
21 educational requirements; amending s. 475.181,  
22 F.S.; conforming terminology; amending s.  
23 475.182, F.S.; providing guidelines for  
24 approving specialty courses; conforming  
25 terminology; amending s. 475.215, F.S.;  
26 conforming terminology; amending s. 475.22,  
27 F.S.; revising requirements with respect to  
28 brokers' signs; amending s. 475.23, F.S.;  
29 providing for notice of change of address;  
30 conforming terminology; amending s. 475.25,  
31 F.S.; revising duties of licensees with respect

1 to escrowed property; allowing a broker to  
2 place personal or brokerage funds in property  
3 management and sales escrow accounts; providing  
4 penalties; providing a time limit on filing  
5 complaints against a licensee; providing for  
6 referral of criminal violations to prosecuting  
7 authorities; conforming terminology; amending  
8 s. 475.2755, F.S.; conforming terminology;  
9 amending s. 475.278, F.S.; revising provisions  
10 relating to authorized brokerage relationships;  
11 providing a presumption of transaction  
12 brokerage; revising disclosure requirements;  
13 amending s. 475.31, F.S.; providing effect of  
14 revocation or suspension of a broker's license;  
15 conforming terminology; amending ss. 475.37 and  
16 475.41, F.S.; conforming terminology; amending  
17 s. 475.42, F.S.; providing an additional ground  
18 for disciplinary action relating to false or  
19 misleading information on real estate located  
20 in the state; providing penalties; conforming  
21 terminology; amending s. 475.43, F.S.;  
22 conforming terminology; amending s. 475.451,  
23 F.S.; revising prerequisites for renewal of an  
24 instructor permit; removing an exemption from  
25 instructor examination requirements; conforming  
26 terminology; repealing s. 475.4511(4) and (5),  
27 F.S., relating to the prohibition against a  
28 school advertising in conjunction with an  
29 affiliated broker and publishing a "pass/fail"  
30 ratio; amending ss. 475.453 and 475.455, F.S.;  
31 conforming terminology; amending s. 475.482,

1 F.S.; increasing the maximum amount that may be  
2 in the Real Estate Recovery Fund; conforming  
3 terminology; amending s. 475.483, F.S.;  
4 revising guidelines for payment of attorney's  
5 fees with respect to recovery from the fund;  
6 conforming terminology; amending ss. 475.484  
7 and 475.5017, F.S.; increasing maximum amounts  
8 payable from the fund; conforming terminology;  
9 amending s. 475.612, F.S.; conforming  
10 terminology; amending s. 689.25, F.S.;  
11 prescribing facts and conditions the existence  
12 of which need not be disclosed in a real estate  
13 transaction; repealing s. 475.421, F.S.,  
14 relating to publication of false or misleading  
15 information on real estate located in the  
16 state; repealing s. 475.422, F.S., relating to  
17 disclosure of termite and roof inspection  
18 reports; amending ss. 83.49, 440.02, 443.036,  
19 501.604, 687.14, 721.20, and 760.29, F.S.;  
20 conforming terminology; providing an effective  
21 date.

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

24  
25 Section 1. Paragraph (a) of subsection (1) of section  
26 475.01, Florida Statutes, is amended to read:

27 475.01 Definitions.--

28 (1) As used in this part:

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

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

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

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

9 475.011 Exemptions.--This part does not apply to:

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

14 Section 3. Subsections (1) and (2) of section 475.611,  
15 Florida Statutes, 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 licensed appraisers or  
20 registered trainee ~~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, or real estate consulting.

4 3. "Appraisal review assignment" denotes an engagement  
5 for which an appraiser is employed or retained to develop and  
6 communicate an opinion about the quality of another  
7 appraiser's appraisal, appraisal report, or work. An appraisal  
8 review may or may not contain the reviewing appraiser's  
9 opinion of value.

10 (b) "Appraisal Foundation" or "foundation" means the  
11 Appraisal Foundation established on November 20, 1987, as a  
12 not-for-profit corporation under the laws of Illinois.

13 (c) "Appraisal report" means any communication,  
14 written or oral, of an appraisal, appraisal review, appraisal  
15 consulting service, analysis, opinion, or conclusion ~~issued by~~  
16 ~~an appraiser~~ relating to the nature, quality, value, or  
17 utility of a specified interest in, or aspect of, identified  
18 real property, and includes any ~~a~~ report communicating an  
19 appraisal analysis, opinion, or conclusion of value,  
20 regardless of title. However, in order to be recognized in a  
21 federally related transaction, an appraisal report must be  
22 written.

23 (d) "Appraisal review" means the act or process of  
24 developing and communicating an opinion about the quality of  
25 another appraiser's appraisal, appraisal report, or work.

26 (e)~~(d)~~ "Appraisal subcommittee" means the designees of  
27 the heads of the federal financial institutions regulatory  
28 agencies established by the Federal Financial Institutions  
29 Examination Council Act of 1978 (12 U.S.C. ss. 3301 et seq.),  
30 as amended.

31



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

6        (g)~~(f)~~ "Board" means the Florida Real Estate Appraisal  
7 Board established under this section.

8        (h)~~(g)~~ "Certified general appraiser" means a person  
9 who is certified by the department as qualified to issue  
10 appraisal reports for any type of real property.

11        (i)~~(h)~~ "Certified residential appraiser" means a  
12 person who is certified by the department as qualified to  
13 issue appraisal reports for residential real property of one  
14 to four residential units, without regard to transaction value  
15 or complexity, or real property as may be authorized by  
16 federal regulation.

17        (j)~~(i)~~ "Department" means the Department of Business  
18 and Professional Regulation.

19        (k)~~(j)~~ "Federally related transaction" means any real  
20 estate-related financial transaction which a federal financial  
21 institutions regulatory agency or the Resolution Trust  
22 Corporation engages in, contracts for, or regulates, and which  
23 requires the services of a state-licensed or state-certified  
24 appraiser.

25        (l)~~(k)~~ "Licensed appraiser" means a person who is  
26 licensed by the department as qualified to issue appraisal  
27 reports for residential real property of one to four  
28 residential units or on such real estate or real property as  
29 may be authorized by federal regulation. After July 1, 2003,  
30 the department shall not issue licenses for the category of  
31 licensed appraiser.

1            ~~(m)(1)~~ "Registered trainee ~~assistant~~ appraiser" means  
2 a person who is registered with the department as qualified to  
3 perform appraisal services only under the direct supervision  
4 of a licensed or certified appraiser. A registered trainee  
5 appraiser may accept appraisal assignments only from her or  
6 his primary or secondary supervisory appraiser.

7            (n) "Supervisory appraiser" means a licensed  
8 appraiser, a certified residential appraiser, or a certified  
9 general appraiser responsible for the direct supervision of  
10 one or more registered trainee appraisers and fully  
11 responsible for appraisals and appraisal reports prepared by  
12 those registered trainee appraisers. The board, by rule, shall  
13 determine the responsibilities of a supervisory appraiser, the  
14 geographic proximity required, and the maximum number of  
15 registered trainee appraisers to be supervised by an  
16 individual supervisory appraiser.

17            ~~(o)(m)~~ "Uniform Standards of Professional Appraisal  
18 Practice" means the most recent standards approved and adopted  
19 by the Appraisal Standards Board of the Appraisal Foundation.

20            (p) "Valuation services" means services pertaining to  
21 aspects of property value and includes such services performed  
22 by certified appraisers, registered trainee appraisers, and  
23 others.

24            (q) "Work file" means the documentation necessary to  
25 support an appraisers analysis, opinions, and conclusions.

26            (2) Wherever the word "operate" or "operating" appears  
27 in this part with respect to a registered trainee assistant  
28 appraiser, licensed appraiser, or certified appraiser; in any  
29 order, rule, or regulation of the board; in any pleading,  
30 indictment, or information under this part; in any court  
31 action or proceeding; or in any order or judgment of a court,

1 it shall be deemed to mean the commission of one or more acts  
2 described in this part as constituting or defining a  
3 registered trainee ~~assistant~~ appraiser, licensed appraiser, or  
4 certified appraiser, not including, however, any of the  
5 exceptions stated therein. A single act is sufficient to  
6 bring a person within the meaning of this subsection, and each  
7 act, if prohibited herein, constitutes a separate offense.

8 Section 4. Subsections (1), (2), (3), and (5) of  
9 section 475.612, Florida Statutes, are amended to read:

10 475.612 Certification, licensure, or registration  
11 required.--

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

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

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

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

16           Section 5. Section 475.613, Florida Statutes, is  
17 amended to read:

18           475.613 Florida Real Estate Appraisal Board.--

19           (1) There is created the Florida Real Estate Appraisal  
20 Board, which shall consist of seven members appointed by the  
21 Governor, subject to confirmation by the Senate. Four members  
22 of the board must be real estate appraisers who have been  
23 engaged in the general practice of appraising real property in  
24 this state for at least 5 years immediately preceding  
25 appointment. In appointing real estate appraisers to the  
26 board, while not excluding other appraisers, the Governor  
27 shall give preference to real estate appraisers who are not  
28 primarily engaged in real estate brokerage or mortgage lending  
29 activities. One member of the board must represent  
30 organizations that use appraisals for the purpose of eminent  
31 domain proceedings, financial transactions, or mortgage

1 insurance. Two members of the board shall be representatives  
2 of the general public and shall not be connected in any way  
3 with the practice of real estate appraisal, real estate  
4 brokerage, or mortgage lending. The appraiser members shall  
5 be as representative of the entire industry as possible, and  
6 membership in a nationally recognized or state-recognized  
7 appraisal organization shall not be a prerequisite to  
8 membership on the board. To the extent possible, no more than  
9 two members of the board shall be primarily affiliated with  
10 any one particular national or state appraisal association.  
11 ~~After July 1, 1992,~~Two of the members must be licensed or  
12 certified residential real estate appraisers and two of the  
13 members must be certified general real estate appraisers at  
14 the time of their appointment.

15 (a) ~~Initially, four members of the board shall be~~  
16 ~~appointed for 3-year terms, and three members shall be~~  
17 ~~appointed for 4-year terms. Thereafter, all~~ Members of the  
18 board shall be appointed for 4-year terms. Any vacancy  
19 occurring in the membership of the board shall be filled by  
20 appointment by the Governor for the unexpired term. Upon  
21 expiration of her or his ~~or her~~ term, a member of the board  
22 shall continue to hold office until the appointment and  
23 qualification of the member's successor. A member may not be  
24 appointed for more than two consecutive terms. The Governor  
25 may remove any member for cause.

26 (b) The headquarters for the board shall be in  
27 Orlando.

28 (c) The board shall meet at least once each calendar  
29 quarter to conduct its business.

30 (d) The members of the board shall elect a chairperson  
31 at the first meeting each year.

1 (e) Each member of the board is entitled to per diem  
2 and travel expenses as set by legislative appropriation for  
3 each day that the member engages in the business of the board.

4 (2) The board shall have, through its rules, full  
5 power to regulate the issuance of licenses, certifications,  
6 registrations, and permits; to discipline appraisers in any  
7 manner permitted under this section; to establish  
8 qualifications for licenses, certifications, registrations,  
9 and permits consistent with this section; to regulate approved  
10 courses; ~~and~~ to establish standards for real estate  
11 appraisals; and to establish standards for and regulate  
12 supervisory appraisers.

13 Section 6. Section 475.6147, Florida Statutes, is  
14 amended to read:

15 475.6147 Fees.--

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

1           (2) Application and certification, registration, and  
2 license fees shall be refunded upon a determination by the  
3 board that the state is not entitled to the fees or that only  
4 a portion of the resources have been expended in the  
5 processing of the application or shall be refunded if for any  
6 other reason the application is not completely processed. The  
7 board shall implement this subsection by rule.

8           Section 7. Subsections (1), (4), and (6) of section  
9 475.615, Florida Statutes, are amended to read:

10           475.615 Qualifications for registration, licensure, or  
11 certification.--

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

21           (4) In the event that the applicant is currently a  
22 registered trainee ~~assistant~~ appraiser or a licensed or  
23 certified appraiser and is making application to obtain a  
24 different status of appraisal licensure, should such  
25 application be received by the department within 180 days  
26 prior to through 180 days after the applicant's scheduled  
27 renewal, the charge for the application shall be established  
28 by the rules of the board pursuant to s. 475.6147.

29           (6) All applicants must be competent and qualified to  
30 make real estate appraisals with safety to those with whom  
31 they may undertake a relationship of trust and confidence and

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

20 Section 8. Subsection (1), paragraph (a) of subsection  
21 (3), and paragraph (a) of subsection (4) of section 475.617,  
22 Florida Statutes, are amended to read:

23 475.617 Education and experience requirements.--

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



1 college, college, or university, state or federal agency or  
2 commission, or proprietary real estate school that holds a  
3 permit pursuant to s. 475.451. The board may increase the  
4 required number of hours to not more than 100 hours. A  
5 classroom hour is defined as 50 minutes out of each 60-minute  
6 segment. Past courses may be approved on an hour-for-hour  
7 basis.

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

11 (a) Has at least 2,500 hours of experience obtained  
12 over a 24-month period in real property appraisal as defined  
13 by rule.

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

17 (a) Has at least 3,000 hours of experience obtained  
18 over a 30-month period in real property appraisal as defined  
19 by rule.

20 Section 9. Section 475.6175, Florida Statutes, is  
21 created to read:

22 475.6175 Registered trainee appraiser; postlicensure  
23 education required.--

24 (1) The board shall prescribe postlicensure  
25 educational requirements in order for a person to maintain a  
26 valid registration as a registered trainee appraiser. If  
27 prescribed, the postlicensure educational requirements consist  
28 of one or more courses which total no more than the total  
29 educational hours required to qualify as a state certified  
30 residential appraiser. Such courses must be in subjects  
31 related to real estate appraisal and shall include coverage of

1 the Uniform Standards of Professional Appraisal Practice. Such  
2 courses are provided by a nationally or state-recognized  
3 appraisal organization, area technical center, accredited  
4 community college, college, or university, state or federal  
5 agency or commission, or proprietary real estate school that  
6 holds a permit pursuant to s. 475.451.

7 (2) The registration of any registered trainee  
8 appraiser who does not complete the board-prescribed  
9 postlicensure educational requirements prior to the second  
10 renewal following initial registration is void without further  
11 administrative action. Such person may requalify to practice  
12 as a registered trainee appraiser only by retaking the  
13 required education and complying with all other requirements  
14 of law to be registered as a registered trainee appraiser. Any  
15 registered trainee appraiser registered prior to July 1, 2003,  
16 shall comply with the board-prescribed postlicensure  
17 educational requirements within the next two biennial renewal  
18 cycles following July 1, 2003.

19 (3) The board may allow an additional 6-month period  
20 after the second renewal following initial licensure or the  
21 effective date of this act for completing the postlicensure  
22 education courses for registered trainee appraisers who  
23 cannot, due to individual physical hardship, as defined by  
24 rule, complete the courses within the required time.

