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CHAMBER ACTION

The Committee on Business Regulation recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to regulation of real estate professionals; amending s. 475.001, F.S.; conforming terminology; amending s. 475.01, F.S.; redesignating "broker-salespersons" as "broker associates" and "salespersons" as "sales associates"; expanding the definition of "transaction broker"; amending s. 475.011, F.S.; revising certain exemptions from regulation; conforming terminology; amending ss. 475.02 and 475.04, F.S.; conforming terminology; creating s. 475.161, F.S.; providing for licensing of broker associates and sales associates; amending s. 475.17, F.S.; revising qualifications for practice; authorizing additional subjects for postlicensure education; restricting approval of distance learning courses to instances of hardship; conforming terminology; amending s. 475.175, F.S.; revising requirements to take the license examination; revising requirements with respect to notice of completion of educational requirements; amending s. 475.181, F.S.;



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29 conforming terminology; amending s. 475.182, F.S. ;
30 providing guidelines for approving specialty courses ;
31 conforming terminology; amending s. 475.215, F.S. ;
32 conforming terminology; amending s. 475.22, F.S. ; revising
33 requirements with respect to brokers' signs; amending s.
34 475.23, F.S. ; providing for notice of change of address ;
35 conforming terminology; amending s. 475.25, F.S. ; revising
36 duties of licensees with respect to escrowed property ;
37 allowing a broker to place personal or brokerage funds in
38 property management and sales escrow accounts ; providing
39 for investment of escrow moneys ; providing penalties ;
40 providing a time limit on filing complaints against a
41 licensee ; requiring notice to employer of disciplinary
42 action against a licensee ; providing for referral of
43 criminal violations to prosecuting authorities ; conforming
44 terminology ; amending s. 475.2755, F.S. ; conforming
45 terminology ; amending s. 475.278, F.S. ; revising
46 provisions relating to authorized brokerage relationships ;
47 providing a presumption of transaction brokerage ; revising
48 disclosure requirements ; amending s. 475.31, F.S. ;
49 providing effect of revocation or suspension of a broker's
50 license ; conforming terminology ; amending ss. 475.37 and
51 475.41, F.S. ; conforming terminology ; amending s. 475.42,
52 F.S. ; providing an additional ground for disciplinary
53 action relating to false or misleading information on real
54 estate located in the state ; providing penalties ;
55 conforming terminology ; amending s. 475.43, F.S. ;
56 conforming terminology ; amending s. 475.451, F.S. ;



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57 | revising prerequisites for renewal of an instructor
58 | permit; removing an exemption from instructor examination
59 | requirements; conforming terminology; repealing s.
60 | 475.4511(4), F.S., relating to the prohibition against a
61 | school advertising in conjunction with an affiliated
62 | broker; amending ss. 475.453 and 475.455, F.S.; conforming
63 | terminology; amending s. 475.482, F.S.; increasing the
64 | maximum amount that may be in the Real Estate Recovery
65 | Fund; conforming terminology; amending s. 475.483, F.S.;
66 | revising guidelines for payment of attorney's fees with
67 | respect to recovery from the fund; conforming terminology;
68 | amending ss. 475.484 and 475.5017, F.S.; increasing
69 | maximum amounts payable from the fund; conforming
70 | terminology; creating s. 475.505, F.S.; providing
71 | requirements for temporary practice; amending s. 475.612,
72 | F.S.; conforming terminology; amending s. 689.25, F.S.;
73 | prescribing facts and conditions the existence of which
74 | need not be disclosed in a real estate transaction;
75 | repealing s. 475.421, F.S., relating to publication of
76 | false or misleading information on real estate located in
77 | the state; repealing s. 475.422, F.S., relating to
78 | disclosure of termite and roof inspection reports;
79 | amending ss. 83.49, 440.02, 443.036, 501.604, 687.14,
80 | 721.20, and 760.29, F.S.; conforming terminology;
81 | providing an effective date.

82 |
83 | Be It Enacted by the Legislature of the State of Florida:
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85 Section 1. Section 475.001, Florida Statutes, is amended
86 to read:

87 475.001 Purpose.--The Legislature deems it necessary in
88 the interest of the public welfare to regulate real estate
89 brokers, sales associates ~~salespersons~~, and schools in this
90 state.

91 Section 2. Section 475.01, Florida Statutes, is amended to
92 read:

93 475.01 Definitions.--

94 (1) As used in this part:

95 (a) "Broker" means a person who, for another, and for a
96 compensation or valuable consideration directly or indirectly
97 paid or promised, expressly or impliedly, or with an intent to
98 collect or receive a compensation or valuable consideration
99 therefor, appraises, auctions, sells, exchanges, buys, rents, or
100 offers, attempts or agrees to appraise, auction, or negotiate
101 the sale, exchange, purchase, or rental of business enterprises
102 or business opportunities or any real property or any interest
103 in or concerning the same, including mineral rights or leases,
104 or who advertises or holds out to the public by any oral or
105 printed solicitation or representation that she or he is engaged
106 in the business of appraising, auctioning, buying, selling,
107 exchanging, leasing, or renting business enterprises or business
108 opportunities or real property of others or interests therein,
109 including mineral rights, or who takes any part in the procuring
110 of sellers, purchasers, lessors, or lessees of business
111 enterprises or business opportunities or the real property of
112 another, or leases, or interest therein, including mineral



113 | rights, or who directs or assists in the procuring of prospects
 114 | or in the negotiation or closing of any transaction which does,
 115 | or is calculated to, result in a sale, exchange, or leasing
 116 | thereof, and who receives, expects, or is promised any
 117 | compensation or valuable consideration, directly or indirectly
 118 | therefor; and all persons who advertise rental property
 119 | information or lists. A broker renders a professional service
 120 | and is a professional within the meaning of s. 95.11(4)(a).
 121 | Where the term "appraise" or "appraising" appears in the
 122 | definition of the term "broker," it specifically excludes those
 123 | appraisal services which must be performed only by a state-
 124 | licensed or state-certified appraiser, and those appraisal
 125 | services which may be performed by a registered assistant
 126 | appraiser as defined in part II. The term "broker" also includes
 127 | any person who is a general partner, officer, or director of a
 128 | partnership or corporation which acts as a broker. The term
 129 | "broker" also includes any person or entity who undertakes to
 130 | list or sell one or more timeshare periods per year in one or
 131 | more timeshare plans on behalf of any number of persons, except
 132 | as provided in ss. 475.011 and 721.20.

133 | (b) "Broker associate ~~Broker-salesperson~~" means a person
 134 | who is qualified to be issued a license as a broker but who
 135 | operates as a sales associate ~~salesperson~~ in the employ of
 136 | another.

137 | (c) "Commission" means the Florida Real Estate Commission.

138 | (d) "Customer" means a member of the public who is or may
 139 | be a buyer or seller of real property and may or may not be



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140 represented by a real estate licensee in an authorized brokerage
141 relationship.

142 (e) "Department" means the Department of Business and
143 Professional Regulation.

144 (f) "Fiduciary" means a broker in a relationship of trust
145 and confidence between that broker as agent and the seller or
146 buyer as principal. The duties of the broker as a fiduciary are
147 loyalty, confidentiality, obedience, full disclosure, and
148 accounting and the duty to use skill, care, and diligence.

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

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

154 (i) "Real property" or "real estate" means any interest or
155 estate in land and any interest in business enterprises or
156 business opportunities, including any assignment, leasehold,
157 subleasehold, or mineral right; however, the term does not
158 include any cemetery lot or right of burial in any cemetery; nor
159 does the term include the renting of a mobile home lot or
160 recreational vehicle lot in a mobile home park or travel park.

161 (j) "Sales associate ~~Salesperson~~" means a person who
162 performs any act specified in the definition of "broker," but
163 who performs such act under the direction, control, or
164 management of another person. A salesperson renders a
165 professional service and is a professional within the meaning of
166 s. 95.11(4)(a).



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

170 (l) "Transaction broker" means a broker who provides
171 limited representation to a buyer, a seller, or both, in a real
172 estate transaction, but does not represent either in a fiduciary
173 capacity or as a single agent. In a transaction broker
174 relationship, a buyer or seller is not responsible for the acts
175 of a licensee. Additionally, the parties to a real estate
176 transaction are giving up their rights to the undivided loyalty
177 of a licensee. This aspect of limited representation allows a
178 licensee to facilitate a real estate transaction by assisting
179 both the buyer and the seller, but a licensee will not work to
180 represent one party to the detriment of the other party when
181 acting as a transaction broker to both parties.

182 (m) "Voluntarily inactive status" means the licensure
183 status that results when a licensee has applied to the
184 department to be placed on inactive status and has paid the fee
185 prescribed by rule.

186 (2) The terms "employ," "employment," "employer," and
187 "employee," when used in this chapter and in rules adopted
188 pursuant thereto to describe the relationship between a broker
189 and a sales associate ~~salesperson~~, include an independent
190 contractor relationship when such relationship is intended by
191 and established between a broker and a sales associate
192 ~~salesperson~~. The existence of such relationship shall not
193 relieve either the broker or the sales associate ~~salesperson~~ of



194 her or his duties, obligations, or responsibilities under this
195 chapter.

196 (3) Wherever the word "operate" or "operating" as a
197 broker, broker associate ~~broker-salesperson~~, or sales associate
198 ~~salesperson~~ appears in this chapter; in any order, rule, or
199 regulation of the commission; in any pleading, indictment, or
200 information under this chapter; in any court action or
201 proceeding; or in any order or judgment of a court, it shall be
202 deemed to mean the commission of one or more acts described in
203 this chapter as constituting or defining a broker, broker
204 associate ~~broker-salesperson~~, or sales associate ~~salesperson~~,
205 not including, however, any of the exceptions stated therein. A
206 single such act is sufficient to bring a person within the
207 meaning of this chapter, and each act, if prohibited herein,
208 constitutes a separate offense.

209 (4) A broker acting as a trustee of a trust created under
210 chapter 689 is subject to the provisions of this chapter unless
211 the trustee is a bank, state or federal association, or trust
212 company possessing trust powers as defined in s. 658.12(23).

213 Section 3. Section 475.011, Florida Statutes, is amended
214 to read:

215 475.011 Exemptions.--This part does not apply to:

216 (1) Any person acting as an attorney in fact for the
217 purpose of the execution of contracts or conveyances only; as an
218 attorney at law within the scope of her or his duties as such;
219 as a certified public accountant, as defined in chapter 473,
220 within the scope of her or his duties as such; as the personal
221 representative, receiver, trustee, or master under, or by virtue



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222 of, an appointment by will or by order of a court of competent
223 jurisdiction; or as trustee under a deed of trust, or under a
224 trust agreement, the ultimate purpose and intent whereof is
225 charitable, is philanthropic, or provides for those having a
226 natural right to the bounty of the donor or trustor.†

227 (2) Any individual, corporation, partnership, trust, joint
228 venture, or other entity which sells, exchanges, or leases its
229 own real property; however, this exemption shall not be
230 available if and to the extent that an agent, employee, or
231 independent contractor paid a commission or other compensation
232 strictly on a transactional basis is employed to make sales,
233 exchanges, or leases to or with customers in the ordinary course
234 of an owner's business of selling, exchanging, or leasing real
235 property to the public.†

236 (3) Any employee of a public utility, a rural electric
237 cooperative, a railroad, or a state or local governmental agency
238 who acts within the scope of her or his employment, for which no
239 compensation in addition to the employee's salary is paid, to
240 buy, sell, appraise, exchange, rent, auction, or lease any real
241 property or any interest in real property for the use of her or
242 his employer.†

243 (4) Any salaried employee of an owner, or of a registered
244 broker for an owner, of an apartment community who works in an
245 onsite rental office of the apartment community in a leasing
246 capacity, provided the employee does not receive compensation
247 based on the lease transaction.†

248 (5) Any person employed for a salary as a manager of a
249 condominium or cooperative apartment complex as a result of any



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250 activities or duties which the person may have in relation to
 251 the renting of individual units within such condominium or
 252 cooperative apartment complex if rentals arranged by the person
 253 are for periods no greater than 1 year, provided the person does
 254 not receive compensation based on the rental transaction.+

255 (6) Any person, partnership, corporation, or other legal
 256 entity which, for another and for compensation or other valuable
 257 consideration, sells, offers to sell, advertises for sale, buys,
 258 offers to buy, or negotiates the sale or purchase of radio,
 259 television, or cable enterprises licensed and regulated by the
 260 Federal Communications Commission pursuant to the Communications
 261 Act of 1934. However, if the sale or purchase of the radio,
 262 television, or cable enterprise involves the sale or lease of
 263 land, buildings, fixtures, and all other improvements to the
 264 land, a broker or sales associate ~~salesperson~~ licensed under
 265 this chapter shall be retained for the portion of the
 266 transaction which includes the land, buildings, fixtures, and
 267 all other improvements to the land. ~~+~~

268 (7) Any full-time graduate student who is enrolled in a
 269 commission-approved degree program in appraising at a college or
 270 university in this state, if the student is acting under the
 271 direct supervision of a licensed broker or a licensed or
 272 certified appraiser and is engaged only in appraisal activities
 273 related to the approved degree program. Any appraisal report by
 274 the student must be issued in the name of the supervising
 275 individual.



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

279 (b) An exchange company, as that term is defined by s.
280 721.05(14), but only to the extent that the exchange company is
281 engaged in exchange program activities as described in and is in
282 compliance with s. 721.18.

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

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

289 (11) Any person, partnership, corporation, or other legal
290 entity which, for another and for compensation or other valuable
291 consideration, rents or advertises for rent, for transient
292 occupancy, any public lodging establishment licensed under
293 chapter 509.

294 (12) Any dealer registered under the Securities and
295 Exchange Act of 1934, as amended, or any federally insured
296 depository institution and any parent, subsidiary, or affiliate
297 thereof, in connection with the sale, exchange, purchase, or
298 rental of a business enterprise to or by a person who is an
299 accredited investor as defined by 15 U.S.C. s. 77b, the
300 Securities Act of 1933, or any regulation adopted thereunder.
301 This exemption applies whether stock or assets of the business
302 enterprise are purchased or sold. The exemption does not apply
303 to a sale, exchange, purchase, or rental of land, buildings,



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304 fixtures or other improvements to the land which is not made in
305 connection with the sale, exchange, purchase, or rental of a
306 business enterprise. Any reference to rental in this subsection
307 includes a lease transaction.

