

1                                   A bill to be entitled  
 2           An act relating to real estate; creating s. 475.502,  
 3           F.S.; providing a short title; creating the Florida  
 4           Real Estate Management Corporation; providing for  
 5           purpose, duties, requirements, and administration of  
 6           the corporation; requiring a written contract with the  
 7           Department of Business and Professional Regulation;  
 8           providing contract requirements; prohibiting the  
 9           management corporation from exercising certain  
 10          authority assigned to the board of directors;  
 11          providing that the board, rather than the department,  
 12          receive complaints and investigate and deter the  
 13          unlicensed practice of real estate; authorizing the  
 14          use of specified funds of the Florida Real Estate  
 15          Commission for such activities; providing requirements  
 16          for investigations by the department; providing an  
 17          effective date.

18  
 19 Be It Enacted by the Legislature of the State of Florida:

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 21           Section 1. Section 475.502, Florida Statutes, is created  
 22           to read:

23           475.502 Florida Real Estate Management Corporation.-

24           (1) This section may be cited as the "Florida Real Estate  
 25           Management Corporation Act."

26        (2) The purpose of this section is to create a public-  
27 private partnership by establishing a single nonprofit  
28 corporation to provide investigative services to the commission.  
29 Any additional nonprofit corporations may not be created to  
30 provide these services.

31        (3) The Florida Real Estate Management Corporation is  
32 created to provide investigative services to the commission in  
33 accordance with chapter 455 and this chapter. The management  
34 corporation may hire staff as necessary to carry out its  
35 functions. Such staff are not public employees for the purposes  
36 of chapter 110 or chapter 112, except that the board and staff  
37 are subject to s. 112.061. Section 768.28 applies to the  
38 management corporation, which is deemed to be a corporation  
39 primarily acting as an instrumentality of the state, but which  
40 is not an agency as defined in s. 20.03(11). The management  
41 corporation shall:

42        (a) Be a Florida corporation not for profit incorporated  
43 under chapter 617.

44        (b) Provide investigative services to the commission in  
45 accordance with chapter 455, this chapter, and the contract  
46 required by this section.

47        (c) Receive, hold, and administer property and make only  
48 prudent expenditures directly related to the responsibilities of  
49 the commission in accordance with the contract required by this  
50 section.

51 (d) Be approved by the commission and the department to  
52 operate for the benefit of the commission and in the best  
53 interest of the state.

54 (e) Operate under a fiscal year that begins on July 1 of  
55 each year and ends on June 30 of the following year.

56 (f) Have a seven-member board of directors, five of whom  
57 are to be appointed by the commission and must be registrants  
58 regulated by the commission and two of whom are to be appointed  
59 by the secretary and must be laypersons not regulated by the  
60 commission. Each member shall be appointed to a 4-year term. A  
61 member may not serve more than two consecutive terms. Failure to  
62 attend three consecutive meetings shall be deemed a resignation  
63 from the board, and the vacancy shall be filled by a new  
64 appointment.

65 (g) Select its officers in accordance with its bylaws. The  
66 members of the board who were appointed by the commission may be  
67 removed by the commission.

68 (h) Select its president in accordance with its bylaws,  
69 who shall also serve as executive director of the board, subject  
70 to approval of the commission.

71 (i) Use a portion of the interest derived from its account  
72 to offset the costs associated with the use of credit cards for  
73 payment of fees by applicants or licensees.

74 (j) Operate under a written contract with the department  
75 which is approved by the commission. The contract must provide

76 for, but is not limited to:

77 1. Submission by the management corporation of an annual  
78 budget that complies with commission rules which is approved by  
79 the commission and the department.

80 2. Annual certification by the commission and the  
81 department that the management corporation is complying with the  
82 terms of the contract in a manner consistent with the goals and  
83 purposes of the commission and in the best interest of the  
84 state. Such certification must be reported in the commission's  
85 minutes. The contract must also provide for methods and  
86 mechanisms to resolve any situation in which the certification  
87 process determines noncompliance.

