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Florida Senate & House of Representatives

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A bill to be entitled
An act relating to real estate brokers,
salesmen, schools, and appraisers, amending s.
475.01, F.S.; providing definitions; amending
s. 475.011, F.S.; providing exemptions from
regulation under ch. 475, F.S.; amending s.
475.02, F.S.; revising qualifications for
membership on the Florida Real Estate
Commission; amending s. 475.04, F.S.; providing
for duties of the commission; amending s.
475.045, F.S.; revising qualifications for
membership on the Foundation Advisory Committee
of the Florida Real Estate Commission Education
and Research Foundation; revising powers and
duties of the committee and the foundation;
amending s. 475.125, F.S.; revising license and
renewal fees; amending s. 475.15, F.S.;
requiring the registration or licensure of only
the general partners in a limited partnership;
amending s. 475.17, F.S.; revising
qualifications for practice as a real estate
broker or salesman; providing qualifications
for nonresident applicants and licensees;
amending s. 475.175, F.S.; providing for
license examinations; amending s. 475.182,
F.S.; providing for license renewal, including
continuing education requirements; providing
for inactive status; amending s. 475.183, F.S.;
revising requirements to renew inactive
licenses; amending s. 475.23, F.S.; requiring a
licensee to notify the commission of a change

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of address; amending s. 475.25, F.S.;
prescribing disciplinary actions and revising
grounds for disciplinary action; amending s.
475.31, F.S.; deleting certain relicensing
limitations; amending s. 475.37, F.S.;
providing for reversal of certain disciplinary
actions; amending s. 475.38, F.S.; deleting
provisions allowing payment by the commission
of certain fees and costs of a defendant;
amending s. 475.42, F.S.; revising a
prohibition and providing an additional
prohibition; providing penalties; amending s.
475.451, F.S.; providing requirements for
certain schools and instructors teaching
courses in real estate practice; amending s.
475.482, F.S.; deleting certain authorized
disbursements from the Real Estate Recovery
Fund; raising the fund levels at which the
imposition of special fees for the fund must be
discontinued and at which they may be reimposed
thereafter; amending s. 475.483, F.S.; revising
conditions for recovery from the fund; deleting
authority of commission to pay attorney's fees
and court costs; amending s. 475.4835, F.S.;
providing for certain actions to be taken by
the commission on behalf of the state; amending
s. 475.484, F.S., revising certain requirements
for payments made from the Real Estate Recovery
Fund; prohibiting the recovery of treble
damages, court costs, attorney's fees, and
interest from the fund; creating s. 475.501,

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F.S.; providing for certification of real
estate appraisers and residential appraisers;
creating the Real Estate Appraisal Subcommittee
of the Florida Real Estate Commission;
providing for membership of the subcommittee;
prescribing its duties; providing for
certification of licensed brokers, broker-
salesmen, and salesmen as appraisers; providing
examination requirements; providing education
and experience requirements; providing for term
of certification; providing for
recertification; limiting certification to
individuals; requiring the display of
certification numbers; providing for fees for
examination, certification, and
recertification; providing continuing education
requirements; providing for disciplinary
actions and grounds therefor; providing
standards for developing certified appraisal
reports and communicating such reports;
providing for interpreting such standards;
requiring the retention of certain documents;
repealing s. 475.1825, F.S., relating to the
inactive status of certain expired
registrations; reviving and readopting ss.
475.001-475.486, F.S.; repealing ss. 475.001-
475.501, F.S., and providing for review of said
sections prior to their repeal; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida.

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Section 1. Subsections (1) and (3) of section 475.01, Florida Statutes, are amended to read:

475.01 Definitions.--

(1) As used in this chapter:

(a) "Commission" means the Florida Real Estate Commission.

(b) "Department" means the Department of Professional Regulation.

(c) "Broker" means a person who, for another, and for a compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises, auctions, sells, exchanges, buys, rents, or offers, attempts or agrees to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises or business opportunities or any real property or any interest in or concerning the same, including mineral rights or leases, or who advertises or holds out to the public by any oral or printed solicitation or representation that he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing, or renting business enterprises or business opportunities or real property of others or interests therein, including mineral rights, or who takes any part in the procuring of sellers, purchasers, lessors, or lessees of business enterprises or business opportunities or the real property of another, or leases, or interest therein, including mineral rights, or who directs or assists in the procuring of prospects or in the negotiation or closing of any transaction which does, or is calculated to, result in a sale, exchange, or leasing thereof, and who receives, expects, or is promised

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any compensation or valuable consideration, directly or indirectly therefor; and all persons who advertise rental property information or lists. The term "broker" also includes any person who is a partner, officer, or director of a partnership or corporation which acts as a broker.

(d) "Salesman" means a person who performs any act specified in the definition of "broker," but who performs such act under the direction, control, or management of another person.

(e) "Broker-salesman" means a person who is qualified to be issued a license as a broker but who operates as a salesman in the employ of another.

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

(g) "Appraisal" or "appraisal services" means the services provided by a state-certified appraiser and includes:

1. "Appraisal assignment" means an engagement for which a licensee is employed or retained to act, or could be perceived by third parties or the public as acting, as an agent or a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.

2. "Analysis assignment" means appraisal services that relate to the employer's or client's individual needs or
investment objectives and includes specialized marketing, financing, and feasibility studies as well as analyses, opinions, and conclusions given in connection with activities such as real estate brokerage, mortgage banking, or real estate counseling.

(h) "Certified appraisal report" means any written or oral analysis, opinion, or conclusion issued by an appraiser certified under s. 475.501, relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real property and includes a report communicating an appraisal analysis, opinion, or conclusion of value, regardless of title.

(i) "State-certified real estate appraiser" means a person who is certified by the commission as qualified to issue certified appraisal reports for all types of real property.

(j) "State-certified residential appraiser" means a person who is certified by the commission as qualified to issue certified appraisal reports for residential real property of one to four dwelling units.

(k) "Subcommittee" means the Real Estate Appraisal Subcommittee of the Florida Real Estate Commission established pursuant to s. 475.501.

(3) Wherever the word "operate" or "operating" as a broker, a broker-salesman, or a salesman, state-certified residential appraiser, or state-certified real estate appraiser appears in this chapter; in any order, rule, or regulation of the commission; in any pleading, indictment, or information under this chapter; in any court action or proceeding; or in any order or judgment of a court, it shall be deemed to mean the commission of one or more acts described...
in subsection paragraph (1) of as constituting or defining a broker, broker-salesman, or salesman, state-certified residential appraiser, or state-certified real estate appraiser, not including, however, any of the exceptions stated therein. A single such act is sufficient to bring a person within the meaning of this chapter, and each act, if prohibited herein, constitutes a separate offense.

Section 2. Section 475.011, Florida Statutes, is amended to read:

475.011 Exemptions.--This chapter does not apply to:

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

(2) Any individual, corporation, partnership, trust, joint venture, or other entity which sells, exchanges, or leases its own real property; however, this exemption is not be available if and to the extent that an agent, employee of the owner only if such employee is or independent contractor paid only by salary a commission or other compensation strictly on a transactional basis is employed to make sales exchanges or leases to or with customers in the ordinary course of an owner's business of selling, exchanging or leasing real property to the public; an employee who

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receives a bonus or other transactional payment must be licensed;

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

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

(5) Any person employed for a salary as a manager of a condominium or cooperative apartment building as a result of any activities or duties which he may have in relation to the renting of individual units within such condominium or cooperative apartment complex if such manager is acting on behalf of a tenant-owning or having an interest in no more than one unit within the condominium or cooperative apartment and if rentals arranged by him are for periods no greater than 1 year; an employee who receives a bonus or other transactional payment must be licensed; or

(6) Any person, partnership, corporation, or other legal entity which, for another and for compensation or other valuable consideration, sells, offers to sell, advertises for sale, buys, offers to buy, or negotiates the sale or purchase of radio, television, or cable enterprises licensed and regulated by the Federal Communications Commission pursuant to the Communications Act of 1934. However, if the sale or

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purchase of the radio, television, or cable enterprise 
involve the sale or lease of land, buildings, fixtures, and 
all other improvements to the land, a broker or salesman 
licensed under this chapter shall be retained for the portion 
of the transaction which includes the land, buildings, 
fixtures, and all other improvements to the land; or 

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

Section 3. Subsection (1) of section 475.02, Florida 
Statutes, is amended to read:

475.02 Florida Real Estate Commission.--

(1) There is created within the Department of 
Professional Regulation the Florida Real Estate Commission.
The commission shall consist of seven members. Four members 
must be licensed brokers, each of whom has held an active 
license for the 5 years preceding appointment; one member must 
be a licensed broker or a licensed salesman who has held an 
active license for the 2 years preceding appointment; and two 
members must be lay persons who are not, and have never been, 
brokers or salesmen or members of any closely-related 
profession or occupation. At least one member of the 
commission must be 60 years of age or older.

Section 4. Subsection (2) of section 475.04, Florida 
Statutes, is amended to read.

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

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(2) For the purpose of performing its duty under subsection (1) to educate licensees registrants, the commission may conduct, offer, sponsor, prescribe, or approve real estate educational courses for all persons licensed by the department as brokers, broker-salesmen, salesmen, or instructors; and the cost and expense of such courses shall be paid as provided in s. 475.125 for other expenses of the commission by s. 475.12.

Section 5. Paragraphs (a) and (c) of subsection (2), paragraph (b) of subsection (4), paragraph (b) of subsection (5), and subsections (7) and (9) of section 475.045, Florida Statutes, are amended to read:

475.045 Florida Real Estate Commission Education and Research Foundation; Foundation Advisory Committee.--

(2)(a) There is created the Foundation Advisory Committee which is composed of nine persons appointed by the Governor without regard to race, creed, sex, religion, or national origin of the appointee, with the following representation:

1. Six active real estate licensees, one of whom may be a real estate salesman. All licensees shall have been active real estate licensees for at least the past 5 years.

2. Three members shall be representatives of the general public and those appointed after October 1, 1988, shall possess qualifications in the fields of education, research, or consumer affairs which relate to the committee's education and research activities. Members representative of the general public shall not be licensed real estate brokers or salesmen and shall not have a financial interest, other than as consumers, in the practice of a licensed real estate broker or salesman.

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(c)1. Except for the initial appointees, members of the advisory committee shall hold office for staggered terms of 4 years, with the terms of three members expiring on January 31 of each odd-numbered year. In making the initial appointments, the Governor shall designate three members, including two representatives of the general public, for terms expiring in 1986, three members for terms expiring in 1987, and three members for terms expiring in 1988.

2. Any vacancy shall be filled by appointment for the unexpired portion of the term. Each member shall serve until his successor is qualified.

3. Each member of the advisory committee is entitled to per diem and travel expenses as set by legislative appropriation for each day that the member engages in the business of the advisory committee.

(b) The first meeting of the advisory committee shall be called by the chairman of the Florida Real Estate Commission or his designated representative. The committee shall meet not less than semiannually and, in addition, on call of its chairman or on petition of any six of its members.

(b) The advisory committee shall select the education or research proposals that shall be funded and shall give priority to projects with the greatest potential for direct or indirect benefit to the public.

(7) The advisory committee shall have the power and authority to adopt all rules necessary to administer this section provision.
(9) Neither the foundation nor the committee shall expend any funds for the purpose of employing staff or other employment-assistance.

Section 6. Section 475.125, Florida Statutes, is amended to read:

475.125 Fees.—

(1) The commission by rule may establish fees to be paid for applications, examination, reexamination, licensing and renewal, reinstatement, and recordmaking and recordkeeping. The fee for initial application and examination may not exceed $100. The initial license fee and the license biennial renewal fee may not exceed $50 for each year of the duration of the active license $189. The commission may also establish by rule a late renewal penalty. The commission shall establish fees which are adequate to ensure its continued operation. Fees shall be based on estimates made by the department of the revenue required to implement this chapter and other provisions of law relating to the regulation of real estate practitioners.

(2) The application and license fees shall be refunded upon a determination by the commission that the state is not entitled to the fees or that only a portion of the resources have been expended in the processing of the application, or if for any other reason the application is not completely processed. The commission shall implement this provision by rule.

Section 7. Section 475.15, Florida Statutes, is amended to read:

475.15 Registration and licensing of licenses of general partners, members, officers, and directors of a firm.—Each partnership or corporation which acts as a broker

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shall register with the commission and shall renew the
licenses or registrations of its members, officers, and
directors for each license period. The registration of such a
partnership is shall-be canceled automatically during any
period of time that the license or registration of any of its
partners is not in force. However, if the partnership is a
limited partnership, only the general partners must be
licensed brokers or brokerage corporations registered pursuant
to this chapter. If the license or registration of at least
one active broker member is not in force, the registration of
such a corporation or partnership is shall-be canceled
automatically during that period of time.

Section 8. Section 475.17, Florida Statutes, is
amended to read:

475.17 Qualifications for practice.--

(l)(a) An applicant for licensure who is a natural
person must shall be at least 18 years of age; hold a high
school diploma or its equivalent; be a bona-fide-resident-of
the-state, honest, truthful, trustworthy, and of good
character and shall have a good reputation for fair dealing.
An applicant for an active broker's license or a salesman's
license must shall be competent and qualified to make real
cade transactions and conduct negotiations therefor with
safety to investors and to those with whom he may undertake a
relationship of trust and confidence. If the applicant has
been denied registration or a license or has been disbarred,
or his registration or license to practice or conduct any
regulated profession, business, or vocation has been revoked
or suspended, by this or any other state, any nation, or any
possession or district of the United States, or any court or
lawful agency thereof, because of any conduct or practices

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which would have warranted a like result under this chapter,
or if the applicant has been guilty of conduct or practices in
this state or elsewhere which would have been grounds for
revoking or suspending his license under this chapter had the
applicant then been registered, the applicant shall be deemed
not to be qualified unless, because of lapse of time and
subsequent good conduct and reputation, or other reason deemed
sufficient, it appears to the commission that the interest of
the public and investors will not likely be endangered by the
granting of registration.

(b) An application may be disapproved if
the applicant has acted or attempted to act, or has held
himself out as entitled to act, during the period of 1 year
next prior to the filing of the application, as a real estate
broker or salesman in the state in violation of this chapter.
This paragraph shall be deemed to bar any person from
licensure who has performed any of the acts or services
described in s. 475.01(3), unless exempt pursuant to s.
475.011, during a period of 1 year next preceding the filing
of the application, or during the pendency of the application,
and until a valid current license has been duly issued to him,
regardless of whether the performance of the act or service
was done for compensation or valuable consideration.

(2)(a) In addition to other requirements under this
chapter, the commission may require the satisfactory
completion of one or more of the educational courses or
equivalent courses conducted, offered, sponsored, prescribed,
or approved pursuant to s. 475.04, taken at an accredited
college, university, or community college, at a county
vocational center, or at a registered real estate school, as a
condition precedent for any person to become licensed or to

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renew his license as a broker, broker-salesman, or salesman. The course or courses required for one to become initially licensed shall not exceed a total of 63 classroom hours of 50 minutes each, inclusive of examination, for a salesman and 72 classroom hours of 50 minutes each, inclusive of examination, for a broker. No person may be licensed as a real estate broker unless, in addition to the other requirements of law, he has held an active real estate salesman's license in the office of one or more licensed real estate brokers for at least 12 months during the preceding 5 years. The satisfactory completion of an examination administered by the accredited college, university, or community college, by the county vocational center, or by the registered real estate school shall be the basis for determining satisfactory completion of the course. However, notice of satisfactory completion shall not be issued if the student has absences in excess of 8 classroom hours. When such requirement is made, provisions shall be made to make such required course or courses available by correspondence or other suitable means to any person who, by reason of hardship, cannot attend the place or places where the course is regularly conducted.

(b) A person may not be licensed as a real estate broker unless, in addition to the other requirements of law, he has held an active real estate salesman's license in the office of one or more licensed real estate brokers for at least 12 months during the preceding 5 years.

(3) (a) If an applicant is not a resident of this state, he shall file an irrevocable consent that suits and actions may be commenced against him in any county of this state in which a plaintiff having a cause of action, or suit
against him resides, and that service of any process or pleading in suits or actions against him may be made by delivering the same to the director of the Division of Real Estate and mailing a copy thereof to the applicant by registered mail addressed to him at his designated principal place of business. Service, when so made, must be taken and held in all courts to be as valid and binding upon the applicant as if made upon him in this state within the jurisdiction of the court in which the suit or action is filed. The irrevocable consent must be in a form prescribed by the department and be acknowledged by a notary public.

(b) Any resident licensee who becomes a nonresident shall, within 60 days, notify the commission of the change in residency and comply with nonresident requirements. Failure to notify and comply is a violation of the license law subject to the penalties of s. 475.25.

(c) All nonresident applicants and licensees shall comply with all requirements of commission rules and of this chapter. The commission may adopt rules necessary for the regulation of nonresident licensees.

3. All individuals engaged in the activity of dealing in business enterprises or business opportunities for another and for valuable consideration on January 1, 1982, may continue to operate in this activity without complying with the qualification for practice provisions of subsection (2) and s. 475.175 for a period of 2 years. During this 2-year period, all such individuals shall either qualify as real estate brokers under the provisions of this chapter or satisfy the requirements of a commission-approved course of instruction and pass an examination prescribed by the commission. The total classroom hours of instruction in the
commission-approved-course-or-courses-of-instruction-shall-not
exceed-the-combined-total-for-broker-applicants-and-salesman
applicants-contained-in-subsection-t2+--After-this-2-year
period,full-compliance-with-this-chapter-is-mandatory.

Section 9. Subsection (1) of section 475.175, Florida
Statutes, is amended to read:

475.175 Examinations.--

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

(a) Submits to the department the appropriate
notarized application and fee and, if required by the
department, fingerprints for processing through appropriate
law enforcement agencies; and

(b) Submits at the time of examination the certificate
specified in subsection (2), the examination admissions card
issued by the commission, and proof of identification.

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

475.182 Renewal of license; continuing education.--

(1) The department shall renew a license upon receipt
of the renewal application and fee. The renewal application
for an active license as broker, broker-salesman, or salesman
shall include proof satisfactory to the commission that the
licensee has, since the issuance or renewal of his current
license, satisfactorily completed at least 7 1/4 classroom
hours of 50 minutes each of a continuing education course for
every year of the license period, as prescribed by the
commission. The commission shall accept as a substitute for
such continuing education course, on a classroom-hour-for-
classroom-hour basis, any satisfactorily completed education
course offered by the Realtors National Marketing Institute,

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the American Institute of Real Estate Appraisers of the National Association of Realtors, the Society of Real Estate Appraisers, Inc., the Florida Association of Realtors, or any accredited university within this state; however, pursuant to a hearing under chapter 120, the commission may refuse to substitute any such course which, in the opinion of the commission, fails to adequately educate the person taking the course within the intent of this section. This section shall not serve to exclude those courses which have previously been approved as substitutes, nor is it intended to restrict societies or institutions which may seek approval of their courses pursuant to hearings under chapter 120. The commission may accept as a substitute for such continuing education course, on a classroom-hour-for-classroom-hour basis, any satisfactorily completed education course that the commission, following a hearing under chapter 120, finds is adequate to educate licensees within the intent of this section.

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

(3) Any license which is not renewed at the end of the license period prescribed by the department shall automatically revert to inactive status. Such license may subsequently be renewed reactivated only if the licensee meets the other qualifications specified for reactivation in s. 475.183.

(4) Sixty days prior to the end of the license period bennium and automatic reversion of a license to inactive status, the department shall mail a notice of renewal and

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possible reversion to the last known address of the licensee.

Section 11. Section 475.183, Florida Statutes, is amended to read:

475.183 Inactive status.--

(1) A license which has become inactive may be renewed reactivated pursuant to s. 475.182 upon application to the department. The commission shall prescribe by rule continuing education requirements, not to exceed 12 classroom hours for each year the license was inactive, as a condition of renewing an inactive reactivating a license. The continuing-education requirements-for-reactivating-a-license-shall-not-exceed-12 classroom-hours-for-each-year-the-license-was-inactive. The commission shall substitute for such continuing education requirements, on a classroom-hour-for-classroom-hour basis, any satisfactorily completed education course approved in the manner specified in s. 475.182(1). A person whose license is inactive and who renews his license may elect to continue his inactive status.

(2) Any such license which has been inactive for more than 4 years shall automatically expire if the licensee has not made application for renewal of such license. Once a license expires, it becomes null and void without any further action by the commission board or department. One year prior to expiration of the license, the department shall give notice to the licensee.

(3) The commission board shall adopt promulgate rules relating to licenses which have become inactive and for the renewal of inactive licenses. The commission board shall prescribe by rule a fee not to exceed $50 for the late renewal of a reactivation-of-an-inactive license and a fee not to exceed $50 for the renewal of an inactive license.

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Section 12. Section 475.23, Florida Statutes, is amended to read:

475.23 License to expire on change of address.--A license shall cease to be in force whenever a broker changes his business address, a real estate school operating under a permit issued pursuant to s. 475.451 changes its business address, or a salesman working for a broker or an instructor working for a real estate school changes employer. The licensee shall notify the commission of the change no later than 10 days after the change, on a form provided by the commission, in each such case, the old license or permit shall be surrendered or accounted for and a replacement shall be issued upon request therefore on a form provided by the commission; the fee for the issuance of the replacement license shall be in an amount prescribed by the commission, not to exceed $10.

Section 13. Subsection (1) of section 475.25, Florida Statutes, is amended to read:

475.25 Discipline.--

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

(a) Has violated any provision of s. 475.42 or of s. 455.227(1).

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(b) Has been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme, or device, culpable negligence, or breach of trust in any business transaction in this state or any other state, nation, or territory; has violated a duty imposed upon him by law or by the terms of a listing contract, written, oral, express, or implied, in a real estate transaction; has aided, assisted, or conspired with any other person engaged in any such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in any such misconduct and committed an overt act in furtherance of such intent, design, or scheme. It is immaterial to the guilt of the licensee that the victim or intended victim of the misconduct has sustained no damage or loss; that the damage or loss has been settled and paid after discovery of the misconduct; or that such victim or intended victim was a customer or a person in confidential relation with the licensee or was an identified member of the general public.

(c) Has advertised property or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(d) Has failed to account or deliver to any person, including a licensee under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft, abstract of title, mortgage, conveyance, lease, or other document or thing of value, including a share of a real estate commission, or any secret or illegal profit, or any divisible share or portion thereof,

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which has come into his hands and which is not his property or
which he is not in law or equity entitled to retain under the
circumstances. However, if the licensee, in good faith,
entertains doubt as to what person is entitled to the
accounting and delivery of the escrowed property, or if
conflicting demands have been made upon him for the escrowed
property, which property he still maintains in his escrow or
trust account, the licensee shall promptly notify the
commission of such doubts or conflicting demands and shall
promptly:
1. Request that the commission issue an escrow
disbursement order determining who is entitled to the escrowed
property;
2. With the consent of all parties, submit the
matter to arbitration; or
3. By interpleader or otherwise, seek adjudication
of the matter by a court.

If the licensee promptly employs one of the escape procedures
contained herein, and if he abides by the order or judgment
resulting therefrom, no administrative complaint may be filed
against the licensee for failure to account for, deliver, or
maintain the escrowed property.

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

(f) Has been convicted or found guilty, regardless of
adjudication, of a crime in any jurisdiction which directly
relates to the activities of a licensed broker, a salesman,
or real estate appraiser certified under this chapter, or
involves moral turpitude or fraudulent or dishonest dealing.

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Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

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

(h) Has shared a commission with, or paid a fee or other compensation to, a person not properly licensed as a broker, broker-salesman, or salesman under the laws of this state, for the referral of real estate business, clients, prospects, or customers, or for any one or more of the services set forth in s. 475.01(1)(c). For the purposes of this section, it is immaterial that the person to whom such payment or compensation is given made the referral or performed the service from within this state or elsewhere; however, a licensed broker of this state may pay a referral fee or share a real estate brokerage commission with a broker licensed or registered under the laws of a foreign state so long as the foreign broker does not violate any law of this state.

(i) Has become temporarily incapacitated from acting as a broker or salesman with safety to investors or those in a fiduciary relation with him because of drunkenness, use of drugs, or temporary mental derangement; but suspension of a license in such a case shall be only for the period of such incapacity.

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

(k) Has failed, if a broker, to immediately place,
on receipt, any money, fund, deposit, check, or draft
entrusted to him by any person dealing with him as a broker in
escrow with a title company, banking institution, credit
union, or savings and loan association located and doing
business in this state, or to deposit such funds in a trust or
escrow account maintained by him with some bank, credit union,
or savings and loan association located and doing business in
this state, wherein the funds shall be kept until disbursement
thereof is properly authorized; or has failed, if a salesman,
to immediately place with his registered employer any money,
fund, deposit, check, or draft entrusted to him by any person
dealing with him as agent of his registered employer. The
commission shall establish rules to provide for records to be
maintained by the broker and the manner in which such deposits
shall be made.

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

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

(n) Is confined in any county jail or state or federal
prison or mental institution or, through mental disease or
deterioration, can no longer safely be entrusted to deal with
the public or in a confidential capacity.

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

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

(q) Has failed to give written notice to a party to a
sale, exchange, purchase, or lease of real property or any
interest in real property, before such party has signed any
contract related to the transaction, that he is representing
another party in the negotiation of such sale, exchange,
purchase, or lease.

Section 14. Subsection (1) of section 475.31, Florida
Statutes, is amended to read:

475.31 Final orders.--

(1) An order revoking or suspending the license of a
broker shall automatically cancel the licenses of all salesmen
registered with the broker, and, if a partnership or
corporation, of all members, officers, and directors thereof,
while the license of the broker is inoperative or until new
employment or connection is secured and a new license is
issued to the member, officer, director, or salesman; but the
right to transfer or have a license issued or reissued shall
not extend beyond a period of 6 months after the termination
of the license year in which the order became effective.
Section 15. Section 475.37, Florida Statutes, is amended to read:

475.37 Effect of reversal of order of court or commission.—If the order of the court or commission denying, revoking, or suspending a license or taking any disciplinary action against a licensee is finally reversed and set aside, the defendant shall be restored to his rights and privileges as a broker or salesman as of the date of filing the mandate or a copy thereof with the commission. The matters and things alleged in the information shall not thereafter be reexamined in any other proceeding concerning the licensure of the defendant. If the inquiry concerned was in reference to an application for licensure, the application shall stand approved, and such application shall be remanded for further proceedings according to law.

Section 16. Section 475.38, Florida Statutes, is amended to read:

475.38 Payment of costs.—The commission shall not be required to advance any fees or costs to any officer or witness, or to execute any bond in any proceeding in the courts, any general statute to the contrary notwithstanding, but in every case in which the commission is liable for any fees or costs, a voucher therefor shall be presented to the commission and, if approved, audited and paid as are other expenses of the commission. The commission may if it is satisfied that a defendant is unable to pay or advance any fees or costs and that the service from which such fees or costs have accrued or will accrue is probably necessary in the interests of justice upon application by the defendant, order that such fees or costs be incurred at the expense of the commission and be paid as are other fees and costs, but the

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Section 17. Section 475.42, Florida Statutes, is amended to read:

475.42 Violations and penalties.--

(l) VIOLATIONS.--

(a) No person shall operate as a broker or salesman without being the holder of a valid and current license therefor.

(b) No person licensed as a salesman shall operate as a broker or operate as a salesman for any person not registered as his employer.

(c) No broker shall employ, or continue in employment, any person as a salesman who is not the holder of a valid and current license as salesman; but a license as salesman may be issued to a person licensed as an active broker, upon request and surrender of the license as broker, without a fee in addition to that paid for the issuance of the broker's active license.

(d) No salesman shall collect any money in connection with any real estate brokerage transaction, whether as a commission, deposit, payment, rental, or otherwise, except in the name of the employer and with the express consent of the employer; and no real estate salesman, whether the holder of a valid and current license or not, shall commence or maintain any action for a commission or compensation in connection with a real estate brokerage transaction against any person except a person registered as his employer at the time the salesman performed the act or rendered the service for which the commission or compensation is due.

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(e) No person shall violate any lawful order or rule of the commission which is binding upon him.

(f) No person shall commit any conduct or practice set forth in s. 475.25(1)(b), (c), (d), or (h).

(g) No person shall make any false affidavit or affirmation intended for use as evidence by or before the commission or a member thereof, or by any of its authorized representatives, nor shall any person give false testimony under oath or affirmation to or before the commission or any member thereof in any proceeding authorized by this chapter.

(h) No person shall fail or refuse to appear at the time and place designated in a subpoena issued with respect to a violation of this chapter, unless because of facts that are sufficient to excuse appearance in response to a subpoena from the circuit court; nor shall a person who is present before the commission or a member thereof or one of its authorized representatives acting under authority of this chapter refuse to be sworn or to affirm or fail or refuse to answer fully any question propounded by the commission, the member, or such representative, or by any person by the authority of such officer or appointee; nor shall any person, so being present, conduct himself in a disorderly, disrespectful, or contumacious manner.

(1) No person shall obstruct or hinder in any manner the enforcement of this chapter or the performance of any lawful duty by any person acting under the authority of this chapter or interfere with, intimidate, or offer any bribe to any member of the commission or any of its employees or any person who is, or is expected to be, a witness in any investigation or proceeding relating to a violation of this chapter.

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(j) No broker or salesman shall place, or cause to be placed, upon the public records of any county, any contract, assignment, deed, will, mortgage, lien, affidavit, or other writing which purports to affect the title of, or encumber, any real property if the same is known to him to be false, void, or not authorized to be placed of record, or not executed in the form entitling it to be recorded, or the execution or recording whereof has not been authorized by the owner of the property, maliciously or for the purpose of collecting a commission, or to coerce the payment of money to the broker or salesman or other person, or for any unlawful purpose. However, nothing in this paragraph shall be construed to prohibit a broker or a salesman from recording a judgment rendered by a court of this state.

(k) No person shall operate as a broker under a trade name without causing the trade name same to be noted in the records of the commission and placed on his license or so operate as a member of a partnership or as a corporation or as an officer or manager thereof, unless such partnership or corporation is the holder of a valid current registration.

(l) No person shall knowingly conceal any information relating to violations of this chapter.

(m) A person may not certify an appraisal of real property unless he is a certified real estate appraiser pursuant to s. 475.501.

(2) PENALTIES.—Any person who violates any of the provisions of subsection (1) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or, if a corporation, it is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083, except when a different punishment is prescribed.

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Nothing in this chapter shall prohibit the prosecution under any other criminal statute of this state of any person for an act or conduct prohibited by this section; however, in such cases, the state may prosecute under this section or under such other statute, or may charge both offenses in one prosecution, but the sentence imposed shall not be a greater fine or longer sentence than that prescribed for the offense which carries the more severe penalties. A civil case, criminal case, or a denial, revocation, or suspension proceeding may arise out of the same alleged state of facts, and the pendency or result of one such case or proceeding shall not stay or control the result of either of the others.

Section 18. Subsections (1) and (2) of section 475.451, Florida Statutes, are amended to read:

475.451 Schools teaching real estate practice.--

(1) Each person, school, or institution, except approved and accredited colleges, or universities, community colleges, and county vocational centers in this state, which offers or conducts any course of study in real estate practice, teaches any course prescribed by the commission as a condition precedent to licensure or renewal of licensure as a broker or salesman, or teaches any course designed or represented to enable or assist applicants for licensure as brokers or salesmen to pass examinations for such licensure conducted by the department shall, before commencing or continuing further to offer or conduct such course or courses, obtain a permit from the department and abide by the regulations imposed upon such person, school, or institution by this chapter and rules of the commission adopted pursuant to this chapter. The exemption for colleges, universities,
and community colleges is limited to transferable college credit courses offered by such institutions.

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

(a) "School permitholder" is defined as that individual who is responsible for directing the overall operation of a proprietary real estate school. He must be the holder of a license as a broker, either active or inactive, or must have passed the instructor's examination administered by the department. A school permitholder must also meet the requirements of a school instructor if he is actively engaged in teaching.

(b) "School Chief administrative person" is defined as that individual who is responsible for the administration of the overall policies and practices of the institution or proprietary real estate school. He must also meet the requirements of a school instructor if he is actively engaged in teaching.

(c) "School instructor" is defined as that individual who actively instructs in the classroom. He shall before commencing to instruct noncredit college courses in a college, university, or community college, or courses in a county vocational center or proprietary real estate school, he must certify his competency by meeting one of the following requirements:

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

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

c. Pass passing an instructor's written examination administered by the Division of Real Estate department.

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

3. Every second year, each instructor must shall recertify his competency by presenting to the commission evidence of his having successfully completed completing a minimum of 15 classroom hours of instruction in real estate subjects or instructional techniques, as prescribed by the commission.

The department may require an applicant to submit names of persons having knowledge concerning the applicant and the enterprise; may propound interrogatories to such persons and to the applicant concerning the character of the applicant, including the taking of fingerprints for processing through the Federal Bureau of Investigation; and shall make such investigation of him or the school or institution as it may deem necessary to the granting of the permit. If an objection is filed, it shall be considered in the same manner as objections or administrative complaints against other applicants for licensure by the department.
Section 19. Section 475.482, Florida Statutes, is amended to read:

475.482 Real Estate Recovery Fund.—There is created the Florida Real Estate Recovery Fund as a separate account in the Professional Regulation Trust Fund.

(1) The Florida Real Estate Recovery Fund shall be disbursed as provided in s. 475.484, on order of the commission, as reimbursement to any person or corporation adjudged by a court of competent jurisdiction to have suffered monetary damages by reason of any of the following acts committed as a part of any real estate brokerage transaction involving real property in this state by any broker or salesman who was licensed under the provisions of this chapter at the time the alleged act was committed:

(a) Any violation of the provisions of this chapter;

or

(b) Obtaining money or property by fraud, misrepresentation, deceit, false pretenses, artifice, or trickery or by any other act which would constitute a violation proscribed in s. 475.25.

(2) The Real Estate Recovery Fund shall also be disbursed as provided in s. 475.484, on order of the commission, as reimbursement to any broker or salesman who is required by a court of competent jurisdiction to pay money damages due to a distribution of escrow money which is made in compliance with an escrow disbursement order issued by the commission.

(3) A fee of $3.50 per year shall be added to the license fee for both new licenses and renewals of licenses for brokers, and a fee of $1.50 per year shall be added for new licenses and renewals of licenses for salesmen. This fee

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shall be in addition to the regular license fee and shall be deposited in or transferred to the Real Estate Recovery Fund. If the fund at any time exceeds $750,000, collection of special fees for this fund shall be discontinued at the end of the 2-year licensing renewal cycle. Such special fees shall not be reimposed unless the fund is reduced below $500,000 by disbursement made in accordance with this chapter.

Section 20. Section 475.483, Florida Statutes, is amended to read:

475.483 Conditions for recovery; eligibility.--

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

(a) Such person has received final judgment in a court of competent jurisdiction in this state in any action wherein the cause of action was based on a real estate brokerage transaction or any violation proscribed in s. 475.25;

(b) At the time the action was commenced, such person gave notice thereof to the commission by certified mail; except that, if no notice has been given to the commission, the claim can still be honored if, in the opinion of the commission, the claim is otherwise valid;

(c) The act for which recovery is sought occurred on or after July 1, 1976, and not more than 2 years prior to making such claim;

(d)1. Such person has caused to be issued a writ of execution upon such judgment, and the officer executing the writ has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment can be found or that the amount realized on the sale of the judgment debtor's property

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pursuant to such execution was insufficient to satisfy the judgment; or

2. If such person is unable to comply with subparagraph 1. for a valid reason to be determined by the commission, such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets subject to being sold or applied in satisfaction of the judgment and by his search he has discovered no property or assets or he has discovered property and assets and has taken all necessary action and proceedings for the application thereof to the judgment but the amount thereby realized was insufficient to satisfy the judgment,

(e) Any amounts recovered by such person from the judgment debtor, or from any other source, have been applied to the damages awarded by the court; and

(f) Such person is not a person who is precluded by this act from making a claim for recovery.

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

(a) He is the spouse of the judgment debtor or a personal representative of such spouse,

(b) He is a licensed broker or salesman who acted as principal or agent in the transaction which is the subject of the claim; or

(c) Such person's claim is based upon a real estate transaction in which the licensed broker or salesman was acting en-his-behalf with respect to the property owned or controlled by the broker or salesman him.

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The commission may pay attorney's fees and court costs if the claim is of the type described in s. 475.482(2).

Section 21. Section 475.4835, Florida Statutes, is amended to read:

475.4835 Commission powers upon notification of commencement of action.--When the commission receives certified notice of any action, as required by s. 475.483(1)(b), the commission may intervene, enter an appearance, file an answer, defend the action, or take any action it deems appropriate on behalf of the defendant and take recourse through any appropriate method of review on behalf of the State of Florida.

Section 22. Subsections (1) and (7) of section 475.484, Florida Statutes, are amended to read:

475.484 Payment from the fund.--

(1) Any person who meets all of the conditions prescribed in s. 475.482(1) or (2) may apply to the commission to cause payment to be made to such person from the Real Estate Recovery Fund in an amount equal to the unsatisfied portion of such person's judgment or $25,000, whichever is less, but only to the extent and amount reflected in the judgment as being actual or compensatory damages.

Treble damages, court costs, attorney's fees, and interest may not be recovered from the fund.

(7) Upon the payment of any amount from the Real Estate Recovery Fund in settlement of a claim in satisfaction...
of a judgment against a broker or salesman as described in section 475.402(1), the license of such broker or salesman shall be automatically revoked. No further administrative action is necessary. A discharge of bankruptcy does not relieve a person from the penalties and disabilities provided in this section.

Section 23. Section 475.501, Florida Statutes, is created to read:

475.501 State-certified appraisers.--

(1) CERTIFICATION REQUIRED.--

(a) A person may not use the title "state-certified residential appraiser" or "state-certified real estate appraiser," or any abbreviation or words to that effect, or issue a certified appraisal report unless such person is certified by the commission pursuant to this section.

(b) This section does not preclude a broker, salesman, or broker-salesman who is not a state-certified residential appraiser or state-certified real estate appraiser from appraising real estate for compensation.

(2) REAL ESTATE APPRAISAL SUBCOMMITTEE.--

(a) There is created the Real Estate Appraisal Subcommittee of the Florida Real Estate Commission, which shall consist of seven members appointed by the Governor. Five members of the subcommittee must be active appraisers who have been engaged in the general practice of appraising real property in this state for at least 5 years immediately preceding appointment. Two members of the subcommittee must represent organizations that use appraisals for the purpose of eminent domain proceedings, financial transactions, or mortgage insurance. The commission shall recommend appraiser members to the Governor not later than November 1, 1988.
Governor shall appoint members to the subcommittee not later than December 31, 1988. After December 31, 1989, one of the members must be a state-certified residential appraiser and four of the members must be state-certified real estate appraisers who are engaged in the practice of real estate appraising.

1. Initially, four members of the subcommittee shall be appointed for 2-year terms, and three members shall be appointed for 3-year terms. Thereafter, all members shall be appointed for 3-year terms. Any vacancy occurring in the membership of the subcommittee shall be filled by appointment by the Governor for the unexpired term. Upon expiration of his term, a member of the subcommittee shall continue to hold office until the appointment and qualification of his successor. A member may not be appointed for more than two consecutive terms. The Governor may remove any member for cause.

2. The director of the Division of Real Estate of the Department of Professional Regulation shall serve as executive director of the subcommittee.

3. The subcommittee shall meet at least once each calendar quarter to conduct its business. The location of meetings must be in Orlando, Florida.

4. The members of the subcommittee shall elect a chairperson at the first meeting each year.

5. Each member of the subcommittee is entitled to a per diem allowance of $50 for each meeting of the subcommittee which he attends and to reimbursement for travel expenses incurred in attending meetings of the subcommittee as provided in s. 112.061.

(b) The subcommittee shall:
1. Advise the commission on standards related to the education, experience, and examination of certified appraisers and on educational programs and research projects related to the appraisal of real estate.

2. Review apparent violations of this section and s. 475.42 and make recommendations to the commission.

3. Recommend to the commission rules containing standards for noncertified appraisals.

4. Give expert testimony in hearings pursuant to chapter 120 or before the commission.

(3) APPLICATIONS FOR EXAMINATION, CERTIFICATION, AND RENEWAL.--

(a) Applications for examination, certification, and certificate renewal must be made in writing to the commission on forms provided by the commission.

(b) Appropriate fees, as set forth in the rules of the commission, must accompany all applications for examination, certification, and certificate renewal.

(c) At the time of filing an application for certification, the applicant must sign a pledge to comply with the standards set forth in this section and state that he understands the types of misconduct for which disciplinary proceedings may be initiated against a state-certified residential appraiser or state-certified real estate appraiser.

(d) Applications for examination, certification, and certificate renewal must indicate the type of certification.

(4) CERTIFICATION LIMITED TO LICENSED BROKERS, BROKER-SALESMEN, AND SALESMEN.--Only real estate brokers, broker-salesmen, and salesmen licensed pursuant to this chapter may...
be certified by the commission as state-certified residential
appraisers or state-certified real estate appraisers.

(5) EXAMINATION REQUIREMENTS FOR CERTIFIED REAL ESTATE
APPRAISERS.--

(a) To be certified as a state-certified real estate
apraiser, the applicant must demonstrate, by passing a
written examination, that he possesses:

1. A knowledge of technical terms commonly used in
real estate appraisal;
2. An understanding of the principles of land
economics, real estate appraisal processes, reliable sources
of appraising data, and problems likely to be encountered in
the gathering, interpreting, and processing of data in
carrying out appraisal disciplines;
3. An understanding of the standards for the
development and communication of real estate appraisals as
provided in this section; and
4. An understanding of the types of misconduct for
which disciplinary proceedings may be initiated against a
state-certified real estate appraiser, as set forth in this
chapter.

(b) Any applicant who is not certified within 1 year
after passing the examination must retake the examination in
order to qualify for certification.

(c) Any applicant who has failed the examination may
apply for reexamination by submitting an application with the
appropriate examination fee within 90 days after the date of
having last taken and failed the examination.

(6) EDUCATION AND EXPERIENCE REQUIREMENTS FOR
CERTIFIED RESIDENTIAL APPRAISERS AND REAL ESTATE APPRAISERS.--
(a) To be certified as a state-certified residential appraiser, an applicant must present evidence satisfactory to the subcommittee that he:

1. Has 2 years of experience in real property appraisal, acquired within a period of 5 years immediately preceding the filing of the application for certification; and

2. Has successfully completed not less than 60 classroom hours of commission-approved academic instruction in subjects related to real estate appraisal from a nationally recognized appraisal organization or a college, university, or proprietary real estate school approved by the commission.

(b) To be certified as a state-certified real estate appraiser, an applicant must present evidence satisfactory to the subcommittee that he:

1. Has 3 years of experience in real property appraisal, acquired within a period of 5 years immediately preceding the filing of the application for certification; and

2. Has successfully completed not less than 120 classroom hours of commission-approved academic instruction in subjects related to real estate appraisal from a nationally recognized appraisal organization or a college, university, or proprietary real estate school approved by the commission.

(c) Each applicant for certification must furnish under oath a detailed statement of the real estate appraisals that he made during each year of experience he claims. Upon request, the applicant shall furnish to the subcommittee, for its examination, copies of appraisal reports that the applicant has prepared in the course of his appraisal practice.

(7) TERM OF CERTIFICATION.--The term of a certification issued under this section shall be the same as
the period prescribed by the department for licensure as a real estate broker, broker-salesman, or salesman.

(b) RECERTIFICATION.--

(a) An appraiser who is certified under this section must apply for recertification each time he applies for license renewal as a broker, broker-salesman, or salesman. The failure to obtain a license as a broker, broker-salesman, or salesman or recertification under this section automatically suspends an appraiser's certification.

(b) Any appraiser certified under this section who fails to apply for recertification may thereafter apply only upon payment of a delinquent fee, and only during the 4-year period immediately following the last date on which the appraiser held valid certification. At the end of such 4-year period, an appraiser must reapply and meet all requirements for an initial applicant to obtain certification.

(c) CORPORATIONS AND PARTNERSHIPS INELIGIBLE FOR CERTIFICATION.--

(a) A certification may not be issued under this section to a corporation, partnership, firm, or group. However, an appraiser certified under this section may provide a certified appraisal report for or on behalf of a corporation, partnership, firm, or group if the report is prepared by, or under the personal direction of, such appraiser and is reviewed and signed by him.

(b) The term "state-certified residential appraiser" or "state-certified real estate appraiser" may only be used to refer to an individual who is certified under this section and may not be used following or immediately in connection with the name or signature of a corporation, partnership, firm, or group or in such manner that it could be interpreted as

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implying certification under this section of a corporation, partnership, firm, or group or anyone other than an individual certified appraiser.

(10) ISSUANCE OF CERTIFICATION; DISPLAY.--

(a) A certification issued under this section must bear the signature or facsimile signature of the secretary of the Department of Professional Regulation or the chairman of the Florida Real Estate Commission and must include a certification number.

(b) Each appraiser certified under this section shall place his certification number adjacent to or immediately beneath the designation "state-certified residential appraiser" or "state-certified real property appraiser," as applicable, when such term is used in a certified appraisal report or in a contract or other instrument used by the appraiser in conducting real property appraisal activities.

(11) FEES.--The commission shall charge and collect fees for examination, certification, and recertification, as adopted by commission rule.

(12) CONTINUING EDUCATION REQUIREMENTS.--As a prerequisite for recertification, a certified appraiser must present evidence satisfactory to the commission of having met the continuing education requirements established by commission rule.

(13) DISCIPLINARY PROCEEDINGS.--The commission may investigate the actions of any appraiser certified under this section and may reprimand, fine, revoke, or suspend the license of, or place on probation any such appraiser for any of the acts set forth in s. 475.25 or s. 475.42. A certified appraiser may also be disciplined by the commission for any of the following actions:

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(a) Procuring or attempting to procure certification under this section by knowingly making a false statement, submitting false information, or refusing to provide complete information in response to a question in an application for certification or through any form of fraud or misrepresentation.

(b) Paying money or other valuable consideration, except as required by this chapter, to any member or employee of the commission to procure a certification under this chapter.

(c) Committing an act of dishonesty, fraud, or misrepresentation which could substantially benefit the appraiser or another person.

(d) Violating any standard for the development or communication of a real estate appraisal provided in this section.

(e) Failing or refusing to exercise reasonable diligence in developing an appraisal or preparing an appraisal report.

(f) Failing to communicate an appraisal without good cause.

(g) Willfully disregarding or violating any of the provisions of this section or the rules of the commission for the administration or enforcement of this section.

(h) Accepting an appraisal assignment if the employment itself is contingent upon the appraiser’s reporting a predetermined result, analysis, or opinion or if the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon the consequences resulting from the appraisal assignment.

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(14) STANDARDS FOR THE DEVELOPMENT OF CERTIFIED
APPRaisal REPORTS.--

(a) In developing certified appraisal reports, an
appraiser certified under this section shall:

1. Be aware of, understand, and correctly apply those
recognized appraisal methods and techniques that are necessary
to produce a credible analysis, opinion, or conclusion.

2. Identify the real estate and real property interest
under consideration, define the opinion that is the purpose of
the appraisal, consider the scope of the appraisal service,
and identify the effective date of the opinion.

3. Identify and consider the appropriate procedures
and market data required to perform the appraisal service.

4. Consider the effect of the following factors on the
use and value of the real property or real property interest:

   a. Existing land use regulations,
   b. Reasonably predictable changes in such land use
      regulations;
   c. Economic demand;
   d. The physical adaptability of the real property;
   e. Neighborhood trends, and
   f. The highest and best use of the real property.

5. Consider the effect on the real property being
appraised of anticipated public or private improvements
located on or off the site, to the extent that market actions
reflect such anticipated improvements as of the effective
appraisal date.

6. Recognize that land is generally appraised as
though it were vacant and available for development to its
highest and best use and the appraisal of improvements is
based on their actual contribution to the site.

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7. Appraise proposed improvements only after examining and having available for future examination:
   a. Plans, specifications, or other documentation sufficient to identify the scope and character of the proposed improvements;
   b. Evidence indicating the probable time of completion of the proposed improvements; and
   c. Reasonably clear and appropriate evidence supporting development costs, anticipated earnings, occupancy projections, and the anticipated competition at the time of completion.

8. Base estimates of anticipated future rents and expenses for the real property being appraised on reasonably clear and appropriate evidence.

9. Reconcile the results of the various approaches to value used in conducting the appraisal.

   (b) A certified appraisal report that contains an estimate of value must define the value being considered.

1. If the value estimate is a statement or estimate of market value, the appraiser shall clearly indicate whether the statement or estimate is the most probable price in terms of cash, financial arrangements equivalent to cash, or such other terms as may be precisely defined.

2. If the estimate of value is based on submarket financing or financing with unusual conditions or incentives, the terms of such atypical financing must be clearly set forth, the contribution to or negative influence on value must be described and estimated, and the market data supporting the valuation estimate must be described and explained.

   (c) For each certified appraisal report that contains an estimate of value, an appraiser shall:
1. Consider whether an appraised fractional interest, physical segment, or partial holding contributes pro rata to the value of the whole.

2. Identify any personal property or other items that are not real property but are included with or considered in connection with the real estate being appraised and contribute to the total value estimate or conclusion.

3. Consider and analyze any current agreement of sale, option, or listing of the real property being appraised, if such information is available to the appraiser in the normal course of business.

4. Consider and analyze any prior sales of the property being appraised that occurred within 1 year for one-family to four-family residential property or within 3 years for any other type of real property.

5. When estimating the value of a leased fee estate or a leasehold estate, analyze and consider the effect on value, if any, of the terms and conditions of the lease.

6. Give careful consideration to the effect on value, if any, of the assemblage of the various estates or component parts of a property and refrain from estimating the value of the whole solely by adding together the individual values of its various estates or component parts.

7. State in the letter of transmittal whether exterior and interior building inspections were made, and if so, when and by whom.

(d) In reviewing a certified appraisal report, an appraiser shall:

1. Identify the report being reviewed, the real property being appraised or the real property interest being appraised, the effective date of the opinion in the original
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report, the date of the original report, and the date of the
review.

2. Identify the scope of the review process to be
conducted, including a determination of whether it is
appropriate or essential to inspect the appraised property and
the data presented.

3. Specify an opinion as to the adequacy and relevance
of the data used and the propriety of any adjustments made.

4. Specify an opinion as to whether the appraisal
methods and techniques used were appropriate and, if not, the
reasons for the reviewer's disagreement with the original
appraiser.

5. Specify an opinion as to whether the analyses,
opinions, or conclusions in the report being reviewed are
correct and appropriate and, if not, state his analyses,
opinions, or conclusions and the reasons for the reviewer's
disagreement with the original appraiser.

6. State in the letter of transmittal whether exterior
and interior building inspections were made, and if so, when
and by whom.

(e) An appraiser certified under this section may
enter into an agreement to perform an appraisal service that
calls for something less than, or different from, the work
that would otherwise be required under paragraph (a) if,
before entering such agreement:

1. The appraiser determines that the appraisal service
to be performed is not so limited in scope that the resulting
analysis, opinion, or conclusion concerning the real property
would tend to mislead or confuse the client, the users of the
appraisal report, or the public; and

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2. The appraiser advises the client that the appraisal service calls for something less than, or different from, the work required under paragraph (a) and therefore the appraisal letter of transmittal and certification statement will include a qualification that reflects the limited or differing scope of the appraisal service.

(15) STANDARDS FOR COMMUNICATION OF CERTIFIED APPRAISALS.--All appraisers certified under this section shall comply with the following standards in the communication of appraisals of real property located in this state:

(a) Each written or oral report or communication concerning the results of an appraisal must contain sufficient information to enable the persons who receive or rely on the report or communication to understand it.

(b) Each written or oral report or communication concerning the results of an appraisal must clearly and accurately set forth each appraisal analysis, opinion, or conclusion in a manner that will not be misleading in the marketplace.

(c) Each written or oral report or communication concerning the results of an appraisal must clearly and accurately disclose any extraordinary assumption or limiting condition that directly affects an appraisal analysis, opinion, or conclusion.

(d) Each written report or communication concerning the results of an appraisal must:

1. Identify and describe the real property being appraised;

2. Identify the real property interest being appraised;
3. Define the opinion that is the purpose of the appraisal and describe the scope of the appraisal;

4. Set forth the effective date of the opinion and the date of the report;

5. Set forth the appraiser's opinion of the highest and best use for the real property being appraised when such an opinion is necessary and appropriate;

6. Set forth all assumptions and limiting conditions that affect the analyses, opinions, and conclusions in the report;

7. Set forth any additional information that may be appropriate to show compliance with, and identify permitted departures from, the requirements for the development of appraisals provided in this section; and

8. Include a signed certification in accordance with the requirements of this subsection.

(e) Each written report or communication of the results of an appraisal signed by a certified appraiser must contain a certification statement that is similar in content to the following form:

Certification to be used in written reports resulting from appraisal assignments:

... I certify, to the best of my knowledge and belief, that:

... The statements of fact contained in this report are true and correct.

... The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, unbiased, professional analyses, opinions, and conclusions.
I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest or bias with respect to the parties involved.

My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions that were developed.

My analyses, opinions, or conclusions were developed and this report has been prepared in conformity with the requirements of the State of Florida for state-certified appraisers.

The use of this report is subject to the requirements of the State of Florida relating to review by the Real Estate Appraisal Subcommittee of the Florida Real Estate Commission.

I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the exterior and interior of the property.)

No person (or no person other than the person named) provided significant professional assistance to the person signing this report. (The name of each individual providing significant professional assistance must be stated, together with a statement of whether such individual is a state-certified appraiser and, if certified, his license number.)

(f) To the extent that it is both possible and appropriate, each oral report or communication concerning the

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results of an appraisal must address the substantive matters set forth in this section.

(g) An appraiser may enter into an agreement calling for a certified appraisal report that is something less than, or different from, the complete certified appraisal report that would otherwise be required by the specific reporting standards set forth in this section if, before entering such agreement:

1. The appraiser determines that the resulting certified appraisal report will not be so limited in scope that it would tend to mislead or confuse the client, the users of the appraisal report, or the public; and

2. The appraiser advises the client that the report to be prepared is something less than, or different from, the report required by the specific reporting standards and therefore the appraisal letter of transmittal and the report will include a qualification that explains the cause for this fact and state: "This is a limited report."

(16) QUESTIONS OF APPLICABILITY OR INTERPRETATION.--If a question arises as to the applicability or interpretation of the standards or definitions in this section, the subcommittee and the commission may consider other reference materials, including materials published by national appraisal organizations interpreting similar standards adopted by such national appraisal organizations.

(17) DOCUMENTS TO BE RETAINED.--An appraiser certified under this section shall retain for at least 5 years original or true copies of contracts engaging the appraiser's services for real property work, certified appraisal reports, and supporting data assembled and formulated by the appraiser in preparing certified reports. The period for retention of the

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records applicable to each engagement of the services of the appraiser runs from the date of the submission of the certified appraisal report to the client. These records must be made available by the appraiser for inspection and copying by the subcommittee on reasonable notice to the appraiser. If an appraisal has been the subject of or has served as evidence for litigation, reports and records must be retained for at least 2 years after the trial.

Section 24. Section 475.1825, Florida Statutes, is hereby repealed.

Section 25. Notwithstanding the provisions of chapter 81-318, chapter 82-1, chapter 82-179, chapter 85-215, or chapter 87-50, Laws of Florida, sections 475.001, 475.01, 475.011, 475.02, 475.021, 475.03, 475.04, 475.05, 475.10, 475.125, 475.15, 475.17, 475.175, 475.181, 475.182, 475.183, 475.215, 475.22, 475.23, 475.24, 475.25, 475.28, 475.31, 475.37, 475.38, 475.41, 475.42, 475.421, 475.43, 475.451, 475.4511, 475.452, 475.453, 475.454, 475.455, 475.482, 475.483, 475.4835, 475.484, 475.485, and 475.486, Florida Statutes, shall not stand repealed October 1, 1988, as scheduled by such laws, but said sections, as amended, are hereby revived and readopted.

Section 26. Notwithstanding the provisions of chapter 85-199, Laws of Florida, section 475.045, Florida Statutes, shall not stand repealed on October 1, 1988, as scheduled by such act, but said section, as amended, is hereby revived and readopted.

Section 27. Sections 475.001, 475.01, 475.011, 475.02, 475.021, 475.03, 475.04, 475.05, 475.10, 475.125, 475.15, 475.17, 475.175, 475.181, 475.182, 475.183, 475.215, 475.22, 475.23, 475.24, 475.25, 475.28, 475.31, 475.37, 475.38, 475.41, 475.42, 475.43, 475.451, 475.4511, 475.452, 475.453, 475.454, 475.455, 475.482, 475.483, 475.4835, 475.484, 475.485, and 475.486, Florida Statutes.
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475.41, 475.42, 475.421, 475.43, 475.451, 475.4511, 475.452,
475.453, 475.454, 475.455, 475.482, 475.483, 475.4835,
475.484, 475.485, 475.486, and 475.501, Florida Statutes, are
repealed October 1, 1998, and shall be reviewed by the
Legislature prior to that date pursuant to section 11.61,
Florida Statutes.

Section 28. Section 475.045, Florida Statutes, is
repealed October 1, 1998, and shall be reviewed by the
Legislature prior to that date pursuant to section 11.611,
Florida Statutes.

Section 29. This act shall take effect October 1,
1998.

SENATE SUMMARY

Pursuant to Sunset and Sundown review, continues the
provisions of ch. 475, F.S., relating to the regulation
of real estate brokers, salesmen, and schools by the
Department of Professional Regulation. Provides
additional definitions. Provides additional exemptions
from regulation. Revises requirements for membership on
the Florida Real Estate Commission and the Foundation
Advisory Committee of the Florida Real Estate Commission
Education and Research Foundation. Requires the general
partner in a limited real estate brokerage partnership to
be either licensed or registered as a broker. Provides
additional requirements for licensure. Provides
requirements for nonresident applicants and licensees.
Revises the procedures for renewal of licenses. Provides
for inactive licenses. Requires the commission to be
notified within 10 days after a licensee’s change of
address. Provides additional grounds for disciplinary
action. Limits the right to transfer a license or obtain
a new license following the revocation or suspension of a
license. Limits the circumstances under which the
commission may pay certain fees or costs. Prohibits the
certification of an appraisal of real estate by a
noncertified appraiser. Provides certain exemptions for
community colleges and county vocational centers which
offer courses of study in real estate practice. Provides
requirements for certain real estate school instructors.
Limits certain disbursements and payments which may be
made from the Real Estate Recovery Fund. Increases
certain deposit limits on the fund. Authorizes the
commission to take certain actions on behalf of the
state. Provides for certification by the commission as
an appraiser. Provides types of certification.
Establishes the Real Estate Appraisal Subcommittee of the
commission. Provides for certification examination and
renewal. Limits certification to state-licensed brokers,
broker-salesmen, and salesmen. Provides prohibitions.
Provides professional standards. See bill for details.

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A bill to be entitled
An act relating to real estate brokers,
salesmen, schools, and appraisers; amending s.
475.01, F.S.; providing definitions; amending
s. 475.011, F.S.; providing exemptions from
regulation under ch. 475, F.S.; amending s.
475.02, F.S.; revising qualifications for
membership on the Florida Real Estate
Commission; amending s. 475.04, F.S.; providing
for duties of the commission; amending s.
475.045, F.S.; revising qualifications for
membership on the Foundation Advisory Committee
of the Florida Real Estate Commission Education
and Research Foundation; revising powers and
duties of the committee and the foundation;
amending s. 475.125, F.S.; revising license and
renewal fees; providing for fees for
certification and recertification; amending s.
475.15, F.S.; requiring the registration or
licensure of only the general partners in a
limited partnership; amending s. 475.17, F.S.;
revising qualifications for practice as a real
estate broker or salesman; requiring post-
licensure education for brokers; providing
qualifications for nonresident applicants and
licensees; amending s. 475.175, F.S.; providing
for license examinations; amending s. 475.182,
F.S.; providing for license renewal, including
continuing education requirements; providing
for inactive status; amending s. 475.183, F.S.;
revising requirements to renew inactive

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licenses; amending s. 475.23, F.S.; requiring a
licensee to notify the commission of a change
of address; amending s. 475.25, F.S.;
prescribing disciplinary actions and revising
grounds for disciplinary action; including
certification as an appraiser within the scope
of disciplinary authority; amending s. 475.31,
F.S.; deleting certain relicensing limitations;
amending s. 475.37, F.S.; providing for
reversal of certain disciplinary actions;
amending s. 475.38, F.S.; deleting provisions
allowing payment by the commission of certain
fees and costs of a defendant; amending s.
475.42, F.S.; revising a prohibition and
providing an additional prohibition; providing
penalties; amending s. 475.451, F.S.; providing
requirements for certain schools and
instructors teaching courses in real estate
practice; amending s. 475.452, F.S.; requiring
advance fees to be deposited in a bank in this
state; amending s. 475.482, F.S.; modifying
requirements for disbursements from the Real
Estate Recovery Fund; raising the fund levels
at which the imposition of special fees for the
fund must be discontinued and at which they may
be reimposed thereafter; amending s. 475.483,
F.S.; revising conditions for recovery from the
fund; amending s. 475.4835, F.S.; providing for
certain actions to be taken by the commission
on behalf of the state; amending s. 475.484,
F.S.; prohibiting the recovery of treble

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damages, court costs, attorney's fees, and
interest from the Real Estate Recovery Fund
except under specified circumstances; creating
s. 475.501, F.S.; providing definitions;
providing for certification of real estate
apraisers and residential appraisers; creating
the Real Estate Appraisal Subcommittee of the
Florida Real Estate Commission; providing for
membership of the subcommittee; prescribing its
duties; providing for certification of licensed
brokers, broker-salesmen, and salesmen as
apraisers; providing examination requirements;
providing education and experience
requirements; providing for term of
certification; providing for recertification;
limiting certification to individuals;
requiring the display of certification numbers;
providing continuing education requirements;
providing for disciplinary actions and grounds
therefor; providing standards for developing
certified appraisal reports and communicating
such reports; providing for interpreting such
standards; requiring the retention of certain
documents; amending s. 337.271, F.S.; requiring
certain appraisals related to right-of-way
acquisitions to be conducted by state-certified
real estate appraisers; repealing s.
475.181(4), F.S.; deleting provisions relating
to the applicant's request for a license;
repealing s. 475.1825, F.S., relating to the
inactive status of certain expired

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registrations; reviving and readopting ss.
475.001-475.486, F.S.; repealing ss. 475.001-
475.501, F.S., and providing for review of said
sections prior to their repeal; providing an
effective date.

