

CHAMBER ACTION

1 The Justice Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to liens on commercial real estate;
7 creating part III of ch. 475, F.S., the "Commercial Real
8 Estate Sales Commission Lien Act"; providing definitions;
9 specifying conditions under which a broker is entitled to
10 a lien upon the owner's net proceeds from the disposition
11 of commercial real estate for any commission earned by the
12 broker under a brokerage agreement; providing that the
13 lien cannot be assigned, enforced, or waived by anyone
14 other than the broker; requiring disclosure; providing for
15 the contents of the commission notice and delivery to
16 certain parties; providing a form for the commission
17 notice; providing that a lien may not be enforced if the
18 notice is not delivered to certain parties; providing that
19 the commission notice may be recorded; providing for
20 expiration and extension under certain conditions;
21 providing for release of the commission notice under
22 certain conditions; providing the duties of the closing
23 agent; requiring the closing agent to reserve an owner's

24 | proceeds under certain conditions; providing for the
25 | release of proceeds under certain conditions; requiring
26 | deduction of certain costs from the proceeds; providing
27 | for interpleader or other legal proceedings sought by a
28 | closing agent to adjudicate certain rights; providing for
29 | the deposit of reserved proceeds in a court registry;
30 | providing for the discharge of the closing agent from
31 | further liability; providing for a civil action if a
32 | dispute arises concerning the proceeds; providing that the
33 | prevailing party may recover certain fees and costs
34 | incurred in a civil action; establishing the priority of a
35 | recorded commission notice; providing for the service of
36 | notice; providing that a buyer's broker is not entitled to
37 | a lien; providing certain conditions under which a buyer's
38 | broker may seek payment of a commission; creating part IV
39 | of ch. 475, F.S., the "Commercial Real Estate Leasing
40 | Commission Lien Act"; providing definitions; providing
41 | conditions under which a broker may place a lien upon an
42 | owner's interest in commercial real estate for any
43 | commission earned under a brokerage agreement with respect
44 | to a lease of commercial real estate; providing that the
45 | lien cannot be assigned, enforced, or waived by anyone
46 | other than the broker; requiring disclosure; providing for
47 | the contents of the lien notice; providing a form for the
48 | lien notice; providing that the lien notice may be
49 | recorded; providing that a lien may not be enforced if the
50 | broker fails to record the notice; providing for
51 | effectiveness of a recorded lien notice; providing for

52 | release of the lien notice under certain conditions;
 53 | providing for expiration and extension under certain
 54 | conditions; providing for foreclosure of a recorded lien
 55 | under certain conditions; providing a form; providing for
 56 | a civil action if a dispute arises concerning the
 57 | proceeds; providing that the prevailing party may recover
 58 | certain fees and costs incurred in a civil action;
 59 | providing procedures to transfer a lien to a security;
 60 | providing that the clerk of court may collect a service
 61 | charge; providing for subordination of a broker's lien;
 62 | amending s. 475.42, F.S.; providing that a broker may
 63 | place a lien when allowed by law; providing an effective
 64 | date.

65 |
 66 | Be it Enacted by the Legislature of the State of Florida:
 67 |

68 | Section 1. Part III of chapter 475, Florida Statutes,
 69 | consisting of sections 475.700, 475.701, 475.703, 475.705,
 70 | 475.707, 475.709, 475.711, 475.713, 475.715, 475.717, and
 71 | 475.719, is created to read:

72 | 475.700 Popular name.--Sections 475.700-475.719 may be
 73 | cited as the "Commercial Real Estate Sales Commission Lien Act."

74 | 475.701 Definitions.--As used in this part:

75 | (1) "Broker" has the same meaning as in s. 475.01.

76 | (2) "Brokerage agreement" means a written contract entered
 77 | into on or after the effective date of this act between an owner
 78 | of commercial real estate and a broker that obligates the owner
 79 | to pay a commission to the broker for licensed services provided

80 by the broker relating to the sale or disposition of the
 81 commercial real estate as specified in the contract.

82 (3) "Closing" means the delivery, exchange, and release of
 83 documents and funds for the completion of a transaction for the
 84 disposition of commercial real estate.

85 (4) "Closing agent" means the person who receives
 86 documents and funds for recording and disbursement in closing a
 87 transaction for the disposition of commercial real estate.

88 (5) "Commercial real estate" means a fee simple interest
 89 or other possessory estate in real property, except an interest
 90 in real property that is:

91 (a) Improved with one single-family residential unit or
 92 one multifamily structure containing one to four residential
 93 units;

94 (b) Unimproved and the maximum permitted development is
 95 one to four residential units under any restrictive covenants,
 96 zoning regulations, or comprehensive plan applicable to that
 97 real property; or

98 (c) Improved with single-family residential units such as
 99 condominiums, townhouses, timeshares, mobile homes, or houses in
 100 a subdivision that may be legally sold, leased, or otherwise
 101 conveyed on a unit-by-unit basis, regardless of whether these
 102 units may be a part of a larger building or parcel containing
 103 more than four residential units.

104 (6) "Commission" means any fee or other compensation that
 105 an owner agrees to pay a broker for licensed services as
 106 specified in a brokerage agreement.

107 (7) "Commission notice" means the written notice claiming
 108 a commission made by a broker under s. 475.705.

109 (8) "Days" means calendar days, but if a period would end
 110 on a day other than a business day, then the last day of that
 111 period shall instead be the next business day.

112 (9) "Disposition" means a voluntary conveyance or transfer
 113 of the title to or other ownership interest in any commercial
 114 real estate specified in a brokerage agreement. A disposition
 115 does not include a transfer pursuant to a foreclosure sale and
 116 does not include a lease.

117 (10) "Disputed reserved proceeds" means the portion of the
 118 owner's net proceeds reserved by a closing agent under s.
 119 475.709 that the owner disputes the broker's right to receive
 120 such reserved proceeds under s. 475.709(5).

121 (11) "Owner" means a person that is vested with fee simple
 122 title or a possessory estate in commercial real estate.

123 (12) "Owner's net proceeds" means the gross sales proceeds
 124 that the owner is entitled to receive from the disposition of
 125 any commercial real estate specified in a brokerage agreement,
 126 less the following:

127 (a) Any money that is required to pay any encumbrance,
 128 claim, or lien that has priority over the recorded commission
 129 notice as provided in s. 475.715 other than an encumbrance,
 130 claim, or lien that the buyer of the commercial real estate
 131 authorizes to remain after the disposition.

132 (b) Any costs incurred by the owner to close the
 133 disposition, including, but not limited to, real estate transfer
 134 tax, title insurance premiums, ad valorem taxes and assessments,

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135 and escrow fees payable by the owner pursuant to an agreement
 136 with the buyer.

137 (13) "Real property" means one or more parcels or tracts
 138 of land located in this state, including any appurtenances and
 139 improvements.

140 475.703 Broker's lien for sales commission.--

141 (1) A broker has a lien upon the owner's net proceeds from
 142 the disposition of commercial real estate for any commission
 143 earned by the broker with respect to that disposition pursuant
 144 to a brokerage agreement. The lien upon the owner's net proceeds
 145 pursuant to this part for a broker's commission is a lien upon
 146 personal property, attaches to the owner's net proceeds only,
 147 and does not attach to any interest in real property.