25 Section 10. Subsections (1) and (4) of section  
26 475.618, Florida Statutes, are amended to read:

27 475.618 Renewal of registration, license,  
28 certification, or instructor permit; continuing education.--

29 (1)(a) The department shall renew a registration,  
30 license, certification, or instructor permit upon receipt of  
31 the renewal application and proper fee. Such application shall

1 include proof satisfactory to the board that the individual  
2 has satisfactorily completed any continuing education that has  
3 been prescribed by the board.

4 (b) A distance learning course or courses shall be  
5 approved by the board as an option to classroom hours as  
6 satisfactory completion of the course or courses as required  
7 by this section. The schools authorized by this section have  
8 the option of providing classroom courses, distance learning  
9 courses, or both. ~~However, satisfactory completion of a~~  
10 ~~distance learning course requires the satisfactory completion~~  
11 ~~of a timed distance learning course examination. Such~~  
12 ~~examination shall not be required to be monitored or given at~~  
13 ~~a centralized location.~~

14 (c) The board may authorize independent certification  
15 organizations to certify or approve the delivery method of  
16 distance learning courses. Certification from such authorized  
17 organizations must be provided at the time a distance learning  
18 course is submitted to the board by an accredited college,  
19 university, community college, area technical center,  
20 proprietary real estate school, or board-approved sponsor for  
21 content approval.

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

28 Section 11. Subsection (2) of section 475.619, Florida  
29 Statutes, is amended to read:

30 475.619 Inactive status.--  
31

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

15           Section 12. Subsection (2) of section 475.620, Florida  
16 Statutes, is amended to read:

17           475.620 Corporations and partnerships ineligible for  
18 licensure or certification.--

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

1 and advertise that they offer appraisals performed by  
2 registered, licensed, or certified appraisers.

3 Section 13. Section 475.622, Florida Statutes, is  
4 amended to read:

5 475.622 Display and disclosure of licensure,  
6 certification, or registration.--

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

21 (2) A registered trainee ~~assistant~~ appraiser or  
22 licensed or certified appraiser may not sign any appraisal  
23 report or certification or communicate same without disclosing  
24 in writing that she or he is a state-registered trainee  
25 ~~assistant~~ appraiser or state-licensed, state-certified  
26 residential, or state-certified general appraiser, as  
27 applicable, even if the appraisal performed is outside of the  
28 scope of the appraiser's registration, licensure, or  
29 certification as an appraiser.

30 (3) The primary or secondary supervisory ~~supervising~~  
31 ~~licensed or certified~~ appraiser of a registered trainee

1 ~~assistant~~ real estate appraiser must sign each ~~any~~ appraisal  
2 report and certification signed by the registered trainee  
3 ~~assistant~~.

4 (4) The supervisory ~~supervising~~ appraiser of a  
5 registered trainee ~~assistant~~ real estate appraiser must  
6 disclose her or his ~~or her~~ appropriate designation and number  
7 any time the registered trainee ~~assistant~~ is required to make  
8 such disclosures.

9 Section 14. Section 475.6221, Florida Statutes, is  
10 amended to read:

11 475.6221 Employment of registered trainee ~~assistant~~  
12 real estate appraisers.--

13 (1) A registered trainee ~~assistant~~ real estate  
14 appraiser must perform appraisal services under the direct  
15 supervision of a licensed or certified appraiser who is  
16 designated as the primary supervisory appraiser ~~supervisor~~.  
17 The primary supervisory appraiser ~~supervisor~~ may also  
18 designate additional licensed or certified appraisers as  
19 secondary supervisory appraisers ~~supervisors~~. A secondary  
20 supervisory appraiser ~~supervisor~~ must be affiliated with the  
21 same firm or business as the primary supervisory appraiser  
22 ~~supervisor~~ and the primary or secondary supervisory appraiser  
23 ~~supervisor~~ must have the same business address as the  
24 registered trainee ~~assistant~~ real estate appraiser. The  
25 primary supervisory ~~A registered assistant real estate~~  
26 appraiser must notify the Division of Real Estate of the name  
27 and address of any primary and secondary supervisory appraiser  
28 ~~supervisor~~ for whom the registered trainee ~~assistant~~ will  
29 perform appraisal services, and must also notify the division  
30 within 10 days after terminating such relationship.  
31 Termination of the relationship with a primary supervisory

1 ~~appraiser supervisor~~ automatically terminates the relationship  
2 with the secondary supervisory appraiser ~~supervisor~~.

3 (2) A registered trainee ~~assistant~~ real estate  
4 appraiser may only not receive compensation through or from  
5 ~~payment directly from the recipient of an appraisal report,~~  
6 ~~unless~~ the primary supervisory ~~supervising licensed or~~  
7 ~~certified~~ appraiser ~~agrees to the payment arrangement.~~

8 Section 15. Section 475.6222, Florida Statutes, is  
9 created to read:

10 475.6222 Supervision of registered trainee  
11 appraisers.--The primary or secondary supervisory appraiser of  
12 a registered trainee appraiser shall provide direct  
13 supervision to the registered trainee appraiser. The role and  
14 responsibility of the supervisory appraiser is determined by  
15 rule of the board.

16 Section 16. 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; may reprimand or impose an  
22 administrative fine not to exceed \$5,000 for each count or  
23 separate offense against any such appraiser; and may revoke or  
24 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 trainee ~~assistant~~, licensee, or certificateholder:

28 (1) Has violated any provisions of this part or s.  
29 455.227(1); however, certificateholders, registrants, and  
30 licensees under this part are exempt from the provisions of s.  
31 455.227(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 trainee ~~assistant~~, 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 trainee ~~assistant~~, licensee, or  
19 certificateholder, or was an identified member of the general  
20 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 trainee ~~assistant~~ appraiser or  
31 licensed or certified appraiser, or which involves moral



1 turpitude or fraudulent or dishonest conduct. The record of a  
2 conviction certified or authenticated in such form as  
3 admissible in evidence under the laws of the state shall be  
4 admissible as 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, certification, or registration in such cases shall  
21 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 trainee ~~assistant~~,  
7 licensee, or certificateholder knows to be false; has  
8 willfully failed to file a report or record required by state  
9 or federal law; has willfully impeded or obstructed such  
10 filing, or has induced another person to impede or obstruct  
11 such filing. However, such reports or records shall include  
12 only those which are signed or presented in the capacity of a  
13 registered trainee ~~assistant~~ appraiser or licensed or  
14 certified appraiser.

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

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

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

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

31

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

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

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

14           Section 17. Paragraph (a) of subsection (1) of section  
15 475.626, Florida Statutes, is amended to read:

16           475.626 Violations and penalties.--

17           (1) VIOLATIONS.--

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

22           Section 18. Subsections (1) and (2) of section  
23 475.627, Florida Statutes, are amended to read:

24           475.627 Appraisal course instructors.--

25           (1) Where the course or courses to be taught are  
26 prescribed by the board or approved precedent to registration,  
27 licensure, certification, or renewal as a registered trainee  
28 ~~assistant~~ appraiser, licensed appraiser, or certified  
29 residential appraiser, before commencing to instruct noncredit  
30 college courses in a college, university, or community  
31 college, or courses in an area technical center or proprietary

1 real estate school, a person must certify her or his  
2 competency by meeting one of the following requirements:

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

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

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

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

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

21 (3) Possession of a permit to teach prescribed or  
22 approved appraisal courses does not entitle the permit holder  
23 to teach any courses outside the scope of the permit.

24 Section 19. Section 475.6295, Florida Statutes, is  
25 amended to read:

26 475.6295 Authority to inspect.--Duly authorized agents  
27 and employees of the department shall have the power to  
28 inspect in a lawful manner at all reasonable hours any  
29 appraiser or appraisal office certified, registered, or  
30 licensed under this chapter, for the purpose of determining if  
31 any of the provisions of this chapter, chapter 455, or any

1 rule promulgated under authority of either chapter is being  
2 violated.

3 Section 20. Section 475.631, Florida Statutes, is  
4 created to read:

5 475.631 Nonresident licenses and certifications.--

6 (1) Notwithstanding the requirements for certification  
7 set forth in ss. 475.615 and 475.616, the board may enter into  
8 written agreements with similar licensing or certification  
9 authorities of other states, territories, or jurisdictions of  
10 the United States to ensure for state-certified appraisers  
11 nonresident licensure or certification opportunities  
12 comparable to those afforded to nonresidents by this section.  
13 Whenever the board determines that another jurisdiction does  
14 not offer nonresident licensure or certification to  
15 state-certified appraisers substantially comparable to those  
16 afforded to certified appraisers or licensees of that  
17 jurisdiction by this section, the board shall require  
18 certified appraisers or licensees of that jurisdiction who  
19 apply for nonresident certification to meet education,  
20 experience, and examination requirements substantially  
21 comparable to those required by that jurisdiction with respect  
22 to state-certified appraisers who seek nonresident licensure  
23 or certification, not to exceed such requirements as are  
24 prescribed in ss. 475.615 and 475.616.

25 (2)(a) An applicant who is not a resident of this  
26 state shall file an irrevocable consent that suits and actions  
27 may be commenced against her or him in any county of this  
28 state in which a plaintiff having a cause of action or suit  
29 against her or him resides and that service of any process or  
30 pleading in suits or actions against her or him may be made by  
31 delivering the process or pleading to the director of the

1 Division of Real Estate by certified mail, return receipt  
2 requested, and also to the certified appraiser or licensee by  
3 registered mail addressed to the certified appraiser or  
4 licensee at her or his designated principal place of business.  
5 Service, when so made, must be taken and held in all courts to  
6 be as valid and binding upon the certified appraiser or  
7 licensee as if made upon her or him in this state within the  
8 jurisdiction of the court in which the suit or action is  
9 filed. The irrevocable consent must be in a form prescribed by  
10 the department and be acknowledged before a notary public.

11 (b) Any resident state-certified appraiser who becomes  
12 a nonresident shall, within 60 days, notify the board of the  
13 change in residency and comply with nonresident requirements.  
14 Failure to notify and comply is a violation of the license  
15 law, subject to the penalties in s. 475.624.

16 (c) All nonresident applicants, certified appraisers,  
17 and licensees shall comply with all requirements of board  
18 rules and this part. The board may adopt rules pursuant to ss.  
19 120.536(1) and 120.54 necessary for the regulation of  
20 nonresident certified appraisers and licensees.

21 Section 21. Section 475.001, Florida Statutes, is  
22 amended to read:

23 475.001 Purpose.--The Legislature deems it necessary  
24 in the interest of the public welfare to regulate real estate  
25 brokers, sales associates ~~salespersons~~, and schools in this  
26 state.

27 Section 22. Section 475.01, Florida Statutes, is  
28 amended to read:

29 475.01 Definitions.--

30 (1) As used in this part:

31

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

1 appraisal services which may be performed by a registered  
2 assistant appraiser as defined in part II. The term "broker"  
3 also includes any person who is a general partner, officer, or  
4 director of a partnership or corporation which acts as a  
5 broker. The term "broker" also includes any person or entity  
6 who undertakes to list or sell one or more timeshare periods  
7 per year in one or more timeshare plans on behalf of any  
8 number of persons, except as provided in ss. 475.011 and  
9 721.20.

10 (b) "Broker associate ~~Broker-salesperson~~" means a  
11 person who is qualified to be issued a license as a broker but  
12 who operates as a sales associate ~~salesperson~~ in the employ of  
13 another.

14 (c) "Commission" means the Florida Real Estate  
15 Commission.

16 (d) "Customer" means a member of the public who is or  
17 may be a buyer or seller of real property and may or may not  
18 be represented by a real estate licensee in an authorized  
19 brokerage relationship.

20 (e) "Department" means the Department of Business and  
21 Professional Regulation.

22 (f) "Fiduciary" means a broker in a relationship of  
23 trust and confidence between that broker as agent and the  
24 seller or buyer as principal. The duties of the broker as a  
25 fiduciary are loyalty, confidentiality, obedience, full  
26 disclosure, and accounting and the duty to use skill, care,  
27 and diligence.

28 (g) "Involuntarily inactive status" means the  
29 licensure status that results when a license is not renewed at  
30 the end of the license period prescribed by the department.

31



1 (h) "Principal" means the party with whom a real  
2 estate licensee has entered into a single agent relationship.

3 (i) "Real property" or "real estate" means any  
4 interest or estate in land and any interest in business  
5 enterprises or business opportunities, including any  
6 assignment, leasehold, subleasehold, or mineral right;  
7 however, the term does not include any cemetery lot or right  
8 of burial in any cemetery; nor does the term include the  
9 renting of a mobile home lot or recreational vehicle lot in a  
10 mobile home park or travel park.

11 (j) "~~Sales associate Salesperson~~" means a person who  
12 performs any act specified in the definition of "broker," but  
13 who performs such act under the direction, control, or  
14 management of another person. A salesperson renders a  
15 professional service and is a professional within the meaning  
16 of s. 95.11(4)(a).

17 (k) "Single agent" means a broker who represents, as a  
18 fiduciary, either the buyer or seller but not both in the same  
19 transaction.

20 (l) "Transaction broker" means a broker who provides  
21 limited representation to a buyer, a seller, or both, in a  
22 real estate transaction, but does not represent either in a  
23 fiduciary capacity or as a single agent. In a transaction  
24 broker relationship, a buyer or seller is not responsible for  
25 the acts of a licensee. Additionally, the parties to a real  
26 estate transaction are giving up their rights to the undivided  
27 loyalty of a licensee. This aspect of limited representation  
28 allows a licensee to facilitate a real estate transaction by  
29 assisting both the buyer and the seller, but a licensee will  
30 not work to represent one party to the detriment of the other  
31 party when acting as a transaction broker to both parties.

1 (m) "Voluntarily inactive status" means the licensure  
2 status that results when a licensee has applied to the  
3 department to be placed on inactive status and has paid the  
4 fee prescribed by rule.

5 (2) The terms "employ," "employment," "employer," and  
6 "employee," when used in this chapter and in rules adopted  
7 pursuant thereto to describe the relationship between a broker  
8 and a sales associate ~~salesperson~~, include an independent  
9 contractor relationship when such relationship is intended by  
10 and established between a broker and a sales associate  
11 ~~salesperson~~. The existence of such relationship shall not  
12 relieve either the broker or the sales associate ~~salesperson~~  
13 of her or his duties, obligations, or responsibilities under  
14 this chapter.

15 (3) Wherever the word "operate" or "operating" as a  
16 broker, broker associate ~~broker-salesperson~~, or sales  
17 associate ~~salesperson~~ appears in this chapter; in any order,  
18 rule, or regulation of the commission; in any pleading,  
19 indictment, or information under this chapter; in any court  
20 action or proceeding; or in any order or judgment of a court,  
21 it shall be deemed to mean the commission of one or more acts  
22 described in this chapter as constituting or defining a  
23 broker, broker associate ~~broker-salesperson~~, or sales  
24 associate ~~salesperson~~, not including, however, any of the  
25 exceptions stated therein. A single such act is sufficient to  
26 bring a person within the meaning of this chapter, and each  
27 act, if prohibited herein, constitutes a separate offense.