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

Section 1. Subsections (1) and (3) of section 475.01,
Florida Statutes, are amended to read:

475.01 Definitions.--

(1) As used in this chapter:

(a) "Commission" means the Florida Real Estate
Commission.

(b) "Department" means the Department of Professional
Regulation.

(c) "Broker" means a person who, for another, and for
a compensation or valuable consideration directly or
indirectly paid or promised, expressly or impliedly, or with
an intent to collect or receive a compensation or valuable
consideration therefor, appraises, auctions, sells, exchanges,
buys, rents, or offers, attempts or agrees to appraise,
auction, or negotiate the sale, exchange, purchase, or rental
of business enterprises or business opportunities or any real
property or any interest in or concerning the same, including
mineral rights or leases, or who advertises or holds out to
the public by any oral or printed solicitation or
representation that he is engaged in the business of
appraising, auctioning, buying, selling, exchanging, leasing,
or renting business enterprises or business opportunities or
real property of others or interests therein, including

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mineral rights, or who takes any part in the procuring of
sellers, purchasers, lessors, or lessees of business
to the procuring of
enterprises or business opportunities or the real property of
another, or leases, or interest therein, including mineral
rights, or who directs or assists in the procuring of
prospects or in the negotiation or closing of any transaction
which does, or is calculated to, result in a sale, exchange,
or leasing thereof, and who receives, expects, or is promised
any compensation or valuable consideration, directly or
indirectly therefor; and all persons who advertise rental
property information or lists. The term "broker" also
includes any person who is a general partner, officer, or
director of a partnership or corporation which acts as a
broker.

(d) "Salesman" means a person who performs any act
specified in the definition of "broker," but who performs such
act under the direction, control, or management of another
person.

(e) "Broker-salesman" means a person who is qualified
to be issued a license as a broker but who operates as a
salesman in the employ of another.

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

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

(h) "Voluntarily inactive status" means the licensure status which results when a licensee has applied to the department to be placed on inactive status and has paid the fee prescribed by rule.

(3) Wherever the word "operate" or "operating" as a broker, a broker-salesman, or a salesman, state-certified residential appraiser, or state-certified real estate appraiser appears in this chapter; in any order, rule, or regulation of the commission; in any pleading, indictment, or information under this chapter; in any court action or proceeding; or in any order or judgment of a court, it shall be deemed to mean the commission of one or more acts described in this chapter per graph-titect as constituting or defining a broker, broker-salesman, or salesman, state-certified residential appraiser, or state-certified real estate appraiser, not including, however, any of the exceptions stated therein. A single such act is sufficient to bring a person within the meaning of this chapter, and each act, if prohibited herein, constitutes a separate offense.

Section 2. Section 475.011, Florida Statutes, is amended to read:

475.011 Exemptions.--This chapter does not apply to:

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

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

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

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

(5) Any person employed for a salary as a manager of a condominium or cooperative
apartment complex building as a result of any activities or
duties which he may have in relation to the renting of
individual units within such condominium or cooperative
apartment complex if such manager is acting on behalf of a
tenant-owning-or-having-an-interest-in-no-more-than-one-unit
within-the-condominium-or-cooperative-apartment-and if rentals
arranged by him are for periods no greater than 1 year; or

(6) Any person, partnership, corporation, or other
legal entity which, for another and for compensation or other
valuable consideration, sells, offers to sell, advertises for
sale, buys, offers to buy, or negotiates the sale or purchase
of radio, television, or cable enterprises licensed and
regulated by the Federal Communications Commission pursuant to
the Communications Act of 1934. However, if the sale or
purchase of the radio, television, or cable enterprise
involves the sale or lease of land, buildings, fixtures, and
all other improvements to the land, a broker or salesman
licensed under this chapter shall be retained for the portion
of the transaction which includes the land, buildings,
fixtures, and all other improvements to the land; or-

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

Section 3. Subsection (1) of section 475.02, Florida
Statutes, is amended to read:

475.02 Florida Real Estate Commission.--

(1) There is created within the Department of
Professional Regulation the Florida Real Estate Commission.
The commission shall consist of seven members who shall be
appointed by the Governor, subject to confirmation by the
Senate. Four members must be licensed brokers, each of whom

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has held an active license for the 5 years preceding appointment; one member must be a licensed broker or a licensed salesman who has held an active license for the 2 years preceding appointment; and two members must be lay persons who are not, and have never been, brokers or salesmen, or members of any closely-related profession or occupation. At least one member of the commission must be 60 years of age or older. The current members may complete their present terms unless removed for cause.

Section 4. Subsection (2) of section 475.04, Florida Statutes, is amended to read:

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

(2) For the purpose of performing its duty under subsection (1) to educate licensees registrants, the commission may conduct, offer, sponsor, prescribe, or approve real estate educational courses for all persons licensed by the department as brokers, broker-salesmen, salesmen, or instructors; and the cost and expense of such courses shall be paid as provided in s. 475.125 for other expenses of the commission by s. 475.12.

Section 5. Paragraphs (a) and (c) of subsection (2), paragraph (b) of subsection (4), paragraph (b) of subsection (5), and subsections (7) and (9) of section 475.045, Florida Statutes, are amended to read:

475.045 Florida Real Estate Commission Education and Research Foundation; Foundation Advisory Committee.--

(2)(a) There is created the Foundation Advisory Committee which is composed of nine persons appointed by the Governor without regard to race, creed, sex, religion, or

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national origin of the appointee, with the following representation:

1. Six active real estate licensees, one of whom may be a real estate salesman. All licensees shall have been active real estate licensees for at least the past 5 years.

2. Three members shall be representatives of the general public and those appointed after October 1, 1988, shall possess qualifications in the fields of education, research, or consumer affairs which relate to the committee's education and research activities. Members representative of the general public shall not be licensed real estate brokers or salesmen and shall not have a financial interest, other than as consumers, in the practice of a licensed real estate broker or salesman.

(c)1. Except for the initial appointees, members of the advisory committee shall hold office for staggered terms of 4 years, with the terms of three members expiring on January 31 of each odd-numbered year. The current members may complete their present terms unless removed for cause. In making the initial appointments, the Governor shall designate three members, including two representatives of the general public, for terms expiring in 1987, three members for terms expiring in 1988, and three members for terms expiring in 1989.

2. Any vacancy shall be filled by appointment for the unexpired portion of the term. Each member shall serve until his successor is qualified.

3. Each member of the advisory committee is entitled to per diem and travel expenses as set by legislative appropriation for each day that the member engages in the business of the advisory committee.
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(4)

(b) The first meeting of the advisory committee shall be called by the chairman of the Florida Real Estate Commission or his designated representative. The committee shall meet not less than semiannually and, in addition, on call of its chairman or on petition of any six of its members.

(5)

(b) The advisory committee shall select the education or research proposals that shall be funded and shall give priority to projects with the greatest potential for direct or indirect benefit to the public.

(7) The advisory committee shall have the power and authority to adopt all rules necessary to administer this section provision.

(9) Neither the foundation nor the committee shall expend any funds for the purpose of employing staff or other employment-assistance.

Section 6. Section 475.125, Florida Statutes, is amended to read:

475.125 Fees.--

(1) The commission by rule may establish fees to be paid for applications, examination, reexamination, licensing and renewal, certification and recertification, reinstatement, and recordmaking and recordkeeping. The fee for initial application and examination may not exceed $100. The initial license fee and the license biennial renewal fee may not exceed $50 for each year of the duration of the license. The commission may also establish by rule a late renewal penalty. The commission shall establish fees which are adequate to ensure its continued operation. Fees shall be based on estimates made by the department of the revenue.

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required to implement this chapter and other provisions of law relating to the regulation of real estate practitioners.

(2) The Application and license fees shall be refunded upon a determination by the commission that the state is not entitled to the fees or that only a portion of the resources have been expended in the processing of the application, or if for any other reason the application is not completely processed. The commission shall implement this provision by rule.

Section 7. Section 475.15, Florida Statutes, is amended to read:

475.15 Registration and licensing of licenses of general partners, members, officers, and directors of a firm.—Each partnership or corporation which acts as a broker shall register with the commission and shall renew the licenses or registrations of its members, officers, and directors for each license period. The registration of such a partnership is shall be canceled automatically during any period of time that the license or registration of any of its partners is not in force. However, if the partnership is a limited partnership, only the general partners must be licensed brokers or brokerage corporations registered pursuant to this chapter. If the license or registration of at least one active broker member is not in force, the registration of such a corporation or partnership is shall be canceled automatically during that period of time.

Section 8. Section 475.17, Florida Statutes, is amended to read:

475.17 Qualifications for practice.—

(1)(a) An applicant for licensure who is a natural person must shall be at least 18 years of age; hold a high

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school diploma or its equivalent; be a bona fide resident of
the state; be honest, truthful, trustworthy, and of good
character; and shall have a good reputation for fair dealing.
An applicant for an active broker's license or a salesman's
license must shall be competent and qualified to make real
estate transactions and conduct negotiations therefor with
safety to investors and to those with whom he may undertake a
relationship of trust and confidence. If the applicant has
been denied registration or a license or has been disbarred,
or his registration or license to practice or conduct any
regulated profession, business, or vocation has been revoked
or suspended, by this or any other state, any nation, or any
possession or district of the United States, or any court or
lawful agency thereof, because of any conduct or practices
which would have warranted a like result under this chapter,
or if the applicant has been guilty of conduct or practices in
this state or elsewhere which would have been grounds for
revoking or suspending his license under this chapter had the
applicant then been registered, the applicant shall be deemed
not to be qualified unless, because of lapse of time and
subsequent good conduct and reputation, or other reason deemed
sufficient, it appears to the commission that the interest of
the public and investors will not likely be endangered by the
granting of registration.

(b) An no application may be disapproved approved if
the applicant has acted or attempted to act, or has held
himself out as entitled to act, during the period of 1 year
next prior to the filing of the application, as a real estate
broker or salesman in the state in violation of this chapter.
This paragraph may shall be deemed to bar any person from
licensure who has performed any of the acts or services

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described in s. 475.01(3), unless exempt pursuant to s. 475.011, during a period of 1 year next preceding the filing of the application, or during the pendency of the application, and until a valid current license has been duly issued to him, regardless of whether the performance of the act or service was done for compensation or valuable consideration.

(2)(a) In addition to other requirements under this chapter, the commission may require the satisfactory completion of one or more of the educational courses or equivalent courses conducted, offered, sponsored, prescribed, or approved pursuant to s. 475.04, taken at an accredited college, university, or community college, at a county vocational center, or at a registered real estate school, as a condition precedent for any person to become licensed or to renew his license as a broker, broker-salesman, or salesman. The course or courses required for one to become initially licensed shall not exceed a total of 63 classroom hours of 50 minutes each, inclusive of examination, for a salesman and 72 classroom hours of 50 minutes each, inclusive of examination, for a broker. No-person-may-be-licensed-as-a-real-estate broker-unless-from-addition-to-the-other-requirements-of-law he-has-held-an-active-real-estate-salesman's-license-in-the office-of-one-or-more-licensed-real-estate-brokers-for-at least-12-months-during-the-preceding-5-years. The satisfactory completion of an examination administered by the accredited college, university, or community college, by the county vocational center, or by the registered real estate school shall be the basis for determining satisfactory completion of the course. However, notice of satisfactory completion shall not be issued if the student has absences in excess of 8 classroom hours. When-such-requirement-is-made,

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provisions—shall-be-made-to-make Such required course or
courses must be made available by correspondence or other
suitable means to any person who, by reason of hardship,
cannot attend the place or places where the course is
regularly conducted.

(b) A person may not be licensed as a real estate
broker unless, in addition to the other requirements of law,
he has held an active real estate salesman's license for at
least 12 months during the preceding 5 years:

1. In the office of one or more real estate brokers
licensed pursuant to this chapter; or

2. In the employ of a governmental agency for a salary
and performing the duties authorized in this chapter for real
estate licensees.

(3)(a) The commission may prescribe a post-licensure
education requirement in order for a person to maintain a
valid broker's license, which shall not exceed 60 classroom
hours of 50 minutes each, inclusive of examination, within the
2-year period immediately following initial licensure. If
prescribed, this shall consist of 2 courses of 30 classroom
hours each on subjects which include, but are not limited to,
advanced appraisal, advanced property management, real estate
marketing, business law, advanced real estate investment
analyses, advanced legal aspects, general accounting, real
estate economics, syndications, commercial brokerage,
feasibility analyses, advanced real estate finance,
residential brokerage, or real estate brokerage office
operations. Required post-licensure courses must be taken at
an accredited college, university, community college, county
vocational center, registered real estate school, or
commission-approved sponsor.

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(b) Satisfactory completion of the post-licensure requirement is demonstrated by successfully meeting all standards established for the commission prescribed or commission approved institution, school, or sponsor courses. However, notice of satisfactory completion shall not be issued if the student has absences in excess of 10 percent of the required classroom hours.

(c) The license of any broker who does not complete the post-licensure education requirement within the 2-year period immediately following initial licensure shall be considered null and void. If the licensee wishes to operate as a salesman, he may be issued a salesman's license after providing proof that he has satisfactorily completed the 14-hour continuing education course within the 6 months following expiration of his broker's license. To operate as a broker, he must requalify by satisfactorily completing the broker's prelicensure course and passing the state examination for licensure as a broker.

(d) The commission may allow an additional 6-month period at the end of the 2-year timeframe for completing the post-licensure education courses for brokers who cannot, due to individual physical hardship, complete the courses within the required time.

(e) Except as provided in paragraph (c), brokers are not required to meet the 14-hour continuing education requirement during the 2-year period following initial licensure.

(f) The commission shall provide for post-licensure education courses to be made available by correspondence or other suitable means to any person who, by reason of hardship,
cannot attend the place or places where courses are regularly conducted.

(4)(a) If an applicant is not a resident of this state, he shall file an irrevocable consent that suits and actions may be commenced against him in any county of this state in which a plaintiff having a cause of action, or suit against him resides, and that service of any process or pleading in suits or actions against him may be made by delivering the same to the director of the Division of Real Estate and mailing a copy thereof to the applicant by registered mail addressed to him at his designated principal place of business. Service, when so made, must be taken and held in all courts to be as valid and binding upon the applicant as if made upon him in this state within the jurisdiction of the court in which the suit or action is filed. The irrevocable consent must be in a form prescribed by the department and be acknowledged by a notary public.

(b) Any resident licensee who becomes a nonresident shall, within 60 days, notify the commission of the change in residency and comply with nonresident requirements. Failure to notify and comply is a violation of the license law subject to the penalties of s. 475.25.

(c) All nonresident applicants and licensees shall comply with all requirements of commission rules and of this chapter. The commission may adopt rules necessary for the regulation of nonresident licensees.

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and § 475.175-for-a-period-of-2-years—During-this-2-year period, all such individuals shall either qualify as real estate-brokers-under-the-provisions-of-this-chapter-or satisfactorily-complete-commission-approved-courses-of instruction-and-pass-an-examination-prescribed-by-the commission—the-total-classroom-hours-of-instruction-in-the commission-approved-course-or-courses-of-instruction-shall-not exceed-the-combined-total-for-broker-applicants-and-salesman applicants-contained-in-subsection(2)—After-this-2-year period—full-compliance-with-this-chapter-is-mandatory.

Section 9. Subsection (1) of section 475.175, Florida Statutes, is amended to read:

475.175 Examinations.—

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

(a) Submits to the department the appropriate notarized application and fee and, if required by the department, fingerprints for processing through appropriate law enforcement agencies; and

(b) Submits at the time of examination the certificate specified in subsection (2), the examination admissions card issued by the commission, and proof of identification.

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

475.182 Renewal of license; continuing education.—

(1) The department shall renew a license upon receipt of the renewal application and fee. The renewal application for an active license as broker, broker-salesman, or salesman shall include proof satisfactory to the commission that the licensee has, since the issuance or renewal of his current license, satisfactorily completed at least 7 1/4 classroom

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hours of 50 minutes each of a continuing education course for
every year of the license period, as prescribed by the
commission. The commission shall accept as a substitute for
such continuing education course, on a classroom-hour-for-
classroom-hour basis, any satisfactorily completed education
course offered by the Realtors-National Marketing Institute,
the American Institute of Real Estate Appraisers of the
National Association of Realtors, the Society of Real Estate
Appraisers, Inc., the Florida Association of Realtors, or any
accredited university within this state, however, pursuant to
a hearing under chapter 120, the commission may refuse to
substitute any such course which, in the opinion of the
commission, fails to adequately educate the person taking the
course within the intent of this section. This section shall
not serve to exclude those courses which have previously been
approved as substitutes, nor is it intended to restrict
societies or institutions which may seek approval of their
courses pursuant to hearings under chapter 120. The
commission may accept as a substitute for such continuing
education course, on a classroom-hour-for-classroom-hour
basis, any satisfactorily completed education course that the
commission, following a hearing under chapter 120, finds is
adequate to educate licensees within the intent of this
section.

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

(3) Any license which is not renewed at the end of the
license period biennium prescribed by the department shall
automatically revert to involuntarily inactive status. Such
license may subsequently be renewed reactivated only if the
licensee meets the other qualifications specified for reactivation in s. 475.183.

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

Section 11. Section 475.183, Florida Statutes, is amended to read:

475.183 Inactive status.--

(1) A license which has become voluntarily inactive may be renewed reactivated pursuant to s. 475.182 upon application to the department. The commission shall prescribe by rule continuing education requirements, not to exceed 12 classroom hours for each year the license was inactive, as a condition of renewing a voluntarily inactive reactivating-a license. The-continuing-education-requirements-for reactivating-a-license-shall-not-exceed-12-classroom-hours-for each-year-the-license-was-inactive. The commission shall substitute for such continuing education requirements, on a classroom-hour-for-classroom-hour basis, any satisfactorily completed education course approved in the manner specified in s. 475.182(1). A person whose license is voluntarily inactive and who renew his license may elect to continue his voluntarily inactive status.

(2) Any such license which has been involuntarily inactive for more than 4 years shall automatically expire if the-licensee-has-not-made-application-for-renewal-of-such license. Once a license expires, it becomes null and void without any further action by the commission board or department. Two years One-year prior to expiration of the license, the department shall give notice to the licensee.

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The commission board shall prescribe by rule a fee not to exceed $100 for the late renewal of reactivation of an involuntarily inactive license and a fee not-to-exceed-$50 for the renewal of an inactive license. The department shall collect the current renewal fee for each renewal period in which the license was involuntarily inactive in addition to any applicable late renewal fee.

(3) The commission shall adopt rules relating to voluntarily inactive and involuntarily inactive licenses and for the renewal of such licenses.

Section 12. Section 475.23, Florida Statutes, is amended to read:

475.23 License to expire on change of address.—A license shall cease to be in force whenever a broker changes his business address, a real estate school operating under a permit issued pursuant to s. 475.451 changes its business address, or a salesman working for a broker or an instructor working for a real estate school changes employer. The licensee shall notify the commission of the change no later than 10 days after the change, on a form provided by the commission. In each such case, the old license or permit shall be surrendered or accounted for and a replacement shall be issued upon request therefor on a form provided by the commission. The fee for the issuance of the replacement license shall be in an amount prescribed by the commission, not-to-exceed-$10.

Section 13. Subsection (1) of section 475.25, Florida Statutes, is amended to read:

475.25 Discipline.—
(1) The commission may deny an application for licensure, certification, registration, or permit, or renewal thereof; may place a licensee, certified appraiser, registrant, or permittee on probation; may suspend a license, certification, registration, or permit for a period not exceeding 10 years; may revoke a license, certification, registration, or permit; may impose an administrative fine not to exceed $1,000 for each count or separate offense; and may issue a reprimand, and or any or all of the foregoing, if it finds that the licensee, certified appraiser, registrant, permittee, or applicant:

(a) Has violated any provision of s. 475.42 or of s. 455.227(1).

(b) Has been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme, or device, culpable negligence, or breach of trust in any business transaction in this state or any other state, nation, or territory; has violated a duty imposed upon him by law or by the terms of a listing contract, written, oral, express, or implied, in a real estate transaction; has aided, assisted, or conspired with any other person engaged in any such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in any such misconduct and committed an overt act in furtherance of such intent, design, or scheme. It is immaterial to the guilt of the licensee that the victim or intended victim of the misconduct has sustained no damage or loss; that the damage or loss has been settled and paid after discovery of the misconduct; or that such victim or intended victim was a customer or a person in confidential relation.
with the licensee or was an identified member of the general public.

(c) Has advertised property or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(d) Has failed to account or deliver to any person, including a licensee under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft, abstract of title, mortgage, conveyance, lease, or other document or thing of value, including a share of a real estate commission, or any secret or illegal profit, or any divisible share or portion thereof, which has come into his hands and which is not his property or which he is not in law or equity entitled to retain under the circumstances. However, if the licensee, in good faith, entertains doubt as to what person is entitled to the accounting and delivery of the escrowed property, or if conflicting demands have been made upon him for the escrowed property, which property he still maintains in his escrow or trust account, the licensee shall promptly notify the commission of such doubts or conflicting demands and shall promptly:

1. Request that the commission issue an escrow disbursement order determining who is entitled to the escrowed property;

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

3. By interpleader or otherwise, seek adjudication of the matter by a court.
If the licensee promptly employs one of the escape procedures contained herein, and if he abides by the order or judgment resulting therefrom, no administrative complaint may be filed against the licensee for failure to account for, deliver, or maintain the escrowed property.

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

(f) Has been convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the activities of a licensed broker, or salesman, or appraiser certified pursuant to s. 475.501, or involves moral turpitude or fraudulent or dishonest dealing. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

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

(h) Has shared a commission with, or paid a fee or other compensation to, a person not properly licensed as a broker, broker-salesman, or salesman under the laws of this state, for the referral of real estate business, clients, prospects, or customers, or for any one or more of the services set forth in s. 475.01(1)(c). For the purposes of this section, it is immaterial that the person to whom such payment or compensation is given made the referral or

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performed the service from within this state or elsewhere; however, a licensed broker of this state may pay a referral fee or share a real estate brokerage commission with a broker licensed or registered under the laws of a foreign state so long as the foreign broker does not violate any law of this state.

(i) Has become temporarily incapacitated from acting as a broker or salesman with safety to investors or those in a fiduciary relation with him because of drunkenness, use of drugs, or temporary mental derangement; but suspension of a license in such a case shall be only for the period of such incapacity.

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

(k) Has failed, if a broker, to immediately place, upon receipt, any money, fund, deposit, check, or draft entrusted to him by any person dealing with him as a broker in escrow with a title company, banking institution, credit union, or savings and loan association located and doing business in this state, or to deposit such funds in a trust or escrow account maintained by him with some bank, credit union, or savings and loan association located and doing business in this state, wherein the funds shall be kept until disbursement thereof is properly authorized; or has failed, if a salesman, to immediately place with his registered employer any money, fund, deposit, check, or draft entrusted to him by any person dealing with him as agent of his registered employer. The
commission shall establish rules to provide for records to be maintained by the broker and the manner in which such deposits shall be made.

(1) Has made or filed a report or record which the licensee knows to be false, has willfully failed to file a report or record required by state or federal law, has willfully impeded or obstructed such filing, or has induced another person to impede or obstruct such filing; but such reports or records shall include only those which are signed in the capacity of a licensed broker or salesman.

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

(n) Is confined in any county jail or state or federal prison or mental institution or, through mental disease or deterioration, can no longer safely be entrusted to deal with the public or in a confidential capacity.

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

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

(q) Has failed to give written notice to a party to a sale, exchange, purchase, or lease of real property or any interest in real property, before such party has signed any contractual offer or lease agreement related to the transaction, that he is an agent, employee, independent

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contractor, or representative of another party in the
negotiation of such sale, exchange, purchase, or lease. The
commission shall implement this provision by rule.

Section 14. Subsection (1) of section 475.31, Florida
Statutes, is amended to read:

475.31 Final orders.--

(1) An order revoking or suspending the license of a
broker shall automatically cancel the licenses of all salesmen
registered with the broker, and, if a partnership or
corporation, of all members, officers, and directors thereof,
while the license of the broker is inoperative or until new
employment or connection is secured and a new license is
issued to the members, officers, director, or salesman, but the
right to transfer or have a license issued or reissued shall
not extend beyond a period of 6 months after the termination
of the license year in which the order became effective.

Section 15. Section 475.37, Florida Statutes, is
amended to read:

475.37 Effect of reversal of order of court or
commission.--If the order of the court or commission denying,
revoking or suspending a license or taking any disciplinary
action against a licensee is finally reversed and set aside,
the defendant shall be restored to his rights and privileges
as a broker or salesman as of the date of filing the mandate
or a copy thereof with the commission. The matters and things
alleged in the information shall not thereafter be reexamined
in any other proceeding concerning the licensure of the
defendant. If the inquiry concerned was in reference to an
application for licensure, the application shall stand
approved, and such application shall be remanded for further
proceedings according to law.

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Section 16. Section 475.38, Florida Statutes, is amended to read:

475.38 Payment of costs.--The commission shall not be required to advance any fees or costs to any officer or witness, or to execute any bond in any proceeding in the courts, any general statute to the contrary notwithstanding, but in every case in which the commission is liable for any fees or costs, a voucher therefor shall be presented to the commission and, if approved, audited and paid as are other expenses of the commission. The commission may, if it is satisfied that a defendant is unable to pay or advance any fees or costs and that the service from which such fees or costs have accrued or will accrue is probably necessary in the interests of justice upon application by the defendant, order that such fees or costs be incurred at the expense of the commission and be paid as are other fees and costs, but the defendant shall remain liable to the commission for all sums so paid.

Section 17. Section 475.42, Florida Statutes, is amended to read:

475.42 Violations and penalties.--

(1) VIOLATIONS.--

(a) No person shall operate as a broker or salesman without being the holder of a valid and current license therefor.

(b) No person licensed as a salesman shall operate as a broker or operate as a salesman for any person not registered as his employer.

(c) No broker shall employ, or continue in employment, any person as a salesman who is not the holder of a valid and current license as salesman; but a license as salesman may be
issued to a person licensed as an active broker, upon request
and surrender of the license as broker, without a fee in
addition to that paid for the issuance of the broker's active
license.

(d) No salesman shall collect any money in connection
with any real estate brokerage transaction, whether as a
commission, deposit, payment, rental, or otherwise, except in
the name of the employer and with the express consent of the
employer; and no real estate salesman, whether the holder of a
valid and current license or not, shall commence or maintain
any action for a commission or compensation in connection with
a real estate brokerage transaction against any person except
a person registered as his employer at the time the salesman
performed the act or rendered the service for which the
commission or compensation is due.

(e) No person shall violate any lawful order or rule
of the commission which is binding upon him.

(f) No person shall commit any conduct or practice set
forth in s. 475.25(1)(b), (c), (d), or (h).

(g) No person shall make any false affidavit or
affirmation intended for use as evidence by or before the
commission or a member thereof, or by any of its authorized
representatives, nor shall any person give false testimony
under oath or affirmation to or before the commission or any
member thereof in any proceeding authorized by this chapter.

(h) No person shall fail or refuse to appear at the
time and place designated in a subpoena issued with respect to
a violation of this chapter, unless because of facts that are
sufficient to excuse appearance in response to a subpoena from
the circuit court; nor shall a person who is present before
the commission or a member thereof or one of its authorized

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representatives acting under authority of this chapter refuse
to be sworn or to affirm or fail or refuse to answer fully any
question propounded by the commission, the member, or such
representative, or by any person by the authority of such
officer or appointee; nor shall any person, so being present,
conduct himself in a disorderly, disrespectful, or
contumacious manner.

(i) No person shall obstruct or hinder in any manner
the enforcement of this chapter or the performance of any
lawful duty by any person acting under the authority of this
chapter or interfere with, intimidate, or offer any bribe to
any member of the commission or any of its employees or any
person who is, or is expected to be, a witness in any
investigation or proceeding relating to a violation of this
chapter.

(j) No broker or salesman shall place, or cause to be
placed, upon the public records of any county, any contract,
assignment, deed, will, mortgage, lien, affidavit, or other
writing which purports to affect the title of, or encumber,
any real property if the same is known to him to be false,
void, or not authorized to be placed of record, or not
executed in the form entitling it to be recorded, or the
execution or recording whereof has not been authorized by the
owner of the property, maliciously or for the purpose of
collecting a commission, or to coerce the payment of money to
the broker or salesman or other person, or for any unlawful
purpose. However, nothing in this paragraph shall be
construed to prohibit a broker or a salesman from recording a
judgment rendered by a court of this state.

(k) No person shall operate as a broker under a trade
name without causing the trade name same to be noted in the

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records of the commission and placed on his license or so
operate as a member of a partnership or as a corporation or as
an officer or manager thereof, unless such partnership or
corporation is the holder of a valid current registration.

(1) No person shall knowingly conceal any information
relating to violations of this chapter.

(m) No person shall certify an appraisal of real
property unless he is a certified appraiser pursuant to s.
475.501.

(2) PENALTIES.—Any person who violates any of the
provisions of subsection (1) is guilty of a misdemeanor of the
second degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084, or, if a corporation, it is guilty of
a misdemeanor of the second degree, punishable as provided in
s. 775.083, except when a different punishment is prescribed
by this chapter. Nothing in this chapter shall prohibit the
prosecution under any other criminal statute of this state of
any person for an act or conduct prohibited by this section;
however, in such cases, the state may prosecute under this
section or under such other statute, or may charge both
offenses in one prosecution, but the sentence imposed shall
not be a greater fine or longer sentence than that prescribed
for the offense which carries the more severe penalties. A
civil case, criminal case, or a denial, revocation, or
suspension proceeding may arise out of the same alleged state
of facts, and the pendency or result of one such case or
proceeding shall not stay or control the result of either of
the others.

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

475.451 Schools teaching real estate practice.—

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(1) Each person, school, or institution, except approved and accredited colleges and universities, community colleges, and county vocational centers in this state, which offers or conducts any course of study in real estate practice, teaches any course prescribed by the commission as a condition precedent to licensure or renewal of licensure as a broker or salesman, or teaches any course designed or represented to enable or assist applicants for licensure as brokers or salesmen to pass examinations for such licensure conducted by the department shall, before commencing or continuing further to offer or conduct such course or courses, obtain a permit from the department and abide by the regulations imposed upon such person, school, or institution by this chapter and rules of the commission adopted pursuant to this chapter. The exemption for colleges, universities, and community colleges is limited to transferable college credit courses offered by such institutions.

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

(a) "School permitholder" is defined as that individual who is responsible for directing the overall operation of a proprietary real estate school. He must shall be the holder of a license as a broker, either active or inactive, or must shall have passed the instructor's examination administered by the department. A school...
permitted holder must also meet the requirements of a school instructor if he is actively engaged in teaching.

(b) "School Chief administrative person" is defined as that individual who is responsible for the administration of the overall policies and practices of the institution or proprietary real estate school. He must also meet the requirements of a school instructor if he is actively engaged in teaching.

(c) "School instructor" is defined as that individual who actively instructs in the classroom.

1. Before commencing to instruct noncredit college courses in a college, university, or community college, or courses in a county vocational center or proprietary real estate school, he must certify his competency by meeting one of the following requirements:

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

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

c. Pass an instructor's written examination administered by the Division of Real Estate department.

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

3. Every second year, each instructor must recertify his competency by presenting to the commission evidence of his having successfully completed a minimum of 15 classroom hours of instruction in real estate
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subjects or instructional techniques, as prescribed by the commission.

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

Section 19. Subsection (1) of section 475.452, Florida Statutes, is amended to read:

475.452 Advance fees; deposit; accounting; penalty; damages.--

(1) It is unlawful for any broker to contract for or collect any advance fee for the listing of real property from any principal without depositing 75 percent of such amount, when collected, in a trust account with a Florida bank or other recognized depository located and doing business in this state. Such funds shall be held as trust funds and may not be commingled with the funds of the broker who has collected the fee. Prior to the withdrawal of any fees from the trust account, the broker shall furnish a statement to the principal itemizing how the advance fees are to be expended and the amounts thereof. Amounts may be withdrawn for the benefit of the broker only when actually expended for the benefit of the principal or 5 days after verified accounts have been mailed.

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to the principal. If the listed property is not sold within
the period of time specified in the broker's contract or
within 18 months after the contract date, whichever period is
shorter, any funds held by the broker in the trust account
shall be refunded to the principal, together with a final
accounting relating to any or all funds expended by the
broker.

Section 20. Section 475.482, Florida Statutes, is
amended to read:

475.482 Real Estate Recovery Fund.—There is created
the Florida Real Estate Recovery Fund as a separate account in
the Professional Regulation Trust Fund.

(1) The Florida Real Estate Recovery Fund shall be
disbursed as provided in s. 475.484, on order of the
commission, as reimbursement to any person or corporation
adjudged by a court of competent jurisdiction to have suffered
monetary damages by reason of any of the following acts
committed as a part of any real estate brokerage transaction
involving real property in this state by any broker or
salesman who was licensed under the provisions of this chapter
at the time the alleged act was committed:

(a) Any violation of the provisions of this chapter;

or

(b) Obtaining money or property by fraud,
misrepresentation, deceit, false pretenses, artifice, or
trickery or by any other act which would constitute a
violation proscribed in s. 475.25.

(2) The Real Estate Recovery Fund shall also be
disbursed as provided in s. 475.484, on order of the
commission, as reimbursement to any broker or salesman who is
required by a court of competent jurisdiction to pay money

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damages due to a distribution of escrow moneys which is made
in compliance with an escrow disbursement order issued by the
commission; however, in no case shall the fund be disbursed
when the broker or salesman fails to defend an action wherein
the broker or salesman is required by a court of competent
jurisdiction to pay money damages due to a distribution of
escrow moneys which is made in compliance with an escrow
disbursement order issued by the commission.

(3) A fee of $3.50 per year shall be added to the
license fee for both new licenses and renewals of licenses for
brokers, and a fee of $1.50 per year shall be added for new
licenses and renewals of licenses for salesmen. This fee
shall be in addition to the regular license fee and shall be
deposited in or transferred to the Real Estate Recovery Fund.
If the fund at any time exceeds $750,000, collection of special fees for this fund shall be
discontinued at the end of the 2-year licensing renewal cycle.
Such special fees shall not be reimposed unless the fund is
reduced below $500,000 by disbursement made in
accordance with this chapter.

Section 21. Section 475.483, Florida Statutes, is
amended to read:

475.483 Conditions for recovery; eligibility.--
(1) Any person is eligible to seek recovery from the
Real Estate Recovery Fund if:

(a) Such person has received final judgment in a court
of competent jurisdiction in this state in any action wherein
the cause of action was based on a real estate brokerage
transaction or any violation proscribed in s. 475.25; however,
if such person is unable to secure a final judgment against a

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licensee due to the death of the licensee, the commission may waive the requirement for a final judgment;

(b) At the time the action was commenced, such person gave notice thereof to the commission by certified mail;
except that, if no notice has been given to the commission, the claim can still be honored if, in the opinion of the commission, the claim is otherwise valid;

(c) A claim for recovery is made within 2 years from the time of the act giving rise to the claim or within 2 years from the time the act is discovered or should have been discovered with the exercise of due diligence; however, in no event may a claim for recovery be made more than 4 years after the date of the act giving rise to the claim; the act for which recovery is sought occurred on or after July 27, 1996, and not more than 2 years prior to making such claim;

(d)1. Such person has caused to be issued a writ of execution upon such judgment, and the officer executing the writ has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment can be found or that the amount realized on the sale of the judgment debtor's property pursuant to such execution was insufficient to satisfy the judgment; or

2. If such person is unable to comply with subparagraph 1, for a valid reason to be determined by the commission, such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets subject to being sold or applied in satisfaction of the judgment and by his search he has discovered no property or assets or he has discovered property and assets and has taken all necessary

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action and proceedings for the application thereof to the
judgment but the amount thereby realized was insufficient to
satisfy the judgment;

(e) Any amounts recovered by such person from the
judgment debtor, or from any other source, have been applied
to the damages awarded by the court; and

(f) Such person is not a person who is precluded by
this act from making a claim for recovery.

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

(a) He is the spouse of the judgment debtor or a
personal representative of such spouse;

(b) He is a licensed broker or salesman who acted as
principal or agent in the transaction which is the subject of
the claim; or

(c) Such person's claim is based upon a real estate
transaction in which the licensed broker or salesman was
acting on-behalf with respect to the property owned or
controlled by the broker or salesman; or

(d) Such person's claim is based upon a real estate
transaction in which the broker or salesman did not hold a
valid and current license at the time of the real estate
transaction.

(3) The commission may pay attorney's fees and court
costs if the claim is of the type described in s. 475.482(2).

Section 22. Section 475.4835, Florida Statutes, is
amended to read:

475.4835 Commission powers upon notification of
commencement of action.--When the commission receives
certified notice of any action, as required by s.
475.483(1)(b), the commission may intervene, enter an

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appearance, file an answer, defend the action, or take any
action it deems appropriate on-behalf-and-in-the-name-of-the
defendant and take recourse through any appropriate method of
review on behalf of the State of Florida-and-in-the-name-of
the-defendant.

Section 23. Subsections (1) and (7) of section
475.484, Florida Statutes, are amended to read:

475.484 Payment from the fund.--

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

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

(b) Under s. 475.482(2), in an amount equal to the
judgment against the broker or salesman or $25,000, whichever
is less.

(7) Upon the payment of any amount from the Real
Estate Recovery Fund in settlement of a claim in satisfaction
of a judgment against a broker or salesman as described in s.
475.482(1), the license of such broker or salesman shall be
automatically revoked. No further administrative action is
necessary. A discharge of bankruptcy does not relieve a
person from the penalties and disabilities provided in this
section.
Section 24. Section 475.501, Florida Statutes, is created to read:

475.501 State-certified appraisers.--

(1) As used in this section, the term:

(a) "Appraisal" or "appraisal services" means the services provided by a state-certified appraiser and includes:

1. "Appraisal assignment" means an engagement for which a licensee is employed or retained to act, or could be perceived by third parties or the public as acting, as an agent or a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.

2. "Analysis assignment" means appraisal services that relate to the employer's or client's individual needs or investment objectives and includes specialized marketing, financing, and feasibility studies as well as analyses, opinions, and conclusions given in connection with activities such as real estate brokerage, mortgage banking, or real estate counseling.

(b) "Certified appraisal report" means any written or oral analysis, opinion, or conclusion issued by an appraiser certified under s. 475.501, relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real property and includes a report communicating an appraisal analysis, opinion, or conclusion of value, regardless of title.

(c) "State-certified appraiser" means:

1. "State-certified real estate appraiser" means a person who is certified by the department as qualified to

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issue certified appraisal reports for all types of real property; or

2. "State-certified residential appraiser" means a person who is certified by the department as qualified to issue certified appraisal reports for residential real property of one to four dwelling units.

(d) "Subcommittee" means the Real Estate Appraisal Subcommittee of the Florida Real Estate Commission.

(2) CERTIFICATION REQUIRED.--

(a) A person may not use the title "state-certified residential appraiser" or "state-certified real estate appraiser," or any abbreviation or words to that effect, or issue a certified appraisal report unless such person is certified by the department pursuant to this section. However, the work upon which a certified appraisal report is based may be performed by a licensee who is not a state-certified appraiser if the report is approved and signed by a state-certified appraiser.

(b) This section does not preclude a broker, salesman, or broker-salesman who is not a state-certified residential appraiser or state-certified real estate appraiser from appraising real estate for compensation.

(3) REAL ESTATE APPRAISAL SUBCOMMITTEE.--

(a) There is created the Real Estate Appraisal Subcommittee of the Florida Real Estate Commission, which shall consist of seven members appointed by the Governor. Five members of the subcommittee must be active appraisers who have been engaged in the general practice of appraising real property in this state for at least 5 years immediately preceding appointment. Two members of the subcommittee must represent organizations that use appraisals for the purpose of...
eminent domain proceedings, financial transactions, or mortgage insurance. Whenever a vacancy occurs on the subcommittee, any professional organization that represents real estate appraisers, is incorporated as a not-for-profit entity, and registers its interest with the commission may recommend to the commission the names of up to twice as many persons as the number of vacancies to be filled. For initial appointments and future vacancies, the commission may recommend to the Governor from among the names submitted persons to be appointed to the subcommittee. The commission shall recommend appraiser members to the Governor not later than November 1, 1988. The Governor shall appoint members to the subcommittee not later than December 31, 1988. After December 31, 1989, one of the members must be a state-certified residential appraiser and four of the members must be state-certified real estate appraisers who are engaged in the practice of real estate appraising.

1. Initially, four members of the subcommittee shall be appointed for 2-year terms, and three members shall be appointed for 3-year terms. Thereafter, all members shall be appointed for 3-year terms. Any vacancy occurring in the membership of the subcommittee shall be filled by appointment by the Governor for the unexpired term. Upon expiration of his term, a member of the subcommittee shall continue to hold office until the appointment and qualification of his successor. A member may not be appointed for more than two consecutive terms. The Governor may remove any member for cause.

2. The director of the Division of Real Estate of the Department of Professional Regulation shall serve as executive director of the subcommittee.

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3. The subcommittee shall meet at least once each calendar quarter to conduct its business. The location of meetings must be in Orlando, Florida.

4. The members of the subcommittee shall elect a chairperson at the first meeting each year.

5. Each member of the subcommittee is entitled to a per diem allowance of $50 for each meeting of the subcommittee which he attends and to reimbursement for travel expenses incurred in attending meetings of the subcommittee as provided in s. 112.061.

(b) The subcommittee shall:

1. Advise the commission on standards related to the education, experience, and examination of certified appraisers and on educational programs and research projects related to the appraisal of real estate.

2. Review apparent violations of this section and s. 475.42 and make recommendations to the commission.

3. Recommend to the commission rules containing standards for noncertified appraisals.

4. Recommend to the commission standards for the approval of appraisal courses and instructors.

5. Give expert testimony in hearings pursuant to chapter 120 or before the commission.

(4) APPLICATIONS FOR EXAMINATION, CERTIFICATION, AND RENEWAL.--

(a) Applications for examination, certification, and certificate renewal must be made in writing to the department on forms provided by the department.

(b) Appropriate fees, as set forth in the rules of the commission, must accompany all applications for examination, certification, and certificate renewal.
(c) At the time of filing an application for certification, the applicant must sign a pledge to comply with the standards set forth in this section and state that he understands the types of misconduct for which disciplinary proceedings may be initiated against state-certified residential appraiser or state-certified real estate appraiser.

(d) Applications for examination, certification, and certificate renewal must indicate the type of certification.

(5) CERTIFICATION LIMITED TO LICENSED BROKERS, BROKER-SALESMEN, AND SALESMEN.--Only real estate brokers, broker-salesmen, and salesmen licensed pursuant to this chapter may be certified by the department as state-certified residential appraisers or state-certified real estate appraisers.

(6) EXAMINATION REQUIREMENTS FOR STATE-CERTIFIED RESIDENTIAL APPRAISERS AND REAL ESTATE APPRAISERS.--

(a) To be certified as a state-certified real estate appraiser, the applicant must demonstrate, by passing a written examination, that he possesses:

1. A knowledge of technical terms commonly used in real estate appraisal;

2. An understanding of the principles of land economics, real estate appraisal processes, reliable sources of appraising data, and problems likely to be encountered in the gathering, interpreting, and processing of data in carrying out appraisal disciplines;

3. An understanding of the standards for the development and communication of real estate appraisals as provided in this section;

4. An understanding of the types of misconduct for which disciplinary proceedings may be initiated against a

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state-certified residential appraisers and real estate
appraisers, as set forth in this chapter; and

5. Knowledge of theories of depreciation, cost
estimating, methods of capitalization, and the mathematics of
real estate appraisal that are appropriate for the
classification of certificate applied for.

(b) Any applicant who is not certified within 1 year
after passing the examination must retake the examination in
order to qualify for certification.

(c) Any applicant who has failed the examination may
apply for reexamination by submitting an application with the
appropriate examination fee within 90 days after the date of
having last taken and failed the examination.

(7) EDUCATION AND EXPERIENCE REQUIREMENTS FOR STATE-
CERTIFIED RESIDENTIAL APPRAISERS AND REAL ESTATE APPRAISERS.--

(a) To be certified as a state-certified residential
appraiser, an applicant must present evidence satisfactory to
the subcommittee that he:

1. Has 2 years of experience in real property
appraisal, acquired within a period of 5 years immediately
preceding the filing of the application for certification; and

2. Has successfully completed up to 60 classroom hours
of commission-approved academic courses in subjects related to
real estate appraisal from a nationally recognized appraisal
organization, county vocational center, accredited community
college, college, or university, or proprietary real estate
school that holds a permit pursuant to this chapter. Past
courses may be approved by the commission and substituted on
an hour-for-hour basis.

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(b) To be certified as a state-certified real estate appraiser, an applicant must present evidence satisfactory to the subcommittee that he:

1. Has 3 years of experience in real property appraisal, acquired within a period of 5 years immediately preceding the filing of the application for certification; and

2. Has successfully completed up to 120 classroom hours of commission-approved academic courses in subjects related to real estate appraisal from a nationally recognized appraisal organization, county vocational center, accredited community college, college, or university, or proprietary real estate school that holds a permit pursuant to this chapter. Past courses may be approved by the commission and substituted on an hour-for-hour basis.

(c) Each applicant for certification must furnish under oath a detailed statement of the real estate appraisals that he made during each year of experience he claims. Upon request, the applicant shall furnish to the subcommittee, for its examination, copies of appraisal reports that the applicant has prepared in the course of his appraisal practice.

(8) TERM OF CERTIFICATION.--The term of a certification issued under this section shall be the same as the period prescribed by the department for licensure as a real estate broker, broker-salesman, or salesman.

(9) RECERTIFICATION.--

(a) An appraiser who is certified under this section must apply for recertification each time he applies for license renewal as a broker, broker-salesman, or salesman.

The failure to obtain a license as a broker, broker-salesman, CODING: Words stricken are deletions; words underlined are additions.
or salesman or recertification under this section automatically suspends an appraiser's certification.

(b) Any appraiser certified under this section who fails to apply for recertification may thereafter apply only upon payment of a delinquent fee, and only during the 4-year period immediately following the last date on which the appraiser held valid certification. At the end of such 4-year period, an appraiser must reapply and meet all requirements for an initial applicant to obtain certification.

(10) CORPORATIONS AND PARTNERSHIPS INELIGIBLE FOR CERTIFICATION.--

(a) A certification may not be issued under this section to a corporation, partnership, firm, or group. However, an appraiser certified under this section may provide a certified appraisal report for or on behalf of a corporation, partnership, firm, or group if the report is prepared by, or under the personal direction of, such appraiser and is reviewed and signed by him.

(b) The term "state-certified residential appraiser" or "state-certified real estate appraiser" may only be used to refer to an individual who is certified under this section and may not be used following or immediately in connection with the name or signature of a corporation, partnership, firm, or group or in such manner that it could be interpreted as implying certification under this section of a corporation, partnership, firm, or group or anyone other than an individual state-certified appraiser. Corporations, partnerships, firms, or groups which employ state-certified appraisers who provide certified appraisal reports as defined by this section, may represent to the public and advertise that they offer state-certified appraisals.

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(11) ISSUANCE OF CERTIFICATION; DISPLAY.---

(a) A certification issued under this section must bear the signature or facsimile signature of the secretary of the Department of Professional Regulation or the chairman of the Florida Real Estate Commission and must include a certification number.

(b) Each appraiser certified under this section shall place his certification number adjacent to or immediately beneath the designation "state-certified residential appraiser" or "state-certified real property appraiser," as applicable, when such term is used in a certified appraisal report or in a contract or other instrument used by the appraiser in conducting real property appraisal activities.

(12) CONTINUING EDUCATION REQUIREMENTS.---As a prerequisite for recertification, a state-certified appraiser must present evidence satisfactory to the commission of having met the continuing education requirements established by commission rule.

(13) DISCIPLINARY PROCEEDINGS.---The commission may investigate the actions of any appraiser certified under this section and may reprimand, fine, revoke, or suspend the license or certification of, or place on probation any such appraiser for any of the acts set forth in s. 475.25 or s. 475.42. A state-certified appraiser may also be disciplined by the commission for any of the following actions:

(a) Procuring or attempting to procure certification under this section by knowingly making a false statement, submitting false information, or refusing to provide complete information in response to a question in an application for certification or through any form of fraud or misrepresentation.
(b) Paying money or other valuable consideration, except as required by this chapter, to any member or employee of the commission to procure a certification under this chapter.

(c) Committing an act of dishonesty, fraud, or misrepresentation which could substantially benefit the appraiser or another person.

(d) Violating any standard for the development or communication of a real estate appraisal provided in this section.

(e) Failing or refusing to exercise reasonable diligence in developing an appraisal or preparing an appraisal report.

(f) Failing to communicate an appraisal without good cause.

(g) Willfully disregarding or violating any of the provisions of this section or the rules of the commission for the administration or enforcement of this section.

(h) Accepting an appraisal assignment if the employment itself is contingent upon the appraiser's reporting a predetermined result, analysis, or opinion or if the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon the consequences resulting from the appraisal assignment.

(14) STANDARDS FOR THE DEVELOPMENT OF CERTIFIED APPRAISAL REPORTS.--

(a) In developing certified appraisal reports, an appraiser certified under this section shall:

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1. Be aware of, understand, and correctly apply those recognized appraisal methods and techniques that are necessary to produce a credible analysis, opinion, or conclusion.

2. Not commit a substantial error of omission or commission that significantly affects an analysis, opinion, or conclusion.

3. Identify the real estate and real property interest under consideration, define the opinion that is the purpose of the appraisal, consider the scope of the appraisal service, and identify the effective date of the opinion.

4. Identify and consider the appropriate procedures and market data required to perform the appraisal service.

5. Consider the effect of the following factors on the use and value of the real property or real property interest:
   a. Existing land use regulations;
   b. Reasonably predictable changes in such land use regulations;
   c. Economic demand;
   d. The physical adaptability of the real property;
   e. Neighborhood trends; and
   f. The highest and best use of the real property.

6. Consider the effect on the real property being appraised of anticipated public or private improvements located on or off the site, to the extent that market actions reflect such anticipated improvements as of the effective appraisal date.

7. Recognize that land is generally appraised as though it were vacant and available for development to its highest and best use and the appraisal of improvements is based on their actual contribution to the site.
8. Appraise proposed improvements only after examining and having available for future examination:
   a. Documentation sufficient to identify the scope and character of the proposed improvements;
   b. Evidence indicating the probable time of completion of the proposed improvements; and
   c. Reasonably clear and appropriate evidence supporting development costs, anticipated earnings, occupancy projections, and the anticipated competition at the time of completion.

9. Base estimates of anticipated future rents and expenses for the real property being appraised on reasonably clear and appropriate evidence.

10. Reconcile the results of the various approaches to value used in conducting the appraisal.

   (b) A certified appraisal report that contains an estimate of value must define the value being considered.
   1. If the value estimate is a statement or estimate of market value, the appraiser shall clearly indicate whether the statement or estimate is the most probable price in terms of cash, financial arrangements equivalent to cash, or such other terms as may be precisely defined.
   2. If the estimate of value is based on submarket financing or financing with unusual conditions or incentives, the terms of such atypical financing must be clearly set forth, the contribution to or negative influence on value must be described and estimated, and the market data supporting the valuation estimate must be described and explained.

   (c) For each certified appraisal report that contains an estimate of value, an appraiser shall:

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1. Consider whether an appraised fractional interest, physical segment, or partial holding contributes pro rata to the value of the whole.

2. Identify any personal property or other items that are not real property but are included with or considered in connection with the real estate being appraised and contribute to the total value estimate or conclusion.

3. Consider and analyze any current agreement of sale, option, or listing of the real property being appraised, if such information is available to the appraiser in the normal course of business.

4. Consider and analyze any prior sales of the property being appraised that occurred within 1 year for one-family to four-family residential property or within 3 years for any other type of real property.

5. When estimating the value of a leased fee estate or a leasehold estate, analyze and consider the effect on value, if any, of the terms and conditions of the lease.

6. Give careful consideration to the effect on value, if any, of the assemblage of the various estates or component parts of a property and refrain from estimating the value of the whole solely by adding together the individual values of its various estates or component parts.

7. State in the certification statement whether exterior and interior building inspections were made, and if so, when and by whom.

(d) In reviewing a certified appraisal report, an appraiser shall:

1. Identify the report being reviewed, the real property being appraised or the real property interest being appraised, the effective date of the opinion in the original
1. Report, the date of the original report, and the date of the review.

2. Identify the scope of the review process to be conducted, including a determination of whether it is appropriate or essential to inspect the appraised property and the data presented.

3. Specify an opinion as to the adequacy and relevance of the data used and the propriety of any adjustments made.

4. Specify an opinion as to whether the appraisal methods and techniques used were appropriate and, if not, the reasons for the reviewer’s disagreement with the original appraiser.

5. Specify an opinion as to whether the analyses, opinions, or conclusions in the report being reviewed are correct and appropriate and, if not, state his analyses, opinions, or conclusions and the reasons for the reviewer’s disagreement with the original appraiser.

6. State in the certification statement whether exterior and interior building inspections were made, and if so, when and by whom.

(e) An appraiser certified under this section may enter into an agreement to perform an appraisal service that calls for something less than, or different from, the work that would otherwise be required under paragraph (a) if, before entering such agreement:

1. The appraiser determines that the appraisal service to be performed is not so limited in scope that the resulting analysis, opinion, or conclusion concerning the real property would tend to mislead or confuse the client, the users of the appraisal report, or the public; and
2. The appraiser advises the client that the appraisal service calls for something less than, or different from, the work required under paragraph (a) and therefore the appraisal letter of transmittal and certification statement will include a qualification that reflects the limited or differing scope of the appraisal service.

(15) STANDARDS FOR COMMUNICATION OF CERTIFIED APPRAISALS.—All appraisers certified under this section shall comply with the following standards in the communication of appraisals of real property located in this state:

(a) Each written or oral report or communication concerning the results of an appraisal must contain sufficient information to enable the persons who receive or rely on the report or communication to understand it.

(b) Each written or oral report or communication concerning the results of an appraisal must clearly and accurately set forth each appraisal analysis, opinion, or conclusion in a manner that will not be misleading in the marketplace.

(c) Each written or oral report or communication concerning the results of an appraisal must clearly and accurately disclose any extraordinary assumption or limiting condition that directly affects an appraisal analysis, opinion, or conclusion.

(d) Each written report or communication concerning the results of an appraisal must:

1. Identify and describe the real property being appraised;

2. Identify the real property interest being appraised;

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3. Define the opinion that is the purpose of the appraisal and describe the scope of the appraisal;

4. Set forth the effective date of the opinion and the date of the report;

5. Set forth the appraiser's opinion of the highest and best use for the real property being appraised when such an opinion is necessary and appropriate;

6. Set forth all assumptions and limiting conditions that affect the analyses, opinions, and conclusions in the report;

7. Set forth any additional information that may be appropriate to show compliance with, and identify permitted departures from, the requirements for the development of appraisals provided in this section; and

8. Include a signed certification in accordance with the requirements of this subsection.

(e) Each written report or communication of the results of an appraisal signed by a certified appraiser must contain a certification statement that is similar in content to the following form:

Certification to be used in written reports resulting from appraisal assignments:

... I certify, to the best of my knowledge and belief, that:

... The statements of fact contained in this report are true and correct.

... The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, unbiased, professional analyses, opinions, and conclusions.

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... I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest or bias with respect to the parties involved.

... My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions that were developed.

... My analyses, opinions, or conclusions were developed and this report has been prepared in conformity with the requirements of the State of Florida for state-certified appraisers.

... The use of this report is subject to the requirements of the State of Florida relating to review by the Real Estate Appraisal Subcommittee of the Florida Real Estate Commission.

... I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the exterior and interior of the property.)

... No person (or no person other than the person named) provided significant professional assistance to the person signing this report. (The name of each individual providing significant professional assistance must be stated, together with a statement of whether such individual is a state-certified appraiser and, if certified, his license number.)

(f) To the extent that it is both possible and appropriate, each oral report or communication concerning the

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results of an appraisal must address the substantive matters set forth in this section.

(g) An appraiser may enter into an agreement calling for a certified appraisal report that is something less than, or different from, the complete certified appraisal report that would otherwise be required by the specific reporting standards set forth in this section if, before entering such agreement:

1. The appraiser determines that the resulting certified appraisal report will not be so limited in scope that it would tend to mislead or confuse the client, the users of the appraisal report, or the public; and

2. The appraiser advises the client that the report to be prepared is something less than, or different from, the report required by the specific reporting standards and therefore the appraisal letter of transmittal and the report will include a qualification that explains the cause for this fact and state: "This is a limited report."

(16) QUESTIONS OF APPLICABILITY OR INTERPRETATION.--If a question arises as to the applicability or interpretation of the standards or definitions in this section, the subcommittee and the commission may consider other reference materials, including materials published by national appraisal organizations interpreting similar standards adopted by such national appraisal organizations.

(17) DOCUMENTS TO BE RETAINED.--An appraiser certified under this section shall retain for at least 5 years original or true copies of any contracts engaging the appraiser's services for real property work, certified appraisal reports, and supporting data assembled and formulated by the appraiser in preparing certified reports. The period for retention of
the records applicable to each engagement of the services of
the appraiser runs from the date of the submission of the
certified appraisal report to the client. These records must
be made available by the appraiser for inspection and copying
by the subcommittee on reasonable notice to the appraiser. If
an appraisal has been the subject of or has served as evidence
for litigation, reports and records must be retained for at
least 2 years after the trial.

Section 25. Subsection (4) of section 337.271, Florida
Statutes, is amended to read:

337.271 Negotiations for acquisitions.--
(4) The fee owner may, within 120 days after receipt
of the notice required by subsection (2) or at a later date
specified by the department, submit a complete appraisal
report relating to the parcel to be acquired. The report
submitted shall contain all data and information upon which
the appraiser's conclusions are based and shall be prepared by
a state-certified real estate appraiser as defined in chapter
475 and an appraiser who has been qualified by the department,
or who has been qualified and accepted as an expert real
estate appraiser in an eminent domain proceeding in this state
within the prior 3 years. Such appraiser shall be actively
registered with the Florida Real Estate Commission as a real
estate broker or salesman. A list of those state-certified
real estate appraisers, as defined in chapter 475, currently
qualified by the department shall be attached to the letter
submitted to the fee owner. On multiple-ownership property,
the fee owner is collectively entitled to only one appraisal
report.

Section 26. Subsection (4) of section 475.181 and
section 475.1825, Florida Statutes, are hereby repealed.

CODING: Words stricken are deletions; words underlined are additions.
Section 27. Notwithstanding the provisions of chapter 81-318, chapter 82-1, chapter 82-179, chapter 85-215, or chapter 87-50, Laws of Florida, sections 475.001, 475.01, 475.011, 475.02, 475.021, 475.03, 475.04, 475.05, 475.10, 475.125, 475.15, 475.17, 475.175, 475.181, 475.182, 475.183, 475.215, 475.22, 475.23, 475.24, 475.25, 475.28, 475.31, 475.37, 475.38, 475.41, 475.42, 475.421, 475.43, 475.451, 475.4511, 475.452, 475.453, 475.454, 475.455, 475.482, 475.483, 475.4835, 475.484, 475.485, and 475.486, Florida Statutes, shall not stand repealed October 1, 1988, as scheduled by such laws, but said sections, as amended, are hereby revived and readopted.

Section 28. Notwithstanding the provisions of chapter 85-199, Laws of Florida, section 475.045, Florida Statutes, shall not stand repealed on October 1, 1988, as scheduled by such act, but said section, as amended, is hereby revived and readopted.

Section 29. Sections 475.001, 475.01, 475.011, 475.02, 475.021, 475.03, 475.04, 475.05, 475.10, 475.125, 475.15, 475.17, 475.175, 475.181, 475.182, 475.183, 475.215, 475.22, 475.23, 475.24, 475.25, 475.28, 475.31, 475.37, 475.38, 475.41, 475.42, 475.421, 475.43, 475.451, 475.4511, 475.452, 475.453, 475.454, 475.455, 475.482, 475.483, 475.4835, 475.484, 475.485, 475.486, and 475.501, Florida Statutes, are repealed October 1, 1998, and shall be reviewed by the Legislature prior to that date pursuant to section 11.61, Florida Statutes.