308 (13) Any property management firm or any owner of an
309 apartment complex for the act of paying a finder's fee or
310 referral fee to an unlicensed person who is a tenant in such
311 apartment complex provided the value of the fee does not exceed
312 \$50 per transaction. Nothing in this subsection authorizes an
313 unlicensed person to advertise or otherwise promote the person's
314 services in procuring or assisting in procuring prospective
315 lessees or tenants of apartment units. For purposes of this
316 subsection, "finder's fee" or "referral fee" means a fee paid,
317 credit towards rent, or some other thing of value provided to a
318 person for introducing or arranging an introduction between
319 parties to a transaction involving the rental or lease of an
320 apartment unit. It is a violation of s. 475.25(1)(h) and
321 punishable under s. 475.42 for a property management firm or any
322 owner of an apartment complex to pay a finder's fee or a
323 referral fee to an unlicensed person unless expressly authorized
324 by this subsection.

325 Section 4. Subsection (1) of section 475.02, Florida
326 Statutes, is amended to read:

327 475.02 Florida Real Estate Commission.--

328 (1) There is created within the department the Florida
329 Real Estate Commission. The commission shall consist of seven
330 members who shall be appointed by the Governor, subject to
331 confirmation by the Senate. Four members must be licensed



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332 brokers, each of whom has held an active license for the 5 years
 333 preceding appointment; one member must be a licensed broker or a
 334 licensed sales associate ~~salesperson~~ who has held an active
 335 license for the 2 years preceding appointment; and two members
 336 must be persons who are not, and have never been, brokers or
 337 sales associates ~~salespersons~~. At least one member of the
 338 commission must be 60 years of age or older. The current members
 339 may complete their present terms unless removed for cause.

340 Section 5. Section 475.04, Florida Statutes, is amended to
 341 read:

342 475.04 Duty of commission to educate members of
 343 profession.--

344 (1) The commission shall foster the education of brokers,
 345 broker associates ~~broker-salespersons~~, sales associates
 346 ~~salespersons~~, and instructors concerning the ethical, legal, and
 347 business principles which should govern their conduct.

348 (2) For the purpose of performing its duty under
 349 subsection (1) to educate persons holding a license or permit,
 350 the commission may conduct, offer, sponsor, prescribe, or
 351 approve real estate educational courses for all persons licensed
 352 or permitted by the department as brokers, broker associates
 353 ~~broker-salespersons~~, sales associates ~~salespersons~~, or
 354 instructors; and the cost and expense of such courses shall be
 355 paid as provided in s. 475.125.

356 (3) The commission may also publish and sell, at a
 357 reasonable price intended to cover costs, a handbook on this
 358 chapter and other publications intended to be textbooks or
 359 guidelines for study and guidance of students, applicants,



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360 licensees, certificateholders, and permitholders, and members of
 361 the general public, copyright of which shall be the property of
 362 the state.

363 Section 6. Section 475.161, Florida Statutes, is created
 364 to read:

365 475.161 Licensing of broker associates and sales
 366 associates.--The commission shall license a broker associate or
 367 sales associate as an individual or, upon the licensee providing
 368 the commission with authorization from the Department of State,
 369 as a professional corporation or limited liability company. A
 370 license shall be issued in the licensee's legal name only and,
 371 when appropriate, shall include the entity designation. This
 372 section shall not operate to permit a broker associate or sales
 373 associate to register or be licensed as a general partner,
 374 member, officer, or director of a brokerage firm under s.
 375 475.15.

376 Section 7. Section 475.17, Florida Statutes, is amended to
 377 read:

378 475.17 Qualifications for practice.--
 379 (1)(a) An applicant for licensure who is a natural person
 380 must be at least 18 years of age; hold a high school diploma or
 381 its equivalent; be honest, truthful, trustworthy, and of good
 382 character; and have a good reputation for fair dealing. An
 383 applicant for an active broker's license or a sales associate's
 384 ~~salesperson's~~ license must be competent and qualified to make
 385 real estate transactions and conduct negotiations therefor with
 386 safety to investors and to those with whom the applicant may
 387 undertake a relationship of trust and confidence. If the



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388 applicant has been denied registration or a license or has been
389 disbarred, or the applicant's registration or license to
390 practice or conduct any regulated profession, business, or
391 vocation has been revoked or suspended, by this or any other
392 state, any nation, or any possession or district of the United
393 States, or any court or lawful agency thereof, because of any
394 conduct or practices which would have warranted a like result
395 under this chapter, or if the applicant has been guilty of
396 conduct or practices in this state or elsewhere which would have
397 been grounds for revoking or suspending her or his license under
398 this chapter had the applicant then been registered, the
399 applicant shall be deemed not to be qualified unless, because of
400 lapse of time and subsequent good conduct and reputation, or
401 other reason deemed sufficient, it appears to the commission
402 that the interest of the public and investors will not likely be
403 endangered by the granting of registration. The commission may
404 adopt rules requiring an applicant for licensure to provide
405 written information to the commission regarding the applicant's
406 good character.

407 (b) An application may be disapproved if the applicant has
408 acted or attempted to act, or has held herself or himself out as
409 entitled to act, during the period of 1 year next prior to the
410 filing of the application, as a real estate broker or sales
411 associate ~~salesperson~~ in the state in violation of this chapter.
412 This paragraph may be deemed to bar any person from licensure
413 who has performed any of the acts or services described in s.
414 475.01(3), unless exempt pursuant to s. 475.011, during a period
415 of 1 year next preceding the filing of the application, or



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416 during the pendency of the application, and until a valid
417 current license has been duly issued to the person, regardless
418 of whether the performance of the act or service was done for
419 compensation or valuable consideration.

420 (2)(a)1. In addition to other requirements under this
421 part, the commission may require the satisfactory completion of
422 one or more of the educational courses or equivalent courses
423 conducted, offered, sponsored, prescribed, or approved pursuant
424 to s. 475.04, taken at an accredited college, university, or
425 community college, at an area technical center, or at a
426 registered real estate school, as a condition precedent for any
427 person to become licensed or to renew her or his license as a
428 broker, broker associate ~~broker-salesperson~~, or sales associate
429 ~~salesperson~~. The course or courses required for one to become
430 initially licensed shall not exceed a total of 63 classroom
431 hours of 50 minutes each, inclusive of examination, for a sales
432 associate ~~salesperson~~ and 72 classroom hours of 50 minutes each,
433 inclusive of examination, for a broker. The satisfactory
434 completion of an examination administered by the accredited
435 college, university, or community college, by the area technical
436 center, or by the registered real estate school shall be the
437 basis for determining satisfactory completion of the course.
438 However, notice of satisfactory completion shall not be issued
439 if the student has absences in excess of 8 classroom hours.

440 2. A distance learning course or courses shall be approved
441 by the commission as an option to classroom hours as
442 satisfactory completion of the course or courses as required by
443 this section. The schools authorized by this section have the



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444 option of providing classroom courses, distance learning
445 courses, or both. However, satisfactory completion of a
446 distance learning course requires the satisfactory completion of
447 a timed distance learning course examination. Such examination
448 shall not be required to be monitored or given at a centralized
449 location.

450 3. Such required course or courses must be made available
451 by correspondence or other suitable means to any person who, by
452 reason of hardship, as defined by rule, cannot attend the place
453 or places where the course or courses are regularly conducted or
454 does not have access to the distance learning course or courses.

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

458 1. An active real estate sales associate's ~~salesperson's~~
459 license for at least 12 months during the preceding 5 years in
460 the office of one or more real estate brokers licensed in this
461 state or any other state, territory, or jurisdiction of the
462 United States or in any foreign national jurisdiction;

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

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



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473 This paragraph does not apply to a person employed as a real
474 estate investigator by the Division of Real Estate, provided the
475 person has been employed as a real estate investigator for at
476 least 24 months. The person must be currently employed as a real
477 estate investigator to sit for the real estate broker's
478 examination and have held a valid and current sales associate's
479 ~~salesperson's~~ license for at least 12 months.

480 (c) A person who has been licensed as a real estate sales
481 associate ~~salesperson~~ in Florida during the preceding 5 years
482 may not be licensed as a real estate broker unless, in addition
483 to the other requirements of law, she or he has completed the
484 sales associate ~~salesperson~~ postlicensure educational
485 requirements, if these requirements have been prescribed by the
486 commission pursuant to paragraph(3)(a).

487 (3)(a) The commission may prescribe a postlicensure
488 education requirement in order for a person to maintain a valid
489 sales associate's ~~salesperson's~~ license, which shall not exceed
490 45 classroom hours of 50 minutes each, inclusive of examination,
491 prior to the first renewal following initial licensure. If
492 prescribed, this shall consist of one or more commission-
493 approved courses which total at least 45 classroom hours on one
494 or more subjects which include, but are not limited to, property
495 management, appraisal, real estate finance, ~~or~~ the economics of
496 real estate management, marketing, technology, sales and listing
497 of properties, business office management, courses teaching
498 practical real estate application skills, development of
499 business plans, marketing of property, and time management.



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500 Required postlicensure education courses must be provided by an
501 accredited college, university, or community college, by an area
502 technical center, by a registered real estate school, or by a
503 commission-approved sponsor.

504 (b) Satisfactory completion of the postlicensure education
505 requirement is demonstrated by successfully meeting all
506 standards established for the commission-prescribed or
507 commission-approved institution or school. However, notice of
508 satisfactory completion shall not be issued if the student has
509 absences in excess of 10 percent of the required classroom hours
510 or has not satisfactorily completed a timed distance learning
511 course examination.

512 (c) The license of any sales associate ~~salesperson~~ who
513 does not complete the postlicensure education requirement prior
514 to the first renewal following initial licensure shall be
515 considered null and void. Such person wishing to again operate
516 as a real estate sales associate ~~salesperson~~ must requalify by
517 satisfactorily completing the sales associate's ~~salesperson's~~
518 prelicensure course and passing the state examination for
519 licensure as a sales associate ~~salesperson~~.

520 (d) A sales associate ~~salesperson~~ who is required to
521 complete any postlicensure education requirement must complete
522 any postlicensure education requirement and hold a current and
523 valid license in order to be eligible for licensure as a broker.

524 (4)(a) The commission may prescribe a postlicensure
525 education requirement in order for a person to maintain a valid
526 broker's license, which shall not exceed 60 classroom hours of
527 50 minutes each, inclusive of examination, prior to the first



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528 renewal following initial licensure. If prescribed, this shall
529 consist of one or more commission-approved courses which total
530 at least 60 classroom hours on one or more subjects which
531 include, but are not limited to, advanced appraisal, advanced
532 property management, real estate marketing, business law,
533 advanced real estate investment analyses, advanced legal
534 aspects, general accounting, real estate economics,
535 syndications, commercial brokerage, feasibility analyses,
536 advanced real estate finance, residential brokerage, advanced
537 marketing, technology, advanced business planning, time
538 management, or real estate brokerage office operations. Required
539 postlicensure education courses must be provided by an
540 accredited college, university, or community college, by an area
541 technical center, by a registered real estate school, or by a
542 commission-approved sponsor.

543 (b) Satisfactory completion of the postlicensure education
544 requirement is demonstrated by successfully meeting all
545 standards established for the commission-prescribed or
546 commission-approved institution or school. However, notice of
547 satisfactory completion shall not be issued if the student has
548 absences in excess of 10 percent of the required classroom hours
549 or has not satisfactorily completed a timed distance learning
550 course examination.

551 (c) The license of any broker who does not complete the
552 postlicensure education requirement prior to the first renewal
553 following initial licensure shall be considered null and void.
554 If the licensee wishes to operate as a sales associate
555 ~~salesperson~~, she or he may be issued a sales associate's



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556 ~~salesperson's~~ license after providing proof that she or he has
557 satisfactorily completed the 14-hour continuing education course
558 within the 6 months following expiration of her or his broker's
559 license. To operate as a broker, the licensee must requalify by
560 satisfactorily completing the broker's prelicensure course and
561 passing the state examination for licensure as a broker.

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

568 (b) Except as provided in subsection (4), sales associates
569 ~~salespersons~~ and brokers are not required to meet the 14-hour
570 continuing education requirement prior to the first renewal
571 following initial licensure.

572 (c)1. A distance learning course or courses shall be
573 approved by the commission as an option to classroom hours as
574 satisfactory completion of the postlicensure education course or
575 courses as required by this section. The schools or sponsors
576 authorized by this section have the option of providing
577 classroom courses, distance learning courses, or both. However,
578 satisfactory completion of a distance learning postlicensure
579 education course or courses requires the satisfactory completion
580 of a timed distance learning course examination. Such
581 examination shall not be required to be monitored or given at a
582 centralized location.



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583 2. The commission shall provide for postlicensure
584 education courses to be made available by correspondence or
585 other suitable means to any person who, by reason of hardship,
586 as defined by rule, cannot attend the place or places where
587 courses are regularly conducted or does not have access to the
588 distance learning courses.

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

594 (7) The commission may not approve prelicensure or
595 postlicensure distance learning courses for brokers, broker
596 associates, and sales associates by correspondence methods,
597 except in instances of hardship pursuant to subparagraphs
598 (2)(a)3. and (5)(c)2.

599 Section 8. Section 475.175, Florida Statutes, is amended
600 to read:

601 475.175 Examinations.--

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

604 (a) Submits to the department the appropriate notarized or
605 electronically authenticated application and fee, ~~two~~
606 ~~photographs of herself or himself taken within the preceding~~
607 ~~year,~~ and a fingerprint card. The fingerprint card shall be
608 forwarded to the Division of Criminal Justice Information
609 Systems within the Department of Law Enforcement for purposes of
610 processing the fingerprint card to determine if the applicant



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611 has a criminal history record. The fingerprint card shall also
612 be forwarded to the Federal Bureau of Investigation for purposes
613 of processing the fingerprint card to determine if the applicant
614 has a criminal history record. The information obtained by the
615 processing of the fingerprint card by the Florida Department of
616 Law Enforcement and the Federal Bureau of Investigation shall be
617 sent to the department for the purpose of determining if the
618 applicant is statutorily qualified for examination. Effective
619 July 1, 2006, an applicant shall provide fingerprints in
620 electronic format.

621 (b) Submits at the time of examination the certificate
622 specified in subsection (2), the examination admissions
623 authorization letter ~~card issued by the commission~~, and proof of
624 identification.

625 (2) Each accredited college, university, community
626 college, or registered real estate school shall notify the
627 commission of the names of all persons who have satisfactorily
628 completed the educational requirements provided for in s.
629 475.17(2), (3), and (4) in a manner prescribed by the
630 commission. Furthermore, each such educational institution
631 shall provide to each person satisfactorily completing the
632 educational requirements provided for in s. 475.17(2), (3), and
633 (4) a certificate as proof of such satisfactory completion.