28 (4) A broker acting as a trustee of a trust created  
29 under chapter 689 is subject to the provisions of this chapter  
30 unless the trustee is a bank, state or federal association, or  
31

1 trust company possessing trust powers as defined in s.  
2 658.12(23).

3 Section 23. Section 475.011, Florida Statutes, is  
4 amended to read:

5 475.011 Exemptions.--This part does not apply to:

6 (1) Any person acting as an attorney in fact for the  
7 purpose of the execution of contracts or conveyances only; as  
8 an attorney at law within the scope of her or his duties as  
9 such; as a certified public accountant, as defined in chapter  
10 473, within the scope of her or his duties as such; as the  
11 personal representative, receiver, trustee, or master under,  
12 or by virtue of, an appointment by will or by order of a court  
13 of competent jurisdiction; or as trustee under a deed of  
14 trust, or under a trust agreement, the ultimate purpose and  
15 intent whereof is charitable, is philanthropic, or provides  
16 for those having a natural right to the bounty of the donor or  
17 trustor.†

18 (2) Any individual, corporation, partnership, trust,  
19 joint venture, or other entity which sells, exchanges, or  
20 leases its own real property; however, this exemption shall  
21 not be available if and to the extent that an agent, employee,  
22 or independent contractor paid a commission or other  
23 compensation strictly on a transactional basis is employed to  
24 make sales, exchanges, or leases to or with customers in the  
25 ordinary course of an owner's business of selling, exchanging,  
26 or leasing real property to the public.†

27 (3) Any employee of a public utility, a rural electric  
28 cooperative, a railroad, or a state or local governmental  
29 agency who acts within the scope of her or his employment, for  
30 which no compensation in addition to the employee's salary is  
31 paid, to buy, sell, appraise, exchange, rent, auction, or

1 lease any real property or any interest in real property for  
2 the use of her or his employer.†

3 (4) Any salaried employee of an owner, or of a  
4 registered broker for an owner, of an apartment community who  
5 works in an onsite rental office of the apartment community in  
6 a leasing capacity.†

7 (5) Any person employed for a salary as a manager of a  
8 condominium or cooperative apartment complex as a result of  
9 any activities or duties which the person may have in relation  
10 to the renting of individual units within such condominium or  
11 cooperative apartment complex if rentals arranged by the  
12 person are for periods no greater than 1 year.†

13 (6) Any person, partnership, corporation, or other  
14 legal entity which, for another and for compensation or other  
15 valuable consideration, sells, offers to sell, advertises for  
16 sale, buys, offers to buy, or negotiates the sale or purchase  
17 of radio, television, or cable enterprises licensed and  
18 regulated by the Federal Communications Commission pursuant to  
19 the Communications Act of 1934. However, if the sale or  
20 purchase of the radio, television, or cable enterprise  
21 involves the sale or lease of land, buildings, fixtures, and  
22 all other improvements to the land, a broker or sales  
23 associate ~~salesperson~~ licensed under this chapter shall be  
24 retained for the portion of the transaction which includes the  
25 land, buildings, fixtures, and all other improvements to the  
26 land.†~~or~~

27 (7) Any full-time graduate student who is enrolled in  
28 a commission-approved degree program in appraising at a  
29 college or university in this state, if the student is acting  
30 under the direct supervision of a licensed broker or a  
31 licensed or certified appraiser and is engaged only in

1 appraisal activities related to the approved degree  
2 program. Any appraisal report by the student must be issued  
3 in the name of the supervising individual.

4 (8)(a) An owner of one or part of one or more  
5 timeshare periods for the owner's own use and occupancy who  
6 later offers one or more of such periods for resale.

7 (b) An exchange company, as that term is defined by s.  
8 721.05(14), but only to the extent that the exchange company  
9 is engaged in exchange program activities as described in and  
10 is in compliance with s. 721.18.

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

14 (10) Any person who appraises under the unit-rule  
15 method of valuation a railroad or railroad terminal company  
16 assessed for ad valorem tax purposes pursuant to s. 193.085.

17 (11) Any person, partnership, corporation, or other  
18 legal entity which, for another and for compensation or other  
19 valuable consideration, rents or advertises for rent, for  
20 transient occupancy, any public lodging establishment licensed  
21 under chapter 509.

22 (12) Any dealer registered under the Securities and  
23 Exchange Act of 1934, as amended, or any federally insured  
24 depository institution and any parent, subsidiary, or  
25 affiliate thereof, in connection with the sale, exchange,  
26 purchase, or rental of a business enterprise to or by a person  
27 who is an accredited investor as defined by 15 U.S.C. s. 77b,  
28 the Securities Act of 1933, or any regulation adopted  
29 thereunder. This exemption applies whether stock or assets of  
30 the business enterprise are purchased or sold. The exemption  
31 does not apply to a sale, exchange, purchase, or rental of

1 land, buildings, fixtures or other improvements to the land  
2 which is not made in connection with the sale, exchange,  
3 purchase, or rental of a business enterprise. Any reference to  
4 rental in this subsection includes a lease transaction.

5 (13) Any property management firm or any owner of an  
6 apartment complex for the act of paying a finder's fee or  
7 referral fee to an unlicensed person who is a tenant in such  
8 apartment complex provided the value of the fee does not  
9 exceed \$50 per transaction. Nothing in this subsection  
10 authorizes an unlicensed person to advertise or otherwise  
11 promote the person's services in procuring or assisting in  
12 procuring prospective lessees or tenants of apartment units.  
13 For purposes of this subsection, "finder's fee" or "referral  
14 fee" means a fee paid, credit towards rent, or some other  
15 thing of value provided to a person for introducing or  
16 arranging an introduction between parties to a transaction  
17 involving the rental or lease of an apartment unit. It is a  
18 violation of s. 475.25(1)(h) and punishable under s. 475.42  
19 for a property management firm or any owner of an apartment  
20 complex to pay a finder's fee or a referral fee to an  
21 unlicensed person unless expressly authorized by this  
22 subsection.

23 Section 24. Subsection (1) of section 475.02, Florida  
24 Statutes, is amended to read:

25 475.02 Florida Real Estate Commission.--

26 (1) There is created within the department the Florida  
27 Real Estate Commission. The commission shall consist of seven  
28 members who shall be appointed by the Governor, subject to  
29 confirmation by the Senate. Four members must be licensed  
30 brokers, each of whom has held an active license for the 5  
31 years preceding appointment; one member must be a licensed

1 broker or a licensed sales associate ~~salesperson~~ who has held  
2 an active license for the 2 years preceding appointment; and  
3 two members must be persons who are not, and have never been,  
4 brokers or sales associates ~~salespersons~~. At least one member  
5 of the commission must be 60 years of age or older. The  
6 current members may complete their present terms unless  
7 removed for cause.

8 Section 25. Section 475.04, Florida Statutes, is  
9 amended to read:

10 475.04 Duty of commission to educate members of  
11 profession.--

12 (1) The commission shall foster the education of  
13 brokers, broker associates ~~broker-salespersons~~, sales  
14 associates ~~salespersons~~, and instructors concerning the  
15 ethical, legal, and business principles which should govern  
16 their conduct.

17 (2) For the purpose of performing its duty under  
18 subsection (1) to educate persons holding a license or permit,  
19 the commission may conduct, offer, sponsor, prescribe, or  
20 approve real estate educational courses for all persons  
21 licensed or permitted by the department as brokers, broker  
22 associates ~~broker-salespersons~~, sales associates ~~salespersons~~,  
23 or instructors; and the cost and expense of such courses shall  
24 be paid as provided in s. 475.125.

25 (3) The commission may also publish and sell, at a  
26 reasonable price intended to cover costs, a handbook on this  
27 chapter and other publications intended to be textbooks or  
28 guidelines for study and guidance of students, applicants,  
29 licensees, certificateholders, and permitholders, and members  
30 of the general public, copyright of which shall be the  
31 property of the state.

1           Section 26. Section 475.161, Florida Statutes, is  
2 created to read:

3           475.161 Licensing of broker associates and sales  
4 associates.--The commission shall license a broker associate  
5 or sales associate as an individual or, upon the licensee  
6 providing the commission with authorization from the  
7 Department of State, as a professional corporation or limited  
8 liability company. A license shall be issued in the licensee s  
9 legal name only and, when appropriate, shall include the  
10 entity designation. This section shall not operate to permit a  
11 broker associate or sales associate to register or be licensed  
12 as a general partner, member, manager, officer, or director of  
13 a brokerage firm under s. 475.15.

14           Section 27. Section 475.17, Florida Statutes, is  
15 amended to read:

16           475.17 Qualifications for practice.--

17           (1)(a) An applicant for licensure who is a natural  
18 person must be at least 18 years of age; hold a high school  
19 diploma or its equivalent; be honest, truthful, trustworthy,  
20 and of good character; and have a good reputation for fair  
21 dealing. An applicant for an active broker's license or a  
22 sales associate's ~~salesperson's~~ license must be competent and  
23 qualified to make real estate transactions and conduct  
24 negotiations therefor with safety to investors and to those  
25 with whom the applicant may undertake a relationship of trust  
26 and confidence. If the applicant has been denied registration  
27 or a license or has been disbarred, or the applicant's  
28 registration or license to practice or conduct any regulated  
29 profession, business, or vocation has been revoked or  
30 suspended, by this or any other state, any nation, or any  
31 possession or district of the United States, or any court or



1 lawful agency thereof, because of any conduct or practices  
2 which would have warranted a like result under this chapter,  
3 or if the applicant has been guilty of conduct or practices in  
4 this state or elsewhere which would have been grounds for  
5 revoking or suspending her or his license under this chapter  
6 had the applicant then been registered, the applicant shall be  
7 deemed not to be qualified unless, because of lapse of time  
8 and subsequent good conduct and reputation, or other reason  
9 deemed sufficient, it appears to the commission that the  
10 interest of the public and investors will not likely be  
11 endangered by the granting of registration. The commission may  
12 adopt rules requiring an applicant for licensure to provide  
13 written information to the commission regarding the  
14 applicant's good character.

15 (b) An application may be disapproved if the applicant  
16 has acted or attempted to act, or has held herself or himself  
17 out as entitled to act, during the period of 1 year next prior  
18 to the filing of the application, as a real estate broker or  
19 sales associate ~~salesperson~~ in the state in violation of this  
20 chapter. This paragraph may be deemed to bar any person from  
21 licensure who has performed any of the acts or services  
22 described in s. 475.01(3), unless exempt pursuant to s.  
23 475.011, during a period of 1 year next preceding the filing  
24 of the application, or during the pendency of the application,  
25 and until a valid current license has been duly issued to the  
26 person, regardless of whether the performance of the act or  
27 service was done for compensation or valuable consideration.

28 (2)(a)1. In addition to other requirements under this  
29 part, the commission may require the satisfactory completion  
30 of one or more of the educational courses or equivalent  
31 courses conducted, offered, sponsored, prescribed, or approved

1 pursuant to s. 475.04, taken at an accredited college,  
2 university, or community college, at an area technical center,  
3 or at a registered real estate school, as a condition  
4 precedent for any person to become licensed or to renew her or  
5 his license as a broker, broker associate ~~broker-salesperson~~,  
6 or sales associate ~~salesperson~~. The course or courses required  
7 for one to become initially licensed shall not exceed a total  
8 of 63 classroom hours of 50 minutes each, inclusive of  
9 examination, for a sales associate ~~salesperson~~ and 72  
10 classroom hours of 50 minutes each, inclusive of examination,  
11 for a broker. The satisfactory completion of an examination  
12 administered by the accredited college, university, or  
13 community college, by the area technical center, or by the  
14 registered real estate school shall be the basis for  
15 determining satisfactory completion of the course. However,  
16 notice of satisfactory completion shall not be issued if the  
17 student has absences in excess of 8 classroom hours.

18         2. A distance learning course or courses shall be  
19 approved by the commission as an option to classroom hours as  
20 satisfactory completion of the course or courses as required  
21 by this section. The schools authorized by this section have  
22 the option of providing classroom courses, distance learning  
23 courses, or both. However, satisfactory completion of a  
24 distance learning course requires the satisfactory completion  
25 of a timed distance learning course examination. Such  
26 examination shall not be required to be monitored or given at  
27 a centralized location.

28         3. Such required course or courses must be made  
29 available by correspondence or other suitable means to any  
30 person who, by reason of hardship, as defined by rule, cannot  
31 attend the place or places where the course or courses are

1 regularly conducted or does not have access to the distance  
2 learning course or courses.

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

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

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

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

21  
22 This paragraph does not apply to a person employed as a real  
23 estate investigator by the Division of Real Estate, provided  
24 the person has been employed as a real estate investigator for  
25 at least 24 months. The person must be currently employed as a  
26 real estate investigator to sit for the real estate broker's  
27 examination and have held a valid and current sales  
28 associate's ~~salesperson's~~ license for at least 12 months.

29 (c) A person who has been licensed as a real estate  
30 sales associate ~~salesperson~~ in Florida during the preceding 5  
31 years may not be licensed as a real estate broker unless, in

1 addition to the other requirements of law, she or he has  
2 completed the sales associate ~~salesperson~~ postlicensure  
3 educational requirements, if these requirements have been  
4 prescribed by the commission pursuant to paragraph(3)(a).

5 (3)(a) The commission may prescribe a postlicensure  
6 education requirement in order for a person to maintain a  
7 valid sales associate's ~~salesperson's~~ license, which shall not  
8 exceed 45 classroom hours of 50 minutes each, inclusive of  
9 examination, prior to the first renewal following initial  
10 licensure. If prescribed, this shall consist of one or more  
11 commission-approved courses which total at least 45 classroom  
12 hours on one or more subjects which include, but are not  
13 limited to, property management, appraisal, real estate  
14 finance, ~~or~~ the economics of real estate management,  
15 marketing, technology, sales and listing of properties,  
16 business office management, courses teaching practical real  
17 estate application skills, development of business plans,  
18 marketing of property, and time management. Required  
19 postlicensure education courses must be provided by an  
20 accredited college, university, or community college, by an  
21 area technical center, by a registered real estate school, or  
22 by a commission-approved sponsor.

23 (b) Satisfactory completion of the postlicensure  
24 education requirement is demonstrated by successfully meeting  
25 all standards established for the commission-prescribed or  
26 commission-approved institution or school. However, notice of  
27 satisfactory completion shall not be issued if the student has  
28 absences in excess of 10 percent of the required classroom  
29 hours or has not satisfactorily completed a timed distance  
30 learning course examination.

31

1           (c) The license of any sales associate ~~salesperson~~ who  
2 does not complete the postlicensure education requirement  
3 prior to the first renewal following initial licensure shall  
4 be considered null and void. Such person wishing to again  
5 operate as a real estate sales associate ~~salesperson~~ must  
6 requalify by satisfactorily completing the sales associate's  
7 ~~salesperson's~~ prelicensure course and passing the state  
8 examination for licensure as a sales associate ~~salesperson~~.

9           (d) A sales associate ~~salesperson~~ who is required to  
10 complete any postlicensure education requirement must complete  
11 any postlicensure education requirement and hold a current and  
12 valid license in order to be eligible for licensure as a  
13 broker.