Section 30. Section 475.045, Florida Statutes, is repealed October 1, 1998, and shall be reviewed by the Legislature prior to that date pursuant to section 11.611, Florida Statutes.

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Section 31. This act shall take effect October 1, 1988, except that section 25 shall take effect October 1, 1990.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 82

Amends s. 475.01, F.S., to revise the term "broker" to include only the general partner, rather than all partners, in a partnership; to add the terms "involuntarily inactive" and "voluntarily inactive;" and to include state-certified appraisers within the definition of "operating" as a licensee.

Specifies that FREC members be appointed by the Governor and confirmed by the Senate, and require that current FREC and FAC members complete their present terms unless removed for cause.

Revises exemptions to ch. 475, F.S., to allow non-transactional bonuses to be paid to certain salaried employees.

Authorizes as an alternative means of satisfying the 1-year experience requirement for licensure as a broker that one hold an active real estate salesman's license for at least 12 months during the preceding 5 years in the employ of a governmental agency for a salary, performing the duties authorized for real estate licensees.

Authorizes the FREC to require up to 60 classroom hours of post-licensure education for brokers which must be completed within the 2-year period immediately following initial licensure. Provides that licensees failing to meet this requirement may be issued a salesman's license upon satisfactory completion of the regular 14-hour continuing education requirement.

Clarifies procedures relating to voluntarily inactive and involuntarily inactive licenses; requires notification of the licensee 2 years, rather than 1 year, prior to expiration; and establishes a maximum late renewal fee of $100.

Requires advance fees to be deposited in a bank located in this state.

Reinstates commission issuance of an escrow disbursement order as one of the three means a broker may choose for resolving an escrow conflict. Reinstates eligibility of claims against the Real Estate Recovery Fund based on court judgments ordering a broker to pay damages as a result of the broker's compliance with an escrow disbursement order, unless the licensee failed to defend himself in court.

Allows the FREC to waive the requirement for a final court judgment as a condition for recovery from the Real Estate Recovery Fund when a final judgment cannot be secured due to death of the licensee.

Expands the requirement that claims against the Real Estate Recovery Fund be made within 2 years of the act for which recovery is sought to allow claims to also be made within 2 years from the time the act is discovered, provided that in the latter case the claim is made not more than 4 years from the date of the act giving rise to the claim.

Includes certification as an appraiser within the scope of the commission's disciplinary authority.
Allows the work upon which a certified appraisal report is based to be performed by a non-certified licensee if the report is approved and signed by a state-certified appraiser.

Allows corporations and firms which employ state-certified appraisers who provide certified appraisal reports to advertise the availability of these services.

With respect to appraiser education, directs the Real Estate Appraisal Subcommittee to recommend to the commission standards for the approval of appraisal courses and instructors, requires the written state examination for appraisers to include additional topics, specifies the types of organizations that may offer appraiser education courses, and authorizes the commission to approve past course work.

Provides that professional organizations that represent real estate appraisers may recommend to the commission nominees for the appraisal subcommittee.

Amends s. 337.271(4), F.S., to require certain right-of-way acquisition appraisals to be conducted by state-certified real estate appraisers effective October 1, 1990.

Repeals s. 475.181(4), F.S., deleting obsolete provisions relating to the applicant's request for a license.
A bill to be entitled

An act relating to real estate brokers,
salesmen, schools, and appraisers; amending s. 475.001, F.S., relating to legislative purpose; amending s. 475.01, F.S.; providing definitions; amending s. 475.011, F.S.; providing exemptions from regulation; amending s. 475.02, F.S.; providing for appointment of members to the Florida Real Estate Commission; amending s. 475.04, F.S.; providing for duties of the commission; amending s. 475.045, F.S.; revising qualifications for membership on the Foundation Advisory Committee of the Florida Real Estate Commission Education and Research Foundation; revising powers and duties of the committee and the foundation; amending s. 475.125, F.S.; revising license and renewal fees, amending s. 475.15, F.S.; requiring the registration or licensure of only the general partners in a limited partnership; amending s. 475.17, F.S.; revising qualifications for practice as a real estate broker or salesman; providing post-licensure requirements for brokers and salesmen; amending s. 475.175, F.S.; providing an additional requirement for license examinations; amending s. 475.181, F.S.; providing for the regulation of nonresident licensees; removing obsolete language; amending s. 475.182, F.S.; providing for license renewal, including continuing education requirements; providing for inactive

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status; amending s. 475.183, F.S.; revising requirements to renew inactive licenses; providing for voluntary and involuntary inactive licenses; amending s. 475.23, F.S.; requiring a licensee to notify the commission of a change of address; amending s. 475.25, F.S.; prescribing disciplinary actions and revising grounds for disciplinary action; amending s. 475.31, F.S.; deleting certain relicensing limitations; amending s. 475.37, F.S.; providing for reversal of certain disciplinary actions; amending s. 475.38, F.S.; deleting provisions allowing payment by the commission of certain fees and costs of a defendant; amending s. 475.41, F.S.; correcting a cross reference; amending s. 475.42, F.S.; revising a prohibition and providing an additional prohibition; providing penalties; amending s. 475.451, F.S.; providing requirements for certain schools and instructors teaching courses in real estate practice; amending s. 475.452, F.S.; relating to advance fees; amending s. 475.455, F.S.; deleting certain reporting requirements; amending s. 475.482, F.S.; deleting certain authorized disbursements from the Real Estate Recovery Fund; raising the fund levels at which the imposition of special fees for the fund must be discontinued and at which they may be reimposed thereafter; amending s. 475.483, F.S.; revising conditions for recovery from the

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fund; amending s. 475.4835, F.S.; providing for
certain actions to be taken by the commission
on behalf of the state; amending s. 475.484,
F.S.; revising certain requirements for
payments made from the Real Estate Recovery
Fund; prohibiting the recovery of court costs,
attorney's fees, and interest from the fund;
creating s. 475.501, F.S.; providing for
certification of real estate appraisers and
residential appraisers; creating the Real
Estate Appraisal Subcommittee of the Florida
Real Estate Commission; providing for
membership of the subcommittee; prescribing its
duties; providing for certification of licensed
brokers, broker-salesmen, and salesmen as
appraisers; providing examination requirements;
providing education and experience
requirements; providing for term of
certification; providing for recertification;
limiting certification to individuals;
requiring the display of certification numbers;
providing for fees for examination,
certification, and recertification; providing
continuing education requirements; providing
for disciplinary actions and grounds therefor;
providing standards for developing certified
appraisal reports and communicating such
reports; providing for interpretation of such
standards; requiring the retention of certain
documents; amending s. 337.271, F.S.; relating
to negotiations for acquisitions of property to

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provide reference to state-certified real
estate appraisers; repealing s. 475.1825, F.S.,
relating to the inactive status of certain
expired registrations; directing the Florida
Real Estate Commission to provide for a study
relating to real estate appraisers; saving ch.
475, F.S., from Sunset repeal; providing for
future review and repeal; saving s. 475.045,
F.S., from Sundown repeal; providing for future
review and repeal; providing effective dates.

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

Section 1. Section 475.001, Florida Statutes, is
amended to read:

475.001 Purpose.--The Legislature finds that a
significant number of real property transactions are
facilitated by real estate brokers and salesmen, that many
real estate brokers and salesmen also engage in the practice
of real estate appraising, and that it is necessary to assure
the minimal competence of real estate practitioners in order
to protect the public from potential economic loss; therefore,
the Legislature deems it necessary in the interest of the
public welfare to regulate real estate brokers, salesmen, and
schools in this state and to provide for the voluntary
certification of those who choose to provide certified
appraisals.

Section 2. Paragraph (c) of subsection (1) and
subsection (3) of section 475.01, Florida Statutes, are
amended, and paragraphs (g), (h), (i), (j), (k), (l), (m), and
(n) are added to subsection (1) of said section, to read:

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475.01 Definitions.--

(1) As used in this chapter:

(c) "Broker" means a person who, for another, and for a compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises, auctions, sells, exchanges, buys, rents, or offers, attempts or agrees to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises or business opportunities or any real property or any interest in or concerning the same, including mineral rights or leases, or who advertises or holds out to the public by any oral or printed solicitation or representation that he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing, or renting business enterprises or business opportunities or real property of others or interests therein, including mineral rights, or who takes any part in the procuring of sellers, purchasers, lessors, or lessees of business enterprises or business opportunities or the real property of another, or leases, or interest therein, including mineral rights, or who directs or assists in the procuring of prospects or in the negotiation or closing of any transaction which does, or is calculated to, result in a sale, exchange, or leasing thereof, and who receives, expects, or is promised any compensation or valuable consideration, directly or indirectly therefor; and all persons who advertise rental property information or lists. The term "broker" also includes any person who is a general partner, officer, or director of a partnership or corporation which acts as a broker.

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

(h) "Voluntarily inactive" means the licensure status which results when a licensee has applied to the department to be placed on inactive status and has paid the fee prescribed by rule.

(i) "Appraisal" or "appraisal services" means the services provided by appraisers and includes:

1. "Appraisal assignment" means an engagement for which a licensee is employed or retained to act, or could be perceived by third parties or the public as acting, as an agent or a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.

2. "Analysis assignment" means appraisal services that relate to the employer's or client's individual needs or investment objectives and includes specialized marketing, financing, and feasibility studies as well as analyses, opinions, and conclusions given in connection with activities such as real estate brokerage, mortgage banking, or real estate counseling.

(1) "Appraisal report" means any written or oral analysis, opinion, or conclusion issued by an appraiser relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real property and includes a report communicating an appraisal analysis, opinion, or conclusion of value, regardless of title.

(k) "Certified appraisal report" means any written or oral analysis, opinion, or conclusion issued by an appraiser...
certified under s. 475.501, relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real property and includes a report communicating an appraisal analysis, opinion, or conclusion of value, regardless of title.

(1) "State-certified real estate appraiser" means a person who is certified by the department as qualified to issue certified appraisal reports for all types of real property; or

(m) "State-certified residential appraiser" means a person who is certified by the department as qualified to issue certified appraisal reports for residential real property of one to four dwelling units.

(n) "Subcommittee" means the Real Estate Appraisal Subcommittee of the Florida Real Estate Commission established pursuant to s. 475.501.

(3) Wherever the word "operate" or "operating" as a broker, a broker-salesman, or a salesman, state-certified residential appraiser, or state-certified real estate appraiser appears in this chapter, in any order, rule, or regulation of the commission; in any pleading, indictment, or information under this chapter; in any court action or proceeding; or in any order or judgment of a court, it shall be deemed to mean the commission of one or more acts described in this chapter paragraph-(m)- as constituting or defining a broker, broker-salesman, or salesman, state-certified residential appraiser, or state-certified real estate appraiser, not including, however, any of the exceptions stated therein. A single such act is sufficient to bring a person within the meaning of this chapter, and each act, if prohibited herein, constitutes a separate offense.
Section 3. Subsections (4), (5), and (6) of section 475.011, Florida Statutes, are amended, and subsections (7) and (8) are added to said section, to read:

475.011 Exemptions.--This chapter does not apply to:

1. Any salaried employee of an owner, or of a registered broker for an owner, of an apartment community who works in an onsite rental office of the apartment community in a leasing capacity;

2. Any person employed for a salary as, or acting-in-the-capacity-of, a manager of a condominium or cooperative apartment complex building as a result of any activities or duties which he may have in relation to the renting of individual units within such condominium or cooperative apartment complex if such manager is acting on behalf of a tenant-owning-or-having-an-interest-in-no-more-than-one-unit within-the-condominium-or-cooperative-apartment-and-if-rentals arranged by him are for periods no greater than 1 year; or

3. Any person, partnership, corporation, or other legal entity which, for another and for compensation or other valuable consideration, sells, offers to sell, advertises for sale, buys, offers to buy, or negotiates the sale or purchase of radio, television, or cable enterprises licensed and regulated by the Federal Communications Commission pursuant to the Communications Act of 1934. However, if the sale or purchase of the radio, television, or cable enterprise involves the sale or lease of land, buildings, fixtures, and all other improvements to the land, a broker or salesman licensed under this chapter shall be retained for the portion of the transaction which includes the land, buildings, fixtures, and all other improvements to the land.
(7) Any full-time graduate student who is enrolled in a commission-approved degree program in appraising at a college or university in this state, if the student is acting under the direct supervision of a licensed broker and is engaged only in appraisal activities related to the approved degree program. Any appraisal report by the student must be issued in the name of the supervising broker.

(8) Any person receiving a one-time-only finder's fee for referring tenants for a residential lease to an owner, manager, or employee of an apartment complex, in which they are also a tenant, provided, however, that said fee shall not exceed $100.

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

475.02 Florida Real Estate Commission.--

(1) There is created within the Department of Professional Regulation the Florida Real Estate Commission. The commission shall consist of seven members who shall be appointed by the Governor, subject to confirmation by the Senate. Four members must be licensed brokers, each of whom has held an active license for the 5 years preceding appointment; one member must be a licensed broker or a licensed salesman who has held an active license for the 2 years preceding appointment; and two members must be lay persons who are not, and have never been, brokers, salesmen, or members of any closely related profession or occupation. At least one member of the commission must be 60 years of age or older.

Section 5. Subsection (2) of section 475.04, Florida Statutes, is amended to read:

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

(2) For the purpose of performing its duty under subsection (1) to educate licensees registrants, the commission may conduct, offer, sponsor, prescribe, or approve real estate educational courses for all persons licensed by the department as brokers, broker-salesmen, salesmen, or instructors; and the cost and expense of such courses shall be paid as provided in s. 475.125 for other expenses of the commission by s. 475.12.

Section 6. Paragraphs (a) and (c) of subsection (2), paragraph (b) of subsection (4), paragraph (b) of subsection (5), and subsections (7) and (9) of section 475.045, Florida Statutes, are amended to read:

475.045 Florida Real Estate Commission Education and Research Foundation; Foundation Advisory Committee.--

(2)(a) There is created the Foundation Advisory Committee which is composed of nine persons appointed by the Governor without regard to race, creed, sex, religion, or national origin of the appointee, with the following representation:

1. Six active real estate licensees, one of whom may be a real estate salesman. All licensees shall have been active real estate licensees for at least the past 5 years.

2. Three members shall be representatives of the general public and those appointed after October 1, 1988, shall possess qualifications in the fields of education, research, or consumer affairs which relate to the committee's education and research activities. Members representative of the general public shall not be licensed real estate brokers or salesmen and shall not have a financial interest, other

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than as consumers, in the practice of a licensed real estate
broker or salesman.

(c)1. Except-for-the-initial-appointees, Members of
the advisory committee shall hold office for staggered terms
of 4 years, with the terms of three members expiring on
January 31 of each odd-numbered year. The current members
shall complete their present terms unless removed for cause.

In-making-the-initial-appointments, the Governor shall
designate three members, including two representatives of the
general public, for terms expiring in 1986, three members for
terms expiring in 1987, and three members for terms expiring
in 1988.

2. Any vacancy shall be filled by appointment for the
unexpired portion of the term. Each member shall serve until
his successor is qualified.

3. Each member of the advisory committee is entitled
to per diem and travel expenses as set by legislative
appropriation for each day that the member engages in the
business of the advisory committee.

(b) The first meeting of the advisory committee shall
be called by the chairman of the Florida Real Estate
Commission or his designated representative. The committee
shall meet not less than semiannually and, in addition, on
call of its chairman or on petition of any six of its members.

(b) The advisory committee shall select the education
or research proposals that shall be funded and shall give
priority to projects with the greatest potential for direct or
indirect benefit to the public.

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(7) The advisory committee shall have the power and authority to adopt all rules necessary to administer this section provision.

(9) Neither the foundation nor the committee shall expend any funds for the purpose of employing staff or other employment assistance.

Section 7. Section 475.125, Florida Statutes, is amended to read:

475.125 Fees.--

(1) The commission by rule may establish fees to be paid for applications, examination, reexamination, licensing and renewal, certification and recertification, reinstatement, and recordmaking and recordkeeping. The fee for initial application and examination may not exceed $100. The initial license fee and the license biennial renewal fee may not exceed $50 for each year of the duration of the license $100. The commission may also establish by rule a late renewal penalty. The commission shall establish fees which are adequate to ensure its continued operation. Fees shall be based on estimates made by the department of the revenue required to implement this chapter and other provisions of law relating to the regulation of real estate practitioners.

(2) The application and license fees shall be refunded upon a determination by the commission that the state is not entitled to the fees or that only a portion of the resources have been expended in the processing of the application, or if for any other reason the application is not completely processed. The commission shall implement this provision by rule.

Section 8. Section 475.15, Florida Statutes, is amended to read:

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475.15 Registration and licensing of licenses of general partners, members, officers, and directors of firm.—

Each partnership or corporation which acts as a broker shall register with the commission and shall renew the licenses or registrations of its members, officers, and directors for each license period. The registration of such a partnership is shall be canceled automatically during any period of time that the license or registration of any of its partners is not in force. However, if the partnership is a limited partnership, only the general partners must be licensed brokers or brokerage corporations registered pursuant to this chapter.

If the license or registration of at least one active broker member is not in force, the registration of such a corporation or partnership is shall be canceled automatically during that period of time.

Section 9. Section 475.17, Florida Statutes, is amended to read:

475.17 Qualifications for practice.—

1(a) An applicant for licensure who is a natural person must be at least 18 years of age, hold a high school diploma or its equivalent; be a bona fide resident of the state, honest, truthful, trustworthy, and of good character; and shall have a good reputation for fair dealing.

An applicant for an active broker's license or a salesman's license must be competent and qualified to make real estate transactions and conduct negotiations therefor with safety to investors and to those with whom he may undertake a relationship of trust and confidence. If the applicant has been denied registration or a license or has been disbarred, or his registration or license to practice or conduct any regulated profession, business, or vocation has been revoked.

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or suspended, by this or any other state, any nation, or any
possession or district of the United States, or any court or
lawful agency thereof, because of any conduct or practices
which would have warranted a like result under this chapter,
or if the applicant has been guilty of conduct or practices in
this state or elsewhere which would have been grounds for
revoking or suspending his license under this chapter had the
applicant then been registered, the applicant shall be deemed
not to be qualified unless, because of lapse of time and
subsequent good conduct and reputation, or other reason deemed
sufficient, it appears to the commission that the interest of
the public and investors will not likely be endangered by the
granting of registration.

(b) An application may be disapproved approved if
the applicant has acted or attempted to act, or has held
himself out as entitled to act, during the period of 1 year
next prior to the filing of the application, as a real estate
broker or salesman in the state in violation of this chapter.
This paragraph may shall be deemed to bar any person from
licensure who has performed any of the acts or services
described in s. 475.01(3), unless exempt pursuant to s.
475.011, during a period of 1 year next preceding the filing
of the application, or during the pendency of the application,
and until a valid current license has been duly issued to him,
regardless of whether the performance of the act or service
was done for compensation or valuable consideration.

(2) In addition to other requirements under this
chapter, the commission may require the satisfactory
completion of one or more of the educational courses or
equivalent courses conducted, offered, sponsored, prescribed,
or approved pursuant to s. 475.04, taken at an accredited

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college, university, or community college, at an area vocational-technical center, or at a registered real estate school, as a condition precedent for any person to become licensed or to renew his license as a broker, broker-salesman, or salesman. The course or courses required for one to become initially licensed shall not exceed a total of 63 classroom hours of 50 minutes each, inclusive of examination, for a salesman and 72 classroom hours of 50 minutes each, inclusive of examination, for a broker. No person may be licensed as a real-estate-broker- unless, in addition to the other requirements of law, he has held an active real-estate salesman's license in the office of one or more licensed real estate brokers for at least 12 months during the preceding 5 years. The satisfactory completion of an examination administered by the accredited college, university, or community college, by an area vocational-technical center, or by the registered real estate school shall be the basis for determining satisfactory completion of the course. However, notice of satisfactory completion shall not be issued if the student has absences in excess of 8 classroom hours. When such requirement is made, provisions shall be made to make such required course or courses available by correspondence or other suitable means to any person who, by reason of hardship, cannot attend the place or places where the course is regularly conducted.

(3)(a) A person may not be licensed as a real estate broker unless, in addition to the other requirements of law, he has held an active real estate salesman's license for at least 12 months during the preceding 5 years; 1. In the office of one or more real estate brokers licensed pursuant to this chapter; or

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2. In the employ of a governmental agency for a salary and performing the duties authorized in this chapter for real estate licensees.

(4)(a) In addition to the other requirements under this chapter, to maintain a valid salesman's license, the commission may prescribe a post-licensure education requirement which shall not exceed 45 classroom hours of 50 minutes each, inclusive of examination, within the 2-year period immediately following initial licensure. This shall consist of a 45-hour course on subjects which include property management, appraisal, real estate finance or the economics of real estate management. Required post-licensure courses must be taken at an accredited college, university, community college, an area vocational-technical center, or at a registered real estate school.

(b) Satisfactory completion of the post-licensure requirement is demonstrated by successfully meeting all standards established for the commission-prescribed or commission-approved institution, school, or sponsor courses. However, notice of satisfactory completion shall not be issued if the student has absences in excess of 10 percent of the required classroom hours.

(c) The license of any salesman who does not complete the post-licensure education requirement within the 2-year period immediately following initial licensure shall not be renewed as a salesman for the following licensure period. If this education is not completed within the 6-month period following expiration of the initial license, such person wishing to again operate as a real estate salesman must requalify by satisfactorily completing the salesman's

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1 prelicensure course and passing the state examination for
2 licensure as a salesman

(5)(a) To maintain a valid broker's license, the
3 commission may prescribe a post-licensure education
4 requirement which shall not exceed 60 classroom hours of 50
5 minutes each, inclusive of examination, within the 2-year
6 period immediately following initial licensure. This shall
7 consist of a 60-hour course on subjects which include advanced
8 appraisal, advanced property management, real estate
9 marketing, business law, advanced real estate investment
10 analyses, advanced legal aspects, general accounting, real
11 estate economics, syndications, commercial brokerage,
12 feasibility analyses, advanced real estate finance, residential
13 brokerage, or real estate brokerage office operations.
14 Required post-licensure courses must be taken at an
15 accredited college, university, community college, an area
16 vocational-technical center, or at a registered real estate
17 school.

(b) Satisfactory completion of the post-licensure
20 requirement is demonstrated by successfully meeting all
21 standards established for the commission-prescribed or
22 commission-approved institution, school, or sponsor courses.
23 However, notice of satisfactory completion shall not be issued
24 if the student has absences in excess of 10 percent of the
25 required classroom hours.

(c) The license of any broker who does not complete
27 the post-licensure education requirement within the 2-year
29 period immediately following initial licensure shall not be
30 renewed as a broker for the following license period. If the
31 licensee wishes to operate as a salesman, he may be issued a
32 salesman's license after providing proof that he has

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satisfactorily completed the 14-hour continuing education
course within the 6 months following expiration of his
broker's license. If such person wishes to again operate as a
broker, he must requalify by satisfactorily completing the
broker's prelicensure course and passing the state examination
for licensure as a broker.

(d) The commission may allow an additional 6-month
period at the end of the 2-year time frame for completing the
salesman and broker post-licensure education courses for
licensees who cannot, due to individual physical hardship,
complete the courses within the required time.

(e) Except as provided in this subsection and except
as provided in subsection (4), salesmen and brokers are not
required to meet the 14-hour continuing education requirement
during the 2-year period following initial licensure.

(f) The commission shall provide for post-licensure
education courses to be made available by correspondence or
other suitable means to any person who, by reason of hardship
cannot attend the place or places where courses are regularly
conducted.

(6) The provisions of subsections (4) and (5) shall
not take effect until the commission adopts rules to implement
these subsections.

(3) All individuals engaged in the activity of dealing
in business enterprises or business opportunities for another
and for valuable consideration on January 17, 1982, may
continue to operate in this activity without complying with
the qualifications for practice provisions of subsection (2)
and subsection 475.175 for a period of 2 years. During this 2-year
period, all such individuals shall either qualify as real
estate brokers under the provisions of this chapter or

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satisfactorily-complete-commission-approved-courses-of
instruction-and-pass-an-examination-prescribed-by-the
commission.--The-total-classroom-hours-of-instruction-in-the
commission-approved-course-or-courses-of-instruction-shall-not
exceed-the-combined-total-for-broker-applicants-and-salesman
applicants-contained-in-subsection-(2).--After-this-2-year
period,-full-compliance-with-this-chapter-is-mandatory.

Section 10. Paragraph (a) of subsection (1) of section
475.175, Florida Statutes, is amended to read:

475.175 Examinations.--
(1) A person shall be entitled to take the license
examination to practice in this state if he:
(a) Submits to the department the appropriate
notarized application and fee and, if required by the
department, fingerprints for processing through appropriate
law enforcement agencies; and

Section 11. Subsection (4) of section 475.181, Florida
Statutes, is amended to read:

475.181 Licensure.--
(4)(a) If an applicant is not a resident of this
state, he shall file an irrevocable consent that suits and
actions may be commenced against him in any county of this
state in which a plaintiff having a cause of action or suit
against him resides, and that service of any process or
pleading in suits or actions against him may be made by
delivering the same to the director of the Division of Real
Estate and mailing a copy thereof to the applicant by
registered mail addressed to him at his designated principal
place of business. Service, when so made, must be taken and
held in all courts to be as valid and binding upon the
applicant as if made upon him in this state within the

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Jurisdiction of the court in which the suit or action is filed. The irrevocable consent must be in a form prescribed by the department and be acknowledged by a notary public.

(b) Any resident licensee who becomes a nonresident shall, within 60 days, notify the commission of the change in residency and comply with nonresident requirements. Failure to notify and comply is a violation of the license law subject to the penalties of s. 475.25.

c) All nonresident applicants and licensees shall comply with all requirements of commission rules and of this chapter. The commission may adopt rules necessary for the regulation of nonresident licensees. An applicant who has passed the appropriate examination and has been certified by the commission, but who has failed to request initial licensure within 6 months from the date of notification, must be recertified by the commission before licensure.

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

475.182 Renewal of license; continuing education.--

1. The department shall renew a license upon receipt of the renewal application and fee. The renewal application for an active license as broker, broker-salesman, or salesman shall include proof satisfactory to the commission that the licensee has, since the issuance or renewal of his current license, satisfactorily completed at least 1 1/4 classroom hours of 50 minutes each of a continuing education course for every year of the license period, as prescribed by the commission. The commission shall accept as a substitute for such continuing education course an hour for classroom hour basis, any satisfactorily completed education course offered by the Realtors National Marketing Institute.

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

(3) Any license which is not renewed at the end of the license period biennium prescribed by the department shall automatically revert to involuntary inactive status. Such license may subsequently be renewed reactivated only if the licensee meets the other qualifications specified for reactivation in s. 475.183.

(4) Sixty days prior to the end of the license period biennium and automatic reversion of a license to inactive status, the department shall mail a notice of renewal and

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possible reversion to the last known address of the licensee.

Section 13. Section 475.183, Florida Statutes, is
amended to read:

475.183 Inactive status.--

(1) A license which has become voluntarily inactive
may be renewed reactivated pursuant to s. 475.182 upon
application to the department. The commission shall prescribe
by rule continuing education requirements not to exceed 12
classroom hours for each year the license was inactive, as a
condition of renewing a voluntarily inactive license.
reactivating-a-license.--The-continuing-education-requirements
for-reactivating-a-license-shall-not-exceed-12-classroom-hours
for-each-year-the-license-was-inactive. The commission shall
substitute for such continuing education requirements, on a
classroom-hour-for-classroom-hour basis, any satisfactorily
completed education course approved in the manner specified in
s. 475.182(11). A person whose license is voluntarily inactive
and who renew his license may elect to continue his
voluntarily inactive status.

(2) Any such license which has been involuntarily
inactive for more than 4 years shall automatically expire if
the-licensee-has-not-made-application-for-renewal-of-such
license. Once a license expires, it becomes null and void
without any further action by the commission board or
department. One year prior to expiration of the license, the
department shall give notice to the licensee.

#2+--The-board-shall-promulgate-rules-relating-to
licences-which-have-become-inactive-and-for-the-renewal-of
inactive-licenses. The commission board shall prescribe by
rule a fee not to exceed $100 $50 for the late renewal of
reactivation-of an involuntarily inactive license and-a-fee

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not-to-exceed $50 for the renewal of an inactive license. The
department shall collect the current renewal fee for each
renewal period in which the license was involuntarily inactive
in addition to any applicable late renewal fee.

(3) The commission shall adopt rules relating to
voluntarily inactive and involuntarily inactive licenses and
for the renewal of such licenses.

Section 14. Section 475.23, Florida Statutes, is
amended to read

475.23 License to expire on change of address.--A
license shall cease to be in force whenever a broker changes
his business address, a real estate school operating under a
permit issued pursuant to s. 475.451 changes its business
address, or a salesman working for a broker or an instructor
working for a real estate school changes employer. The
licensee shall notify the commission of the change no later
than 10 days after the change, on a form provided by the
commission. In each such case, the old license or permit
shall be surrendered or accounted for and a replacement shall
be issued upon request therefore on a form provided by the
commission. The fee for the issuance of the replacement
license shall be in an amount prescribed by the commission;
not to exceed $10.

Section 15. Subsection (1) of section 475.25, Florida
Statutes, is amended to read:

475.25 Discipline.--

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

(a) Has violated any provision of s. 475.42 or of s. 455.227(1).

(b) Has been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme, or device, culpable negligence, or breach of trust in any business transaction in this state or any other state, nation, or territory; has violated a duty imposed upon him by law or by the terms of a listing contract, written, oral, express, or implied, in a real estate transaction; has aided, assisted, or conspired with any other person engaged in any such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in any such misconduct and committed an overt act in furtherance of such intent, design, or scheme. It is immaterial to the guilt of the licensee that the victim or intended victim of the misconduct has sustained no damage or loss; that the damage or loss has been settled and paid after discovery of the misconduct; or that such victim or intended victim was a customer or a person in confidential relation with the licensee or was an identified member of the general public.

(c) Has advertised property or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.
(d) Has failed to account or deliver to any person, including a licensee under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft, abstract of title, mortgage, conveyance, lease, or other document or thing of value, including a share of a real estate commission, or any secret or illegal profit, or any divisible share or portion thereof, which has come into his hands and which is not his property or which he is not in law or equity entitled to retain under the circumstances. However, if the licensee, in good faith, entertains doubt as to what person is entitled to the accounting and delivery of the escrowed property, or if conflicting demands have been made upon him for the escrowed property, which property he still maintains in his escrow or trust account, the licensee shall promptly notify the commission of such doubts or conflicting demands and shall promptly:

1. Request that the commission issue an escrow disbursement order determining who is entitled to the escrowed property;

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

3. By interpleader or otherwise, seek adjudication of the matter by a court.

If the licensee promptly employs one of the escape procedures contained herein, and if he abides by the order or judgment resulting therefrom, no administrative complaint may be filed.

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against the licensee for failure to account for, deliver, or maintain the escrowed property.

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

(f) Has been convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the activities of a licensed broker or salesman or appraiser certified pursuant to s. 475.501, or involves moral turpitude or fraudulent or dishonest dealing. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

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

(h) Has shared a commission with, or paid a fee or other compensation to, a person not properly licensed as a broker, broker-salesman, or salesman under the laws of this state, for the referral of real estate business, clients, prospects, or customers, or for any one or more of the services set forth in s. 475.01(1)(c). For the purposes of this section, it is immaterial that the person to whom such payment or compensation is given made the referral or performed the service from within this state or elsewhere; however, a licensed broker of this state may pay a referral fee or share a real estate brokerage commission with a broker licensed or registered under the laws of a foreign state so

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long as the foreign broker does not violate any law of this state.

(i) Has become temporarily incapacitated from acting as a broker or salesman with safety to investors or those in a fiduciary relation with him because of drunkenness, use of drugs, or temporary mental derangement; but suspension of a license in such a case shall be only for the period of such incapacity.

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

(k) Has failed, if a broker, to immediately place, upon receipt, any money, fund, deposit, check, or draft entrusted to him by any person dealing with him as a broker in escrow with a title company, banking institution, credit union, or savings and loan association located and doing business in this state, or to deposit such funds in a trust or escrow account maintained by him with some bank, credit union, or savings and loan association located and doing business in this state, wherein the funds shall be kept until disbursement thereof is properly authorized; or has failed, if a salesman, to immediately place with his registered employer any money, fund, deposit, check, or draft entrusted to him by any person dealing with him as agent of his registered employer. The commission shall establish rules to provide for records to be maintained by the broker and the manner in which such deposits shall be made.
(1) Has made or filed a report or record which the licensee knows to be false, has willfully failed to file a report or record required by state or federal law, has willfully impeded or obstructed such filing, or has induced another person to impede or obstruct such filing; but such reports or records shall include only those which are signed in the capacity of a licensed broker or salesman.

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

(n) Is confined in any state or federal prison or mental institution or, through mental disease or deterioration, can no longer safely be entrusted to deal with the public or in a confidential capacity.

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

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

(q) Has failed to give written notice to a party to a sale, exchange, purchase, or lease of real property or any interest in real property, before such party has signed any contractual offer or lease agreement related to the transaction, that he is an agent, employee, independent contractor, or representative of another party in the negotiation of such sale, exchange, purchase, or lease. The commission shall implement this provision by rule.
Section 16. Subsection (1) of section 475.31, Florida Statutes, is amended to read:

475.31 Final orders.--

(1) An order revoking or suspending the license of a broker shall automatically cancel the licenses of all salesmen registered with the broker, and, if a partnership or corporation, of all members, officers, and directors thereof, while the license of the broker is inoperative or until new employment or connection is secured and a new license is issued to the member, officer, directory, or salesman, but the right to transfer or have a license issued or reissued shall not extend beyond a period of 6 months after the termination of the license year in which the order became effective.

Section 17. Section 475.37, Florida Statutes, is amended to read:

475.37 Effect of reversal of order of court or commission.--If the order of the court or commission denying, revoking, or suspending a license or taking any disciplinary action against a licensee is finally reversed and set aside, the defendant shall be restored to his rights and privileges as a broker or salesman as of the date of filing the mandate or a copy thereof with the commission. The matters and things alleged in the information shall not thereafter be reexamined in any other proceeding concerning the licensure of the defendant. If the inquiry concerned was in reference to an application for licensure, the application shall stand approved, and such application shall be remanded for further proceedings according to law.

Section 18. Section 475.38, Florida Statutes, is amended to read:

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475.38 Payment of costs.—The commission shall not be required to advance any fees or costs to any officer or witness, or to execute any bond in any proceeding in the courts, any general statute to the contrary notwithstanding, but in every case in which the commission is liable for any fees or costs, a voucher therefor shall be presented to the commission and, if approved, audited and paid as are other expenses of the commission. The commission may, if it is satisfied that a defendant is unable to pay or advance any fees or costs and that the service from which such fees or costs have accrued or will accrue is probably necessary in the interests of justice, upon application by the defendant, order that such fees or costs be incurred at the expense of the commission and be paid as are other fees and costs, but the defendant shall remain liable to the commission for all sums so paid.

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

475.41 Contracts of unlicensed person for commissions invalid.—No contract for a commission or compensation for any act or service enumerated in s. 475.011(1)(e)-(j) is valid unless the broker or salesman has complied with this chapter in regard to issuance and renewal of the license at the time the act or service was performed.

Section 20. Paragraph (k) of subsection (1) of section 475.42, Florida Statutes, is amended, and paragraph (m) is added to subsection (1) of said section, to read:

475.42 Violations and penalties.—

(1) VIOLATIONS.—

(k) No person shall operate as a broker under a trade name without causing the trade name same to be noted in the

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records of the commission and placed on his license or so
operate as a member of a partnership or as a corporation or as
an officer or manager thereof, unless such partnership or
corporation is the holder of a valid current registration.

No person shall certify an appraisal of real
property unless he is a certified appraiser pursuant to s.
475.501.

Section 21. Subsections (1) and (2) of section
475.451, Florida Statutes, are amended to read:

475.451 Schools teaching real estate practice.--
(1) Each person, school, or institution, except
approved and accredited colleges, or universities, or
community colleges, in this state, which offers or conducts
any course of study in real estate practice, teaches any
course prescribed by the commission as a condition precedent
to licensure or renewal of licensure as a broker or salesman,
or teaches any course designed or represented to enable or
assist applicants for licensure as brokers or salesmen to pass
examinations for such licensure conducted by the department
shall, before commencing or continuing further to offer or
conduct such course or courses, obtain a permit from the
department and abide by the regulations imposed upon such
person, school, or institution by this chapter and rules of
the commission adopted pursuant to this chapter. The
exemption for colleges, universities, and community colleges
is limited to transferable college credit courses offered by
such institutions.

(2) An applicant for a permit to operate a proprietary
real estate school, to be a chief administrator of a
proprietary real estate school or a state institution such as
a school, or to be an instructor for a proprietary real estate

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school or a state institution must meet the qualifications for practice set forth in s. 475.17(1) and the following minimal requirements:

(a) "School permitholder" is defined as that individual who is responsible for directing the overall operation of a proprietary real estate school. He must be the holder of a license as a broker, either active or inactive, or must have passed the instructor's examination administered by the department. A school permitholder must also meet the requirements of a school instructor if he is actively engaged in teaching.

(b) "School Chief administrative person" is defined as that individual who is responsible for the administration of the overall policies and practices of the institution or proprietary real estate school. He must also meet the requirements of a school instructor if he is actively engaged in teaching.

(c) "School instructor" is defined as that individual who actively instructs in the classroom. He shall, before commencing to instruct noncredit college courses in a college, university, or community college, or courses in an area vocational-technical center or proprietary real estate school, he must certify his competency by meeting one of the following requirements:

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

b. Hold a bachelor's degree, have extensive real estate experience, as defined by rule, and hold a valid broker's license in this state.
2. Any requirement by the commission for a teaching demonstration or practical examination must apply to all school instructor applicants.

3. Every second year, each instructor must shall recertify his competency by presenting to the commission evidence of his having successfully completed a minimum of 15 classroom hours of instruction in real estate subjects or instructional techniques, as prescribed by the commission.

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

Section 22. Subsection (1) of section 475.452, Florida Statutes, is amended to read:

475.452 Advance fees, deposit; accounting; penalty; damages.--

(1) It is unlawful for any broker to contract for or collect any advance fee for the listing of real property from any principal without depositing 75 percent of such amount, when collected, in a trust account with a bank or other

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recognized depository located and doing business in this state. Such funds shall be held as trust funds and may not be commingled with the funds of the broker who has collected the fee. Prior to the withdrawal of any fees from the trust account, the broker shall furnish a statement to the principal itemizing how the advance fees are to be expended and the amounts thereof. Amounts may be withdrawn for the benefit of the broker only when actually expended for the benefit of the principal or 5 days after verified accounts have been mailed to the principal. If the listed property is not sold within the period of time specified in the broker's contract or within 18 months after the contract date, whichever period is shorter, any funds held by the broker in the trust account shall be refunded to the principal, together with a final accounting relating to any or all funds expended by the broker.

Section 23. Subsection (1) of section 475.455, Florida Statutes, is amended to read:

475.455 Exchange of disciplinary information.--
(1) The commission shall inform the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation of any disciplinary action the commission has taken against any of its licensees. The division shall inform the commission of any disciplinary action the division has taken against any broker or salesman registered with the division.

Section 24. Subsections (2) and (3) of section 475.482, Florida Statutes, are amended to read:

475.482 Real Estate Recovery Fund.--There is created the Florida Real Estate Recovery Fund as a separate account in the Professional Regulation Trust Fund.
(2) The Real Estate Recovery Fund shall also be disbursed as provided in s. 475.484, on order of the commission, as reimbursement to any broker or salesman who is required by a court of competent jurisdiction to pay money damages due to a distribution of escrow moneys which is made in compliance with an escrow disbursement order issued by the commission; however, in no case shall the fund be disbursed when the broker or salesman fails to defend an action wherein the broker or salesman is required by a court of competent jurisdiction to pay money damages due to a distribution of escrow moneys which is made in compliance with an escrow disbursement order issued by the commission.

(3) A fee of $3.50 per year shall be added to the license fee for both new licenses and renewals of licenses for brokers, and a fee of $1.50 per year shall be added for new licenses and renewals of licenses for salesmen. This fee shall be in addition to the regular license fee and shall be deposited in or transferred to the Real Estate Recovery Fund. If the fund at any time exceeds $750,000, collection of special fees for this fund shall be discontinued at the end of the 2-year licensing renewal cycle. Such special fees shall not be reimposed unless the fund is reduced below $500,000 by disbursement made in accordance with this chapter.

Section 25. Paragraphs (a) and (c) of subsection (1), and paragraphs (b) and (c) of subsection (2) of section 475.483, Florida Statutes, are amended, and paragraph (d) is added to subsection (2) of said section, to read:

475.483 Conditions for recovery; eligibility.--

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

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(a) Such person has received final judgment in a court of competent jurisdiction in this state in any action wherein the cause of action was based on a real estate brokerage transaction or any violation proscribed in s. 475.25; however, should such person be unable to secure a final judgment against a licensee due to the death of the licensee, the commission may waive the requirement for a final judgment;

(c) A claim for recovery is made within 2 years from the time of the act giving rise to the claim or within 2 years from the time the act is discovered or should have been discovered with the exercise of due diligence; however, in no event shall a claim for recovery be made more than 4 years from the date of the act giving rise to the claim; The act for which recovery is sought occurred on or after July 1, 1976, and not more than 2 years prior to making such claim;

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

(b) He is a licensed broker or salesman who acted as principal or agent in the transaction which is the subject of the claim; or

(c) Such person's claim is based upon a real estate transaction in which the licensed broker or salesman was acting on his behalf with respect to the property owned or controlled by the broker or salesman, or him;

(d) Such person's claim is based upon a real estate transaction in which the broker or salesman did not hold a valid license.

Section 26. Section 475.4835, Florida Statutes, is amended to read:

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certified notice of any action, as required by s.

475.483(1)(b), the commission may intervene, enter an
appearance, file an answer, defend the action, or take any
action it deems appropriate on behalf and in the name of the
defendant and take recourse through any appropriate method of
review on behalf of the State of Florida and in the name of
the defendant.

Section 27. Paragraph (a) of subsection (1) and
subsection (7) of section 475.484, Florida Statutes, are
amended to read:

475.484 Payment from the fund.--

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

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

(7) Upon the payment of any amount from the Real
Estate Recovery Fund in settlement of a claim in satisfaction
of a judgment against a broker or salesman as described in s.
475.482(1), the license of such broker or salesman shall be
automatically revoked. No further administrative action is
necessary. A discharge of bankruptcy does not relieve a
person from the penalties and disabilities provided in this
section.

Section 28. Section 475.501, Florida Statutes, is
created to read:

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475.501 State-certified appraisers.--

(1) CERTIFICATION REQUIRED.--
(a) A person may not use the title "state-certified residential appraiser" or "state-certified real estate appraiser," or any abbreviation or words to that effect, or issue a certified appraisal report unless such person is certified by the department pursuant to this section.

However, the work upon which a certified appraisal report is based may be performed by a licensee who is not a state-certified appraiser if the report is approved and signed by a state certified appraiser.

(b) This chapter does not preclude a broker, salesman, or broker-salesman who is not a state-certified residential appraiser or state-certified real estate appraiser from appraising real estate for compensation. Such persons may continue to provide appraisals and appraisal services for compensation so long as they do not represent themselves or the appraisal report as certified.

(c) This section shall not apply to a real estate broker or salesperson who, in the ordinary course of business, gives an opinion of the value of real estate for the purpose of a prospective sale. However, in no event may this opinion be referred to or construed as an appraisal, nor can any compensation, fee, or consideration be charged for the opinion other than the normal commission or fee for services rendered in the sale of the real property involved.

(d) This chapter shall not prevent any state court or hearing officer from certifying as an expert witness in any legal or administrative proceeding an appraiser who is not certified, nor shall it prevent any appraiser from testifying.

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with respect to the results of an appraisal, whether or not
the appraisal report is certified.

(2) REAL ESTATE APPRAISAL SUBCOMMITTEE.--

(a) There is created the Real Estate Appraisal
Subcommittee of the Florida Real Estate Commission, which
shall consist of seven members appointed by the Governor.

Five members of the subcommittee must be active appraisers who
have been engaged in the general practice of appraising real
property in this state for at least 5 years immediately
preceding appointment. Two members of the subcommittee must
represent organizations that use appraisals for the purpose of
 eminent domain proceedings, financial transactions, or
mortgage insurance. The members shall be as representative of
the entire industry as possible and membership in a nationally
recognized or state-recognized organization shall not be a
prerequisite to membership on the subcommittee. To the extent
possible, no more than one member of the subcommittee shall be
primarily affiliated with any one particular national or state
association. Whenever a vacancy occurs on the subcommittee,
any professional organization that represents real estate
apraisers, is incorporated as a not-for-profit entity, and
registers its interest with the commission may recommend to
the commission the names of up to twice as many persons as the
number of vacancies to be filled. For initial appointments
and future vacancies, the commission may recommend to the
Governor, from among the names submitted, persons to be
appointed to the subcommittee. The commission shall recommend
appraiser members to the Governor not later than November 1,
1988. The Governor shall appoint members to the subcommittee
not later than December 31, 1988. After December 31, 1989,
two of the members must be state-certified residential

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appraisers and three of the members must be state-certified real estate appraisers who are engaged in the practice of real estate appraising.

1. Initially, four members of the subcommittee shall be appointed for 3-year terms, and three members shall be appointed for 4-year terms. Thereafter, all members shall be appointed for 4-year terms. Any vacancy occurring in the membership of the subcommittee shall be filled by appointment by the Governor for the unexpired term. Upon expiration of his term, a member of the subcommittee shall continue to hold office until the appointment and qualification of his successor. A member may not be appointed for more than two consecutive terms. The Governor may remove any member for cause.

2. The director of the Division of Real Estate of the Department of Professional Regulation shall serve as executive director of the subcommittee.

3. The subcommittee shall meet at least once each calendar quarter to conduct its business. The location of meetings must be in Orlando, Florida.

4. The members of the subcommittee shall elect a chairperson at the first meeting each year.

5. Each member of the subcommittee is entitled to compensation and reimbursement pursuant to s. 455.207.

(b) The subcommittee shall:

1. Advise the commission on standards related to the education, experience, and examination of certified appraisers and on educational programs and research projects related to the appraisal of real estate.

2. Review apparent violations of this section and s. 475.42 and make recommendations to the commission.

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Recommend to the commission standards for the approval of appraisal courses and instructors.

Give expert testimony in hearings pursuant to chapter 120 or before the commission.

(3) APPLICATIONS FOR EXAMINATION, CERTIFICATION, AND RENEWAL.--

(a) Applications for examination, certification, and certificate renewal must be made in writing to the department on forms provided by the department.

(b) Appropriate fees, as set forth in the rules of the commission, must accompany all applications for examination, certification, and certificate renewal.

(c) At the time of filing an application for certification, the applicant must sign a pledge to comply with the standards set forth in this section and state that he understands the types of misconduct for which disciplinary proceedings may be initiated against a state-certified residential appraiser or state-certified real estate appraiser.

(d) Applications for examination, certification, and certificate renewal must indicate the type of certification.

(4) CERTIFICATION.--

(a) The department shall certify any licensee whom the commission determines is qualified for certification as a state-certified residential appraiser or as a state-certified real estate appraiser.

(b) Only real estate brokers, broker-salesmen, and salesmen licensed pursuant to this chapter may be certified by the department as state-certified residential appraisers or state-certified real estate appraisers.

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(5) EXAMINATION REQUIREMENTS FOR STATE-CERTIFIED RESIDENTIAL APPRAISERS AND REAL ESTATE APPRAISERS.--To be certified as a state-certified real estate appraiser, the applicant must demonstrate, by passing a written examination, that he possesses:

(a) A knowledge of technical terms commonly used in real estate appraisal;

(b) An understanding of the principles of land economics, real estate appraisal processes, reliable sources of appraising data, and problems likely to be encountered in the gathering, interpreting, and processing of data in carrying out appraisal services;

(c) An understanding of the standards for the development and communication of real estate appraisals as provided in this section;

(d) An understanding of the types of misconduct for which disciplinary proceedings may be initiated against state-certified residential appraisers and real estate appraisers, as set forth in this chapter; and

(e) Knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for the classification of certificate applied for.

(6) EDUCATION AND EXPERIENCE REQUIREMENTS FOR STATE-CERTIFIED RESIDENTIAL APPRAISERS AND REAL ESTATE APPRAISERS.--

(a) To be certified as a state-certified residential appraiser, an applicant must present evidence satisfactory to the subcommittee that he:

1. Has 2 years of experience in real property appraisal, acquired within a period of 5 years immediately

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preceeding the filing of the application for certification; and

2. Has successfully completed up to 60 classroom hours
of commission-approved academic courses in subjects related to
real estate appraisal from a nationally recognized or state-
recognized appraisal organization, an area vocational-
technical center, accredited community college, college, or
university, or proprietary real estate school that holds a
permit pursuant to this chapter. Past courses may be approved
by the commission and substituted on an hour-for-hour basis.

(b) To be certified as a state-certified real estate
apraiser, an applicant must present evidence satisfactory to
the subcommittee that he:

1. Has 5 years of experience in real property
appraisal, acquired within a period of 5 years immediately
preceeding the filing of the application for certification; and

2. Has successfully completed up to 120 classroom
hours of commission-approved academic courses in subjects
related to real estate appraisal from a nationally recognized
or state-recognized appraisal organization, an area
vocational-technical center, accredited community college,
college, or university, or proprietary real estate school that
holds a permit pursuant to this chapter. Past courses may be
approved by the commission and substituted on an hour-for-hour
basis.

(c) Each applicant for certification must furnish
under oath a detailed statement of the real estate appraisals
that he made during each year of experience he claims. Upon
request, the applicant shall furnish to the subcommittee, for
its examination, copies of appraisal reports that the
applicant has prepared in the course of his appraisal
practice.
(7) TERM OF CERTIFICATION.--The term of a certification issued under this section shall be the same as the period prescribed by the department for licensure as a real estate broker, broker-salesman, or salesman.

(8) RECERTIFICATION.--

(a) An appraiser who is certified under this section must apply for recertification each time he applies for license renewal as a broker, broker-salesman, or salesman.

The failure to obtain a license as a broker, broker-salesman, or salesman or recertification under this section automatically suspends an appraiser's certification.

(b) Any appraiser certified under this section who fails to apply for recertification may thereafter apply only upon payment of a delinquent fee, and only during the 4-year period immediately following the last date on which the appraiser held valid certification. At the end of such 4-year period, an appraiser must reapply and meet all requirements for an initial applicant to obtain certification.

(9) CORPORATIONS AND PARTNERSHIPS INELIGIBLE FOR CERTIFICATION.--

(a) A certification may not be issued under this section to a corporation, partnership, firm, or group. However, an appraiser certified under this section may provide a certified appraisal report for or on behalf of a corporation, partnership, firm, or group if the report is prepared by, or under the personal direction of, such appraiser and is reviewed and signed by him.

(b) The term "state-certified residential appraiser" or "state-certified real estate appraiser" may only be used to refer to an individual who is certified under this section and may not be used following or immediately in connection with...
the name or signature of a corporation, partnership, firm, or group or in such manner that it could be interpreted as implying certification under this section of a corporation, partnership, firm, or group or anyone other than an individual state-certified appraiser. Corporations, partnerships, firms, or groups which employ state-certified appraisers who provide certified appraisal reports as defined by this section, may represent to the public and advertise that they offer state-certified appraisals.

(10) ISSUANCE OF CERTIFICATION; DISPLAY.--

(a) A certification issued under this section must bear the signature or facsimile signature of the secretary of the Department of Professional Regulation or the chairman of the Florida Real Estate Commission and must include a certification number.

(b) Each appraiser certified under this section shall place his certification number adjacent to or immediately beneath the designation "state-certified residential appraiser" or "state-certified real property appraiser," as applicable, when such term is used in a certified appraisal report or in a contract or other instrument used by the appraiser in conducting real property appraisal activities and shall include the certification number in any newspaper, telephone directory or other advertising medium used by the appraiser.

(11) CONTINUING EDUCATION REQUIREMENTS.--As a prerequisite for recertification, a state-certified appraiser must present evidence satisfactory to the commission of having met the continuing education requirements established by commission rule.
(12) DISCIPLINARY PROCEEDINGS.--The commission may investigate the actions of any appraiser certified under this section and may reprimand, fine, revoke, or suspend the license or certification of, or place on probation any such appraiser for any of the acts set forth in s. 475.25 or s. 475.42. A state-certified appraiser may also be disciplined by the commission for any of the following actions:

(a) Procuring or attempting to procure certification under this section by knowingly making a false statement, submitting false information, or refusing to provide complete information in response to a question in an application for certification or through any form of fraud or misrepresentation.

(b) Paying money or other valuable consideration, except as required by this chapter, to any member or employee of the commission to procure a certification under this chapter.

(c) Committing an act of dishonesty, fraud, or misrepresentation in the practice of real estate appraising.

(d) Violating any standard for the development or communication of a real estate appraisal provided in this section.

(e) Failing or refusing to exercise reasonable diligence in developing an appraisal or preparing an appraisal report.

(f) Failing to communicate an appraisal without good cause.

(g) Willfully disregarding or violating any of the provisions of this section or the rules of the commission for the administration or enforcement of this section.
(h) Accepting an appraisal assignment if the employment itself is contingent upon the appraiser's reporting a predetermined result, analysis, or opinion or if the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon the consequences resulting from the appraisal assignment.

(13) STANDARDS FOR THE DEVELOPMENT OF CERTIFIED APPRAISAL REPORTS.--

(a) In developing certified appraisal reports, an appraiser certified under this section shall:

1. Be aware of, understand, and correctly apply those recognized appraisal methods and techniques that are necessary to produce a credible analysis, opinion, or conclusion.

2. Not commit a substantial error of omission or commission that significantly affects an analysis, opinion, or conclusion.

3. Identify the real estate and real property interest under consideration, define the opinion that is the purpose of the appraisal, consider the scope of the appraisal service, and identify the effective date of the opinion.

4. Identify and consider the appropriate procedures and market data required to perform the appraisal service.

5. Consider the effect of the following factors on the use and value of the real property or real property interest:

   a. Existing land use regulations;

   b. Reasonably predictable changes in such land use regulations;

   c. Economic demand;

   d. The physical adaptability of the real property;

   e. Neighborhood trends; and
f. The highest and best use of the real property.

6. Consider the effect on the real property being appraised of anticipated public or private improvements located on or off the site, to the extent that market actions reflect such anticipated improvements as of the effective appraisal date.

7. Recognize that land is generally appraised as though it were vacant and available for development to its highest and best use and the appraisal of improvements is based on their actual contribution to the site.

8. Appraise proposed improvements only after examining and having available for future examination:

a. Documentation sufficient to identify the scope and character of the proposed improvements;

b. Evidence indicating the probable time of completion of the proposed improvements; and

c. Reasonably clear and appropriate evidence supporting development costs, anticipated earnings, occupancy projections, and the anticipated competition at the time of completion.

9. Base estimates of anticipated future rents and expenses for the real property being appraised on reasonably clear and appropriate evidence.

10. Reconcile the results of the various approaches to value used in conducting the appraisal.

11. In developing a certified real estate appraisal analysis, opinion, or conclusion for an employer or a client, carefully consider and determine whether the appraisal service to be performed is intended to result in an analysis, opinion, or conclusion of a disinterested third party and therefore would be classified as an appraisal assignment as defined in

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s. 475.01. If the appraisal service to be performed is not intended to result in an analysis, opinion, or conclusion of a disinterested third party, the appraiser shall carefully consider whether or not he or she would be perceived by third parties or the public as acting as a disinterested third party.

(b) A certified appraisal report that contains an estimate of value must define the value being considered.

1. If the value estimate is a statement or estimate of market value, the appraiser shall clearly indicate whether the statement or estimate is the most probable price in terms of cash, financial arrangements equivalent to cash, or such other terms as may be precisely defined.

2. If the estimate of value is based on submarket financing or financing with unusual conditions or incentives, the terms of such atypical financing must be clearly set forth, the contribution to or negative influence on value must be described and estimated, and the market data supporting the valuation estimate must be described and explained.

(c) For each certified appraisal report that contains an estimate of value, an appraiser shall:

1. Consider whether an appraised fractional interest, physical segment, or partial holding contributes pro rata to the value of the whole.

2. Identify any personal property or other items that are not real property but are included with or considered in connection with the real estate being appraised and contribute to the total value estimate or conclusion.

3. Consider and analyze any current agreement of sale, option, or listing of the real property being appraised, if
such information is available to the appraiser in the normal course of business.

4. Consider and analyze any prior sales of the property being appraised that occurred within 1 year for one-family to four-family residential property or within 3 years for any other type of real property.

5. When estimating the value of a leased fee estate or a leasehold estate, analyze and consider the effect on value if any of the terms and conditions of the lease.

6. Give careful consideration to the effect on value if any of the assemblage of the various estates or component parts of a property and refrain from estimating the value of the whole solely by adding together the individual values of its various estates or component parts.

7. State in the certification statement whether exterior and interior building inspections were made, and if so, when and by whom.

(d) In reviewing a certified appraisal report, an appraiser shall:

1. Identify the report being reviewed, the real property being appraised or the real property interest being appraised, the effective date of the opinion in the original report, the date of the original report, and the date of the review.

2. Identify the scope of the review process to be conducted, including a determination of whether it is appropriate or essential to inspect the appraised property and the data presented.

3. Specify an opinion as to the adequacy and relevance of the data used and the propriety of any adjustments made.

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4. Specify an opinion as to whether the appraisal methods and techniques used were appropriate and, if not, the reasons for the reviewer's disagreement with the original appraiser.

5. Specify an opinion as to whether the analyses, opinions, or conclusions in the report being reviewed are correct and appropriate and, if not, state his analyses, opinions, or conclusions and the reasons for the reviewer's disagreement with the original appraiser.

6. State in the certification statement whether exterior and interior building inspections were made, and if so, when and by whom.

(e) An appraiser certified under this section may enter into an agreement to perform an appraisal service that calls for something less than, or different from, the work that would otherwise be required under paragraph (a) if, before entering such agreement:

1. The appraiser determines that the appraisal service to be performed is not so limited in scope that the resulting analysis, opinion, or conclusion concerning the real property would tend to mislead or confuse the client, the users of the appraisal report, or the public; and

2. The appraiser advises the client that the appraisal service calls for something less than, or different from, the work required under paragraph (a) and therefore the appraisal letter of transmittal and certification statement will include a qualification that reflects the limited or differing scope of the appraisal service.

(14) STANDARDS FOR COMMUNICATION OF CERTIFIED APPRAISALS.—All appraisers certified under this section shall

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comply with the following standards in the communication of appraisals of real property located in this state

(a) Each written or oral report or communication concerning the results of an appraisal must contain sufficient information to enable the persons who receive or rely on the report or communication to understand it.

(b) Each written or oral report or communication concerning the results of an appraisal must clearly and accurately set forth each appraisal analysis, opinion, or conclusion in a manner that will not be misleading in the marketplace.

(c) Each written or oral report or communication concerning the results of an appraisal must clearly and accurately disclose any extraordinary assumption or limiting condition that directly affects an appraisal analysis, opinion, or conclusion.

(d) Each written report or communication concerning the results of an appraisal must:

1. Identify and describe the real property being appraised;

2. Identify the real property interest being appraised;

3. Define the opinion that is the purpose of the appraisal and describe the scope of the appraisal;

4. Set forth the effective date of the opinion and the date of the report;

5. Set forth the appraiser's opinion of the highest and best use for the real property being appraised when such an opinion is necessary and appropriate.

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6. Set forth all assumptions and limiting conditions that affect the analyses, opinions, and conclusions in the report.

7. Set forth any additional information that may be appropriate to show compliance with, and identify permitted departures from, the requirements for the development of appraisals provided in this section; and

8. Include a signed certification in accordance with the requirements of this subsection.

(e) Each written report or communication of the results of an appraisal signed by a certified appraiser must contain a certification statement that is similar in content to the following form:

Certification to be used in written reports resulting from appraisal assignments:

... I certify, to the best of my knowledge and belief, that:

... The statements of fact contained in this report are true and correct.

... The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, unbiased, professional analyses, opinions, and conclusions.

... I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest or bias with respect to the parties involved.

... My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions that were developed.
... My analyses, opinions, or conclusions were developed and this report has been prepared in conformity with the requirements of the State of Florida for state-certified appraisers.

... The use of this report is subject to the requirements of the State of Florida relating to review by the Real Estate Appraisal Subcommittee of the Florida Real Estate Commission.

... I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the exterior and interior of the property.)

... No person (or no person other than the person named) provided significant professional assistance to the person signing this report. (The name of each individual providing significant professional assistance must be stated, together with a statement of whether such individual is a state-certified appraiser and, if certified, his license number.)

(f) To the extent that it is both possible and appropriate, each oral report or communication concerning the results of an appraisal must address the substantive matters set forth in this section.

(g) An appraiser may enter into an agreement calling for a certified appraisal report that is something less than, or different from, the complete certified appraisal report that would otherwise be required by the specific reporting standards set forth in this section if, before entering such agreement:

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1. The appraiser determines that the resulting certified appraisal report will not be so limited in scope that it would tend to mislead or confuse the client, the users of the appraisal report, or the public; and

2. The appraiser advises the client that the report to be prepared is something less than, or different from, the report required by the specific reporting standards and therefore the appraisal letter of transmittal and the report will include a qualification that explains the cause for this fact and state: "This is a limited report."