148 (2) For purposes of this part, a commission is earned on
 149 the earlier of the date that:

150 (a) An event occurs under the brokerage agreement that
 151 defines when the commission is earned; or

152 (b) The owner enters into a contract for the disposition
 153 of all or part of the commercial real estate specified in the
 154 brokerage agreement, provided that a commission would be payable
 155 to the broker pursuant to the brokerage agreement if the
 156 disposition occurs under that contract.

157 (3) For the purposes of this part, a commission is payable
 158 at the time provided in the brokerage agreement. If payment of
 159 the commission is conditioned on the occurrence of an event and
 160 that event does not occur, a broker may not enforce a lien for
 161 that commission under this part.

162 (4) A broker's lien for commission arising under this
 163 part:

164 (a) Belongs to the broker named in the brokerage agreement
 165 and not to an employee or independent contractor of the broker.

166 (b) Cannot be assigned voluntarily or by operation of law
 167 and may not be enforced by a person other than the broker.

168 (c) Cannot be waived before the commission is earned.

169 (d) Cannot be waived by any person other than the broker,
 170 regardless of whether that person may execute and bind the
 171 broker to a brokerage agreement.

172 (5) A broker shall disclose to the owner at or before the
 173 time the owner executes the brokerage agreement that this part
 174 creates lien rights for a commission earned by the broker that
 175 are not waivable before the commission is earned by the broker.
 176 A broker may not enforce a lien under this part for a commission
 177 earned under a brokerage agreement for which the disclosure
 178 required by this subsection was not made. A disclosure in
 179 substantially the following form shall be sufficient: "The
 180 Florida Commercial Real Estate Sales Commission Lien Act
 181 provides that when a broker has earned a commission by
 182 performing licensed services under a brokerage agreement with
 183 you, the broker may claim a lien against your net sales proceeds
 184 for the broker's commission. The broker's lien rights under the
 185 act cannot be waived before the commission is earned."

186 475.705 Contents of commission notice; delivery to owner
 187 and closing agent.--

188 (1) A commission notice made by a broker with respect to a
 189 commission claimed under this part shall be in writing, shall be

190 signed and sworn to or affirmed by the broker under penalty of
 191 perjury before a notary public, and shall include the following:

192 (a) The name of the owner of the commercial real estate
 193 who is obligated to pay the claimed commission.

194 (b) The legal description of the commercial real estate.

195 (c) The name, mailing address, telephone number, and
 196 license number of the broker.

197 (d) The effective date of the brokerage agreement.

198 (e) The amount of the commission claimed by the broker,
 199 which may be stated in a dollar amount or may be stated in the
 200 form of a formula determining the amount, such as a percentage
 201 of the sales price.

202 (f) A statement under penalty of perjury that the broker
 203 has read the commission notice, knows its contents, believes the
 204 same to be true and correct, and makes the commission claim
 205 pursuant to the brokerage agreement described in the notice.

206 (g) A statement that the commission notice or a copy
 207 thereof has been delivered to the owner and that the commission
 208 notice may be recorded in the public records of the county or
 209 counties where the commercial real estate is located.

210 (h) A statement that this part provides that if the owner
 211 disputes the claimed commission the owner shall notify the
 212 closing agent of such dispute not later than 5 days after the
 213 closing, or the owner will be deemed to have confirmed the
 214 commission and this part will require the closing agent to pay
 215 the commission to the broker from the owner's net proceeds from
 216 the disposition of the commercial real estate.

217 (2) A commission notice in substantially the following
218 form shall be sufficient for purposes of subsection (1):

219
220 BROKER'S COMMISSION NOTICE UNDER
221 FLORIDA COMMERCIAL REAL ESTATE SALES COMMISSION LIEN ACT
222

223 Notice is hereby given pursuant to the Florida Commercial Real
224 Estate Sales Commission Lien Act, part III of chapter 475,
225 Florida Statutes (the "act"), that the undersigned real estate
226 broker is entitled to receive a sales commission in the amount
227 set forth below from the owner named below pursuant to the terms
228 of a written brokerage commission agreement regarding the
229 commercial real estate described below, and the undersigned
230 broker claims a lien under the act against the owner's net
231 proceeds from the disposition of the commercial real estate. The
232 act and this commission notice do not create a lien against the
233 commercial real estate itself, but only against the owner's net
234 proceeds.

235
236 1. Name of the owner who is obligated to pay the commission:

237 _____

238 2. Legal description of the commercial real estate:

239 _____

240 3. Name, mailing address, telephone number, and Florida broker
241 license number of the undersigned broker:

242 _____

243 _____

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245 4. Effective date of the written brokerage commission agreement
246 between the owner and the broker under which the commission is
247 or will be payable: _____, _____

248 5. Amount of commission claimed by the undersigned broker:
249 \$ _____, or
250 _____ percent of sales price, or
251 [specify other formula for determination of commission amount]:
252 _____.

253 6. The undersigned broker, under penalty of perjury, hereby
254 swears or affirms that the undersigned broker has read this
255 commission notice, knows its contents and believes the same to
256 be true and correct, and that the undersigned broker is making
257 this commission claim pursuant to the written brokerage
258 commission agreement described in this commission notice.

259 7. The undersigned broker confirms that this commission notice
260 or a copy thereof has been delivered to the owner.

261
262 Signed: _____ (broker) _____

263
264 Signed and sworn to or affirmed under penalty of perjury before
265 me, a notary public, this _____ day of _____, _____, by
266 _____

267
268 Signed: _____ (notary public) _____

269 WARNING TO OWNER: The act provides that if you dispute the
270 commission claimed in this commission notice, you must notify
271 the closing agent of the dispute no later than 5 days after the
272 closing. If you fail to notify the closing agent before that

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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273 date that you dispute the commission, you will be deemed to have
 274 confirmed the commission and the act will require the closing
 275 agent to pay the commission to the broker from your net proceeds
 276 from the disposition of the commercial real estate.

277
 278 This commission notice may be recorded in the public records of
 279 the county or counties where the commercial real estate is
 280 located.

281 (3) Subject to subsection (4), if a broker wishes to
 282 enforce a lien for a commission under this part, the broker
 283 shall, within 30 days after a commission is earned by the broker
 284 pursuant to s. 475.703(2) and at least 1 day before the closing,
 285 deliver a copy of the commission notice to:

286 (a) The owner of the commercial real estate specified in
 287 the brokerage agreement.

288 (b) The closing agent designated to close the transaction
 289 for the disposition of the commercial real estate, if the broker
 290 then knows the identity of the closing agent. If the identity of
 291 the closing agent thereafter becomes known to the broker, then
 292 the broker shall deliver a copy of the commission notice to the
 293 closing agent within 3 days after the broker acquires such
 294 knowledge and at least 1 day before the closing.

295 (4) Except as provided in this subsection, a broker who
 296 fails to deliver a copy of a commission notice as required under
 297 subsection (3) within the period specified therein may not
 298 enforce a lien for the commission under this part. If a broker
 299 fails to deliver a copy of the commission notice within said
 300 period solely because the owner entered into a contract for the

301 disposition of the commercial real estate without the knowledge
 302 of the broker, the broker may enforce a lien for the commission
 303 under this part if:

304 (a) The copy of the commission notice is delivered to the
 305 owner and the closing agent before the closing agent disburses
 306 the owner's net proceeds to the owner.