14           (4)(a) The commission may prescribe a postlicensure  
15 education requirement in order for a person to maintain a  
16 valid broker's license, which shall not exceed 60 classroom  
17 hours of 50 minutes each, inclusive of examination, prior to  
18 the first renewal following initial licensure. If prescribed,  
19 this shall consist of one or more commission-approved courses  
20 which total at least 60 classroom hours on one or more  
21 subjects which include, but are not limited to, advanced  
22 appraisal, advanced property management, real estate  
23 marketing, business law, advanced real estate investment  
24 analyses, advanced legal aspects, general accounting, real  
25 estate economics, syndications, commercial brokerage,  
26 feasibility analyses, advanced real estate finance,  
27 residential brokerage, advanced marketing, technology,  
28 advanced business planning, time management, or real estate  
29 brokerage office operations. Required postlicensure education  
30 courses must be provided by an accredited college, university,  
31 or community college, by an area technical center, by a

1 registered real estate school, or by a commission-approved  
2 sponsor.

3 (b) Satisfactory completion of the postlicensure  
4 education requirement is demonstrated by successfully meeting  
5 all standards established for the commission-prescribed or  
6 commission-approved institution or school. However, notice of  
7 satisfactory completion shall not be issued if the student has  
8 absences in excess of 10 percent of the required classroom  
9 hours or has not satisfactorily completed a timed distance  
10 learning course examination.

11 (c) The license of any broker who does not complete  
12 the postlicensure education requirement prior to the first  
13 renewal following initial licensure shall be considered null  
14 and void. If the licensee wishes to operate as a sales  
15 associate ~~salesperson~~, she or he may be issued a sales  
16 associate's ~~salesperson's~~ license after providing proof that  
17 she or he has satisfactorily completed the 14-hour continuing  
18 education course within the 6 months following expiration of  
19 her or his broker's license. To operate as a broker, the  
20 licensee must requalify by satisfactorily completing the  
21 broker's prelicensure course and passing the state examination  
22 for licensure as a broker.

23 (5)(a) The commission may allow an additional 6-month  
24 period after the first renewal following initial licensure for  
25 completing the postlicensure education courses for sales  
26 associates ~~salespersons~~ and brokers who cannot, due to  
27 individual physical hardship, as defined by rule, complete the  
28 courses within the required time.

29 (b) Except as provided in subsection (4), sales  
30 associates ~~salespersons~~ and brokers are not required to meet  
31

1 the 14-hour continuing education requirement prior to the  
2 first renewal following initial licensure.

3 (c)1. A distance learning course or courses shall be  
4 approved by the commission as an option to classroom hours as  
5 satisfactory completion of the postlicensure education course  
6 or courses as required by this section. The schools or  
7 sponsors authorized by this section have the option of  
8 providing classroom courses, distance learning courses, or  
9 both. However, satisfactory completion of a distance learning  
10 postlicensure education course or courses requires the  
11 satisfactory completion of a timed distance learning course  
12 examination. Such examination shall not be required to be  
13 monitored or given at a centralized location.

14 2. The commission shall provide for postlicensure  
15 education courses to be made available by correspondence or  
16 other suitable means to any person who, by reason of hardship,  
17 as defined by rule, cannot attend the place or places where  
18 courses are regularly conducted or does not have access to the  
19 distance learning courses.

20 (6) The postlicensure education requirements of this  
21 section, and the education course requirements for one to  
22 become initially licensed, do not apply to any applicant or  
23 licensee who has received a 4-year degree in real estate from  
24 an accredited institution of higher education.

25 (7) The commission may not approve prelicensure or  
26 postlicensure distance learning courses for brokers, broker  
27 associates, and sales associates by correspondence methods,  
28 except in instances of hardship pursuant to subparagraphs  
29 (2)(a)3. and (5)(c)2.

30 Section 28. Section 475.175, Florida Statutes, is  
31 amended to read:

1           475.175 Examinations.--

2           (1) A person shall be entitled to take the license  
3 examination to practice in this state if the person:

4           (a) Submits to the department the appropriate  
5 notarized or electronically authenticated application and fee,  
6 ~~two photographs of herself or himself taken within the~~  
7 ~~preceding year,~~ and a fingerprint card. The fingerprint card  
8 shall be forwarded to the Division of Criminal Justice  
9 Information Systems within the Department of Law Enforcement  
10 for purposes of processing the fingerprint card to determine  
11 if the applicant has a criminal history record. The  
12 fingerprint card shall also be forwarded to the Federal Bureau  
13 of Investigation for purposes of processing the fingerprint  
14 card to determine if the applicant has a criminal history  
15 record. The information obtained by the processing of the  
16 fingerprint card by the Florida Department of Law Enforcement  
17 and the Federal Bureau of Investigation shall be sent to the  
18 department for the purpose of determining if the applicant is  
19 statutorily qualified for examination. Effective July 1, 2006,  
20 an applicant shall provide fingerprints in electronic format.

21           (b) Submits at the time of examination the certificate  
22 specified in subsection (2), the examination admissions  
23 authorization letter ~~card issued by the commission,~~ and proof  
24 of identification.

25           (2) Each accredited college, university, community  
26 college, or registered real estate school shall notify the  
27 commission of the names of all persons who have satisfactorily  
28 completed the educational requirements provided for in s.  
29 475.17(2), (3), and (4) in a manner prescribed by the  
30 commission. Furthermore, each such educational institution  
31 shall provide to each person satisfactorily completing the



1 educational requirements provided for in s. 475.17(2), (3),  
2 and (4)a certificate as proof of such satisfactory  
3 completion.

4 Section 29. Subsection (1) of section 475.181, Florida  
5 Statutes, is amended to read:

6 475.181 Licensure.--

7 (1) The department shall license any applicant whom  
8 the commission certifies, pursuant to subsection (2), to be  
9 qualified to practice as a broker or sales associate  
10 ~~salesperson~~.

11 Section 30. Section 475.182, Florida Statutes, is  
12 amended to read:

13 475.182 Renewal of license; continuing education.--

14 (1) The department shall renew a license upon receipt  
15 of the renewal application and fee. The renewal application  
16 for an active license as broker, broker associate  
17 ~~broker-salesperson~~, or sales associate ~~salesperson~~ shall  
18 include proof satisfactory to the commission that the licensee  
19 has, since the issuance or renewal of her or his current  
20 license, satisfactorily completed at least 14 classroom hours  
21 of 50 minutes each of a continuing education course during  
22 each biennium of a license period, as prescribed by the  
23 commission. Approval or denial of a specialty course must be  
24 based on the extent to which the course content focuses on  
25 real estate issues relevant to the modern practice of real  
26 estate by a real estate licensee, including technology used in  
27 the real estate industry.The commission may accept as a  
28 substitute for such continuing education course, on a  
29 classroom-hour-for-classroom-hour basis, any satisfactorily  
30 completed education course that the commission finds is  
31 adequate to educate licensees within the intent of this

1 section, including an approved distance learning course.  
2 However, the commission may not require, for the purpose of  
3 satisfactorily completing an approved correspondence or  
4 distance learning course, a written examination that is to be  
5 taken at a centralized location and is to be monitored.

6 (2) The department shall adopt rules establishing a  
7 procedure for the renewal of licenses at least every 4 years.

8 (3) Any license that ~~which~~ is not renewed at the end  
9 of the license period prescribed by the department shall  
10 automatically revert to involuntarily inactive status. Such  
11 license may subsequently be renewed only if the licensee meets  
12 the other qualifications specified in s. 475.183.

13 (4) Sixty days before ~~prior to~~ the end of the license  
14 period and automatic reversion of a license to inactive  
15 status, the department shall mail a notice of renewal and  
16 possible reversion to the last known address of the licensee.

17 Section 31. Section 475.215, Florida Statutes, is  
18 amended to read:

19 475.215 Multiple licenses.--

20 (1) A licensed broker may be issued upon request  
21 additional licenses as a broker, but not as a sales associate  
22 ~~salesperson~~ or as a broker associate ~~broker-salesperson~~,  
23 whenever it is clearly shown that the requested additional  
24 licenses are necessary to the conduct of real estate brokerage  
25 business and that the additional licenses will not be used in  
26 a manner likely to be prejudicial to any person, including a  
27 licensee under this chapter.

28 (2) A sales associate ~~salesperson~~ or broker associate  
29 ~~broker-salesperson~~ shall have no more than one registered  
30 employer at any one time.

31

1           Section 32. Subsection (1) of section 475.22, Florida  
2 Statutes, is amended to read:

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

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

20           Section 33. Section 475.23, Florida Statutes, is  
21 amended to read:

22           475.23 License to expire on change of address.--A  
23 license shall cease to be in force whenever a broker changes  
24 her or his business address, a real estate school operating  
25 under a permit issued pursuant to s. 475.451 changes its  
26 business address, or a sales associate ~~salesperson~~ working for  
27 a broker or an instructor working for a real estate school  
28 changes employer. The licensee shall notify the commission of  
29 the change no later than 10 days after the change, on a form  
30 provided by the commission. When a broker or a real estate  
31 school changes business address, the brokerage firm or school

1 permitholder must file with the commission a notice of the  
2 change of address, along with the names of any sales  
3 associates or instructors who are no longer employed by the  
4 brokerage or school. Such notification shall also fulfill the  
5 change of address notification requirements for sales  
6 associates who remain employed by the brokerage and  
7 instructors who remain employed by the school.

8 Section 34. Subsection (1) of section 475.25, Florida  
9 Statutes, is amended, and subsections (5) and (6) are added to  
10 that section, to read:

11 475.25 Discipline.--

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

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

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

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

12 (c) Has advertised property or services in a manner  
13 which is fraudulent, false, deceptive, or misleading in form  
14 or content. The commission may adopt rules defining methods of  
15 advertising that violate this paragraph.

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 department  
23 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. Under certain  
30 circumstances, which the commission shall set forth by rule, a  
31 licensee may disburse property from the licensee's escrow

1 account without notifying the commission or employing one of  
2 the procedures listed in sub-subparagraphs a.-d. If the buyer  
3 of a residential condominium unit delivers to a licensee  
4 written notice of the buyer's intent to cancel the contract  
5 for sale and purchase, as authorized by s. 718.503, or if the  
6 buyer of real property in good faith fails to satisfy the  
7 terms in the financing clause of a contract for sale and  
8 purchase, the licensee may return the escrowed property to the  
9 purchaser without notifying the commission or initiating any  
10 of the procedures listed in sub-subparagraphs a.-d.

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

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

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

28           (g) Has had a broker's or sales associate's  
29 ~~salesperson's~~ license revoked, suspended, or otherwise acted  
30 against, or has had an application for such licensure denied,  
31

1 by the real estate licensing agency of another state,  
2 territory, or country.

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

17 (i) Has become temporarily incapacitated from acting  
18 as a broker or sales associate ~~salesperson~~ with safety to  
19 investors or those in a fiduciary relation with her or him  
20 because of drunkenness, use of drugs, or temporary mental  
21 derangement; but suspension of a license in such a case shall  
22 be only for the period of such incapacity.

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

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



1 as a broker in escrow with a title company, banking  
2 institution, credit union, or savings and loan association  
3 located and doing business in this state, or to deposit such  
4 funds in a trust or escrow account maintained by her or him  
5 with some bank, credit union, or savings and loan association  
6 located and doing business in this state, wherein the funds  
7 shall be kept until disbursement thereof is properly  
8 authorized; or has failed, if a sales associate ~~salesperson~~,  
9 to immediately place with her or his registered employer any  
10 money, fund, deposit, check, or draft entrusted to her or him  
11 by any person dealing with her or him as agent of the  
12 registered employer. The commission shall establish rules to  
13 provide for records to be maintained by the broker and the  
14 manner in which such deposits shall be made. A broker may  
15 place and maintain up to \$5,000 of personal or brokerage funds  
16 in the broker's property management escrow account and up to  
17 \$1,000 of personal or brokerage funds in the broker's sales  
18 escrow account. A broker shall be provided a reasonable amount  
19 of time to correct escrow errors if there is no shortage of  
20 funds and such errors pose no significant threat to  
21 economically harm the public. It is the intent of the  
22 Legislature that, in the event of legal proceedings concerning  
23 a broker's escrow account, the disbursement of escrowed funds  
24 not be delayed due to any dispute over the personal or  
25 brokerage funds that may be present in the escrow account.  
26 (1) Has made or filed a report or record which the  
27 licensee knows to be false, has willfully failed to file a  
28 report or record required by state or federal law, has  
29 willfully impeded or obstructed such filing, or has induced  
30 another person to impede or obstruct such filing; but such  
31 reports or records shall include only those which are signed

1 in the capacity of a licensed broker or sales associate  
2 ~~salesperson~~.

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

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

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

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

22 (q) Has violated any provision of s. 475.2755 or s.  
23 475.278, including the duties owed under those sections.

24 (r) Has failed in any written listing agreement to  
25 include a definite expiration date, description of the  
26 property, price and terms, fee or commission, and a proper  
27 signature of the principal(s); and has failed to give the  
28 principal(s) a legible, signed, true and correct copy of the  
29 listing agreement within 24 hours of obtaining the written  
30 listing agreement. The written listing agreement shall  
31 contain no provision requiring the person signing the listing

1 to notify the broker of the intention to cancel the listing  
2 after such definite expiration date.

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

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

22 (5) An administrative complaint against a broker or  
23 broker associate must be filed within 5 years after the time  
24 of the act giving rise to the complaint or within 5 years  
25 after the time the act is discovered or should have been  
26 discovered with the exercise of due diligence.

27 (6) The commission shall promptly report to the proper  
28 prosecuting authority any criminal violation of any statute  
29 relating to the practice of a real estate profession regulated  
30 by the commission.

31

1 Section 35. Section 475.2755, Florida Statutes, is  
2 amended to read:

3 475.2755 Designated sales associate ~~salesperson~~.--

4 (1) For purposes of this part, in any real estate  
5 transaction other than a residential sale as defined in s.  
6 475.278(5)(a), and where the buyer and seller have assets of  
7 \$1 million or more, the broker at the request of the customers  
8 may designate sales associates ~~salespersons~~ to act as single  
9 agents for different customers in the same transaction. Such  
10 designated sales associates ~~salespersons~~ shall have the duties  
11 of a single agent as outlined in s. 475.278(3), including  
12 disclosure requirements in s. 475.278(3)(b) and (c). In  
13 addition to disclosure requirements in s. 475.278(3)(b) and  
14 (c), the buyer and seller as customers shall both sign  
15 disclosures stating that their assets meet the threshold  
16 described in this subsection and requesting that the broker  
17 use the designated sales associate ~~salesperson~~ form of  
18 representation. In lieu of the transition disclosure  
19 requirement in s. 475.278(3)(c)2., the required disclosure  
20 notice shall include the following:

21  
22 FLORIDA LAW PROHIBITS A DESIGNATED SALES ASSOCIATE ~~SALESPERSON~~  
23 FROM DISCLOSING, EXCEPT TO THE BROKER OR PERSONS SPECIFIED BY  
24 THE BROKER, INFORMATION MADE CONFIDENTIAL BY REQUEST OR AT THE  
25 INSTRUCTION OF THE CUSTOMER THE DESIGNATED SALES ASSOCIATE  
26 ~~SALESPERSON~~ IS REPRESENTING. HOWEVER, FLORIDA LAW ALLOWS A  
27 DESIGNATED SALES ASSOCIATE ~~SALESPERSON~~ TO DISCLOSE INFORMATION  
28 ALLOWED TO BE DISCLOSED OR REQUIRED TO BE DISCLOSED BY LAW AND  
29 ALSO ALLOWS A DESIGNATED SALES ASSOCIATE ~~SALESPERSON~~ TO  
30 DISCLOSE TO HIS OR HER BROKER, OR PERSONS SPECIFIED BY THE  
31 BROKER, CONFIDENTIAL INFORMATION OF A CUSTOMER FOR THE PURPOSE

1 OF SEEKING ADVICE OR ASSISTANCE FOR THE BENEFIT OF THE  
2 CUSTOMER IN REGARD TO A TRANSACTION. FLORIDA LAW REQUIRES THAT  
3 THE BROKER MUST HOLD THIS INFORMATION CONFIDENTIAL AND MAY NOT  
4 USE SUCH INFORMATION TO THE DETRIMENT OF THE OTHER PARTY.