(15) QUESTIONS OF APPLICABILITY OR INTERPRETATION.--If a question arises as to the applicability or interpretation of the standards or definitions in this section, the subcommittee and the commission may consider other reference materials, including materials published by national appraisal organizations interpreting similar standards adopted by such national appraisal organizations.

(16) DOCUMENTS TO BE RETAINED.--An appraiser certified under this section shall retain for at least 5 years original or true copies of any contracts engaging the appraiser's services for real property work, certified appraisal reports, and supporting data assembled and formulated by the appraiser in preparing certified reports. The period for retention of the records applicable to each engagement of the services of the appraiser runs from the date of the submission of the certified appraisal report to the client. These records must be made available by the appraiser for inspection and copying by the subcommittee on reasonable notice to the appraiser. If an appraisal has been the subject of or has served as evidence for litigation, reports and records must be retained for at least 2 years after the trial.

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Section 29. Subsection (4) of section 337.271, Florida Statutes, is amended to read:

337.271 Negotiations for acquisitions.--

(4) The fee owner may, within 120 days after receipt of the notice required by subsection (2) or at a later date specified by the department, submit a complete appraisal report relating to the parcel to be acquired. The report submitted shall contain all data and information upon which the appraiser's conclusions are based and shall be prepared by a state-certified real estate appraiser as defined in chapter 475 and who has been qualified by the department or who has been qualified and accepted as an expert real estate appraiser in an eminent domain proceeding in this state within the prior 3 years. Such appraiser shall be actively registered with the Florida Real Estate Commission as a real estate broker or salesman. A list of those state-certified real estate appraisers as defined in chapter 475 currently qualified by the department shall be attached to the letter submitted to the fee owner. On multiple-ownership property, the fee owner is collectively entitled to only one appraisal report.

Section 30. The Florida Real Estate Commission shall provide for a study to be conducted through the auspices of its Education and Research Foundation which shall address the following issues:

(1) Should real estate appraisers be required to hold a real estate license and be regulated by the Florida Real Estate Commission?

(2) Should a separate certification structure be established for business appraisers and business opportunity specialists?

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(3) Should other classifications be established for appraisers, such as "rural and farm appraiser"?

(4) Should personal property appraisers be regulated, and if so, how?

The results of the study shall be reported to the Legislature no later than December 1, 1989.

Section 31. Section 475.1825, Florida Statutes, is hereby repealed.

Section 32. Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, and except as otherwise specifically provided herein, chapter 475, Florida Statutes, shall not stand repealed October 1, 1988, and shall continue in full force and effect as amended herein.

Section 33. Notwithstanding the provisions of the Sundown Act or of any other provision of law which provides for review and repeal in accordance with s. 11.611, Florida Statutes, section 475.045, Florida Statutes, shall not stand repealed on October 1, 1988, and shall continue in full force and effect as amended herein.

Section 34. Chapter 475, Florida Statutes, is repealed October 1, 1998, and shall be reviewed by the Legislature pursuant to section 11.61, Florida Statutes.

Section 35. Section 475.045, Florida Statutes, is repealed October 1, 1998, and shall be reviewed by the Legislature pursuant to section 11.611, Florida Statutes.

Section 36. This act shall take effect October 1, 1988, except that the amendments to subsection (4) of section
337.271, Florida Statutes, made by this act, shall take effect October 1, 1990.
Revises state law governing real estate brokers, salesmen, schools and appraisers. Saves chapter 475, F.S., from repeal and provides for future review and repeal. Provides that only general partners and not all partners in a partnership be licensed as real estate brokers.

Requires that only general partners and not all partners in a partnership be licensed as brokers. It qualifies the exemption given under the act to ownership entities for employees who work in onsite rental offices or who manage and rent units in condominiums or cooperative apartments to require that such employees be salaried. The bill qualifies the exemption given to radio, television, or cable enterprises to require that lease transactions of such enterprises shall be handled by a broker or salesman for that portion of the transaction which includes the land, buildings, fixtures and all other improvements to the land.

Requires a high school diploma or its equivalent as a prerequisite for licensure. It includes area vocational-technical centers in the list of institutions from which courses may be accepted by the Florida Real Estate Commission. The bill allows the one year salesman experience requirement for the broker license to be fulfilled in the employ of a governmental agency as well as in a real estate office.

Authorizes the commission to prescribe post licensure requirements for the salesman and broker licenses. Requires a salesman to complete up to 60 classroom hours, inclusive of examination, within the two year period immediately following initial licensure. The license of a salesman who does not complete the post licensure requirement will not be renewed. A six month grace period after the expiration of the initial license is provided to allow a salesman to complete the post licensure education. After this point a person failing to complete the requirements and wishing to operate as a salesman would be required to requalify by completing the salesman's pre-licensure course and passing the state examination for licensure as a salesman.

A broker would be required to complete up to 60 classroom hours, inclusive of examination, within the two year period immediately following initial licensure. The license of any broker who does not complete the post-licensure education requirement will not be renewed for the following license period. A broker who then wishes to operate as a salesman may be issued a salesman's license after providing proof that he has satisfactorily completed the 14-hour continuing education course within the six months following expiration of his broker's license. To operate as a broker, he must requalify by satisfactorily completing the broker's prelicensure course and passing the state examination for licensure as

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a broker. Authorizes the commission to extend the time frame for completing the salesman and broker post-licensure education courses due to individual physical hardship. Requires that post-licensure education courses be made available by correspondence or other suitable means for licensees who cannot attend the place where courses are regularly conducted.

Allows nonresidents to be licensed in Florida, and authorizes the adoption of rules as may be necessary for the regulation of the same. Requires a nonresident licensee to file an irrevocable consent form relative to suits and actions which may be filed against him and provides for service of process. Requires notice of change of residency within 60 days.

Provides for the renewal of licenses at least every four years rather than biennially, requires licensees to complete seven hours of continuing education during each year, and clarifies language relating to the renewal of inactive licenses.

Distinguishes between voluntarily inactive and involuntarily inactive licenses, to clarify the fact that a licensee who renews an inactive license may elect to continue his inactive status.

Adds probation to the disciplinary options which the commission may employ and to clarify the fact that the commission's disciplinary powers apply to certified appraisers and registrants as well as licensees.

Authorizes the deposit of escrow funds in credit unions, and adds as a ground for disciplinary action a licensee's failure to disclose to the parties to a transaction which party the licensee is representing.

Requires that non-credit course instructors in accredited colleges, universities, community colleges, and area vocational-technical centers hold permits. The bill provides alternative means for a person to become a school instructor by adding two combinations of higher education, experience, and broker status to the written instructor's examination currently required. The commission is authorized to require a teaching demonstration which, if established, would apply to all applicants for instructor permits.

 Raises the minimum and maximum amounts which trigger the collection and abatement of the special fees supplying the Real Estate Recovery Fund. Clarifies conditions under which a person may recover from the fund. It requires that claims must be based on damages stemming from a real estate brokerage transaction, and not on a transaction in which the broker represented himself and that the transaction involved a broker or salesman holding a valid license. It waives the requirement that a claim be based on a final court judgment when a judgment cannot be secured due to death of the licensee. Prohibits recovery from the fund of court costs, attorney's fees, and interest except in cases where a

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licensee is being reimbursed for losses resulting from adherence to escrow disbursement.

Provides for the voluntary certification of real estate appraisers and creates definitions for terms related to the certification process. Prohibits any person who is not certified from representing himself as a state-certified appraiser, but allows persons who are licensed as real estate brokers or salesmen to continue to appraise real property for compensation and clarifies the ability of a noncertified broker and salesman to provide an opinion of the value of real estate for the purpose of a prospective sale.

Creates the seven-member Real Estate Appraisal Subcommittee to advise the commission in the establishment of rules pertaining to applicants' experience, educational courses, and exam content, and to review disciplinary cases and make recommendations to the commission's probable cause panel.

Provides for two categories of certified appraisers to be established: state certified residential appraisers, who will be qualified to prepare certified appraisals of residential property of up to four units on the basis of two years of appraisal experience, successful completion of commission-approved academic instruction of up to 60 classroom hours, and passage of a written examination; and state certified real estate appraisers, who will be considered qualified to prepare certified appraisals of all types of real property on the basis of three years of appraisal experience, successful completion of commission-approved academic instruction of up to 120 classroom hours, and passage of a written examination. Since appraisal is already included within the scope of practice of chapter 475, F.S., only real estate licensees will be eligible for certification.

Establishes standards for the development and communication of certified appraisals. The standards generally require a certified appraiser to correctly employ recognized appraisal methods. The standards also require a number of very specific elements and concepts to be included in the development of certified appraisals and provide standards for certified review appraisals.

The standards form the basis for evaluation by the commission and subcommittee of any certified appraisal and are intended to provide appraiser accountability. The standards for communication of certified real estate appraisals require each written report to contain a certification assuring the objectivity of the report and its compliance with the requirements of law and the disclosure of any possible conflicts of interest on the part of the appraiser.

An appraiser may agree to prepare a limited report provided that the appraiser has determined that the report is not so limited as to be misleading and has advised the client that the report will not meet the reporting standards and will include in the letter of

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transmittal and in the certification pages of the report a statement to that effect.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

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### Committee Records

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### Senate/House Journals

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### Tape Recordings

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I. SUMMARY:

A. Present Situation:

The Regulatory Sunset Act repeals chapter 475, F.S., relating to real estate brokers, salesmen, and schools, on October 1, 1988, unless the Legislature revives and readopts it in the public interest. Section 475.045, F.S., which creates the Florida Real Estate Commission Education and Research Foundation and the Foundation Advisory Committee, is separately scheduled for repeal on October 1, 1988, pursuant to the Sundown Act.

The scope of regulation under chapter 475, F.S., is established through definitions in section 475.01, F.S. "Real estate" is defined as any interest in land or in business enterprises or opportunities, excluding cemetery lots or lots in mobile home or recreational vehicle parks. The term "broker" refers to a person who, for compensation, performs or offers services for another person relating to the appraisal, auction, sale, exchange, purchase, or rental of business enterprises or real property. A "salesman" performs the same services, but under a broker's supervision. In addition to licensing salesmen and brokers, real estate corporations and partnerships are registered, and permits are issued for real estate schools and instructors. These regulatory activities are the responsibility of the Florida Real Estate Commission (FREC) and are administered by the Division of Real Estate of the Department of Professional Regulation (DPR).

Chapter 475, F.S., requires that a person obtain a license in order to practice as a real estate broker or salesman. The chapter states the purpose of the law (s.475.001, F.S.), provides definitions (s.475.01, F.S.), provides exemptions (s.475.011, F.S.), establishes the Florida Real Estate Commission (s.475.02, F.S.), establishes the Division of Real Estate (s.475.021, F.S.), provides for the delegation of powers and duties by the commission (s.475.03, F.S.), establishes the duty of the commission to educate members of the profession (s.475.04, F.S.), authorizes the commission to promulgate rules (s.475.05, F.S.), and to adopt a seal (s.475.10, F.S.), and creates the Florida Real Estate Commission Education and Research Foundation and Foundation Advisory Committee (s.475.045, F.S.). The chapter also provides for fees to be charged licensees (s.475.125, F.S.), sets forth the qualifications for practice as a real estate salesman or broker (s.475.17, F.S.), provides for application to take licensure examinations (s.475.175, F.S.), authorizes the DPR to license any applicant whom the FRBC certifies to be qualified (s.475.181, F.S.). Also included in the statute are provisions regarding continuing education and license renewal (s.475.182, F.S.), inactive status (ss.475.1825 and s.475.183, F.S.), issuance of multiple licenses to a broker (s.475.215, F.S.),
the requirement for brokers to maintain an office (s.475.22, F.S.); expiration of license upon change of address (s.475.23, F.S.); and registration of branch offices (s.475.24, F.S.).

Discipline of licensees is provided for by listing proscribed acts for which administrative penalties may be imposed (s.475.42, F.S.), specifying other violations for which criminal sanctions may be imposed (s.475.42, F.S.), and establishing penalties for the publication of false or misleading information (s.475.421, F.S.), for the unlawful collection of advance fees (s.475.452, F.S.), and for unlawful rental information transactions (s.475.453, F.S.). The chapter also provides for rules of evidence (s.475.28, F.S.), the effects of and publication of final orders of the commission (s.475.31, F.S.), the effect of reversal of orders of the court or the commission (s.475.37, F.S.), payment of costs by the commission (s.475.38, F.S.), the invalidity of contracts of unlicensed persons for commissions (s.475.41, F.S.), presumption, under certain circumstances, that a person has acted as a real estate broker (s.475.43, F.S.). In addition, the chapter provides for the prosecution of criminal violations (s.475.454, F.S.), and for the exchange of disciplinary information with the Department of Business Regulation (s.475.455, F.S.).

Schools teaching real estate practice are required to obtain a permit, instructors are required to pass a written examination, and courses are required to conform to certain conditions (s.475.451, F.S.). Schools must also adhere to requirements regarding their advertising (s.475.4511, F.S.).

The Real Estate Recovery Fund is created to provide for the reimbursement of persons judged by a court to have suffered damages resulting from a violation by a broker or salesman in the course of a real estate brokerage transaction (s.475.482, F.S.). Conditions for recovery from the fund are set forth (s.475.483, F.S.); commission powers to intervene upon notification of commencement of action are established (s.475.4835, F.S.); limitations are placed on the size of claims which may be paid from the fund (s.475.484, F.S.); funds are required to be invested by the Treasurer (s.475.485, F.S.); and the commission is authorized to promulgate rules necessary to administer the fund and persons filing false documents related to the fund are made subject to misdemeanor penalties (s.475.486, F.S.).

B. Effect of Proposed Changes:

The provisions of chapter 475, F.S., are revived and readopted with the following substantive amendments:

-- Section 475.01, F.S., F.S., is amended to create definitions for the following terms related to the establishment of a voluntary certification program for real estate appraisers: "appraisal" or "appraisal services," "appraisal assignment," "analysis assignment," "certified appraisal report," "state certified residential appraiser," "state certified real estate appraiser," and "subcommittee."

-- Section 475.011, F.S., is amended to limit to persons paid strictly on a salary basis the exemptions for employees of persons or corporations engaged in selling or leasing their own property, employees of owners of apartment communities, and managers of condominiums or cooperatives. A new exemption is created for any full-time graduate student enrolled in a commission-approved degree program in appraising at a Florida college or university, provided that the student is engaged only in appraisal activities related to the degree program and under a broker's direct supervision.
Section 475.02, F.S., is amended to remove language prohibiting either of the consumer members of the FREC from being members of any occupation closely related to the real estate profession.

Section 475.04, F.S., is amended to replace an incorrect reference to "registrants" with the term "licensees" and to correct a cross-reference.

Section 475.045, F.S., relating to the FREC Education and Research Foundation and the Foundation Advisory Committee, is amended to require future appointees to the committee to possess qualifications related to the committee's educational and research activities, to require that projects with the greatest potential for public benefit be given funding priority, to allow the committee to hire consultants, and to delete obsolete language.

Section 475.045, F.S., relating to the FREC Education and Research Foundation and the Foundation Advisory Committee, is amended to require future appointees to the committee to possess qualifications related to the committee's educational and research activities, to require that projects with the greatest potential for public benefit be given funding priority, to allow the committee to hire consultants, and to delete obsolete language.

Section 475.125, F.S., is amended to establish licensure fees on an annual, rather than a biennial basis.

Section 475.15, F.S., is amended to require partnerships and corporations to renew the registrations of their unlicensed members and to allow the general partner in a partnership to be either a licensed broker or a registered broker corporation.

Section 475.17, F.S., relating to qualifications for licensure, is amended to remove the requirement that an applicant for licensure be a Florida resident and to add the requirement that an applicant have a high school diploma. Nonresident applicants are required to file an irrevocable consent that suits and actions may be commenced against them in any county of this state and that service of process may be made by service on the director of the Division of Real Estate. Any resident licensee who becomes a nonresident must notify the commission within 60 days and comply with nonresident requirements. The section is also amended to substitute permissive language for the prohibition against approving an applicant who has acted as a broker or salesman without a license during the year preceding application. In addition, county vocational centers are included among the institutions which may offer required educational courses. Obsolete provisions related to business brokers are deleted.

Section 475.175(1), F.S., is amended to require applications to be notarized.

Section 475.182, F.S., is amended to require renewal of licenses at least every 4 years, rather than biennially, to require licensees to complete seven hours of continuing education during each year, and to clarify language relating to renewal of inactive licenses.

Section 475.183, F.S., is amended to distinguish between nonrenewal of a license and inactive status, to clarify the fact that renewal of an inactive license does not necessarily reactivate the license and that a licensee who renews an inactive license may elect to continue his inactive status.

Section 475.23, F.S., relating to the expiration of a license or permit upon change of address, replaces obsolete language requiring surrender of the license or permit with a requirement to notify the commission of the change of address within 10 days.

Section 475.25, F.S., is amended to add probation as a disciplinary option which the commission may employ and to clarify the fact that the commission's disciplinary powers apply to registrants as well as licensees. The section is further amended to delete commission issuance of an escrow disbursement order as one of the three means a broker may
choose to resolve an escrow conflict. The section is further amended to: authorize the deposit of escrow funds in credit unions (in addition to other types of financial institutions); authorize disciplinary action against a licensee who is incarcerated in a county jail (in addition to other types of correctional facilities); and to add as a ground for disciplinary action the licensee's failure to disclose to the parties to a transaction which party the licensee is representing.

-- Section 475.31(1), F.S., relating to the cancellation of the licensure or registration of a person working in conjunction with a broker whose license is revoked or suspended, is amended to delete the requirement for issuance of a new license to such a person and to remove the time limit within which the person must obtain a new employment situation and a reissued license.

-- Section 475.37, F.S., is amended to clarify that a defendant must be restored to his rights and privileges as a licensee when an order of the court or commission is reversed, regardless of the specific nature of the disciplinary order involved.

-- Section 475.38, F.S., is amended to delete the authority granted to the commission, but never exercised, to pay or advance fees and costs to a defendant who is unable to pay.

-- Section 475 42(1), F.S., which establishes grounds for criminal penalties is amended to delete the requirement that a broker's trade name must appear on his license. The section is further amended to prohibit any person who is not a certified appraiser from certifying a real estate appraisal.

-- Subsections 475 451(1) and (2), F.S., are amended to exempt county vocational centers from the requirements relating to permits for real estate schools and their chief administrators, but applies permit requirements relating to school instructors. Non-college-credit courses taught by accredited colleges, universities, and community colleges are required to have a chief administrator and school instructors who hold permits. The section is also amended to provide alternative qualifications for school instructors (those who teach in proprietary real estate schools, county vocational centers, and non-college-credit courses in colleges and universities). In lieu of a written instructor's exam, an instructor may certify his competency through either of two combinations of higher education, experience, and broker status. In addition, the commission is authorized to require a teaching demonstration which, if established, would apply to all applicants for instructor permits.

-- Section 475 482, F.S., relating to the Real Estate Recovery Fund, is amended to delete the commission's authority to disburse moneys from the fund as reimbursement to any broker or salesmen who has been required by a court to pay money damages due to his compliance with escrow disbursement order issued by the commission. The section is also amended to raise from $250,000 to $500,000 and from $450,000 to $700,000 the minimum and maximum amounts for the fund which trigger the collection and abatement of the special fees which supply the fund.

-- Section 475.483, F.S., to clarify that recovery from the fund must be based on damages stemming from a real estate brokerage transaction, and not on a transaction in which the broker represented himself. Obsolete language and language authorizing the commission to pay attorney's fee and court costs related to claims based on escrow disbursement orders is deleted.
-- Section 475.4835, F.S., is amended to authorize the commission, when notified of the commencement of an action which may lead to a claim against the recovery fund, to intervene on behalf of the State of Florida, rather than on behalf of and in the name of the defendant.

-- Section 475.484(1), F.S., is amended to delete cross-references to s.475.482(2), F.S., and certain language related to the maximum claim amount because the bill removes authority for claims against the fund stemming from escrow disbursement orders of the commission. A prohibition on recovery from the fund of treble damages, court costs, attorney's fees, and interest is added. Subsection (7) is amended to clarify that upon payment of a claim from the fund in satisfaction of a judgment against a licensee, the license is automatically revoked without further administrative action.

-- Section 475.1825, F.S., which consists of obsolete provisions relating to the granting of inactive status to certain expired registrations, is repealed.

-- Section 475.501, F.S., is created to provide for the voluntary certification of real estate appraisers. The section would prohibit any person who is not certified from representing himself as a state certified appraiser, but would allow persons who are licensed as real estate brokers or salesmen to continue to appraise real property for compensation. A 7-member Real Estate Appraisal Subcommittee is to be appointed by the Governor to advise the commission in the establishment of rules pertaining to applicants' experience, educational courses, and exam content; to review disciplinary cases and present recommendations to the commission's probable cause panel; and to recommend rules establishing standards for appraisals prepared by noncertified appraisers. The section provides for two categories of certified appraisers to be established: state certified residential appraisers who will be considered qualified to prepare certified appraisals of residential property of up to four units on the basis of two years of appraisal experience, successful completion of commission-approved academic instruction of up to 60 classroom hours, and passage of a written examination; and state certified real estate appraisers who will be considered qualified to prepare certified appraisals of all types of real property on the basis of three years of appraisal experience, successful completion of commission-approved academic instruction of up to 120 classroom hours, and passage of a written examination. Because appraisal is already included within the scope of chapter 475, F.S., only real estate licensees will be eligible for certification.

The section also applies the grounds for disciplinary actions and criminal penalties contained in sections 475.25 and 475.42, F.S., to certified appraisers. Grounds for disciplinary actions against a certified appraiser are established and include the following four prohibited acts which relate most closely to the quality of the appraisal itself: violation of any of the standards provided by law for the development or communication of real estate appraisals; failure to exercise reasonable diligence in developing an appraisal or appraisal report; carelessness, negligence, or incompetence in developing or communicating an appraisal; and accepting an appraisal assignment when the employment is contingent upon reporting a predetermined analysis or opinion or when the fee is contingent upon the conclusion or valuation that is reached.

Standards for the development and communication of certified appraisals are also established. The standards generally require a certified appraiser to correctly employ recognized appraisal methods. The standards also require a number of very specific elements and concepts to be included in the development of a certified appraisal and provide standards for
certified review appraisals. These standards form the basis for evaluation by the commission and subcommittee of any certified appraisal and are the linchpin in providing for appraiser accountability. The standards for communication of certified real estate appraisals require each written report to contain a certification assuring the objectivity of the report and its compliance with the requirements of law and disclosing any possible conflicts of interest on the part of the appraiser. An appraiser may agree to prepare a limited report provided that the appraiser has determined that the report is not so limited as to be misleading and has advised the client that the report will not meet the reporting standards and will include in the letter of transmittal and the certification pages of the report an explanation of its limitations and the statement, "This is a limited report."

A certified appraiser may perform appraisal services that do not fully conform to the standards for certified appraisals. Prior to agreeing to perform such services, the appraiser must determine that the services to be performed are not so limited in scope that the resulting analysis would be misleading. The appraiser must also advise the client that the appraisal service calls for work which does not conform to the standards for certified appraisals and that the appraisal letter of transmittal and certification statement will include a qualification reflecting the differing nature of the work.

Finally, the section requires each certified real estate appraiser to retain for at least 5 years from the date of submission of a report to a client originals or true copies of contracts for the appraisal work, the appraisal report, and supporting data used in preparation of the report. These records must be made available by the appraiser for inspection and copying by the subcommittee. For any appraisal which has been the subject of, or has served as evidence in, litigation, records must be retained for at least 2 years after the trail date.

Chapter 475, F.S., as amended by the bill, is revived and readopted. The chapter is scheduled for repeal on October 1, 1998, and for review by the Legislature pursuant to the Sunset Act, except for section 475.045, F.S., which is scheduled for review pursuant to the Sundown Act.

An effective date of October 1, 1988, is provided.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Pursuant to law and commission rules, fees are established for application and examination, reapplication, licensure, registration, permits, renewals, and other purposes, such as purchase of the FREC Handbook. If chapter 475, F.S., were allowed to repeal on October 1, 1988, as provided by section 11.61, F.S., members of the real estate industry would no longer be required to pay these fees. This bill, however, revives and readopts the chapter and would result in applicants, licensees, registrants, and permittees continuing to pay regulatory fees.

To the extent that removal of the residency requirement for licensure increases as the number of licensees, the total of fees collected by the Division of Real Estate will increase. Similarly, the establishment of a voluntary certification procedure for real estate appraisers will increase fee revenues to the extent that appraisers choose to become certified. As with all professional groups regulated under the DPR, fees will be established at a level commensurate with the cost of regulation. The costs of certification of appraisers is expected to be moderated by the use of the existing
administrative structure of the Division of Real Estate and by the economies of scale that currently apply to regulation of real estate practitioners. Therefore, the ultimate economic impact on consumers is anticipated to be minimal.

B. Government:

Total expenditures by the Division of Real Estate for the regulation of real estate brokers, salesmen, and schools average approximately $5.5 million per year. Funding is obtained through fees paid by applicants, licensees, registrants, and permittees which are deposited in the real estate portion of the Professional Regulation Trust Fund. If chapter 475, F.S., were to be allowed to repeal, these costs would not longer be incurred and fees would no longer be collected. Because the real estate portion of the trust fund presently shows a deficit, repeal of chapter 475, F.S., on October 1, 1988, would require the trust fund as a whole to absorb the deficit. However, this bill would revive and readopt the chapter and fees have already been adjusted in order to offset the deficit. Estimate of the additional costs related to the certification of appraisers are being developed by the DPR.

III. COMMENTS:

The Real Estate Appraisal Reform Act of 1987 (H.R.3675) was introduced by Representative Doug Barnard of Georgia on November 20, 1987. The proposal is the culmination of hearings and investigations conducted by the Commerce, Consumer, and Monetary Affairs Subcommittee of the House of Representatives' Government Operations Committee, which also produced a report entitled "Impact of Appraisal Problems on Real Estate Lending, Mortgage Insurance, and Investment in the Secondary Market" which documented problems in the real estate and mortgage finance industries resulting from appraisal abuses. Rep. Barnard's bill would address the problem by requiring the establishment of a Federal Interagency Council which, with advice from 2 advisory committees composed of appraisers and of appraisal users, would establish appraiser qualifications and appraisal standards for real estate transactions in which the federal government has substantial financial or public policy interests. Enforcement would be provided by state appraiser certifying agencies, authorized in the federal bill. Given the pervasive nature of federal involvement in the mortgage finance industry, passage of Rep. Barnard's proposal would act as a mandate for state certification of appraisers.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. Present Situation:

The Regulatory Sunset Act repeals chapter 475, F.S., relating to real estate brokers, salesmen, and schools, on October 1, 1988, unless the Legislature revives and readopts it in the public interest. Section 475.045, F.S., which creates the Florida Real Estate Commission Education and Research Foundation and the Foundation Advisory Committee, is separately scheduled for repeal on October 1, 1988, pursuant to the Sundown Act.

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the requirement for brokers to maintain an office (s.475.22, F.S.), expiration of license upon change of address (s.475.23, F.S.), and registration of branch offices (s.475.24, F.S.).

Discipline of licensees is provided for by listing proscribed acts for which administrative penalties may be imposed (s.475.25, F.S.), specifying other violations for which criminal sanctions may be imposed (s.475.42, F.S.), and establishing penalties for the publication of false or misleading information (s.475.421, F.S.), for the unlawful collection of advance fees (s.475.452, F.S.), and for unlawful rental information transactions (s.475.453, F.S.). The chapter also provides for rules of evidence (s.475.28, F.S.), the effects of and publication of final orders of the commission (s.475.31, F.S.), the effect of reversal of orders of the court or the commission (s.475.37, F.S.), payment of costs by the commission (s.475.38, F.S.), the invalidity of contracts of unlicensed persons for commissions (s.475.41, F.S.), and for presumption, under certain circumstances, that a person has acted as a real estate broker (s.475.43, F.S.). In addition, the chapter provides for the prosecution of criminal violations (s.475.454, F.S.), and for the exchange of disciplinary information with the Department of Business Regulation (s.475.455, F.S.).

Schools teaching real estate practice are required to obtain a permit, instructors are required to pass a written examination, and courses are required to conform to certain conditions (s.475.451, F.S.). Schools must also adhere to requirements regarding their advertising (s.475.4511, F.S.).

The Real Estate Recovery Fund is created to provide for the reimbursement of persons judged by a court to have suffered damages resulting from a violation by a broker or salesman in the course of a real estate brokerage transaction (s.475.482, F.S.). Conditions for recovery from the fund are set forth (s.475.483, F.S.), commission powers to intervene upon notification of commencement of action are established (s.475.4835, F.S.), limitations are placed on the size of claims which may be paid from the fund (s.475.484, F.S.), funds are required to be invested by the Treasurer (s.475.485, F.S.), and the commission is authorized to promulgate rules necessary to administer the fund and persons filing false documents related to the fund are made subject to misdemeanor penalties (s.475.486, F.S.).

Section 337.271, F.S., requires the Department of Transportation to negotiate in good faith with the owner of a parcel to be acquired and requires that certain appraisal reports relating to such parcels be prepared by an appraiser who has been qualified by the department or who has been accepted as an expert in eminent domain proceedings, and who is a real estate broker or salesman.

B. Effect of Proposed Changes:

The provisions of chapter 475, F.S., are revived and readopted with the following substantive amendments:

-- Section 475.01, F.S., is amended to revise the term "broker" to include only the general partners, rather than all partners, in a partnership; to add the terms "involuntarily inactive" and "voluntarily inactive;" and to include state-certified appraisers within the definition of "operating" as a licensee.

-- Section 475.011, F.S., is amended to limit to persons paid on a salary basis the exemptions for employees of persons or corporations engaged in selling or leasing their own property, employees of owners of apartment communities, and managers of condominiums or cooperatives. A new exemption is created for
any full-time graduate student enrolled in a commission-approved degree program in appraising at a Florida college or university, provided that the student is engaged only in appraisal activities related to the degree program and under a broker's direct supervision.

-- Section 475.02, F.S., is amended to specify that FREC members be appointed by the Governor and confirmed by the Senate, to remove language prohibiting either of the consumer members of the FREC from being members of any occupation closely related to the real estate profession, and to require that the current members complete their present terms unless removed for cause.

-- Section 475.04, F.S., is amended to replace an incorrect reference to "registrants" with the term "licensees" and to correct a cross-reference.

-- Section 475.045, F.S., relating to the FREC Education and Research Foundation and the Foundation Advisory Committee, is amended to require future appointees to the committee to possess qualifications related to the committee's education and research activities, to require that current members complete their present terms unless removed for cause, to require that projects with the greatest potential for public benefit be given funding priority, to allow the committee to hire consultants, and to delete obsolete language.

-- Section 475.125, F.S., is amended to authorize the establishment of fees for appraiser certification and recertification and to establish licensure fees on an annual, rather than a biennial, basis.

-- Section 475.15, F.S., is amended to require partnerships and corporations to renew the registrations of their unlicensed members and to allow the general partner in a partnership to be either a licensed broker or a registered broker corporation.

-- Section 475.17, F.S., relating to qualifications for licensure, is amended to remove the requirement that an applicant for licensure be a Florida resident and to add the requirement that an applicant have a high school diploma. Nonresident applicants are required to file an irrevocable consent that suits and actions may be commenced against them in any county of this state and that service of process may be made by service on the director of the Division of Real Estate. Any resident licensee who becomes a nonresident must notify the commission within 60 days and comply with nonresident requirements. The section is also amended to substitute permissive language for the prohibition against approving an applicant who has acted as a broker or salesman without a license during the year preceding application. In addition, county vocational centers are included among the institutions which may offer required educational courses. Holding an active real estate salesman's license for at least 12 months during the preceding 5 years in the employ of a governmental agency for a salary and performing the duties authorized for real estate salesmen is authorized as an alternative means of satisfying the 1-year experience requirement for licensure as a broker. The section is further amended to authorize the commission to require up to 60 classroom hours of post-licensure education for brokers. This additional training must be completed within the 2-year period immediately following initial licensure or the broker's license becomes null and void. A licensee who fails to fulfill the post-licensure education requirement may be issued a salesman's license if he satisfactorily completes the regular 14-hour continuing education requirement which is otherwise suspended for brokers during the first two years of licensure. The commission must provide for the post-licensure education courses to be made available to persons who, due to hardship, cannot attend the
usual course site. Obsolete provisions related to business
brokers are deleted.

-- Section 475.175(1), F.S., is amended to require
applications to be notarized.

-- Section 475.182, F.S., is amended to require renewal of
licenses at least every 4 years, rather than biennially, to
require licensees to complete seven hours of continuing
education during each year, and to clarify language relating to
renewal of inactive licenses. References to organizations
whose courses the commission is to accept for continuing
education purposes are deleted.

-- Section 475.183, F.S., is amended to distinguish between
voluntarily inactive and involuntarily inactive licenses, to
clarify the fact that a licensee who renews an inactive license
may elect to continue his inactive status; to require
notification of the licensee 2 years, rather than 1 year, prior
to expiration; and to establish a maximum late renewal fee of
$100.

-- Section 475.23, F.S., relating to the expiration of a
license or permit upon change of address, replaces obsolete
language requiring surrender of the license or permit with a
requirement to notify the commission of the change of address
within 10 days.

-- Section 475.25, F.S., is amended to add probation as a
disciplinary option which the commission may employ and to
clarify the fact that the commission's disciplinary powers
apply to certified appraisers and registrants as well as
licensees. The section is further amended to authorize the
deposit of escrow funds in credit unions (in addition to other
types of financial institutions); authorize disciplinary action
against a licensee who is incarcerated in a county jail (in
addition to other types of correctional facilities); and to add
as a ground for disciplinary action the licensee's failure to
disclose to the parties to a transaction which party the
licensee is representing.

-- Section 475.31(1), F.S., relating to the cancellation of
the licensure or registration of a person working in
conjunction with a broker whose license is revoked or
suspended, is amended to delete the requirement for issuance of
a new license to such a person and to remove the time limit
within which the person must obtain a new employment situation
and a reissued license.

-- Section 475.37, F.S., is amended to clarify that a
defendant must be restored to his rights and privileges as a
licensee when an order of the court or commission is reversed,
regardless of the specific nature of the disciplinary order
involved.

-- Section 475.38, F.S., is amended to delete the authority
granted to the commission, but never exercised, to pay or
advance fees and costs to a defendant who is unable to pay.

-- Section 475.42(1), F.S., which establishes grounds for
criminal penalties is amended to delete the requirement that a
broker's trade name must appear on his license. The section is
further amended to prohibit any person who is not a certified
appraiser from certifying a real estate appraisal.

-- Subsections 475.451(1) and (2), F.S., are amended to exempt
county vocational centers from the requirements relating to
permits for real estate schools and their chief administrators,
but applies permit requirements relating to school instructors.
Non-college-credit courses taught by accredited colleges,
universities, and community colleges are required to have a
The section is also amended to provide alternative qualifications for school instructors (those who teach in proprietary real estate schools, county vocational centers, and non-college-credit courses in colleges and universities). In lieu of a written instructor’s exam, an instructor may certify his competency through either of two combinations of higher education, experience, and broker status. In addition, the commission is authorized to require a teaching demonstration which, if established, would apply to all applicants for instructor permits.

-- Section 475.452, F.S., is amended to require advance fees to be deposited in a bank located in Florida.

-- Section 475.482, F.S., relating to the Real Estate Recovery Fund, is amended to prohibit the commission from disbursing moneys from the fund as reimbursement to any broker or salesman who has been required by a court to pay money damages due to his compliance with escrow disbursement order issued by the commission if the licensee has failed to defend himself in the action. The section is also amended to raise from $250,000 to $500,000 and from $450,000 to $700,000 the minimum and maximum amounts for the fund which trigger the collection and abatement of the special fees which supply the fund.

-- Section 475.483, F.S., to clarify that recovery from the fund must be based on damages stemming from a real estate brokerage transaction, and not on a transaction in which the broker represented himself, and that the transaction involved a currently licensed broker or salesman. The requirement that a claim must be based on a final court judgment may be waived when a judgment cannot be secured due to death of the licensee. The requirement that claims be made within 2 years of the act for which recovery is sought is expanded to allow claims to also be made within 2 years from the time the act is discovered, provided that in the latter case the claim is made not more than 4 years from the date of the act giving rise to the claim. Obsolete language is deleted.

-- Section 475.4835, F.S., is amended to authorize the commission, when notified of the commencement of an action which may lead to a claim against the recovery fund, to intervene on behalf of the State of Florida, rather than on behalf of and in the name of the defendant.

-- Section 475.484(1), F.S., is amended to prohibit recovery from the fund of treble damages, court costs, attorney's fees, and interest except that attorney’s fees and court costs may be paid in cases where a licensee is being reimbursed for losses resulting from compliance with an escrow disbursement order. Subsection (7) is amended to clarify that upon payment of a claim from the fund in satisfaction of a judgment against a licensee, the license is automatically revoked without further administrative action.

-- Section 475.501, F.S., is created to provide for the voluntary certification of real estate appraisers and create definitions for terms related to the certification process. The section prohibits any person who is not certified from representing himself as a state-certified appraiser, but allows persons who are licensed as real estate brokers or salesmen to continue to appraise real property for compensation and allows the work upon which a certified appraisal report is based to be performed by a non-certified licensee if the report is approved and signed by a state-certified appraiser. A 7-member Real Estate Appraisal Standards Committee is to be appointed by the Governor to advise the commission in the establishment of rules pertaining to applicants’ experience, educational courses, and exam content; to review disciplinary cases and present recommendations to the commission’s probable cause panel; and
to recommend rules establishing standards for appraisals prepared by noncertified appraisers. The section provides for two categories of certified appraisers to be established: state certified residential appraisers who will be considered qualified to prepare certified appraisals of residential property of up to four units on the basis of two years of appraisal experience, successful completion of commission-approved academic instruction of up to 60 classroom hours, and passage of a written examination; and state certified real estate appraisers who will be considered qualified to prepare certified appraisals of all types of real property on the basis of three years of appraisal experience, successful completion of commission-approved academic instruction of up to 120 classroom hours, and passage of a written examination. Because appraisal is already included within the scope of chapter 475, F.S., only real estate licensees will be eligible for certification.

The section also applies the grounds for disciplinary actions and criminal penalties contained in sections 475.25 and 475.42, F.S., to certified appraisers. Grounds for disciplinary actions against a certified appraiser are established and include the following four prohibited acts which relate most closely to the quality of the appraisal itself: violation of any of the standards provided by law for the development or communication of real estate appraisals; failure to exercise reasonable diligence in developing an appraisal or appraisal report; carelessness, negligence, or incompetence in developing or communicating an appraisal; and accepting an appraisal assignment when the employment is contingent upon reporting a predetermined analysis or opinion or when the fee is contingent upon the conclusion or valuation that is reached.

Standards for the development and communication of certified appraisals are also established. The standards generally require a certified appraiser to correctly employ recognized appraisal methods. The standards also require a number of very specific elements and concepts to be included in the development of a certified appraisal and provide standards for certified review appraisals. These standards form the basis for evaluation by the commission and subcommittee of any certified appraisal and are the linchpin in providing for appraiser accountability. The standards for communication of certified real estate appraisals require each written report to contain a certification assuring the objectivity of the report and its compliance with the requirements of law and disclosing any possible conflicts of interest on the part of the appraiser. An appraiser may agree to prepare a limited report provided that the appraiser has determined that the report is not so limited as to be misleading and has advised the client that the report will not meet the reporting standards and will include in the letter of transmittal and the certification pages of the report an explanation of its limitations and the statement, "This is a limited report."

A certified appraiser may perform appraisal services that do not fully conform to the standards for certified appraisals. Prior to agreeing to perform such services, the appraiser must determine that the services to be performed are not so limited in scope that the resulting analysis would be misleading. The appraiser must also advise the client that the appraisal service calls for work which does not conform to the standards for certified appraisals and that the appraisal letter of transmittal and certification statement will include a qualification reflecting the differing nature of the work.

Finally, the section requires each certified real estate appraiser to retain for at least 5 years from the date of submission of a report to a client originals or true copies of contracts for the appraisal work, the appraisal report, and supporting data used in preparation of the report. These
records must be made available by the appraiser for inspection and copying by the subcommittee. For any appraisal which has been the subject of, or has served as evidence in, litigation, records must be retained for at least 2 years after the trial date.

-- Section 337.271(4), F.S., is amended to require certain right-of-way acquisition appraisals to be conducted by state-certified real estate appraisers effective October 1, 1990.

-- Section 475.181(4), F.S., which refers to the successful examinee's request for licensure, when in actual practice licenses are issued automatically, and section 475.1825, F.S., which consists of obsolete provisions relating to the granting of inactive status to certain expired registrations, are repealed.

Chapter 475, F.S., as amended by the bill, is revived and readopted. The chapter is scheduled for repeal on October 1, 1998, and for review by the Legislature pursuant to the Sunset Act, except for section 475.045, F.S., which is scheduled for review pursuant to the Sundown Act.

An effective date of October 1, 1988, is provided.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Pursuant to law and commission rules, fees are established for application and examination, reapplication, licensure, registration, permits, renewals, and other purposes, such as purchase of the FREC Handbook. If chapter 475, F.S., were allowed to repeal on October 1, 1988, as provided by section 11.61, F.S., members of the real estate industry would no longer be required to pay these fees. This bill, however, revives and readsops the chapter and would result in applicants, licensees, registrants, and permittees continuing to pay regulatory fees.

To the extent that removal of the residency requirement for licensure increases as the number of licensees, the total of fees collected by the Division of Real Estate will increase. Similarly, the establishment of a voluntary certification procedure for real estate appraisers will increase fee revenues to the extent that appraisers choose to become certified. As with all professional groups regulated under the DPR, fees will be established at a level commensurate with the cost of regulation. The cost of certification of appraisers is expected to be moderated by the use of the existing administrative structure of the Division of Real Estate and by the economies of scale that currently apply to regulation of real estate practitioners. Therefore, the ultimate economic impact on consumers due to appraiser certification is anticipated to be minimal.

To the extent that the commission exercises its authority to require post-licensure education for brokers, licensees will incur additional costs which are assumed to be passed on indirectly to the consumer. Schools and organizations providing post-licensure education courses are expected to profit from any additional education requirement established by the commission.

B. Government:

Total expenditures by the Division of Real Estate for the regulation of real estate brokers, salesmen, and schools average approximately $5.5 million per year. Funding is obtained through fees paid by applicants, licensees, registrants, and permittees which are deposited in the real
estate portion of the Professional Regulation Trust Fund. If chapter 475, F.S., were to be allowed to repeal, these costs would not longer be incurred and fees would no longer be collected. Because the real estate portion of the trust fund presently shows a deficit, repeal of chapter 475, F.S., on October 1, 1988, would require the trust fund as a whole to absorb the deficit. However, this bill would revive and readopt the chapter and fees have already been adjusted in order to offset the deficit. Estimate of the additional costs related to the certification of appraisers are being developed by the DPR.

III. COMMENTS:

The Real Estate Appraisal Reform Act of 1987 (H.R.3675) was introduced by Representative Doug Barnard of Georgia on November 20, 1987. The proposal is the culmination of hearings and investigations conducted by the Commerce, Consumer, and Monetary Affairs Subcommittee of the House of Representatives' Government Operations Committee, which also produced a report entitled "Impact of Appraisal Problems on Real Estate Lending, Mortgage Insurance, and Investment in the Secondary Market" which documented problems in the real estate and mortgage finance industries resulting from appraisal abuses. Rep. Barnard's bill would address the problem by requiring the establishment of a Federal Interagency Council which, with advice from 2 advisory committees composed of appraisers and of appraisal users, would establish appraiser qualifications and appraisal standards for real estate transactions in which the federal government has substantial financial or public policy interests. Enforcement would be provided by state appraiser certifying agencies, authorized in the federal bill. Given the pervasive nature of federal involvement in the mortgage finance industry, passage of Rep. Barnard's proposal would act as a mandate for state certification of appraisers.

IV. AMENDMENTS:

None.
Final Bill Summary for CS/SB 82

CS/SB 82 was signed by the Governor on May 4, 1988, and became chapter 88-20, L.O.F. The provisions of chapter 475, F.S., were revived and readopted with the following substantive amendments:

-- Section 475.01, F.S., is amended to revise the term "broker" to include only the general partners, rather than all partners, in a partnership; to add the terms "involuntarily inactive" and "voluntarily inactive;" and to include state-certified appraisers within the definition of "operating" as a licensee.

-- Section 475.011, F.S., is amended to limit to persons paid on a salary basis the exemptions for employees of owners of apartment communities and managers of condominiums or cooperatives. A new exemption is created for any full-time graduate student enrolled in a commission-approved degree program in appraising at a Florida college or university, provided that the student is engaged only in appraisal activities related to the degree program and under a broker's direct supervision.

-- Section 475.02, F.S., is amended to specify that FREC members be appointed by the Governor and confirmed by the Senate, to remove language prohibiting either of the consumer members of the FREC from being members of any occupation closely related to the real estate profession, and to require that the current members complete their present terms unless removed for cause.

-- Section 475.04, F.S., is amended to replace an incorrect reference to "registrants" with the term "licensees" and to correct a cross-reference.

-- Section 475.045, F.S., relating to the FREC Education and Research Foundation and the Foundation Advisory Committee, is amended to require future appointees to the committee to possess qualifications related to the committee's education and research activities, to require that current members complete their present terms unless removed for cause, to require that projects with the greatest potential for public benefit be given funding priority, to allow the committee to hire consultants, and to delete obsolete language.
-- Section 475.125, F.S., is amended to authorize the establishment of fees for appraiser certification and recertification and to establish licensure fees on an annual, rather than a biennial, basis.

-- Section 475.15, F.S., is amended to require partnerships and corporations to renew the registrations of their unlicensed members and to allow the general partner in a partnership to be either a licensed broker or a registered broker corporation.

-- Section 475.17, F.S., relating to qualifications for licensure, is amended to remove the requirement that an applicant for licensure be a Florida resident and to add the requirement that an applicant have a high school diploma. Nonresident applicants are required to file an irrevocable consent to suits and actions may be commenced against them in any county of this state and that service of process may be made by service on the director of the Division of Real Estate. Any resident licensee who becomes a nonresident must notify the commission within 60 days and comply with nonresident requirements. The section is also amended to substitute permissive language for the prohibition against approving an applicant who has acted as a broker or salesman without a license during the year preceding application. In addition, county vocational centers are included among the institutions which may offer required educational courses. Holding an active real estate salesman's license for at least 12 months during the preceding 5 years in the employ of a governmental agency for a salary and performing the duties authorized for real estate salesmen is authorized as an alternative means of satisfying the 1-year experience requirement for licensure as a broker. The section is further amended to authorize the commission to require post-licensure education of up to 45 classroom hours for salesmen and up to 60 classroom hours for brokers. This additional training must be completed within the 2-year period immediately following initial licensure or the license becomes null and void. A broker who fails to fulfill the post-licensure education requirement may be issued a salesman's license if he satisfactorily completes the regular 14-hour continuing education requirement which is otherwise suspended for licensees during the first two years of licensure. The commission must provide for the post-licensure education courses to be made
available to persons who, due to hardship, cannot attend the usual course site. Obsolete provisions related to business brokers are deleted. (Section 475.17, F.S., was further amended by HB 1626 to allow the commission to adopt rules to define the hardship reasons which will allow applicants to meet educational requirements through correspondence coursework in lieu of class work.)

-- Section 475.175(1), F.S., is amended to require applications to be notarized.

-- Section 475.182, F.S., is amended to require renewal of licenses at least every 4 years, rather than biennially, to require licensees to complete 14 hours of continuing education during each biennium, and to clarify language relating to renewal of inactive licenses. References to organizations whose courses the commission is to accept for continuing education purposes are deleted.

-- Section 475.183, F.S., is amended to distinguish between voluntarily inactive and involuntarily inactive licenses, to clarify the fact that a licensee who renews an inactive license may elect to continue his inactive status; to require notification of the licensee 2 years, rather than 1 year, prior to expiration; and to establish a maximum late renewal fee of $100.

-- Section 475.23, F.S., relating to the expiration of a license or permit, upon change of address, replaces obsolete language requiring surrender of the license or permit with a requirement to notify the commission of the change of address within 10 days.

-- Section 475.25, F.S., is amended to add probation as a disciplinary option which the commission may employ and to clarify the fact that the commission's disciplinary powers apply to certified appraisers and registrants as well as licensees. The section is further amended to: authorize the deposit of escrow funds in credit unions (in addition to other types of financial institutions); authorize disciplinary action against a licensee who is incarcerated after adjudication in a county jail (in addition to other types of correctional facilities); and to add as a ground for disciplinary action the licensee's failure to
 disclose to the parties to a transaction which party the licensee is representing.

-- Section 475.31(1), F.S., relating to the cancellation of the licensure or registration of a person working in conjunction with a broker whose license is revoked or suspended, is amended to delete the requirement for issuance of a new license to such a person and to remove the time limit within which the person must obtain a new employment situation and a reissued license.

-- Section 475.37, F.S., is amended to clarify that a defendant must be restored to his rights and privileges as a licensee when an order of the court or commission is reversed, regardless of the specific nature of the disciplinary order involved.

-- Section 475.38, F.S., is amended to delete the authority granted to the commission, but never exercised, to pay or advance fees and costs to a defendant who is unable to pay.

-- Section 475.42(1), F.S., which establishes grounds for criminal penalties is amended to delete the requirement that a broker's trade name must appear on his license. The section is further amended to prohibit any person who is not a certified appraiser from certifying a real estate appraisal.

-- Subsections 475.451(1) and (2), F.S., are amended to exempt county vocational centers from the requirements relating to permits for real estate schools and their chief administrators, but applies permit requirements relating to school instructors. Non-college-credit courses taught by accredited colleges, universities, and community colleges are required to have a chief administrator and school instructors who hold permits. The section is also amended to provide alternative qualifications for school instructors (those who teach in proprietary real estate schools, county vocational centers, and non-college-credit courses in colleges and universities). In lieu of a written instructor's exam, an instructor may certify his competency through either of two combinations of higher education, experience, and broker status. In addition, the commission is authorized to require a teaching demonstration which, if established, would apply to all applicants for instructor permits.
Section 475.452, F.S., is amended to require advance fees to be deposited in a bank which is located in Florida, but which may be based elsewhere.

Section 475.482, F.S., relating to the Real Estate Recovery Fund, is amended to prohibit the commission from disbursing moneys from the fund as reimbursement to any broker or salesman who has been required by a court to pay money damages due to his compliance with an escrow disbursement order issued by the commission if the licensee has failed to defend himself in the action. The section is also amended to raise from $250,000 to $500,000 and from $450,000 to $700,000 the minimum and maximum amounts for the fund which trigger the collection and abatement of the special fees which supply the fund.

Section 475.483, F.S., to clarify that recovery from the fund must be based on damages stemming from a real estate brokerage transaction, and not on a transaction in which the broker represented himself, and that the transaction involved a currently licensed broker or salesman. The requirement that a claim must be based on a final court judgment may be waived when a judgment cannot be secured due to death of the licensee. The requirement that claims be made within 2 years of the act for which recovery is sought is expanded to allow claims to also be made within 2 years from the time the act is discovered, provided that in the latter case the claim is made not more than 4 years from the date of the act giving rise to the claim. Obsolete language is deleted.

Section 475.4835, F.S., is amended to authorize the commission, when notified of the commencement of an action which may lead to a claim against the recovery fund, to intervene on behalf of and in the name of the defendant.

Section 475.484(1), F.S., is amended to prohibit recovery from the fund of treble damages, court costs, attorney's fees, and interest except that attorney's fees and court costs may be paid in cases where a licensee is being reimbursed for losses resulting from compliance with an escrow disbursement order. Subsection (7) is amended to clarify that upon payment of a claim from the fund in satisfaction of a judgment against a licensee,
the license is automatically revoked without further administrative action.

Section 475.501, F.S., is created to provide for the voluntary certification of real estate appraisers and create definitions for terms related to the certification process. The section prohibits any person who is not certified from representing himself as a state-certified appraiser, but allows persons who are licensed as real estate brokers or salesmen to continue to appraise real property for compensation and allows the work upon which a certified appraisal report is based to be performed by a non-certified licensee if the report is approved and signed by a state-certified appraiser. A 7-member Real Estate Appraisal Subcommittee is to be appointed by the Governor to advise the commission in the establishment of rules pertaining to applicants' experience, educational courses, and exam content, and to review disciplinary cases and present recommendations to the commission's probable cause panel. The section provides for two categories of certified appraisers to be established: state certified residential appraisers who will be considered qualified to prepare certified appraisals of residential property of up to four units on the basis of two years of appraisal experience, successful completion of commission-approved academic instruction of up to 60 classroom hours, and passage of a written examination; and state certified real estate appraisers who will be considered qualified to prepare certified appraisals of all types of real property on the basis of three years of appraisal experience, successful completion of commission-approved academic instruction of up to 120 classroom hours, and passage of a written examination. Because appraisal is already included within the scope of chapter 475, F.S., only real estate licensees will be eligible for certification.

The section also applies the grounds for disciplinary actions and criminal penalties contained in sections 475.25 and 475.42, F.S., to certified appraisers. Grounds for disciplinary actions against a certified appraiser are established and include the following four prohibited acts which relate most closely to the quality of the appraisal itself: violation of any of the standards provided by law for the development or communication of real estate
appraisals; failure to exercise reasonable
diligence in developing an appraisal or appraisal
report; carelessness, negligence, or incompetence
in developing or communicating an appraisal; and
accepting an appraisal assignment when the
employment is contingent upon reporting a
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Finally, the section requires each certified real estate appraiser to retain for at least 5 years from the date of submission of a report to a client originals or true copies of contracts for the appraisal work, the appraisal report, and supporting data used in preparation of the report. These records must be made available by the appraiser for inspection and copying by the subcommittee. For any appraisal which has been the subject of, or has served as evidence in, litigation, records must be retained for at least 2 years after the trial date.

-- The FREC is directed to conduct a study under the auspices of the Education and Research Foundation to determine the proper form of regulation of appraisers of real property, personal property, businesses, and rural properties.

-- Section 337.271(4), F.S., is amended to require certain right-of-way acquisition appraisals to be conducted by state-certified real estate appraisers effective October 1, 1990.

-- Section 475.181(4), F.S., which refers to the successful examinee's request for licensure, when in actual practice licenses are issued automatically, and section 475.1825, F.S., which consists of obsolete provisions relating to the granting of inactive status to certain expired registrations, are repealed.

Chapter 475, F.S., as amended by the bill, is revived and readopted. The chapter is scheduled for repeal on October 1, 1998, and for review by the Legislature pursuant to the Sunset Act, except for section 475.045, F.S., which is scheduled for review pursuant to the Sundown Act.

The amendments to chapter 475, F.S., take effect October 1, 1988.
Amendment 1—On page 26, strike all of lines 11-29 and insert

(4) As a prerequisite to the initial issuance or the renewal of a certificate, the applicant shall submit an affidavit on a form provided by the Board attesting to the fact that the applicant satisfies evidence that he has obtained public liability and property damage insurance for the safety and well-being of the public in amounts determined by rule of the board. The Board shall by rule establish a procedure for verification of the aforementioned affidavit’s accuracy based upon a random sampling method. In addition to the aforementioned affidavit of insurance, as a prerequisite to the initial issuance of a certificate, and the applicant shall furnish evidence of financial responsibility, credit, and business reputation of either himself or the business organization he desires to qualify. The board shall adopt rules defining financial responsibility based upon the applicant’s credit history, ability to be bonded and any history of bankruptcy or assignment of receivables. Such rules shall specify the financial responsibility, grounds on which the board may refuse to qualify an applicant for certification. If, within 60 days from the date the applicant is notified that he has qualified, he does not provide the evidence required, he shall apply to the department for an extension of time which shall be granted upon a showing of just cause.

On motion by Senator Margolis, by two-thirds vote the committee and the foundation, amending s. 475.125, F.S., revising and inserting December 31, 1989, two of the members must be state-certified residential appraisers and three of the members must

Amendment 2—On page 14, lines 12 and 13 and on page 33, line 13, strike “a county vocational center” and insert “an area vocational-technical center”

Amendment 3—On page 14, line 27, on page 45, line 25, and on page 46, line 10, strike “county vocational center” and insert “area vocational-technical center”

Amendment 4—On page 32, line 3, strike “county vocational centers” and insert “area vocational-technical centers”

Amendment 5—On page 32, line 16, strike “and community colleges” and insert “community colleges, and area vocational-technical centers”

Amendment 6—On page 40, line 6, strike “a state-certified appraiser” and insert “and appraisers”

Amendment 7—On page 40, between lines 20 and 21, insert

(b) “Appraisal report” means any written or oral analysis, opinion, or conclusion issued by an appraiser relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real property and includes a report communicating an appraisal analysis, opinion, or conclusion of value, regardless of title.

(Renumber subsequent paragraphs.)

Amendment 8—On page 41, line 22, after the period (.) insert

Such persons may continue to provide appraisal services for compensation so long as they do not represent themselves or the appraisal report as certified

(c) This section shall not apply to a real estate broker or salesperson who, in the ordinary course of business, gives an opinion of the value of real estate for the purpose of a prospective sale. However, in no event may this opinion be referred to or construed as an appraisal, nor can any compensation, fee, or consideration be charged for the opinion other than the normal commission or fee for services rendered in the sale of the real property involved.

Amendment 9—On page 42, line 2, after the period (.) insert

The members shall be as representative of the entire industry as possible and membership in a nationally or state recognized organization shall not be a prerequisite to membership on the subcommittee. To the extent possible, no more than one member of the subcommittee shall be primarily affiliated with any one particular national or state association.

Amendment 10—On page 42, strike all of lines 14 and 15 and insert December 31, 1989, two of the members must be state-certified residential appraisers and three of the members must
Amendment 11—On page 42, strike all of lines 19-21 and insert: 'be appointed for 3-year terms, and three members shall be appointed for 4-year terms. Any vacancy occurring in the
Amendment 12—On page 48, line 13, after "activities" insert: "and shall include the certification number in any newspaper, telephone directory, or other advertising medium used by the appraiser"
Amendment 13—On page 49, strike all of lines 6 and 7 and insert: "misrepresentation in the practice of real estate appraising"
Amendment 14 —On page 49, between lines 25 and 26, insert:

(14) CONSIDERATION OF PURPOSE OF APPRAISAL.—In developing a certified real estate appraisal analysis, opinion, or conclusion for an employer or a client, an appraiser must carefully consider and determine whether the appraisal service to be performed is intended to result in a analysis, opinion, or conclusion of a disinterested third party and therefore would be classified as an appraisal assignment. If the appraisal service to be performed is not intended to result in a analysis, opinion, or conclusion of a disinterested third party, the appraiser shall carefully consider whether or not he would be perceived by third parties or the public as acting as a disinterested third party

(Renumber subsequent subsections.)

Amendment 15—On page 58, between lines 8 and 9, insert:

Section 25 The Florida Real Estate Commission shall provide for a study to be conducted through the auspices of its Education and Research Foundation which shall address the following issues:

Should real estate appraisers be required to hold a real estate license and be regulated by the Florida Real Estate Commission?

2 Should a separate certification structure be established for business appraisers and business opportunity specialists?

3 Should other classifications be established for appraisers, such as “rural and farm appraiser”?

4 Should personal property appraisers be regulated and if so how?

The results of the study shall be reported to the Legislature no later than December 1, 1989

(Renumber subsequent sections)

Amendment 16—On page 60, strike all of lines 2 and 3 and insert: "Florida, except that amendments to subsection (4) of section 337.271, Florida Statutes, made by this act, shall take effect October 1, 1989"

Amendment 17—On page 19, line 1, strike "for" and insert: "an"

Senator Crawford moved the following amendment which was adopted

Amendment 18—On page 15, lines 19-21, on page 16, lines 1-30, and on page 17, lines 1-3, strike all of said lines and insert:

(3)(a) The commission may prescribe a post-licensure education requirement in order for a person to maintain a valid salesman’s license, which shall not exceed 45 classroom hours of 50 minutes each, inclusive of examination, within the 2-year period immediately following initial licensure if prescribed, this shall consist of a 45-hour course on subjects which include, but are not limited to, property management, appraisal, real estate finance, or the economics of real estate management. Required post-licensure courses must be taken at an accredited college, university, community college, an area vocational-technical center, or at a registered real estate school

(b) Satisfactory completion of the post-licensure requirement is demonstrated by successfully meeting all standards established for the commission-prescribed or commission-approved institution or school. However, notice of satisfactory completion shall not be issued if the student has absences in excess of 10 percent of the required classroom hours.

(c) The license of any salesman who does not complete the post-licensure education requirement within the 2-year period immediately following initial licensure shall be considered null and void. Such person wishing to again operate as a real estate salesman must requalify by satisfactorily completing the salesman’s pre-licensure course and passing the state examination for licensure as a salesman.

(d) A salesman must complete any post-licensure education requirement in order to be eligible for licensure as a broker.

(4)(a) The commission may prescribe a post-licensure education requirement in order for a person to maintain a valid broker’s license, which shall not exceed 60 classroom hours of 50 minutes each, inclusive of examination, within the 2-year period immediately following initial licensure. If prescribed, this shall consist of 2 courses of 30 classroom hours each on subjects which include, but are not limited to, advanced appraisal, advanced property management, real estate marketing, business law, advanced real estate investment analyses, advanced legal aspects, general accounting, real estate economics, syndications, commercial brokerage, feasibility analyses, advanced real estate finance, residential brokerage, or real estate brokerage office operations. Required post-licensure courses must be taken at an accredited college, university, community college, area vocational-technical center, or at a registered real estate school.