307 (b) The broker executes and delivers to the closing agent
 308 a sworn affidavit stating that the copy of the commission notice
 309 was not delivered within the time period specified in subsection
 310 (3) solely because the owner entered into a contract for the
 311 disposition of the commercial real estate without the knowledge
 312 of the broker.

313
 314 Notwithstanding the provisions of this subsection, a broker who
 315 fails to deliver a copy of a commission notice to the owner and
 316 the closing agent before the disbursement of the owner's net
 317 proceeds may not enforce a lien for the commission under this
 318 part, and the delivery of a copy of a commission notice after
 319 such disbursement is ineffective under this part.

320 475.707 Recording commission notice; effectiveness.--

321 (1) After a broker delivers the copies of a commission
 322 notice as provided in s. 475.705, the broker may record the
 323 commission notice in the public records maintained by the clerk
 324 of court in the county or counties in which the commercial real
 325 estate is located.

326 (a) Subject to the limitation in paragraph (b), the
 327 broker's lien created by this part against the owner's net
 328 proceeds is perfected by such recording of the commission notice

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329 and takes priority pursuant to this part as of the date of the
330 recording of the commission notice. The priority of the lien
331 does not relate back to the date of the brokerage agreement.

332 (b) The recording of the commission notice shall not
333 constitute constructive notice to a closing agent unless the
334 commission notice has been of record for at least 60 days.

335 (2) A recorded commission notice is effective under this
336 part only with respect to dispositions made by the owner named
337 in the commission notice and after the recordation of a deed
338 from the owner conveying the commercial real estate specified in
339 the commission notice to a bona fide purchaser for value the
340 commission notice is ineffective with respect to any subsequent
341 dispositions of that commercial real estate.

342 (3) A commission notice recorded under this part expires 1
343 year after the date of recording, unless the brokerage agreement
344 remains effective after the expiration date of the commission
345 notice and the broker records an extension notice in the same
346 public records within the last 60 days before such expiration
347 date. An extension notice shall refer to the recording
348 information of the original commission notice, shall state that
349 the brokerage agreement remains effective, and shall include the
350 information and be executed in the manner as required by s.
351 475.705(1) for the original commission notice. A timely recorded
352 extension notice shall extend the expiration date of the
353 original recorded commission notice by 1 additional year.
354 Successive extension notices may be recorded for so long as the
355 brokerage agreement remains effective between the broker and the

356 owner. Within 10 days after recording an extension notice the
 357 broker shall deliver a copy thereof to the owner.

358 (4) The delivery or recording of a commission notice or
 359 the enforcement of a commission claim by a broker under this
 360 part does not relieve the owner from the owner's obligation to
 361 close a disposition transaction for any commercial real estate.

362 (5) Whenever a commission notice is recorded and a
 363 condition or event occurs or fails to occur that would preclude
 364 the broker from receiving the claimed commission under the terms
 365 of the brokerage agreement, including the filing of a commission
 366 notice in a manner that does not comply with this part, the
 367 broker shall, within 7 days following demand by the owner,
 368 record a written release of the commission notice in the public
 369 records of the county where the commission notice was recorded.

370 (6) If a broker records a commission notice pursuant to
 371 this section and the claimed commission is paid or the
 372 commission notice is otherwise discharged or satisfied pursuant
 373 to this part, the broker shall, within 7 days after the
 374 commission is paid or the commission notice is otherwise
 375 discharged or satisfied, record a written release of the
 376 commission notice in the public records of the county where the
 377 commission notice was recorded.

378 475.709 Duties of closing agent; reservation of owner's
 379 net proceeds.--

380 (1)(a) The closing agent shall reserve from the owner's
 381 net proceeds an amount equal to the commission claimed by the
 382 broker in the commission notice if, before the closing agent

383 disburses the owner's net proceeds from the closing of a
 384 disposition of commercial real estate:

385 1. A commission notice pertaining to the commercial real
 386 estate is delivered to the closing agent in accordance with s.
 387 475.705;

388 2. A commission notice pertaining to the commercial real
 389 estate has been recorded for at least 60 days pursuant to s.
 390 475.707 and has not expired or been released or canceled as
 391 provided in this part; or

392 3. The closing agent has actual knowledge of a commission
 393 notice pertaining to the commercial real estate that has been
 394 recorded pursuant to s. 475.707 and has not expired or been
 395 released or canceled as provided in this part.

396 (b) If the owner's net proceeds are insufficient to pay
 397 the full amount of the claimed commission, the closing agent
 398 shall reserve the entire amount of the owner's net proceeds. The
 399 closing agent shall release the reserved proceeds only in
 400 accordance with the provisions of this part.

401 (2)(a) The closing agent designated to close a transaction
 402 for the disposition of commercial real estate may require the
 403 owner of the commercial real estate to deliver a sworn affidavit
 404 identifying the commercial real estate and disclosing to the
 405 closing agent:

406 1. Whether the owner is a party to any brokerage agreement
 407 under which any broker or brokers may have a right to claim a
 408 commission from the disposition of the commercial real estate.

409 2. The name, mailing address, and telephone number of any
 410 brokers who may have a right to claim a commission, if known to
 411 the owner.

412 3. The amount of any and all commissions that may be
 413 claimed under any brokerage agreement disclosed in the owner's
 414 affidavit, to the best of the owner's knowledge and belief.

415 4. Whether the owner confirms or disputes the amount of
 416 any commission claimed from the disposition of the commercial
 417 real estate as disclosed in the owner's affidavit.

418 (b) If the closing agent receives an affidavit from the
 419 owner under this subsection disclosing that any commission may
 420 be claimed from the disposition of the commercial real estate,
 421 regardless of whether the owner confirms or disputes the
 422 commission, the closing agent shall reserve from the owner's net
 423 proceeds an amount equal to the total commission amount
 424 disclosed by the owner in the affidavit. Upon request by a
 425 broker who has a brokerage agreement with the owner covering the
 426 commercial real estate identified in the owner's affidavit, the
 427 closing agent shall deliver a copy of the affidavit to the
 428 broker. If the owner's net proceeds are insufficient to pay the
 429 full amount of the commission so disclosed, the closing agent
 430 shall reserve the entire amount of the owner's net proceeds. If
 431 the owner's affidavit discloses a commission amount that is
 432 different from the commission amount required to be reserved
 433 under subsection (1), the closing agent shall reserve the
 434 greater of the two commission amounts. The closing agent shall
 435 release the reserved proceeds only in accordance with the
 436 provisions of this part.

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437 (3) If the provisions of subsection (1) do not require the
438 closing agent to reserve against the owner's net proceeds on
439 account of a commission notice pertaining to the commercial real
440 estate, and if the closing agent receives an owner's affidavit
441 pursuant to subsection (2) stating that the owner is not a party
442 to any brokerage agreement under which any commission may be
443 claimed from the disposition of the commercial real estate, the
444 closing agent has no duty under this part to reserve any money
445 or property for a commission from the owner's net proceeds from
446 the disposition of the commercial real estate.

447 (4) If the closing agent determines that the owner's net
448 proceeds from a disposition of commercial real estate are
449 insufficient to pay the full amount of the commission claimed in
450 a commission notice or disclosed in an owner's affidavit, the
451 closing agent shall, within 3 days after making that
452 determination but no later than the closing of the disposition,
453 notify the owner and the broker of the determination. The
454 closing agent's determination that the owner's net proceeds are
455 insufficient under this part, however, does not relieve the
456 owner from the owner's contractual obligations under the
457 brokerage agreement to pay the full commission owing to the
458 broker.