634 Section 9. Subsection (1) of section 475.181, Florida
635 Statutes, is amended to read:

636 475.181 Licensure.--

637 (1) The department shall license any applicant whom the
638 commission certifies, pursuant to subsection (2), to be



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639 | qualified to practice as a broker or sales associate
640 | ~~salesperson~~.

641 | Section 10. Section 475.182, Florida Statutes, is amended
642 | to read:

643 | 475.182 Renewal of license; continuing education.--

644 | (1) The department shall renew a license upon receipt of
645 | the renewal application and fee. The renewal application for an
646 | active license as broker, broker associate ~~broker-salesperson~~,
647 | or sales associate ~~salesperson~~ shall include proof satisfactory
648 | to the commission that the licensee has, since the issuance or
649 | renewal of her or his current license, satisfactorily completed
650 | at least 14 classroom hours of 50 minutes each of a continuing
651 | education course during each biennium of a license period, as
652 | prescribed by the commission. Approval or denial of a specialty
653 | course must be based on the extent to which the course content
654 | focuses on real estate issues relevant to the modern practice of
655 | real estate by a real estate licensee, including technology used
656 | in the real estate industry. The commission may accept as a
657 | substitute for such continuing education course, on a classroom-
658 | hour-for-classroom-hour basis, any satisfactorily completed
659 | education course that the commission finds is adequate to
660 | educate licensees within the intent of this section, including
661 | an approved distance learning course. However, the commission
662 | may not require, for the purpose of satisfactorily completing an
663 | approved correspondence or distance learning course, a written
664 | examination that is to be taken at a centralized location and is
665 | to be monitored.



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

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

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

677 Section 11. Section 475.215, Florida Statutes, is amended
678 to read:

679 475.215 Multiple licenses.--

680 (1) A licensed broker may be issued upon request
681 additional licenses as a broker, but not as a sales associate
682 ~~salesperson~~ or as a broker associate ~~broker-salesperson~~,
683 whenever it is clearly shown that the requested additional
684 licenses are necessary to the conduct of real estate brokerage
685 business and that the additional licenses will not be used in a
686 manner likely to be prejudicial to any person, including a
687 licensee under this chapter.

688 (2) A sales associate ~~salesperson~~ or broker associate
689 ~~broker-salesperson~~ shall have no more than one registered
690 employer at any one time.

691 Section 12. Subsection (1) of section 475.22, Florida
692 Statutes, is amended to read:



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693 475.22 Broker to maintain office and sign at entrance of
694 office; registered office outside state; broker required to
695 cooperate in investigation.--

696 (1) Each active broker shall maintain an office, which
697 shall consist of at least one enclosed room in a building of
698 stationary construction. Each active broker shall maintain a
699 sign on or about the entrance of her or his principal office and
700 each branch office, which sign may be easily observed and read
701 by any person about to enter such office ~~and shall be of such~~
702 ~~form and minimum dimensions as shall be prescribed by the~~
703 ~~commission.~~ Each sign must contain the name of the broker,
704 together with the trade name, if any. For a partnership or
705 corporation, the sign must contain the name of the firm or
706 corporation or trade name of the firm or corporation, together
707 with the name of at least one of the brokers. At a minimum, the
708 words "licensed real estate broker" or "lic. real estate broker"
709 must appear on the office entrance signs.

710 Section 13. Section 475.23, Florida Statutes, is amended
711 to read:

712 475.23 License to expire on change of address.-- A license
713 shall cease to be in force whenever a broker changes her or his
714 business address, a real estate school operating under a permit
715 issued pursuant to s. 475.451 changes its business address, or a
716 sales associate ~~salesperson~~ working for a broker or an
717 instructor working for a real estate school changes employer.
718 The licensee shall notify the commission of the change no later
719 than 10 days after the change, on a form provided by the
720 commission. When a broker or a real estate school changes



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721 business address, the brokerage firm or school permitholder must
722 file with the commission a notice of the change of address,
723 along with the names of any sales associates or instructors who
724 are no longer employed by the brokerage or school. Such
725 notification shall also fulfill the change of address
726 notification requirements for sales associates who remain
727 employed by the brokerage and instructors who remain employed by
728 the school.

729 Section 14. Subsection (1) of section 475.25, Florida
730 Statutes, is amended, and subsections (5), (6), and (7) are
731 added to said section, to read:

732 475.25 Discipline.--

733 (1) The commission may deny an application for licensure,
734 registration, or permit, or renewal thereof; may place a
735 licensee, registrant, or permittee on probation; may suspend a
736 license, registration, or permit for a period not exceeding 10
737 years; may revoke a license, registration, or permit; may impose
738 an administrative fine not to exceed \$1,000 for each count or
739 separate offense; and may issue a reprimand, and any or all of
740 the foregoing, if it finds that the licensee, registrant,
741 permittee, or applicant:

742 (a) Has violated any provision of s. 455.227(1) or s.
743 475.42. However, licensees under this part are exempt from the
744 provisions of s. 455.227(1)(i).

745 (b) Has been guilty of fraud, misrepresentation,
746 concealment, false promises, false pretenses, dishonest dealing
747 by trick, scheme, or device, culpable negligence, or breach of
748 trust in any business transaction in this state or any other



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749 | state, nation, or territory; has violated a duty imposed upon
750 | her or him by law or by the terms of a listing contract,
751 | written, oral, express, or implied, in a real estate
752 | transaction; has aided, assisted, or conspired with any other
753 | person engaged in any such misconduct and in furtherance
754 | thereof; or has formed an intent, design, or scheme to engage in
755 | any such misconduct and committed an overt act in furtherance of
756 | such intent, design, or scheme. It is immaterial to the guilt
757 | of the licensee that the victim or intended victim of the
758 | misconduct has sustained no damage or loss; that the damage or
759 | loss has been settled and paid after discovery of the
760 | misconduct; or that such victim or intended victim was a
761 | customer or a person in confidential relation with the licensee
762 | or was an identified member of the general public.

763 | (c) Has advertised property or services in a manner which
764 | is fraudulent, false, deceptive, or misleading in form or
765 | content. The commission may adopt rules defining methods of
766 | advertising that violate this paragraph.

767 | (d)1. Has failed to account or deliver to any person,
768 | including a licensee under this chapter, at the time which has
769 | been agreed upon or is required by law or, in the absence of a
770 | fixed time, upon demand of the person entitled to such
771 | accounting and delivery, any personal property such as money,
772 | fund, deposit, check, draft, abstract of title, mortgage,
773 | conveyance, lease, or other document or thing of value,
774 | including a share of a real estate commission if a civil
775 | judgment relating to the practice of the licensee's profession
776 | has been obtained against the licensee and said judgment has not



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

790 | a. Request that the commission issue an escrow
791 | disbursement order determining who is entitled to the escrowed
792 | property;

793 | b. With the consent of all parties, submit the matter to
794 | arbitration;

795 | c. By interpleader or otherwise, seek adjudication of the
796 | matter by a court; or

797 | d. With the written consent of all parties, submit the
798 | matter to mediation. The department may conduct mediation or
799 | may contract with public or private entities for mediation
800 | services. However, the mediation process must be successfully
801 | completed within 90 days following the last demand or the
802 | licensee shall promptly employ one of the other escape
803 | procedures contained in this section. Payment for mediation will



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804 be as agreed to in writing by the parties. The department may
805 adopt rules to implement this section.

806

807 If the licensee promptly employs one of the escape procedures
808 contained herein, ~~and if she or he~~ abides by the order or
809 judgment resulting therefrom, no administrative complaint may be
810 filed against the licensee for failure to account for, deliver,
811 or maintain the escrowed property. Under certain circumstances,
812 which the commission shall set forth by rule, a licensee may
813 disburse property from the licensee's escrow account without
814 notifying the commission or employing one of the procedures
815 listed in sub-subparagraphs a.-d. If the buyer of a residential
816 condominium unit delivers to a licensee written notice of the
817 buyer's intent to cancel the contract for sale and purchase, as
818 authorized by s. 718.503, or if the buyer of real property in
819 good faith fails to satisfy the terms in the financing clause of
820 a contract for sale and purchase, the licensee may return the
821 escrowed property to the purchaser without notifying the
822 commission or initiating any of the procedures listed in sub-
823 subparagraphs a.-d.

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

829 (e) Has violated any of the provisions of this chapter or
830 any lawful order or rule made or issued under the provisions of
831 this chapter or chapter 455.



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832 (f) Has been convicted or found guilty of, or entered a
833 plea of nolo contendere to, regardless of adjudication, a crime
834 in any jurisdiction which directly relates to the activities of
835 a licensed broker or sales associate ~~salesperson~~, or involves
836 moral turpitude or fraudulent or dishonest dealing. The record
837 of a conviction certified or authenticated in such form as to be
838 admissible in evidence under the laws of the state shall be
839 admissible as prima facie evidence of such guilt.

840 (g) Has had a broker's or sales associate's ~~salesperson's~~
841 license revoked, suspended, or otherwise acted against, or has
842 had an application for such licensure denied, by the real estate
843 licensing agency of another state, territory, or country.

844 (h) Has shared a commission with, or paid a fee or other
845 compensation to, a person not properly licensed as a broker,
846 broker associate ~~broker-salesperson~~, or sales associate
847 ~~salesperson~~ under the laws of this state, for the referral of
848 real estate business, clients, prospects, or customers, or for
849 any one or more of the services set forth in s. 475.01(1)(a).
850 For the purposes of this section, it is immaterial that the
851 person to whom such payment or compensation is given made the
852 referral or performed the service from within this state or
853 elsewhere; however, a licensed broker of this state may pay a
854 referral fee or share a real estate brokerage commission with a
855 broker licensed or registered under the laws of a foreign state
856 so long as the foreign broker does not violate any law of this
857 state.

858 (i) Has become temporarily incapacitated from acting as a
859 broker or sales associate ~~salesperson~~ with safety to investors



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860 or those in a fiduciary relation with her or him because of
861 drunkenness, use of drugs, or temporary mental derangement; but
862 suspension of a license in such a case shall be only for the
863 period of such incapacity.

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

869 (k) Has failed, if a broker, to immediately place, upon
870 receipt, any money, fund, deposit, check, or draft entrusted to
871 her or him by any person dealing with her or him as a broker in
872 escrow with a title company, banking institution, credit union,
873 or savings and loan association located and doing business in
874 this state, or to deposit such funds in a trust or escrow
875 account maintained by her or him with some bank, credit union,
876 or savings and loan association located and doing business in
877 this state, wherein the funds shall be kept until disbursement
878 thereof is properly authorized; or has failed, if a sales
879 associate ~~salesperson~~, to immediately place with her or his
880 registered employer any money, fund, deposit, check, or draft
881 entrusted to her or him by any person dealing with her or him as
882 agent of the registered employer. The commission shall establish
883 rules to provide for records to be maintained by the broker and
884 the manner in which such deposits shall be made. A broker may
885 place and maintain up to \$5,000 of personal or brokerage funds
886 in the broker's property management escrow account and up to
887 \$1,000 of personal or brokerage funds in the broker's sales



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888 escrow account. A broker shall be provided a reasonable amount
889 of time to correct escrow errors if there is no shortage of
890 funds and such errors pose no significant threat to economically
891 harm the public. It is the intent of the Legislature that, in
892 the event of legal proceedings concerning a broker's escrow
893 account, the disbursement of escrowed funds not be delayed due
894 to any dispute over the personal or brokerage funds that may be
895 present in the escrow account. With the written consent of the
896 parties, a broker may invest escrow moneys in:

897 1. Bonds, notes, or other obligations of the United States
898 or those guaranteed by the United States or for which the credit
899 of the United States is pledged for the payment of the principal
900 and interest or dividends thereof.

901 2. State bonds pledging the full faith and credit of the
902 state and revenue bonds additionally secured by the full faith
903 and credit of the state.

904 3. Savings accounts in, or certificates of deposit of, any
905 bank, savings bank, or savings and loan association incorporated
906 under the laws of this state or organized under the laws of the
907 United States doing business and situated in this state, the
908 accounts of which are insured by the Federal Government or an
909 agency thereof.

910 4. Notes, bonds, and other obligations of agencies of the
911 United States.

912 5. Commercial paper of prime quality of the highest letter
913 and numerical rating as provided for by at least one nationally
914 recognized rating service.



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915 6. Mortgage securities which represent participation in or
916 are collateralized by mortgage loans secured by real property.
917 Such securities must be issued by an agency of or enterprise
918 sponsored by the United States Government, including, but not
919 limited to, the Government National Mortgage Association, the
920 Federal National Mortgage Association, and the Federal Home Loan
921 Mortgage Corporation.

922 (l) Has made or filed a report or record which the
923 licensee knows to be false, has willfully failed to file a
924 report or record required by state or federal law, has willfully
925 impeded or obstructed such filing, or has induced another person
926 to impede or obstruct such filing; but such reports or records
927 shall include only those which are signed in the capacity of a
928 licensed broker or sales associate ~~salesperson~~.

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

931 (n) Is confined in any county jail, postadjudication; is
932 confined in any state or federal prison or mental institution;
933 is under home confinement ordered in lieu of institutional
934 confinement; or, through mental disease or deterioration, can no
935 longer safely be entrusted to competently deal with the public.

936 (o) Has been found guilty, for a second time, of any
937 misconduct that warrants her or his suspension or has been found
938 guilty of a course of conduct or practices which show that she
939 or he is so incompetent, negligent, dishonest, or untruthful
940 that the money, property, transactions, and rights of investors,
941 or those with whom she or he may sustain a confidential
942 relation, may not safely be entrusted to her or him.



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943 (p) Has failed to inform the commission in writing within
944 30 days after pleading guilty or nolo contendere to, or being
945 convicted or found guilty of, any felony.

946 (q) Has violated any provision of s. 475.2755 or s.
947 475.278, including the duties owed under those sections.

948 (r) Has failed in any written listing agreement to include
949 a definite expiration date, description of the property, price
950 and terms, fee or commission, and a proper signature of the
951 principal(s); and has failed to give the principal(s) a legible,
952 signed, true and correct copy of the listing agreement within 24
953 hours of obtaining the written listing agreement. The written
954 listing agreement shall contain no provision requiring the
955 person signing the listing to notify the broker of the intention
956 to cancel the listing after such definite expiration date.

957 (s) Has had a registration suspended, revoked, or
958 otherwise acted against in any jurisdiction. The record of the
959 disciplinary action certified or authenticated in such form as
960 to be admissible in evidence under the laws of the state shall
961 be admissible as prima facie evidence of such disciplinary
962 action.