(b) Satisfactory completion of the post-licensure requirement is demonstrated by successfully meeting all standards established for the commission-prescribed or commission-approved institution or school. However, notice of satisfactory completion shall not be issued if the student has absences in excess of 10 percent of the required classroom hours.

(c) The license of any broker who does not complete the post-licensure education requirement within the 2-year period immediately following initial licensure shall be considered null and void. If the licensee wishes to operate as a salesman, he may be issued a salesman’s license after providing proof that he has satisfactorily completed the 14-hour continuing education course within the 6 months following expiration of his broker’s license. To operate as a broker, he must requalify by satisfactorily completing the broker’s pre-licensure course and passing the state examination for licensure as a broker.

(5)(a) The commission may allow an additional 6-month period at the end of the 2-year timeframe for completing the post-licensure education courses for salesmen and brokers who cannot, due to individual physical hardship, complete the courses within the required time.

(b) Except as provided in subsection (4), salesmen and brokers are not required to meet the 14-hour continuing education requirement during the 2-year period following initial licensure.

(c) The commission shall provide for post-licensure education courses to be made available by correspondence or other suitable means to any person who, by reason of hardship, cannot attend the place or places where courses are regularly conducted.

(d) A real estate broker who is not resident of this state shall not be eligible for requalification. If an applicant is not a resident of this state and fails to qualify for renewal of his license, the commission may issue a license to him for such time as he may be able to qualify for renewal of his license.

(e) The commission may place a real estate broker on probation if it determines that such broker is not qualified to maintain a real estate license by reason of misconduct, improper conduct, or incompetent conduct.

(f) If any applicant for a real estate license is not resident of this state, the commission shall require such applicant to pass a real estate examination in the state of his residence before he is eligible for a real estate license.

(g) The commission may prescribe a post-licensure education requirement in order for a person to maintain a valid real estate broker’s license, which shall not exceed 60 classroom hours of 50 minutes each, inclusive of examination, within the 2-year period immediately following initial licensure. If prescribed, this shall consist of 2 courses of 30 classroom hours each on subjects which include, but are not limited to, advanced appraisal, advanced property management, real estate marketing, business law, advanced real estate investment analyses, advanced legal aspects, general accounting, real estate economics, syndications, commercial brokerage, feasibility analyses, advanced real estate finance, residential brokerage, or real estate brokerage office operations. Required post-licensure courses must be taken at an accredited college, university, community college, area vocational-technical center, or at a registered real estate school.

(h) Satisfactory completion of the post-licensure requirement is demonstrated by successfully meeting all standards established for the commission-prescribed or commission-approved institution or school. However, notice of satisfactory completion shall not be issued if the student has absences in excess of 10 percent of the required classroom hours.

(6) The license of any person who does not complete the post-licensure education requirement within the 3-year period immediately following initial licensure shall be considered null and void. If the person wishes to operate as a real estate salesperson, he may be issued a salesperson’s license after providing proof that he has satisfactorily completed the 4-hour continuing education course within the 6 months following expiration of his real estate salesperson’s license. To operate as a real estate salesperson, he must requalify by satisfactorily completing the salesperson’s pre-licensure course and passing the state examination for licensure as a real estate salesperson.

Amendment 19—in title, on page 3, line 24, after "documents," insert: "requiring a study to be conducted through the Education and Research Foundation relating to appraising."
SB 1345—A bill to be entitled An act relating to New College, naming the library at New College in honor of Jane Bancroft Cook; providing for suitable markers, providing an effective date

—was read the second time by title and, under Rule 8.19, referred to the
Engrossing Clerk

Yea--110

The Chair
Abrams
Arnold
Ascheri
Baier
Banjanu
Bankhead
Baas
Bell
Bloom
Gustafson
Bronson
Brown
Burnes
Canady
Carlton
Carpenter
Cass
Clark
Clements
Crapy
Crotty
Danziger
Davis
Deutsch
Drage
Dunbar
Figg

The Clerk
Frankel
Franke
Garza
Gardner
Ghickman
Goode
Gordon
Grindle
Guber
Gustafson
Gutman
Gutman
Hanson
Harden
Hargrett
Harris
Hawkins
Healey
Hill
Hodges
Hollander
Holland
Ireland
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Jennings
Johnson
Johnson
Jones
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F
Kelly
King
Langston
Lawson
Lewis
Liberti
Lippman
Locke
Logan
Lombard
Lombard
Mackenzie
Mackey
Martin
Martinez
McEnan
Meffert
Messer
Metcalf
Mitchell
Morise
Morsham
Mergan
Ostrau
Patchett
Peeples
Redick
Rehm

Kelly
King
Langston
Lawson
Lewis
Liberti
Lippman
Locke
Logan
Lombard
Lombard
Mackenzie
Mackey
Martin
Martinez
McEnan
Meffert
Messer
Metcalf
Mitchell
Morise
Morsham
Mergan
Ostrau
Patchett
Peeples
Redick
Rehm

Renke
Rochlin
Rudd
Rush
Sample
Sandererson
Sanasnum
Saunders
Shelly
Silver
Simon
Simone
Smith
Stars
Stone
Thomas
Titone
Tobin
Trammell
Troxler
Upchurch
Wallace
Wetherell
Wise
Woodruff
Young

So the bill passed. On motion by Rep Lombard, the rules were waived and the bill was immediately certified to the Senate

FB 1475—A bill to be entitled An act relating to real estate brokers, salesmen, schools, and appraisers, amending s 475.001, F.S., relating to legislative purpose, amending s 475.01, F.S., providing definitions; amending s 475.011, F.S., providing exemptions from regulation; amending s 475.02, F.S., providing for appointment of members to the Florida Real Estate Commission; amending s 475.04, F.S., providing for duties of the commission; amending s 475.045, F.S., providing for fees for certification, amendment, and recertification; providing for continuing education requirements, providing for disciplinary actions and grounds for disciplinary action, amending s 475.31, F.S., deleting certain re-licensing limitations, amending s 475.37, F.S., providing for renewal of certain disciplinary actions, amending s 475.38, F.S., deleting provisions allowing payment by the commission of certain fees and costs of a defendant, amending s 475.41, F.S., correcting a cross reference, amending s 475.42, F.S., revising a prohibition and providing an additional prohibition, providing penalties, amending s 475.451, F.S., providing for requirements for certain schools and instructors teaching courses in real estate practice, amending s 475.452, F.S., relating to advance fees, amending s 475.455, F.S., providing certain reporting requirements, amending s 475.482, F.S., deleting certain authorized disbursements from the Real Estate Recovery Fund, raising the fund levels at which the imposition of special fees for the fund must be discontinued and at which they may be remitted thereafter, amending s 475.483, F.S., revising conditions for recovery from the fund, amending s 475.4835, F.S., providing for certain actions to be taken by the commission on behalf of the state, amending s 475.484, F.S., revising certain requirements for payments made from the Real Estate Recovery Fund, prohibiting the recovery of court costs, attorney's fees, and interest from the fund, creating s 475.501, F.S., providing for certification of real estate appraisers and residential appraisers, creating the Real Estate Appraisers and Residential Appraisers Subcommittee of the Florida Real Estate Commission, providing for membership of the subcommittee, prescribing its duties, providing for certification of licensed brokers, brokersalesmen, and salesmen as appraisers, providing examination requirements, providing education and experience requirements for renewal of certification, providing for certification limiting certification to individuals, requiring the display of certification notice, providing for fees for certification, amendment, and recertification, providing for continuing education requirements, providing for disciplinary actions and grounds therefor, providing standards for developing certified appraisal reports and communicating such reports, providing for interpretation of such standards, requiring the retention of certain documents, amending s 337.271, F.S., relating to negotiations for acquisitions of property to provide reference to state-certified real estate appraisers, repealing s 475.1825, F.S., relating to the inactive status of certain expired registrations, directing the Florida Real Estate Commission to provide for a study relating to real estate appraisers; saving ch. 475, F.S., from Sunset repeal; providing for future review and repeal, saving s 475.045, F.S., from Sundown repeal, providing for future review and repeal, providing effective dates

—was read the second time by title. On motion by Rep. Kelly, the rules were waived by two-thirds vote and—

CS for SB 82—A bill to be entitled An act relating to real estate brokers, salesmen schools, and appraisers, amending s 475.01, F.S., providing definitions; amending s 475.011, F.S., providing exemptions from regulation under ch. 475, F.S., amending s 475.02, F.S., revising qualifications for membership on the Florida Real Estate Commission, amending s 475.04, F.S., providing for duties of the commission, amending s 475.045, F.S., revising qualifications for membership on the Foundation Advisory Committee of the Florida Real Estate Commission Education and Research Foundation; revising powers and duties of the committee and the foundation, amending s 475.125, F.S., revising license and renewal fees; amending s 475.15, F.S., requiring the registration or licensure of only the general partners in a limited partnership, amending s 475.17, F.S., revising qualifications for practice as a real estate broker or salesperson; providing post-licensure requirements for brokers and salesmen, amending s 475.175, F.S., providing an additional requirement for license examinations, amending s 475.181, F.S., providing for the regulation of nonresident licensees, removing obsolete language, amending s 475.182, F.S., providing for license renewal, including continuing education requirements, providing for inactive status, amending s 475.183, F.S., revising requirements to renew inactive licenses, providing for voluntary and involuntary inactive licenses, amending s 475.23, F.S., providing a licensee to notify the commission of a change of address, amending s 475.25, F.S., prescribing disciplinary actions and revising grounds for disciplinary action, and revising requirements for disciplinary action, including certification as an appraiser within the scope of disciplinary authority amending s 475.31, F.S., deleting certain re-licensing limitations amending s 475.37, F.S., providing for renewal of certain disciplinary actions, amending s 475.38, F.S., deleting provisions allowing payment by the commission of certain fees and costs of a defendant, amending s 475.41, F.S., correcting a cross reference, amending s 475.42, F.S., revising a prohibition and providing an additional prohibition, providing penalties, amending s 475.451, F.S., providing for requirements for certain schools and instructors teaching courses in real estate practice, amending s 475.452, F.S., relating to advance fees, amending s 475.455, F.S., providing certain reporting requirements, amending s 475.482, F.S., deleting certain authorized disbursements from the Real Estate Recovery Fund, raising the fund levels at which the imposition of special fees for the fund must be discontinued and at which they may be remitted thereafter, amending s 475.483, F.S., revising conditions for recovery from the fund, amending s 475.4835, F.S., providing for certain actions to be taken by the commission on behalf of the state, amending s 475.484, F.S., revising certain requirements for payments made from the Real Estate Recovery Fund, prohibiting the recovery of court costs, attorney's fees, and interest from the fund, creating s 475.501, F.S., providing for certification of real estate appraisers and residential appraisers, creating the Real Estate Appraisers and Residential Appraisers Subcommittee of the Florida Real Estate Commission, providing for membership of the subcommittee, prescribing its duties, providing for certification of licensed brokers, brokersalesmen, and salesmen as appraisers, providing examination requirements, providing education and experience requirements for renewal of certification, providing for certification limiting certification to individuals, requiring the display of certification notice, providing for fees for certification, amendment, and recertification, providing for continuing education requirements, providing for disciplinary actions and grounds therefor, providing standards for developing certified appraisal reports and communicating such reports, providing for interpretation of such standards, requiring the retention of certain documents, amending s 337.271, F.S., relating to negotiations for acquisitions of property to provide reference to state-certified real estate appraisers, repealing s 475.1825, F.S., relating to the inactive status of certain expired registrations, directing the Florida Real Estate Commission to provide for a study relating to real estate appraisers; saving ch. 475, F.S., from Sunset repeal; providing for future review and repeal, saving s 475.045, F.S., from Sundown repeal, providing for future review and repeal, providing effective dates

April 25, 1988
Representative Lippman offered the following amendment:
Amendment 5—On page 41, line 11, insert after "opinion," review.
Rep Lippman moved the adoption of the amendment, which was adopted without objection.

Representative Morse offered the following amendment:
Amendment 6—On page 47, line 18, and on page 48, line 1, insert after "nationally" or state
Rep Morse moved the adoption of the amendment, which was adopted without objection.

Representative Metcalf offered the following amendment:
Amendment 7—On page 43, between lines 8-9, insert: (d) This chapter shall not prevent any state court or hearing officer from certifying as an expert witness in any legal or administrative proceeding an appraiser who is not certified; nor shall it prevent any appraiser from testifying, with respect to the results of an appraisal, whether or not the appraisal report is certified.
Rep. Metcalf moved the adoption of the amendment, which was adopted without objection.

Representative Patchett offered the following amendment:
Amendment 8—On page 41, lines 1-31, and on page 50, lines 1-12, strike all of said lines and pages (renumber subsequent sections).
Rep. Patchett moved the adoption of the amendment, which failed of adoption.

Without objection, seven amendments by Rep. Patchett were withdrawn.
Representative Patchett offered the following amendment:
Amendment 9—On page 16, lines 15-31, and on page 17, lines 1-27, strike all of said lines.
Rep. Patchett moved the adoption of the amendment, which failed of adoption.

THE SPEAKER IN THE CHAIR

Representative Patchett offered the following amendment:
Amendment 10—On page 17, lines 28-30, and on page 18, lines 1-2, strike all of said lines.
Rep. Patchett moved the adoption of the amendment, which failed of adoption.

Representative Patchett offered the following amendment:
Amendment 11—On page 43, line 23, strike "one" and insert: two
Rep. Patchett moved the adoption of the amendment. Pending consideration thereof, further consideration of CS/SB 82 was temporarily deferred and on motion by Rep. Gardner the rules were waived and CS/SB 82, with pending amendment, retained its place on the Special Order Calendar.

Consideration of House Resolutions
On motions by Rep. Saunders, the rules were waived and—

By the Committee on Natural Resources and Representatives Martin and Saunders—

HR 1528—A resolution to the United States House of Representative Appropriations Committee, urging the committee to defer the areas south of 26 degrees north latitude from OCS oil and gas lease sale 116 currently scheduled for November 1988
WHEREAS, on April 25, 1988 the United States House of Representative Appropriations Committee responsible for funding the United States Department of the Interior's Five Year (1987-1991) oil and gas leasing program will meet to determine funding for the lease program, and
WHEREAS, in previous lease sales, the United States Department of the Interior has recognized the extreme sensitivity of the Florida Keys' marine environment by providing a drilling ban south of 26 degrees north latitude along Florida's Gulf Coast, and
Motions Relating to Committee References

On motion by Rep Burnsed, Chairman, without objection, HR 1418 was withdrawn from the Committee on Transportation and placed on the Calendar.

On motion by Rep Kelly, without objection, HB 281 was withdrawn from further consideration of the House.

On point of order by Rep Young, Chairman, that it does not affect taxation, HB 1454 was withdrawn from the Committee on Finance & Taxation and remains referred to the Committee on Appropriations.

On motion by Rep B L Johnson, Chairman, without objection, HR 1533 was withdrawn from the Committee on Education, K-12 and placed on the Calendar.

On point of order by Rep Bell, Chairman, that they do not affect appropriations, the following bills were withdrawn from the Committee on Appropriations and placed on the Calendar CS/HR 189, HBS 957, 1463 and 1471.

On motion by Rep King, without objection, HB 934 was withdrawn from further consideration of the House.

On motions by Rep Hawkins—

HR 1418—A resolution commending Florida Highway Patrol Trooper Anthony L Parker for his dedication to law enforcement and for his continued exemplary persistence in the performance of his duties.

WHEREAS, the duties of a law enforcement officer include serving the community under frequently dangerous conditions and acting as a symbol of public trust and responsibility, and

WHEREAS, Florida highway patrolmen have long been recognized for courageous and dedicated pursuit of their duties in the day-to-day struggle to protect the public and combat crime, and

WHEREAS, in addition to the expected duties of a well-trained member of the Florida Highway Patrol, Trooper Anthony L Parker has displayed extraordinary dedication and compassion for human life in serving his fellowman, and

WHEREAS, Trooper Parker's quick action was responsible for saving the life of an automobile accident victim on August 27, 1987, and

WHEREAS, Trooper Parker, through dedication to his duties, was responsible for 55 driving-under-the-influence-of-alcohol arrests in 1987, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida

That Florida Highway Patrol Trooper Anthony L Parker is hereby commended for his dedication to law enforcement and for his continued exemplary persistence in the performance of his duties

BE IT FURTHER RESOLVED that a copy of this resolution be presented to Trooper Anthony L Parker as a tangible token of the sentiments expressed herein

—was read a second time in full and adopted.

Rep Hawkins presented Trooper Parker and members of his family who were seated in the gallery.

Special and Continuing Orders

CS for SB 82—A bill to be entitled An act relating to real estate brokers, salesmen, schools and appraisers: amending s 475.01, F.S., providing definitions; amending s 475.01, F.S., providing exemptions from regulation under ch 475, F.S., amending s 475.02, F.S., revising qualifications for membership on the Florida Real Estate Commission, amending s 475.04, F.S., providing for duties of the commission, amending s 475.045, F.S., revising qualifications for membership on the Foundation Advisory Committee of the Florida Real Estate Commission Education and Research Foundation, revising powers and duties of the committee and the foundation, amending s 475.125, F.S., revising license and renewal fees, providing for fees for certification and recertification, amending s 475.15, F.S., requiring the registration or licensure of only the general partners in a limited partnership amending s 475.17, F.S., revising qualifications for practice as a real estate broker or salesmen, requiring pre-license education for salesmen and brokers, providing qualifications for nonresident applicants, amending s 475.175, F.S., providing for license examinations, amending s 475.182, F.S., providing for license renewal, including continuing education requirements, providing for inactive status, amending s 475.183, F.S., revising requirements to renew inactive licenses, amending s 475.23, F.S., requiring a licensee to notify the commission of a change of address, amending s 475.25, F.S., prescribing disciplinary actions and revising grounds for disciplinary action, including certification as an appraiser within the scope of disciplinary authority, amending s 475.31, F.S., deleting certain relicensing limitations, amending s 475.37, F.S., providing for reversal of certain disciplinary actions, amending s 475.38, F.S., deleting provisions allowing payment by the commission of certain fees and costs of a defendant, amending s 475.42, F.S., revising a prohibition and providing an additional prohibition, providing penalties and amending s 475.451, F.S., providing requirements for certain schools and instructors teaching courses in real estate practice, amending s 475.452, F.S., requiring advance fees to be deposited in a bank in this state, amending s 475.482, F.S., modifying requirements for disbursements from the Real Estate Recovery Fund, raising the fund levels at which the imposition of special fees for the fund must be discontinued and at which they may be reimpounded thereafter; amending s 475.483, F.S., revising conditions for recovery from the fund, amending s 475.4835, F.S., providing for certain actions to be taken by the commission on behalf of the state, amending s 475.484, F.S., prohibiting the recovery of treble damages, court costs, attorney's fees, and interest from the Real Estate Recovery Fund except under specified circumstances, creating s 475.501, F.S., providing definitions, providing for certification of real estate appraisers and residential appraisers, creating the Real Estate Appraisal Subcommittee of the Florida Real Estate Commission, providing for membership of the subcommittee, prescribing its duties, providing for certification of licensed brokers, broker-salesmen, and salesmen as appraisers, providing examination requirements, providing education and experience requirements, providing for term of certification, providing for recertification, limiting certification to individuals, requiring the display of certification numbers, providing continuing education requirements, providing for disciplinary actions and grounds therefor, providing standards for developing certified appraisal reports and communicating such reports, providing for interpreting such standards, requiring the retention of certain documents, requiring a study to be conducted through the Education and Research Foundation relating to appraisal, amending s 337.271, F.S., requiring certain appraisals related to right-of-way acquisitions to be conducted by state-certified real estate appraisers, repealing s 475.18114, F.S., deleting provisions relating to the applicant's request for a license, repealing s 475.1825, F.S., relating to the inactive status of certain expired registrations; reviving and readopting ss 475.001-475.486, F.S., repealing ss 475.001-475.501, F.S., and providing for review of said sections prior to their repeal, providing an effective date

—was taken up, having been read the second time and amended on April 25, now pending on motion by Rep Patchett to adopt the following amendment

Amendment 11—On page 43, line 23, strike "one" and insert "two"

The question recurred on the adoption of the amendment, which was adopted without objection.

Without objection, three additional amendments by Rep Patchett were withdrawn.

On motion by Rep Lippman, the rules were waived by two-thirds vote and CS SB 82 as amended was read the third time by title. On passage the vote was
HB 486—A bill to be entitled An act relating to tangible personal property owned by local governments, amending s 274.02, F.S., raising the minimum value of such property with respect to which certain records and inventory are required, providing an effective date

—was read the second time by title and, under Rule 8 19, referred to the Engrossing Clerk.

HB 254—A bill to be entitled An act relating to designation of a state pie, creating s 150.0325, F.S., designating the Key lime pie as the official state pie, providing an effective date

—was read the second time by title.

Representatives Hanson and Figg offered the following amendment:

Amendment 1—On page 1, line 6, insert: Whereas, the Female members of the Florida House of Representatives have proven to the good citizens of Florida that they can indeed stand the heat and knowingly and willingly and graciously shall, come out of their kitchens to share the many splendors of the State Key Lime Pie not only with the good people of the great State of Florida but in a spirit of unity and harmony and peace and understanding with all the people of the Planet Earth, NOW, THEREFORE,

Whereas, the egg whites used in said state pie shall only come from chickens bred and hatched in Florida,

Whereas, the Key limes used in said state pie shall only be grown and harvested in South Florida, and

Whereas, the condensed milk used in said state pie shall only come from contented cows who have grazed on the land in Central Florida, and

Whereas, the crust used in said state pie shall only be made with crackers known as graham, and to avoid confusion, all graham crackers shall be processed only in North Florida, and

Rep Hanson moved the adoption of the amendment

During consideration thereof, Rep Gardner moved the previous question on the amendment and the bill, which was agreed to

The question recurred on adoption of Amendment 1, which failed of adoption.

On motion by Rep Ostrau, the rules were waived by two-thirds vote and the bill was read a third time by title. On passage, the vote was

Years—107
I. SUMMARY:

A. PRESENT SITUATION:

Chapter 475, Florida Statutes, provides for the regulation of real estate salesmen, brokers, and schools. The Act is scheduled for Sunset repeal on October 1, 1988. The Foundation Advisory Committee, created by Section 475.045, Florida Statutes, to administer the Florida Real Estate Commission Education and Research Foundation, is scheduled for Sundown repeal on October 1, 1988.

The scope of the regulation is established in the definition section of Chapter 475. "Real estate" is defined as any interest in land or in business enterprises or opportunities, excluding cemetery lots or lots in mobile home or recreational vehicle parks. The term "broker" refers to a person who, for compensation, performs or offers services for another person relating to the appraisal, auction, sale, exchange, purchase, or rental of business enterprises or real property. A "salesman" performs the same services, but under a broker's supervision.

In addition to licensing salesmen and brokers, real estate corporations and partnerships are registered, and permits are issued for real estate schools and instructors. There are 265 proprietary schools regulated currently and over 19,000 corporations and partnerships registered.

Real estate is the largest practice regulated by the Department of Regulation. There are over 360,000 licensees, including inactives. The administration of the regulation is carried out by the Division of Real Estate which is located in Orlando and which functions exclusively for this purpose.

The Florida Real Estate Commission (FREC) is a seven-member body which evaluates applicants for licensure, conducts disciplinary proceedings, and has final agency authority to discipline
licensees for violations of the practice act. The Commission consists of four brokers, one broker or salesman, and two consumer members.

Applicants for both the salesman and broker license must be at least 18 years old and meet character requirements as verified through a review of the applicant's background and a fingerprint check. Salesmen must have completed a commission-approved course of instruction totaling 63 hours and broker applicants must have completed a commission-approved course of instruction totaling 72 hours. In addition, applicants for the broker license must have at least one year of experience as a salesman. A broker-salesman license may be acquired by those persons eligible for the broker license but who do not acquire it and work as a salesman under another broker. All licensees are required to complete 14 hours of continuing education as a condition of license renewal.

The Florida Real Estate Commission Education and Research Foundation was established in 1985 and is administered by the nine-member Foundation Advisory Committee. The purpose of the Foundation is to promote the knowledge of both real estate practitioners and the general public.

The Foundation Advisory Committee solicits proposals for studies and research. It has the power to select the education or research proposals which receive funding and the university or college which shall complete the projects funded.

By law, $3,000,000 from the real estate portion of the Professional Regulation Trust Fund has been invested by the State Treasurer for the purpose of funding the Education and Research Foundation Trust Fund. Income on the principal amount may be used to fund Foundation studies and projects.

The Real Estate Recovery Fund is created to provide for the reimbursement of persons judged by a court to have suffered damages resulting from a violation by a broker or salesman in the course of a real estate brokerage transaction.

B. EFFECT OF PROPOSED CHANGES:

The bill saves Chapter 475 from repeal and provides for its future Sunset review and repeal. It continues the Foundation Advisory Committee and provides for its future Sun down review and repeal.

The bill requires that only general partners and not all partners in a partnership be licensed as brokers. It qualifies the exemption given under the Act to ownership entities for employees who work in onsite rental offices or who manage and rent units in condominiums or cooperative apartments to require that such employees be salaried. The bill qualifies the exemption given to radio, television, or cable enterprises (media brokers) to require that lease transactions of such enterprises shall be handled by a broker or salesman for that portion of the
transaction which includes the land, buildings, fixtures and all other improvements to the land.

The bill requires a high school diploma or its equivalent as a prerequisite for licensure. It includes area vocational-technical centers in the list of institutions from which courses may be accepted by the FREC. The bill allows the one year salesman experience requirement for the broker license to be fulfilled in the employ of a governmental agency as well as in a real estate office.

The bill authorizes the Commission to prescribe post licensure requirements for the salesman and broker licenses. A salesman would be required to complete up to 60 classroom hours, inclusive of examination, within the two year period immediately following initial licensure. The license of a salesman who does not complete the post licensure requirement will not be renewed. A six month grace period after the expiration of the initial license is provided to allow a salesman to complete the post licensure education. After this point a person failing to complete the requirements and wishing to operate as a salesman would be required to requalify by completing the salesman's pre-licensure course and passing the state examination for licensure as a salesman.

A broker would be required to complete up to 120 classroom hours, inclusive of examination, within the two year period immediately following initial licensure. The license of any broker who does not complete the post-licensure education requirement will be considered null and void. A broker who then wishes to operate as a salesman may be issued a salesman's license after providing proof that he has satisfactorily completed the 14-hour continuing education course within the six months following expiration of his broker's license. To operate as a broker, he must requalify by satisfactorily completing the broker's prelicensure course and passing the state examination for licensure as a broker. The bill authorizes the Commission to extend the timeframe for completing the salesman and broker post-licensure education courses due to individual physical hardship. Salesman and brokers are not required to meet the 14-hour continuing education requirement during the two year period following initial licensure. The bill requires that post-licensure education courses be made available by correspondence or other suitable means for licensees who cannot attend the place where courses are regularly conducted.

The bill allows nonresidents to be licensed in Florida, and authorizes the adoption of rules as may be necessary for the regulation of the same. It requires a nonresident licensee to file an irrevocable consent form relative to suits and actions which may be filed against him and provides for service of process. The bill requires notice of change of residency within 60 days.

The bill provides for the renewal of licenses at least every four years rather than biennially, requires licensees to complete
seven hours of continuing education during each year, and clarifies language relating to the renewal of inactive licenses.

The bill distinguishes between voluntarily inactive and involuntarily inactive licenses, to clarify the fact that a licensee who renews an inactive license may elect to continue his inactive status.

The bill adds probation to the disciplinary options which the Commission may employ and to clarify the fact that the Commission's disciplinary powers apply to certified appraisers and registrants as well as licensees.

The bill authorizes the deposit of escrow funds in credit unions. It adds as a ground for disciplinary action a licensee's failure to disclose to the parties to a transaction which party the licensee is representing.

The bill requires that non-credit course instructors in accredited colleges, universities, community colleges, and area vocational-technical centers hold permits. The bill provides alternative means for a person to become a school instructor by adding two combinations of higher education, experience, and broker status to the written instructor's examination currently required. The Commission is authorized to require a teaching demonstration which, if established, would apply to all applicants for instructor permits.

The bill raises the minimum and maximum amounts which trigger the collection and abatement of the special fees supplying the Real Estate Recovery Fund. The bill clarifies conditions under which a person may recover from the fund. It requires that claims must be based on damages stemming from a real estate brokerage transaction, and not on a transaction in which the broker represented himself and that the transaction involved a broker or salesman holding a valid license. It waives the requirement that a claim must be based on a final court judgment when a judgment cannot be secured due to death of the licensee. The bill prohibits recovery from the fund of court costs, attorney's fees, and interest except in cases where a licensee is being reimbursed for losses resulting from compliance with an escrow disbursement order.

The bill provides for the voluntary certification of real estate appraisers and creates definitions for terms related to the certification process. The bill prohibits any person who is not certified from representing himself as a state-certified appraiser, but allows persons who are licensed as real estate brokers or salesmen to continue to appraise real property for compensation. It clarifies the ability of a noncertified broker and salesman to provide an opinion of the value of real estate for the purpose of a prospective sale.

The bill creates the seven-member Real Estate Appraisal Subcommittee to advise the Commission in the establishment of rules pertaining to applicants' experience, educational courses,
and exam content, and to review disciplinary cases and make recommendations to the Commission's probable cause panel.

The bill provides for two categories of certified appraisers to be established: state certified residential appraisers, who will be qualified to prepare certified appraisals of residential property of up to four units on the basis of two years of appraisal experience, successful completion of commission-approved academic instruction of up to 60 classroom hours, and passage of a written examination; and state certified real estate appraisers, who will be considered qualified to prepare certified appraisals of all types of real property on the basis of three years of appraisal experience, successful completion of commission-approved academic instruction of up to 120 classroom hours, and passage of a written examination. Since appraisal is already included within the scope of practice of Chapter 475, F.S., only real estate licensees will be eligible for certification.

The bill establishes standards for the development and communication of certified appraisals. The standards generally require a certified appraiser to correctly employ recognized appraisal methods. The standards also require a number of very specific elements and concepts to be included in the development of certified appraisals and provide standards for certified review appraisals.

The standards form the basis for evaluation by the Commission and Subcommittee of any certified appraisal and are intended to provide appraiser accountability. The standards for communication of certified real estate appraisals require each written report to contain a certification assuring the objectivity of the report and its compliance with the requirements of law and the disclosure of any possible conflicts of interest on the part of the appraiser.

An appraiser may agree to prepare a limited report provided that the appraiser has determined that the report is not so limited as to be misleading and has advised the client that the report will not meet the reporting standards and will include in the letter of transmittal and in the certification pages of the report a statement to that effect.

The bill amends Section 337.271 Florida Statutes, related to right-of-way acquisitions to require that certain right-of-way acquisitions be conducted by state-certified real estate appraisers.

C. SECTION-BY-SECTION ANALYSIS:

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. GOVERNMENT
The addition of the certified appraiser category to the licensure law will cost approximately $222,565 per year to implement, according to department estimates. None of this cost should be borne by general revenue, since fees will be established to cover it. The addition of a nonresident licensee will probably require the department to process more applications since Florida residency is currently required to obtain a real estate license. The adjustment in the minimum and maximum thresholds which trigger and abate the collection of assessments for the real estate recovery fund may require imposition of surcharges upon individual practitioners as authorized by law.

B. PUBLIC

The addition of the voluntary certification program for appraisers will require that persons who desire to be certified must pay fees of approximately $40 for an exam and $50 biennially to maintain certification. The bill authorizes additional post licensure educational requirements, and to the extent that the board imposes such requirements, individual practitioners will incur the cost of those programs. The adjustment in the minimum and maximum thresholds which trigger and abate the collection of assessments for the real estate recovery fund may require imposition of surcharges upon individual practitioners as authorized by law.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: ____________________________
Edith Dunlap ____________________________
Staff Director: ____________________________

FINANCE & TAXATION:
Prepared by: ____________________________
Staff Director: ____________________________

APPROPRIATIONS:
Prepared by: ____________________________
Staff Director: ____________________________
I. SUMMARY:

A. PRESENT SITUATION:

Chapter 475, Florida Statutes, provides for the regulation of real estate salesmen, brokers, and schools. The Act is scheduled for Sunset repeal on October 1, 1988. The Foundation Advisory Committee, created by Section 475.045, Florida Statutes, to administer the Florida Real Estate Commission Education and Research Foundation, is scheduled for Sundown repeal on October 1, 1988.

The scope of the regulation is established in the definition section of Chapter 475. "Real estate" is defined as any interest in land or in business enterprises or opportunities, excluding cemetery lots or lots in mobile home or recreational vehicle parks. The term "broker" refers to a person who, for compensation, performs or offers services for another person relating to the appraisal, auction, sale, exchange, purchase, or rental of business enterprises or real property. A "salesman" performs the same services, but under a broker's supervision.

In addition to licensing salesmen and brokers, real estate corporations and partnerships are registered, and permits are issued for real estate schools and instructors. There are 265 proprietary schools regulated currently and over 19,000 corporations and partnerships registered.

Real estate is the largest practice regulated by the Department of Regulation. There are over 360,000 licensees, including inactives. The administration of the regulation is carried out by the Division of Real Estate which is located in Orlando and which functions exclusively for this purpose.

The Florida Real Estate Commission (FREC) is a seven-member body which evaluates applicants for licensure, conducts disciplinary proceedings, and has final agency authority to discipline
licensees for violations of the practice act. The Commission consists of four brokers, one broker or salesman, and two consumer members.

Applicants for both the salesman and broker license must be at least 18 years old and meet character requirements as verified through a review of the applicant's background and a fingerprint check. Salesmen must have completed a commission-approved course of instruction totaling 63 hours and broker applicants must have completed a commission-approved course of instruction totaling 72 hours. In addition, applicants for the broker license must have at least one year of experience as a salesman. A broker-salesman license may be acquired by those persons eligible for the broker license but who do not acquire it and work as a salesman under another broker. All licensees are required to complete 14 hours of continuing education as a condition of license renewal.

The Florida Real Estate Commission Education and Research Foundation was established in 1985 and is administered by the nine-member Foundation Advisory Committee. The purpose of the Foundation is to promote the knowledge of both real estate practitioners and the general public.

The Foundation Advisory Committee solicits proposals for studies and research. It has the power to select the education or research proposals which receive funding and the university or college which shall complete the projects funded.

By law, $3,000,000 from the real estate portion of the Professional Regulation Trust Fund has been invested by the State Treasurer for the purpose of funding the Education and Research Foundation Trust Fund. Income on the principal amount may be used to fund Foundation studies and projects.

The Real Estate Recovery Fund is created to provide for the reimbursement of persons judged by a court to have suffered damages resulting from a violation by a broker or salesman in the course of a real estate brokerage transaction.

B. EFFECT OF PROPOSED CHANGES:

The bill saves Chapter 475 from repeal and provides for its future Sunset review and repeal. It continues the Foundation Advisory Committee and provides for its future SunDown review and repeal.

The bill requires that only general partners and not all partners in a partnership be licensed as brokers. It qualifies the exemption given under the Act to ownership entities for employees who work in onsite rental offices or who manage and rent units in condominiums or cooperative apartments to require that such employees be salaried. The bill qualifies the exemption given to radio, television, or cable enterprises (media brokers) to require that lease transactions of such enterprises shall be handled by a broker or salesman for that portion of the
transaction which includes the land, buildings, fixtures and all other improvements to the land.

The bill requires a high school diploma or its equivalent as a prerequisite for licensure. It includes area vocational-technical centers in the list of institutions from which courses may be accepted by the FREC. The bill allows the one year salesman experience requirement for the broker license to be fulfilled in the employ of a governmental agency as well as in a real estate office.

The bill authorizes the Commission to prescribe post licensure requirements for the salesman and broker licenses. A salesman would be required to complete up to 60 classroom hours, inclusive of examination, within the two year period immediately following initial licensure. The license of a salesman who does not complete the post licensure requirement will not be renewed. A six month grace period after the expiration of the initial license is provided to allow a salesman to complete the post licensure education. After this point a person failing to complete the requirements and wishing to operate as a salesman would be required to requalify by completing the salesman's pre-licensure course and passing the state examination for licensure as a salesman.

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C. SECTION-BY-SECTION ANALYSIS:

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SUBSTANTIVE COMMITTEE:
Prepared by: ____________________________ ____________________________
__Edith Dunlap______________________ __Cliff Nilson_____________________

FINANCE & TAXATION:
Prepared by: ____________________________

APPROPRIATIONS:
Prepared by: ____________________________

Staff Director:

Staff Director:

Staff Director:
I. SUMMARY:

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licensees for violations of the practice act. The Commission consists of four brokers, one broker or salesman, and two consumer members.

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**B. EFFECT OF PROPOSED CHANGES:**

The bill saves Chapter 475 from repeal and provides for its future Sunset review and repeal. It continues the Foundation Advisory Committee and provides for its future Sundown review and repeal.

The bill requires that only general partners and not all partners in a partnership be licensed as brokers. It qualifies the exemption given under the Act to ownership entities for employees who work in onsite rental offices or who manage and rent units in condominiums or cooperative apartments to require that such employees be salaried. The bill qualifies the exemption given to radio, television, or cable enterprises (media brokers) to require that lease transactions of such enterprises shall be handled by a broker or salesman for that portion of the
transaction which includes the land, buildings, fixtures and all other improvements to the land. The bill allows a one time only finders fee be paid to persons referring tenants for residential leases in apartment complexes.

The bill requires a high school diploma or its equivalent as a prerequisite for licensure. It includes area vocational-technical centers in the list of institutions from which courses may be accepted by the FREC. The bill allows the one year salesman experience requirement for the broker license to be fulfilled in the employ of a governmental agency as well as in a real estate office.

The bill authorizes the Commission to prescribe post licensure requirements for the salesman and broker licenses. A salesman would be required to complete up to 45 classroom hours, inclusive of examination, within the two year period immediately following initial licensure. The license of a salesman who does not complete the post licensure requirement will not be renewed. A six month grace period after the expiration of the initial license is provided to allow a salesman to complete the post licensure education. After this point a person failing to complete the requirements and wishing to operate as a salesman would be required to requalify by completing the salesman's pre-licensure course and passing the state examination for licensure as a salesman.

A broker would be required to complete up to 60 classroom hours, inclusive of examination, within the two year period immediately following initial licensure. The license of any broker who does not complete the post-licensure education requirement will be considered null and void. A broker who then wishes to operate as a salesman may be issued a salesman's license after providing proof that he has satisfactorily completed the 14-hour continuing education course within the six months following expiration of his broker's license. To operate as a broker, he must requalify by satisfactorily completing the broker's prelicensure course and passing the state examination for licensure as a broker. The bill authorizes the Commission to extend the timeframe for completing the salesman and broker post-licensure education courses due to individual physical hardship. Salesman and brokers are not required to meet the 14-hour continuing education requirement during the two year period following initial licensure. The bill requires that post-licensure education courses be made available by correspondence or other suitable means for licensees who cannot attend the place where courses are regularly conducted.

The bill allows nonresidents to be licensed in Florida, and authorizes the adoption of rules as may be necessary for the regulation of the same. It requires a nonresident licensee to file an irrevocable consent form relative to suits and actions which may be filed against him and provides for service of process. The bill requires notice of change of residency within 60 days.
The bill provides for the renewal of licenses at least every four years rather than biennially, requires licensees to complete seven hours of continuing education during each year, and clarifies language relating to the renewal of inactive licenses.

The bill distinguishes between voluntarily inactive and involuntarily inactive licenses, to clarify the fact that a licensee who renews an inactive license may elect to continue his inactive status.

The bill adds probation to the disciplinary options which the Commission may employ and to clarify the fact that the Commission's disciplinary powers apply to certified appraisers and registrants as well as licensees.

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The bill provides for a study to be conducted through the Florida Real Estate Commission Education and Research Foundation to address the need for certification or other separate regulatory structure for business appraisers, property appraisers, rural and farm appraisers and to consider whether real estate appraisers should be required to hold real estate license and be regulated by the Florida Real Estate Commission.

The bill amends Section 337.271 Florida Statutes, related to right-of-way acquisition to require that certain right-of-way
acquisitions be conducted by state-certified real estate appraisers.

C. SECTION-BY-SECTION ANALYSIS:

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SUBSTANTIVE COMMITTEE:
Prepared by: ____________________________  ____________________________
   Edith Dunlap  Cliff Nilson

FINANCE & TAXATION:
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Staff Director: ____________________________
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B. EFFECT OF PROPOSED CHANGES:

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transaction which includes the land, buildings, fixtures and all other improvements to the land. The bill allows a one time only finders fee be paid to persons referring tenants for residential leases in apartment complexes.

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A broker would be required to complete up to 60 classroom hours, inclusive of examination, within the two year period immediately following initial licensure. The license of any broker who does not complete the post-licensure education requirement will be considered null and void. A broker who then wishes to operate as a salesman may be issued a salesman's license after providing proof that he has satisfactorily completed the 14-hour continuing education course within the six months following expiration of his broker's license. To operate as a broker, he must requalify by satisfactorily completing the broker's prelicensure course and passing the state examination for licensure as a broker. The bill authorizes the Commission to extend the timeframe for completing the salesman and broker post-licensure education courses due to individual physical hardship. Salesman and brokers are not required to meet the 14-hour continuing education requirement during the two year period following initial licensure. The bill requires that post-licensure education courses be made available by correspondence or other suitable means for licensees who cannot attend the place where courses are regularly conducted.

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The bill provides for the renewal of licenses at least every four years rather than biennially, requires licensees to complete seven hours of continuing education during each year, and clarifies language relating to the renewal of inactive licenses.

The bill distinguishes between voluntarily inactive and involuntarily inactive licenses, to clarify the fact that a licensee who renews an inactive license may elect to continue his inactive status.

The bill adds probation to the disciplinary options which the Commission may employ and to clarify the fact that the Commission's disciplinary powers apply to certified appraisers and registrants as well as licensees.

The bill authorizes the deposit of escrow funds in credit unions. It adds as a ground for disciplinary action a licensee's failure to disclose to the parties to a transaction which party the licensee is representing.

The bill requires that non-credit course instructors in accredited colleges, universities, community colleges, and area vocational-technical centers hold permits. The bill provides alternative means for a person to become a school instructor by adding two combinations of higher education, experience, and broker status to the written instructor's examination currently required. The Commission is authorized to require a teaching demonstration which, if established, would apply to all applicants for instructor permits.

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The bill provides for the voluntary certification of real estate appraisers and creates definitions for terms related to the certification process. The bill prohibits any person who is not certified from representing himself as a state-certified appraiser, but allows persons who are licensed as real estate brokers or salesmen to continue to appraise real property for compensation. It clarifies the ability of a noncertified broker and salesman to provide an opinion of the value of real estate for the purpose of a prospective sale.
The bill creates the seven-member Real Estate Appraisal Subcommittee to advise the Commission in the establishment of rules pertaining to applicants' experience, educational courses, and exam content, and to review disciplinary cases and make recommendations to the Commission's probable cause panel.

The bill provides for two categories of certified appraisers to be established: state certified residential appraisers, who will be qualified to prepare certified appraisals of residential property of up to four units on the basis of two years of appraisal experience, successful completion of commission-approved academic instruction of up to 60 classroom hours, and passage of a written examination; and state certified real estate appraisers, who will be considered qualified to prepare certified appraisals of all types of real property on the basis of three years of appraisal experience, successful completion of commission-approved academic instruction of up to 120 classroom hours, and passage of a written examination. Since appraisal is already included within the scope of practice of Chapter 475, F.S., only real estate licensees will be eligible for certification.

The bill establishes standards for the development and communication of certified appraisals. The standards generally require a certified appraiser to correctly employ recognized appraisal methods. The standards also require a number of very specific elements and concepts to be included in the development of certified appraisals and provide standards for certified review appraisals.

The standards form the basis for evaluation by the Commission and Subcommittee of any certified appraisal and are intended to provide appraiser accountability. The standards for communication of certified real estate appraisals require each written report to contain a certification assuring the objectivity of the report and its compliance with the requirements of law and the disclosure of any possible conflicts of interest on the part of the appraiser.

An appraiser may agree to prepare a limited report provided that the appraiser has determined that the report is not so limited as to be misleading and has advised the client that the report will not meet the reporting standards and will include in the letter of transmittal and in the certification pages of the report a statement to that effect.

The bill provides for a study to be conducted through the Florida Real Estate Commission Education and Research Foundation to address the need for certification or other separate regulatory structure for business appraisers, property appraisers, rural and farm appraisers and to consider whether real estate appraisers should be required to hold real estate license and be regulated by the Florida Real Estate Commission.

The bill amends Section 337.271 Florida Statutes, related to right-of-way acquisition to require that certain right-of-way
acquisitions be conducted by state-certified real estate appraisers.

C. SECTION-BY-SECTION ANALYSIS:

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. GOVERNMENT

The addition of the certified appraiser category to the licensure law will cost approximately $222,565 per year to implement, according to department estimates. None of this cost should be borne by general revenue, since fees will be established to cover it. The addition of a nonresident licensee will probably require the department to process more applications since Florida residency is currently required to obtain a real estate license. The adjustment in the minimum and maximum thresholds which trigger and abate the collection of assessments for the real estate recovery fund may require imposition of surcharges upon individual practitioners as authorized by law.

B. PUBLIC

The addition of the voluntary certification program for appraisers will require that persons who desire to be certified must pay fees of approximately $40 for an exam and $50 biennially to maintain certification. The bill authorizes additional post licensure educational requirements, and to the extent that the board imposes such requirements, individual practitioners will incur the cost of those programs. The adjustment in the minimum and maximum thresholds which trigger and abate the collection of assessments for the real estate recovery fund may require imposition of surcharges upon individual practitioners as authorized by law.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: ____________________

Edith Dunlap

FINANCE & TAXATION:
Prepared by: ____________________

APPROPRIATIONS:
Prepared by: ____________________

Staff Director: ____________________

Cliff Nilson

Staff Director: ____________________
I. SUMMARY:

A. PRESENT SITUATION:

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The scope of the regulation is established in the definition section of Chapter 475. "Real estate" is defined as any interest in land or in business enterprises or opportunities, excluding cemetery lots or lots in mobile home or recreational vehicle parks. The term "broker" refers to a person who, for compensation, performs or offers services for another person relating to the appraisal, auction, sale, exchange, purchase, or rental of business enterprises or real property. A "salesman" performs the same services, but under a broker's supervision.

In addition to licensing salesmen and brokers, real estate corporations and partnerships are registered, and permits are issued for real estate schools and instructors. There are 265 proprietary schools regulated currently and over 19,000 corporations and partnerships registered.

Real estate is the largest practice regulated by the Department of Regulation. There are over 360,000 licensees, including inactives. The administration of the regulation is carried out by the Division of Real Estate which is located in Orlando and which functions exclusively for this purpose.

The Florida Real Estate Commission (FREC) is a seven-member body which evaluates applicants for licensure, conducts disciplinary proceedings, and has final agency authority to discipline
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Applicants for both the salesman and broker license must be at least 18 years old and meet character requirements as verified through a review of the applicant's background and a fingerprint check. Salesmen must have completed a commission-approved course of instruction totaling 63 hours and broker applicants must have completed a commission-approved course of instruction totaling 72 hours. In addition, applicants for the broker license must have at least one year of experience as a salesman. A broker-salesman license may be acquired by those persons eligible for the broker license but who do not acquire it and work as a salesman under another broker. All licensees are required to complete 14 hours of continuing education as a condition of license renewal.

The Florida Real Estate Commission Education and Research Foundation was established in 1985 and is administered by the nine-member Foundation Advisory Committee. The purpose of the Foundation is to promote the knowledge of both real estate practitioners and the general public.

The Foundation Advisory Committee solicits proposals for studies and research. It has the power to select the education or research proposals which receive funding and the university or college which shall complete the projects funded.

By law, $3,000,000 from the real estate portion of the Professional Regulation Trust Fund has been invested by the State Treasurer for the purpose of funding the Education and Research Foundation Trust Fund. Income on the principal amount may be used to fund Foundation studies and projects.

The Real Estate Recovery Fund is created to provide for the reimbursement of persons judged by a court to have suffered damages resulting from a violation by a broker or salesman in the course of a real estate brokerage transaction.

B. EFFECT OF PROPOSED CHANGES:

The bill saves Chapter 475 from repeal and provides for its future Sunset review and repeal. It continues the Foundation
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SUBSTANTIVE COMMITTEE:
Prepared by: Edith Dunlap

FINANCE & TAXATION:
Prepared by:Staff Director:

APPROPRIATIONS:
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The bill provides for the voluntary certification of real estate appraisers and creates definitions for terms related to the certification process. The bill prohibits any person who is not certified from representing himself as a state-certified appraiser, but allows persons who are licensed as real estate brokers or salesmen to continue to appraise real property for compensation. It clarifies the ability of a noncertified broker and salesman to provide an opinion of the value of real estate for the purpose of a prospective sale. It clarifies the ability of a non-certified appraiser to testify as an expert witness in legal and administrative proceedings and to testify as to the results of an appraisal.

The bill creates the seven-member Real Estate Appraisal Subcommittee to advise the Commission in the establishment of rules pertaining to applicants' experience, educational courses, and exam content, and to review disciplinary cases and make recommendations to the Commission's probable cause panel.

The bill requires that membership on the subcommittee be as representative of the entire industry as possible. It provides that membership in a nationally or state recognized organization shall not be a prerequisite to membership on the subcommittee and that to the extent possible, no more than two members of the subcommittee shall be primarily affiliated with any one particular national or state association.

The bill provides for two categories of certified appraisers to be established: state certified residential appraisers, who will be qualified to prepare certified appraisals of residential property of up to four units on the basis of two years of appraisal experience, successful completion of commission-approved academic instruction of up to 60 classroom hours, and passage of a written examination; and state certified real estate appraisers, who will be considered qualified to prepare certified appraisals of all types of real property on the basis of three years of appraisal experience, successful completion of commission-approved academic instruction of up to 120 classroom hours, and passage of a written examination. Since appraisal is already included within the scope of practice of Chapter 475, F.S., only real estate licensees will be eligible for certification.

The bill prohibits certification of corporations and partnerships but provides that such entities which employ state-certified appraisers who provide certified appraisal reports may represent to the public and advertise that they offer state-certified appraisals.
The bill requires continuing education as a condition for renewal of a certificate. It provides for the establishment of continuing education requirements by Commission rule.

The bill authorizes the Commission to reprimand, fine, revoke, or suspend the license or certification of or place on probation any certified appraiser for violations of the chapter. It adds a list of behaviors which shall also constitute grounds for the discipline of certified appraisers.

The bill establishes a specific ethical standard for certified appraisers to follow when developing a certified real estate appraisal for an employer or client. This provision is intended to promote the objectivity of certified appraisers when performing appraisals. The bill requires a certified appraiser to carefully consider and determine whether an appraisal service to be performed is intended to result in an analysis, opinion, or conclusion for a disinterested third party and therefore would be classified as an appraisal assignment or if not, whether or not such an appraiser would be perceived by third parties or the public as acting as a disinterested third party.

The bill establishes standards for the development and communication of certified appraisals. The standards generally require a certified appraiser to correctly employ recognized appraisal methods. The standards also require a number of very specific elements and concepts to be included in the development of certified appraisals and provide standards for certified review appraisals.

The standards form the basis for evaluation by the Commission and Subcommittee of any certified appraisal and are intended to provide appraiser accountability. The standards for communication of certified real estate appraisals require each written report to contain a certification assuring the objectivity of the report and its compliance with the requirements of law and the disclosure of any possible conflicts of interest on the part of the appraiser.

An appraiser may agree to prepare a limited report provided that the appraiser has determined that the report is not so limited as to be misleading and has advised the client that the report will not meet the reporting standards and will include in the letter of transmittal and in the certification pages of the report a statement to that effect.

The bill provides for a study to be conducted through the Florida Real Estate Commission Education and Research Foundation to address the need for certification or other separate regulatory structure for business appraisers, property appraisers, rural and farm appraisers and to consider whether real estate appraisers should be required to hold real estate license and be regulated by the Florida Real Estate Commission.
The bill amends Section 337.271 Florida Statutes, related to negotiations for right-of-way acquisition to require that certain right-of-way acquisition appraisals be conducted by state-certified real estate appraisers.

C. SECTION-BY-SECTION ANALYSIS:

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. GOVERNMENT

The addition of the certified appraiser category to the licensure law will cost approximately $222,565 per year to implement, according to department estimates. None of this cost should be borne by general revenue, since fees will be established to cover it. The addition of a nonresident licensee will probably require the department to process more applications since Florida residency is currently required to obtain a real estate license. The adjustment in the minimum and maximum thresholds which trigger and abate the collection of assessments for the real estate recovery fund may require imposition of surcharges upon individual practitioners as authorized by law.

B. PUBLIC

The addition of the voluntary certification program for appraisers will require that persons who desire to be certified must pay fees of approximately $40 for an exam and $50 biennially to maintain certification. The bill authorizes additional post licensure educational requirements, and to the extent that the board imposes such requirements, individual practitioners will incur the cost of those programs. The adjustment in the minimum and maximum thresholds which trigger and abate the collection of assessments for the real estate recovery fund may require imposition of surcharges upon individual practitioners as authorized by law.

III. STATE COMPREHENSIVE PLAN IMPACT:

IV. COMMENTS:

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Edith Dunlap

Staff Director: Cliff Nilson

APPROPRIATIONS:
Prepared by: 

Staff Director:
I. SUMMARY:

A. Present Situation:

The Regulatory Sunset Act repeals chapter 475, F.S., relating to real estate brokers, salesmen, and schools, on October 1, 1988, unless the Legislature renews and readopts it in the public interest. Section 475.045, F.S., which creates the Florida Real Estate Commission Education and Research Foundation and the Foundation Advisory Committee, is separately scheduled for repeal on October 1, 1988, pursuant to the Statute Act.

The scope of regulation under chapter 475, F.S., is established through definitions in section 475.01, F.S. "Real estate" is defined as any interest in land or in business enterprises or opportunities, excluding cemeteries, lots or lots in mobile home or recreational vehicle parks. The term "broker" refers to a person who, for compensation, performs or offers services for another person relating to the appraisal, auction, sale, exchange, purchase, or rental of business enterprises or real property. A "salesman" performs the same services, but under a broker's supervision. In addition to licensing salesmen and brokers, real estate corporations and partnerships are registered, and permits are issued for real estate schools and instructors. These regulatory activities are the responsibility of the Florida Real Estate Commission (FREC) and are administered by the Division of Real Estate of the Department of Professional Regulation (DPR).

Chapter 475, F.S., requires that a person obtain a license in order to practice as a real estate broker or salesman. The chapter states the purpose of the law (s.475.001, F.S.), provides definitions (s.475.01, F.S.), provides exemptions (s.475.011, F.S.), establishes the Florida Real Estate Commission (s.475.02, F.S.), establishes the Division of Real Estate (s.475.021, F.S.), provides for the delegation of powers and duties by the commission (s.475.03, F.S.), establishes the duty of the commission to educate members of the profession (s.475.04, F.S.), authorizes the commission to promulgate rules (s.475.05, F.S.) and to adopt a seal (s.475.10, F.S.), and creates the Florida Real Estate Commission Education and Research Foundation and Foundation Advisory Committee (s.475.045, F.S.). The chapter also provides for fees to be charged licensees (s.475.125, F.S.), sets forth the qualifications for practice as a real estate salesman or broker (s.475.17, F.S.), provides for application to take licensure examinations (s.475.175, F.S.), authorizes the DPR to license any applicant whom the FREC certifies to be qualified (s.475.181, F.S.). Also included in the statute are provisions regarding continuing education and license renewal (s.475.182, F.S.), inactive status (ss.475.1825 and s.475.183, F.S.), issuance of multiple licenses to a broker (s.475.215, F.S.),
the requirement for brokers to maintain an office (s.475.22, F.S.), expiration of license upon change of address (s.475.23, F.S.), and registration of branch offices (s.475.24, F.S.).

Discipline of licensees is provided for by listing proscribed acts for which administrative penalties may be imposed (s.475.25, F.S.), specifying other violations for which criminal sanctions may be imposed (s.475.42, F.S.), and establishing penalties for the publication of false or misleading information (s.475.42, F.S.), for the unlawful collection of advance fees (s.475.452, F.S.), and for unlawful rental information transactions (s.475.453, F.S.). The chapter also provides for rules of evidence (s.475.28, F.S.), the effects of and publication of final orders of the commission (s.475.31, F.S.), the effect of reversal of orders of the court or the commission (s.475.37, F.S.), payment of costs by the commission (s.475.38, F.S.), the invalidity of contracts of unlicensed persons for commissions (s.475.41, F.S.), and for presumption, under certain circumstances, that a person has acted as a real estate broker (s.475.43, F.S.). In addition, the chapter provides for the prosecution of criminal violations (s.475.454, F.S.) and for the exchange of disciplinary information with the Department of Business Regulation (s.475.455, F.S.)

Schools teaching real estate practice are required to obtain a permit. Practitioners are required to pass a written examination, and courses are required to conform to certain conditions (s.475.451, F.S.). Schools must also adhere to requirements regarding their advertising (s.475.452, F.S.).

The Real Estate Recovery Fund is created to provide for the reimbursement of persons judged by a court to have suffered damages resulting from a violation by a broker or salesman in the course of a real estate brokerage transaction (s.475.482, F.S.). Conditions for recovery from the fund are set forth (s.475.483, F.S.), commission powers to intervene upon notification of commencement of action are established (s.475.4835, F.S.), limitations are placed on the size of claims which may be paid from the fund (s.475.484, F.S.), funds are required to be invested by the Treasurer (s.475.485, F.S.), and the commission is authorized to promulgate rules necessary to administer the fund and persons filing false documents related to the fund are made subject to misdemeanor penalties (s.475.486, F.S.).

B. Effect of Proposed Changes:

The provisions of chapter 475, F.S., are revived and readopted with the following substantive amendments:

-- Section 475.01, F.S., is amended to create definitions for the following terms related to the establishment of a voluntary certification program for real estate appraisers: "appraise," "appraisal," "appraisal assignment," "analysis assignment," "certified appraisal report," "state certified residential assessor," "state certified real estate appraiser," and "subcommittee."

-- Section 475.011, F.S., is amended to limit to persons paid strictly on a salary basis the exemptions for employees of persons or corporations engaged in selling or leasing their own property, employees of owners of apartment communities, and managers of condominiums or cooperatives. A new exemption is created for any full-time graduate student enrolled in a commission-approved degree program in appraising at a Florida college or university, provided that the student is engaged only in appraisal activities related to the degree program and under a broker's direct supervision.
Section 475.01, F.S., is amended to remove language prohibiting entry of the consumer members of the DREC from being members of any occupation closely related to the real estate profession.

Section 475.04, F.S., is amended to replace an incorrect reference to "registrants" with the term "licensees" and to correct a cross-reference.

Section 475.145, F.S., relating to the DREC Education and Research Foundation and the Foundation Advisory Committee, is amended to require future appointments to the committee to possess qualifications related to the committee's education and research activities, to require that projects with the greatest potential for public benefit be given funding priority, to allow the committee to hire consultants, and to delete obsolete language.

Section 475.125, F.S., is amended to establish license fees on an annual, rather than a biennial basis.

Section 475.15, F.S., is amended to require partnerships and corporations to renew the registrations of their unlicensed members and to allow the general partner in a partnership to be either a licensed broker or a registered broker corporation.

Section 475.17, F.S., relating to qualifications for licensure, is amended to remove the requirement that an applicant for licensure be a Florida resident and to add the requirement that an applicant have a high school diploma. Nonresident applicants are required to file an irrevocable consent that suits and actions may be commenced against them in any county of this state and that service of process may be made by service on the director of the Division of Real Estate. Any resident licensee who becomes a nonresident must notify the commission within 60 days and comply with nonresident requirements. The section is also amended to substitute permissive language for the prohibition against approving an applicant who has acted as a broker or salesman without a license during the year preceding application. In addition, county vocational centers are included among the institutions which may offer required educational courses. Obsolete provisions related to business brokers are deleted.

Section 475.175(1), F.S., is amended to require applications to be notarized.

Section 475.182, F.S., is amended to require renewal of licenses at least every 4 years, rather than biennially, to require licensees to complete seven hours of continuing education during each year, and to clarify language relating to renewal of inactive licenses.

Section 475.183, F.S., is amended to distinguish between nonrenewal of a license and inactive status, to clarify the fact that renewal of an inactive license does not necessarily reactivate the license and that a licensee who renews an inactive license may elect to continue his inactive status.

Section 475.23, F.S., relating to the expiration of a license or permit upon change of address, replaces obsolete language requiring surrender of the license or permit with a requirement to notify the commission of the change of address within 10 days.

Section 475.25, F.S., is amended to add probation as a disciplinary option which the commission may employ and to clarify the fact that the commission's disciplinary powers apply to registrants as well as licensees. The section is further amended to delete commission issuance of an escrow disbursement order as one of the three means a broker may
choose to resolve an escrow conflict. The section is further amended to authorize the deposit of escrow funds in credit unions (in addition to other types of financial institutions); authorize disciplinary action against a licensee who is incarcerated in a county jail in addition to other types of correctional facilities; and to add as a ground for disciplinary action the licensee's failure to disclose to the parties to a transaction which party the licensee is representing.