459 (5) If the owner confirms that a commission is payable to
460 the broker, at the closing of the disposition of the commercial
461 real estate the closing agent shall release to the broker the
462 confirmed amount of the commission from the reserved proceeds. A
463 settlement statement executed by the owner and showing the
464 payment of a commission to the broker is confirmation by the

465 owner of the commission amount shown on the settlement
 466 statement. If the owner disputes the broker's right to receive
 467 all or any portion of the claimed commission, the closing agent
 468 shall release to the broker from the reserved proceeds only the
 469 undisputed portion of the commission, if any. Until the rights
 470 of the owner and the broker with respect to the disputed
 471 reserved proceeds are determined pursuant to s. 475.711 or s.
 472 475.713 or the owner and the broker otherwise agree in writing,
 473 the closing agent shall not release the disputed reserved
 474 proceeds to any person other than to deposit the same in the
 475 registry of the court having jurisdiction of the dispute.

476 (6) The commission claimed in the commission notice shall
 477 be deemed confirmed by the owner and the closing agent shall
 478 release the reserved proceeds to the broker, if the closing
 479 agent is required pursuant to subsection (1) to reserve any or
 480 all of the owner's net proceeds, and if:

481 (a) Five days have passed after the closing.

482 (b) The owner has neither confirmed nor disputed the
 483 claimed commission to the closing agent.

484 (c) The closing agent receives reasonably satisfactory
 485 evidence that the broker delivered a copy of the commission
 486 notice to the owner in accordance with s. 475.705.

487 (7) If the owner's net proceeds consist in whole or in
 488 part of a purchase-money note, and if the money portion of the
 489 owner's net proceeds is insufficient to pay the full amount of
 490 the commission claimed, the broker's lien under this part for
 491 the portion of the commission not paid from the money proceeds
 492 shall attach to the purchase-money note and any security

493 therefor, and the closing agent shall reserve and release the
 494 purchase-money note in accordance with this part in the same
 495 manner as the money portion of the reserved proceeds. If the
 496 owner and the broker are unable to agree within 5 days after the
 497 closing regarding the closing agent's release of the purchase-
 498 money note, the closing agent shall interplead the purchase-
 499 money note along with any money reserved proceeds in accordance
 500 with s. 475.711.

501 (8) If the disposition of the commercial real estate is
 502 part of a like-kind exchange by the owner which is deferred from
 503 federal income tax under section 1031 of the Internal Revenue
 504 Code of 1986, as amended, and if all of the owner's net proceeds
 505 in excess of undisputed commissions shall be delivered to a
 506 third party in order to qualify the disposition for such tax
 507 deferral treatment, the owner may substitute other cash, a
 508 surety bond, an unconditional letter of credit, or other liquid
 509 security acceptable to the broker in lieu of any disputed
 510 reserved proceeds held by the closing agent under this section
 511 or deposited in the court registry in accordance with s.
 512 475.711.

513 (9) Upon request of the closing agent or the owner, any
 514 broker who has recorded a commission notice under s. 475.707
 515 shall submit a satisfaction or release of the commission notice
 516 in recordable form to the closing agent to be held in escrow
 517 pending the closing and the closing agent's release to the
 518 broker of the portion of the owner's net proceeds reserved by
 519 the closing agent under this section. The closing agent is
 520 authorized to deduct from the reserved proceeds payable to the

521 broker the cost of recording the satisfaction or release of the
522 commission notice.

523 (10) Neither the closing agent's requirement for an
524 owner's affidavit pursuant to subsection (2), nor the closing
525 agent's reservation of any portion of an owner's net proceeds
526 pursuant to subsections (1) or (2), shall relieve the owner of
527 the owner's obligation to close the transaction for the
528 disposition of the commercial real estate, including, without
529 limitation, any obligation of the owner to the buyer under the
530 purchase and sale contract to discharge mortgages, liens, or
531 encumbrances against the commercial real estate that were
532 recorded after the commission notice and therefore are not
533 subtracted from gross sales proceeds when computing the owner's
534 net proceeds under s. 475.719.

535 (11) A closing agent is not liable to the owner, the
536 broker, or any other person in any civil action for any action
537 taken by the closing agent to comply with the provisions of this
538 part.

539 (12) No provision of this part shall require a closing
540 agent to serve involuntarily more than 5 days after a closing as
541 an escrow agent or stakeholder for any monies or other property
542 that are disputed by the owner and the broker under the
543 provisions of this part.

544 475.711 Interpleader or other proceedings; deposit of
545 reserved proceeds in court registry; discharge of closing agent
546 from further liability.--

547 (1) The closing agent shall, by interpleader action or
548 other legal proceeding, seek adjudication of the rights of the

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549 parties with respect to disputed reserved proceeds by the county
550 court or circuit court, whichever may have jurisdiction of
551 controversies in the amount of the disputed reserved proceeds,
552 in a county where all or a portion of the commercial real estate
553 is located if, after the closing of a transaction for the
554 disposition of the commercial real estate:

555 (a) The closing agent has reserved all or a portion of the
556 owner's net proceeds pursuant to s. 475.709 and the owner
557 disputes the release to the broker of all or any portion of the
558 reserved proceeds.

559 (b) The owner and the broker have not agreed in writing,
560 within 5 days after the closing, regarding the closing agent's
561 release of the disputed reserved proceeds.

562 (c) Neither the owner nor the broker have commenced a
563 civil action to determine the rights of the parties with respect
564 to the disputed reserved proceeds.

565 (2) Unless otherwise agreed to by the owner and the broker
566 in writing, the closing agent shall deposit the net amount of
567 disputed reserved proceeds in the registry of the court having
568 jurisdiction of any legal action or proceeding to determine the
569 rights of the parties in the disputed reserved proceeds, whether
570 commenced by the closing agent under subsection (1) or commenced
571 by the owner or the broker under s. 475.713 or otherwise. The
572 closing agent shall determine the net amount of disputed
573 reserved proceeds deposited in the court registry by deducting
574 from the disputed reserved proceeds:

575 (a) Any costs incurred by the closing agent to commence
576 such action or proceeding, or to appear in any such action or

577 proceeding commenced by the owner or the broker, including
 578 reasonable attorney's fees.

579 (b) The costs of recording the affidavit described in
 580 subsection (3) if any commission notice has been recorded.

581 (c) The service charges of the clerk of court under s.
 582 28.24 for receiving the net amount of such disputed reserved
 583 proceeds into the registry of the court.

584 (3) If a commission notice has been recorded in the public
 585 records of the county or counties where the commercial real
 586 estate is located, upon depositing the net disputed reserved
 587 proceeds with the clerk of court pursuant to subsection (2), the
 588 closing agent shall execute and record an affidavit referring to
 589 the recorded commission notice and stating that the net disputed
 590 reserved proceeds have been so deposited in accordance with this
 591 part. The recording of the affidavit shall operate to release
 592 the recorded commission notice.

593 (4) If a closing agent deposits the net disputed reserved
 594 proceeds with the clerk of court pursuant to subsection (2), the
 595 closing agent is discharged from any further liability or
 596 responsibility concerning the disputed reserved proceeds.