5 (2) For purposes of this section, the term "buyer"  
6 means a transferee or lessee in a real property transaction,  
7 and the term "seller" means the transferor or lessor in a real  
8 property transaction.

9 Section 36. Section 475.278, Florida Statutes, is  
10 amended to read:

11 475.278 Authorized brokerage relationships;  
12 presumption of transaction brokerage;required disclosures.--

13 (1) BROKERAGE RELATIONSHIPS.--

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

30 (b) Presumption of transaction brokerage.--It shall be  
31 presumed that all licensees are operating as transaction

1 brokers unless a single agent or no brokerage relationship is  
2 established, in writing, with a customer.

3 (2) TRANSACTION BROKER RELATIONSHIP.--

4 (a) Transaction broker-duties of limited  
5 representation.--A transaction broker provides a limited form  
6 of representation to a buyer, a seller, or both in a real  
7 estate transaction but does not represent either in a  
8 fiduciary capacity or as a single agent. The duties of the  
9 real estate licensee in this limited form of representation  
10 include the following:

11 1. Dealing honestly and fairly;

12 2. Accounting for all funds;

13 3. Using skill, care, and diligence in the  
14 transaction;

15 4. Disclosing all known facts that materially affect  
16 the value of residential real property and are not readily  
17 observable to the buyer;

18 5. Presenting all offers and counteroffers in a timely  
19 manner, unless a party has previously directed the licensee  
20 otherwise in writing;

21 6. Limited confidentiality, unless waived in writing  
22 by a party. This limited confidentiality will prevent  
23 disclosure that the seller will accept a price less than the  
24 asking or listed price, that the buyer will pay a price  
25 greater than the price submitted in a written offer, of the  
26 motivation of any party for selling or buying property, that a  
27 seller or buyer will agree to financing terms other than those  
28 offered, or of any other information requested by a party to  
29 remain confidential; and

30 7. Any additional duties that are mutually agreed to  
31 with a party.

1 (b) Disclosure requirements.--Duties of a transaction  
2 broker must be fully described and disclosed in writing to a  
3 buyer or seller either as a separate and distinct disclosure  
4 document or included as part of another document such as a  
5 listing agreement or agreement for representation. The  
6 disclosure must be made before, or at the time of, entering  
7 into a listing agreement or an agreement for representation or  
8 before the showing of property, whichever occurs first. When  
9 incorporated into other documents, the required notice must be  
10 of the same size type, or larger, as other provisions of the  
11 document and must be conspicuous in its placement so as to  
12 advise customers of the duties of limited representation,  
13 except that the first sentence of the information identified  
14 in paragraph (c) must be printed in uppercase and bold type.  
15 This paragraph expires July 1, 2008.

16 (c) Contents of disclosure.--The required notice given  
17 under paragraph (b) must include the following information in  
18 the following form:

19  
20 IMPORTANT NOTICE

21  
22 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS  
23 NOTICE TO 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

## TRANSACTION BROKER NOTICE

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

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

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



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

10 \_\_\_\_\_ Date \_\_\_\_\_  
 11 \_\_\_\_\_ Signature  
 12 \_\_\_\_\_  
 13 \_\_\_\_\_ Signature  
 14

15 This paragraph expires July 1, 2008.

16 (3) SINGLE AGENT RELATIONSHIP.--

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

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

30  
 31

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

4           (b) Disclosure requirements.--

5           1. Single agent disclosure.--Duties of a single agent  
6 must be fully described and disclosed in writing to a buyer or  
7 seller either as a separate and distinct disclosure document  
8 or included as part of another document such as a listing  
9 agreement or other agreement for representation. The  
10 disclosure must be made before, or at the time of, entering  
11 into a listing agreement or an agreement for representation or  
12 before the showing of property, whichever occurs first. When  
13 incorporated into other documents, the required notice must be  
14 of the same size type, or larger, as other provisions of the  
15 document and must be conspicuous in its placement so as to  
16 advise customers of the duties of a single agent, except that  
17 the first sentence of the information identified in paragraph  
18 (c) must be printed in uppercase and bold type.

19           2. Transition to transaction broker disclosure.--A  
20 single agent relationship may be changed to a transaction  
21 broker relationship at any time during the relationship  
22 between an agent and principal, provided the agent first  
23 obtains the principal's written consent to the ~~gives the~~  
24 ~~disclosure required under paragraph (2)(b) and the principal~~  
25 ~~gives to the agent consent as required under subparagraph~~  
26 ~~(c)2. before a~~ change in relationship. This disclosure must be  
27 in writing to the principal either as a separate and distinct  
28 document or included as part of other documents such as a  
29 listing agreement or other agreements for representation. When  
30 incorporated into other documents, the required notice must be  
31 of the same size type, or larger, as other provisions of the

1 document and must be conspicuous in its placement so as to  
2 advise customers of the duties of limited representation,  
3 except that the first sentence of the information identified  
4 in subparagraph (c)2. must be printed in uppercase and bold  
5 type.

6 (c) Contents of disclosure.--  
7 1. Single agent duties disclosure.--The notice  
8 required under subparagraph (b)1. must include the following  
9 information in the following form:

10

11

## IMPORTANT NOTICE

12

13 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS  
14 NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

15

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

22

23

## SINGLE AGENT NOTICE

24

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

27

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

31

1. Dealing honestly and fairly;

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

13           \_\_\_\_\_ Date                                   \_\_\_\_\_

14   Signature

15           2. Transition disclosure.--To gain the principal's

16 written consent to a change in relationship, a licensee must

17 use the following disclosure ~~The notice required under~~

18 ~~subparagraph (b)2. must include the following information in~~

19 ~~the following form as well as the information required in~~

20 ~~paragraph (2)(c):~~

21

22                        CONSENT TO TRANSITION TO

23                        TRANSACTION BROKER

24

25   FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER

26   OR SELLER AS A SINGLE AGENT TO CHANGE FROM A SINGLE AGENT

27   RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN ORDER

28   FOR THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE

29   TRANSACTION BY PROVIDING A LIMITED FORM OF REPRESENTATION TO

30   BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP

31   CANNOT OCCUR WITHOUT YOUR PRIOR WRITTEN CONSENT.

1  
2 As a transaction broker, \_\_\_\_\_ (insert name of  
3 Real Estate Firm and its Associates), provides to you a  
4 limited form of representation that includes the following  
5 duties:

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 entered into by this  
26 or by separate written agreement.

27  
28 Limited representation means that a buyer or seller is not  
29 responsible for the acts of the licensee. Additionally,  
30 parties are giving up their rights to the undivided loyalty of  
31 the licensee. This aspect of limited representation allows a

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

5  
6 \_\_\_\_\_I agree that my agent may assume the role and duties  
7 of a transaction broker. [must be initialed or signed]

8  
9 (4) NO BROKERAGE RELATIONSHIP.--

10 (a) No brokerage relationship-duties.--A real estate  
11 licensee owes to a potential seller or buyer with whom the  
12 licensee has no brokerage relationship the following duties:

- 13 1. Dealing honestly and fairly;  
14 2. Disclosing all known facts that materially affect  
15 the value of the residential real property which are not  
16 readily observable to the buyer; and  
17 3. Accounting for all funds entrusted to the licensee.

18 (b) Disclosure requirements.--Duties of a licensee who  
19 has no brokerage relationship with a buyer or seller must be  
20 fully described and disclosed in writing to the buyer or  
21 seller. The disclosure must be made before the showing of  
22 property. When incorporated into other documents, the required  
23 notice must be of the same size type, or larger, as other  
24 provisions of the document and must be conspicuous in its  
25 placement so as to advise customers of the duties of a  
26 licensee that has no brokerage relationship with a buyer or  
27 seller, except that the first sentence of the information  
28 identified in paragraph (c) must be printed in uppercase bold  
29 type.

1 (c) Contents of disclosure.--The notice required under  
2 paragraph (b) must include the following information in the  
3 following form:

4  
5 IMPORTANT NOTICE

6  
7 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS  
8 NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

9  
10 You should not assume that any real estate broker or  
11 salesperson represents you unless you agree to engage a real  
12 estate licensee in an authorized brokerage relationship,  
13 either as a single agent or as a transaction broker. You are  
14 advised not to disclose any information you want to be held in  
15 confidence until you decide on representation.

16  
17 NO BROKERAGE RELATIONSHIP NOTICE

18  
19 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES WHO HAVE NO  
20 BROKERAGE RELATIONSHIP WITH A POTENTIAL SELLER OR BUYER  
21 DISCLOSE THEIR DUTIES TO SELLERS AND BUYERS.

22  
23 As a real estate licensee who has no brokerage  
24 relationship with you, \_\_\_\_\_(insert name of Real Estate  
25 Entity and its Associates)\_\_\_\_\_ owe to you the following  
26 duties:

- 27  
28 1. Dealing honestly and fairly;  
29 2. Disclosing all known facts that materially affect  
30 the value of residential real property which are not readily  
31 observable to the buyer.

1           3. Accounting for all funds entrusted to the licensee.

2

3           ... (Date)       ..... (Signature) ...

4           (5) APPLICABILITY.--

5           (a) Residential sales.--The real estate licensee  
6 disclosure requirements of this section apply to all  
7 residential sales. As used in this subsection, the term  
8 "residential sale" means the sale of improved residential  
9 property of four units or fewer, the sale of unimproved  
10 residential property intended for use of four units or fewer,  
11 or the sale of agricultural property of 10 acres or fewer.

12           (b) Disclosure limitations.--

13           1. The real estate disclosure requirements of this  
14 section do not apply when a licensee knows that the potential  
15 seller or buyer is represented by a single agent or a  
16 transaction broker; or when an owner is selling new  
17 residential units built by the owner and the circumstances or  
18 setting should reasonably inform the potential buyer that the  
19 owner's employee or single agent is acting on behalf of the  
20 owner, whether because of the location of the sales office or  
21 because of office signage or placards or identification badges  
22 worn by the owner's employee or single agent.

23           2. The real estate licensee disclosure requirements of  
24 this section do not apply to: nonresidential transactions; the  
25 rental or leasing of real property, unless an option to  
26 purchase all or a portion of the property improved with four  
27 or fewer residential units is given; a bona fide "open house"  
28 or model home showing that does not involve eliciting  
29 confidential information, the execution of a contractual offer  
30 or an agreement for representation, or negotiations concerning  
31 price, terms, or conditions of a potential sale; unanticipated



1 casual conversations between a licensee and a seller or buyer  
2 which do not involve eliciting confidential information, the  
3 execution of a contractual offer or agreement for  
4 representation, or negotiations concerning price, terms, or  
5 conditions of a potential sale; responding to general factual  
6 questions from a potential buyer or seller concerning  
7 properties that have been advertised for sale; situations in  
8 which a licensee's communications with a potential buyer or  
9 seller are limited to providing general factual information,  
10 oral or written, about the qualifications, background, and  
11 services of the licensee or the licensee's brokerage firm;  
12 auctions; appraisals; and dispositions of any interest in  
13 business enterprises or business opportunities, except for  
14 property with four or fewer residential units.

15 Section 37. Subsection (1) of section 475.31, Florida  
16 Statutes, is amended to read:

17 475.31 Final orders.--

18 (1) An order revoking or suspending the license of a  
19 broker shall automatically cause ~~cancel~~ the licenses of all  
20 sales associates and broker associates ~~salespersons~~ registered  
21 with the broker, and, if a partnership or corporation, of all  
22 members, officers, and directors thereof to become  
23 involuntarily inactive, while the license of the broker is  
24 inoperative or until new employment or connection is secured.

25 Section 38. Section 475.37, Florida Statutes, is  
26 amended to read:

27 475.37 Effect of reversal of order of court or  
28 commission.--If the order of the court or commission denying a  
29 license or taking any disciplinary action against a licensee  
30 is finally reversed and set aside, the defendant shall be  
31 restored to her or his rights and privileges as a broker or

1 sales associate ~~salesperson~~ as of the date of filing the  
2 mandate or a copy thereof with the commission. The matters and  
3 things alleged in the information shall not thereafter be  
4 reexamined in any other proceeding concerning the licensure of  
5 the defendant. If the inquiry concerned was in reference to an  
6 application for licensure, the application shall stand  
7 approved, and such application shall be remanded for further  
8 proceedings according to law.

9 Section 39. Section 475.41, Florida Statutes, is  
10 amended to read:

11 475.41 Contracts of unlicensed person for commissions  
12 invalid.--No contract for a commission or compensation for any  
13 act or service enumerated in s. 475.01(3) is valid unless the  
14 broker or sales associate ~~salesperson~~ has complied with this  
15 chapter in regard to issuance and renewal of the license at  
16 the time the act or service was performed.

17 Section 40. Subsection (1) of section 475.42, Florida  
18 Statutes, is amended to read:

19 475.42 Violations and penalties.--

20 (1) VIOLATIONS.--

21 (a) A ~~No~~ person may not ~~shall~~ operate as a broker or  
22 sales associate ~~salesperson~~ without being the holder of a  
23 valid and current active license therefor. Any person who  
24 violates this paragraph commits a felony of the third degree,  
25 punishable as provided in s. 775.082 or s. 775.083, or, if a  
26 corporation, as provided in s. 775.083.

27 (b) A ~~No~~ person licensed as a sales associate ~~may not~~  
28 ~~salesperson~~ ~~shall~~ operate as a broker or operate as a sales  
29 associate ~~salesperson~~ for any person not registered as her or  
30 his employer.

31

1           (c) A ~~No~~ broker may not ~~shall~~ employ, or continue in  
2 employment, any person as a sales associate ~~salesperson~~ who is  
3 not the holder of a valid and current license as sales  
4 associate ~~salesperson~~; but a license as sales associate  
5 ~~salesperson~~ may be issued to a person licensed as an active  
6 broker, upon request and surrender of the license as broker,  
7 without a fee in addition to that paid for the issuance of the  
8 broker's active license.