Section 475.31(1), F.S., relating to the cancellation of the licensure or registration of a person working in conjunction with a broker whose license is revoked or suspended, is amended to delete the requirement for issuance of a new license to such a person and to remove the time limit within which the person must obtain a new employment situation and a reissued license.

Section 475.37, F.S., is amended to clarify that a defendant must be restored to his rights and privileges as a licensee when an order of the court or commission is reversed, regardless of the specific nature of the disciplinary order involved.

Section 475.38, F.S., is amended to delete the authority granted to the commission, but never exercised, to pay or advance fees and costs to a defendant who is unable to pay.

Section 475.42(1), F.S., which establishes grounds for criminal penalties is amended to delete the requirement that a broker's trade name must appear on his license. The section is further amended to prohibit any person who is not a certified appraiser from certifying a real estate appraisal.

Subsections 475.45(1) and (2), F.S., are amended to exempt county vocational centers from the requirements relating to permits for real estate schools and their chief administrators, but applies permit requirements relating to school instructors. Non-college-credit courses taught by accredited colleges, universities, and community colleges are required to have a chief administrator and school instructors who hold permits. The section is also amended to provide alternative qualifications for school instructors (those who teach in proprietary real estate schools, county vocational centers, and non-college-credit courses in colleges and universities). In lieu of a written instructor's exam, an instructor may certify his competency through either of two combinations of higher education, experience, and broker status. In addition, the commission is authorized to require a teaching demonstration which, if established, would apply to all applicants for instructor permits.

Section 475.482, F.S., relating to the Real Estate Recovery Fund, is amended to delete the commission's authority to disburse money from the fund as reimbursement to any broker or salesman who has been required by a court to pay money damages due to his compliance with escrow disbursement order issued by the commission. The section is also amended to raise from $250,000 to $500,000 and from $450,000 to $700,000 the minimum and maximum amounts for the fund which triggers the collection and abatement of the special fees which supply the fund.

Section 475.483, F.S., to clarify that recovery from the fund must be based on damages stemming from a real estate brokerage transaction, and not on a transaction in which the broker represented himself. Obsolete language and language authorizing the commission to pay attorney's fees and court costs related to claims based on escrow disbursement orders is deleted.
Section 475.431, F.S., is amended to authorize the
commission, when notified of the commencement of an action
against a defendant, to intervene on behalf of the State of Florida, rather than on
behalf of and in the name of the defendant.

Section 475.4311, F.S., is amended to delete cross-
references to s.475.487, F.S., and certain language related
to the maximum claim amount because the bill removes authority
for claims against the surety stemming from escrow disbursement
orders of the commission. A prohibition on recovery from the
fund of treble damages, court costs, attorney's fees, and
interest is added. Subsection (7) is amended to clarify that
upon payment of a claim from the fund, in satisfaction of a
judgment against a licensee, the license is automatically
revoked without further administrative action.

Section 475.225, F.S., which consists of obsolete
provisions relating to the granting of inactive status to
certain expired registrations, is repealed.

Section 475.501, F.S., is created to provide for the
voluntary certification of real estate appraisers. The section
would prohibit any person who is not certified from
representing himself as a state certified appraiser, but would
allow persons who are licensed as real estate brokers or
salesmen to continue to appraise real property for
compensation. A seven-member Real Estate Appraisal Subcommittee is
to be appointed by the Governor to advise the commission in the
establishment of rules pertaining to applicants' experience,
educational courses, and exam content; to review disciplinary
cases and present recommendations to the commission's probable
cause panel; and to recommend rules establishing standards for
appraisals prepared by non-certified appraisers. The section
provides for two categories of certified appraisers to be
established: state certified residential appraisers who will be
considered qualified to prepare certified appraisals of
residential property of up to four units on the basis of two
years of appraisal experience, successful completion of
course work required by the commission, 500 classroom
hours, and passage of a written examination; and state
certified real estate appraisers who will be considered
qualified to prepare certified appraisals of all types of real
property on the basis of three years of appraisal experience,
successful completion of commission-approved academic
instruction of up to 120 classroom hours, and passage of a
written examination. Because appraisal is already included
within the scope of chapter 475, F.S., only real estate
licensees will be eligible for certification.

The section also applies the grounds for disciplinary actions
and civil penalties contained in sections 475.225 and 475.42,
F.S., to certified appraisers. Grounds for disciplinary
actions against a certified appraiser are established and
include the following four prohibited acts which relate most
closely to the quality of the appraisal itself: violation of
any of the standards provided by law for the development or
communication of real estate appraisals; failure to exercise
reasonable diligence in developing an appraisal or appraisal
report; carelessness, negligence, or incompetence in developing
or communicating an appraisal; and accepting an appraisal
assignment when the employment is contingent upon reporting a
predetermined conclusion or opinion or when the fee is contingent
upon the conclusion or valuation that is reached.

Standards for the development and communication of certified
appraisals are also established. The standards generally
require a certified appraiser to correctly employ recognized
appraisal methods. The standards also require a number of very
specific elements and concepts to be included in the
development of a certified appraisal and provide standards for
These standards form the basis for evaluation by the commission and subcommittee of any certified real estate appraiser. The standards for the communication of certified real estate appraisals require each written report to contain a certification assuring the objectivity of the report and its compliance with the requirements of law and disclosing any possible conflicts of interest on the part of the appraiser. An appraiser may agree to prepare a limited report provided that the appraiser has determined that the report is not so limited as to be misleading and has advised the client that the report will not meet the reporting standards and will include in the letter of transmittal and the certification pages of the report an explanation of its limitations and the statement: "This is a limited report."

A certified appraiser may perform appraisal services that do not fully conform to the standards for certified appraisals. Prior to agreeing to perform such services, the appraiser must determine that the services to be performed are not so limited in scope that the resulting analysis would be misleading. The appraiser must also advise the client that the appraisal service calls for work which does not conform to the standards for certified appraisals and that the appraisal letter of transmittal and certification statement will include a qualification reflecting the differing nature of the work.

Finally, the section requires each certified real estate appraiser to retain for at least 5 years from the date of submission of a report to a client originals or true copies of contracts for the appraisal work, the appraisal report, and supporting data used in preparation of the report. These records must be made available by the appraiser for inspection and copying by the subcommittee. For any appraisal which has been the subject of, or has served as evidence in, litigation, records must be retained for at least 2 years after the trial date.

Chapter 475, F.S., as amended by the bill, is revived and readopted. The chapter is scheduled for repeal on October 1, 1998, and for review by the Legislature pursuant to the Sunset Act, except for section 475.045, F.S., which is scheduled for review pursuant to the SunDown Act.

An effective date of October 1, 1988, is provided.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Pursuant to law and commission rules, fees are established for application and examination, reapplication, licensure, registration, permits, renewals, and other purposes, such as purchase of the FREC Handbook. If chapter 475, F.S., were allowed to repeal on October 1, 1988, as provided by section 11.61, F.S., members of the real estate industry would no longer be required to pay these fees. This bill, however, revives and readopts the chapter and would result in applicants, licensees, registrants, and permittees continuing to pay regulatory fees.

To the extent that removal of the residency requirement for licensure increases as the number of licensees, the total of fees collected by the Division of Real Estate will increase. Similarly, the establishment of a voluntary certification procedure for real estate appraisers will increase fee revenues to the extent that appraisers choose to become certified. As with all professional groups regulated under the DPR, fees will be established at a level commensurate with the cost of regulation. The costs of certification of appraisers is expected to be moderated by the use of the existing...
B. Government

Total expenditures by the Division of Real Estate for the regulation of real estate brokers, salesmen, and schools average approximately $5.5 million per year. Funding is obtained through fees paid by applicants, licensees, registrants, and permittees which are deposited in the real estate portion of the Professional Regulation Trust Fund. If chapter 475, F.S., were to be allowed to repeal, these costs would not longer be incurred and fees would no longer be collected. Because the real estate portion of the trust fund presently shows a deficit, repeal of chapter 475, F.S., on October 1, 1988, would require the trust fund as a whole to absorb the deficit. However, this bill would revive and readopt the chapter and fees have already been adjusted in order to offset the deficit. Estimate of the additional costs related to the certification of appraisers are being developed by the DPR.

III. COMMENTS:

The Real Estate Appraisal Reform Act of 1987 (H.R.3675) was introduced by Representative Doug Barnard of Georgia on November 20, 1987. The proposal is the culmination of hearings and investigations conducted by the Commerce, Consumer, and Monetary Affairs Subcommittee of the House of Representatives' Government Operations Committee, which also produced a report entitled "Impact of Appraisal Problems on Real Estate Lending, Mortgage Insurance, and Investment in the Secondary Market" which documented problems in the real estate and mortgage finance industries resulting from appraisal abuses. Rep. Barnard's bill would address the problem by requiring the establishment of a Federal Interagency Council which, with advice from 2 advisory committees composed of appraisers and of appraisal users, would establish appraiser qualifications and appraisal standards for real estate transactions in which the federal government has substantial financial or public policy interests. Enforcement would be provided by state appraiser certifying agencies, authorized in the federal bill. Given the pervasive nature of federal involvement in the mortgage finance industry, passage of Rep. Barnard's proposal would act as a mandate for state certification of appraisers.

IV. AMENDMENTS:

None
I. SUMMARY:

A Present Situation

The Regulatory Sunset Act repeals chapter 475, F.S., relating to real estate brokers, salesmen, and schools, on October 1, 1988, unless the Legislature revives and readopts it in the public interest. Section 475.045, F.S., which creates the Florida Real Estate Commission Education and Research Foundation and the Foundation Advisory Committee, is separately scheduled for repeal on October 1, 1988, pursuant to the Sunset Act.

The scope of regulation under chapter 475, F.S., is established through definitions in section 475.01, F.S. "Real estate" is defined as any interest in land or in business enterprises or opportunities, excluding cemetery lots or lots in mobile home or recreational vehicle parks. The term "broker" refers to a person who, for compensation, performs or offers services for another person relating to the appraisal, auction, sale, exchange, purchase, or rental of business enterprises or real property. A "salesman" performs the same services, but under a broker's supervision. In addition to licensing salesmen and brokers, real estate corporations and partnerships are registered, and permits are issued for real estate schools and instructors. These regulatory activities are the responsibility of the Florida Real Estate Commission (FREC) and are administered by the Division of Real Estate of the Department of Professional Regulation (DPR).

Chapter 475, F.S., requires that a person obtain a license in order to practice as a real estate broker or salesman. The chapter states the purpose of the law (s.475.001, F.S.), provides definitions (s.475.01, F.S.), provides exemptions (s.475.011, F.S.), establishes the Florida Real Estate Commission (s.475.02, F.S.), establishes the Division of Real Estate (s.475.021, F.S.), provides for the delegation of powers and duties by the commission (s.475 03, F.S.), establishes the duty of the commission to educate members of the profession (s.475.04, F.S.), authorizes the commission to promulgate rules (s.475.05, F.S.) and to adopt a seal (s.475.10, F.S.), and creates the Florida Real Estate Commission Education and Research Foundation and Foundation Advisory Committee (s.475.045, F.S.). The chapter also provides for fees to be charged licensees (s.475.125, F.S.), sets forth the qualifications for practice as a real estate salesman or broker (s.475.17, F.S.), provides for application to take licensure examinations (s.475.175, F.S.), authorizes the DPR to license any applicant whom the FREC certifies to be qualified (s.475.181, F.S.). Also included in the statute are provisions regarding continuing education and license renewal (s.475.182, F.S.), inactive status (ss.475.1825 and s.475.183, F.S.), issuance of multiple licenses to a broker (s.475.215, F.S.),
the requirement for brokers to maintain an office (s. 475.22, F.S.), expiration of license upon change of address (s. 475.23, F.S.), and registration of branch offices (s. 475.24, F.S.).

Discipline of licensees is provided for by listing proscribed acts for which administrative penalties may be imposed (s. 475.42, F.S.), specifying other violations for which criminal sanctions may be imposed (s. 475.42, F.S.), and establishing penalties for the publication of false or misleading information (s. 475.421, F.S.), for the unlawful collection of advance fees (s. 475.452, F.S.), and for unlawful rental information transactions (s. 475.453, F.S.). The chapter also provides for rules of evidence (s. 475.28, F.S.), the effects of and publication of final orders of the commission (s. 475.31, F.S.), the effect of reversal of orders of the court or the commission (s. 475.37, F.S.), payment of costs by the commission (s. 475.38, F.S.), the invalidity of contracts of unlicensed persons for commissions (s. 475.41, F.S.), and for presumption, under certain circumstances, that a person has acted as a real estate broker (s. 475.43, F.S.). In addition, the chapter provides for the prosecution of criminal violations (s. 475.454, F.S.) and for the exchange of disciplinary information with the Department of Business Regulation (s. 475.455, F.S.).

Schools teaching real estate practice are required to obtain a permit, instructors are required to pass a written examination, and courses are required to conform to certain conditions (s. 475.451, F.S.). Schools must also adhere to requirements regarding their advertising (s. 475.4511, F.S.).

The Real Estate Recovery Fund is created to provide for the reimbursement of persons judged by a court to have suffered damages resulting from a violation by a broker or salesman in the course of a real estate brokerage transaction (s. 475.482, F.S.). Conditions for recovery from the fund are set forth (s. 475.483, F.S.), commission powers to intervene upon notification of commencement of action are established (s. 475.4835, F.S.), limitations are placed on the size of claims which may be paid from the fund (s. 475.484, F.S.), and funds are required to be invested by the Treasurer (s. 475.485, F.S.), and the commission is authorized to promulgate rules necessary to administer the fund and persons filing false documents related to the fund are made subject to misdemeanor penalties (s. 475.486, F.S.).

B. Effect of Proposed Changes:

The provisions of chapter 475, F.S., are revived and readopted with the following substantive amendments:

-- Section 475.01, F.S., F.S., is amended to create definitions for the following terms related to the establishment of a voluntary certification program for real estate appraisers: "appraisal" or "appraisal services," "appraisal assignment," "analysis assignment," "certified appraisal report," "state certified residential appraiser," "state certified real estate appraiser," and "subcommittee."

-- Section 475.011, F.S., is amended to limit to persons paid strictly on a salary basis the exemptions for employees of persons or corporations engaged in selling or leasing their own property, employees of owners of apartment communities, and managers of condominiums or cooperatives. A new exemption is created for any full-time graduate student enrolled in a commission-approved degree program in appraising at a Florida college or university, provided that the student is engaged only in appraisal activities related to the degree program and under a broker's direct supervision.
-- Section 475.02, F.S., is amended to remove language prohibiting either if the consumer members of the FREC from being members of any occupation closely related to the real estate profession.

-- Section 475.04, F.S., is amended to replace an incorrect reference to "registrants" with the term "licensees" and to correct a cross-reference.

-- Section 475.045, F.S., relating to the FREC Education and Research Foundation and the Foundation Advisory Committee, is amended to require future applicants to the committee to possess qualifications related to the committee's education and research activities, to require that projects with the greatest potential for public benefit be given funding priority, to allow the committee to hire consultants, and to delete obsolete language.

-- Section 475.105, F.S., is amended to establish license fees on an annual, rather than a biennial basis.

-- Section 475.125, F.S., is amended to require partnerships and corporations to renew the registrations of their unlicensed members and to allow the general partner in a partnership to be either a licensed broker or a registered broker corporation.

-- Section 475.17, F.S., relating to qualifications for licensure, is amended to remove the requirement that an applicant for licensure be a Florida resident and to add the requirement that an applicant have a high school diploma. Nonresident applicants are required to file an irrevocable consent that suits and actions may be commenced against them in any county of this state and that service of process may be made by service on the director of the Division of Real Estate. Any resident licensee who becomes a nonresident must notify the commission within 60 days and comply with nonresident requirements. The section is also amended to substitute permissive language for the prohibition against approving an applicant who has acted as a broker or salesman without a license during the year preceding application. In addition, county vocational centers are included among the institutions which may offer required educational courses. Obsolete provisions related to business brokers are deleted.

-- Section 475.175(1), F.S., is amended to require applications to be notarized.

-- Section 475.182, F.S., is amended to require renewal of licenses at least every 4 years, rather than biennially, to require licensees to complete seven hours of continuing education during each year, and to clarify language relating to renewal of inactive licenses.

-- Section 475.183, F.S., is amended to distinguish between nonrenewal of a license and inactive status, to clarify the fact that renewal of an inactive license does not necessarily reactivate the license and that a licensee who renews an inactive license may elect to continue his inactive status.

-- Section 475.23, F.S., relating to the expiration of a license or permit upon change of address, replaces obsolete language requiring surrender of the license or permit with a requirement to notify the commission of the change of address within 10 days.

-- Section 475.25, F.S., is amended to add probation as a disciplinary option which the commission may employ and to clarify the fact that the commission's disciplinary powers apply to registrants as well as licensees. The section is further amended to delete commission issuance of an escrow disbursement order as one of the three means a broker may
choose to resolve an escrow conflict. The section is further amended to authorize the deposit of escrow funds in credit unions (in addition to other types of financial institutions); authorize disciplinary action against a licensee who is incarcerated in a county jail (in addition to other types of correctional facilities); and to add as a ground for disciplinary action the licensee's failure to disclose to the parties to a transaction which party the licensee is representing.

Section 475.31(1), F.S., relating to the cancellation of the licensure or registration of a person working in conjunction with a broker whose license in revoked or suspended, is amended to delete the requirement for issuance of a new license to such a person and to remove the time limit within which the person must obtain a new employment situation and a reissued license.

Section 475.37, F.S., is amended to clarify that a defendant must be restored to his rights and privileges as a licensee when an order of the court or commission is reversed, regardless of the specific nature of the disciplinary order involved.

Section 475.38, F.S., is amended to delete the authority granted to the commission, but never exercised, to pay or advance fees and costs to a defendant who is unable to pay.

Section 475.42(1), F.S., which establishes grounds for criminal penalties, is amended to delete the requirement that a broker's trade name must appear on his license. The section is further amended to prohibit any person who is not a certified appraiser from certifying a real estate appraisal.

Subsections 475.451(1) and (2), F.S., are amended to exempt county vocational centers from the requirements relating to permits for real estate schools and their chief administrators, but apply permit requirements relating to school instructors. Non-college-credit courses taught by accredited colleges, universities, and community colleges are required to have a chief administrator and school instructors who hold permits. The section is also amended to provide alternative qualifications for school instructors (those who teach in proprietary real estate schools, county vocational centers, and non-college-credit courses in colleges and universities). In lieu of a written instructor's exam, an instructor may certify his competency through either of two combinations of higher education, experience, and broker status. In addition, the commission is authorized to require a teaching demonstration which, if established, would apply to all applicants for instructor permits.

Section 475.482, F.S., relating to the Real Estate Recovery Fund, is amended to delete the commission's authority to disburse moneys from the fund as reimbursement to any broker or salesmen who has been required by a court to pay money damages due to his compliance with escrow disbursement order issued by the commission. The section is also amended to raise from $250,000 to $500,000 and from $450,000 to $700,000 the minimum and maximum amounts for the fund which trigger the collection and abatement of the special fees which supply the fund.

Section 475.483, F.S., to clarify that recovery from the fund must be based on damages stemming from a real estate brokerage transaction, and not on a transaction in which the broker represented himself. Obsolete language and language authorizing the commission to pay attorney's fee and court costs related to claims based on escrow disbursement orders is deleted.
Section 475.433, F.S., is amended to authorize the commission, when notified of the commencement of an action which may lead to a claim against the recovery fund, to intervene on behalf of the State of Florida rather than on behalf of and in the name of the defendant.

Section 475.491, F.S., is amended to delete cross-references to sections 475.492(1), F.S., and certain language related to the maximum claim amount because the bill removes authority for claims against the fund stemming from escrow disbursement orders of the commission. A provision on recovery from the fund of treble damages, court costs, attorney's fees, and interest is added. Section (7) is amended to clarify that upon payment of a claim from the fund in satisfaction of a judgment against a licensee, the license is automatically revoked without further administrative action.

Section 475.825, F.S., which consists of obsolete provisions relating to the granting of inactive status to certain expired registrations, is repealed.

Section 475.501, F.S., is created to provide for the voluntary certification of real estate appraisers. The section would prohibit any person who is not certified from representing himself as a state certified appraiser, but would allow persons who are licensed as real estate brokers or salesmen to continue to appraise real property for compensation. A Real Estate Appraisal Subcommittee is to be appointed by the Governor to advise the commission in the establishment of rules pertaining to applicants' experience, educational courses, and exam content, to review disciplinary cases and present recommendations to the commission's probable cause panel, and to recommend rules establishing standards for appraisals prepared by noncertified appraisers. The section provides for two categories of certified appraisers to be established: state certified residential appraisers who will be considered qualified to prepare certified appraisals of residential property of up to four units on the basis of two years of appraisal experience, successful completion of commission-approved academic instruction of up to 60 classroom hours, and passage of a written examination; and state certified real estate appraisers who will be considered qualified to prepare certified appraisals of all types of real property on the basis of three years of appraisal experience, successful completion of commission-approved academic instruction of up to 120 classroom hours, and passage of a written examination. Because appraisal is already included within the scope of chapter 475, F.S., only real estate licensees will be eligible for certification.

The section also applies the grounds for disciplinary actions and criminal penalties contained in sections 475.25 and 475.42, F.S., to certified appraisers. Grounds for disciplinary actions against a certified appraiser are established and include the following four prohibited acts which relate most closely to the quality of the appraisal itself: violation of any of the standards provided by law for the development or communication of real estate appraisals; failure to exercise reasonable diligence in developing an appraisal or appraisal report; carelessness, negligence, or incompetence in developing or communicating an appraisal; and accepting an appraisal assignment when the employment is contingent upon reporting a predetermined analysis or opinion or when the fee is contingent upon the conclusion or valuation that is reached.

Standards for the development and communication of certified appraisals are also established. The standards generally require a certified appraiser to correctly employ recognized appraisal methods. The standards also require a number of very specific elements and concepts to be included in the development of a certified appraisal and provide standards for
CERTIFIED REVIEW APPRAISALS. These standards form the basis for communication by the Commission and subcommittee of any certified appraiser and are the linchpin in providing for appraiser accountability. The standards for communication of certified real estate appraisals require each written report to contain a certification assuring the objectivity of the report and its compliance with the requirements of law and disclosing any possible conflicts of interest on the part of the appraiser. An appraiser may agree to prepare a limited report provided that the appraiser has determined that the report is not so limited as to be misleading and has advised the client that the report will not meet the reporting standards and will include in the letter of transmittal and the certification pages of the report an explanation of its limitations and the statement, "This is a limited report."

A certified appraiser may perform appraisal services that do not fully conform to the standards for certified appraisals. Prior to agreeing to perform such services, the appraiser must determine that the services to be performed are not so limited in scope that the resulting analysis would be misleading. The appraiser must also advise the client that the appraisal service calls for work which does not conform to the standards for certified appraisals and that the appraisal letter of transmittal and certification statement will include a qualification reflecting the differing nature of the work.

Finally, the section requires each certified real estate appraiser to retain for at least 5 years from the date of submission of a report to a client original or true copies of contracts for the appraisal work, the appraisal report, and supporting data used in preparation of the report. These records must be made available by the appraiser for inspection and copying by the subcommittee. For any appraisal which has been the subject of, or has served as evidence in, litigation, records must be retained for at least 2 years after the trial date.

Chapter 475, F.S., as amended by the bill, is revived and readopted. The chapter is scheduled for repeal on October 1, 1998, and for review by the Legislature pursuant to the Sunset Act, except for section 475.045, F.S., which is scheduled for review pursuant to the Sundown Act.

An effective date of October 1, 1988, is provided.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public

Pursuant to law and commission rules, fees are established for application and examination, reapplication, licensure, registration, permits, renewals, and other purposes, such as purchase of the PREC Handbook. If chapter 475, F.S., were allowed to repeal on October 1, 1988, as provided by section 11.61, F.S., members of the real estate industry would no longer be required to pay these fees. This bill, however, revives and readopts the chapter and would result in applicants, licensees, registrants, and permittees continuing to pay regulatory fees.

To the extent that removal of the residency requirement for licensure increases the number of licensees, the total of fees collected by the Division of Real Estate will increase. Similarly, the establishment of a voluntary certification procedure for real estate appraisers will increase fee revenues to the extent that appraisers choose to become certified. As with all professional groups regulated under the DPR, fees will be established at a level commensurate with the cost of regulation. The costs of certification of appraisers is expected to be moderated by the use of the existing...
administrative structure of the Division of Real Estate and by
the economies of scale that currently apply to regulation of
real estate practitioners. Therefore, the ultimate economic
impact on consumers is anticipated to be minimal.

B. Government:

Total expenditures by the Division of Real Estate for the
regulation of real estate brokers, salesmen, and schools
average approximately $5.5 million per year. Funding is
obtained through fees paid by applicants, licensees,
registrants, and permittees which are deposited in the real
estate portion of the Professional Regulation Trust Fund. If
chapter 475, F.S., were to be allowed to repeal, these costs
would no longer be incurred and fees would no longer be
collected. Because the real estate portion of the trust fund
presently shows a deficit, repeal of chapter 475, F.S., on
October 1, 1988, would require the trust fund as a whole to
absorb the deficit. However, this bill would revive and
readopt the chapter and fees have already been adjusted in
order to offset the deficit. Estimate of the additional costs
related to the certification of appraisers are being developed
by the DPR.

III. COMMENTS:

The Real Estate Appraisal Reform Act of 1987 (H.R.3675) was
introduced by Representative Doug Barnard of Georgia on November
20, 1987. The proposal is the culmination of hearings and
investigations conducted by the Commerce, Consumer, and Monetary
Affairs Subcommittee of the House of Representatives' Government
Operations Committee, which also produced a report entitled "Impact
of Appraisal Problems on Real Estate Lending, Mortgage Insurance,
and Investment in the Secondary Market" which documented problems
in the real estate and mortgage finance industries resulting from
appraisal abuses. Rep. Barnard's bill would address the problem by
requiring the establishment of a Federal Interagency Council which,
with advice from 2 advisory committees composed of appraisers and
of appraisal users, would establish appraiser qualifications and
appraisal standards for real estate transactions in which the
federal government has substantial financial or public policy
interests. Enforcement would be provided by state appraiser
certifying agencies, authorized in the federal bill. Given the
pervasive nature of federal involvement in the mortgage finance
industry, passage of Rep. Barnard's proposal would act as a mandate
for state certification of appraisers.

IV. AMENDMENTS:

None
On September 1, 1987, Governor Bob Martinez appointed Tom Gallagher as Secretary of the Department of Professional Regulation. A seven-term member of the Florida House of Representatives, Tom Gallagher has served as a Republican floor leader and for five years had been the lone Republican legislator from Dade County. He also served as Dean of the seventeen-member South Florida GOP delegation and ranked 11th in seniority in the entire Florida House of Representatives.

In 1982, Gallagher was selected runner-up as "Most Effective in Debate in the House" and in 1984 as "Most Effective in Committee." These honors were selected by the Republican and Democratic members of the House of Representatives by secret ballot.

As a legislator, Secretary Gallagher developed a working knowledge of the Department of Professional Regulation and the professions it regulates. His committee assignments included Appropriations, Commerce, Health Care and Insurance, Tourism and Economic Development. He also served seven years on the Appropriations Conference Committee. Most recently, he was a Republican candidate for the office of Governor.

In addition to his legislative career, Secretary Gallagher has worked in the private mortgage insurance industry for the last thirteen years. He is a veteran of the United States Army.

As 1987 draws to a close, it seems an appropriate time to review the many changes and challenges during the year that affect the Florida Real Estate Commission. Tom Gallagher was appointed Secretary of the Department of Professional Regulation. Harry Vordermeier and Frank Kowalski have been serving ably as commissioners for the past several months. The newest commissioner, Carolyn Roberts, has replaced me since my term expired in November. Since Harold Huff's resignation as Director, the responsibilities of this position are now in the capable hands of Darlene Keller, Acting Director, who has had over 35 years experience with FREC. Mr. Huff instigated many innovative changes during his almost five years as Director which greatly improved the operation and efficiency of the Division. We congratulate Charles Hoek, Education and Examination Service Supervisor, who was recently installed as President of the National Association of Real Estate License Law Officials.

We are very fortunate to have such highly qualified and dedicated individuals serving the 360,000 plus Florida licensees.

Now that funds have been appropriated by the Legislature, The Florida Real Estate Education and Research Foundation will be selecting projects for study and research which will benefit both licensees and the public.

Sunset Review is scheduled for the
and a business graduate of the University of Miami.

As Secretary of the Department of Professional Regulation, Tom Gallagher introduces a policy based on progressive change and fiscal responsibility. As a former businessman and legislator, he is excited about the opportunities offered by an agency like DPR. Totally supported by license and examination fees and not dependent on tax revenue, the Department of Professional Regulation is unique. Secretary Gallagher plans a businesslike approach while applying his legislative and government experience in order to run the agency in the most efficient manner possible. His philosophy regarding disciplinary action will be a "tough, yet fair" approach in order to raise the standards of the professions, and protect the health, safety, and welfare of Florida residents.

(Continued from page 1)

next regular session of the legislature. It is our hope that the changes recommended by FREC will be incorporated in the revision to Chapter 475. The most significant of these is an increase and strengthening of the post license education requirements and the requirement of disclosure relating to agency/sub-agency relationship.

The Commission is also presenting a bill to the legislature providing for two categories of state certified appraisers and setting forth "Uniform Standards of Appraisal Practice" when preparing state certified appraisals.

All of these accomplishments and proposals will greatly strengthen the professionalism of the real estate industry which will result in an improved public image.

It has been an honor for me to have served as Chairman of FREC and to have had the privilege of working with the other commissioners and the highly proficient staff of the Division of Real Estate for the benefit of all our licensees.

(Continued from page 2)

question was of such great public importance that they are certifying the following issue to the Supreme Court of Florida

"When a real estate broker’s contract does not provide a time within which it is to be performed and the law implies performance within a reasonable time, is the question of whether performance occurred within a reasonable time normally one of law or fact?"

"Certifying the question" means that the Appellate Court was asking the Supreme Court of Florida to render a final decision on the matter.

(Continued from page 1)

Upon payment from the Real Estate Recovery Fund against a broker or salesman, the license of such broker and salesman shall be revoked.

Payments have been disbursed by the Commission under the Recovery Fund Act to individuals adjudged to have suffered monetary damages by reason of acts or conduct committed by the following real estate licensees:

FRED THOMAS, broker, Miami—$6,000, JOSEPH A. GARMAN, broker, Miami—$25,000, JANE PARKER, broker, Lake Placid—$8,209 32, WILLIAM H. HUTCHINSON, salesman, Orlando—$5,534 41

(Continued from page 2)

Michael J. La Faise, Jr., salesman, Tampa, suspended five years effective 9/22/87, found guilty of a crime.

Roger B. Green and R. Green and Associates, Inc., brokers, Miami, fined $1,000 each, failed to properly direct, control and manage real estate brokerage activities.

Harry A. Wright, broker, Pompano Beach, voluntarily surrendered license effective 9/15/87 in lieu of further administrative action.

John Michael Addis, salesman, Tarpon Springs, revoked effective 7/29/87, been found guilty of a crime, been confined in a federal prison and failed to inform FREC in writing within 30 days of having been found guilty of a felony.

Michael A. Gaylord, broker, Ft. Myers, revoked effective 6/27/87, fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence and breach of trust in a business transaction, failed to maintain a brokerage office.

Suzanne L. Gaylord, salesman, Ft. Myers, revoked effective 6/27/87, fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence and breach of trust in a business transaction.

Jack Winston, broker salesman, Miami, fined $500, been guilty of a crime and failed to inform the FREC of the felony.

Jose D. Muie, salesman, Miami Lakes, revoked effective 10/22/87, been guilty of a crime and been confined in prison.

Margarita A. Machado, broker, Coral Gables, revoked effective 7/29/87, fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence and breach of trust in a business transaction and failed to account and deliver rental trust funds.

Philip D. Thompson, salesman, Tampa, suspended two years effective 10/22/87, been found guilty of a crime.

Steven Wayne Benson, salesman, Naples, revoked effective 10/22/87, been found guilty of a crime, confined in a state prison and failed to inform the FREC in writing within 30 days after being found guilty of a felony.

Charles J. Hayde, t/a Charles J. Hayde Real Estate Agency, broker, Port St. Lucie, reprimanded and fined $200, failed to maintain proper office entrance sign.

Keith E. Prewitt, salesman, Daytona Beach, suspended six months effective 8/31/87 and fined $1000 but revoked effective 9/30/87 for non-payment of the fine, failed to deliver rental money received in trust from a tenant.

Michael James, salesman, Kissimmee, revoked effective 7/30/86, failed to account and deliver a deposit.

Herbert Martin Gimelstob and Gimelstob Realty Inc., brokers, Boca Raton, fined $750 each, failed to promptly notify the FREC of a deposit dispute.

C. B. Johnson, Jr. and Johnson Realty Counselors, Inc., brokers, Melbourne Beach, fined $750, culpable negligence.
At its January 1988 meeting, the Commission elected an experienced leadership team for the coming year. Tapped as Chairman was Howard C. Babcock, Jr., chosen for Vice Chairman was Brian J. Ladell.

Babcock, a native of Orlando, first entered the real estate profession in 1945. A former president of the Florida Association of Realtors, he is the recipient of the distinguished Service Award from the National Association of Realtors, that organization's highest honor. Babcock, first appointed to the Commission in 1981, has served two previous terms as Vice Chairman and a term as Chairman.

Appointed to the Commission as a lay member in 1980, Ladell, Clearwater, also has the distinction of having served as both Chairman and Vice Chairman during his tenure. A certified public accountant, he is a member of both the Florida Institute of CPAs and American Institute of CPAs.

This will mark the second time that Babcock and Ladell have been teamed as Chairman and Vice Chairman respectively—the first being in 1982-83.

Joining the Florida Real Estate Commission as its newest member is Carolyn King Roberts of Ocala following her appointment by Governor Bob Martinez.

The Florida native is a broker-salesman with Lucille J. King Realtor of Bartow where she is a member of the local Board of Realtors.

Mrs. Roberts is a graduate of Florida Southern College with a degree in business and management. She is active in many community organizations including the Children's Service League of Ocala and the Fine Arts for Ocala. In addition, Mrs. Roberts serves on the Board of Directors for the Munroe Regional Medical Center.

Darlene F. Keller, Orlando, has been named Director of the Division of Real Estate.

DPR Secretary Tom Gallagher announced his choice before the Commission at its January meeting.

(Continued on page 5)

Members of the Florida Real Estate Commission pictured at right are (seated) Elizabeth Yerkes, Carolyn Roberts, Pilar Montes, (standing) Frank Kowalski, Brian Ladell, Vice Chairman, Howard Babcock, Chairman, and Harry Vordermeier, Jr.

Member, National Association of Real Estate License Law Officials
A Review of

Chapter 475, Florida Statutes
Real Estate Brokers, Salesmen, and Schools

Prepared Pursuant to the Sunset Act
Section 11.61, Florida Statutes

and

Section 475.045, Florida Statutes
Florida Real Estate Commission Education and Research Foundation Advisory Committee

Prepared Pursuant to the Sundown Act
Section 11.611, Florida Statutes

By Staff of
The Senate Economic, Community, and Consumer Affairs Committee

December, 1987
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I. INTRODUCTION

The Regulatory Sunset Act, section 11.61, Florida Statutes, (ch. 81-318, L.O.F) provides for a systematic repeal of those statutes which regulate initial entry and practice of certain professions. Each year various statutes are scheduled for repeal unless revised or reenacted after an orderly review process. This review concerns state regulation of real estate brokers, salesmen, and schools, chapter 475, Florida Statutes, which will be automatically repealed on October 1, 1988, unless reenacted by the Legislature.

The Regulatory Sunset Act sets forth specific criteria for the review of statutes scheduled for repeal. In essence, these criteria mandate a determination as to whether the law relating to and regulating the real estate profession is a legitimate exercise of the state's police power. Stated in another way, the primary question considered in this review is:

Does the law relating to real estate brokers, salesmen, and schools protect the public from serious potential harm to such an extent that if chapter 475, Florida Statutes, were repealed, the public's health, safety, or welfare would be threatened?

If the answer is negative, staff must recommend the chapter be allowed to repeal. However, if the answer is positive, then staff must evaluate the chapter to determine whether its provisions are tailored to address the potential for serious public harm at the least possible public cost.
This review provides an examination of the history, provisions, and implementation of chapter 475, Florida Statutes. Lengthy quotations from the statutes have been avoided, as the chapter is included as Appendix A. Administration of the law is addressed with a review of the responsible governmental agency. The cost and benefits of the law and alternatives to the present method of regulation are evaluated. These findings are followed by conclusions and recommendations.

The information in this review is a product of staff research and contacts with staff of the Department of Professional Regulation; staff and members of the Florida Real Estate Commission; representatives of the profession and their associations.
II. SUMMARY

This review addresses the question of whether the Legislature should reenact, revise, or repeal chapter 475, Florida Statutes, relating to the regulation of real estate salesmen, brokers, and schools. The report summarizes the history of real estate licensure since the 1978 sunset review, examines the statutory provisions, and addresses the implementation of those provisions by the Florida Real Estate Commission. The current regulatory scheme for real estate practitioners is evaluated in light of the six questions included as review criteria in the Regulatory Reform Act of 1976. Finally, this report offers recommendations for the improved effectiveness of chapter 475, Florida Statutes.

The purpose of the law is to protect the public from economic loss by assuring at least a minimum level of competence for real estate practitioners. "Real estate" is defined as any interest in land or in business enterprises or opportunities, excluding cemetery lots or lots in mobile home or recreational vehicle parks. The term "broker" refers to any person who, for compensation, performs or offers services for another person relating to the appraisal, auction, sale, exchange, purchase, or rental of business enterprises or real property. A "salesman" performs the same services, but under a broker's supervision. These definitions establish the scope of regulation under the chapter. In addition to licensing salesmen and brokers, real estate corporations and partnerships are registered and permits are issued for real estate schools and instructors. With 338,779
currently licensed active and inactive salesmen and brokers, real
estate is the largest profession regulated under the Department
of Professional Regulation (DPR) and an entire departmental
division is devoted to administration of the licensure law.

Evaluation of the competency and character of applicants is
the first responsibility of the 7-member Florida Real Estate
Commission (FREC). At its monthly meetings, the commission also
conducts informal disciplinary proceedings and takes final agency
action against licensees in violation of the law. In addition,
the commission issues escrow disbursement orders directing
individual brokers to disburse funds according to the
circumstances of the case and issues orders to pay valid claims
against the Real Estate Recovery Fund. A further duty of the
FREC is the education of real estate licensees. The 1985
Legislature expanded the commitment to advance the knowledge of
real estate in Florida through the creation of the FREC Education
and Research Foundation which is administered by a separate
committee and is reviewed pursuant to the Sundown Act following
this report.

Applicants for licensure as salesmen and brokers must both
meet the basic qualifications of being 18 years of age, a Florida
resident, and a person of good character, as determined through a
review of the applicant's background and a fingerprint check.
Prospective salesmen must have completed a commission-prescribed
63-hour course of instruction and broker applicants must have
completed 73-classroom hours of instruction in order to qualify
for their respective licensure exams. To qualify as a broker, an
applicant must also have had 1 year of experience as a salesman. Licenses are renewed biennially provided that the licensee has completed 14 hours of commission-approved continuing education.

As with the other regulatory boards under the DPR, licensure fees are established at a level estimated to meet the costs of regulation. Due to a combination of factors, however, the real estate portion of the Professional Regulation Trust Fund showed a $2.2 million deficit at the end of FY 1986-87. In response, the FREC voted to increase fees effective in January 1988. For salesmen, the biennial license fee will be $40 and the new broker's license will be $50. By the end of FY 1988-89, an $80,000 surplus is expected to have accrued as a result of the revised fee schedule.

It is concluded that state regulation of the real estate profession is a reasonable exercise of the state's police power and that the absence of such regulation would leave the public much more vulnerable to economic loss resulting from practitioner incompetence and from fraudulent and dishonest dealing. The current regulatory procedure is reasonable both in terms of cost and in the relatively small degree to which entry into the profession is restricted. The enforcement powers of the FREC serve as a deterrent to violations by licensees. Citizens are further protected from economic loss by the Real Estate Recovery Fund, which reimburses persons judged by the court to have suffered monetary damages as a result of a violation by a licensee.
Therefore, staff recommends that chapter 475, Florida Statutes, be revised and readopted with the following amendments:

-- Creating a certification procedure for real estate appraisers to be administered by the FREC with the assistance of an advisory subcommittee. Real estate licensees who meet the qualifications for either the Florida certified residential appraiser category or the Florida certified real estate appraiser category would be authorized to prepare certified appraisals in accordance with specified appraisal standards. Other real estate licensees would be allowed to continue their appraisal business without interruption.

-- Amending section 475.25, Florida Statutes, to require licensees to disclose in written form prior to the signing of any contract by the buyer or seller which party the licensee is representing.

-- Amending section 475.17, Florida Statutes, to require applicants for licensure to have a high school diploma or its equivalent.

-- Amending section 475.451, Florida Statutes, to limit the exemption from regulation for colleges, universities, and community colleges to transferable college credit courses, and to allow the FREC to require demonstration of teaching skills in addition to the written exam.
-- Amending section 475.25, Florida Statutes, to delete FREC escrow disbursement orders as an option for resolving escrow disputes, and amending sections 475.482 and 475.483, Florida Statutes, to remove the authorization for the payment of claims from the Real Estate Recovery Fund to reimburse a licensee required by the court to pay money damages, and attendant fees and costs, as a result of the licensee's compliance with an escrow disbursement order.

-- Amending section 475.182, Florida Statutes, to provide that licenses be renewed at least every four years, rather than biennially, and to provide that the currently required number of hours of continuing education be completed during each biennium; and amending section 475.125, Florida Statutes, to substitute for the $100 biennial renewal fee a $50 fee for each year of the duration of the active license.

-- Amending section 475.17, Florida Statutes, to remove the requirement that an applicant for licensure be a bona fide resident of the state and to establish related requirements pertaining to: commencement of suits in Florida counties against nonresident licensees, service of process on nonresident licensees through service on the division director, and notification and compliance by any Florida resident licensee who becomes a nonresident.
-- Amending section 475.482, Florida Statutes, to increase the minimum and maximum balances for the Real Estate Recovery Fund; and amending section 475.483, Florida Statutes, to clarify that a claim against the fund must be based on a cause of action involving a real estate brokerage transaction; and amending section 475.484, Florida Statutes, to preclude reimbursement from the recovery fund for treble damages, court costs, interest, and attorney fees.

-- Amending section 475.011, Florida Statutes, to limit to employees who are paid strictly on a salary basis the exemption from licensure for persons employed by individuals or entities for the purpose of conducting transactions involving that individual's or entity's real property; similarly amending the exemptions for certain employees of apartment communities, condominiums, and cooperatives; and creating an exemption for full-time graduate students enrolled in a commission-approved degree program in appraising at a Florida college or university and working under the supervision of a licensed broker.

-- Amending section 475.045, Florida Statutes, pertaining to the FREC Education and Research Foundation, to require the three Foundation Advisory Committee members who represent the general public to possess qualifications related to the purposes of the foundation; to require that priority in funding be
given to projects demonstrating the greatest potential benefit to the public; and to allow the use of foundation funds to hire consultants to assist in accomplishing the goals of the foundation.
III. FINDINGS

A. THE LAW

Chapter 475, Florida Statutes, provides for the regulation of real estate professionals and schools. The chapter defines real estate; creates the Florida Real Estate Commission (FREC) and the Division of Real Estate of the Department of Professional Regulation; establishes licensure requirements for real estate brokers and salesmen and permitting requirements for real estate schools and instructors; provides for disciplinary actions and criminal penalties for specified violations; establishes the Florida Real Estate Commission Education and Research Foundation and the Foundation Advisory Committee; and creates the Real Estate Recovery Fund. A copy of chapter 475, Florida Statutes, is included as Appendix A.

1. History

The following history traces the evolution of the real estate licensure law since the 1978 Sunset review. For a history of the law since its inception in 1923, the reader may wish to refer to the Florida Real Estate Commission Handbook.

The 1978 Sunset review report concluded that Florida's regulation of real estate practice was a necessary and appropriate exercise of the state's police power. No feasible alternative to state licensing of practitioners was identified and the negligible indirect increase in costs to the consumer
resulting from regulation was found to be insignificant in relation to the potential harm of deregulation. Recommendations contained in the report which were implemented included the commission notifying complainants of the availability of the Real Estate Recovery Fund, reducing the turnaround time for investigation of violations, and cooperating with the DPR to facilitate processing of license renewals. Recommendations which were rejected included abolishing registration of corporations and partnerships and eliminating the commission's financial support of the educational caravan which provided seminars for licensees; however, the caravan is now conducted directly by the Division of Real Estate rather than by contract with the Florida Association of Realtors.

In 1978, chapter 475, Florida Statutes, was amended by six separate pieces of legislation. Chapter 78-117, Laws of Florida, specified savings and loan associations as acceptable depositories for funds entrusted to a broker to be held in escrow. Chapter 78-164, Laws of Florida, established a certificate of registration fee of $12 per annum for real estate broker-salesmen. Chapter 78-214, Laws of Florida, created section 475.453, Florida Statutes, requiring brokers and salesmen engaged to negotiate a rental for a prospective tenant to provide a contract or receipt, in accordance with FREC guidelines, which provides that 75 percent of the fee will be refunded if the rental is not obtained. Violation is designated a first degree misdemeanor and grounds for suspension or revocation of registration. Chapter 78-215, Laws of Florida, exempted from
registration one resident manager and one nonresident manager of an apartment complex, if employed by a registered broker or the apartment complex owner for the purpose of leasing the units. Chapter 78-244, Laws of Florida, established registration and educational qualifications for real estate school administrators, permitholders, and instructors, requiring biennial recertification of competency for instructors through commission-approved continuing education. False advertising and employment guarantees by schools were prohibited.

Chapter 78-366, Laws of Florida, instituted a number of changes in chapter 475, Florida Statutes, the most significant of which are described below. Language was added to specify that an independent contractor relationship between a broker and salesman relieves neither party of his responsibilities under the law. A renewal fee of $25 was established for inactive broker and salesman registrations. Procedures were established for licensees to follow when in doubt as to what person is entitled to the accounting and delivery of escrowed property, or when conflicting demands are made for the property. In such cases, no administrative complaint may be filed against the registrant if the escape procedures are complied with and the resulting order or judgment is obeyed. Failure to inform the commission within 30 days of pleading guilty or nolo contendere to or being convicted of certain felonies was designated as grounds for suspension of registration and the period for which any suspension may be imposed was expanded from 2 to 10 years.
In 1979, chapter 79-239, Laws of Florida, substantially revised the real estate licensure law. Most significantly, the act renamed the Florida Real Estate Commission as the Board of Real Estate, under the newly formed Department of Professional Regulation; increased board membership from three to seven persons, including five brokers and two lay members; deleted the residency requirement for board members; specified exemptions from the real estate licensure law; revised and clarified definitions; required exchange of information pertaining to disciplinary proceedings between the board and the Division of Florida Land Sales and Condominiums of the Department of Business Regulation; authorized an administrative fine of up to $1,000 for each separate offense; revised the list of actions designated as grounds for disciplinary action; and authorized the board to establish certain fees by rule, within specified limits.

In 1980, the Legislature passed three bills relating to real estate licensure. Chapter 80-51, Laws of Florida, allowed real estate schools to use videotaped instruction in courses for prospective salesmen, requiring all other courses to be taught in person by a licensed instructor; allowed continuing education courses to be conducted by correspondence; exempted attorneys from continuing education requirements; and exempted from certain competency requirements any real estate school instructor licensed prior to the effective date of the 1978 law imposing those requirements. Chapter 80-307, Laws of Florida, provided an exemption from chapter 475, Florida Statutes, for individuals, corporations, partnerships, and other entities engaged in the
sale, exchange, or leasing of their own property. The act also authorized the Board of Real Estate to disburse funds from the Real Estate Recovery Fund for the reimbursement of brokers or salesmen required by a court to pay money damages due to a distribution of escrow moneys made in compliance with an escrow disbursement order issued by the board.

Chapter 80-405, Laws of Florida, granted inactive status to registrations which had expired between June 30, 1969, and July 1, 1979, solely due to nonrenewal. The terms "broker" and "real property" were redefined to encompass the sale, exchange, purchase, or rental of business enterprises or opportunities, and individuals dealing in such transactions were given two years to either qualify as real estate brokers or to complete board-approved courses of instruction and pass an examination.

In 1981, chapter 81-302, Laws of Florida, authorized the Board of Real Estate to require that any videotaped course have a single session of live instruction of up to 3 classroom hours. The applicability of the Florida Real Estate Recovery Fund was expanded to encompass reimbursement for monetary losses resulting from certain acts in conjunction with any real estate brokerage transaction rather than just real property sales.

In 1982, chapter 82-1, Laws of Florida, renamed the Board of Real Estate as the Florida Real Estate Commission and created a Division of Real Estate within the Department of Professional Regulation. The division was assigned the
responsibility of providing all services relating to chapter 475, Florida Statutes, including recordkeeping, examination services, legal services, and investigative services. Orlando was designated as the site for division offices and a division director position was created.

Chapter 82-179, Laws of Florida, revised the definition of "broker-salesman" and placed limits on the issuance of multiple licenses. Real estate salesmen and broker-salesmen were prohibited from having more than one employer at one time. Certified public accountants acting within their authorized scope of practice were exempted from real estate licensure. The commission was authorized to substitute for its continuing education course requirements satisfactorily completed courses offered by specified real estate professional associations or by accredited universities within the state.

In 1983, chapter 83-329, Laws of Florida, amended the real estate licensure law in a number of ways. The act provided for the refunding of application and license fees, under certain circumstances, including the failure to completely process an application; prohibited licensure of persons who have unlawfully acted or attempted to act as a real estate broker or salesman within the year preceding their application for licensure; increased the maximum period for inactive status of a license to 4 years; increased the maximum educational requirements for licensure to 72 hours for brokers and 63 hours for salesmen; and required educational institutions and real estate schools to notify the commission of persons who have satisfactorily
completed the educational requirements for licensure. Applications for examination became subject to expiration after 1 year if the applicant fails to take the examination, and certification of an individual who has passed the exam became subject to expiration after 6 months if the person fails to request initial licensure.

Chapter 83-329, Laws of Florida, also applied to real estate school permitholders the same disciplinary actions, and grounds therefor, which the commission may take against a licensed broker or salesman. Real estate school operators, chief administrators, and instructors were required to meet the general licensure requirements for brokers and salesmen. Instructors were also required to pass an instructor's written exam, unless they held a permit prior to the effective date of the act. Finally, the act authorized the commission to honor claims against the Real Estate Recovery Fund in instances where the claimant has failed to comply with certain notice of claim requirements. The maximum amounts for claims paid from the fund were substantially increased.

In 1984, no amendments to chapter 475, Florida Statutes, were enacted.

In 1985, five bills were enacted which amended chapter 475, Florida Statutes. Two of these, chapters 85-84 and 85-215, Laws of Florida, amended section 475.011, Florida Statutes, pertaining to exemptions from regulation. The former exempted certain employees of the Department of Natural Resources while
acting within the scope of their employment and the latter
exempted persons involved in the sale of radio, television, and
cable enterprises regulated by the Federal Communications
Commission, provided that the portion of the sale involving land
or improvements be conducted by a licensed broker or salesman.
Chapter 85-90, Laws of Florida, clarified the prohibition against
a real estate salesman maintaining certain actions for
compensation; revised the conditions for recovery from the Real
Estate Recovery Fund; and authorized the commission to pay
attorney's fees and court costs in certain actions. Chapter 85-
101, Laws of Florida, clarified the right of a broker or salesman
to record a judgment rendered by a Florida court. Chapter 85-
199, Laws of Florida, established the Florida Real Estate
Commission Education and Research Foundation.

In 1986, chapter 86-107, Laws of Florida, replaced the
exemption from the real estate licensure law for one resident and
one nonresident manager of an apartment complex with an exemption
for any employee of an apartment community owner, or the owner's
broker, if such employee works in an on-site rental office of the
apartment community in a leasing capacity.

In 1987, chapter 87-205, Laws of Florida, again revised
an exemption from licensure under chapter 475, Florida Statutes.
Rather than exempting employees of the Department of Natural
Resources and the Department of Transportation who are acting
within the scope of their employment, any employee of any state
or local governmental agency who acts within the scope of his
employment was exempted from the real estate licensure law.
Chapter 87-172, Laws of Florida, amended section 475.02, Florida Statutes, to require that at least one member of the commission be at least 60 years of age. This requirement is to apply when the next lay member vacancy occurs.


a. General Provisions

Section 475.001, Florida Statutes, sets forth the legislative finding that ensuring the competence of real estate practitioners is necessary to protect the public from potential economic loss. The purpose of the chapter is to protect the public welfare by regulating real estate brokers, salesmen, and schools in Florida.

Definitions of certain terms used in chapter 475, Florida Statutes, are provided in section 475.01, Florida Statutes. The terms "real property" and "real estate" are defined as any interest in land or in business enterprises, but do not include cemetery lots nor the renting of lots in mobile home or recreational vehicle parks. "Broker" is defined as a person who, for compensation, performs or offers services for another relating to the appraisal, auction, sale, exchange, purchase, or rental of business enterprises or real property, including mineral rights. "Salesman" is defined as one who performs any service enumerated in the definition of "broker," but who does so under another's supervision. The term "broker-salesman" refers to a person who meets the licensure
qualifications to be a broker, but who operates as a salesman in the employ of another.

Under section 475.011, Florida Statutes, the following six categories of persons are exempted from licensure:

-- Any person acting as an attorney-in-fact for the purpose of the execution of contracts or conveyances only, attorneys and accountants acting within the scope of their duties as such, and trustees of estates;

-- Individuals, corporations, partnerships and other joint ventures which sell, exchange, or lease their own real property;

-- Employees of public utilities, rural electric cooperatives, railroads, or state or local government acting within the scope of their employment;

-- Employees working in a leasing capacity in an onsite rental office of an apartment community;

-- Managers of condominiums or cooperative apartment buildings who rent individual units for a period of up to 1 year on behalf of the unit owner, provided that the owner has an interest in no more than 1 unit; and

-- Persons or legal entities conducting the sale or purchase of radio, television, or cable enterprises regulated by the Federal Communications Commission, provided that a licensed broker or salesman is retained for the portion of the
transaction involving land, buildings, fixtures, and other improvements.

b. The Florida Real Estate Commission

The seven-member Florida Real Estate Commission (FREC) is established within the Department of Professional Regulation by section 475.02, Florida Statutes. Four members are licensed brokers, one member is either a broker or salesman, and two members are lay persons. The FREC is authorized to certify applicants for licensure, to deny, suspend or revoke a license and to levy administrative fines for specified offenses, and to adopt rules necessary to implement its regulatory powers. The commission is also directed, under section 475.04, Florida Statutes, to foster the education of brokers, broker-salesmen, and instructors concerning relevant ethical, legal and business principles. To accomplish this purpose, the commission may conduct, prescribe, or approve educational courses in real estate for licensees and may issue and sell publications, including a handbook on real estate regulation. All services required to implement chapter 475, Florida Statutes, including recordkeeping, examination, investigative, and legal services are provided by the Division of Real Estate of the Department of Professional Regulation. The commission may delegate duties to either of the other two departmental divisions by majority vote. With the exception of disciplinary powers and rulemaking authority, the commission may delegate any of its powers and duties to any member.
c. **Licensure: Qualifications, Renewal, Requirements**

Both brokers and salesmen must fulfill certain general requirements for licensure, as enumerated in section 475.17, Florida Statutes, which include being 18 years of age, a bona fide resident of Florida, of good character, and competent to conduct real estate transactions.

To ensure licensees' competence, the commission is authorized to require the completion of educational courses as a condition of initial licensure and of license renewal. Courses required for initial licensure as a salesman may not exceed 63 classroom hours and for licensure as a broker may not exceed 72 classroom hours. Each accredited college, university, community college, or registered real estate school offering the approved courses must provide a certificate of completion to each successful enrollee. Pursuant to section 475.175, Florida Statutes, this certificate, along with the appropriate application and fee, entitles the prospective licensee to take the licensure examination. In addition to these qualifications, to be licensed as a broker one must have held an active real estate salesman's license in the office of a licensed broker for at least 12 months during the preceding 5 years.

Under section 475.181, Florida Statutes, the department must license any applicant certified by the commission to be qualified to practice. However, the commission may refuse to certify anyone who has committed any violation listed in section 475.42, Florida Statutes, or who is subject to
disciplinary action under section 475.25, Florida Statutes. Further, the department is prohibited from issuing a license to any applicant under investigation in another state or territory for any act which would constitute a violation of chapters 475 and 455, Florida Statutes. Similar restrictions on licensure are also contained in section 475.17, Florida Statutes. Under that section, any applicant may be denied a license if his license to practice any profession has been denied or revoked in Florida, or in any other state or nation, or if the applicant has been found guilty of conduct in this state or elsewhere which would constitute grounds for license suspension or revocation under chapter 475, Florida Statutes. No applicant who has acted or attempted to act as a broker or salesman in the state in violation of chapter 475, Florida Statutes, during the year immediately preceding his application for licensure may be granted a license.

License renewal on a biennial basis is provided for under section 475.182, Florida Statutes. In addition to submitting a renewal application and fee, the broker, broker-salesman, or salesman must provide proof of having completed at least 14 classroom hours of continuing education, as prescribed by FREC. As a substitute, the commission may accept courses offered by certain professional associations or by any accredited Florida university. Licenses not renewed at the close of the biennium automatically revert to inactive status.

As provided in section 475.183, F.S., an inactive license may be reactivated by meeting the license renewal
requirements, complying with continuing education requirements of up to 12 classroom hours for each year the license was inactive, and paying the related fees. Any license which has been inactive for more than 4 years expires automatically unless application for renewal is made. Pursuant to section 475.1825, Florida Statutes, brokers' and salesmen's registrations which expired between June 30, 1969, and July 1, 1979, solely due to nonrenewal were granted inactive status under the provisions of the chapter.

A licensed broker, pursuant to section 475.215, Florida Statutes, may be issued additional licenses as a broker if necessary to the operation of his brokerage business. No salesman or broker-salesman, however, may have more than one registered employer at a time. Section 475.22, Florida Statutes, requires each active broker to maintain an office clearly distinguished by a sign at the entrance. When a broker changes his business address or a salesman changes employer, his license expires, pursuant to section 475.23, Florida Statutes, and must be surrendered. A replacement license is issued by the FREC upon request and payment of a small fee. Branch offices must be registered with the commission and the required annual registration fee paid. Section 475.24, Florida Statutes, deems an office to be a branch office if a broker's name or advertising leads the public to associate the office with the broker. Partnerships and corporations acting as brokers are required by section 475.15, Florida Statutes, to register with FREC to renew the licenses of their members, officers, and directors for each license period. A partnership's registration is automatically
cancelled during any period in which the license of any partner ceases to be in force. Similarly, a corporation's registration is automatically cancelled during any period in which the license of at least one active broker member is not in force. The above requirements enable FREC to become informed of the locus of operations and the affiliations of each licensee.

d. Real Estate Schools

With the exception of approved and accredited colleges or universities in the state, any person, school, or institution conducting courses of study in real estate practice, teaching courses required by FREC for initial licensure or license renewal, or teaching licensure exam preparation courses must obtain a permit from DPR, as specified in section 475.451, Florida Statutes. Subsection (3) of that section explicitly states that it is unlawful for any person, school, or institution to offer or conduct such courses without a permit, to guarantee that pupils will pass the licensure exam, or to represent the permit as a departmental endorsement. Subsection (4) imposes second degree misdemeanor penalties for any violation of the section.

Each applicant for a permit to operate a real estate school, to be a school chief administrator, or to serve as an instructor must meet the general qualifications for practice imposed on salesmen and brokers in section 475.17(1), Florida Statutes. Additionally, each "school permitholder" must have a broker's license or have passed the instructor's examination
administered by the department. "School instructors" must certify their competency prior to beginning to teach by passing a written examination. Every second year, each instructor must recertify his competency by presenting to the commission proof of his successful completion of at least 15 classroom hours of instruction in real estate subjects or instructional techniques. Both "school permitholders" and "school chief administrative persons" must comply with the requirements for school instructors if they are actively engaged in teaching.

The department may require an applicant to submit the names of personal references, may make inquiries concerning the applicant's character, may take the applicant's fingerprints for FBI processing, and may conduct investigations of the applicant, whether an individual or an institution, as it deems necessary to the permitting process. Any objection to the granting of a permit must be considered in the same manner as administrative complaints against other applicants for licensure by the department.

The maximum number of 50-minute classroom hours is limited by section 475.17(2), Florida Statutes, to 63 hours for courses for initial licensure as a salesman and 72 hours for courses for prospective brokers. Under that section, students may not miss more than 8 classroom hours of instruction and be considered to have successfully completed the course. Class location and frequency of class meetings are left to the school's discretion.
Other provisions of section 475.451, Florida Statutes, include granting schools the latitude to conduct courses for initial licensure as a salesman through videotaped instruction by a qualified school instructor. The commission may require a single session of live instruction of up to three classroom hours. With the exception of the continuing education course required by section 475.182, Florida Statutes, all other prescribed courses must be taught in person by a qualified school instructor. The continuing education course may be taught through correspondence; however, a final exam must be administered by the school offering the correspondence course. Any attorney who is otherwise qualified under the chapter is exempt from the chapter's continuing education requirements.