597 475.713 Civil action concerning commission; order to show
 598 cause; hearing; release of proceeds; award of costs and
 599 attorney's fees.--

600 (1) If a commission notice claiming a commission is
 601 delivered to an owner pursuant to s. 475.705 and the owner
 602 disputes the claimed commission, the owner or the broker may
 603 file a civil action concerning the commission claim in the
 604 county court or circuit court, whichever has jurisdiction of

605 controversies in the amount of the claimed commission, of the
 606 county where the commercial real estate or a portion of the
 607 commercial real estate is located.

608 (2) In a civil action by the owner, at the time the
 609 summons is issued or at any time before the complaint is
 610 answered by the broker, the owner may apply to the court for an
 611 order directing the broker to appear before the court at a time
 612 not earlier than 7 days or later than 15 days after the date of
 613 service of the motion and order on the broker to show cause why
 614 the commission claim should not be dismissed. The motion must
 615 state the grounds upon which relief is sought and must be
 616 supported by the affidavit of the owner setting forth a concise
 617 statement of the facts upon which the motion is based. The order
 618 to show cause shall clearly state that if the broker fails to
 619 appear at the time and place specified in the order, the
 620 broker's claim of lien against the owner's net proceeds under
 621 this part shall be released, with prejudice, and the broker
 622 shall be ordered to pay the costs incurred by the owner and the
 623 closing agent, including reasonable attorney's fees.

624 (3) The court shall issue an order releasing the broker's
 625 claim of lien against the owner's net proceeds from such
 626 disposition, discharging any commission notice that may be have
 627 been recorded, ordering the release to the owner of the disputed
 628 reserved proceeds, and awarding costs and reasonable attorney's
 629 fees to the owner to be paid by the broker if, following a
 630 hearing, the court determines that the owner is not a party to a
 631 brokerage agreement that will result in the owner being
 632 obligated to pay the broker the claimed commission or any

633 portion thereof with respect to the disposition of the
 634 commercial real estate identified in the commission notice. If
 635 the court determines that the owner is a party to a brokerage
 636 agreement that will result in the owner being obligated to pay
 637 the broker the claimed commission or any portion thereof with
 638 respect to the disposition of the commercial real estate
 639 identified in the commission notice, the court shall issue an
 640 order so stating, ordering the release to the broker of the
 641 disputed reserved proceeds or such portion thereof to which the
 642 court determines that the broker is entitled, and awarding costs
 643 and reasonable attorney's fees to the broker to be paid by the
 644 owner. Such orders are final judgments.

645 (4) A certified copy of any order issued by the court
 646 pursuant to subsection (3) discharging a recorded commission
 647 notice shall be recorded at the expense of the broker in the
 648 public records where the commission notice was recorded, and
 649 such order shall operate as a cancellation of the recorded
 650 commission notice.

651 (5)(a) In a civil action commenced by the owner or the
 652 broker under this section or in an interpleader action or other
 653 proceeding commenced by the closing agent under s. 475.711, the
 654 owner or the broker that is not the prevailing party shall be
 655 required to pay:

656 1. The costs and reasonable attorney's fees incurred in
 657 the action by the prevailing party.

658 2. The costs and reasonable attorney's fees incurred in
 659 the action by the closing agent.

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660 3. The amount of any costs, recording charges, and service
 661 charges of the clerk of court that were deducted from the
 662 disputed reserved proceeds under s. 475.711(2) in determining
 663 the net amount thereof deposited into the registry of the court.

664 (b) If the court determines that neither the owner nor the
 665 broker is the prevailing party, the amounts set forth in
 666 subparagraphs 1.and 2. of this subsection shall be divided
 667 equally between and paid by the owner and the broker.

668 (6) Proceedings conducted pursuant to this section shall
 669 not affect rights and remedies otherwise available to the owner
 670 or the broker under other applicable law.

671 475.715 Priority of recorded commission notice.--All
 672 statutory liens, consensual liens, mortgages, deeds of trust,
 673 assignments of rents, and other encumbrances, including all
 674 advances or charges made or accruing thereunder, whether
 675 voluntary or obligatory, and all modifications, extensions,
 676 renewals, and replacements thereof, recorded prior to the
 677 recording of a commission notice pursuant to the provisions of
 678 s. 475.707, have priority over the commission notice, and the
 679 amount required to discharge such prior recorded liens shall be
 680 subtracted from gross sales proceeds in computing the owner's
 681 net proceeds unless the buyer permits the same to remain a lien
 682 against the title to the commercial real estate. A prior
 683 recorded lien includes, without limitation, a valid construction
 684 lien claim that is recorded after the recording of the broker's
 685 commission notice but which relates back to a notice of
 686 commencement recorded under s. 713.13 prior to the recording
 687 date of the broker's commission notice.

688 475.717 Service of notice.--Notices to be delivered to a
 689 party pursuant to this part other than service of process as
 690 required in civil actions shall be by service of process, by
 691 registered or certified mail with return receipt requested, or
 692 by personal or electronic delivery and obtaining evidence of
 693 delivery in the form of a receipt or other paper or electronic
 694 acknowledgment by the party to whom the notice is delivered.
 695 Delivery is effective at the time of personal service, personal
 696 or electronic delivery, or 3 days following deposit in the mail
 697 as required by this section. Notice to a broker or owner may be
 698 given to the address of the broker or owner that is contained in
 699 the brokerage agreement or such other address as is contained in
 700 a written notice from the broker or owner to the party giving
 701 the notice. If no address is provided in the brokerage
 702 agreement, the notice to the broker may be given to the broker's
 703 address contained in the commission notice. Notice to a closing
 704 agent shall be addressed to the individual responsible for the
 705 closing if the person sending the notice knows that individual's
 706 name.

707 475.719 Buyer's broker.--As used in this section, the term
 708 "buyer's broker" means a broker that is entitled to receive
 709 payment from the buyer of commercial real estate of any fee or
 710 other compensation for licensed services, as specified in a
 711 written contract made between the buyer and the broker on or
 712 after the effective date of this act relating to the buyer's
 713 purchase of the commercial real estate.

714 (1) A written contract between a buyer and a buyer's
 715 broker for the payment by the buyer of any fee or other

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716 compensation to the buyer's broker for licensed services
717 relating to the sale or disposition of commercial real estate to
718 the buyer is not a brokerage agreement with the owner under this
719 part, and the buyer's broker is not entitled under this part to
720 record any commission notice, to claim any lien against
721 commercial real estate, or to claim any lien against the owner's
722 net proceeds from the sale or disposition of commercial real
723 estate.

724 (2) If an owner enters into a written contract with a
725 buyer for the sale or disposition of any commercial real estate
726 that will entitle the buyer's broker to receive a fee or other
727 compensation from the buyer under the terms of the buyer's
728 broker's written contract with the buyer, the buyer's broker may
729 give notice of the buyer's broker's right to receive such
730 payment to the closing agent, the owner, the buyer, or any other
731 party to the sale or disposition or the financing thereof,
732 provided that such notice may be given without violating any
733 confidentiality provisions contained in either such written
734 contract.

735 (3) No such notice given by the buyer's broker pursuant to
736 subsection (2) shall constitute a tortious interference with the
737 sale or disposition or financing of the commercial real estate,
738 except this section shall not affect the rights and remedies
739 otherwise available to the owner, the buyer, or the buyer's
740 broker under other applicable law.