9           (d) A sales associate may not ~~No salesperson shall~~  
10 collect any money in connection with any real estate brokerage  
11 transaction, whether as a commission, deposit, payment,  
12 rental, or otherwise, except in the name of the employer and  
13 with the express consent of the employer; and no real estate  
14 sales associate ~~salesperson~~, whether the holder of a valid and  
15 current license or not, shall commence or maintain any action  
16 for a commission or compensation in connection with a real  
17 estate brokerage transaction against any person except a  
18 person registered as her or his employer at the time the sales  
19 associate ~~salesperson~~ performed the act or rendered the  
20 service for which the commission or compensation is due.

21           (e) A ~~No~~ person may not ~~shall~~ violate any lawful order  
22 or rule of the commission which is binding upon her or him.

23           (f) A ~~No~~ person may not ~~shall~~ commit any conduct or  
24 practice set forth in s. 475.25(1)(b), (c), (d), or (h).

25           (g) A ~~No~~ person may not ~~shall~~ make any false affidavit  
26 or affirmation intended for use as evidence by or before the  
27 commission or a member thereof, or by any of its authorized  
28 representatives, nor may ~~shall~~ any person give false testimony  
29 under oath or affirmation to or before the commission or any  
30 member thereof in any proceeding authorized by this chapter.

31

1           (h) A ~~No~~ person may not ~~shall~~ fail or refuse to appear  
2 at the time and place designated in a subpoena issued with  
3 respect to a violation of this chapter, unless because of  
4 facts that are sufficient to excuse appearance in response to  
5 a subpoena from the circuit court; nor may ~~shall~~ a person who  
6 is present before the commission or a member thereof or one of  
7 its authorized representatives acting under authority of this  
8 chapter refuse to be sworn or to affirm or fail or refuse to  
9 answer fully any question propounded by the commission, the  
10 member, or such representative, or by any person by the  
11 authority of such officer or appointee; nor may ~~shall~~ any  
12 person, so being present, conduct herself or himself in a  
13 disorderly, disrespectful, or contumacious manner.

14           (i) A ~~No~~ person may not ~~shall~~ obstruct or hinder in  
15 any manner the enforcement of this chapter or the performance  
16 of any lawful duty by any person acting under the authority of  
17 this chapter or interfere with, intimidate, or offer any bribe  
18 to any member of the commission or any of its employees or any  
19 person who is, or is expected to be, a witness in any  
20 investigation or proceeding relating to a violation of this  
21 chapter.

22           (j) A ~~No~~ broker or sales associate may not ~~salesperson~~  
23 ~~shall~~ place, or cause to be placed, upon the public records of  
24 any county, any contract, assignment, deed, will, mortgage,  
25 affidavit, or other writing which purports to affect the title  
26 of, or encumber, any real property if the same is known to her  
27 or him to be false, void, or not authorized to be placed of  
28 record, or not executed in the form entitling it to be  
29 recorded, or the execution or recording whereof has not been  
30 authorized by the owner of the property, maliciously or for  
31 the purpose of collecting a commission, or to coerce the

1 payment of money to the broker or sales associate ~~salesperson~~  
2 or other person, or for any unlawful purpose. However,  
3 nothing in this paragraph shall be construed to prohibit a  
4 broker or a sales associate ~~salesperson~~ from recording a  
5 judgment rendered by a court of this state or to prohibit a  
6 broker from placing a lien on a property where expressly  
7 permitted by contractual agreement.

8 (k) A ~~No~~ person may not ~~shall~~ operate as a broker  
9 under a trade name without causing the trade name to be noted  
10 in the records of the commission and placed on the person's  
11 license, or so operate as a member of a partnership or as a  
12 corporation or as an officer or manager thereof, unless such  
13 partnership or corporation is the holder of a valid current  
14 registration.

15 (l) A ~~No~~ person may not ~~shall~~ knowingly conceal any  
16 information relating to violations of this chapter.

17 (m) A ~~No~~ person may not ~~shall~~ undertake to list or  
18 sell one or more timeshare periods per year in one or more  
19 timeshare plans on behalf of any number of persons without  
20 first being the holder of a valid and current license as a  
21 broker or sales associate ~~salesperson~~ pursuant to this  
22 chapter, except as provided in s. 475.011 and chapter 721.

23 (n) A ~~No~~ broker or sales associate ~~may not~~ ~~salesperson~~  
24 ~~shall~~ enter into any listing or other agreement regarding her  
25 or his services in connection with the resale of a timeshare  
26 period unless the broker or sales associate ~~salesperson~~ fully  
27 and fairly discloses all material aspects of the agreement to  
28 the owner of the timeshare period and fully complies with the  
29 provisions of s. 475.452. Further, a ~~no~~ broker or sales  
30 associate may not use ~~salesperson shall utilize~~ any form of  
31 contract or purchase and sale agreement in connection with the

1 resale of a timeshare period unless the contract or purchase  
2 and sale agreement fully and fairly discloses all material  
3 aspects of the timeshare plan and the rights and obligations  
4 of both buyer and seller. The commission is authorized to  
5 adopt ~~promulgate~~ rules pursuant to chapter 120 as necessary to  
6 implement, enforce, and interpret this paragraph.

7 (o) A person may not disseminate or cause to be  
8 disseminated by any means any false or misleading information  
9 for the purpose of offering for sale, or for the purpose of  
10 causing or inducing any other person to purchase, lease, or  
11 rent, real estate located in the state or for the purpose of  
12 causing or inducing any other person to acquire an interest in  
13 the title to real estate located in the state.

14 Section 41. Section 475.43, Florida Statutes, is  
15 amended to read:

16 475.43 Presumptions.--In all criminal cases, contempt  
17 cases, and other cases filed pursuant to this chapter, if a  
18 party has sold, leased, or let real estate, the title to which  
19 was not in the party when it was offered for sale, lease, or  
20 letting, or such party has maintained an office bearing signs  
21 that real estate is for sale, lease, or rental thereat, or has  
22 advertised real estate for sale, lease, or rental, generally,  
23 or describing property, the title to which was not in such  
24 party at the time, it shall be a presumption that such party  
25 was acting or attempting to act as a real estate broker, and  
26 the burden of proof shall be upon him or her to show that he  
27 or she was not acting or attempting to act as a broker or  
28 sales associate ~~salesperson~~. All contracts, options, or other  
29 devices not based upon a substantial consideration, or that  
30 are otherwise employed to permit an unlicensed person to sell,  
31 lease, or let real estate, the beneficial title to which has

1 not, in good faith, passed to such party for a substantial  
2 consideration, are hereby declared void and ineffective in all  
3 cases, suits, or proceedings had or taken under this chapter;  
4 however, this section shall not apply to irrevocable gifts, to  
5 unconditional contracts to purchase, or to options based upon  
6 a substantial consideration actually paid and not subject to  
7 any agreements to return or right of return reserved.

8 Section 42. Section 475.451, Florida Statutes, is  
9 amended to read:

10 475.451 Schools teaching real estate practice.--

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

29 (2) An applicant for a permit to operate a proprietary  
30 real estate school, to be a chief administrator of a  
31 proprietary real estate school or a state institution, or to

1 be an instructor for a proprietary real estate school or a  
2 state institution must meet the qualifications for practice  
3 set forth in s. 475.17(1) and the following minimal  
4 requirements:

5 (a) "School permitholder" means the individual who is  
6 responsible for directing the overall operation of a  
7 proprietary real estate school. A school permitholder must be  
8 the holder of a license as a broker, either active or  
9 voluntarily inactive, or must have passed an instructor's  
10 examination approved by the commission. A school permitholder  
11 must also meet the requirements of a school instructor if  
12 actively engaged in teaching.

13 (b) "Chief administrative person" means the individual  
14 who is responsible for the administration of the overall  
15 policies and practices of the institution or proprietary real  
16 estate school. A chief administrative person must also meet  
17 the requirements of a school instructor if actively engaged in  
18 teaching.

19 (c) "School instructor" means an individual who  
20 instructs persons in the classroom in noncredit college  
21 courses in a college, university, or community college or  
22 courses in an area technical center or proprietary real estate  
23 school.

24 1. Before commencing to provide such instruction, the  
25 applicant must certify the applicant's competency and obtain  
26 an instructor permit by meeting one of the following  
27 requirements:

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



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

4           c. Pass an instructor's examination approved by the  
5 commission.

6           2. Any requirement by the commission for a teaching  
7 demonstration or practical examination must apply to all  
8 school instructor applicants.

9           3. The department shall renew an instructor permit  
10 upon receipt of a renewal application and fee. The renewal  
11 application shall include proof that the permit holder has,  
12 since the issuance or renewal of the current permit,  
13 successfully completed a minimum of 7 ~~15~~ classroom hours of  
14 instruction in real estate subjects or instructional  
15 techniques, as prescribed by the commission. The commission  
16 shall adopt rules providing for the renewal of instructor  
17 permits at least every 2 years. Any permit which is not  
18 renewed at the end of the permit period established by the  
19 department shall automatically revert to involuntarily  
20 inactive status.

21  
22 The department may require an applicant to submit names of  
23 persons having knowledge concerning the applicant and the  
24 enterprise; may propound interrogatories to such persons and  
25 to the applicant concerning the character of the applicant,  
26 including the taking of fingerprints for processing through  
27 the Federal Bureau of Investigation; and shall make such  
28 investigation of the applicant or the school or institution as  
29 it may deem necessary to the granting of the permit. If an  
30 objection is filed, it shall be considered in the same manner  
31

1 as objections or administrative complaints against other  
2 applicants for licensure by the department.

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

13 (4) Any person who violates this section commits a  
14 misdemeanor of the second degree, punishable as provided in s.  
15 775.082 or s. 775.083.

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

20 (6) Any course prescribed by the commission as a  
21 condition precedent to any person's becoming initially  
22 licensed as a sales associate ~~salesperson~~ may be taught in any  
23 real estate school through the use of a video tape of  
24 instruction by a currently permitted instructor from any such  
25 school or may be taught by distance learning pursuant to s.  
26 475.17(2). The commission may require that any such video  
27 tape course have a single session of live instruction by a  
28 currently permitted instructor from any such school; however,  
29 this requirement shall not exceed 3 classroom hours. All  
30 other prescribed courses, except the continuing education  
31 course required by s. 475.182, shall be taught by a currently

1 permitted school instructor personally in attendance at such  
2 course or by distance learning pursuant to s. 475.17. The  
3 continuing education course required by s. 475.182 may be  
4 taught by distance learning pursuant to s. 475.17 or by an  
5 equivalent correspondence course; however, any such  
6 correspondence course shall be required to have a final  
7 examination, prepared and administered by the school issuing  
8 the correspondence course. The continuing education  
9 requirements provided in this section or provided in any other  
10 section in this chapter do not apply with respect to any  
11 attorney who is otherwise qualified under the provisions of  
12 this chapter.

13 ~~(7) Any person holding a school instructor permit on~~  
14 ~~October 1, 1983, is exempt from the instructor examination~~  
15 ~~requirements of paragraph (2)(c) as long as the person~~  
16 ~~continuously holds such a permit and complies with all other~~  
17 ~~requirements of this chapter.~~

18 (7)(8) A permitholder under this section may be issued  
19 additional permits whenever it is clearly shown that the  
20 requested additional permits are necessary to the conduct of  
21 the business of a real estate school and that the additional  
22 permits will not be used in a manner likely to be prejudicial  
23 to any person, including a licensee or a permitholder under  
24 this chapter.

25 Section 43. Subsections (4) and (5) of section  
26 475.4511, Florida Statutes, are repealed.

27 Section 44. Section 475.453, Florida Statutes, is  
28 amended to read:

29 475.453 Rental information; contract or receipt;  
30 refund; penalty.--

31

1           (1) Each broker or sales associate ~~salesperson~~ who  
2 attempts to negotiate a rental, or who furnishes rental  
3 information to a prospective tenant, for a fee paid by the  
4 prospective tenant shall provide such prospective tenant with  
5 a contract or receipt, which contract or receipt contains a  
6 provision for the repayment of any amount over 25 percent of  
7 the fee to the prospective tenant if the prospective tenant  
8 does not obtain a rental. If the rental information provided  
9 by the broker or sales associate ~~salesperson~~ to a prospective  
10 tenant is not current or accurate in any material respect, the  
11 full fee shall be repaid to the prospective tenant upon  
12 demand. A demand from the prospective tenant for the return  
13 of the fee, or any part thereof, shall be made within 30 days  
14 following the day on which the real estate broker or sales  
15 associate ~~salesperson~~ has contracted to perform services to  
16 the prospective tenant. The contract or receipt shall also  
17 conform to the guidelines adopted by the commission in order  
18 to effect disclosure of material information regarding the  
19 service to be provided to the prospective tenant.

20           (2) The commission may adopt a guideline for the form  
21 of the contract or receipt required to be provided by brokers  
22 or sales associates ~~salespersons~~ pursuant to the provisions of  
23 subsection (1).

24           (3)(a) Any person who violates any provision of  
25 subsection (1) is guilty of a misdemeanor of the first degree,  
26 punishable as provided in s. 775.082 or s. 775.083.

27           (b) In addition to the penalty prescribed in paragraph  
28 (a), the license of any broker or sales associate ~~salesperson~~  
29 who participates in any rental information transaction which  
30 is in violation of the provisions of subsection (1) shall be  
31

1 subject to suspension or revocation by the commission in the  
2 manner prescribed by law.

3 Section 45. Section 475.455, Florida Statutes, is  
4 amended to read:

5 475.455 Exchange of disciplinary information.--The  
6 commission shall inform the Division of Florida Land Sales,  
7 Condominiums, and Mobile Homes of the Department of Business  
8 and Professional Regulation of any disciplinary action the  
9 commission has taken against any of its licensees. The  
10 division shall inform the commission of any disciplinary  
11 action the division has taken against any broker or sales  
12 associate ~~salesperson~~ registered with the division.

13 Section 46. Section 475.482, Florida Statutes, is  
14 amended to read:

15 475.482 Real Estate Recovery Fund.--There is created  
16 the Florida Real Estate Recovery Fund as a separate account in  
17 the Professional Regulation Trust Fund.

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

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

29 (b) Was neither the seller, buyer, landlord, or tenant  
30 in the transaction nor an officer or a director of a  
31 corporation, a member of a partnership, a member of a limited

1 liability company, or a partner of a limited liability  
2 partnership which was the seller, buyer, landlord, or tenant  
3 in the transaction; and

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

6  
7 provided the act was a violation proscribed in s. 475.25 or s.  
8 475.42.

9 (2) The Real Estate Recovery Fund shall also be  
10 disbursed as provided in s. 475.484, on order of the  
11 commission, as reimbursement to any broker or sales associate  
12 ~~salesperson~~ who is required by a court of competent civil  
13 jurisdiction to pay monetary damages due to a distribution of  
14 escrow moneys which is made in compliance with an escrow  
15 disbursement order issued by the commission. However, in no  
16 case shall the fund be disbursed when the broker or sales  
17 associate ~~salesperson~~ fails to notify the commission and to  
18 diligently defend an action wherein the broker or sales  
19 associate ~~salesperson~~ may be required by a court of competent  
20 civil jurisdiction to pay monetary damages due to a  
21 distribution of escrow moneys which is made in compliance with  
22 an escrow disbursement order issued by the commission.