Any person holding a school instructor permit on October 1, 1983, is exempt from the instructor examination requirement provided that he continuously holds a permit and meets all other requirements of law. Permitholders may be issued additional permits when necessary to the operation of a real estate school.

Section 475.4511, Florida Statutes, prohibits any person representing a real estate school from making any statement or using any advertising which is false, inaccurate, misleading, or exaggerated. No school may guarantee that enrollees will secure employment, unless offering the prospective student a bona fide contract of employment, nor may the school refer to a "pass/fail ratio" on the state examination in its communication with students. If a school advertises in
conjunction with an affiliated broker, there must be a distinct separation between the advertisements.

e. Fees

Section 475.125, Florida Statutes, authorizes the FREC to establish by rule a late renewal penalty and fees for application, examination, reexamination, licensing and renewal, reinstatement, and recordmaking and recordkeeping. The statute sets a maximum fee of $100 for initial application and examination and of $100 for biennial renewal, as well. Fees are to be based on departmental estimates of the revenues required to implement the laws pertaining to the regulation of real estate practitioners. Application and license fees are refundable upon a determination by the FREC that the state is not entitled to the fees, as specified in rule.

f. Prohibited Acts -- Administrative Penalties

Pursuant to section 475.25, Florida Statutes, which authorizes administrative penalties against applicants and licensees, the commission may:

-- Deny an application for licensure, registration, or permit, or renewal thereof;

-- Suspend a license or permit for a period of up to 10 years;

-- Revoke a license or permit;
-- Impose an administrative fine of up to $1,000 for each count or separate offense; and

-- Issue a reprimand.

The commission may impose any or all of the above sanctions if it finds that a licensee, permittee, or applicant has:

-- Violated any provision of section 475.42 or section 455.227(1), Florida Statutes;

-- Been guilty of fraud, misrepresentation, or dishonest dealing in any business transaction;

-- Advertised property or services in a fraudulent or deceptive manner;

-- Failed to timely account for or deliver to any person any personal property in his possession which he is not entitled to retain (escape procedures are provided to resolve circumstances where doubt exists as to what person is entitled to the escrowed property);

-- Violated any provision of chapter 475, Florida Statutes, or any law or rule made pursuant to chapters 475 and 455, Florida Statutes;

-- Been convicted or found guilty of a crime in any jurisdiction which relates to real estate practice or involves fraud or moral turpitude;
-- Had a broker's or salesman's license revoked, suspended, or otherwise acted against, or has been denied licensure, by the real estate licensing agency of another state or country;

-- Shared a commission with, or paid a fee or other compensation to, a person not properly registered as a real estate broker or salesman, for the referral of real estate business;

-- Become temporarily incapacitated from acting reliably as a broker or salesman due to substance abuse or temporary mental derangement (license suspension in such a case may be only for the period of incapacity);

-- Rendered an opinion that the title to any property sold is good or merchantable, except when correctly based upon a current opinion of a licensed attorney;

-- Failed, if a broker, to immediately place in escrow any funds entrusted to him by a client, or has failed, if a salesman, to immediately place with his registered employer any funds entrusted to him by a client;

-- Willfully failed to file, or has filed falsely, a report or record required by state or federal law;
-- Obtained a license through fraud, misrepresentation, or concealment;

-- Been confined in a state or federal prison or mental institution or, due to mental incapacity, can no longer be trusted to deal with the public in a safe and confidential manner;

-- Been found guilty, for a second time, of misconduct that warrants his suspension or has been found guilty of misconduct which demonstrates that the money, property, transactions, and rights of investors may not be safely entrusted to him; or

-- Failed to inform the commission in writing within 30 days after pleading guilty or nolo contendere to, or being convicted or found guilty of, any felony.

The commission may also revoke or cancel a license if it was issued through the mistake or inadvertence of the commission. This action does not impinge upon subsequent applications by the affected licensee. The department is directed to reissue a license lost through disciplinary action when the commission certifies that the licensee has complied with all the terms and conditions of the final disciplinary order.

Under section 475.31, Florida Statutes, a final order revoking or suspending a broker's license automatically cancels the licenses of all salesmen registered with the broker,
and, in the case of a partnership or corporation, the licenses of all members, officers, and directors, while the license of the broker is inoperative or until new employment is secured and a new license is issued to the salesman, member, officer, or director. The right to transfer or have a license issued may extend up to 6 months after the end of the license year in which the order took effect. The commission may publish and distribute any of its final orders, after they have become final by lapse of time or upon affirmance by appeal, or the opinions of appellate courts for the purpose of guiding registrants and the public. At its discretion, the commission may publish or withhold from publication the names and addresses of parties concerned.

g. Prohibited Acts -- Criminal Penalties

Section 475.42, Florida Statutes, designates 12 prohibited actions as grounds for criminal penalties:

-- No person may act as a broker or salesman without a current license;

-- No licensed salesman may operate as a broker or as a salesman for any person other than his registered employer;

-- No broker may employ an unlicensed person as a salesman; however, a salesman's license may be issued to a licensed broker provided that he surrenders his broker's license;
-- No salesman may collect money in the course of any real estate transaction except in the name of and with the consent of his employer; and no salesman may sue any person except his employer for a commission or compensation;

-- No person may violate any lawful order or rule of the commission which is binding upon him;

-- No person may commit any conduct or practice set forth in section 475.25(1)(b), (c), (d), or (h), Florida Statutes;

-- No person may make any false affidavit for use as evidence before the commission nor give false testimony to the commission or any of its members;

-- No person may fail to appear in response to a subpoena without cause sufficient to excuse appearance in response to a circuit court subpoena; nor may any person refuse to be sworn or refuse to answer questions propounded by the commission; nor may any person conduct himself before the commission in a contumacious manner;

-- No person may obstruct in any manner the enforcement of chapter 475, Florida Statutes;

-- No broker or salesman may knowingly place on the public records of any county any document which would falsely affect the title of or encumber any
real property, nor may he record any document which is improperly executed, or without the property owner's authorization, or to coerce payment, or for any unlawful purpose;

-- No person may operate as a broker under a trade name without notifying the commission or operate as a member, officer, or manager of an unregistered partnership or corporation; and

-- No person may knowingly conceal information concerning any violation of chapter 475, Florida Statutes.

A person violating any of the above provisions is deemed guilty of a second degree misdemeanor, punishable as provided in sections 775.082, 775.083, or 775.084, Florida Statutes. A corporate violation constitutes a second degree misdemeanor punishable under section 775.083, Florida Statutes. Any person who commits an act prohibited under section 475.42, Florida Statutes, may be prosecuted as well under any other applicable criminal statute. A civil case, criminal case, or a denial, revocation, or suspension proceeding may arise out of the same alleged act, and the pendency or result of a given proceeding does not stay or control the result of the others.

In addition to the criminal penalties imposed by section 475.42, Florida Statutes, four other sections impose misdemeanor penalties for acts related to publication of false
information, real estate schools, escrow and accounting for advance fees, and the provision of rental information.

Section 475.421, Florida Statutes, imposes first degree misdemeanor penalties on any person who publishes false or misleading information for the purpose of selling or leasing real estate in Florida.

Section 475.451(4), Florida Statutes, imposes second degree misdemeanor penalties for violations of that section, pertaining to the operation and personnel of real estate schools.

Section 475.452, Florida Statutes, imposes first degree misdemeanor penalties on persons violating that section's requirements for the handling of advance fees. Brokers are required to immediately place in escrow 75 percent of such a fee, which funds may not be commingled with the broker's funds. A statement itemizing how such funds are to be expended must be provided to the principal prior to the withdrawal of any funds. The statute also provides for a refund and final accounting of funds if the listed property is not sold. The commission is authorized to adopt rules to regulate the method of accounting brokers are to use for advance fees for the listing of property. Brokers must provide each principal with, at a minimum, a quarterly accounting and a final accounting when the contract has been completely performed by the broker. The commission must be provided copies upon demand. In addition to the misdemeanor penalties, a principal in any advance fee transaction for the
listing of real property, which transaction is in violation of the provisions of section 475.452, Florida Statutes, may recover treble damages for any funds misapplied and is entitled to reasonable attorney's fees.

Section 475.453, Florida Statutes, imposes first degree misdemeanor penalties for violations by a broker or salesman who furnishes rental information or attempts to negotiate a rental for a prospective tenant for a fee paid by the prospective tenant. In such a transaction the broker or salesman must use a contract or receipt, conforming to FREC guidelines, which provides for the repayment of 75 percent of the fee if the rental is not obtained. The prospective tenant's demand for a refund must fall within 30 days of the execution of the contract with the broker. Violation of these provisions is grounds for suspension or revocation of license.


Section 475.28, Florida Statutes, establishes certain rules of evidence which apply in proceedings under the chapter. In all proceedings before the commission or the courts in which the payment or expectation of compensation is a necessary element of the offense, proof of the performance of the act for which such commission is required to be shown will constitute prima facie evidence that such act was performed for or in expectation of compensation. In instances where it is material to determine whether a party to an action is licensed, the burden of proof shall be on that party. In any proceeding
under chapter 475, Florida Statutes, photocopies of documents may be introduced in lieu of the originals. Any person's books of account and records are admissible as evidence upon a showing that they were made in the regular course of business, without introducing the person who made the entries. The weight of such evidence is to be decided by the court or commission.

Section 475.37, Florida Statutes, clarifies the impact of a reversal of an order of a court or of the commission. If any order denying, revoking, or suspending a license is ultimately reversed and set aside, the defendant must be restored his rights and privileges as a broker or salesman upon filing the mandate with the commission. The alleged violations may not be reexamined in any other proceeding concerning the licensure of the defendant. If the matter pertained to an application for licensure, that application shall stand approved.

Section 475.38, Florida Statutes, relieves the commission of any requirement to advance any fees or costs to any officer or witness, or to execute any bond in any proceeding in the courts; however, when the commission is liable for fees and costs, a voucher is to be presented to the commission and, if approved, audited and paid as are other commission expenses. If the commission determines that a defendant is unable to pay fees and costs for services necessary to the pursuit of justice it may, upon application by the defendant, incur such costs, provided that the defendant remains liable to the commission for all such sums.
With respect to all criminal cases, contempt cases, or other cases filed pursuant to chapter 475, Florida Statutes, section 475.43, Florida Statutes, specifies acts upon which a presumption that a person is acting or attempting to act as a real estate broker may be based. If a person has sold, leased, or advertised real estate which he does not own or has maintained an office bearing signs that real estate is for sale, lease, or rental, the burden of proof falls upon that person to show that he was not acting or attempting to act as a broker or salesman. Any contracts not based on a substantial consideration or designed to permit an unlicensed person to operate as a realtor are declared void and ineffective in all suits initiated under chapter 475, Florida Statutes.

Section 475.454, Florida Statutes, requires the commission to report any criminal violation of the chapter to the state attorney having jurisdiction.

An exchange of disciplinary information between the commission and the Division of Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation is required by section 475.455, Florida Statutes. The commission must notify the division of any disciplinary action it has taken against any of its licenses and the division must reciprocate with notification of any action it has taken against any broker or salesman registered with the division. Upon finding that another state agency has suspended or revoked the license or registration of or imposed a penalty against a licensee to show cause why the
commission should take no action and will provide for a hearing upon request.

i. **Real Estate Recovery Fund**

The Real Estate Recovery Fund was created in 1976 under section 475.482, Florida Statutes, for the purpose of reimbursing any person or corporation adjudged by a court of competent jurisdiction to have suffered monetary damages as a result of any licensed broker or salesman committing a violation of any provision of chapter 475, Florida Statutes, or obtaining money or property through fraud. The fund may also be used to reimburse any broker or salesman who has been required by the courts to pay money damages due to a distribution of escrow monies made in response to an escrow disbursement order by the commission. Revenue for the fund is obtained through charges added to the license fee, for both new licenses and renewals, of $3.50 per year for brokers and $1.50 per year for salesmen. When the fund balance reaches $450,000, the collection of the special fees is discontinued at the end of the biennial licensure cycle, and is resumed when the fund falls below $250,000.

Pursuant to section 475.483, Florida Statutes, any person is eligible to seek recovery from the fund if a final court judgment on a violation proscribed in section 475.25, Florida Statutes, has been received, the commission had been notified of the action at the time of its initiation, and the act for which recovery is sought occurred on or after July 1, 1976, and not more than two years prior to making the claim. The
claimant must have caused a writ of execution to be issued on the judgment and the officer executing the writ must have made a return that no personal or real property liable to be levied upon in satisfaction of the judgment can be found or that the proceeds of the liquidation of the debtor's property was insufficient to satisfy the judgment. Any amounts recovered by the claimant from the judgment debtor, or from any other source, must have been applied to the damages awarded by the court. Certain persons are precluded from making a claim for recovery, including the spouse of the judgment debtor or the spouse's personal representative, any licensed broker or salesman who acted as principal or agent in the transaction which is the subject of the claim, and any person whose claim is based upon a real estate transaction in which the licensed broker or salesman was acting on his own behalf with respect to the property owned or controlled by him.

In order to avoid claims being made on the basis of defaults, section 475.4835, Florida Statutes, authorizes the commission, upon notice of any action, to intervene and take any action it deems appropriate on behalf and in the name of the defendant.

Section 475.484, Florida Statutes, provides for the disposition of payments from the fund. The maximum amount which can be recovered for a claim or claims arising out of the same transaction is $25,000, regardless of the number of claims or parcels of real estate involved. A maximum of $50,000 may be recovered for claims based upon judgments against any one licensed broker or salesman. Except for instances in which a judgment against a broker or salesman has resulted from
compliance with an escrow disbursement order by the commission, payment of any amount from the recovery fund in settlement of a claim against a broker or salesmen automatically triggers revocation of that person's license.

j. Florida Real Estate Commission Education and Research Foundation

Established in 1985 under section 475.045, Florida Statutes, the Florida Real Estate Commission Education and Research Foundation was created under the administration of the Foundation Advisory Committee to expand the knowledge of both the general public and of real estate licensees on the subject of Florida real estate. To accomplish this task, the foundation was authorized to promote educational projects, conduct studies and disseminate their findings, develop materials for use in teaching real estate courses, and perform a variety of other activities. The 9-member Foundation Advisory Committee was directed to seek the advice of real estate licensees, the FREC, colleges and universities, registered real estate schools, and the public for the purpose of developing and selecting research proposals, and was directed to select the Florida college or university to conduct the studies. To implement the foundation's educational and research agenda, the Education and Research Foundation Trust Fund was established with the interest earned on the investment of the sum of $3 million from the real estate profession portion of the Professional Regulation Trust Fund. The foundation and advisory committee are scheduled for repeal on October 1, 1988.
A separate review of their activities is presented following this report.

B. RULES

1. Authority

The Florida Real Estate Commission has adopted an extensive set of administrative rules which comprise chapters 21V-1 through 21V-24, Florida Administrative Code. A copy of these rules is included as Appendix B.

Rulemaking authority is granted to the Florida Real Estate Commission in section 475.05, Florida Statutes, which provides that, "The commission may enact bylaws and regulations for its own government and rules in the exercise of its powers, not in conflict with the constitution and laws of the United States or of this state, and amend the same at its pleasure."


Rules 21V-1.11 through 21V-1.15, Florida Administrative Code, provide application and examination, reapplication, licensure, permit, and registration fees for the various categories of persons and entities regulated under chapter 475, Florida Statutes. Inactive status is defined and registration categories are created. The rules provide for renewal of inactive status and provide an exemption from licensure renewal provisions for spouses of members of the armed forces, provided that the licensee is not engaged in the practice of real estate brokerage in the private sector for profit.

-41-
Rules 21V-2.26 through 21V-2.31, Florida Administrative Code, provide for the examination for licensure. Conditions under which fees may be refunded are specified. Each applicant is required to provide certain information to assist the commission in evaluating his character and each application must be accompanied with a set of the applicant's fingerprints. The broker, salesman, and instructor examinations are to be graded on the basis of 100 points, with 75 points designated as a passing score. The salesman examination is to reflect a knowledge of real estate principles and practices (45 points), law (45 points), and mathematics (10 points) as contained in the commission-prescribed prerequisite education course. The broker and instructor exams are to also include appraising, finance, investment and brokerage management, with 45 points based on law, 40 points on principles and practices, and 15 points on real estate mathematics.

Rules 21V-3.008 through 21V-3.19, Florida Administrative Code, provide with considerable detail for the implementation of various aspects of the minimum educational requirements for initial licensure and licensure renewal. Statutory requirements are reiterated and students failing the commission-prescribed end-of-course exam are required to repeat the coursework before retaking the exam. Correspondence course materials must be submitted to the commission for an equivalency evaluation at least 30 days prior to their use. License reactivation for inactive brokers and salesman requires a 7-classroom-hour course of instruction for each year the licensee
failed to hold a valid active or inactive license. The rules establish standards of completion for the reactivation education based on the accumulated classroom hours of continuing and reactivation education. Specific requirements are provided for compliance with the 15 hours of continuing education required of real estate instructors. The rules provide with great specificity for determination of equivalency of prelicensing educational courses, the provision of correspondence courses for hardship cases, notices of satisfactory course completion, quality standards for videotaped instruction and classroom viewing conditions, candidate review of examination results, and security and monitoring procedures for licensure examinations.

Rules 21V-4.061 through 21V-4.11, Florida Administrative Code, provide registration requirements for partnerships.

Rules 21V-5.12 through 21V-5.20, Florida Administrative Code, provide registration requirements for domestic and foreign corporations, including licensure status of officers and directors.

Rule 21V-6.06, Florida Administrative Code, reiterates the statutory prohibition against a salesman or broker-salesman working for more than 1 broker or owner-developer. However, the rule provides for a salesman or broker-salesman to hold a "group license" when employed by an owner-developer who controls a number of separate, yet subsidiary or affiliated, entities.
Chapters 21V-8 and 21V-9, Florida Administrative Code, concern the biennial registration of branch offices and the reissuance of office registration under certain circumstances.

Chapter 21V-10, Florida Administrative Code, establishes standards and requirements related to business, advertising, and accounting practices. Certain practices are designated fraudulent and dishonest dealing or declared to be methods which endanger the public interest. Advance fee accounting and reporting procedures are specified and language for a refund provision to be included in rental company contracts is provided. A 30-day time limit is established for payment of civil penalties and time limits are specified for action regarding conflicting demands for earnest money deposits.

Chapter 21V-14, Florida Administrative Code, restates the statutory constraints on brokers and salesmen pertaining to the placement of deposits in escrow. The rules address the rights of the broker when a dispute arises over the amount of the commission and the broker's duties when other parties make conflicting claims on a deposit. The broker's recordkeeping responsibilities are defined and all books and accounts must be available for department inspection. Requirements are made for the disposition of any commission to be shared with another broker and for the placement of escrow money in an interest bearing account.

Chapters 21V-16, 21V-17, and 21V-18, Florida Administrative Code, provide definitions, administrative
procedures, and grounds for denial, suspension, and revocation of registration of real estate schools. Chapter 21V-16, Florida Administrative Code, clarifies that the prohibition against guaranteeing that pupils will pass the licensure exam encompasses the promise of a refund if the pupil fails and clarifies that instruction offered at more than one location constitutes a separate school at each location. Each school offering continuing education correspondence courses must provide an address and phone number of a licensed instructor to answer inquiries. Limitations are placed on the use of guest lecturers and on recruiting for employment with any real estate brokerage firm. Chapter 21V-17, Florida Administrative Code, establishes minimum standards for courses of study and requires a permit holder to have his permit in his immediate possession while conducting any course of study. Chapter 21V-18, Florida Administrative Code, establishes separate grounds for permit denial and suspension and separate guidelines for the durations of denial, suspension, and revocation of a permit. Procedures for denial, and for suspension and revocation, are also provided.

Rules 21V-20.09 through 21V-20.51, Florida Administrative Code, provide for the internal organization and functioning of the FREC and address commission membership, composition of probable cause panels, frequency of commission meetings, recordkeeping, per diem compensation of commission members, criteria for investigators, and signatories on final orders. Probable cause panels are required to be composed of 2 commission members who are appointed by the chairman and who may
not participate in the determination and issuance of the final order in a disciplinary case. Unless otherwise provided by law, commission members are to be compensated $50 for each day of official commission business, which includes commission meetings, attendance at commission-sponsored instructors seminars, appearances before legislative committees at the request of the FREC chairman or the committee chairman, and attendance at meetings with DPR staff at the request of the Secretary of Professional Regulation or the director of the Division of Real Estate. Investigators employed by the DPR to conduct real estate related investigations must have a high school education, a 4-year college degree (or equivalent experience), two years of investigative experience, and either 2 years of real estate related investigative experience or 90 days of training under the supervision of an experienced real estate investigator.

Rule 21V-22.01, Florida Administrative Code, requires any civil action which ultimately seeks financial relief from the Real Estate Recovery Fund to have named as defendant and resulted in a final judgment against an individual real estate broker or salesman.

Rule 21V-24.001, Florida Administrative Code, establishes disciplinary guidelines for 39 specific violations of chapters 475 and 455, Florida Statutes. Where mitigating or aggravating circumstances apply, the FREC may impose a penalty other than the maximum penalty listed in rule.
C. IMPLEMENTATION

1. Review of the Florida Real Estate Commission

The Florida Real Estate Commission (FREC) is created within the Department of Professional Regulation (DPR) pursuant to section 475.02, Florida Statutes. The FREC consists of seven members: five licensed and experienced members of the real estate profession and two lay persons who are not and have never been brokers, salesmen, or members of any closely related profession. In 1982, the Division of Real Estate was created within the newly established DPR, pursuant to section 475.021, Florida Statutes, for the purpose of providing the myriad of services necessary to the regulation of real estate practice in Florida.

a. Goals

As with the other 38 professions under the purview of the DPR, the motivation behind regulating real estate professionals is consumer protection. Section 475.001, Florida Statutes, explicitly states that the purpose of regulation of real estate brokers, salesmen, and schools is "to assure the minimal competence of real estate practitioners in order to protect the public from potential economic loss."

The basic competence of new practitioners is assured by the minimum qualifications for entry into the profession which relate to both the applicant's character and knowledge. Continued competence is maintained through continuing education required for license renewal and through disciplinary
sanctions designed to deter violations and to remove unfit practitioners from the profession. The real estate licensure law includes an additional, consumer safeguard in the form of the Real Estate Recovery Fund, which is capitalized by license fee surcharges. Any person judged by a court of competent jurisdiction to have suffered monetary damages as a result of a prohibited action by a licensed salesman or broker may seek reimbursement from the recovery fund if the licensee's assets prove insufficient to satisfy the court judgment.

b. Organizational Structure

The Florida Real Estate Commission is established within the Department of Professional Regulation. Commission headquarters consist of the Division of Real Estate offices located in the Zora Neale Hurston state office building, 400 W. Robinson St., Orlando, Florida. At its monthly meetings, the FREC exercises its quasi-legislative power of rule promulgation and its quasi-judicial powers of approving applicants, hearing complaint cases, and taking final agency action in disciplinary matters.

Commission members serve staggered 4-year terms and annually elect a chairman and vice-chairman. Current FREC members are listed below, along with their cities of residence, and the expiration dates of their terms:
<table>
<thead>
<tr>
<th>Member*</th>
<th>Town</th>
<th>Term Expires</th>
</tr>
</thead>
<tbody>
<tr>
<td>Howard C. Babcock, Jr., Vice-Chairman</td>
<td>Orlando</td>
<td>11/16/88</td>
</tr>
<tr>
<td>Elizabeth H. Yerkes, Member</td>
<td>Jacksonville</td>
<td>11/16/89</td>
</tr>
<tr>
<td>Frank Kowalski, Member</td>
<td>Miami</td>
<td>11/16/89</td>
</tr>
<tr>
<td>Harry J. Vordermeier, Jr., Member</td>
<td>Ft. Lauderdale</td>
<td>11/16/90</td>
</tr>
<tr>
<td>Carolyn King Roberts, Member</td>
<td>Ocala</td>
<td>11/17/91</td>
</tr>
<tr>
<td>Brian J. Ladell, Consumer Member</td>
<td>Clearwater</td>
<td>11/16/88</td>
</tr>
<tr>
<td>Pilar G. Montes, Consumer Member</td>
<td>Naples</td>
<td>11/16/90</td>
</tr>
</tbody>
</table>

*The term of Chairman Marguerite Schlitt expired 11/16/87. A new chairman will be elected in January 1988.

Most executive and administrative services related to the implementation of chapter 475, Florida Statutes, are provided by the Division of Real Estate (created by the 1982 Legislature), including education and examination services, investigative services, legal services, and recordkeeping services. An organizational chart of the division appears at the end of this report as Appendix D. Finance and accounting services, routine license renewals, and purchasing have been delegated by the FREC to the Division of Examination and Licensure/Support Services of DPR. The Division of Real Estate presently consists of 87 full-time equivalent (FTE) positions, a significant reduction from the 151 FTE positions at the time of the 1978 sunset review. The staff is organized under the director's office into four sections according to the duties performed:
The Division Administration and Licensure Registration Section is responsible for planning and budgeting and the development and implementation of policies and procedures related to the division's functions and various staff assignments. Administrative duties include the provision of advice and assistance to the FREC and coordination of its meetings and activities to ensure effective delivery of services to the public and to real estate licensees.

The section issues new licenses and renewals; processes licensee notifications of changes of employer, status, address, and corporate officers; and registers all real estate schools, instructors, corporations, partnerships, and branch offices. Section responsibilities include the issuance of licensure histories and certifications, maintenance of records on micro-film and paper documents, and response to telephone queries regarding the status of licensees. The volume of transactions accomplished and data maintained is indicated by the fact that there are currently 338,779 licensees and entities regulated by the division.

In addition, the administration section opens, scans, and distributes incoming mail (approximately 281,948 items in FY 86-87) and processes outgoing mail (351,833 items in FY 86-
87). Staff must remove and validate fees accompanying applications and transmit them to DPR Finance and Accounting (approximately $3 million in FY 86-87). Sale and distribution of the PREC Handbook, Broker Textbook, and wall certificates are also handled by this section, as is the oversight of warehousing of past records which are held for 3 years, and the requisitions and bids for supplies and equipment which are processed through DPR.

The Education and Examination Services Section is responsible for the production and validation of real estate examinations for salesmen, brokers, and instructors, provides counseling for individual applicants, and develops criteria for pre-licensing and continuing education. The section processes applications for licensure to determine applicant eligibility, schedules candidates for the examinations, and tabulates and distributes exam results. In FY 86-87, 43,377 applications were received and 40,863 examinations were administered. The section also regulates real estate schools and instructors, approves courses, and implements requirements related to real estate schools.

The Investigative Services Section consists of 27 investigators under the direction of an investigation manager. Investigators are located in the 8 DPR field offices in Orlando (5 investigators), Miami (5), Tampa (5), Ft. Lauderdale (4), Jacksonville (3), Ft. Myers (2), Lake Worth (2), and Ft. Walton (1). Staff investigate complaints which range from relatively routine cases to highly sensitive and complex alleged violations.
such as fraud or misuse of escrow funds. Investigators contact and obtain information from witnesses and other parties having knowledge of alleged violations, obtain and review court records, gather case-related documents, and present a written report for review by the legal section. Investigators may serve subpoenas, notices, and other official documents as required.

Before being submitted to the investigators, each complaint is screened by one of the two consumer complaint analysts in the division director's office. They identify possible violations of the real estate practice act in order to determine agency jurisdiction and obtain documentation necessary to determine the legal sufficiency of the complaint. The complaint analysts also process requests for escrow disbursement orders and prepare summaries of cases for use by Attorney General's staff in preparation of orders to be considered by the commission.

The Legal Services Section consists of four attorneys who are division employees, plus one attorney under contract, and their support staff. Their sole function is to prosecute persons charged with violations of chapter 475, Florida Statutes, or any attendant administrative rule. (Counsel to the commission is provided through the Attorney General's office.) Division legal staff prepare recommended actions for consideration by the probable cause panel, including letters of guidance and dismissal opinions. They draft administrative complaints against licensees, prosecute complaints before hearing officers, prepare post-hearing motions and pleadings, and
advocate for the division in administrative and judicial proceedings, both in state and federal trial and appellate cases. The division attorneys attend the FREC meetings to present cases for prosecution before the probable cause panel and to the commission for final agency action. Finally, they prepare and file complaints for injunctive relief through the circuit courts in matters involving non-licensees.

In addition to the services provided by division personnel as described above, the FREC is provided with legal counsel through three attorneys assigned by the Attorney General. They prepare all final orders setting forth the commission's decisions on disciplinary cases, applicant denials, escrow disbursement order requests, and recovery fund claims. Attorney General staff interpret commission rules and chapter 475, Florida Statutes, draft rules at the direction of the commission, and defend the commission in administrative actions and civil suits challenging FREC decisions and orders.

c. Funding

Florida law requires the Division of Real Estate to be funded by fees and assessments of the FREC and prohibits the use of funds collected by the commission for any purpose other than real estate regulation.
Table 1 presents the total revenues collected by the division during the last 5 years:

**TABLE 1**

**Revenues**

<table>
<thead>
<tr>
<th>Type</th>
<th>1982-83</th>
<th>1983-84</th>
<th>1984-85</th>
<th>1985-86</th>
<th>1986-87</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fees</td>
<td>$1,124,281</td>
<td>$1,861,939</td>
<td>$1,514,381</td>
<td>$1,705,583</td>
<td>$1,684,315</td>
</tr>
<tr>
<td>Licenses</td>
<td>3,314,500</td>
<td>2,941,572</td>
<td>2,062,679</td>
<td>1,816,073</td>
<td>2,473,514</td>
</tr>
<tr>
<td>Fines</td>
<td>30,200</td>
<td>45,514</td>
<td>63,125</td>
<td>46,300</td>
<td>54,300</td>
</tr>
<tr>
<td>Other</td>
<td>$143,373</td>
<td>$255,565</td>
<td>$215,880</td>
<td>$262,446</td>
<td>$240,640</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$4,612,354</strong></td>
<td><strong>$5,104,610</strong></td>
<td><strong>$3,856,065</strong></td>
<td><strong>$3,830,402</strong></td>
<td><strong>$4,452,769</strong></td>
</tr>
</tbody>
</table>

Table 2 presents the total expenditures by the division during the last 5 years:

**TABLE 2**

**Expenditures**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Admin. Support</td>
<td>$487,019</td>
<td>$627,822</td>
<td>$457,980</td>
<td>$572,342</td>
<td>$571,688</td>
</tr>
<tr>
<td>Licenses</td>
<td>387,772</td>
<td>316,179</td>
<td>435,973</td>
<td>468,966</td>
<td>443,488</td>
</tr>
<tr>
<td>Exam Services</td>
<td>5,803</td>
<td>4,330</td>
<td>85</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>DPR Legal Staff</td>
<td>192,094</td>
<td>24,790</td>
<td>85</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>D.O.A. Hearings</td>
<td>53,749</td>
<td>65,681</td>
<td>97,524</td>
<td>101,961</td>
<td>151,215</td>
</tr>
<tr>
<td>Investigative Services</td>
<td>945,437</td>
<td>1,100,467</td>
<td>1,026,686</td>
<td>1,085,906</td>
<td>1,219,599</td>
</tr>
<tr>
<td>Consumer Complaint</td>
<td>98,692</td>
<td>94,514</td>
<td>60,772</td>
<td>55,901</td>
<td>12,234</td>
</tr>
<tr>
<td>Atty General's Ofc.</td>
<td>113,583</td>
<td>96,774</td>
<td>101,177</td>
<td>106,000</td>
<td>102,374</td>
</tr>
<tr>
<td>Board Admin Office</td>
<td>2,924,663</td>
<td>3,101,325</td>
<td>2,915,083</td>
<td>6,882,945*</td>
<td>4,090,729*</td>
</tr>
<tr>
<td>Registrations</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$5,208,812</strong></td>
<td><strong>$5,431,882</strong></td>
<td><strong>$5,095,280</strong></td>
<td><strong>$9,274,021</strong></td>
<td><strong>$6,591,386</strong></td>
</tr>
</tbody>
</table>

* 85-86 includes a $3,000,000 transfer to the Real Estate Education and Research Foundation, and a loan to the Dept. of Ag. of $665,128. 86-87 includes loans transfers to the Dept. of Community Affairs of $64,704, and the Dept. of Ag. of $665,128.

Because a large surplus has accumulated by 1984 in the real estate portion of the Professional Regulation Trust Fund, license fees were halved in August of 1984 to reduce the
balance. Although fees were increased slightly in February of 1987, by the end of FY 1986-87, the real estate portion of the Professional Regulation Trust Fund showed a deficit of $2.2 million which has been covered by surpluses in the trust fund as a whole. Loans to the Department of Community Affairs and the Department of Agriculture, as well as the investment of $3 million in 1985 to support future projects of the Education and Research Foundation, and the loss of interest revenue on that sum to replenish the general trust fund, contributed to the current deficit. However, according to department staff, gradually increasing costs over the years would have resulted in a deficit occurring at some point in the near future unless fees had been raised to prevent it. The occurrence of temporary deficits as a result of lag time between cost increases and fee increases is not uncommon. Based on a DPR fee study, FREC voted at its September 1987 meeting to amend Rule 21V-1.11, Florida Administrative Code, effective January 1988, to increase certain fees. Among them are the salesman's and broker's biennial license fees which are to increase from $15 to $40 and from $30 to $50, respectively. Cash projections based on increased fees indicate that a deficit of $2.1 million will exist at the end of FY 1987-88, but that an $80,000 surplus will have accrued by the end of FY 1988-89.

d. Licensing Procedures

Real estate licensees constitute the largest single professional group regulated under the DPR with 338,779 active and inactive licensed brokers and salesmen. In addition to the
licensure of brokers and salesmen, the Division of Real Estate registers real estate corporations, partnerships, and branch offices, and issues permits for real estate schools and instructors. The following listing presents the number of licensees, registrants, and permittees as of June 30, 1987:

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brokers</td>
<td>48,755</td>
</tr>
<tr>
<td>Broker-Salesmen</td>
<td>23,686</td>
</tr>
<tr>
<td>Salesmen</td>
<td>266,338</td>
</tr>
<tr>
<td>Corporations</td>
<td>19,846</td>
</tr>
<tr>
<td>Partnerships</td>
<td>315</td>
</tr>
<tr>
<td>Branch Offices</td>
<td>3,025</td>
</tr>
<tr>
<td>Real Estate Schools</td>
<td>265</td>
</tr>
<tr>
<td>Real Estate Instructors</td>
<td>748</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>362,978</td>
</tr>
</tbody>
</table>

Naturally, the regulation of this number of persons and entities requires an organization as large and complex as the Division of Real Estate. A division organizational chart is included in this report as Appendix D.

(1) **Salesmen and Brokers**

Through a careful review of the licensure applications of prospective salesmen and brokers, FREC staff determine who has met the qualifications for licensure and may be allowed to take the salesman's or broker's examination. In addition to the usual personal data, the application form requires the applicant to provide:

- A record of any arrests and criminal convictions;
- A record of any cases pending or court judgments against the applicant which relate to fraudulent or dishonest dealing;
-- A 5-year history of places of employment and residence;

-- Four character references;

-- The date of any previous application or examination for real estate licensure in Florida;

-- A statement of any professional or occupational license revocation or suspension;

-- Information pertaining to any judgment of mental incompetence, use of an alias, or recent practice of real estate without a license;

-- Two passport style photographs;

-- A completed fingerprint card; and

-- A notorized signature.

The salesman's application form includes an employment information section to be completed by the employing broker in order for the applicant to receive an active license immediately upon passing the examination. Applicants who do not furnish employment information receive an inactive license, but may request an active license upon securing employment by filing the appropriate form with the division. Each applicant for licensure as a salesman must submit with his application a $55 fee which includes application processing, the examination, and the license itself. The $15 license fee is refundable if the applicant fails the licensure exam and chooses not to continue to try to qualify for licensure.

The broker's application form requires the applicant to select one of two options for his first
license: continuation of his current employment as a broker-salesman, or an inactive broker's license which may be converted to an active broker's license (upon registration as a real estate brokerage sole proprietorship or as a broker-member of a corporation or partnership) or to a broker-salesman's license. The application fee for licensure as a broker is $70.

Each application and its supplemental documentation are subjected to a methodical review as outlined in the operating manual. If the application proves to be complete and the applicant in conformance with licensure qualifications, the applicant is sent a notice of approval and an admission slip to a scheduled examination. Applications with omissions or minor deficiencies are routed to the correspondence unit and form letters are sent to notify the applicant that further information is needed. Although a fingerprint check is conducted on every applicant, the timely processing of applications mandated by the Administrative Procedure Act (APA) requires the division to continue processing applications while awaiting the results of the criminal background check. However, any applications indicating a criminal record, suspension or revocation of any professional license, or the practice of real estate without a license are brought to the supervisor's attention for further scrutiny. The unit supervisor approves applications with clearly minor criminal violations for further processing. When in doubt, the
application is reviewed by the director and possibly commission counsel. When an application indicates a potentially serious problem, the applicant is notified in order to stop the clock on the application processing timeframe mandated under the APA. The application is held until the fingerprint check is returned and, if necessary, additional information is obtained both from the applicant and from police and court records. Documentation on each case is provided for review by commission members in advance of the meeting at which the case is agendaed. Applicants denied by the FREC may request either a formal hearing through the Department of Administration or reconsideration by the commission at an informal hearing.

If an applicant has a Florida criminal record, the Florida Department of Law Enforcement (FDLE) would already have the applicant's Federal Bureau of Investigation (FBI) prior record on file and can return a fingerprint check in approximately four weeks. Otherwise, the FBI report takes up to 12 weeks. Because of this response time, there are relatively few cases in which the fingerprint check is returned to the division in time for the division to notify an applicant within the 30 days allotted by the APA that his application is being delayed. If a copy of a criminal record obtained through the fingerprint check reveals any crime which was not disclosed on the application, the FREC may revoke the license on the grounds of a fraudulent application.
The real estate profession is one of only 2 professions regulated by the DPR for which the department has the statutory authority (s. 475.175, Florida Statutes) to require the submission of fingerprints by applicants. For each fingerprint card processed, the FDLE charges the division $5 and the FBI charges $14. Out of 32,337 sets of fingerprints checked by the division during the 12 months from September 1986 through August 1987, copies of criminal records were returned for 2,414 applicants. Of these, 214 (9%) revealed offenses serious enough to be brought before the FREC for consideration. Use of fingerprinting not only discourages applicants from falsifying application data, but assists in excluding unscrupulous persons from the profession. As an additional means of determining the general good character of applicants, the division may contact the four persons listed as personal references by each applicant. Due to workload constraints, references are only contacted in cases where there is reason to doubt the applicant's character.

Neither the salesman's nor broker's application requires submission of proof of completion of the required educational courses; however, about half the applicants submit the course completion certificate with their application and this is considered to be in compliance with the requirement of section 475.175, Florida Statutes, that the certificate be submitted at the time of examination. The remainder of the applicants take the
education certificate to the exam site. This arrangement allows applicants to schedule the exam for a date closely following course completion, although they do run the risk of wasting their initial application fee and incurring the $25 reapplication fee if they fail the course and later reapply for licensure. Prospective salesmen must have completed the commission-prescribed Course I, or its approved equivalent, consisting of 63 classroom hours covering specified aspects of the fundamentals of real estate. Prospective brokers must have completed the FREC-prescribed Course II, or its approved equivalent, consisting of 72 classroom hours of instruction.

Those who have met all of the above qualifications are allowed to take the appropriate licensure examination for salesman or broker status. Each exam is prepared by the Education and Examination Services Section of the Division of Real Estate with the assistance of three consultants under contract to the division: a University of Florida professor of real estate, a University of Central Florida professor of tests and measurement, and a consultant in the fields of real estate and examinations. All questions are multiple choice and are randomly selected by computer from a bank of approximately 3500 items. Questions contained in the item bank are developed by the section's examination development specialist, consultants, and testing services, most notably the American College Testing Service. The salesman examination is designed to test the applicant's
knowledge of real estate principles and practices (45 points), law (45 points), and mathematics (10 points), as contained in the commission-prescribed prelicensure course for salesmen. The broker examination covers real estate principles and practices, including appraising, finance, investment, and brokerage management (40 points), real estate law (45 points), and real estate mathematics (15 points). Out of 100 total points on each exam, 75 points is a passing score. The examinations are only administered in English. Before each exam is given, an examination validation committee, consisting of a commissioner, an attorney, the examination section head, and the examination development specialist, meets to review each question for clarity and accuracy. The monthly meeting of the validation committee is held in conjunction with the commission meeting.

Examinations are administered twice each month in Orlando and Miami and on alternate months in Panama City. Each 100-point exam lasts for three and a half hours, with the salesman exam being given in the morning and afternoon and the broker exam being given in the afternoon only. Since both examinations are offered on each test date, a total of 60 exams are conducted each year. The division contracts with a hotel in each city on an annual basis in order to provide examination facilities convenient to the many examinees who must travel more than a short distance to the site. The commission would prefer to use
community colleges or universities as exam sites, but they are unwilling to schedule far enough in advance. Although the cost for hotel space seems high, it must be remembered that as many as 1,000 candidates may be tested in a single day. The cost of these facilities for the previous 5 years is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Court of Flags Orlando</th>
<th>Viscount Hotel Miami Springs</th>
<th>Holiday Inn Panama City</th>
</tr>
</thead>
<tbody>
<tr>
<td>1983</td>
<td>$800/day</td>
<td>$1,000/day</td>
<td>$900/day</td>
</tr>
<tr>
<td>1984</td>
<td>$800/day</td>
<td>$1,000/day</td>
<td>$900/day</td>
</tr>
<tr>
<td>1985</td>
<td>$1,300/day</td>
<td>$1,000/day</td>
<td>$900/day</td>
</tr>
<tr>
<td>1986</td>
<td>$1,300/day</td>
<td>$1,000/day</td>
<td>$900/day</td>
</tr>
<tr>
<td>1987</td>
<td>$1,300/day</td>
<td>$1,000/day</td>
<td>$900/day</td>
</tr>
</tbody>
</table>

Pursuant to section 475.175(1)(b), Florida Statutes, each examinee must submit at the time of the exam the admission slip, with photograph attached, and proof of identification. This prevents any person from sending another to take the exam in his name. One or more examination supervisors are hired under annual contract for each exam site to conduct and supervise the examination. The supervisor hires one examination proctor for approximately each 25-30 candidates.

Professional Testing Service (PTS) is under contract to the division to print the exams, deliver them to the exam sites, return them to the testing service's office, grade the exams, print the results, and furnish the
results, along with an item analysis and other data, to the division. PTS is paid on a per candidate basis which over the past five years has averaged $3.50 per candidate. The total costs for examination development and administration, including the rental of test sites, hiring of supervisors and proctors and the contract with PTS, averaged $7.50 per candidate over the last five years. Special examinations for handicapped candidates are handgraded by the division's examination development specialist.

After each scheduled examination is administered, graded, and the results forwarded to the division, the validation committee checks the item analysis for each question to identify incorrectly scored questions and to locate questions which were missed by more than 50 percent of the candidates. Examinees are not penalized for such apparently faulty questions. The division forwards to the HRS Data Center in Jacksonville the computer tape containing the examination grade information so that this data may be incorporated with the previously entered candidate information. Licenses for successful candidates and failure notices for unsuccessful candidates are printed by the DPR in Tallahassee. The licenses and notices are delivered by courier to the division offices in Orlando where they are immediately checked for accuracy and mailed to applicants, usually on the same day they are received by the division. According to division staff, the entire
processing time from the day of examination until the license or notice is mailed takes from two to three weeks.

As required by section 119.07(3)(a) and (c), Florida Statutes, which exempts licensure examinations from the public records law, any person who has taken a licensure exam has the right to review his own completed exam. The division provides a room and staff assistance to examinees who wish to review their exam. There are no restrictions on the number of times a candidate may take an exam and approximately 86 percent of those who fail the first time persevere until they succeed. The following table presents the success rate on the salesman's and broker's examinations:

<table>
<thead>
<tr>
<th>Examination Attempts</th>
<th>Percent Passing</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Salesman Exam</td>
</tr>
<tr>
<td>1st</td>
<td>72%</td>
</tr>
<tr>
<td>2nd</td>
<td>50%</td>
</tr>
<tr>
<td>3rd</td>
<td>33%</td>
</tr>
<tr>
<td>4th</td>
<td>25%</td>
</tr>
<tr>
<td>more than 4</td>
<td>22%</td>
</tr>
</tbody>
</table>
The table below shows the volume of examinations for salesmen and brokers administered during the past five years.

**TABLE 5**

<table>
<thead>
<tr>
<th>Year</th>
<th>Scheduled</th>
<th>Examined</th>
<th>Pass</th>
<th>%</th>
<th>Fail</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1982-83</td>
<td>38,291</td>
<td>28,391</td>
<td>18,454</td>
<td>65%</td>
<td>9,937</td>
<td>45%</td>
</tr>
<tr>
<td>1983-84</td>
<td>47,846</td>
<td>42,941</td>
<td>27,485</td>
<td>64%</td>
<td>15,456</td>
<td>36%</td>
</tr>
<tr>
<td>1984-85</td>
<td>49,221</td>
<td>39,422</td>
<td>25,940</td>
<td>66%</td>
<td>13,482</td>
<td>34%</td>
</tr>
<tr>
<td>1985-86</td>
<td>41,092</td>
<td>37,619</td>
<td>25,238</td>
<td>67%</td>
<td>12,381</td>
<td>33%</td>
</tr>
<tr>
<td>1986-87</td>
<td>46,976</td>
<td>41,069</td>
<td>24,641</td>
<td>60%</td>
<td>16,428</td>
<td>40%</td>
</tr>
</tbody>
</table>

Table 6 presents the number of salesmen and brokers licensed as of June 30, 1987:

**TABLE 6**

<table>
<thead>
<tr>
<th></th>
<th>Active</th>
<th>Inactive</th>
<th>Out-of-State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salesmen</td>
<td>158,811</td>
<td>102,030</td>
<td>5,497</td>
</tr>
<tr>
<td>Broker-Salesmen</td>
<td>23,312</td>
<td></td>
<td>374</td>
</tr>
<tr>
<td>Brokers</td>
<td>33,714</td>
<td>13,832</td>
<td>1,209</td>
</tr>
<tr>
<td>TOTAL</td>
<td>215,837</td>
<td>115,862</td>
<td>7,080</td>
</tr>
</tbody>
</table>

* The number of inactive broker-salesmen is included with the total for inactive brokers.

Only California has more active licensees than Florida. When inactive licensees are included, Florida leads the nation in the number of licensed real estate brokers and salesmen. With nearly three percent of its population licensed in the real estate profession, Florida ranks a close second to
Massachusetts where slightly over three percent of the populace holds a real estate license.

(2) Corporations and Partnerships

Section 475.15, Florida Statutes, requires each corporation or partnership acting as a real estate broker to register with the FREC and to renew the licenses of its members, officers, and directors. A partnership's registration is automatically canceled during any period of time in which the license of any partner is not in force. A corporation's registration is automatically canceled during any time period in which the license of at least one active broker is not in force. An application for corporate registration requires at least one registered active broker, a listing of all officers and directors, a copy of the certificate of incorporation, and payment of a $40 fee. Registration as a partnership requires at least one registered active broker, a listing of all members, proof of an advertised and registered fictitious trade name, and payment of a $40 fee. The annual renewal fee, which is collected on a biennial basis, is $40 for each corporate or partnership registration. Changes in recent years in the processing of corporation and partnership registration have cut the turnaround time from 3 months to 10 days. As of June 1987, there were 19,846 corporations and 315 partnerships registered with the Division of Real Estate.

The 1978 Sunset review report questioned the necessity of maintaining separate records on corporations and
partnerships because this information could be accessed and compiled from division records on individual licensees and from Department of State records on incorporations. Division staff concede that corporate and partnership registration may not be essential, but find it to be very helpful for a number of reasons. First, the FREC must be able to exercise control over entities as well as persons and registration is the means of doing so. Registration is also a way of ensuring that an actively licensed broker is in charge of an operation. Finally, registration records enable the division to readily answer numerous inquiries about corporations' officers, directors, and general legitimacy.

(3) Schools and Instructors

Section 475.451, Florida Statutes, requires any person, school, or instructor which offers courses in real estate practice to obtain a permit from DPR. Accredited colleges and universities are exempt from this requirement. The law specifies the following three categories of permitholders, requires them to meet the general qualifications for practice imposed on salesmen and brokers under section 475.17(1), Florida Statutes, and establishes certain other requirements:

-- A "school permitholder" is an individual responsible for directing the overall operation of a real estate school. He must be a licensed broker or have passed the school instructor's exam given by the DPR. If actively engaged in teaching, he must also meet the requirements for school instructors. The annual permit fee for a school
permitholder is $50, which fee is calculated biennially.

-- A "school chief administrative person" is an individual who is responsible for the administration of the overall policies and practices of a school. No specific qualifications apply to school administrators, except that a school administrator must meet the requirements for a school instructor if he is to be actively engaged in teaching. The annual $25 permit fee is collected on a biennial basis.

-- A "school instructor" is an individual who actively instructs in the classroom. He must certify his competency by passing a written examination for instructors. In addition, each instructor must biennially recertify his competency by successfully completing at least 15 classroom hours of instruction in real estate subjects or instructional techniques. The annual permit fee of $25 is collected biennially.

As of June 30, 1987, there were 748 persons holding permits as real estate instructors and 265 real estate schools holding current permits. Including accredited colleges and universities, which are exempt from regulation by the Division of Real Estate, there are currently over 300 institutions and schools in Florida offering the commission-prescribed prelicensure education courses. Most of these also offer a pre-examination review course which must comply with rule 21V-17.09, Florida Administrative Code. According to division records, approximately 75 percent of all initial and repeat applicants take an exam preparation course before sitting for the licensure examination.

(4) Renewals
All licenses of salesmen and brokers, registrations of corporations and partnerships, and permits of school permitholders, administrators, and instructors must be renewed biennially. Pursuant to section 475.182, Florida Statutes, any license which is not renewed at the end of the biennium reverts automatically to inactive status. For ease of administration, the division has designated two points in the year, September 30 and March 31, as renewal dates. Thus, licenses are scheduled for renewal on the specified date most closely following the second anniversary of licensure. Sixty days prior to the end of the biennium, the DPR mails each licensee a notice of renewal which includes notification of the possible reversion to inactive status. Each category of licensee must meet specific requirements and provide certain information on the renewal form:

--Brokers: Current business address, trade name, residence address, status as officer, director, or member of a corporation or partnership, proof of completion of 14 hours of continuing education, his signature, and a $30 fee.

--Salesmen: Current employer, business address, residence address, proof of completion of 14 hours of continuing education, his own and his employer's signatures, and a $15 fee.

--Non-active salesmen and brokers: Current residence address, mailing address, proof of completion of 14
hours of continuing education, his signature, and a fee of $15 or $30, respectively.

--Corporations: Current business address; a list of all officers and directors, their positions, and whether active or non-active; the signature of one of the active broker officers or directors; and a $40 fee.

--Partnerships: Current business address, a list of all partners, the signature of the broker-partner, and a $40 fee.

--Branch offices: Current location of the branch office, signature of the broker, and a $40 fee.

--Schools and instructors: Current location of the school; number of persons teaching; whether any actions have been filed against the school in any civil or criminal court; any guarantee made to prospective students; whether engaged in any other business or occupation; the signature of the school administrator or the instructor, and a $100 fee for a school or $50 for an instructor.

Continuing education for broker-salesmen is provided by the Division of Real Estate through its educational caravan which appears in eight locations throughout the state each year to provide the required 3-hour "core" law course plus 4 hours of the required 11-hour specialty course. Seminars are conducted by the division director, the education supervisor, and an assistant attorney general. If non-staff persons provide
instruction, only their expenses are paid by the division. The additional 7 hours of specialty course credit is provided by the Florida Association of Realtors in conjunction with the caravan. These seminars are free and are open to brokers, salesmen, and members of the general public. In addition to offering timely information to licensees, the caravan is an opportunity for division staff to get feedback from licensees about problems they are encountering and areas of the law or rules which need clarification. Since approximately 90 percent of licensees choose to complete their continuing education requirement by correspondence, the caravan serves a relatively small percentage of licensees which totals about 3,000 persons per year. Operating within a budget of $21,000 per year results in a cost per person of about $7. Division staff have considered charging a nominal fee of $5-10 to cover costs and to ensure that individuals who make a reservation do attend the training.

The department prints and mails the routine renewals for individual licensees. Renewals involving changes and those for corporations, partnerships, and schools are handled by the division.

e. Enforcement

(1) Complaints

Pursuant to section 475.25, Florida Statutes, the commission may deny, suspend, or revoke a license, impose an administrative fine up to $1,000, or issue a reprimand if it finds that a licensee, permittee, or applicant has committed any
specified violation, including the contravention of any provision of chapter 475, Florida Statutes, or any commission rule, fraud or dishonest dealing, failure to account for or deliver escrow funds, obtaining a license through misrepresentation, or temporary incapacity due to drug abuse or mental derangement.

When a complaint related to real estate activities is received by the division, it is reviewed by one of the two complaint analysts who makes a determination concerning the complaint's legal sufficiency and the division's legal jurisdiction over the person named in the complaint. If the complaint is legally sufficient and concerns a matter over which the division has jurisdiction, the complaint is recorded, assigned a case number, and forwarded to the appropriate investigative field office for assignment to an investigator. The licensee is notified that a complaint has been filed against him and that an investigation is being conducted. The investigator interviews the complainant, the defendant licensee, registrant, or permittee, and any witnesses, all of whom may have legal counsel in attendance if they wish. The investigator obtains copies of all documentary evidence in the complainant's possession. A written report is prepared and submitted for review by the immediate supervisor, then is transmitted to the division's legal section for review and preparation for consideration by the commission's probable cause panel. Cases involving allegations of unlicensed practice of the profession are referred to the state attorney's office for criminal prosecution. In 1986-87, the average time between receipt of a
complaint by the investigative field office and transmittal of the investigative report to the legal section was 51 days.

The probable cause panel, consisting of two commission members, reviews each disciplinary case and may: 1) dismiss a case for lack of probable cause, 2) find probable cause but dismiss the complaint with a letter of guidance to the licensee because the licensee has rectified the problem or mitigating factors applied to the case, or 3) find probable cause, file an administrative complaint against the licensee, and prosecute the complaint. The proceedings are subject to the provisions of the Administrative Procedure Act, chapter 120, Florida Statutes. (Appendix E contains a flowchart of the DPR disciplinary procedure.) If there is any disputed issue of material fact, a formal hearing before a hearing officer from the Division of Administrative Hearings of the Department of Administration may be requested by the accused. The hearing officer's recommended order, along with all pertinent documents, is sent back to the commission for final agency action. If the material facts are not disputed, i.e., the accused admits the allegations, the accused may seek an informal hearing before the commission at which mitigating evidence may be presented. In any event, the commission, sitting without the members who served on the probable cause panel, issues the final order in each disciplinary case. The licensee may appeal the decision through the district court.

The major categories of complaints against brokers and salesmen include: failure to account; failure to
properly handle monies received; concealment; misrepresentation; failure to supervise; conspiracy; use of a trick, scheme, or device in the sale of property; negligence; incompetence; and unlicensed activity.

Table 7 presents statistics on the number of complaints against licensees and their disposition over the last five years:

TABLE 7
Complaints and Investigations

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaints Filed</td>
<td>3,755</td>
<td>2,825</td>
<td>2,974</td>
<td>4,134</td>
<td>3,511</td>
</tr>
<tr>
<td>Investigations</td>
<td>3,075</td>
<td>2,469</td>
<td>2,809</td>
<td>2,943</td>
<td>2,331</td>
</tr>
<tr>
<td>No Violation Found</td>
<td>1,651</td>
<td>1,959</td>
<td>1,275</td>
<td>1,314</td>
<td>1,471</td>
</tr>
<tr>
<td>Letters of Guidance</td>
<td>201</td>
<td>185</td>
<td>180</td>
<td>206</td>
<td>268</td>
</tr>
<tr>
<td>Admin. Complaints Filed</td>
<td>757</td>
<td>337</td>
<td>374</td>
<td>443</td>
<td>512</td>
</tr>
<tr>
<td>Penalty Imposed*</td>
<td>321</td>
<td>246</td>
<td>243</td>
<td>339</td>
<td>313</td>
</tr>
</tbody>
</table>

* Includes licenses surrendered voluntarily.
Table 8 represents the disciplinary sanctions imposed against licensees found to be in violation of law or rule over the last five years:

**TABLE 8**  
**Disciplinary Actions**

<table>
<thead>
<tr>
<th>Year</th>
<th>Licenses Revoked</th>
<th>Licenses Surrendered</th>
<th>Licenses Suspended</th>
<th>Fines</th>
<th>Reprimands</th>
<th>TOTALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1982-83</td>
<td>122</td>
<td>7</td>
<td>64</td>
<td>79</td>
<td>38</td>
<td>321</td>
</tr>
<tr>
<td>1983-84</td>
<td>70</td>
<td>6</td>
<td>19</td>
<td>78</td>
<td>36</td>
<td>246</td>
</tr>
<tr>
<td>1984-85</td>
<td>69</td>
<td>19</td>
<td>46</td>
<td>85</td>
<td>24</td>
<td>243</td>
</tr>
<tr>
<td>1985-86</td>
<td>128</td>
<td>55</td>
<td>62</td>
<td>66</td>
<td>28</td>
<td>339</td>
</tr>
<tr>
<td>1986-87</td>
<td>119</td>
<td>30</td>
<td>55</td>
<td>71</td>
<td>30</td>
<td>313</td>
</tr>
</tbody>
</table>

(2) **Commission Meetings**

The Florida Real Estate Commission meets once each month, with the exception of November and December when a single combined meeting is held, at its executive offices in Orlando. Each meeting is scheduled for two or three days, depending on the amount of business which must be conducted. At its meetings, the commission reviews applications, certifies applicants for licensure, adopts and amends rules, conducts informal disciplinary proceedings, determines probable cause, takes final agency action in disciplinary cases, and addresses issues relevant to the regulation of real estate practice. Prior to each meeting, commission staff distribute an agenda and provide each commission member with documents related to each case scheduled for review so that members will have an opportunity to become informed about each case. Meetings are conducted in conformance with the Administrative Procedure Act, chapter 120, Florida Statutes, and decisions are made by majority vote. Commission proceedings are recorded on audio tape and by a
court reporter, and official minutes are made available to the public.

In FY 1986-87, the average cost per commission meeting was $1,930.00. This figure is based on eleven 2-day meetings and includes travel for the six commission members who do not reside in Orlando, per diem of $50 each day for each member, and a court reporter's fee of $185 for two days.

(3) Escrow Disbursement Orders

Pursuant to section 475.25(1)(d), Florida Statutes, the FREC may discipline any licensee for failing to properly account or deliver any escrowed funds or other property. If the licensee is in doubt as to what person is entitled to the escrowed property, or if conflicting demands have been made, the licensee must exercise one of the three options for resolving the conflict: with the consent of all parties, submit the matter to arbitration; by interpleader or otherwise, seek adjudication of the matter by a court; or request the FREC to issue an escrow disbursement order determining who is entitled to the escrowed property. Employing one of these escape procedures, and abiding by the resulting judgment or order, bars any administrative action against the licensee for failing to account for, deliver, or maintain the escrowed property.

Rule 21V-10.32, Florida Administrative Code, clarifies a broker's responsibilities when a transaction fails to close. It requires a broker to notify the FREC in writing within five working days when conflicting demands have been made on an
earnest money deposit held in the broker's escrow account. The broker must institute one of the three procedural options specified in statute within 30 days of the last party's demand. When a broker has good faith doubt regarding who is entitled to an earnest money deposit, he must notify the FREC in writing within 15 working days from the contractual closing date and must initiate one of the three approved procedures within 30 days after the scheduled closing date. Chapter 21V-14, Florida Administrative Code, addresses deposits and escrows in general, defines those terms, and clarifies the general rights and duties of a broker regarding escrow disbursements.

Circumstances relating to both sales deposits and security deposits can create uncertainty or conflict over entitlement to escrowed funds, but brokers request EDO's primarily in connection with the refund of earnest money. Disputes often occur when a transaction fails to close for a specific reason, such as the inability to secure financing, and the prospective buyer, who had failed to cover that contingency in the binder contract, believes he is entitled to a refund of his earnest money. Another common problem with the delivery of escrows occurs when a broker, in writing, requests permission of the seller to refund binder money when a transaction has failed to close. If the broker fails to set a deadline for a response from the seller, he may wait indefinitely to be free to disburse the funds.

In cases such as these, a broker may request that the FREC issue an escrow disbursement order. The broker's
letter is reviewed by a complaint analyst who sends the broker a 4-page form he must use to describe the problem and his perception of the buyer's and seller's reasons for not closing. Upon its return, the form and copies of the contracts associated with the case are routed to one of the commission's three attorneys who make an assessment on the basis of contract law and the apparent facts of the case as to which party is entitled to the escrow property. Field investigators may be called upon to verify facts, such as whether the buyer made a good faith effort to secure financing, but these inquiries seldom amount to the extensive type of investigation conducted in disciplinary cases. Neither the buyer nor the seller have the opportunity to present their side of the story. Security deposit EDO requests often cannot be handled by the FREC because it has no means of resolving factual disputes concerning alleged property damage.

Staff provides the commission members with proposed escrow disbursement orders for their review prior to each commission meeting. Members identify the cases which they wish to review individually at the meeting and vote on the others en masse.