963 (t) Has violated any standard for the development or
964 communication of a real estate appraisal or other provision of
965 the Uniform Standards of Professional Appraisal Practice, as
966 defined in s. 475.611, as approved and adopted by the Appraisal
967 Standards Board of the Appraisal Foundation, as defined in s.
968 475.611. This paragraph does not apply to a real estate broker
969 or sales associate ~~salesperson~~ who, in the ordinary course of
970 business, performs a comparative market analysis, gives a broker



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971 price opinion, or gives an opinion of value of real estate.
 972 However, in no event may this comparative market analysis,
 973 broker price opinion, or opinion of value of real estate be
 974 referred to as an appraisal, as defined in s. 475.611.

975 (5) An administrative complaint against a broker or broker
 976 associate must be filed within 5 years after the time of the act
 977 giving rise to the complaint or within 5 years after the time
 978 the act is discovered or should have been discovered with the
 979 exercise of due diligence.

980 (6) The commission shall promptly notify the licensee's
 981 broker or employer, as defined in this part, in writing, any
 982 time the commission places a licensee on probation, reprimands a
 983 licensee, suspends or revokes the license of a licensee, imposes
 984 an administrative fine against a licensee, or takes any other
 985 final disciplinary action against a licensee.

986 (7) The commission shall promptly report to the proper
 987 prosecuting authority any criminal violation of any statute
 988 relating to the practice of a real estate profession regulated
 989 by the commission.

990 Section 15. Section 475.2755, Florida Statutes, is amended
 991 to read:

992 475.2755 Designated sales associate ~~salesperson~~.--

993 (1) For purposes of this part, in any real estate
 994 transaction other than a residential sale as defined in s.
 995 475.278(5)(a), and where the buyer and seller have assets of \$1
 996 million or more, the broker at the request of the customers may
 997 designate sales associates ~~salespersons~~ to act as single agents
 998 for different customers in the same transaction. Such designated



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999 | sales associates ~~salespersons~~ shall have the duties of a single
 1000 | agent as outlined in s. 475.278(3), including disclosure
 1001 | requirements in s. 475.278(3)(b) and (c). In addition to
 1002 | disclosure requirements in s. 475.278(3)(b) and (c), the buyer
 1003 | and seller as customers shall both sign disclosures stating that
 1004 | their assets meet the threshold described in this subsection and
 1005 | requesting that the broker use the designated sales associate
 1006 | ~~salesperson~~ form of representation. In lieu of the transition
 1007 | disclosure requirement in s. 475.278(3)(c)2., the required
 1008 | disclosure notice shall include the following:

1009 |
 1010 | FLORIDA LAW PROHIBITS A DESIGNATED SALES ASSOCIATE ~~SALESPERSON~~
 1011 | FROM DISCLOSING, EXCEPT TO THE BROKER OR PERSONS SPECIFIED BY
 1012 | THE BROKER, INFORMATION MADE CONFIDENTIAL BY REQUEST OR AT THE
 1013 | INSTRUCTION OF THE CUSTOMER THE DESIGNATED SALES ASSOCIATE
 1014 | ~~SALESPERSON~~ IS REPRESENTING. HOWEVER, FLORIDA LAW ALLOWS A
 1015 | DESIGNATED SALES ASSOCIATE ~~SALESPERSON~~ TO DISCLOSE INFORMATION
 1016 | ALLOWED TO BE DISCLOSED OR REQUIRED TO BE DISCLOSED BY LAW AND
 1017 | ALSO ALLOWS A DESIGNATED SALES ASSOCIATE ~~SALESPERSON~~ TO DISCLOSE
 1018 | TO HIS OR HER BROKER, OR PERSONS SPECIFIED BY THE BROKER,
 1019 | CONFIDENTIAL INFORMATION OF A CUSTOMER FOR THE PURPOSE OF
 1020 | SEEKING ADVICE OR ASSISTANCE FOR THE BENEFIT OF THE CUSTOMER IN
 1021 | REGARD TO A TRANSACTION. FLORIDA LAW REQUIRES THAT THE BROKER
 1022 | MUST HOLD THIS INFORMATION CONFIDENTIAL AND MAY NOT USE SUCH
 1023 | INFORMATION TO THE DETRIMENT OF THE OTHER PARTY.

1024 | (2) For purposes of this section, the term "buyer" means a
 1025 | transferee or lessee in a real property transaction, and the



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1026 term "seller" means the transferor or lessor in a real property
1027 transaction.

1028 Section 16. Section 475.278, Florida Statutes, is amended
1029 to read:

1030 475.278 Authorized brokerage relationships; presumption of
1031 transaction brokerage; required disclosures.--

1032 (1) BROKERAGE RELATIONSHIPS.--

1033 (a) Authorized brokerage relationships.--A real estate
1034 licensee in this state may enter into a brokerage relationship
1035 as either a ~~single agent or as a~~ transaction broker or as a
1036 single agent with potential buyers and sellers. A real estate
1037 licensee may not operate as a disclosed or nondisclosed dual
1038 agent. As used in this section, the term "dual agent" means a
1039 broker who represents as a fiduciary both the prospective buyer
1040 and the prospective seller in a real estate transaction. ~~Once a~~
1041 ~~brokerage relationship is established,~~ This part does not
1042 prevent a licensee from changing from one brokerage relationship
1043 to the other as long as the buyer or the seller, or both, gives
1044 consent as required by subparagraph (3)(c)2. before the change
1045 and the appropriate disclosure of duties as provided in this
1046 part is made to the buyer or seller. This part does not require
1047 a customer to enter into a brokerage relationship with any real
1048 estate licensee.

1049 (b) Presumption of transaction brokerage.--It shall be
1050 presumed that all licensees are operating as transaction brokers
1051 unless a single agent or no brokerage relationship is
1052 established, in writing, with a customer.

1053 (2) TRANSACTION BROKER RELATIONSHIP.--



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1054 (a) Transaction broker-duties of limited
 1055 representation.--A transaction broker provides a limited form of
 1056 representation to a buyer, a seller, or both in a real estate
 1057 transaction but does not represent either in a fiduciary
 1058 capacity or as a single agent. The duties of the real estate
 1059 licensee in this limited form of representation include the
 1060 following:

- 1061 1. Dealing honestly and fairly;
- 1062 2. Accounting for all funds;
- 1063 3. Using skill, care, and diligence in the transaction;
- 1064 4. Disclosing all known facts that materially affect the
 1065 value of residential real property and are not readily
 1066 observable to the buyer;
- 1067 5. Presenting all offers and counteroffers in a timely
 1068 manner, unless a party has previously directed the licensee
 1069 otherwise in writing;
- 1070 6. Limited confidentiality, unless waived in writing by a
 1071 party. This limited confidentiality will prevent disclosure that
 1072 the seller will accept a price less than the asking or listed
 1073 price, that the buyer will pay a price greater than the price
 1074 submitted in a written offer, of the motivation of any party for
 1075 selling or buying property, that a seller or buyer will agree to
 1076 financing terms other than those offered, or of any other
 1077 information requested by a party to remain confidential; and
- 1078 7. Any additional duties that are mutually agreed to with
 1079 a party.

1080 (b) Disclosure requirements.--Duties of a transaction
 1081 broker must be fully described and disclosed in writing to a



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1082 buyer or seller either as a separate and distinct disclosure
1083 document or included as part of another document such as a
1084 listing agreement or agreement for representation. The
1085 disclosure must be made before, or at the time of, entering into
1086 a listing agreement or an agreement for representation or before
1087 the showing of property, whichever occurs first. When
1088 incorporated into other documents, the required notice must be
1089 of the same size type, or larger, as other provisions of the
1090 document and must be conspicuous in its placement so as to
1091 advise customers of the duties of limited representation, except
1092 that the first sentence of the information identified in
1093 paragraph (c) must be printed in uppercase and bold type. This
1094 paragraph expires July 1, 2008.

1095 (c) Contents of disclosure.--The required notice given
1096 under paragraph (b) must include the following information in
1097 the following form:

1098

1099 IMPORTANT NOTICE

1100

1101 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS
1102 NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

1103

1104 You should not assume that any real estate broker or salesperson
1105 represents you unless you agree to engage a real estate licensee
1106 in an authorized brokerage relationship, either as a single
1107 agent or as a transaction broker. You are advised not to
1108 disclose any information you want to be held in confidence until
1109 you make a decision on representation.



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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



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1137 7. Any additional duties that are entered into by this or
1138 by separate written agreement.

1139
1140 Limited representation means that a buyer or seller is not
1141 responsible for the acts of the licensee. Additionally, parties
1142 are giving up their rights to the undivided loyalty of the
1143 licensee. This aspect of limited representation allows a
1144 licensee to facilitate a real estate transaction by assisting
1145 both the buyer and the seller, but a licensee will not work to
1146 represent one party to the detriment of the other party when
1147 acting as a transaction broker to both parties.

Date	Signature
	Signature

1148
1149 This paragraph expires July 1, 2008.

- 1150 (3) SINGLE AGENT RELATIONSHIP.--
- 1151 (a) Single agent-duties.--The duties of a real estate
1152 licensee owed to a buyer or seller who engages the real estate
1153 licensee as a single agent include the following:
- 1154 1. Dealing honestly and fairly;
 - 1155 2. Loyalty;
 - 1156 3. Confidentiality;
 - 1157 4. Obedience;
 - 1158 5. Full disclosure;
 - 1159 6. Accounting for all funds;
 - 1160 7. Skill, care, and diligence in the transaction;



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1161 8. Presenting all offers and counteroffers in a timely
1162 manner, unless a party has previously directed the licensee
1163 otherwise in writing; and

1164 9. Disclosing all known facts that materially affect the
1165 value of residential real property and are not readily
1166 observable.

1167 (b) Disclosure requirements.--

1168 1. Single agent disclosure.--Duties of a single agent must
1169 be fully described and disclosed in writing to a buyer or seller
1170 either as a separate and distinct disclosure document or
1171 included as part of another document such as a listing agreement
1172 or other agreement for representation. The disclosure must be
1173 made before, or at the time of, entering into a listing
1174 agreement or an agreement for representation or before the
1175 showing of property, whichever occurs first. When incorporated
1176 into other documents, the required notice must be of the same
1177 size type, or larger, as other provisions of the document and
1178 must be conspicuous in its placement so as to advise customers
1179 of the duties of a single agent, except that the first sentence
1180 of the information identified in paragraph (c) must be printed
1181 in uppercase and bold type.

1182 2. Transition to transaction broker disclosure.--A single
1183 agent relationship may be changed to a transaction broker
1184 relationship at any time during the relationship between an
1185 agent and principal, provided the agent first obtains the
1186 principal's written consent to the ~~gives the disclosure required~~
1187 ~~under paragraph (2)(b) and the principal gives to the agent~~
1188 ~~consent as required under subparagraph (c)2. before a change in~~



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1189 relationship. This disclosure must be in writing to the
 1190 principal either as a separate and distinct document or included
 1191 as part of other documents such as a listing agreement or other
 1192 agreements for representation. When incorporated into other
 1193 documents, the required notice must be of the same size type, or
 1194 larger, as other provisions of the document and must be
 1195 conspicuous in its placement so as to advise customers of the
 1196 duties of limited representation, except that the first sentence
 1197 of the information identified in subparagraph (c)2. must be
 1198 printed in uppercase and bold type.

1199 (c) Contents of disclosure.--

1200 1. Single agent duties disclosure.--The notice required
 1201 under subparagraph (b)1. must include the following information
 1202 in the following form:

1203
 1204 **IMPORTANT NOTICE**

1205
 1206 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS
 1207 NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

1208
 1209 You should not assume that any real estate broker or salesperson
 1210 represents you unless you agree to engage a real estate licensee
 1211 in an authorized brokerage relationship, either as a single
 1212 agent or as a transaction broker. You are advised not to
 1213 disclose any information you want to be held in confidence until
 1214 you make a decision on representation.

1215
 1216 **SINGLE AGENT NOTICE**



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

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

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

Date

Signature

2. Transition disclosure.--To gain the principal's written consent to a change in relationship, a licensee must use the following disclosure ~~The notice required under subparagraph (b)2. must include the following information in the following form as well as the information required in paragraph (2)(c):~~



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CONSENT TO TRANSITION TO
TRANSACTION BROKER

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

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



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1271 submitted in a written offer, of the motivation of any party for
 1272 selling or buying property, that a seller or buyer will agree to
 1273 financing terms other than those offered, or of any other
 1274 information requested by a party to remain confidential; and

1275 7. Any additional duties that are entered into by this or
 1276 by separate written agreement.

1277
 1278 Limited representation means that a buyer or seller is not
 1279 responsible for the acts of the licensee. Additionally, parties
 1280 are giving up their rights to the undivided loyalty of the
 1281 licensee. This aspect of limited representation allows a
 1282 licensee to facilitate a real estate transaction by assisting
 1283 both the buyer and the seller, but a licensee will not work to
 1284 represent one party to the detriment of the other party when
 1285 acting as a transaction broker to both parties.

1286
 1287 _____I agree that my agent may assume the role and duties
 1288 of a transaction broker. [must be initialed or signed]

- 1289
 1290 (4) NO BROKERAGE RELATIONSHIP.--
 1291 (a) No brokerage relationship-duties.--A real estate
 1292 licensee owes to a potential seller or buyer with whom the
 1293 licensee has no brokerage relationship the following duties:
 1294 1. Dealing honestly and fairly;
 1295 2. Disclosing all known facts that materially affect the
 1296 value of the residential real property which are not readily
 1297 observable to the buyer; and
 1298 3. Accounting for all funds entrusted to the licensee.



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1299 (b) Disclosure requirements.--Duties of a licensee who has
 1300 no brokerage relationship with a buyer or seller must be fully
 1301 described and disclosed in writing to the buyer or seller. The
 1302 disclosure must be made before the showing of property. When
 1303 incorporated into other documents, the required notice must be
 1304 of the same size type, or larger, as other provisions of the
 1305 document and must be conspicuous in its placement so as to
 1306 advise customers of the duties of a licensee that has no
 1307 brokerage relationship with a buyer or seller, except that the
 1308 first sentence of the information identified in paragraph (c)
 1309 must be printed in uppercase bold type.

1310 (c) Contents of disclosure.--The notice required under
 1311 paragraph (b) must include the following information in the
 1312 following form:

1313

1314

IMPORTANT NOTICE

1315

1316

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

1317

1318

1319

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

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NO BROKERAGE RELATIONSHIP NOTICE

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1327
1328 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES WHO HAVE NO
1329 BROKERAGE RELATIONSHIP WITH A POTENTIAL SELLER OR BUYER DISCLOSE
1330 THEIR DUTIES TO SELLERS AND BUYERS.