23 (3) A fee of \$3.50 per year shall be added to the  
24 license fee for both new licenses and renewals of licenses for  
25 brokers, and a fee of \$1.50 per year shall be added for new  
26 licenses and renewals of licenses for sales associates  
27 ~~salespersons~~. This fee shall be in addition to the regular  
28 license fee and shall be deposited in or transferred to the  
29 Real Estate Recovery Fund. If the fund at any time exceeds \$1  
30 million~~\$750,000~~, collection of special fees for this fund  
31 shall be discontinued at the end of the licensing renewal

1 cycle. Such special fees shall not be reimposed unless the  
2 fund is reduced below \$500,000 by disbursement made in  
3 accordance with this chapter.

4 (4) In addition, all moneys collected from fines  
5 imposed by the commission and collected by the department  
6 shall be transferred into the Real Estate Recovery Fund.

7 Section 47. Paragraph (a) of subsection (1) and  
8 subsections (2) and (3) of section 475.483, Florida Statutes,  
9 are amended to read:

10 475.483 Conditions for recovery; eligibility.--

11 (1) Any person is eligible to seek recovery from the  
12 Real Estate Recovery Fund if:

13 (a) Such person has received a final judgment in a  
14 court of competent civil jurisdiction in this state against an  
15 individual broker or sales associate ~~salesperson~~ in any action  
16 wherein the cause of action was based on a real estate  
17 brokerage transaction. If such person is unable to secure a  
18 final judgment against a licensee due to the death of the  
19 licensee, the commission may waive the requirement for a final  
20 judgment. The filing of a bankruptcy petition by a broker or  
21 sales associate ~~salesperson~~ does not relieve a claimant from  
22 the obligation to obtain a final judgment against the  
23 licensee. In this instance, the claimant must seek to have  
24 assets involving the real estate transaction that gave rise to  
25 the claim removed from the bankruptcy proceedings so that the  
26 matter might be heard in a court of competent civil  
27 jurisdiction in this state. If, after due diligence, the  
28 claimant is precluded by action of the bankruptcy court from  
29 securing a final judgment against the licensee, the commission  
30 may waive the requirement for a final judgment.

31

1 (2) A person is not qualified to make a claim for  
2 recovery from the Real Estate Recovery Fund, if:

3 (a) Such person is the spouse of the judgment debtor  
4 or a personal representative of such spouse;

5 (b) Such person is a licensed broker or sales  
6 associate ~~salesperson~~ who acted as a single agent or  
7 transaction broker in the transaction that is the subject of  
8 the claim;

9 (c) Such person's claim is based upon a real estate  
10 transaction in which the licensed broker or sales associate  
11 ~~salesperson~~ was the owner of or controlled the property  
12 involved in the transaction; in which the licensee was dealing  
13 for the licensee's own account; or in which the licensee was  
14 not acting as a broker or sales associate ~~salesperson~~;

15 (d) Such person's claim is based upon a real estate  
16 transaction in which the broker or sales associate ~~salesperson~~  
17 did not hold a valid, current, and active license at the time  
18 of the real estate transaction; or

19 (e) The judgment is against a real estate brokerage  
20 corporation, partnership, limited liability company, or  
21 limited liability partnership.

22 (3) ~~The commission may pay attorney's fees and court~~  
23 ~~costs~~ If the claim is of the type described in s. 475.482(2),  
24 the commission shall pay the defendant's reasonable attorney's  
25 fees and court costs and, if the plaintiff prevails in court,  
26 the plaintiff's reasonable attorney's fees and court costs.

27 Section 48. Subsections (1), (3), (4), (5), and (7) of  
28 section 475.484, Florida Statutes, are amended to read:

29 475.484 Payment from the fund.--

30 (1) Any person who meets all of the conditions  
31 prescribed in s. 475.482(1) or (2) may apply to the commission



1 to cause payment to be made to such person from the Real  
2 Estate Recovery Fund:

3 (a) Under s. 475.482(1), in an amount equal to the  
4 unsatisfied portion of such person's judgment or \$50,000  
5 ~~\$25,000~~, whichever is less, but only to the extent and amount  
6 reflected in the judgment as being actual or compensatory  
7 damages. Except as provided in s. 475.483, treble damages,  
8 court costs, attorney's fees, and interest shall not be  
9 recovered from the fund.

10 (b) Under s. 475.482(2), in an amount equal to the  
11 judgment against the broker or sales associate ~~salesperson~~ or  
12 \$50,000~~\$25,000~~, whichever is less.

13 (3) Payments for claims arising out of the same  
14 transaction shall be limited, in the aggregate, to \$50,000  
15 ~~\$25,000~~, regardless of the number of claimants or parcels of  
16 real estate involved in the transaction.

17 (4) Payments for claims based upon judgments against  
18 any one broker or sales associate ~~salesperson~~ may not exceed,  
19 in the aggregate, \$150,000~~\$75,000~~.

20 (5) If at any time the moneys in the Real Estate  
21 Recovery Fund are insufficient to satisfy any valid claim or  
22 portion thereof, the commission shall satisfy such unpaid  
23 claim or portion thereof as soon as a sufficient amount of  
24 money has been deposited in or transferred to the fund. When  
25 there is more than one unsatisfied claim outstanding, such  
26 claims shall be paid in the order in which the claims were  
27 approved by the commission. However, if the total claims  
28 approved at any one commission meeting exceed the aggregate  
29 amount established in subsection (4) against any one broker or  
30 sales associate ~~salesperson~~, the claims approved on that day  
31 shall be prorated.

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

16           Section 49. Subsection (2) of section 475.5017,  
17 Florida Statutes, is amended to read:

18           475.5017 Injunctive relief; powers.--

19           (2) All expenses of the receiver shall be paid out of  
20 the assets of the brokerage firm upon application to and  
21 approval by the court. If the assets are not sufficient to pay  
22 all the expenses of the receiver, the court may order  
23 disbursement from the Real Estate Recovery Fund, which may not  
24 exceed \$100,000 ~~\$75,000~~ per receivership.

25           Section 50. Subsections (2) and (3) of section  
26 475.612, Florida Statutes, are amended to read:

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

29           (2) This section does not preclude a broker, sales  
30 associate ~~salesperson~~, or broker associate ~~broker-salesperson~~  
31 who is not a certified or licensed real estate appraiser or

1 registered assistant real estate appraiser from appraising  
2 real estate for compensation. Such persons may continue to  
3 provide appraisals and appraisal services for compensation so  
4 long as they do not represent themselves as certified,  
5 licensed, or registered under this part.

6 (3) This section does not apply to a real estate  
7 broker or sales associate ~~salesperson~~ who, in the ordinary  
8 course of business, performs a comparative market analysis,  
9 gives a broker price opinion, or gives an opinion of the value  
10 of real estate. However, in no event may this comparative  
11 market analysis, broker price opinion, or opinion of value of  
12 real estate be referred to or construed as an appraisal.

13 Section 51. Section 689.25, Florida Statutes, is  
14 amended to read:

15 689.25 Failure to disclose homicide, suicide, deaths,  
16 or diagnosis of HIV or AIDS infection in an occupant of real  
17 property.--

18 (1)(a) The fact that an occupant of real property is  
19 infected or has been infected with human immunodeficiency  
20 virus or diagnosed with acquired immune deficiency syndrome is  
21 not a material fact that must be disclosed in a real estate  
22 transaction.

23 (b) The fact that a property was, or was at any time  
24 suspected to have been, the site of a homicide, suicide, or  
25 death is not a material fact that must be disclosed in a real  
26 estate transaction.

27 (2) A ~~No~~ cause of action shall not arise ~~arises~~  
28 against an owner of real property, ~~or~~ his or her agent, an ~~or~~  
29 ~~against any~~ agent of a transferee of real property, or a  
30 person licensed under chapter 475 for the failure to disclose  
31 to the transferee that the property was or was suspected to

1 have been the site of a homicide, suicide, or death or that an  
2 occupant of that property was infected with human  
3 immunodeficiency virus or diagnosed with acquired immune  
4 deficiency syndrome.

5 Section 52. Sections 475.421 and 475.422, Florida  
6 Statutes, are repealed.

7 Section 53. Paragraph (d) of subsection (3) of section  
8 83.49, Florida Statutes, is amended to read:

9 83.49 Deposit money or advance rent; duty of landlord  
10 and tenant.--

11 (3)

12 (d) Compliance with this section by an individual or  
13 business entity authorized to conduct business in this state,  
14 including Florida-licensed real estate brokers and sales  
15 associates ~~salespersons~~, shall constitute compliance with all  
16 other relevant Florida Statutes pertaining to security  
17 deposits held pursuant to a rental agreement or other  
18 landlord-tenant relationship. Enforcement personnel shall look  
19 solely to this section to determine compliance. This section  
20 prevails over any conflicting provisions in chapter 475 and in  
21 other sections of the Florida Statutes, and shall operate to  
22 permit licensed real estate brokers to disburse security  
23 deposits and deposit money without having to comply with the  
24 notice and settlement procedures contained in s. 475.25(1)(d).

25 Section 54. Paragraph (d) of subsection (15) of  
26 section 440.02, Florida Statutes, is amended to read:

27 440.02 Definitions.--When used in this chapter, unless  
28 the context clearly requires otherwise, the following terms  
29 shall have the following meanings:

30 (15)

31 (d) "Employee" does not include:

- 1           1. An independent contractor, if:
- 2           a. The independent contractor maintains a separate
- 3 business with his or her own work facility, truck, equipment,
- 4 materials, or similar accommodations;
- 5           b. The independent contractor holds or has applied for
- 6 a federal employer identification number, unless the
- 7 independent contractor is a sole proprietor who is not
- 8 required to obtain a federal employer identification number
- 9 under state or federal requirements;
- 10          c. The independent contractor performs or agrees to
- 11 perform specific services or work for specific amounts of
- 12 money and controls the means of performing the services or
- 13 work;
- 14          d. The independent contractor incurs the principal
- 15 expenses related to the service or work that he or she
- 16 performs or agrees to perform;
- 17          e. The independent contractor is responsible for the
- 18 satisfactory completion of work or services that he or she
- 19 performs or agrees to perform and is or could be held liable
- 20 for a failure to complete the work or services;
- 21          f. The independent contractor receives compensation
- 22 for work or services performed for a commission or on a
- 23 per-job or competitive-bid basis and not on any other basis;
- 24          g. The independent contractor may realize a profit or
- 25 suffer a loss in connection with performing work or services;
- 26          h. The independent contractor has continuing or
- 27 recurring business liabilities or obligations; and
- 28          i. The success or failure of the independent
- 29 contractor' s business depends on the relationship of business
- 30 receipts to expenditures.
- 31

1 However, the determination as to whether an individual  
2 included in the Standard Industrial Classification Manual of  
3 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762,  
4 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436,  
5 2448, or 2449, or a newspaper delivery person, is an  
6 independent contractor is governed not by the criteria in this  
7 paragraph but by common-law principles, giving due  
8 consideration to the business activity of the individual.  
9 Notwithstanding the provisions of this paragraph or any other  
10 provision of this chapter, with respect to any commercial  
11 building project estimated to be valued at \$250,000 or  
12 greater, a person who is actively engaged in the construction  
13 industry is not an independent contractor and is either an  
14 employer or an employee who may not be exempt from the  
15 coverage requirements of this chapter.

16 2. A real estate licensee ~~salesperson or agent~~, if  
17 that person agrees, in writing, to perform for remuneration  
18 solely by way of commission.

19 3. Bands, orchestras, and musical and theatrical  
20 performers, including disk jockeys, performing in licensed  
21 premises as defined in chapter 562, if a written contract  
22 evidencing an independent contractor relationship is entered  
23 into before the commencement of such entertainment.

24 4. An owner-operator of a motor vehicle who transports  
25 property under a written contract with a motor carrier which  
26 evidences a relationship by which the owner-operator assumes  
27 the responsibility of an employer for the performance of the  
28 contract, if the owner-operator is required to furnish the  
29 necessary motor vehicle equipment and all costs incidental to  
30 the performance of the contract, including, but not limited  
31 to, fuel, taxes, licenses, repairs, and hired help; and the

1 owner-operator is paid a commission for transportation service  
2 and is not paid by the hour or on some other time-measured  
3 basis.

4 5. A person whose employment is both casual and not in  
5 the course of the trade, business, profession, or occupation  
6 of the employer.

7 6. A volunteer, except a volunteer worker for the  
8 state or a county, municipality, or other governmental entity.  
9 A person who does not receive monetary remuneration for  
10 services is presumed to be a volunteer unless there is  
11 substantial evidence that a valuable consideration was  
12 intended by both employer and employee. For purposes of this  
13 chapter, the term "volunteer" includes, but is not limited to:

14 a. Persons who serve in private nonprofit agencies and  
15 who receive no compensation other than expenses in an amount  
16 less than or equivalent to the standard mileage and per diem  
17 expenses provided to salaried employees in the same agency or,  
18 if such agency does not have salaried employees who receive  
19 mileage and per diem, then such volunteers who receive no  
20 compensation other than expenses in an amount less than or  
21 equivalent to the customary mileage and per diem paid to  
22 salaried workers in the community as determined by the  
23 department; and

24 b. Volunteers participating in federal programs  
25 established under Pub. L. No. 93-113.

26 7. Any officer of a corporation who elects to be  
27 exempt from this chapter.

28 8. A sole proprietor or officer of a corporation who  
29 actively engages in the construction industry, and a partner  
30 in a partnership that is actively engaged in the construction  
31 industry, who elects to be exempt from the provisions of this

1 chapter. Such sole proprietor, officer, or partner is not an  
2 employee for any reason until the notice of revocation of  
3 election filed pursuant to s. 440.05 is effective.

4 9. An exercise rider who does not work for a single  
5 horse farm or breeder, and who is compensated for riding on a  
6 case-by-case basis, provided a written contract is entered  
7 into prior to the commencement of such activity which  
8 evidences that an employee/employer relationship does not  
9 exist.

10 10. A taxicab, limousine, or other passenger  
11 vehicle-for-hire driver who operates said vehicles pursuant to  
12 a written agreement with a company which provides any  
13 dispatch, marketing, insurance, communications, or other  
14 services under which the driver and any fees or charges paid  
15 by the driver to the company for such services are not  
16 conditioned upon, or expressed as a proportion of, fare  
17 revenues.

18 11. A person who performs services as a sports  
19 official for an entity sponsoring an interscholastic sports  
20 event or for a public entity or private, nonprofit  
21 organization that sponsors an amateur sports event. For  
22 purposes of this subparagraph, such a person is an independent  
23 contractor. For purposes of this subparagraph, the term  
24 "sports official" means any person who is a neutral  
25 participant in a sports event, including, but not limited to,  
26 umpires, referees, judges, linespersons, scorekeepers, or  
27 timekeepers. This subparagraph does not apply to any person  
28 employed by a district school board who serves as a sports  
29 official as required by the employing school board or who  
30 serves as a sports official as part of his or her  
31 responsibilities during normal school hours.