88 3. Funding of the management corporation through  
89 appropriations allocated to the commission and the Professional  
90 Regulation Trust Fund.

91 4. The reversion to the commission, or the state if the  
92 commission ceases to exist, of moneys, records, data, and  
93 property held in trust by the management corporation for the  
94 benefit of the commission, if the management corporation is no  
95 longer approved to operate for the commission or the commission  
96 ceases to exist. All records and data in a computerized database  
97 shall be returned to the department in a form that is compatible  
98 with the computerized database of the department.

99 5. The securing and maintaining by the management  
100 corporation, during the term of the contract and for all acts

101 performed during the term of the contract, of all liability  
102 insurance coverage in an amount to be approved by the commission  
103 to defend, indemnify, and hold harmless the management  
104 corporation and its officers, members, and staff; the department  
105 and its employees; and the state against all claims arising from  
106 state and federal laws. Such insurance coverage must be with  
107 insurers qualified and doing business in the state. The  
108 management corporation must provide proof of insurance to the  
109 department. The department and its employees and the state are  
110 exempt from and are not liable for any sum of money which  
111 represents a deductible, which sums shall be the sole  
112 responsibility of the management corporation. Violation of this  
113 subparagraph shall be grounds for terminating the contract.

114 6. Payment by the management corporation, out of its  
115 allocated budget, to the department of all costs of  
116 representation by the commission counsel, including salary and  
117 benefits, travel, and any other compensation traditionally paid  
118 by the department to other board counsel.

119 7. Payment by the management corporation, out of its  
120 allocated budget, to the department of all costs incurred by the  
121 management corporation or the commission for the Division of  
122 Administrative Hearings of the Department of Management Services  
123 and any other cost for utilization of these state services.

124 8. Payment by the management corporation, out of its  
125 allocated budget, to the department of reasonable costs

126 associated with the contract monitor.

127 (k) Provide for an annual financial audit of its financial  
128 accounts and records by an independent certified public  
129 accountant. The annual financial audit report shall include a  
130 management letter as defined in s. 11.45(1) and a detailed  
131 supplemental schedule of expenditures for each expenditure  
132 category. The annual financial audit report must be submitted to  
133 the board, the department, and the Auditor General for review.

134 (l) Provide for persons not employed by the management  
135 corporation who are charged with the responsibility of receiving  
136 and depositing fee and fine revenues to have a faithful  
137 performance bond in such an amount and according to such terms  
138 as shall be determined in the contract.

139 (m) Submit to the secretary, the commission, and the  
140 Legislature, on or before October 1 of each year, a report on  
141 the status of the management corporation which includes, but is  
142 not limited to, information concerning the property and funds  
143 that have been transferred to the management corporation. The  
144 report must include the number of complaints received,  
145 determined to be legally sufficient, dismissed, or determined to  
146 have probable cause; the number of complaints issued and the  
147 status of such complaints; and the number and nature of  
148 disciplinary actions taken by the board.

149 (n) Develop and submit to the department performance  
150 standards and measurable outcomes for the board to adopt by rule

151 in order to facilitate efficient and cost-effective regulation.

152 (4) The management corporation may not exercise any  
153 authority specifically assigned to the board under chapter 455  
154 or this chapter, including determining probable cause to pursue  
155 disciplinary action against a licensee, taking final action on  
156 license applications or in disciplinary cases, or adopting  
157 administrative rules under chapter 120.

158 (5) Notwithstanding ss. 455.228 and 455.2281, the duties  
159 and authority of the department to receive complaints and to  
160 investigate and deter the unlicensed practice of real estate are  
161 delegated to the board. The board may use funds of the  
162 commission in the unlicensed activity account established under  
163 s. 455.2281 to perform the duties relating to unlicensed  
164 activity.

165 (6) The department shall retain the independent authority  
166 to open or investigate any cases or complaints, as necessary to  
167 protect the public health, safety, or welfare. In addition, the  
168 department shall retain sole authority to issue emergency  
169 suspension, restriction, or limitation of a license orders  
170 pursuant to s. 120.60.

171 Section 2. This act shall take effect July 1, 2020.