1331
1332 As a real estate licensee who has no brokerage relationship
1333 with you, _____(insert name of Real Estate Entity and its
1334 Associates)_____ owe to you the following duties:

- 1335
1336 1. Dealing honestly and fairly;
1337 2. Disclosing all known facts that materially affect the
1338 value of residential real property which are not readily
1339 observable to the buyer.
1340 3. Accounting for all funds entrusted to the licensee.

1341
1342 ... (Date) (Signature) ...

1343 (5) APPLICABILITY.--

1344 (a) Residential sales.--The real estate licensee
1345 disclosure requirements of this section apply to all residential
1346 sales. As used in this subsection, the term "residential sale"
1347 means the sale of improved residential property of four units or
1348 fewer, the sale of unimproved residential property intended for
1349 use of four units or fewer, or the sale of agricultural property
1350 of 10 acres or fewer.

1351 (b) Disclosure limitations.--

- 1352 1. The real estate disclosure requirements of this section
1353 do not apply when a licensee knows that the potential seller or
1354 buyer is represented by a single agent or a transaction broker;



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1355 or when an owner is selling new residential units built by the
1356 owner and the circumstances or setting should reasonably inform
1357 the potential buyer that the owner's employee or single agent is
1358 acting on behalf of the owner, whether because of the location
1359 of the sales office or because of office signage or placards or
1360 identification badges worn by the owner's employee or single
1361 agent.

1362 2. The real estate licensee disclosure requirements of
1363 this section do not apply to: nonresidential transactions; the
1364 rental or leasing of real property, unless an option to purchase
1365 all or a portion of the property improved with four or fewer
1366 residential units is given; a bona fide "open house" or model
1367 home showing that does not involve eliciting confidential
1368 information, the execution of a contractual offer or an
1369 agreement for representation, or negotiations concerning price,
1370 terms, or conditions of a potential sale; unanticipated casual
1371 conversations between a licensee and a seller or buyer which do
1372 not involve eliciting confidential information, the execution of
1373 a contractual offer or agreement for representation, or
1374 negotiations concerning price, terms, or conditions of a
1375 potential sale; responding to general factual questions from a
1376 potential buyer or seller concerning properties that have been
1377 advertised for sale; situations in which a licensee's
1378 communications with a potential buyer or seller are limited to
1379 providing general factual information, oral or written, about
1380 the qualifications, background, and services of the licensee or
1381 the licensee's brokerage firm; auctions; appraisals; and
1382 dispositions of any interest in business enterprises or business



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1383 opportunities, except for property with four or fewer
1384 residential units.

1385 Section 17. Subsection (1) of section 475.31, Florida
1386 Statutes, is amended to read:

1387 475.31 Final orders.--

1388 (1) An order revoking or suspending the license of a
1389 broker shall automatically cause ~~cancel~~ the licenses of all
1390 sales associates and broker associates ~~salespersons~~ registered
1391 with the broker, and, if a partnership or corporation, of all
1392 members, officers, and directors thereof to become involuntarily
1393 inactive, while the license of the broker is inoperative or
1394 until new employment or connection is secured.

1395 Section 18. Section 475.37, Florida Statutes, is amended
1396 to read:

1397 475.37 Effect of reversal of order of court or
1398 commission.--If the order of the court or commission denying a
1399 license or taking any disciplinary action against a licensee is
1400 finally reversed and set aside, the defendant shall be restored
1401 to her or his rights and privileges as a broker or sales
1402 associate ~~salesperson~~ as of the date of filing the mandate or a
1403 copy thereof with the commission. The matters and things alleged
1404 in the information shall not thereafter be reexamined in any
1405 other proceeding concerning the licensure of the defendant. If
1406 the inquiry concerned was in reference to an application for
1407 licensure, the application shall stand approved, and such
1408 application shall be remanded for further proceedings according
1409 to law.



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1410 Section 19. Section 475.41, Florida Statutes, is amended
1411 to read:

1412 475.41 Contracts of unlicensed person for commissions
1413 invalid.--No contract for a commission or compensation for any
1414 act or service enumerated in s. 475.01(3) is valid unless the
1415 broker or sales associate ~~salesperson~~ has complied with this
1416 chapter in regard to issuance and renewal of the license at the
1417 time the act or service was performed.

1418 Section 20. Subsection (1) of section 475.42, Florida
1419 Statutes, is amended to read:

1420 475.42 Violations and penalties.--

1421 (1) VIOLATIONS.--

1422 (a) A ~~No~~ person may not ~~shall~~ operate as a broker or sales
1423 associate ~~salesperson~~ without being the holder of a valid and
1424 current active license therefor. Any person who violates this
1425 paragraph commits a felony of the third degree, punishable as
1426 provided in s. 775.082 or s. 775.083, or, if a corporation, as
1427 provided in s. 775.083.

1428 (b) A ~~No~~ person licensed as a sales associate may not
1429 ~~salesperson shall~~ operate as a broker or operate as a sales
1430 associate ~~salesperson~~ for any person not registered as her or
1431 his employer.

1432 (c) A ~~No~~ broker may not ~~shall~~ employ, or continue in
1433 employment, any person as a sales associate ~~salesperson~~ who is
1434 not the holder of a valid and current license as sales associate
1435 ~~salesperson~~; but a license as sales associate ~~salesperson~~ may be
1436 issued to a person licensed as an active broker, upon request
1437 and surrender of the license as broker, without a fee in



1438 addition to that paid for the issuance of the broker's active
1439 license.

1440 (d) A sales associate may not ~~No salesperson shall~~ collect
1441 any money in connection with any real estate brokerage
1442 transaction, whether as a commission, deposit, payment, rental,
1443 or otherwise, except in the name of the employer and with the
1444 express consent of the employer; and no real estate sales
1445 associate salesperson, whether the holder of a valid and current
1446 license or not, shall commence or maintain any action for a
1447 commission or compensation in connection with a real estate
1448 brokerage transaction against any person except a person
1449 registered as her or his employer at the time the sales
1450 associate salesperson performed the act or rendered the service
1451 for which the commission or compensation is due.

1452 (e) A ~~No~~ person may not ~~shall~~ violate any lawful order or
1453 rule of the commission which is binding upon her or him.

1454 (f) A ~~No~~ person may not ~~shall~~ commit any conduct or
1455 practice set forth in s. 475.25(1)(b), (c), (d), or (h).

1456 (g) A ~~No~~ person may not ~~shall~~ make any false affidavit or
1457 affirmation intended for use as evidence by or before the
1458 commission or a member thereof, or by any of its authorized
1459 representatives, nor may ~~shall~~ any person give false testimony
1460 under oath or affirmation to or before the commission or any
1461 member thereof in any proceeding authorized by this chapter.

1462 (h) A ~~No~~ person may not ~~shall~~ fail or refuse to appear at
1463 the time and place designated in a subpoena issued with respect
1464 to a violation of this chapter, unless because of facts that are
1465 sufficient to excuse appearance in response to a subpoena from



1466 the circuit court; nor may ~~shall~~ a person who is present before
 1467 the commission or a member thereof or one of its authorized
 1468 representatives acting under authority of this chapter refuse to
 1469 be sworn or to affirm or fail or refuse to answer fully any
 1470 question propounded by the commission, the member, or such
 1471 representative, or by any person by the authority of such
 1472 officer or appointee; nor may ~~shall~~ any person, so being
 1473 present, conduct herself or himself in a disorderly,
 1474 disrespectful, or contumacious manner.

1475 (i) A ~~No~~ person may not ~~shall~~ obstruct or hinder in any
 1476 manner the enforcement of this chapter or the performance of any
 1477 lawful duty by any person acting under the authority of this
 1478 chapter or interfere with, intimidate, or offer any bribe to any
 1479 member of the commission or any of its employees or any person
 1480 who is, or is expected to be, a witness in any investigation or
 1481 proceeding relating to a violation of this chapter.

1482 (j) A ~~No~~ broker or sales associate may not ~~salesperson~~
 1483 ~~shall~~ place, or cause to be placed, upon the public records of
 1484 any county, any contract, assignment, deed, will, mortgage,
 1485 affidavit, or other writing which purports to affect the title
 1486 of, or encumber, any real property if the same is known to her
 1487 or him to be false, void, or not authorized to be placed of
 1488 record, or not executed in the form entitling it to be recorded,
 1489 or the execution or recording whereof has not been authorized by
 1490 the owner of the property, maliciously or for the purpose of
 1491 collecting a commission, or to coerce the payment of money to
 1492 the broker or sales associate ~~salesperson~~ or other person, or
 1493 for any unlawful purpose. However, nothing in this paragraph



1494 shall be construed to prohibit a broker or a sales associate
 1495 ~~salesperson~~ from recording a judgment rendered by a court of
 1496 this state or to prohibit a broker from placing a lien on a
 1497 property where expressly permitted by contractual agreement.

1498 (k) A ~~No~~ person may not ~~shall~~ operate as a broker under a
 1499 trade name without causing the trade name to be noted in the
 1500 records of the commission and placed on the person's license, or
 1501 so operate as a member of a partnership or as a corporation or
 1502 as an officer or manager thereof, unless such partnership or
 1503 corporation is the holder of a valid current registration.

1504 (l) A ~~No~~ person may not ~~shall~~ knowingly conceal any
 1505 information relating to violations of this chapter.

1506 (m) A ~~No~~ person may not ~~shall~~ undertake to list or sell
 1507 one or more timeshare periods per year in one or more timeshare
 1508 plans on behalf of any number of persons without first being the
 1509 holder of a valid and current license as a broker or sales
 1510 associate ~~salesperson~~ pursuant to this chapter, except as
 1511 provided in s. 475.011 and chapter 721.

1512 (n) A ~~No~~ broker or sales associate ~~may not~~ ~~salesperson~~
 1513 ~~shall~~ enter into any listing or other agreement regarding her or
 1514 his services in connection with the resale of a timeshare period
 1515 unless the broker or sales associate ~~salesperson~~ fully and
 1516 fairly discloses all material aspects of the agreement to the
 1517 owner of the timeshare period and fully complies with the
 1518 provisions of s. 475.452. Further, a ~~no~~ broker or sales
 1519 associate may not use ~~salesperson shall utilize~~ any form of
 1520 contract or purchase and sale agreement in connection with the
 1521 resale of a timeshare period unless the contract or purchase and



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1522 sale agreement fully and fairly discloses all material aspects
 1523 of the timeshare plan and the rights and obligations of both
 1524 buyer and seller. The commission is authorized to adopt
 1525 ~~promulgate~~ rules pursuant to chapter 120 as necessary to
 1526 implement, enforce, and interpret this paragraph.

1527 (o) A person may not disseminate or cause to be
 1528 disseminated by any means any false or misleading information
 1529 for the purpose of offering for sale, or for the purpose of
 1530 causing or inducing any other person to purchase, lease, or
 1531 rent, real estate located in the state or for the purpose of
 1532 causing or inducing any other person to acquire an interest in
 1533 the title to real estate located in the state.

1534 Section 21. Section 475.43, Florida Statutes, is amended
 1535 to read:

1536 475.43 Presumptions.--In all criminal cases, contempt
 1537 cases, and other cases filed pursuant to this chapter, if a
 1538 party has sold, leased, or let real estate, the title to which
 1539 was not in the party when it was offered for sale, lease, or
 1540 letting, or such party has maintained an office bearing signs
 1541 that real estate is for sale, lease, or rental thereat, or has
 1542 advertised real estate for sale, lease, or rental, generally, or
 1543 describing property, the title to which was not in such party at
 1544 the time, it shall be a presumption that such party was acting
 1545 or attempting to act as a real estate broker, and the burden of
 1546 proof shall be upon him or her to show that he or she was not
 1547 acting or attempting to act as a broker or sales associate
 1548 ~~salesperson~~. All contracts, options, or other devices not based
 1549 upon a substantial consideration, or that are otherwise employed



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1550 to permit an unlicensed person to sell, lease, or let real
 1551 estate, the beneficial title to which has not, in good faith,
 1552 passed to such party for a substantial consideration, are hereby
 1553 declared void and ineffective in all cases, suits, or
 1554 proceedings had or taken under this chapter; however, this
 1555 section shall not apply to irrevocable gifts, to unconditional
 1556 contracts to purchase, or to options based upon a substantial
 1557 consideration actually paid and not subject to any agreements to
 1558 return or right of return reserved.

1559 Section 22. Section 475.451, Florida Statutes, is amended
 1560 to read:

1561 475.451 Schools teaching real estate practice.--

1562 (1) Each person, school, or institution, except approved
 1563 and accredited colleges, universities, community colleges, and
 1564 area technical centers in this state, which offers or conducts
 1565 any course of study in real estate practice, teaches any course
 1566 prescribed by the commission as a condition precedent to
 1567 licensure or renewal of licensure as a broker or sales associate
 1568 ~~salesperson~~, or teaches any course designed or represented to
 1569 enable or assist applicants for licensure as brokers or sales
 1570 associates ~~salespersons~~ to pass examinations for such licensure
 1571 shall, before commencing or continuing further to offer or
 1572 conduct such course or courses, obtain a permit from the
 1573 department and abide by the regulations imposed upon such
 1574 person, school, or institution by this chapter and rules of the
 1575 commission adopted pursuant to this chapter. The exemption for
 1576 colleges, universities, community colleges, and area technical



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1577 centers is limited to transferable college credit courses
1578 offered by such institutions.

1579 (2) An applicant for a permit to operate a proprietary
1580 real estate school, to be a chief administrator of a proprietary
1581 real estate school or a state institution, or to be an
1582 instructor for a proprietary real estate school or a state
1583 institution must meet the qualifications for practice set forth
1584 in s. 475.17(1) and the following minimal requirements:

1585 (a) "School permitholder" means the individual who is
1586 responsible for directing the overall operation of a proprietary
1587 real estate school. A school permitholder must be the holder of
1588 a license as a broker, either active or voluntarily inactive, or
1589 must have passed an instructor's examination approved by the
1590 commission. A school permitholder must also meet the
1591 requirements of a school instructor if actively engaged in
1592 teaching.

1593 (b) "Chief administrative person" means the individual who
1594 is responsible for the administration of the overall policies
1595 and practices of the institution or proprietary real estate
1596 school. A chief administrative person must also meet the
1597 requirements of a school instructor if actively engaged in
1598 teaching.

1599 (c) "School instructor" means an individual who instructs
1600 persons in the classroom in noncredit college courses in a
1601 college, university, or community college or courses in an area
1602 technical center or proprietary real estate school.