1           Section 55. Paragraph (n) of subsection (21) of  
2 section 443.036, Florida Statutes, is amended to read:

3           443.036 Definitions.--As used in this chapter, unless  
4 the context clearly requires otherwise:

5           (21) EMPLOYMENT.--"Employment," subject to the other  
6 provisions of this chapter, means any service performed by an  
7 employee for the person employing him or her.

8           (n) Exclusions generally.--The term "employment" does  
9 not include:

10           1. Domestic service in a private home, local college  
11 club, or local chapter of a college fraternity or sorority,  
12 except as provided in paragraph (g).

13           2. Service performed on or in connection with a vessel  
14 or aircraft not an American vessel or American aircraft, if  
15 the employee is employed on and in connection with such vessel  
16 or aircraft when outside the United States.

17           3. Service performed by an individual in, or as an  
18 officer or member of the crew of a vessel while it is engaged  
19 in, the catching, taking, harvesting, cultivating, or farming  
20 of any kind of fish, shellfish, crustacea, sponges, seaweeds,  
21 or other aquatic forms of animal and vegetable life, including  
22 service performed by any such individual as an ordinary  
23 incident to any such activity, except:

24           a. Service performed in connection with the catching  
25 or taking of salmon or halibut for commercial purposes.

26           b. Service performed on, or in connection with, a  
27 vessel of more than 10 net tons, determined in the manner  
28 provided for determining the register tonnage of merchant  
29 vessels under the laws of the United States.

30           4. Service performed by an individual in the employ of  
31 his or her son, daughter, or spouse, including step

1 relationships, and service performed by a child, or stepchild,  
2 under the age of 21 in the employ of his or her father or  
3 mother, or stepfather or stepmother.

4           5. Service performed in the employ of the United  
5 States Government or of an instrumentality of the United  
6 States which is:

7           a. Wholly or partially owned by the United States.

8           b. Exempt from the tax imposed by s. 3301 of the  
9 Internal Revenue Code by virtue of any provision of federal  
10 law which specifically refers to such section, or the  
11 corresponding section of prior law, in granting such  
12 exemption; except that to the extent that the Congress shall  
13 permit states to require any instrumentalities of the United  
14 States to make payments into an unemployment fund under a  
15 state unemployment compensation law, all of the provisions of  
16 this law shall be applicable to such instrumentalities, and to  
17 services performed for such instrumentalities, in the same  
18 manner, to the same extent, and on the same terms as to all  
19 other employers, employing units, individuals, and services.  
20 If this state is not certified for any year by the Secretary  
21 of Labor under s. 3304 of the federal Internal Revenue Code,  
22 the payments required of such instrumentalities with respect  
23 to such year shall be refunded by the division from the fund  
24 in the same manner and within the same period as is provided  
25 in s. 443.141(6) with respect to contributions erroneously  
26 collected.

27           6. Service performed in the employ of a state, or any  
28 political subdivision thereof, or any instrumentality of any  
29 one or more of the foregoing which is wholly owned by one or  
30 more states or political subdivisions, except as provided in  
31 paragraph (b), and any service performed in the employ of any

1 instrumentality of one or more states or political  
2 subdivisions, to the extent that the instrumentality is, with  
3 respect to such service, immune under the Constitution of the  
4 United States from the tax imposed by s. 3301 of the Internal  
5 Revenue Code.

6           7. Service performed in the employ of a corporation,  
7 community chest, fund, or foundation, organized and operated  
8 exclusively for religious, charitable, scientific, testing for  
9 public safety, literary, or educational purposes, or for the  
10 prevention of cruelty to children or animals, no part of the  
11 net earnings of which inures to the benefit of any private  
12 shareholder or individual, no substantial part of the  
13 activities of which is carrying on propaganda or otherwise  
14 attempting to influence legislation, and which does not  
15 participate in, or intervene in (including the publishing or  
16 distributing of statements), any political campaign on behalf  
17 of any candidate for public office, except as provided in  
18 paragraph (c).

19           8. Service with respect to which unemployment  
20 compensation is payable under an unemployment compensation  
21 system established by an Act of Congress.

22           9.a. Service performed in any calendar quarter in the  
23 employ of any organization exempt from income tax under s.  
24 501(a) of the Internal Revenue Code, other than an  
25 organization described in s. 401(a), or under s. 521, if the  
26 remuneration for such service is less than \$50.

27           b. Service performed in the employ of a school,  
28 college, or university, if such service is performed by a  
29 student who is enrolled and is regularly attending classes at  
30 such school, college, or university.

31

1           10. Service performed in the employ of a foreign  
2 government, including service as a consular or other officer  
3 or employee of a nondiplomatic representative.

4           11. Service performed in the employ of an  
5 instrumentality wholly owned by a foreign government:

6           a. If the service is of a character similar to that  
7 performed in foreign countries by employees of the United  
8 States Government or of an instrumentality thereof; and

9           b. The Secretary of State shall certify to the  
10 Secretary of the Treasury that the foreign government, with  
11 respect to whose instrumentality exemption is claimed, grants  
12 an equivalent exemption with respect to similar service  
13 performed in the foreign country by employees of the United  
14 States Government and of instrumentalities thereof.

15           12. Service performed as a student nurse in the employ  
16 of a hospital or a nurses' training school by an individual  
17 who is enrolled and is regularly attending classes in a  
18 nurses' training school chartered or approved pursuant to a  
19 state law; service performed as an intern in the employ of a  
20 hospital by an individual who has completed a 4-year course in  
21 a medical school chartered or approved pursuant to state law;  
22 and service performed by a patient of a hospital for such  
23 hospital.

24           13. Service performed by an individual for a person as  
25 an insurance agent or as an insurance solicitor, if all such  
26 service performed by such individual for such person is  
27 performed for remuneration solely by way of commission, except  
28 for such services performed in accordance with 26 U.S.C.S. s.  
29 3306(c)(7) and (8). For purposes of this subsection, those  
30 benefits excluded from the definition of wages pursuant to  
31

1 subparagraphs (40)(b)2.-6., inclusive, shall not be considered  
2 remuneration.

3           14. Service performed by an individual for a person as  
4 a real estate licensee ~~salesperson or agent~~, if all such  
5 service performed by such individual for such person is  
6 performed for remuneration solely by way of commission.

7           15. Service performed by an individual under the age  
8 of 18 in the delivery or distribution of newspapers or  
9 shopping news, not including delivery or distribution to any  
10 point for subsequent delivery or distribution.

11           16. Service covered by an arrangement between the  
12 division and the agency charged with the administration of any  
13 other state or federal unemployment compensation law pursuant  
14 to which all services performed by an individual for an  
15 employing unit during the period covered by such employing  
16 unit's duly approved election are deemed to be performed  
17 entirely within such agency's state or under such federal law.

18           17. Service performed by an individual who is enrolled  
19 at a nonprofit or public educational institution which  
20 normally maintains a regular faculty and curriculum and  
21 normally has a regularly organized body of students in  
22 attendance at the place where its educational activities are  
23 carried on as a student in a full-time program, taken for  
24 credit at such institution, which combines academic  
25 instruction with work experience, if such service is an  
26 integral part of such program, and such institution has so  
27 certified to the employer, except that this subparagraph does  
28 not apply to service performed in a program established for or  
29 on behalf of an employer or group of employers.

30           18. Service performed by an individual for a person as  
31 a barber, if all such service performed by such individual for

1 such person is performed for remuneration solely by way of  
2 commission.

3 19. Casual labor not in the course of the employer's  
4 trade or business.

5 20. Service performed by a speech therapist,  
6 occupational therapist, or physical therapist who is  
7 nonsalaried and working pursuant to a written contract with a  
8 home health agency as defined in s. 400.462.

9 21. Service performed by a direct seller. For purposes  
10 of this subparagraph, the term "direct seller" means a person:

11 a.(I) Who is engaged in the trade or business of  
12 selling or soliciting the sale of consumer products to buyers  
13 on a buy-sell basis or a deposit-commission basis, or on any  
14 similar basis, for resale in the home or in any other place  
15 that is not a permanent retail establishment; or

16 (II) Who is engaged in the trade or business of  
17 selling or soliciting the sale of consumer products in the  
18 home or in any other place that is not a permanent retail  
19 establishment;

20 b. Substantially all of whose remuneration for  
21 services described in sub-subparagraph a., whether or not paid  
22 in cash, is directly related to sales or other output, rather  
23 than to the number of hours worked; and

24 c. Who performs such services pursuant to a written  
25 contract with the person for whom the services are performed,  
26 which contract provides that the person will not be treated as  
27 an employee with respect to such services for federal tax  
28 purposes.

29 22. Service performed by a nonresident alien  
30 individual for the period he or she is temporarily present in  
31 the United States as a nonimmigrant under subparagraph (F) or

1 subparagraph (J) of s. 101(a)(15) of the Immigration and  
2 Nationality Act, and which is performed to carry out the  
3 purpose specified in subparagraph (F) or subparagraph (J), as  
4 the case may be.

5 23. Service performed by an individual for  
6 remuneration for a private, for-profit delivery or messenger  
7 service, if the individual:

8 a. Is free to accept or reject jobs from the delivery  
9 or messenger service and the delivery or messenger service has  
10 no control over when the individual works;

11 b. Is remunerated for each delivery, or the  
12 remuneration is based on factors that relate to the work  
13 performed, including receipt of a percentage of any rate  
14 schedule;

15 c. Pays all expenses and the opportunity for profit or  
16 loss rests solely with the individual;

17 d. Is responsible for operating costs, including fuel,  
18 repairs, supplies, and motor vehicle insurance;

19 e. Determines the method of performing the service,  
20 including selection of routes and order of deliveries;

21 f. Is responsible for the completion of a specific job  
22 and is liable for any failure to complete that job;

23 g. Enters into a contract with the delivery or  
24 messenger service which specifies the relationship of the  
25 individual to the delivery or messenger service to be that of  
26 an independent contractor and not that of an employee; and

27 h. Provides the vehicle used to perform the service.

28 24. Service performed in agricultural labor by an  
29 individual who is an alien admitted to the United States to  
30 perform service in agricultural labor pursuant to ss.

31

1 101(a)(15)(H) and 214(c) of the Immigration and Nationality  
2 Act.

3 25. Service performed by a person who is an inmate of  
4 a penal institution.

5 Section 56. Subsection (25) of section 501.604,  
6 Florida Statutes, is amended to read:

7 501.604 Exemptions.--The provisions of this part,  
8 except ss. 501.608 and 501.616(6) and (7), do not apply to:

9 (25) A person ~~who is a licensed real estate~~  
10 ~~salesperson or broker~~ pursuant to chapter 475 and who is  
11 soliciting within the scope of the chapter.

12 Section 57. Subsection (4) of section 687.14, Florida  
13 Statutes, is amended to read:

14 687.14 Definitions.--As used in this act, unless the  
15 context otherwise requires:

16 (4) "Loan broker" means any person, except any bank or  
17 savings and loan association, trust company, building and loan  
18 association, credit union, consumer finance company, retail  
19 installment sales company, securities broker-dealer, real  
20 estate broker or sales associate ~~salesperson~~, attorney,  
21 federal Housing Administration or United States Department of  
22 Veterans Affairs approved lender, credit card company,  
23 installment loan licensee, mortgage broker or lender, or  
24 insurance company, provided that the person excepted is  
25 licensed by and subject to regulation or supervision of any  
26 agency of the United States or this state and is acting within  
27 the scope of the license; and also excepting subsidiaries of  
28 licensed or chartered consumer finance companies, banks, or  
29 savings and loan associations; who:

30  
31



1 (a) For or in expectation of consideration arranges or  
2 attempts to arrange or offers to fund a loan of money, a  
3 credit card, or a line of credit;

4 (b) For or in expectation of consideration assists or  
5 advises a borrower in obtaining or attempting to obtain a loan  
6 of money, a credit card, a line of credit, or related  
7 guarantee, enhancement, or collateral of any kind or nature;

8 (c) Acts for or on behalf of a loan broker for the  
9 purpose of soliciting borrowers; or

10 (d) Holds herself or himself out as a loan broker.

11 Section 58. Subsections (1) and (6) of section 721.20,  
12 Florida Statutes, are amended to read:

13 721.20 Licensing requirements; suspension or  
14 revocation of license; exceptions to applicability; collection  
15 of advance fees for listings unlawful.--

16 (1) Any seller of a timeshare plan must be a licensed  
17 real estate ~~salesperson, broker, broker associate, or sales~~  
18 associate broker-salesperson as defined in s. 475.01, except  
19 as provided in s. 475.011.

20 (6) Notwithstanding the provisions of s. 475.452, it  
21 is unlawful for any real estate broker, broker associate  
22 ~~salesperson, or sales associate broker-salesperson~~ to collect  
23 any advance fee for the listing of any timeshare estate or  
24 timeshare license.

25 Section 59. Paragraph (a) of subsection (1) of section  
26 760.29, Florida Statutes, is amended to read:

27 760.29 Exemptions.--

28 (1)(a) Nothing in ss. 760.23 and 760.25 applies to:

29 1. Any single-family house sold or rented by its  
30 owner, provided such private individual owner does not own  
31 more than three single-family houses at any one time. In the

1 case of the sale of a single-family house by a private  
2 individual owner who does not reside in such house at the time  
3 of the sale or who was not the most recent resident of the  
4 house prior to the sale, the exemption granted by this  
5 paragraph applies only with respect to one sale within any  
6 24-month period. In addition, the bona fide private individual  
7 owner shall not own any interest in, nor shall there be owned  
8 or reserved on his or her behalf, under any express or  
9 voluntary agreement, title to, or any right to all or a  
10 portion of the proceeds from the sale or rental of, more than  
11 three single-family houses at any one time. The sale or rental  
12 of any single-family house shall be excepted from the  
13 application of ss. 760.20-760.37 only if the house is sold or  
14 rented:

15         a. Without the use in any manner of the sales or  
16 rental facilities or the sales or rental services of any real  
17 estate licensee ~~broker, agent, or salesperson~~ or such  
18 facilities or services of any person in the business of  
19 selling or renting dwellings, or of any employee or agent of  
20 any such licensee ~~broker, agent, salesperson,~~ or person; and

21         b. Without the publication, posting, or mailing, after  
22 notice, of any advertisement or written notice in violation of  
23 s. 760.23(3).

24  
25 Nothing in this provision prohibits the use of attorneys,  
26 escrow agents, abstractors, title companies, and other such  
27 professional assistance as is necessary to perfect or transfer  
28 the title.

29         2. Rooms or units in dwellings containing living  
30 quarters occupied or intended to be occupied by no more than  
31 four families living independently of each other, if the owner

1 actually maintains and occupies one of such living quarters as  
2 his or her residence.

3 Section 60. This act shall take effect July 1, 2003.  
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