741 Section 2. Part IV of chapter 475, Florida Statutes,
742 consisting of sections 475.800, 475.801, 475.803, 475.805,
743 475.807, 475.809, 475.811, and 475.813, is created to read:

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744 475.800 Short title.--Sections 475.800-475.813 may be
 745 cited as the "Commercial Real Estate Leasing Commission Lien
 746 Act."

747 475.801 Definitions.--As used in this part:

748 (1) "Automatic renewal commission" means a renewal
 749 commission for which the brokerage agreement does not expressly
 750 require the broker to perform any additional services in order
 751 to receive the renewal commission.

752 (2) "Broker" has the same meaning as in s. 475.01.

753 (3) "Brokerage agreement" means a written contract,
 754 entered into on or after the effective date of this act, between
 755 an owner of commercial real estate and a broker that obligates
 756 the owner to pay a commission to the broker for licensed
 757 services provided by the broker relating to the leasing of the
 758 commercial real estate as specified in the contract.

759 (4) "Commercial real estate" means a fee simple interest
 760 or other possessory estate in real property, except an interest
 761 in real property that is:

762 (a) Improved with one single-family residential unit or
 763 one multifamily structure containing one to four residential
 764 units;

765 (b) Unimproved and the maximum permitted development is
 766 one to four residential units under any restrictive covenants,
 767 zoning regulations, or comprehensive plan applicable to that
 768 real property; or

769 (c) Improved with single-family residential units such as
 770 condominiums, townhouses, timeshares, mobile homes, or houses in
 771 a subdivision that may be legally sold, leased, or otherwise

772 conveyed on a unit-by-unit basis, regardless of whether these
 773 units may be a part of a larger building or parcel containing
 774 more than four residential units.

775 (5) "Commission" means any fee or other compensation that
 776 an owner agrees to pay a broker for licensed services as
 777 specified in a brokerage agreement.

778 (6) "Days" means calendar days, but if a period would end
 779 on a day other than a business day, the last day of that period
 780 shall instead be the next business day.

781 (7) "Lease" means a written agreement creating a
 782 relationship of landlord and tenant with respect to commercial
 783 real estate, such that the tenant acquires from the landlord the
 784 right to possess the commercial real estate for a specified
 785 period of time.

786 (8) "Lien notice" means the written notice of lien made by
 787 a broker claiming a commission under s. 745.805.

788 (9) "Owner" means a person that is vested with fee simple
 789 title or a possessory estate, including a leasehold, in
 790 commercial real estate that is the subject of a lease. For
 791 purposes of this part, the owner obligated to pay a commission
 792 under a brokerage agreement may be a landlord or a tenant.

793 (10) "Real property" means one or more parcels or tracts
 794 of land located in this state, including any appurtenances and
 795 improvements.

796 (11) "Renewal commission" means an additional commission
 797 that may become payable to a broker under a brokerage agreement
 798 if a lease subject to that brokerage agreement is later renewed

799 or is later modified to expand the leased premises or extend the
800 lease term.

801 475.803 Broker's lien for leasing commission.--

802 (1) A broker has a lien upon the owner's interest in
803 commercial real estate for any commission earned by the broker
804 pursuant to a brokerage agreement with respect to a lease of the
805 commercial real estate. If the owner obligated to pay the
806 commission is the landlord, the broker's lien attaches to the
807 landlord's interest in the commercial real estate identified in
808 the brokerage agreement but not to the tenant's leasehold
809 estate. If the owner obligated to pay the commission is the
810 tenant, the broker's lien attaches to the tenant's leasehold
811 estate but not to the landlord's interest in the commercial real
812 estate.

813 (2) For purposes of this part, a commission other than a
814 renewal commission is earned on the earlier of the date that:

815 (a) An event occurs that, under the brokerage agreement,
816 defines when the commission is earned; or

817 (b) The owner enters into a lease of all or part of the
818 commercial real estate specified in the brokerage agreement,
819 provided that a commission would be payable to the broker
820 pursuant to the brokerage agreement for that lease.

821 (3) For the purposes of this part, a renewal commission
822 with respect to a lease renewal or lease modification is deemed
823 earned when the broker performs all additional services relating
824 to the lease renewal or lease modification that are expressly
825 required by the brokerage agreement. If the brokerage agreement
826 does not expressly require the broker to perform any additional

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827 services in order to receive the renewal commission, the renewal
 828 commission is an automatic renewal commission and is deemed
 829 earned when the broker first earned a commission for that lease.

830 (4) For purposes of this part, a commission is payable at
 831 the time provided in the brokerage agreement. If payment of the
 832 commission is conditioned on the occurrence of an event and that
 833 event does not occur, a broker may not enforce a lien for that
 834 commission under this part.

835 (5) A broker's lien for commission arising under this
 836 part:

837 (a) Belongs to the broker named in the brokerage agreement
 838 and not to an employee or independent contractor of the broker.

839 (b) Cannot be assigned voluntarily or by operation of law
 840 and may not be enforced by a person other than the broker.

841 (c) Cannot be waived before the commission is earned.

842 (d) Cannot be waived by any person other than the broker,
 843 regardless of whether that person may execute and bind the
 844 broker to a brokerage agreement.

845 (6) A broker shall disclose to the owner at or before the
 846 time the owner executes the brokerage agreement that this part
 847 creates lien rights for a commission earned by the broker that
 848 are not waivable before the commission is earned by the broker.
 849 A broker may not enforce a lien under this part for a commission
 850 earned under a brokerage agreement for which the disclosure
 851 required by this subsection was not made. A disclosure in
 852 substantially the following form shall be sufficient: "The
 853 Florida Commercial Real Estate Leasing Commission Lien Act
 854 provides that when a broker has earned a commission by

855 performing licensed services under a brokerage agreement with
 856 you, the broker may claim a lien against your interest in the
 857 property for the broker's commission. The broker's lien rights
 858 under the act cannot be waived before the commission is earned."

859 475.805 Contents of lien notice.--

860 (1) A lien notice made by a broker with respect to a
 861 commission claimed under this part shall be in writing, shall be
 862 signed and sworn to or affirmed by the broker under penalty of
 863 perjury before a notary public, and shall include the following:

864 (a) The name of the owner of the commercial real estate
 865 who is obligated to pay the claimed commission.

866 (b) A statement whether the owner obligated to pay the
 867 commission is the landlord or the tenant under the lease for
 868 which the commission is claimed.

869 (c) The name of the person owning the fee simple interest
 870 in the commercial real estate, if other than the owner obligated
 871 to pay the commission.

872 (d) The legal description of the commercial real estate.

873 (e) The name, mailing address, telephone number, and
 874 license number of the broker.

875 (f) The effective date of the brokerage agreement.

876 (g) The amount of the commission claimed by the broker,
 877 which may be stated in a dollar amount or may be stated in the
 878 form of a formula determining the amount, such as a percentage
 879 of the rents payable under the lease.

880 (h) A description of the lease sufficient to identify the
 881 lease for which the commission is claimed, including, if then
 882 known to the broker, the names of the landlord and tenant under

883 the lease, the date of the lease, and the identification of the
 884 leased premises.

885 (i) A statement of whether the broker is claiming an
 886 automatic renewal commission and the amount of such automatic
 887 renewal commission or the formula for computing the same.

888 (j) A statement under penalty of perjury that the broker
 889 has read the lien notice, knows its contents, believes the same
 890 to be true and correct, and makes the commission claim pursuant
 891 to the brokerage agreement described in the lien notice.