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1603 1. Before commencing to provide such instruction, the
 1604 applicant must certify the applicant's competency and obtain an
 1605 instructor permit by meeting one of the following requirements:
 1606 a. Hold a bachelor's degree in a business-related subject,
 1607 such as real estate, finance, accounting, business
 1608 administration, or its equivalent and hold a valid broker's
 1609 license in this state.
 1610 b. Hold a bachelor's degree, have extensive real estate
 1611 experience, as defined by rule, and hold a valid broker's
 1612 license in this state.
 1613 c. Pass an instructor's examination approved by the
 1614 commission.

1615 2. Any requirement by the commission for a teaching
 1616 demonstration or practical examination must apply to all school
 1617 instructor applicants.

1618 3. The department shall renew an instructor permit upon
 1619 receipt of a renewal application and fee. The renewal
 1620 application shall include proof that the permitholder has, since
 1621 the issuance or renewal of the current permit, successfully
 1622 completed a minimum of 7 ~~15~~ classroom hours of instruction in
 1623 real estate subjects or instructional techniques, as prescribed
 1624 by the commission. The commission shall adopt rules providing
 1625 for the renewal of instructor permits at least every 2 years.
 1626 Any permit which is not renewed at the end of the permit period
 1627 established by the department shall automatically revert to
 1628 involuntarily inactive status.
 1629



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1630 The department may require an applicant to submit names of
1631 persons having knowledge concerning the applicant and the
1632 enterprise; may propound interrogatories to such persons and to
1633 the applicant concerning the character of the applicant,
1634 including the taking of fingerprints for processing through the
1635 Federal Bureau of Investigation; and shall make such
1636 investigation of the applicant or the school or institution as
1637 it may deem necessary to the granting of the permit. If an
1638 objection is filed, it shall be considered in the same manner as
1639 objections or administrative complaints against other applicants
1640 for licensure by the department.

1641 (3) It is unlawful for any person, school, or institution
1642 to offer the courses described in subsection (1) or to conduct
1643 classes in such courses, regardless of the number of pupils,
1644 whether by correspondence or otherwise, without first procuring
1645 a permit, or to guarantee that its pupils will pass any
1646 examinations required for licensure, or to represent that the
1647 issuance of a permit is any recommendation or endorsement of the
1648 person, school, or institution to which it is issued or of any
1649 course of instruction given thereunder.

1650 (4) Any person who violates this section commits a
1651 misdemeanor of the second degree, punishable as provided in s.
1652 775.082 or s. 775.083.

1653 (5) The location of classes and frequency of class
1654 meetings and the provision of distance learning courses shall be
1655 in the discretion of the school offering real estate courses, so
1656 long as such courses conform to s. 475.17(2).



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1657 (6) Any course prescribed by the commission as a condition
1658 precedent to any person's becoming initially licensed as a sales
1659 associate salesperson may be taught in any real estate school
1660 through the use of a video tape of instruction by a currently
1661 permitted instructor from any such school or may be taught by
1662 distance learning pursuant to s. 475.17(2). The commission may
1663 require that any such video tape course have a single session of
1664 live instruction by a currently permitted instructor from any
1665 such school; however, this requirement shall not exceed 3
1666 classroom hours. All other prescribed courses, except the
1667 continuing education course required by s. 475.182, shall be
1668 taught by a currently permitted school instructor personally in
1669 attendance at such course or by distance learning pursuant to s.
1670 475.17. The continuing education course required by s. 475.182
1671 may be taught by distance learning pursuant to s. 475.17 or by
1672 an equivalent correspondence course; however, any such
1673 correspondence course shall be required to have a final
1674 examination, prepared and administered by the school issuing the
1675 correspondence course. The continuing education requirements
1676 provided in this section or provided in any other section in
1677 this chapter do not apply with respect to any attorney who is
1678 otherwise qualified under the provisions of this chapter.

1679 ~~(7) Any person holding a school instructor permit on~~
1680 ~~October 1, 1983, is exempt from the instructor examination~~
1681 ~~requirements of paragraph (2)(c) as long as the person~~
1682 ~~continuously holds such a permit and complies with all other~~
1683 ~~requirements of this chapter.~~



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1684 ~~(7)(8)~~ A permitholder under this section may be issued
 1685 additional permits whenever it is clearly shown that the
 1686 requested additional permits are necessary to the conduct of the
 1687 business of a real estate school and that the additional permits
 1688 will not be used in a manner likely to be prejudicial to any
 1689 person, including a licensee or a permitholder under this
 1690 chapter.

1691 Section 23. Subsection (4) of section 475.4511, Florida
 1692 Statutes, is repealed.

1693 Section 24. Section 475.453, Florida Statutes, is amended
 1694 to read:

1695 475.453 Rental information; contract or receipt; refund;
 1696 penalty.--

1697 (1) Each broker or sales associate ~~salesperson~~ who
 1698 attempts to negotiate a rental, or who furnishes rental
 1699 information to a prospective tenant, for a fee paid by the
 1700 prospective tenant shall provide such prospective tenant with a
 1701 contract or receipt, which contract or receipt contains a
 1702 provision for the repayment of any amount over 25 percent of the
 1703 fee to the prospective tenant if the prospective tenant does not
 1704 obtain a rental. If the rental information provided by the
 1705 broker or sales associate ~~salesperson~~ to a prospective tenant is
 1706 not current or accurate in any material respect, the full fee
 1707 shall be repaid to the prospective tenant upon demand. A demand
 1708 from the prospective tenant for the return of the fee, or any
 1709 part thereof, shall be made within 30 days following the day on
 1710 which the real estate broker or sales associate ~~salesperson~~ has
 1711 contracted to perform services to the prospective tenant. The



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1712 contract or receipt shall also conform to the guidelines adopted
1713 by the commission in order to effect disclosure of material
1714 information regarding the service to be provided to the
1715 prospective tenant.

1716 (2) The commission may adopt a guideline for the form of
1717 the contract or receipt required to be provided by brokers or
1718 sales associates ~~salespersons~~ pursuant to the provisions of
1719 subsection (1).

1720 (3)(a) Any person who violates any provision of subsection
1721 (1) is guilty of a misdemeanor of the first degree, punishable
1722 as provided in s. 775.082 or s. 775.083.

1723 (b) In addition to the penalty prescribed in paragraph
1724 (a), the license of any broker or sales associate ~~salesperson~~
1725 who participates in any rental information transaction which is
1726 in violation of the provisions of subsection (1) shall be
1727 subject to suspension or revocation by the commission in the
1728 manner prescribed by law.

1729 Section 25. Section 475.455, Florida Statutes, is amended
1730 to read:

1731 475.455 Exchange of disciplinary information.--The
1732 commission shall inform the Division of Florida Land Sales,
1733 Condominiums, and Mobile Homes of the Department of Business and
1734 Professional Regulation of any disciplinary action the
1735 commission has taken against any of its licensees. The division
1736 shall inform the commission of any disciplinary action the
1737 division has taken against any broker or sales associate
1738 ~~salesperson~~ registered with the division.



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1739 Section 26. Section 475.482, Florida Statutes, is amended
1740 to read:

1741 475.482 Real Estate Recovery Fund.--There is created the
1742 Florida Real Estate Recovery Fund as a separate account in the
1743 Professional Regulation Trust Fund.

1744 (1) The Florida Real Estate Recovery Fund shall be
1745 disbursed as provided in s. 475.484, on order of the commission,
1746 as reimbursement to any person, partnership, or corporation
1747 adjudged by a court of competent civil jurisdiction in this
1748 state to have suffered monetary damages by reason of any act
1749 committed, as a part of any real estate brokerage transaction
1750 involving real property in this state, by any broker or sales
1751 associate ~~salesperson~~ who:

1752 (a) Was, at the time the alleged act was committed, the
1753 holder of a current, valid, active real estate license issued
1754 under this part;

1755 (b) Was neither the seller, buyer, landlord, or tenant in
1756 the transaction nor an officer or a director of a corporation, a
1757 member of a partnership, a member of a limited liability
1758 company, or a partner of a limited liability partnership which
1759 was the seller, buyer, landlord, or tenant in the transaction;
1760 and

1761 (c) Was acting solely in the capacity of a real estate
1762 licensee in the transaction;

1763
1764 provided the act was a violation proscribed in s. 475.25 or s.
1765 475.42.



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1766 (2) The Real Estate Recovery Fund shall also be disbursed
1767 as provided in s. 475.484, on order of the commission, as
1768 reimbursement to any broker or sales associate ~~salesperson~~ who
1769 is required by a court of competent civil jurisdiction to pay
1770 monetary damages due to a distribution of escrow moneys which is
1771 made in compliance with an escrow disbursement order issued by
1772 the commission. However, in no case shall the fund be disbursed
1773 when the broker or sales associate ~~salesperson~~ fails to notify
1774 the commission and to diligently defend an action wherein the
1775 broker or sales associate ~~salesperson~~ may be required by a court
1776 of competent civil jurisdiction to pay monetary damages due to a
1777 distribution of escrow moneys which is made in compliance with
1778 an escrow disbursement order issued by the commission.

1779 (3) A fee of \$3.50 per year shall be added to the license
1780 fee for both new licenses and renewals of licenses for brokers,
1781 and a fee of \$1.50 per year shall be added for new licenses and
1782 renewals of licenses for sales associates ~~salespersons~~. This
1783 fee shall be in addition to the regular license fee and shall be
1784 deposited in or transferred to the Real Estate Recovery Fund.
1785 If the fund at any time exceeds \$1 million ~~\$750,000~~, collection
1786 of special fees for this fund shall be discontinued at the end
1787 of the licensing renewal cycle. Such special fees shall not be
1788 reimposed unless the fund is reduced below \$500,000 by
1789 disbursement made in accordance with this chapter.

1790 (4) In addition, all moneys collected from fines imposed
1791 by the commission and collected by the department shall be
1792 transferred into the Real Estate Recovery Fund.



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1793 Section 27. Paragraph (a) of subsection (1) and
1794 subsections (2) and (3) of section 475.483, Florida Statutes,
1795 are amended to read:

1796 475.483 Conditions for recovery; eligibility.--

1797 (1) Any person is eligible to seek recovery from the Real
1798 Estate Recovery Fund if:

1799 (a) Such person has received a final judgment in a court
1800 of competent civil jurisdiction in this state against an
1801 individual broker or sales associate ~~salesperson~~ in any action
1802 wherein the cause of action was based on a real estate brokerage
1803 transaction. If such person is unable to secure a final judgment
1804 against a licensee due to the death of the licensee, the
1805 commission may waive the requirement for a final judgment. The
1806 filing of a bankruptcy petition by a broker or sales associate
1807 ~~salesperson~~ does not relieve a claimant from the obligation to
1808 obtain a final judgment against the licensee. In this instance,
1809 the claimant must seek to have assets involving the real estate
1810 transaction that gave rise to the claim removed from the
1811 bankruptcy proceedings so that the matter might be heard in a
1812 court of competent civil jurisdiction in this state. If, after
1813 due diligence, the claimant is precluded by action of the
1814 bankruptcy court from securing a final judgment against the
1815 licensee, the commission may waive the requirement for a final
1816 judgment.

1817 (2) A person is not qualified to make a claim for recovery
1818 from the Real Estate Recovery Fund, if:

1819 (a) Such person is the spouse of the judgment debtor or a
1820 personal representative of such spouse;



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1821 (b) Such person is a licensed broker or sales associate
 1822 ~~salesperson~~ who acted as a single agent or transaction broker in
 1823 the transaction that is the subject of the claim;

1824 (c) Such person's claim is based upon a real estate
 1825 transaction in which the licensed broker or sales associate
 1826 ~~salesperson~~ was the owner of or controlled the property involved
 1827 in the transaction; in which the licensee was dealing for the
 1828 licensee's own account; or in which the licensee was not acting
 1829 as a broker or sales associate ~~salesperson~~;

1830 (d) Such person's claim is based upon a real estate
 1831 transaction in which the broker or sales associate ~~salesperson~~
 1832 did not hold a valid, current, and active license at the time of
 1833 the real estate transaction; or

1834 (e) The judgment is against a real estate brokerage
 1835 corporation, partnership, limited liability company, or limited
 1836 liability partnership.

1837 (3) ~~The commission may pay attorney's fees and court costs~~
 1838 If the claim is of the type described in s. 475.482(2), the
 1839 commission shall pay the defendant's reasonable attorney's fees
 1840 and court costs and, if the plaintiff prevails in court, the
 1841 plaintiff's reasonable attorney's fees and court costs.

1842 Section 28. Subsections (1), (3), (4), (5), and (7) of
 1843 section 475.484, Florida Statutes, are amended to read:

1844 475.484 Payment from the fund.--

1845 (1) Any person who meets all of the conditions prescribed
 1846 in s. 475.482(1) or (2) may apply to the commission to cause
 1847 payment to be made to such person from the Real Estate Recovery
 1848 Fund:



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1849 (a) Under s. 475.482(1), in an amount equal to the
1850 unsatisfied portion of such person's judgment or \$50,000
1851 ~~\$25,000~~, whichever is less, but only to the extent and amount
1852 reflected in the judgment as being actual or compensatory
1853 damages. Except as provided in s. 475.483, treble damages, court
1854 costs, attorney's fees, and interest shall not be recovered from
1855 the fund.

1856 (b) Under s. 475.482(2), in an amount equal to the
1857 judgment against the broker or sales associate ~~salesperson~~ or
1858 \$50,000 ~~\$25,000~~, whichever is less.

1859 (3) Payments for claims arising out of the same
1860 transaction shall be limited, in the aggregate, to \$50,000
1861 ~~\$25,000~~, regardless of the number of claimants or parcels of
1862 real estate involved in the transaction.

1863 (4) Payments for claims based upon judgments against any
1864 one broker or sales associate ~~salesperson~~ may not exceed, in the
1865 aggregate, \$150,000 ~~\$75,000~~.

1866 (5) If at any time the moneys in the Real Estate Recovery
1867 Fund are insufficient to satisfy any valid claim or portion
1868 thereof, the commission shall satisfy such unpaid claim or
1869 portion thereof as soon as a sufficient amount of money has been
1870 deposited in or transferred to the fund. When there is more than
1871 one unsatisfied claim outstanding, such claims shall be paid in
1872 the order in which the claims were approved by the commission.
1873 However, if the total claims approved at any one commission
1874 meeting exceed the aggregate amount established in subsection
1875 (4) against any one broker or sales associate ~~salesperson~~, the
1876 claims approved on that day shall be prorated.