892 (2) A lien notice in substantially the following form
 893 shall be sufficient for purposes of subsection (1):

894
 895 BROKER'S COMMISSION LIEN NOTICE UNDER
 896 FLORIDA COMMERCIAL REAL ESTATE LEASING COMMISSION LIEN ACT

897
 898 Notice is hereby given, pursuant to the Florida Commercial Real
 899 Estate Leasing Commission Lien Act, part IV of chapter 475,
 900 Florida Statutes (the "act"), that the undersigned real estate
 901 broker is entitled to receive a leasing commission from the
 902 owner named below pursuant to the terms of a written brokerage
 903 commission agreement regarding a lease of the commercial real
 904 estate described below, and the undersigned broker claims a lien
 905 under the act against the owner's interest in the commercial
 906 real estate in the amount set forth below.

907 1. Name of the owner who is obligated to pay the commission:

908 _____

909 2. (Check one:) The owner obligated to pay the commission is:

910 [] the landlord under the lease.

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911 [] the tenant under the lease.

912 3. Name of the person owing the fee simple interest in the
913 commercial real estate, if other than the owner who is obligated
914 to pay the commission:

915 _____

916 4. Legal description of the commercial real estate:

917 _____

918 5. Name, mailing address, telephone number, and Florida broker
919 license number of the undersigned broker:

920 _____

921 _____

922 _____

923 6. Effective date of the written brokerage commission agreement
924 between the owner and the broker under which the commission is
925 or will be payable: _____, _____

926 7. Amount of commission claimed by the undersigned broker:

927 \$_____, or

928 _____ percent of rents payable under lease, or

929 [specify other formula for determination of commission
930 amount]: _____.

931 8. The lease for which the commission is claimed is described
932 as follows [provide all information known to the broker]:

933 Name of landlord: _____

934 Name of tenant: _____

935 Date of lease: _____, _____

936 Leased premises: _____

937 9. Automatic renewal commissions (check yes or no): Is the
938 undersigned broker claiming a commission that may become payable

Signed: _____(notary public)_____

475.807 Recording lien notice; effectiveness.--

(1)(a) After a commission is earned under this part, the broker may record a lien notice in the public records maintained by the clerk of court in the county or counties in which the commercial real estate is located. The lien notice shall be recorded no later than the earlier of:

1. Ninety days after the tenant takes possession of the leased premises or, in the case of a renewal commission that requires the broker to perform additional services as provided in s. 475.803(3), 90 days after the broker performs the additional services required for the renewal commission; or

2. The date on which the owner who is obligated to pay the commission records in the public records a deed or assignment transferring the owner's interest in the commercial real estate to a bona fide purchaser for value.

(b) A broker who fails to record a lien notice within the time period prescribed by this section may not enforce a lien for the claimed commission under this part, and a lien notice that is recorded outside of the time period prescribed by this section is void.

(2) Within 7 days after recording the lien notice, the broker shall deliver a copy of the lien notice to the owner obligated to pay the claimed commission.

(3) The broker's lien created by this part against the commercial real estate is perfected by such recording of the lien notice and takes priority under this part as of the date of

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995 the recording of the lien notice. The priority of the lien
 996 notice does not relate back to the date of the brokerage
 997 agreement.

998 (4) If the commission is to be paid in installments and
 999 any of those installments are due after the lease is executed,
 1000 the lien notice is valid only to the extent that moneys remain
 1001 unpaid by the owner to the broker.

1002 (5) A recorded lien notice is effective under this part
 1003 only with respect to leases made by the owner named in the lien
 1004 notice and the lien notice is ineffective with respect to any
 1005 leases that are made by:

1006 (a) A bona fide purchaser for value of the commercial real
 1007 estate;

1008 (b) A purchaser at any mortgage foreclosure sale of the
 1009 commercial real estate; or

1010 (c) Any successor owner acquiring the commercial real
 1011 estate from a purchaser described in paragraphs (a) or (b).

1012 (6) Whenever a lien notice is recorded and a condition or
 1013 event occurs or fails to occur that would preclude the broker
 1014 from receiving the claimed commission under the terms of the
 1015 brokerage agreement, including the filing of a lien notice in a
 1016 manner that does not comply with this part, the broker shall,
 1017 within 7 days following demand by the owner, record a written
 1018 release of the lien notice in the public records of the county
 1019 where the lien notice was recorded.

1020 (7) If a broker records a lien notice pursuant to this
 1021 section and the claimed commission is paid or the lien notice is
 1022 otherwise discharged or satisfied pursuant to this part, the

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1023 broker shall, within 7 days after the commission is paid or the
 1024 lien notice is otherwise discharged or satisfied, record a
 1025 written release of the lien notice in the public records of the
 1026 county where the lien notice was recorded.

1027 (8)(a) Except as provided in paragraph (b), a lien notice
 1028 recorded by a broker under this part for a claimed commission
 1029 expires 2 years after the date of recording, unless within that
 1030 time the broker commences an action to foreclose the lien under
 1031 s. 475.809 and records a notice of lis pendens in the public
 1032 records of the county where the lien notice was recorded.

1033 (b) To the extent that a lien notice recorded by a broker
 1034 under this part claims an automatic renewal commission that is
 1035 earned but not then payable, the lien notice expires 10 years
 1036 after the date of recording, unless within that time the broker
 1037 commences an action to foreclose the lien under s. 475.809 and
 1038 records a notice of lis pendens in the public records of the
 1039 county where the lien notice was recorded. If the brokerage
 1040 agreement remains effective, the broker may extend the
 1041 expiration date of a lien notice for an automatic renewal
 1042 commission by recording an extension notice in the same public
 1043 records within the last 6 months before such expiration date. An
 1044 extension notice shall refer to the recording information of the
 1045 original lien notice, shall state that the brokerage agreement
 1046 remains effective, and shall include the same information and be
 1047 executed in the same manner as required by s. 475.805(1) for the
 1048 original lien notice. A timely recorded extension notice shall
 1049 extend the expiration date of the original recorded lien notice
 1050 by 10 additional years. Successive extension notices may be

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1051 recorded for so long as the brokerage agreement remains
 1052 effective between the broker and the owner. Within 10 days after
 1053 recording an extension notice, the broker shall deliver a copy
 1054 thereof to the owner.

1055 (c) The owner or the owner's agent or attorney may elect
 1056 to shorten the time within which the broker shall commence an
 1057 action to foreclose a lien under s. 475.809, or to enforce a
 1058 claim against a transfer bond or other security under s.
 1059 475.811, by recording in the clerk's office a notice of contest
 1060 in substantially the following form:

1061
 1062 NOTICE OF CONTEST OF BROKER'S LIEN

1063
 1064 To: (Name and address of broker) _____

1065 You are notified that the undersigned contests the lien notice
 1066 filed by you on _____, (year) , and recorded in Official
 1067 Records Book _____, Page _____, of the public records of
 1068 _____ County, Florida, and that the time within which
 1069 you may file suit to enforce your lien is limited to 60 days
 1070 from the date of service of this notice. This _____ day of
 1071 _____, (year) .

1072
 1073 Signed: (Owner or Attorney)

1074
 1075 The lien of any broker upon whom such a notice of contest is
 1076 served and who fails to institute a suit to enforce the lien
 1077 within 60 days after service of such notice of contest shall be
 1078 extinguished automatically. The clerk shall mail a copy of the

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1079 notice of contest to the broker at the address shown in the lien
 1080 notice or most recent amendment thereto and shall certify to
 1081 such service on the face of the notice of contest and record the
 1082 notice of contest. Service of the notice of contest by the clerk
 1083 shall be deemed complete upon mailing.