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1877 (7) Upon the payment of any amount from the Real Estate
1878 Recovery Fund in settlement of a claim in satisfaction of a
1879 judgment against a broker or sales associate ~~salesperson~~ as
1880 described in s. 475.482(1), the license of such broker or sales
1881 associate ~~salesperson~~ shall be automatically suspended upon the
1882 date of payment from the fund. The license of such broker or
1883 sales associate ~~salesperson~~ may not be reinstated until the
1884 licensee has repaid in full, plus interest, the amount paid from
1885 the fund. No further administrative action is necessary. A
1886 discharge of bankruptcy does not relieve a licensee from the
1887 penalties and disabilities provided in this section, except to
1888 the extent that this subsection conflicts with 11 U.S.C. s. 525,
1889 in which case the commission may order the license not to be
1890 suspended or otherwise discriminated against.

1891 Section 29. Subsection (2) of section 475.5017, Florida
1892 Statutes, is amended to read:

1893 475.5017 Injunctive relief; powers.--

1894 (2) All expenses of the receiver shall be paid out of the
1895 assets of the brokerage firm upon application to and approval by
1896 the court. If the assets are not sufficient to pay all the
1897 expenses of the receiver, the court may order disbursement from
1898 the Real Estate Recovery Fund, which may not exceed \$100,000
1899 ~~\$75,000~~ per receivership.

1900 Section 30. Section 475.505, Florida Statutes, is created
1901 to read:

1902 475.505 Temporary practice.--



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1903 (1) The commission shall recognize, on a temporary basis,
 1904 the license of a real estate broker issued by another state,
 1905 provided:

1906 (a) The real estate broker's business is of a temporary
 1907 nature and limited to commercial real estate transactions. For
 1908 purposes of this section, "commercial real estate" means any
 1909 parcel of real estate in this state other than real estate
 1910 containing one to four residential units. "Commercial real
 1911 estate" does not include single-family residential units such as
 1912 condominiums, townhouses, manufactured homes, or homes in a
 1913 subdivision when sold, leased, or otherwise conveyed on a unit-
 1914 by-unit basis, even when those units are a part of a larger
 1915 building or parcel of real estate containing more than four
 1916 residential units.

1917 (b) The real estate broker registers with the commission.

1918 (c) The person requesting recognition of a license as a
 1919 real estate broker issued by another state is a nonresident of
 1920 Florida.

1921 (2) In order to register with the commission, the real
 1922 estate broker must:

1923 (a) Pay any required fee as established by rule.

1924 (b) Provide, or cause the state where the applicant may be
 1925 licensed or certified to furnish, proof of licensure or
 1926 certification along with the copies of the records of any
 1927 disciplinary actions taken against the applicant's license or
 1928 certification in that or other jurisdictions.

1929 (c) Agree in writing to cooperate with any investigation
 1930 initiated under this part by promptly supplying such documents



1931 that any authorized representative of the department may
 1932 request. If the department sends a notice by certified mail to
 1933 the last known address of a nonresident real estate broker to
 1934 produce documents or to appear in conjunction with an
 1935 investigation and the nonresident real estate broker fails to
 1936 comply with that request, the commission may impose on that
 1937 nonresident real estate broker any disciplinary action or
 1938 penalty authorized under this part.

1939 (d) Agree to enter a written agreement with a cooperating
 1940 real estate broker licensed in this state before performing any
 1941 act in this state which constitutes professional real estate
 1942 activity. The written agreement shall provide:

1943 1. The terms of cooperation and compensation.

1944 2. That the services set forth in s. 475.01(1)(a), if
 1945 conducted in this state, will be under the supervision and
 1946 control of the cooperating real estate broker licensed in this
 1947 state.

1948 3. That civil actions may be commenced against the real
 1949 estate broker, the cooperating real estate broker licensed in
 1950 this state, or both in any court of competent jurisdiction in
 1951 any county of this state in which a claim arises.

1952 4. That the cooperating real estate broker licensed in
 1953 this state shall accompany the real estate broker and the
 1954 potential buyer or potential lessee during any initial property
 1955 showing.

1956 5. That all subsequent property showings and all
 1957 negotiations regarding the cooperative real estate transaction
 1958 are conducted under the supervision, control, and express



1959 permission of the cooperating real estate broker licensed in
 1960 this state.

1961 6. That any escrow or trust funds obtained by the real
 1962 estate broker in any transaction involving any real property in
 1963 Florida shall be held in the escrow account of the cooperating
 1964 real estate broker licensed in this state unless otherwise
 1965 agreed in writing by the party or parties having any interest in
 1966 said escrow or trust funds.

1967 (e) Sign a notarized statement that the applicant has read
 1968 this part and all applicable rules and agrees to comply with the
 1969 laws of Florida in the performance of all real estate
 1970 activities.

1971 (3) For purposes of this section, a "real estate broker
 1972 licensed in another state" means the licensed broker and other
 1973 brokers or salespersons licensed under such broker. However, the
 1974 temporary recognition will extend to other brokers and
 1975 salespersons licensed under such broker, provided they follow
 1976 all of the foregoing requirements for registration and the
 1977 broker provides the commission a notarized statement certifying
 1978 that the brokers or salespersons will perform the services of
 1979 real estate under the real estate broker's direction, control,
 1980 or management and in accordance with the agreement with the
 1981 cooperating real estate broker licensed in this state.

1982 Section 31. Subsections (2) and (3) of section 475.612,
 1983 Florida Statutes, are amended to read:

1984 475.612 Certification, licensure, or registration
 1985 required.--



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1986 (2) This section does not preclude a broker, sales
 1987 associate salesperson, or broker associate ~~broker-salesperson~~
 1988 who is not a certified or licensed real estate appraiser or
 1989 registered assistant real estate appraiser from appraising real
 1990 estate for compensation. Such persons may continue to provide
 1991 appraisals and appraisal services for compensation so long as
 1992 they do not represent themselves as certified, licensed, or
 1993 registered under this part.

1994 (3) This section does not apply to a real estate broker or
 1995 sales associate salesperson who, in the ordinary course of
 1996 business, performs a comparative market analysis, gives a broker
 1997 price opinion, or gives an opinion of the value of real estate.
 1998 However, in no event may this comparative market analysis,
 1999 broker price opinion, or opinion of value of real estate be
 2000 referred to or construed as an appraisal.

2001 Section 32. Section 689.25, Florida Statutes, is amended
 2002 to read:

2003 689.25 Failure to disclose homicide, suicide, deaths, or
 2004 diagnosis of HIV or AIDS infection in an occupant of real
 2005 property.--

2006 (1)(a) The fact that an occupant of real property is
 2007 infected or has been infected with human immunodeficiency virus
 2008 or diagnosed with acquired immune deficiency syndrome is not a
 2009 material fact that must be disclosed in a real estate
 2010 transaction.

2011 (b) The fact that a property was, or was at any time
 2012 suspected to have been, the site of a homicide, suicide, or



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2013 death is not a material fact that must be disclosed in a real
 2014 estate transaction.

2015 (2) A ~~No~~ cause of action shall not arise ~~arises~~ against an
 2016 owner of real property, ~~or~~ his or her agent, an ~~or against any~~
 2017 agent of a transferee of real property, or a person licensed
 2018 under chapter 475 for the failure to disclose to the transferee
 2019 that the property was or was suspected to have been the site of
 2020 a homicide, suicide, or death or that an occupant of that
 2021 property was infected with human immunodeficiency virus or
 2022 diagnosed with acquired immune deficiency syndrome.

2023 Section 33. Sections 475.421 and 475.422, Florida
 2024 Statutes, are repealed.

2025 Section 34. Paragraph (d) of subsection (3) of section
 2026 83.49, Florida Statutes, is amended to read:

2027 83.49 Deposit money or advance rent; duty of landlord and
 2028 tenant.--

2029 (3)

2030 (d) Compliance with this section by an individual or
 2031 business entity authorized to conduct business in this state,
 2032 including Florida-licensed real estate brokers and sales
 2033 associates ~~salespersons~~, shall constitute compliance with all
 2034 other relevant Florida Statutes pertaining to security deposits
 2035 held pursuant to a rental agreement or other landlord-tenant
 2036 relationship. Enforcement personnel shall look solely to this
 2037 section to determine compliance. This section prevails over any
 2038 conflicting provisions in chapter 475 and in other sections of
 2039 the Florida Statutes, and shall operate to permit licensed real
 2040 estate brokers to disburse security deposits and deposit money



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2041 without having to comply with the notice and settlement
2042 procedures contained in s. 475.25(1)(d).

2043 Section 35. Paragraph (d) of subsection (15) of section
2044 440.02, Florida Statutes, is amended to read:

2045 440.02 Definitions.--When used in this chapter, unless the
2046 context clearly requires otherwise, the following terms shall
2047 have the following meanings:

2048 (15)

2049 (d) "Employee" does not include:

2050 1. An independent contractor, if:

2051 a. The independent contractor maintains a separate
2052 business with his or her own work facility, truck, equipment,
2053 materials, or similar accommodations;

2054 b. The independent contractor holds or has applied for a
2055 federal employer identification number, unless the independent
2056 contractor is a sole proprietor who is not required to obtain a
2057 federal employer identification number under state or federal
2058 requirements;

2059 c. The independent contractor performs or agrees to
2060 perform specific services or work for specific amounts of money
2061 and controls the means of performing the services or work;

2062 d. The independent contractor incurs the principal
2063 expenses related to the service or work that he or she performs
2064 or agrees to perform;

2065 e. The independent contractor is responsible for the
2066 satisfactory completion of work or services that he or she
2067 performs or agrees to perform and is or could be held liable for
2068 a failure to complete the work or services;



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2069 f. The independent contractor receives compensation for
2070 work or services performed for a commission or on a per-job or
2071 competitive-bid basis and not on any other basis;

2072 g. The independent contractor may realize a profit or
2073 suffer a loss in connection with performing work or services;

2074 h. The independent contractor has continuing or recurring
2075 business liabilities or obligations; and

2076 i. The success or failure of the independent contractor's
2077 business depends on the relationship of business receipts to
2078 expenditures.

2079

2080 However, the determination as to whether an individual included
2081 in the Standard Industrial Classification Manual of 1987,
2082 Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782,
2083 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449,
2084 or a newspaper delivery person, is an independent contractor is
2085 governed not by the criteria in this paragraph but by common-law
2086 principles, giving due consideration to the business activity of
2087 the individual. Notwithstanding the provisions of this paragraph
2088 or any other provision of this chapter, with respect to any
2089 commercial building project estimated to be valued at \$250,000
2090 or greater, a person who is actively engaged in the construction
2091 industry is not an independent contractor and is either an
2092 employer or an employee who may not be exempt from the coverage
2093 requirements of this chapter.

2094 2. A real estate licensee ~~salesperson or agent~~, if that
2095 person agrees, in writing, to perform for remuneration solely by
2096 way of commission.



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2097 3. Bands, orchestras, and musical and theatrical
2098 performers, including disk jockeys, performing in licensed
2099 premises as defined in chapter 562, if a written contract
2100 evidencing an independent contractor relationship is entered
2101 into before the commencement of such entertainment.

2102 4. An owner-operator of a motor vehicle who transports
2103 property under a written contract with a motor carrier which
2104 evidences a relationship by which the owner-operator assumes the
2105 responsibility of an employer for the performance of the
2106 contract, if the owner-operator is required to furnish the
2107 necessary motor vehicle equipment and all costs incidental to
2108 the performance of the contract, including, but not limited to,
2109 fuel, taxes, licenses, repairs, and hired help; and the owner-
2110 operator is paid a commission for transportation service and is
2111 not paid by the hour or on some other time-measured basis.

2112 5. A person whose employment is both casual and not in the
2113 course of the trade, business, profession, or occupation of the
2114 employer.

2115 6. A volunteer, except a volunteer worker for the state or
2116 a county, municipality, or other governmental entity. A person
2117 who does not receive monetary remuneration for services is
2118 presumed to be a volunteer unless there is substantial evidence
2119 that a valuable consideration was intended by both employer and
2120 employee. For purposes of this chapter, the term "volunteer"
2121 includes, but is not limited to:

2122 a. Persons who serve in private nonprofit agencies and who
2123 receive no compensation other than expenses in an amount less
2124 than or equivalent to the standard mileage and per diem expenses



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2125 provided to salaried employees in the same agency or, if such
 2126 agency does not have salaried employees who receive mileage and
 2127 per diem, then such volunteers who receive no compensation other
 2128 than expenses in an amount less than or equivalent to the
 2129 customary mileage and per diem paid to salaried workers in the
 2130 community as determined by the department; and

2131 b. Volunteers participating in federal programs
 2132 established under Pub. L. No. 93-113.

2133 7. Any officer of a corporation who elects to be exempt
 2134 from this chapter.

2135 8. A sole proprietor or officer of a corporation who
 2136 actively engages in the construction industry, and a partner in
 2137 a partnership that is actively engaged in the construction
 2138 industry, who elects to be exempt from the provisions of this
 2139 chapter. Such sole proprietor, officer, or partner is not an
 2140 employee for any reason until the notice of revocation of
 2141 election filed pursuant to s. 440.05 is effective.

2142 9. An exercise rider who does not work for a single horse
 2143 farm or breeder, and who is compensated for riding on a case-by-
 2144 case basis, provided a written contract is entered into prior to
 2145 the commencement of such activity which evidences that an
 2146 employee/employer relationship does not exist.

2147 10. A taxicab, limousine, or other passenger vehicle-for-
 2148 hire driver who operates said vehicles pursuant to a written
 2149 agreement with a company which provides any dispatch, marketing,
 2150 insurance, communications, or other services under which the
 2151 driver and any fees or charges paid by the driver to the company



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2152 for such services are not conditioned upon, or expressed as a
2153 proportion of, fare revenues.

2154 11. A person who performs services as a sports official
2155 for an entity sponsoring an interscholastic sports event or for
2156 a public entity or private, nonprofit organization that sponsors
2157 an amateur sports event. For purposes of this subparagraph, such
2158 a person is an independent contractor. For purposes of this
2159 subparagraph, the term "sports official" means any person who is
2160 a neutral participant in a sports event, including, but not
2161 limited to, umpires, referees, judges, linespersons,
2162 scorekeepers, or timekeepers. This subparagraph does not apply
2163 to any person employed by a district school board who serves as
2164 a sports official as required by the employing school board or
2165 who serves as a sports official as part of his or her
2166 responsibilities during normal school hours.

2167 Section 36. Paragraph (n) of subsection (21) of section
2168 443.036, Florida Statutes, is amended to read:

2169 443.036 Definitions.--As used in this chapter, unless the
2170 context clearly requires otherwise:

2171 (21) EMPLOYMENT.--"Employment," subject to the other
2172 provisions of this chapter, means any service performed by an
2173 employee for the person employing him or her.

2174 (n) Exclusions generally.--The term "employment" does not
2175 include:

2176 1. Domestic service in a private home, local college club,
2177 or local chapter of a college fraternity or sorority, except as
2178 provided in paragraph (g).