1084 475.809 Foreclosure of lien; civil action by owner; award
 1085 of costs and attorney's fees.--

1086 (1) A broker may enforce a lien for a commission that is
 1087 earned and payable under this part by a foreclosure suit in the
 1088 same manner as if the lien notice were a mortgage recorded
 1089 against the commercial real estate of the owner obligated to pay
 1090 the claimed commission. The foreclosure shall be commenced in
 1091 the county court or circuit court, whichever may have
 1092 jurisdiction of controversies in the amount of the claimed
 1093 commission, of the county where the lien notice was recorded.
 1094 The foreclosure action shall be commenced before the lien notice
 1095 expires or is extinguished under s. 475.807(8), otherwise the
 1096 lien notice shall become null and void and have no further force
 1097 or effect.

1098 (2) If a lien notice is recorded pursuant to s. 475.807
 1099 and the owner disputes the claimed commission, the owner may
 1100 file a civil action seeking to discharge the lien in the county
 1101 court or circuit court, whichever may have jurisdiction of
 1102 controversies in the amount of the claimed commission, of the
 1103 county where the lien notice was recorded.

1104 (3) In any action to foreclose a lien or to discharge a
 1105 lien pursuant to this section, the prevailing party shall be
 1106 awarded costs and reasonable attorney's fees.

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1107 475.811 Transfer of lien to security.--
 1108 (1)(a) Any lien claimed by a broker by recording a lien
 1109 notice under this part may be transferred by any person having
 1110 an interest in the commercial real estate upon which the lien is
 1111 imposed from such commercial real estate to other security by
 1112 either:
 1113 1. Depositing in the clerk's office a sum of money; or
 1114 2. Filing in the clerk's office a bond executed as surety
 1115 by a surety insurer licensed to do business in this state,
 1116 either to be in an amount equal to the amount claimed in the
 1117 lien notice, plus interest thereon at the legal rate for 3
 1118 years, plus \$1,000 or 25 percent of the amount demanded in the
 1119 lien notice, whichever is greater, to apply on any attorney's
 1120 fees and court costs that may be taxed in any proceeding to
 1121 enforce said lien.
 1122 (b) Such deposit or bond shall be conditioned to pay any
 1123 judgment or decree that may be rendered for the satisfaction of
 1124 the lien for which such lien notice was recorded. Upon making
 1125 such deposit or filing such bond, the clerk shall make and
 1126 record a certificate showing the transfer of the lien from the
 1127 commercial real estate to the security and shall mail a copy
 1128 thereof by registered or certified mail to the broker named in
 1129 the lien notice at the address stated therein. Upon filing the
 1130 certificate of transfer the commercial real estate shall
 1131 thereupon be released from the lien claimed and such lien shall
 1132 be transferred to said security. Subject to any order of the
 1133 court increasing the amount required for the lien transfer
 1134 deposit or bond, no other judgment or decree to pay money may be

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1135 entered by the court against the owner on account of the
 1136 commission claimed in the lien notice. The clerk shall be
 1137 entitled to a service charge for making and serving the
 1138 certificate, in the amount of up to \$15. If the transaction
 1139 involves the transfer of multiple liens, an additional charge of
 1140 up to \$7.50 for each additional lien shall be charged. For
 1141 recording the certificate and approving the bond, the clerk
 1142 shall receive her or his usual statutory service charges as
 1143 prescribed in s. 28.24. Any number of liens may be transferred
 1144 to one such security.

1145 (2) Any excess of the security over the aggregate amount
 1146 of any judgments or decrees rendered plus costs actually taxed
 1147 shall be repaid to the party filing the security or her or his
 1148 successor in interest. Any deposit of money shall be considered
 1149 as paid into court and shall be subject to the provisions of law
 1150 relative to payments of money into court and the disposition of
 1151 same.

1152 (3) In any action pending under s. 475.809 to foreclose or
 1153 discharge a lien any party having an interest in such security
 1154 or the commercial real estate from which the lien was
 1155 transferred may at any time and any number of times file a
 1156 motion for an order to require additional security, reduction of
 1157 security, change or substitution of sureties, payment of
 1158 discharge thereof, or any other matter affecting said security.
 1159 If the court finds that the amount of the deposit or bond in
 1160 excess of the amount claimed in the lien notice is insufficient
 1161 to pay the broker's attorney's fees and court costs incurred in

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1162 the action to enforce the lien, the court shall increase the
1163 amount of the cash deposit or lien transfer bond.

1164 (4) If a proceeding to enforce a transferred lien is not
1165 commenced within the time specified in s. 475.809 or if it
1166 appears that the transferred lien has been satisfied of record,
1167 the clerk shall return said security upon request of the person
1168 depositing or filing the same, or the insurer.

1169 475.813 Subordination of lien.--

1170 (1) Nothing contained in this part precludes a broker from
1171 agreeing to subordinate a lien claimed by the broker under this
1172 part in favor of the holder of any mortgage or other lien
1173 against the owner's interest in the commercial real estate that
1174 is subject to the broker's lien.

1175 (2) With or without the consent of the broker, the owner
1176 may subordinate a lien claimed by the broker for an automatic
1177 renewal commission in favor of the holder of a subsequent
1178 mortgage encumbering the owner's interest in the commercial real
1179 estate. The subordination instrument described in this
1180 subsection shall be made in writing and shall be recorded by the
1181 owner in the public records of the same county where the
1182 broker's lien notice was recorded.

1183 (3) A broker's lien notice recorded against commercial
1184 real estate under this part is subordinate to any mortgage that
1185 has at any time secured any purchase money indebtedness,
1186 provided that the mortgage is made by the owner of the
1187 commercial real estate in favor of a person unrelated to the
1188 owner. This subordination provision affects only the relative
1189 priority of the broker's lien notice and the mortgage with

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1190 respect to each other, and this provision does not affect their
 1191 relative priority with respect to any other mortgage, lien,
 1192 encumbrance, or other matter affecting the title to the
 1193 commercial real estate.

1194 Section 3. Paragraph (j) of subsection (1) of section
 1195 475.42, Florida Statutes, is amended to read:

1196 475.42 Violations and penalties.--

1197 (1) VIOLATIONS.--

1198 (j) A broker or sales associate may not place, or cause to
 1199 be placed, upon the public records of any county, any contract,
 1200 assignment, deed, will, mortgage, affidavit, or other writing
 1201 which purports to affect the title of, or encumber, any real
 1202 property if the same is known to her or him to be false, void,
 1203 or not authorized to be placed of record, or not executed in the
 1204 form entitling it to be recorded, or the execution or recording
 1205 whereof has not been authorized by the owner of the property,
 1206 maliciously or for the purpose of collecting a commission, or to
 1207 coerce the payment of money to the broker or sales associate or
 1208 other person, or for any unlawful purpose. However, nothing in
 1209 this paragraph shall be construed to prohibit a broker or a
 1210 sales associate from recording a judgment rendered by a court of
 1211 this state or to prohibit a broker from placing a lien on a
 1212 property where expressly permitted by contractual agreement or
 1213 otherwise allowed by law.

1214 Section 4. This act shall take effect October 1, 2005.