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2179 2. Service performed on or in connection with a vessel or
2180 aircraft not an American vessel or American aircraft, if the
2181 employee is employed on and in connection with such vessel or
2182 aircraft when outside the United States.

2183 3. Service performed by an individual in, or as an officer
2184 or member of the crew of a vessel while it is engaged in, the
2185 catching, taking, harvesting, cultivating, or farming of any
2186 kind of fish, shellfish, crustacea, sponges, seaweeds, or other
2187 aquatic forms of animal and vegetable life, including service
2188 performed by any such individual as an ordinary incident to any
2189 such activity, except:

2190 a. Service performed in connection with the catching or
2191 taking of salmon or halibut for commercial purposes.

2192 b. Service performed on, or in connection with, a vessel
2193 of more than 10 net tons, determined in the manner provided for
2194 determining the register tonnage of merchant vessels under the
2195 laws of the United States.

2196 4. Service performed by an individual in the employ of his
2197 or her son, daughter, or spouse, including step relationships,
2198 and service performed by a child, or stepchild, under the age of
2199 21 in the employ of his or her father or mother, or stepfather
2200 or stepmother.

2201 5. Service performed in the employ of the United States
2202 Government or of an instrumentality of the United States which
2203 is:

2204 a. Wholly or partially owned by the United States.

2205 b. Exempt from the tax imposed by s. 3301 of the Internal
2206 Revenue Code by virtue of any provision of federal law which



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2207 specifically refers to such section, or the corresponding
 2208 section of prior law, in granting such exemption; except that to
 2209 the extent that the Congress shall permit states to require any
 2210 instrumentalities of the United States to make payments into an
 2211 unemployment fund under a state unemployment compensation law,
 2212 all of the provisions of this law shall be applicable to such
 2213 instrumentalities, and to services performed for such
 2214 instrumentalities, in the same manner, to the same extent, and
 2215 on the same terms as to all other employers, employing units,
 2216 individuals, and services. If this state is not certified for
 2217 any year by the Secretary of Labor under s. 3304 of the federal
 2218 Internal Revenue Code, the payments required of such
 2219 instrumentalities with respect to such year shall be refunded by
 2220 the division from the fund in the same manner and within the
 2221 same period as is provided in s. 443.141(6) with respect to
 2222 contributions erroneously collected.

2223 6. Service performed in the employ of a state, or any
 2224 political subdivision thereof, or any instrumentality of any one
 2225 or more of the foregoing which is wholly owned by one or more
 2226 states or political subdivisions, except as provided in
 2227 paragraph (b), and any service performed in the employ of any
 2228 instrumentality of one or more states or political subdivisions,
 2229 to the extent that the instrumentality is, with respect to such
 2230 service, immune under the Constitution of the United States from
 2231 the tax imposed by s. 3301 of the Internal Revenue Code.

2232 7. Service performed in the employ of a corporation,
 2233 community chest, fund, or foundation, organized and operated
 2234 exclusively for religious, charitable, scientific, testing for



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2235 public safety, literary, or educational purposes, or for the
 2236 prevention of cruelty to children or animals, no part of the net
 2237 earnings of which inures to the benefit of any private
 2238 shareholder or individual, no substantial part of the activities
 2239 of which is carrying on propaganda or otherwise attempting to
 2240 influence legislation, and which does not participate in, or
 2241 intervene in (including the publishing or distributing of
 2242 statements), any political campaign on behalf of any candidate
 2243 for public office, except as provided in paragraph (c).

2244 8. Service with respect to which unemployment compensation
 2245 is payable under an unemployment compensation system established
 2246 by an Act of Congress.

2247 9.a. Service performed in any calendar quarter in the
 2248 employ of any organization exempt from income tax under s.
 2249 501(a) of the Internal Revenue Code, other than an organization
 2250 described in s. 401(a), or under s. 521, if the remuneration for
 2251 such service is less than \$50.

2252 b. Service performed in the employ of a school, college,
 2253 or university, if such service is performed by a student who is
 2254 enrolled and is regularly attending classes at such school,
 2255 college, or university.

2256 10. Service performed in the employ of a foreign
 2257 government, including service as a consular or other officer or
 2258 employee of a nondiplomatic representative.

2259 11. Service performed in the employ of an instrumentality
 2260 wholly owned by a foreign government:



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2261 a. If the service is of a character similar to that
2262 performed in foreign countries by employees of the United States
2263 Government or of an instrumentality thereof; and

2264 b. The Secretary of State shall certify to the Secretary
2265 of the Treasury that the foreign government, with respect to
2266 whose instrumentality exemption is claimed, grants an equivalent
2267 exemption with respect to similar service performed in the
2268 foreign country by employees of the United States Government and
2269 of instrumentalities thereof.

2270 12. Service performed as a student nurse in the employ of
2271 a hospital or a nurses' training school by an individual who is
2272 enrolled and is regularly attending classes in a nurses'
2273 training school chartered or approved pursuant to a state law;
2274 service performed as an intern in the employ of a hospital by an
2275 individual who has completed a 4-year course in a medical school
2276 chartered or approved pursuant to state law; and service
2277 performed by a patient of a hospital for such hospital.

2278 13. Service performed by an individual for a person as an
2279 insurance agent or as an insurance solicitor, if all such
2280 service performed by such individual for such person is
2281 performed for remuneration solely by way of commission, except
2282 for such services performed in accordance with 26 U.S.C.S. s.
2283 3306(c)(7) and (8). For purposes of this subsection, those
2284 benefits excluded from the definition of wages pursuant to
2285 subparagraphs (40)(b)2.-6., inclusive, shall not be considered
2286 remuneration.

2287 14. Service performed by an individual for a person as a
2288 real estate licensee ~~salesperson or agent~~, if all such service



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2289 performed by such individual for such person is performed for
2290 remuneration solely by way of commission.

2291 15. Service performed by an individual under the age of 18
2292 in the delivery or distribution of newspapers or shopping news,
2293 not including delivery or distribution to any point for
2294 subsequent delivery or distribution.

2295 16. Service covered by an arrangement between the division
2296 and the agency charged with the administration of any other
2297 state or federal unemployment compensation law pursuant to which
2298 all services performed by an individual for an employing unit
2299 during the period covered by such employing unit's duly approved
2300 election are deemed to be performed entirely within such
2301 agency's state or under such federal law.

2302 17. Service performed by an individual who is enrolled at
2303 a nonprofit or public educational institution which normally
2304 maintains a regular faculty and curriculum and normally has a
2305 regularly organized body of students in attendance at the place
2306 where its educational activities are carried on as a student in
2307 a full-time program, taken for credit at such institution, which
2308 combines academic instruction with work experience, if such
2309 service is an integral part of such program, and such
2310 institution has so certified to the employer, except that this
2311 subparagraph does not apply to service performed in a program
2312 established for or on behalf of an employer or group of
2313 employers.

2314 18. Service performed by an individual for a person as a
2315 barber, if all such service performed by such individual for



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2316 such person is performed for remuneration solely by way of
2317 commission.

2318 19. Casual labor not in the course of the employer's trade
2319 or business.

2320 20. Service performed by a speech therapist, occupational
2321 therapist, or physical therapist who is nonsalaried and working
2322 pursuant to a written contract with a home health agency as
2323 defined in s. 400.462.

2324 21. Service performed by a direct seller. For purposes of
2325 this subparagraph, the term "direct seller" means a person:

2326 a.(I) Who is engaged in the trade or business of selling
2327 or soliciting the sale of consumer products to buyers on a buy-
2328 sell basis or a deposit-commission basis, or on any similar
2329 basis, for resale in the home or in any other place that is not
2330 a permanent retail establishment; or

2331 (II) Who is engaged in the trade or business of selling or
2332 soliciting the sale of consumer products in the home or in any
2333 other place that is not a permanent retail establishment;

2334 b. Substantially all of whose remuneration for services
2335 described in sub-subparagraph a., whether or not paid in cash,
2336 is directly related to sales or other output, rather than to the
2337 number of hours worked; and

2338 c. Who performs such services pursuant to a written
2339 contract with the person for whom the services are performed,
2340 which contract provides that the person will not be treated as
2341 an employee with respect to such services for federal tax
2342 purposes.



2343 22. Service performed by a nonresident alien individual
 2344 for the period he or she is temporarily present in the United
 2345 States as a nonimmigrant under subparagraph (F) or subparagraph
 2346 (J) of s. 101(a)(15) of the Immigration and Nationality Act, and
 2347 which is performed to carry out the purpose specified in
 2348 subparagraph (F) or subparagraph (J), as the case may be.

2349 23. Service performed by an individual for remuneration
 2350 for a private, for-profit delivery or messenger service, if the
 2351 individual:

2352 a. Is free to accept or reject jobs from the delivery or
 2353 messenger service and the delivery or messenger service has no
 2354 control over when the individual works;

2355 b. Is remunerated for each delivery, or the remuneration
 2356 is based on factors that relate to the work performed, including
 2357 receipt of a percentage of any rate schedule;

2358 c. Pays all expenses and the opportunity for profit or
 2359 loss rests solely with the individual;

2360 d. Is responsible for operating costs, including fuel,
 2361 repairs, supplies, and motor vehicle insurance;

2362 e. Determines the method of performing the service,
 2363 including selection of routes and order of deliveries;

2364 f. Is responsible for the completion of a specific job and
 2365 is liable for any failure to complete that job;

2366 g. Enters into a contract with the delivery or messenger
 2367 service which specifies the relationship of the individual to
 2368 the delivery or messenger service to be that of an independent
 2369 contractor and not that of an employee; and

2370 h. Provides the vehicle used to perform the service.



2371 24. Service performed in agricultural labor by an
2372 individual who is an alien admitted to the United States to
2373 perform service in agricultural labor pursuant to ss.
2374 101(a)(15)(H) and 214(c) of the Immigration and Nationality Act.

2375 25. Service performed by a person who is an inmate of a
2376 penal institution.

2377 Section 37. Subsection (25) of section 501.604, Florida
2378 Statutes, is amended to read:

2379 501.604 Exemptions.--The provisions of this part, except
2380 ss. 501.608 and 501.616(6) and (7), do not apply to:

2381 (25) A person ~~who is a licensed real estate salesperson or~~
2382 ~~broker~~ pursuant to chapter 475 and who is soliciting within the
2383 scope of the chapter.

2384 Section 38. Subsection (4) of section 687.14, Florida
2385 Statutes, is amended to read:

2386 687.14 Definitions.--As used in this act, unless the
2387 context otherwise requires:

2388 (4) "Loan broker" means any person, except any bank or
2389 savings and loan association, trust company, building and loan
2390 association, credit union, consumer finance company, retail
2391 installment sales company, securities broker-dealer, real estate
2392 broker or sales associate ~~salesperson~~, attorney, federal Housing
2393 Administration or United States Department of Veterans Affairs
2394 approved lender, credit card company, installment loan licensee,
2395 mortgage broker or lender, or insurance company, provided that
2396 the person excepted is licensed by and subject to regulation or
2397 supervision of any agency of the United States or this state and
2398 is acting within the scope of the license; and also excepting



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2399 subsidiaries of licensed or chartered consumer finance
 2400 companies, banks, or savings and loan associations; who:
 2401 (a) For or in expectation of consideration arranges or
 2402 attempts to arrange or offers to fund a loan of money, a credit
 2403 card, or a line of credit;
 2404 (b) For or in expectation of consideration assists or
 2405 advises a borrower in obtaining or attempting to obtain a loan
 2406 of money, a credit card, a line of credit, or related guarantee,
 2407 enhancement, or collateral of any kind or nature;
 2408 (c) Acts for or on behalf of a loan broker for the purpose
 2409 of soliciting borrowers; or
 2410 (d) Holds herself or himself out as a loan broker.
 2411 Section 39. Subsections (1) and (6) of section 721.20,
 2412 Florida Statutes, are amended to read:
 2413 721.20 Licensing requirements; suspension or revocation of
 2414 license; exceptions to applicability; collection of advance fees
 2415 for listings unlawful.--
 2416 (1) Any seller of a timeshare plan must be a licensed real
 2417 estate ~~salesperson~~, broker, broker associate, or sales associate
 2418 ~~broker-salesperson~~ as defined in s. 475.01, except as provided
 2419 in s. 475.011.
 2420 (6) Notwithstanding the provisions of s. 475.452, it is
 2421 unlawful for any real estate broker, broker associate
 2422 ~~salesperson~~, or sales associate ~~broker-salesperson~~ to collect
 2423 any advance fee for the listing of any timeshare estate or
 2424 timeshare license.
 2425 Section 40. Paragraph (a) of subsection (1) of section
 2426 760.29, Florida Statutes, is amended to read:



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2427 760.29 Exemptions.--
 2428 (1)(a) Nothing in ss. 760.23 and 760.25 applies to:
 2429 1. Any single-family house sold or rented by its owner,
 2430 provided such private individual owner does not own more than
 2431 three single-family houses at any one time. In the case of the
 2432 sale of a single-family house by a private individual owner who
 2433 does not reside in such house at the time of the sale or who was
 2434 not the most recent resident of the house prior to the sale, the
 2435 exemption granted by this paragraph applies only with respect to
 2436 one sale within any 24-month period. In addition, the bona fide
 2437 private individual owner shall not own any interest in, nor
 2438 shall there be owned or reserved on his or her behalf, under any
 2439 express or voluntary agreement, title to, or any right to all or
 2440 a portion of the proceeds from the sale or rental of, more than
 2441 three single-family houses at any one time. The sale or rental
 2442 of any single-family house shall be excepted from the
 2443 application of ss. 760.20-760.37 only if the house is sold or
 2444 rented:
 2445 a. Without the use in any manner of the sales or rental
 2446 facilities or the sales or rental services of any real estate
 2447 licensee ~~broker, agent, or salesperson~~ or such facilities or
 2448 services of any person in the business of selling or renting
 2449 dwellings, or of any employee or agent of any such licensee
 2450 ~~broker, agent, salesperson,~~ or person; and
 2451 b. Without the publication, posting, or mailing, after
 2452 notice, of any advertisement or written notice in violation of
 2453 s. 760.23(3).
 2454



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2455 | Nothing in this provision prohibits the use of attorneys, escrow
2456 | agents, abstractors, title companies, and other such
2457 | professional assistance as is necessary to perfect or transfer
2458 | the title.

2459 | 2. Rooms or units in dwellings containing living quarters
2460 | occupied or intended to be occupied by no more than four
2461 | families living independently of each other, if the owner
2462 | actually maintains and occupies one of such living quarters as
2463 | his or her residence.

2464 | Section 41. This act shall take effect July 1, 2003.
2465 |