In the past, EDO's were called "advisory opinions" and prior to 1980 the commission received only one or two dozen notices of escrow conflicts each month. During the last few years, however, the number of requests for EDO's has increased dramatically as a result of commission emphasis on the proper handling of escrows and the establishment of time limits within which a broker must initiate the resolution of any escrow dispute. In 1986-87, the commission issued an average of 76
EDO's each month. Staff assigned by the Attorney General to serve as counsel to the commission estimate that 25-30 percent of their time is devoted to the processing of escrow disbursement orders. In addition, an estimated 80 percent of the work hours of one of the two secretaries from the Attorney General's office is absorbed by EDO-related paperwork. A word processor was obtained for the office largely because of the bulk of the EDO workload. Table 9 shows the number of notices of conflict or good faith doubt on escrowed property sent by brokers to the FREC, the number of EDO's issued, and the number of field investigations conducted.

TABLE 9

<table>
<thead>
<tr>
<th></th>
<th>Notices of Escrow Conflict</th>
<th>EDO's Issued</th>
<th>Field Investigations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1983-84</td>
<td>1,322</td>
<td>547</td>
<td>677</td>
</tr>
<tr>
<td>1984-85</td>
<td>1,683</td>
<td>633</td>
<td>962</td>
</tr>
<tr>
<td>1985-86</td>
<td>2,365</td>
<td>1,041</td>
<td>663</td>
</tr>
<tr>
<td>1986-87</td>
<td>2,609</td>
<td>910</td>
<td>415</td>
</tr>
</tbody>
</table>

The number of EDO's issued does not reflect the actual work involved for commission counsel because many more EDO's are requested and analyzed than are issued. Although precise data are not maintained, FREC staff estimates that the EDO's issued represent between 40 percent and 50 percent of those requested and handled. There are a number of reasons why an EDO request may not result in the issuance of an order. If a question of material fact is involved, the FREC will not act in the role of a civil court and so the broker is notified that no
order will be issued. If review of the documents leads to the conclusion that there is, in fact, no conflict, that the sums involved are too large (the EDO does not protect the broker from a civil suit), or that the case is too complex to be resolved outside of court, the commission will not make a determination. In some instances, the parties resolve their conflicts before the commission has time to respond to the EDO request. Finally, as a result of *Cortes v. Adair*, 494 So.2d 523 (Fla. App. 3 Dist. 1986), the default clause in a commonly used contract form was declared defective because of its lack of mutuality and unenforceable as a matter of law. The commission, therefore, no longer issues EDO's in cases involving that contract.

Naturally, any escrow disbursement order results in one party being a winner and the other party a loser. The discontented may still exercise their other options for conflict resolution through arbitration or the courts, although it is unlikely that the party to whom the funds were disbursed would then agree to arbitrate. It is more likely that the dissatisfied party would sue the broker for whatever portion of the escrowed funds he believes to be his due. Since many of the sums involved fall within the limits for small claims court, the cost is not usually prohibitive. The EDO process is essentially free to all parties concerned and usually takes at least 4 weeks since the commission must meet to vote on any order. In general, the EDO process offers the consumer a small savings in time and expense, but does not necessarily provide a final resolution to the conflict. The division does not track the number of EDO's.
which are later overturned by the courts, so the extent to which the EDO serves the buyer and seller by resolving the dispute cannot be determined. Data is not available on the number of cases which could have been resolved in small claims court, so the extent to which the EDO process offers a cost savings to the consumer is unclear.

Brokers, on the other hand, seem to benefit in several ways from the EDO process. It provides an easy and virtually free solution to a common problem and relieves brokers of the burden of trying to resolve the conflict. In addition, in certain contract forms, the broker receives half of the commission if the buyer defaults, so the broker has an automatic bias in favor of the seller being awarded the escrowed funds.

(4) Florida Real Estate Recovery Fund

The Florida Real Estate Recovery Fund, created pursuant to section 475.482, Florida Statutes, provides for the reimbursement of persons who have suffered monetary damages resulting from the actions of a real estate salesman or broker in a real estate transaction, if such action is in violation of the provisions of chapter 475, Florida Statutes. The fund may also be used to reimburse any salesman or broker who has been required by the courts to pay money damages due to a distribution of escrow monies made in compliance with a FREC escrow disbursement order. On July 1, 1976, the fund was activated by the transfer of $250,000 from the real estate trust fund. Additional revenues for the fund were obtained through surcharges added to the fees,
for both new licenses and renewals, of $3.50 per year for brokers
and $1.50 per year for salesmen. These fees were collected only
during the biennial renewal period beginning October 1, 1976, and
ending September 30, 1978. According to data collected by the
National Association of Real Estate License Law Officials,
Florida's recovery fund fees are among the lowest in the nation.

To recover from the fund, claimants must meet
certain conditions specified in statute. First, civil
proceedings in a Florida court of competent jurisdiction must
have determined the validity of the claimant's case alleging a
violation of the Florida real estate law. Rule 21V-22.01,
Florida Administrative Code, requires the judgment to be against
an individual real estate broker or salesman. At the time the
suit was filed, the claimant must have notified the FREC by
certified mail (the commission may waive this requirement if a
claim is otherwise valid) and both the civil suit and the
recovery fund claim must be filed within two years of the alleged
wrongdoing. In addition, the claimant must have caused to be
issued a writ of execution upon the court's final judgment and
the officer executing the writ must have made a return that no
personal or real property liable to be levied upon in
satisfaction of the judgment can be found or that the proceeds of
the liquidation of the debtor's property were insufficient to
satisfy the judgment. Any amounts recovered from the judgment
debtor, or from any other source, must have been applied to the
damages awarded by the court.
Those who are ineligible to make a claim include the spouse of the judgment debtor or the spouse's personal representative, any licensed salesman or broker who acted as principal or agent in the transaction which is the subject of the claim, and any person whose claim is based upon a real estate transaction in which the licensed broker or salesman was acting on his behalf with respect to the property owned or controlled by him. The commission may pay attorney's fees and court costs for claims involving the reimbursement of a licensee for damages resulting from a commission escrow disbursement order. In order to protect the fund from claims based on default judgments, the commission may also intervene and take any action it deems appropriate on behalf and in the name of the defendant.

In order to make the public aware of the Real Estate Recovery Fund, upon determining that a complaint is legally sufficient the division complaint analysts notify the complainant that he may be eligible for recovery from the fund and enclose an information sheet describing the preliminary steps to take in initiating a claim. When a claim against the fund is filed, FREC general counsel reviews the civil complaint and judgment and attendant documents to determine eligibility according to the statutory criteria described above. The court judgment is accepted and the recovery fund claim review in no way entails a retrying of the case. The FREC issues an order to pay the claim based on the recommendation of counsel. Claims are typically paid with 90 days of the civil determination. Claimants may appeal denied claims through the district courts.
Successful claimants must assign their interest in the judgment, to the extent of the payment received from the fund, to the commission, and any amount subsequently recovered by the commission on the basis of that judgment must be used to reimburse the recovery fund. With the exception of claims based on a judgment against a broker or salesman as a result of compliance with an escrow disbursement order, payment of any amount from the recovery fund in settlement of a claim against a licensee automatically revokes that person's license.

Payments from the fund are limited to $25,000 for each claim or claims arising out of the same transaction. A maximum of $50,000 may be recovered for claims based upon judgments against any one broker or salesman. (Prior to 1983, the amounts were $10,000 for individual claims and $20,000 in the aggregate for a given broker or salesman.)

The table below presents the number of claims made, the number and amount of claims paid, and the fund balance at the end of the fiscal year during the last five years.
TABLE 10

Recovery Fund Statistics

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Claims Made</th>
<th>Claims Granted</th>
<th>Amount Paid</th>
<th>Year End Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1982-83</td>
<td>72</td>
<td>10</td>
<td>$40,038.65</td>
<td>$1,155,288</td>
</tr>
<tr>
<td>1983-84</td>
<td>83</td>
<td>25</td>
<td>$170,935.50</td>
<td>1,127,295</td>
</tr>
<tr>
<td>1984-85</td>
<td>51</td>
<td>22</td>
<td>$125,461.51</td>
<td>1,076,804</td>
</tr>
<tr>
<td>1985-86</td>
<td>66</td>
<td>41</td>
<td>$199,302.13</td>
<td>949,422</td>
</tr>
<tr>
<td>1986-87</td>
<td>71</td>
<td>46</td>
<td>$308,230.58</td>
<td>709,714</td>
</tr>
<tr>
<td>TOTAL</td>
<td>343</td>
<td>144</td>
<td>$843,968.37</td>
<td></td>
</tr>
</tbody>
</table>

* Includes accrued interest.

According to staff of the Division of Real Estate, failure to account and deliver escrowed funds is by far the most common basis for claims paid from the fund. In 1986-87, 46 claims were paid on the basis of the following violations:

TABLE 11

<table>
<thead>
<tr>
<th>Violation</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to account and deliver</td>
<td>34</td>
</tr>
<tr>
<td>Fraud and misrepresentation</td>
<td>8</td>
</tr>
<tr>
<td>Breach of trust</td>
<td>2</td>
</tr>
<tr>
<td>EDO reversed</td>
<td>2</td>
</tr>
<tr>
<td>TOTAL</td>
<td>46</td>
</tr>
</tbody>
</table>

The Florida Real Estate Recovery Fund provides an additional measure of consumer protection for Florida citizens in cases where a licensee has violated chapter 475, Florida Statutes. According to the National Association of Real Estate License Law Officials, 34 states and the District of Columbia have established real estate recovery funds. Four states,
Alaska, Massachusetts, Tennessee, and West Virginia, require surety bonds instead. In addition to its primary purpose as a consumer protection mechanism, the recovery fund enhances the public image of the real estate industry and serves as an inexpensive alternative to surety bonds or liability insurance policies for licensees.

2. Compliance With the Law

a. Agency Compliance

The principal responsibilities of the Florida Real Estate Commission are to prescribe real estate educational course content, devise and administer licensure examinations, certify applicants for licensure in accordance with statutory requirements, and exercise the disciplinary power against licensees authorized under chapter 475, Florida Statutes. Detailed administrative rules have been adopted to guide the implementation of the regulatory statute. The refinement of internal processes of the Division of Real Estate in recent years has increased the efficiency of licensure and enforcement operations. There is no indication of commission or division noncompliance with the law.

b. Licensee Compliance

Statistics on disciplinary actions against licensees indicate a high level of conformance with the requirements of chapter 475, Florida Statutes. In FY 1986-87, 313 licensees were disciplined by the commission through
reprimands, fines, suspensions, or revocations; however, this number represents less than two tenths of one percent of all actively licensed salesmen, broker-salesmen, and brokers. The 119 licenses revoked constituted less than one tenth of one percent of all active licensees. Although a large number of consumer complaints are filed with the division each year (3,511 in FY 1986-87), only about 15 percent of the cases ultimately reveal an infringement of law or rule.

In addition to the 512 disciplinary sanctions imposed on licensees in FY 1986-87, the commission issued 268 letters of guidance. These letters inform the licensee that probable cause was found to believe that he violated the real estate license law but that his correction of his mistakes or the existence of extenuating circumstances has caused the commission to refrain from formal disciplinary action. The licensee is advised of his errors, directed to review the relevant laws and rules, and cautioned to conduct himself accordingly in the future.

D. Cost and Benefits of Regulation

1. The Profession

   a. Cost

   Section 475.125, Florida Statutes, authorizes the FREC to establish fees for application, examination, reexamination, licensing and renewal, reinstatement, and recordmaking and recordkeeping. The fee for initial application
and examination and the fee for biennial renewal are each capped at $100. While staying within this limit, the commission must establish fees at a level adequate to fund its operation. Gradually increasing costs, as well as a reduction in surplus funds and interest income resulting from the assignment of $3 million to fund Education and Research Foundation projects, led the commission at its September 1987 meeting to approve modest increases in several fees. The proposed amendments to Rule 21V-1.11, Florida Administrative Code, following public hearings in December, would take effect January 1, 1988. The following table lists the various fees currently established by commission rule:
### TABLE 12
Licensure, Permit, and Registration Fees

<table>
<thead>
<tr>
<th>Brokers &amp; Salesmen</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Application &amp; exam fee</td>
<td></td>
</tr>
<tr>
<td>broker</td>
<td>$40</td>
</tr>
<tr>
<td>salesmen</td>
<td>40</td>
</tr>
<tr>
<td>Reapplication fee (within 12 months)</td>
<td>25</td>
</tr>
<tr>
<td>Reapplication fee (after 12 months)</td>
<td>40</td>
</tr>
<tr>
<td>broker</td>
<td>40</td>
</tr>
<tr>
<td>salesman</td>
<td>40</td>
</tr>
<tr>
<td>Reinstatement</td>
<td>20</td>
</tr>
<tr>
<td>Biennial license fee</td>
<td></td>
</tr>
<tr>
<td>broker</td>
<td>30</td>
</tr>
<tr>
<td>salesman</td>
<td>15</td>
</tr>
<tr>
<td>branch office for broker</td>
<td>40</td>
</tr>
<tr>
<td>Change from individual status to</td>
<td>10</td>
</tr>
<tr>
<td>professional assoc.</td>
<td></td>
</tr>
</tbody>
</table>

| Real Estate Schools                    |  |
| Application for examination            |  |
| school permit holder                   | 40 |
| school instructor                      | 40 |
| Reapplication fee (within 12 months)   | 25 |
| Reapplication fee (after 12 months)    | 40 |
| Biennial permit fees                   |  |
| school permit holder                   | 100|
| school instructor                      | 50 |
| chief administrative person            | 50 |
| continuing ed. course--appl. for approval | 50 |
| continuing ed. course--annual renewal  | 50 |

| Corporations & Partnerships            |  |
| Application for registration           | 40 |
| Biennial renewal                       | 40 |

| Miscellaneous                          |  |
| Change of exam date less than          |  |
| 7 days prior to scheduled date         | 12 |
| Returned checks                         | 10 |
| (or an amount up to 5% of the face amount of the check, whichever is greater) |  |

In addition to the various fees charged by the commission, prospective licensees must bear other costs which are related to education and examination requirements. A best-case
scenario for achieving broker status could condense the education and experience requirements into less than 18 months for a total cost of approximately $700. In addition to fees, this figure includes $300 for educational expenses and $200 for travel to the examination sites. This example assumes that the applicant passed the broker and salesman exams on the first attempt and was conservative in selection of schooling and travel arrangements. In general, it can be concluded that the cost of regulation does not unduly restrict entry into the profession.

b. Benefits

All professional licensing laws tend to have an anti-competitive impact because persons who are unable to meet licensure requirements are excluded from the profession. Certainly the real estate license law is no exception to this general rule since applicants must demonstrate good character and a certain level of professional competence in order to be granted a license, and those who fail to maintain an acceptable standard of conduct may lose the privilege of practicing real estate in Florida. That there are over 215,000 active licensees in the state clearly indicates that a restriction of competition is not a primary benefit to the profession resulting from regulation.

Probably of greater benefit to the profession is the increased prestige and credibility due to the exclusion of incompetent and unethical practitioners. Professional licensure fosters a public perception of individual professional competence and tends to enhance licensees' reputations.
Finally, the FREC is required by law to promote the education of licensees and they benefit from the educational services provided. The commission publishes a real estate handbook and a brokers textbook, and produces a monthly newsletter containing articles on a wide variety of topics related to correct real estate practice. In addition, the commission conducts a portion of the continuing education hours required for license renewal.

2. The Public

a. Cost

In the field of professional regulation it is generally accepted that regulatory costs are ultimately paid by the public through increased professional fees. Although there is no reason to believe that this logic would not apply to the real estate profession, it is also true that the requirements for licensure can be met for a fairly modest cost. Assuming that licensees shift the cost of statutory compliance to the consumer, then the cost of real estate regulation to the public in 1986-87 was $4,452,769. This figure includes the total revenues of the Division of Real Estate from fees, fines, and other sources such as handbook sales, but not including trust fund interest. Although on a practical level the total cost of regulation includes applicant's educational expenses and licensees' costs of compliance with the requirements of good business practice, a simple comparison of the division's revenues with the value of real estate transactions closed in the state during a given year
illustrates the minimal impact on the public of the cost of regulation. For 1985, extrapolations from the Department of Revenue's documentary stamp tax data place a conservative estimate of the total dollar value of real estate transactions in Florida at over $23 billion.

b. Benefits

Protecting the public from economic loss is the purpose of the real estate license law. Although no law can guarantee perfect performance and consistent integrity from each licensee, chapter 475, Florida Statutes, provides a reasonable assurance of competence, through education and examination requirements, and of good character, through criminal background and reference investigations. The enforcement powers of the FREC act as a deterrent to dishonest dealing and provide the public with an avenue for complaint and retribution against licensees who violate the law.

E. POTENTIAL IMPACT OF NON-REGULATION

1. Impact on the Profession

If chapter 475, Florida Statutes, were to be repealed, the following changes would be likely to occur:

-- Competition would increase in the absence of restrictions on entry into the profession;

-- Unprofessional conduct would increase in the absence of administrative sanctions;
-- Professional associations would increase efforts to police the profession;

-- Professional prestige and credibility of real estate practitioners would decline; and

-- Real estate schools would experience a decline in enrollees in the absence of a state requirement for educational coursework.

2. Impact on the Public

In the absence of state controls on the competence and character of persons allowed to practice real estate, the public would become much more vulnerable to economic loss resulting from fraudulent and dishonest dealing. Although a small, well-informed minority experienced in real estate, or in business practices in general, would be able to protect themselves, most citizens would encounter a greater risk of economic loss whenever they participated in a real estate transaction. Citizens could engage attorneys to prevent problems, or to pursue redress through the courts, but many could not afford this luxury. In addition, a court judgment against a person without assets is essentially meaningless. Were the current law establishing the Real Estate Recovery Fund abolished, the public would lose a significant protection against economic losses involving violations of law.
F. ALTERNATIVES TO PRESENT METHOD OF REGULATION

Although Florida's mechanism for regulating the practice of real estate is generally effective in protecting the public without being unduly restrictive or anti-competitive, modification of certain facets of the current regulatory method could enhance consumer protection and regulatory efficiency.

ISSUE #1: Establishing additional standards and criteria for the regulation of real estate appraisers.

Currently, appraisal is included under the definition of "broker" in chapter 475, Florida Statutes, and the definition of "salesman" encompasses the activities specified for brokers when performed under supervision. Thus, anyone licensed as a salesman or broker may lawfully make real estate appraisals. Only 13 states in the nation regulate real estate appraisal in some fashion.

In recent years, the lack of constraints on the appraisal process has contributed to the collapse of numerous savings and loan associations, as well as commercial banks. The magnitude of the problem lead to an investigation of the circumstances surrounding the failures of major financial institutions by the U.S. House of Representatives Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Governmental Affairs. Its September 1986 report, entitled "Impact of Appraisal Problems on Real Estate Lending, Mortgage Insurance, and Investment in the Secondary Market," found that faulty and fraudulent appraisals have contributed directly to the
insolvency of hundreds of financial institutions and the loss of billions of dollars to lenders, private mortgage insurers, investors, and federal insurers. Real estate appraisal's primary purpose, at least in theory, is to guide decision-making related to loan origination, including determinations about appropriate risk exposure, loan-to-value ratios, and maximum loan amounts. Because the role of appraisal is so fundamental to the lending process, the ramifications of faulty appraisals are far-reaching. The federal report documented the extent of the problem for various types of institutions:

--Savings and Loans: "Hundreds of savings and loans chartered by the Federal Home Loan Bank Board (FHLBB) or insured by the Federal Savings and Loan Insurance Corporation (FSLIC) have been severely weakened or declared insolvent because faulty and fraudulent real estate appraisals provided documentation for loans larger than justified by the collateral's real value. Corresponding losses to the financial institutions and the FSLIC have been in the hundreds of millions of dollars." For example, in 1983-1985, problem appraisals found in more than 800 of the approximately 3,200 federally insured thrifts overvalued the collateral securing real estate loans by about $3 billion. By August 1987, savings and loan losses in the aggregate resulted in a $6 billion deficit for the FSLIC and prompted congressional action to recapitalize the agency at a cost of $10.8 billion.
Banks and Credit Unions: "Significant appraisal problems have also plagued large numbers of commercial banks and credit unions regulated and/or insured by the Federal Deposit Insurance Corporation (FDIC), the Comptroller of the Currency (OCC), Federal Reserve Board, and National Credit Union Administration. Appraisal abuses and deficiencies have, in varying degrees, contributed to hundreds of millions of dollars in losses, hundreds of weakened and/or failed institutions, and hundreds of enforcement actions."

VA, FHA, and Private Mortgage Insurers: "Public and private sector mortgage insurers have suffered major losses attributable to problem appraisals and poor appraiser performance." The disciplinary actions taken against appraisers reflect the seriousness of the problem. The Veterans Administration Inspector General found major deficiencies in the performance of VA-approved appraisers which led to the suspension or removal in 1985 of about 10 percent of the agency's approved appraisers. Similar circumstances have plagued the FHA. Of 1,200 disciplinary actions in 1985 involving the agency's pool of 5,000 approved appraisers, 800 involved warnings and 400 involved suspensions or denials of appraiser participation or recertification. Private mortgage insurance companies, too, have declared hundreds of appraisers to be unacceptable and have included approximately 200
appraisal companies on "watch lists." One major private mortgage insurer's review of 300 defaulted loans found the appraisals on 40 percent of those loans to be defective. Government and private mortgage insurance program losses in 1985 are estimated to be about $400 million.

--The Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac): "Government-chartered, private sector corporations that package and sell mortgages in secondary markets have experienced significant appraisal problems and/or associated losses." In 1984-85, Fannie Mae's sale of 4,307 properties acquired through mortgage defaults were sold for an aggregate price of $63.2 million (or 22%) less than their original appraised value. In 1984-85, Freddie Mac required lenders to repurchase over $15 million worth of mortgages because of unacceptable, inadequate, or missing appraisals.

--Mortgage-backed Securities: "The fast-growing markets for mortgage-backed securities not guaranteed by an agency of the Federal Government, and for mortgage loan participations by out-of-area institutions, are extremely vulnerable to appraisal abuses. This was evidenced by two case studies by the subcommittee where hundreds of millions of dollars were
lost as a result of schemes in which fraudulent or
grossly inflated appraisals played a key role."

In addition to impacting segments of the lending
industry which make, insure, and purchase mortgages, faulty
appraisals can affect the average citizen in a variety of ways.
Local tax assessors use appraisals in determining property tax
valuations. The Internal Revenue Service and federal, state and
local governments use appraisals to resolve estate disputes and
eminent domain cases. In civil proceedings, the courts rely on
appraisals to determine property settlements in divorce cases and
to determine settlements for damages to real property. Finally
appraisals are an important factor in sales price negotiations on
residential property.

According to data provided by the Florida Department of
Transportation, lack of appraiser accountability and appraisal
standards has resulted in rampant advocacy appraising, rather
than objective valuations, in condemnation proceedings. Right­
of-way acquisition activities involved 880 parcels in fiscal
years 1985-86 and 1986-87. The aggregate appraised value of
these parcels according to independent appraisers hired by the
department was $30.6 million, while the aggregate value of
appraisals secured by the property owners was $66.3 million.
This $35.7 million discrepancy in precondemnation appraisal
reports amounts to a difference in valuation of 116%. Litigation
appraisal reports are expected by DOT staff to show an even
greater divergence. Administrative settlements of condemnation
cases average 18% above the approved appraised value, a fact
Appraisal-related problems in state-chartered financial institutions have been analyzed by the Division of Banking of the Department of Banking and Finance. Division staff concluded that "problems relating to real estate appraisals have contributed to the insolvency of many, if not most, of the state-chartered financial institutions which have been closed within the past two years." The division's review of its files revealed appraisals which failed to comply with federal and state regulations and which contained deficiencies serious enough to render the appraisal unsatisfactory for loan underwriting purposes. Deficiencies included incorrect appraisal assumptions, overstatement of market value and potential income from properties, and valuations based upon future improvements or use which never occurred. Examinations of institutions cited appraisal problems at each of the six state-chartered savings and loan associations which have failed during the last two years. Four of the six commercial banks which failed during the same time period also showed significant appraisal-related problems.

Although it is true that many appraisers eager to safeguard their business relationship with a client may succumb to implicit or explicit pressure to provide "client advocacy" appraisals, rather than objective ones, the full blame for problems in the appraisal industry cannot be attributed to appraisers alone. None of the players in the lending process, including the federal banking regulatory agencies, government and
private mortgage insurers, secondary market institutions and the lending institutions themselves, have consistently applied adequate constraints on appraisals. Many lenders are more concerned with up-front fees than with minimizing risk exposure and consider the appraisal to be strictly pro forma. Of the federal banking agencies, only the FHLBB has comprehensive guidelines for appraisals. The federal report described the FDIC/OCC attitude toward appraisals as "at best naive and at worst irresponsible." Neither the VA nor FHA has a history of strong disciplinary action against problem appraisers. Fannie Mae and Freddie Mac hold the lender responsible for appraisals and can require the lender to repurchase a faulty loan, a procedure of little value when the lending institution has collapsed. The real estate appraisal industry does not have the enforcement power to effectively police its ranks. In addition to the fact that professional associations lack subpoena power and are vulnerable to lawsuits if they impose disciplinary sanctions on their members, revoking an appraiser's professional designation does not put that person out of operation. Limited state regulation is also a factor in appraisal abuses. Only 13 states regulate appraisers in some fashion and only Louisiana's recently enacted law provides a comprehensive certification program which includes appraiser qualifications and performance standards.

In response to the federal subcommittee investigation, various government agencies have initiated new requirements for appraisals, but the report recommends that a number of other
steps be taken. Bank regulatory agencies should be given authority to discipline appraisers for faulty appraisals, and seek civil penalties. Uniform requirements for appraisals should be established and regulatory agencies should be given direct supervisory authority over appraisals. Government agencies should establish a process for sharing information about problem appraisers with one another and with the appraisal industry. Public disclosure of real estate sales and loan origination data should be required in each state to enable appraisers to make accurate estimates of value. Finally, the federal report recommends the establishment of a national, industry self-regulated appraiser certification and review system to which all real estate appraisers would be subject. Subcommittee chairman Representative Doug Barnard, Jr., of Georgia plans to introduce a bill during fall 1987 to regulate the appraisal industry.

Since federal action on the appraisal problem is a possibility, states may wish to wait for federal requirements to be established, then enact compatible state laws. For any state law created before Congress acts, there are a number of alternatives to consider. The least restrictive approach would be to regulate appraisals, rather than appraisers, by imposing standards for appraisals but omitting the professional regulation aspects. California followed this approach with the 1986 enactment of the Lancaster-Montoya Appraisal Act which is to take effect January 1, 1988. This measure provided standards for "certified appraisals," but did not specify competency criteria for appraisers. Although California's prelicensure educational
requirements for real estate practitioners are considerably more demanding than Florida's, with 135 hours required to become a salesman and an additional 225 hours required to qualify as a broker, appraisers are not within the scope of the real estate law as they are here. Under the California law, appraisers in violation are liable for damages and suits for equitable relief, thus the onus of self-protection is placed on the consumer. A variation on the appraisal regulation theme which could be implemented in states like Florida where real estate licensure includes appraisers would be to establish, in law or rule, standards for various types of appraisals. These standards would serve as the basis for appraiser accountability and be used in disciplinary proceedings to identify improper appraisals. The FREC has already had at least one final order in a disciplinary case involving an appraiser overturned by the district court due to a lack of established standards.

A more restrictive method of tightening appraiser regulation would be voluntary certification. This approach would be similar to the regulation of certified public accountants in that any uncertified real estate licensee could make an appraisal, as long as that appraisal was not represented to be a certified one. Real estate licensees would earn certification by meeting educational, experience, and examination requirements, and standards pertaining to certified appraisals would enable stricter accountability. Certification is generally considered useful to the public in identifying competent practitioners. Consumer protection would therefore be provided for through the
consumers' choice. The voluntary nature of certification is an advantage to current appraisers because their livelihood is not drastically disrupted; however, it must be acknowledged that over time the greater status of state certified appraisers would tend to cast uncertified ones in a secondary role.

The most restrictive method of strengthening appraiser regulation would be licensure. Currently, only Nebraska and Oregon require a license specifically for appraisers. Mandatory regulation inevitably raises the delicate question of "grandfathering." If all current appraisers were to be grandfathered in without regard to adequate standards, the licensure would be meaningless. If more stringent standards were imposed, some current practitioners would be sure to lose their livelihood. In addition, since appraisal is currently included within the scope of real estate licensure, the creation of a separate license for appraisers could require some individuals to hold two professional licenses or create disputes over the limitations on the types of appraisal activities which could legitimately be performed by real estate licensees.

Because appraisal is so fundamental to real estate transactions, logic seems to dictate that it remain within the purview of the Florida Real Estate Commission. In addition to maintaining continuity of regulation of the profession, administration of appraiser regulation by FREC is expected to be more efficient and inexpensive than it would be under a new and separate entity.
ISSUE #2: Requiring real estate salesmen and brokers to disclose to prospective buyers and sellers which party they are representing in a transaction.

Current law and rule do not address disclosure of agency, but in practice this information is included on the settlement costs disclosure form which is usually signed before the contract is executed. Nevertheless, confusion on the part of the public concerning the fiduciary responsibilities of the broker or salesman may result in the buyer, or in some cases the seller, failing to negotiate as effectively for himself as he could if he were better informed.

Early in 1985, the National Association of Realtors formed an Agency Task Force in response to an apparent increase in lawsuits against brokers based on allegations that brokers had breached their fiduciary duties by acting as undisclosed dual agents and seeking rescission of sales contracts as a result. The task force concluded that government mandated notice of disclosure of agency would heighten public awareness of brokers' agency obligations, would make disclosure uniform so that no broker could manipulate disclosure to gain a competitive advantage, and would eliminate any disagreement over the adequacy of the disclosure. Further, the task force recommended that legislation require that all agency relationships be reduced to writing as a condition to a broker's entitlement to compensation.

One alternative would be to amend chapter 475, Florida Statutes, to require disclosure of agency in general terms and to impose a penalty for failure to disclose. A number of specifics
could be added to expand the general requirement: a disclosure form could be mandated; a certain point in the negotiations could be established for disclosure; and entitlement to compensation could be conditioned upon proper disclosure.

ISSUE #3: Imposing higher educational standards on licensees.

Present law requires no baseline educational qualification (e.g. a high school diploma) as a prerequisite for initial licensure. The required prelicensure real estate coursework was limited by the 1983 Legislature to 63 classroom hours for salesmen (previously 51 hours) and 72 classroom hours for brokers (previously 48 hours). Commission members and staff have expressed concern that the prelicensure courses may not be providing a thorough study of the number of topics which are included. Although no data has been provided by the Division of Real Estate which would illustrate the number of violations stemming from inadequate education, division staff believe that many complaints arise from ignorance on the part of the licensee, not intentional wrongdoing. The number of disciplinary actions per 1,000 licensees in the real estate profession, however, compares quite favorably against the rate of violations in other professions under the DPR. This fact, plus the additional consumer safeguard of the Real Estate Recovery Fund, indicates that the public is not in immediate need of additional protection.

One way to increase licensees' educational level would be to expand the prelicensure educational requirements. This
might include a high school diploma, which approximately 98% of all applicants already possess, as a minimum general educational standard. Expanding prelicensure coursework and imposing a more difficult licensure exam would, of course, restrict entry into the profession. Such measures would assure greater competence of new licensees, but would do nothing to improve the performance of the current licensees who are perceived to be the problem.

A less onerous approach for those who need to become active in the field as quickly as possible in order to earn a living would be to establish post-licensure educational requirements as a direct extension or reinforcement of the prelicensure course. Expanded post-licensure education could be required of either salesmen or brokers, or of both. Because brokers serve in a supervisory capacity over salesmen, it can reasonably be argued that increased broker expertise would have a generalized beneficial effect. If the license renewal period were to be extended from two to four years, completion of the additional continuing education could be required during the first biennium following licensure. In 1983, FREC's Special Education Review Committee recommended post-licensure coursework of 60 hours for salesmen and 120 hours for brokers. These requirements are proposed by the commission in its sunset legislation. Completion of the coursework (which almost doubles the current prelicensure education requirement) would be required within two years for the licensee's first renewal.

To guarantee the effectiveness of any post-licensure training, however, an examination, with attendant negative
consequences for failure, would have to be required of licensees. If no exam is required, post-licensure education loses its credibility and becomes more of a boon to real estate schools than a benefit to Florida consumers. If consumer protection demands additional licensee education, new licensees should probably not be allowed two years of active practice in what amounts to a probationary status. In the long run, it may be a disservice to allow persons to establish themselves in a new profession, then revoke their credentials if they are unable to attain full competency.

No study of the need for and anticipated outcomes of these various alternatives has been conducted, but the FREC Education and Research Foundation Advisory Committee approved at its October 1987 meeting a $52,000 study of pre- and post-licensure educational requirements. This study will include an analysis of the formal complaints filed against real estate licensees to identify the specific educational objectives which the licensees failed to master. The educational profile of licensees in violation will be compared to that for licensees in general. A survey of licensees will also be conducted to determine levels of broker supervision and the relationship between work tasks and current education. These data will be used to develop a list of curriculum topic areas, and recommendations for legislative and administrative changes will be made. Hopefully, the study will also weigh the potential consumer benefit of any increase in educational requirements against possible increases in fees for services which consumers
must pay. A draft of the final study is expected to be released early in the fall of 1988. A further study might also address the relationship between new educational requirements and the proposed certification of appraisers, the need for education relating to business brokers, and changes in regulation of real estate schools as another means of improving licensee training.

The licensure education study is also expected to shed light on the commission's proposal to increase from 1 to 2 years the amount of experience a salesman must have in order to qualify as a broker. Since broker supervision of salesmen is not uniform and is not monitored, there is no guarantee that a second year of experience would result in a significant increase in expertise. Even if post-licensure education for salesmen were required within the first biennium, it does not necessarily benefit consumers to delay the advancement to broker status by imposing the same arbitrary timeframe.
ISSUE #4: Modifying requirements pertaining to real estate schools and instructors.

Instructors for community college non-college credit courses have escaped the regulatory net because such courses are subject neither to college accreditation standards and review nor to FREC standards since community colleges are exempt from chapter 475, Florida Statutes. By limiting this exemption, provided under 475.451, Florida Statutes, to transferable college credit courses, the non-credit course instructors would be brought under the instructor qualifications requirements. In addition, these requirements could be modified by allowing a practical review of actual instruction, as well as a written exam, and by instituting active monitoring of schools' classroom instruction. In 1983, the FREC Special Education Review Committee recommended the development of an instructor evaluation form to be administered at such times as the commission deemed appropriate. The education committee rejected a motion to allow formal education to substitute for the instructor's exam required by the 1983 Legislature. Because the instructor's exam is more difficult than the broker's exam and because it contains questions related to instructional methods, broker status cannot be interpreted as automatically qualifying a person to teach real estate. However, a broker's license in combination with additional formal education could be considered the equivalent of passing the instructor's exam. If a practical demonstration of the applicant's teaching ability is required it should also apply to brokers who wish to teach.
The division's regulation of real estate schools focuses on course curricula and instructor qualifications. Other facets of school operation, such as administration, facilities, and class size, could be regulated if additional personnel were provided or if the schools were placed under the jurisdiction of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools. Although it is reasonable to assume that consumers would ultimately benefit from improved licensee education, no documentation has been provided to illustrate the potential consumer benefit from increased requirements for schools and instructors.

ISSUE §5: Modifying or eliminating FREC issuance of escrow disbursement orders as a means of resolving conflicting demands for the delivery of escrowed property.

Section 475.25(1)(d), Florida Statutes, currently offers a broker three options for settling an escrow dispute: determination by the commission, arbitration, or litigation. Although it is a convenient solution for brokers, the escrow disbursement order (EDO) procedure has several drawbacks. First, commission members are called upon to make determinations regarding contract law, a task which they are not necessarily qualified to undertake. The process does not provide an opportunity for all parties to express their views of the situation, plus the division lacks sufficient staff to adequately investigate each case and estimates that up to 25 additional personnel would be needed to conduct a full investigation of each EDO case. The commission declines to issue EDO's involving sums
over approximately $10,000 and the commission's order does not preclude a party from initiating a lawsuit to resolve the dispute. In short, the EDO process offers no clear-cut benefit to consumers and may even exacerbate escrow problems by offering brokers a free and easy solution.

One alternative would be to retain the EDO option, but institute changes to reduce the number of EDO requests and to increase the fairness and effectiveness of the determinations made. Additional broker education could be encouraged or required in order to help brokers avoid escrow controversies and to make use of arbitration to resolve conflicts. However, as long as the EDO option is available, brokers will probably continue to favor it as the path of least resistance. EDO requests could be limited to cases beyond the small claims maximum of $2,500. Since the higher range has been excluded already, this would leave claims in the $2,500 - $10,000 range. Rather than expanding the investigative staff, an additional complaint analyst could be added to the staff and a questionnaire developed to solicit information from the buyer and seller, in addition to the broker. Allowing each party to present his view in writing should result in fairer decisions, greater acceptance of the orders, and a reduced concern with broker bias in presenting the facts. The large number of claims would probably still preclude individual testimony at FREC meetings.

Another alternative would be to eliminate the EDO option and rely on the other two means of conflict resolution. To alleviate the underlying problems with escrow disbursement,
educational opportunities or requirements could be established to assist brokers in avoiding escrow disputes and in making use of arbitration.

**ISSUE #6: Expanding the license renewal timeframe from two to four years.**

Section 475.182, Florida Statutes, establishes biennial renewal of licenses and specifies that any license which is not renewed at the end of the biennium automatically reverts to inactive status. Biennial license renewal is contingent upon completion of 14 hours of commission-prescribed continuing education. If licenses under FREC were placed on a 4-year renewal cycle, real estate would be the first profession under the DPR to depart from the biennial renewal required under section 455.203(1), Florida Statutes. Legislation filed in 1987 (CS/SB 752) proposed language to require real estate license renewal "at least every 4 years."

By virtue of its size, regulation of the real estate profession is most in need of alleviating the administrative burden of biennial renewal and could be expected to demonstrate the greatest cost-benefit. The division estimates that instituting a 4-year license renewal cycle would save $140,000 in costs per year. For a 4-year license renewal cycle, the continuing education requirement could be increased proportionately and licensees could be required to complete half of the continuing education hours each biennium. California is the only state currently using a 4-year license renewal timeframe. Three states, Colorado, Iowa, and Oklahoma, renew
licenses triennially, but most states require annual license renewal.

**ISSUE #7:** Repealing the requirement contained in section 475.17, Florida Statutes, that applicants for licensure be bona fide residents of the state.

There are currently over 7,000 non-resident licensees who hold Florida real estate licenses by virtue of having been grandfathered in when residency became a requirement or by having moved out of state after securing a license. Moreover, licensure statutes which discriminate against nonresidents of the state by refusing to grant them licenses or by granting them on different terms which bear no reasonable relationship to the goal of consumer protection are generally considered to be violative of the due process and equal protection clauses of the state and federal constitutions (*State ex rel. James v. Gerrell*, 188 So. 812 (1938)). In addition, a 1985 U.S. Supreme Court decision ruled the New Hampshire bar residency requirement to be violative of the privileges and immunities clause of the U.S. Constitution, Article IV, section 2. (*S. Ct. of New Hampshire v. Piper*, 470 U.S. 205 (1985)). A state may discriminate against nonresidents only where its reasons are "substantial" and the difference in treatment bears a close relationship to those reasons. A suit initiated by the Georgia Association of Realtors challenging Florida's residency requirement is pending. According to data compiled by the National Association of Real Estate License Law Officials, Alabama, Arizona, and Mississippi are the only other states which refuse licensure to non-residents, although some
states limit non-resident licensure to states which reciprocate and 3 states limit non-resident licensure to brokers.

To eliminate the problem, the residency requirement could simply be excised from the statute. However, two other questions would remain: the right of Florida residents to operate as realtors in other states and the adequacy of protection afforded to Florida citizens from incompetent or dishonest nonresident licensees. One way to solve the first concern would be to require reciprocity, i.e. make the Florida licensure of a nonresident contingent upon the applicant's residency state allowing Florida residents to obtain licensure there. Reciprocal licensure could be limited to states with standards comparable to Florida's. Reciprocity, however, runs contrary to the consumer benefits of free competition and has been replaced in virtually all professional practice acts by endorsement language which accepts equivalent qualifications held by other states' licensees. Only California, Colorado, New Mexico, and North Carolina currently require reciprocity for real estate licensure and six other states, including Georgia, limit nonresident licensure to citizens of specified states.

The consumer protection concern could be addressed by including nonresident licensees under the real estate recovery fund. Their absence from the state, however, increases the chance of defaults on suits filed against them in Florida and could create undue demands on the fund. A more efficient, alternative consumer protection mechanism might be to require a surety bond of each nonresident licensee. However, the cost of
such bonds may be prohibitive. To ensure continued consumer protection, as well as administrative efficiency, any licensee moving from the state of Florida should be required to notify the commission and conform with requirements for non-resident licensees. Service of process on nonresident licensees could be accomplished by service on the division director.

ISSUE #8: Revising the funding pattern of the Real Estate Recovery Fund.

Claims paid from the fund have increased almost 8-fold since 1983. To remain workable on a practical level, the floor and ceiling amounts established for the fund in law need to be raised to accommodate the level of claims and to prevent frequent shifts between the collection of surcharges (when the fund falls to its minimum) and abeyance of surcharge collection (when the fund reaches its maximum). Alternatively, the surcharges could be established at a level estimated to be sufficient to supply the recovery fund if collected on a continuous basis. In addition, language could be added to preclude claims for punitive damages, interest, attorney fees, and court costs, so that the fund is used to make a claimant reasonable whole, but never to provide a windfall. Finally, to clarify that claims must be based on brokerage transactions (and not on transactions involving the broker's own property), language in section 475.482, Florida Statutes, could be mirrored in section 475.483, Florida Statutes, which specifies eligibility criteria for claims.
ISSUE #9: Modifying the regulation of business appraisers and brokers.

By their inclusion within the definition of "broker," specified services involving business enterprises and opportunities are under the jurisdiction of the real estate commission. This means that business brokers and business appraisers must have a real estate license in order to operate lawfully in Florida. Among the services provided by a business broker or appraiser is the valuation of privately held businesses based on factors such as the known stock value of comparable publicly traded firms. Real estate holdings may be one factor in a business appraisal, but the primary factor will be the enterprise's income-producing capacity. The appropriateness of the inclusion of business appraisal under the FREC has been questioned. Since most businesses involve some interest in real property and since business appraisal is otherwise unregulated, it would seem to be in the public interest to continue regulation under the FREC.

Business enterprises and opportunities were included under chapter 475, Florida Statues, in 1980 in order to close a loophole in the law and to curb abuses which were damaging Florida consumers. Educational requirements and exam composition were modified to some degree to reflect the new area included within the scope of regulation. These revisions were probably not extensive enough to ensure the competent performance of services which go beyond the traditional realm of real estate. Therefore, inclusion under the licensure law may create a false
public confidence in the ability of real estate licensees to perform services such as business appraisals. The Florida Association of Business Brokers has raised the possibility of a certification for business opportunities specialists within the existing framework of real estate licensure. The necessity and feasibility of such additional regulation could be assessed through a study funded by the FREC Education and Research Foundation. No specific proposal for such a certification program has been presented to staff.

ISSUE #10: Amending exemptions from FREC jurisdiction.

The commission has expressed concern that the language of section 475.011(2), Florida Statutes, which exempts individuals or entities engaged in selling their own real property, has been used to circumvent the licensure law when persons serve as short-term employees or as independent contractors, in effect operating on a commission basis. This subsection could be amended to clarify that compensation on a transactional basis nullifies the exemption.

Commission members have also expressed concern that the law may be skirted when a nonlicensee owns a real estate company and, as owner, exercises control over the brokers in his employ. Brokers, however, are always in the employ of another and whether the employer is the owner of a corporation or is an individual property owner, the brokers' conduct is still bound by the standards imposed by law. Control of escrow accounts, which is probably the most sensitive area, is addressed by Rule 21V-
14.010. This rule requires the broker to be a signatory and the person ultimately responsible for escrow accounts, although the broker may designate another signatory if he wishes. In addition Rules 21V-5.15 and 21V-5.16 require all corporate officers and directors who actively perform or personally direct brokerage transactions to be actively licensed.

Finally, an exemption from licensure has been proposed for full-time graduate students enrolled in a commission-approved Florida college or university degree program in the field of appraisal. The exemption would allow students to gain practical experience under the direct supervision of licensed brokers and would be limited to appraisal activities related to the approved degree program.
IV. CONCLUSIONS AND RECOMMENDATIONS

The Regulatory Sunset Act, section 11.61, Florida Statutes, contains criteria which the Legislature is to consider in determining whether to reenact a regulatory chapter. These criteria and the conclusions based on the findings of this review are as follows:

1. Would the absence of regulation significantly harm or endanger the public health, safety, or welfare?

Yes. The absence of regulation would have the potential to harm the public. Real estate is a major industry, particularly in a growth state such as Florida, and its activities touch the lives of virtually all citizens. The potential for substantial economic losses due to incompetent or unethical professionals would increase if regulation were abolished.

2. Is there a reasonable relationship between the exercise of the police power of the state and the protection of the public health, safety, and welfare?

Yes. There is a reasonable relationship between the use of the state's police power in regulating real estate brokers, salesmen, and schools, and the protection of Florida's citizens from potential economic loss. Prelicensure requirements provide a reasonable assurance of practitioner competence, through requirements relating to education, experience, and examinations, and of good character, through background information and a
fingerprint check on each applicant. Where these measures and the deterrent effect of disciplinary action fail to safeguard individuals from economic damage, the Real Estate Recovery Fund provides reimbursement for valid claims based on unpaid court judgments involving a licensee's violation of law.

3. Is there a less restrictive method which would adequately protect the public?

No, there is no feasible alternative to state licensure of real estate practitioners. Professional associations, local governments, and the court system are unequipped to adequately ensure honest and reliable performance by real estate professionals. Although the current method of regulation is somewhat restrictive because licensure is mandatory and requires compliance with education, examination, and other criteria, these criteria are established at a level reasonable enough to have allowed almost 340,000 persons to obtain licensure.

4. Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services, and if so to what degree?

Yes. It is generally assumed that the direct costs of regulation, such as application and license fees and expenditures to meet educational requirements, and indirect costs, including those related to meeting standards of acceptable business practice, are passed on to the consumer. Further, to the extent that regulation limits entry into the profession, competition is reduced and fees paid by consumers may increase. In the case of the real estate profession, the cost increase to the consumer is
negligible because of the relatively low cost of regulation and the high number of licensees.

5. *Is the increase in the cost more harmful to the public than the harm which could result from the absence of regulation?*

No. The insignificant increase in the cost of real estate services as a result of regulation is justified by the potential harm to consumers if regulation were abolished.

6. *Are there facets of the regulatory process designed for the purpose of benefitting, and do they have as their primary effect the benefit of, the regulated entity?*

No. All facets of the regulatory process are designed to further the goal of consumer protection. Certain provisions, however, provide benefits to licensees, as well. These include educational services provided by the Division of Real Estate, the Real Estate Recovery Fund which serves as an inexpensive alternative to surety bonds, and the general enhancement of practitioner credibility afforded by licensure.

Based upon these conclusions, and other findings of this report, it is recommended that chapter 475, Florida Statutes, be revived and readopted with the following amendments:

1. *That a certification procedure for real estate appraisers be created within chapter 475, Florida Statutes, which would prohibit any person who is not certified from representing himself as a Florida certified appraiser, but which would allow persons*
licensed as real estate brokers or salesmen to continue
to appraise real property for compensation. That a 5-
member Real Estate Appraisal Subcommittee be appointed
by the Governor to advise the FREC in the establishment
of rules pertaining to applicants' experience,
educational courses, and exam content and to review
disciplinary cases and present recommendations to the
FREC probable cause panel. That two categories of
certified appraisers be established: Florida certified
residential appraisers who shall be considered
qualified to prepare certified appraisals of
residential property of up to four units on the basis
of two years of appraisal experience, successful
completion of commission-approved academic instruction
of up to 60 classroom hours, and passage of a written
examination; and Florida certified real estate
appraisers who shall be considered qualified to prepare
certified appraisals of all types of real property on
the basis of three years of appraisal experience,
successful completion of commission-approved academic
instruction of up to 120 classroom hours, and passage
of a written examination. That violations for which a
certified appraiser may be disciplined be established
and that the applicability of prohibited acts and
grounds for disciplinary action included in sections
475.25 and 475.42, Florida Statutes, be specified.
That standards for the development and communication of
certified real estate appraisals be established,
including language for the certification to be contained in the written report of an appraisal signed by a certified real estate appraiser. Voluntary certification will assist consumers in identifying competent practitioners and the associated appraisal standards will provide for greater accountability. Individual consumers, state and federal banking institutions, and state and local governments involved in eminent domain proceedings can choose certified appraisers as a means of bringing uniform standards to bear on the appraisal process.

2. -- That section 475.25, Florida Statutes, be amended to require a licensee to inform buyers and sellers about which party he is representing in a transaction. This disclosure is to be made in written form prior to the signing of any contract by the buyer or seller. This requirement will help to reduce misunderstandings and better enable consumers to act in their own best interest.

3. -- That section 475.17, Florida Statutes, be amended to require any applicant for licensure to have a high school diploma or its equivalent. It is not recommended that additional prelicensure or postlicensure educational requirements for salesmen or brokers be instituted at this time or that the experience required to qualify as a broker be increased, but that consideration be given to revising
the educational and experience requirements when the results of a research study on the subject, funded by the FREC Education and Research Foundation, become available in the fall of 1988.

4. -- That the exemption from regulation provided in section 475.451, Florida Statutes, for colleges, universities, and community colleges be amended to limit that exemption to transferable college credit courses. This will close a loophole in the law that has left non-college-credit courses in accredited institutions unregulated. It is also recommended that postsecondary education plus a broker's license become an alternative to passing the instructor's exam. In addition, it is recommended that section 475.451, Florida Statutes, be amended to allow the FREC to require demonstration of teaching skills in addition to either the written instructor's exam or the alternative qualifications.

5. -- That the escrow disbursement order option for resolving escrow disputes be deleted from section 475.25, Florida Statutes, and that sections 475.482 and 475.483, Florida Statutes, relating to the Real Estate Recovery Fund, be amended to remove the authorization for payment of claims to reimburse a licensee required by the court to pay money damages as a result of the licensee's compliance with an escrow disbursement order and the authorization for the commission to pay
attorney fees and court costs in such cases. Abolishing the escrow disbursement order procedure is not anticipated to have negative impact on Florida consumers. Its abolition may encourage brokers to prevent or resolve escrow conflicts, thereby benefitting consumers.

6. -- That section 475.182, Florida Statutes, be amended to provide that licenses be renewed at least every four years, rather than biennially, and to provide that the currently required number of hours of continuing education be completed during each biennium; and that section 475.125, Florida Statutes, be amended to substitute for the $100 biennial renewal fee a $50 fee for each year of the duration of the active license. Because fees will be adjusted in accordance with the longer timeframe, licensees will not save on costs, but the reduction in administrative expense (assuming that renewal is established at the 4-year maximum) will be approximately $140,000 per year.

7. -- That section 475.17, Florida Statutes, be amended to remove the requirement that an applicant for licensure be a bona fide resident of the state and to establish certain requirements pertaining to licensure of nonresidents: that any nonresident applicant file an irrevocable consent that suits may be commenced against him in any Florida county in which the plaintiff may reside; that service of process in any action may be

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made by delivery of same to the Director of the Division of Real Estate and mailing a copy to the applicant's designated principal place of business by registered mail; and that any Florida resident licensee who becomes a nonresident must notify the commission within 60 days and comply with nonresident requirements.

8. -- That section 475.482, Florida Statutes, relating to the Real Estate Recovery Fund, be amended to increase from $250,000 to $500,000 the minimum balance of the fund, which triggers collection of fees to supply the fund, and to increase from $450,000 to $750,000 the maximum balance of the fund, which causes fee collection for the fund to be suspended. That section 475.483, Florida Statutes, be amended to clarify that a claim must be based upon a cause of action involving a real estate brokerage transaction and that any claim based on a transaction in which the licensee represented himself (i.e. offered his own property) is precluded. That 475.484, Florida Statutes, be amended to preclude reimbursement from the fund of treble damages, court costs, interest, and attorney fees.

9. -- No statutory recommendations are made concerning the regulation of brokerage or appraisal of business enterprises or opportunities. However, it is recommended that the FREC consider the need to address this area in rules pertaining to the content of
educational courses and examinations and that the Foundation Advisory Committee consider the need for a study on the subject of educational criteria and other regulatory requirements related to business brokerage and appraisal.

10. -- That section 475.011, Florida Statutes, be amended to limit to employees who are paid strictly on a salary basis the exemption from licensure for persons employed by individuals or entities for the purpose of conducting transactions involving that individual's or entity's real property. Similar language providing that bonuses or other transactional payments require the employee to be licensed should also apply to the exemptions for certain employees of apartment communities, condominiums, and cooperatives. That 475.011, Florida Statutes, be further amended to provide an exemption from licensure for full-time graduate students enrolled in a commission-approved degree program in appraising at a Florida college or university, provided that appraisal activities are supervised by a licensed broker and are limited to the work required by the degree program.

A number of technical amendments are also recommended, the most significant of which are the following:
-- That section 475.01, Florida Statutes, be amended to require the general partner in a partnership, rather than all partners, to be a broker.

-- That section 475.15, Florida Statutes, be amended to require that the general partner in a partnership be a licensed broker or a registered brokerage corporation.

-- That section 475.17, Florida Statutes, be amended to substitute permissive language for the current prohibition against approving the application of any person who has practiced real estate without a license during the year preceding the filing of his application.

-- That section 475.175, Florida Statutes, be amended to require applications to be notarized.

-- That section 475.25, Florida Statutes, be amended to add probation as a disciplinary option the FREC may employ against licensees, permittees, and registrants; and to allow brokers to deposit escrow funds in credit unions, in addition to other approved institutions.

-- That section 475.38, Florida Statutes, be amended to delete the commission's authorization to pay, upon application by the defendant, fees and costs for services believed likely to further the cause of justice. This provision has never been used and the commission does not anticipate using it.
That the obsolete portions of the following sections be deleted: in section 475.045, Florida Statutes, language relating to the initial appointments to the Foundation Advisory Committee; in section 475.17, Florida Statutes, language relating to the 2-year time period ending on January 1, 1984, in which those dealing in business enterprises and opportunities were to conform to the licensure requirements; section 475.1825, Florida Statutes, relating to the granting of inactive status to registrations expired prior to July 1, 1979; and in section 475.23, Florida Statutes, language relating to the surrender of licenses which have become invalid due to a change of business address.
## V. APPENDICES

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Appendix A

Chapter 475, Florida Statutes

* These Statutes are compiled by the staff of the Senate ECCA Committee based on the 1987 session law and the 1986 Supplement.
CHAPTER 475
REAL ESTATE BROKERS, SALESMEN, AND SCHOOLS

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opportunities, including any assignment, leasehold, subleasehold, or mineral right, however, the term does not include any cemetery lot or right of burial in any cemetery, nor does the term include the renting of a mobile home lot or recreational vehicle lot in a mobile home park or travel park.

(2) The terms "employ," "employment," "employee," and "employee," when used in this chapter and in rules adopted pursuant thereto to describe the relationship between a broker and a salesman include an independent contractor relationship when such relationship is intended by and established between a broker and a salesman. The existence of such relationship shall not relieve either the broker or the salesman of his duties, obligations, or responsibilities under this chapter.

(3) Wherever the word "operate" or "operating" as a broker, a broker-salesman, or a salesman appears in this chapter, in any order, rule, or regulation of the Commission, in any pleading, indictment, or information under this chapter; in any court action or proceeding; or in any order or judgment of a court, it shall be deemed to mean the commission of one or more acts described in paragraph (1)(c) as constituting or defining a broker or salesman, not including, however, any of the exceptions stated therein. A single such act is sufficient to bring a person within the meaning of this chapter, and each act, if prohibited herein, constitutes a separate offense.

475.011 Exemptions.--This chapter does not apply to:

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

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

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

(4) Any employee of an owner, or of a registered broker for an owner, of an apartment community who works in an on-site rental office of the apartment community in a leasing capacity.

(5) Any person employed as, or acting in the capacity of, a manager of a condominium or cooperative apartment building as a result of any activities or duties which he may have in relation to the renting of individual units within such condominium or cooperative apartment if such manager is acting on behalf of a tenant owning or having an interest in no more than one unit within the condominium or cooperative apartment and if rentals arranged by him are for periods no greater than one year; or

(6) Any partnership, corporation, or other legal entity which, for another and for compensation or other valuable consideration, sells, offers to sell, advertises for sale, buys, offers to buy, or negotiates the sale or purchase of radio, television, or cable enterprises licensed and regulated by the Federal Communications Commission pursuant to the Communications Act of 1934. However, if the sale or purchase of the radio, television, or cable enterprise involves the sale of land, buildings, fixtures, and all other improvements to the land, a broker or salesman licensed under this chapter shall be retained for the portion of the transaction which includes the land, buildings, fixtures, and all other improvements to the land $11 61 in advance of that date.

475.02 Florida Real Estate Commission.--

(1) There is created within the Department of Professional Regulation the Florida Real Estate Commission. The commission shall consist of seven members. Four members must be licensed brokers, each of whom has held an active license for the 5 years preceding appointment; one member must be a licensed broker or a licensed salesman who has held an active license for the 2 years preceding appointment; and two members must be lay persons who are not, and have never been, brokers, salesmen, or members of any closely related profession or occupation. A member of the commission must be 60 years of age or older.

(2) Members shall be appointed for 4-year terms.

475.021 Division of Real Estate.--

(1) All services concerning this chapter, including, but not limited to, recordkeeping
services, examination services, legal services, and investigative services, and those services in chapter 455 necessary to perform the duties of this chapter shall be provided by the Division of Real Estate.

The commission may, by majority vote, delegate a duty or duties to the appropriate division within the department. The commission may, by majority vote, rescind any such delegation of duties at any time.

(2) The Division of Real Estate shall be funded by fees and assessments of the commission, and funds collected by the commission shall be used only to fund real estate regulation.

475.03 Delegation of powers and duties: legal services.--

(1) Any of the duties and powers of the commission, except disciplinary powers and the power to adopt rules, may be delegated, by resolution, to any member, but the chairman may exercise such duties and powers without such resolution.

(2) Subject to the prior approval of the Attorney General, the commission may retain independent legal counsel to provide legal advice to the commission on a specific matter.

(3) No attorney employed or utilized by the commission shall prosecute a matter and provide legal services to the commission with respect to the same matter.

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

(1) The commission shall foster the education of brokers, broker-salesmen, salesmen, and instructors concerning the ethical, legal, and business principles which should govern their conduct.

(2) For the purpose of performing its duty under subsection (1) to educate registrants, the commission may conduct, offer, sponsor, prescribe, or approve real estate educational courses for all persons licensed by the department as brokers, broker-salesmen, salesmen, or instructors; and the cost and expense of such courses shall be paid as provided for other expenses of the commission by s. 475.12.

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

475.045 Florida Real Estate Commission Education and Research Foundation; Foundation Advisory Committee.--

(1)(a) There is established a Florida Real Estate Commission Education and Research Foundation, hereinafter referred to as the "foundation," which shall be administered by the Foundation Advisory Committee.

(b) The purposes, objectives, and duties of the foundation are as follows:

1. To create and promote educational projects to expand the knowledge of the public and real estate licensees in matters pertaining to Florida real estate.

2. To augment the existing real estate programs by increasing the number of teaching personnel and real estate courses in the state in degree-granting programs in universities and colleges in this state.

3. To conduct studies in all areas that relate directly or indirectly to real estate or urban or rural economics and to publish and disseminate the findings and results of the studies.

4. To assist the teaching program in real estate offered by the universities, colleges, and real estate schools registered pursuant to this chapter in the state, when requested to do so.

5. To develop and from time to time revise and update materials for use in the courses in real estate offered by the universities, colleges, and real estate schools registered pursuant to this chapter in the state, when requested to do so.

6. To make studies of, and recommend changes in, state statutes and municipal ordinances; provided, however, that such studies are requested by the Governor or the presiding officers of the Legislature. The foundation shall maintain political nonadvocacy.

7. To periodically review the progress of persons conducting such research and studies. The results of any research project or study shall not be published or disseminated until it has been reviewed and approved in writing by the advisory committee or its designated representative.

8. To prepare information of consumer interest concerning Florida real estate and to make the information available to the public and appropriate state agencies.

(c) The foundation may make a charge for its publications and may receive gifts and grants from foundations, individuals, and other sources for the benefit of the foundation.

(d) A report of the activities and accomplishments of the foundation shall be published annually.

(e) On or before January 1 of each year, the advisory committee shall file with the Governor, the presiding officer of each house of the Legislature, and the secretary of the department a complete and detailed written report accounting for all funds received and disbursed by the foundation during the preceding year.

(f) The state auditor shall audit the financial transactions of the foundation in each fiscal year.

(2)(a) There is created the Foundation Advisory Committee which is composed of nine persons appointed by the Governor without regard to race, creed, sex, religion, or national origin of the appointee, with the following representation:

1. Six active real estate licensees, one of whom may be a real estate salesman All
licensure shall have been active real estate licensees for at least the past 5 years.

2. Three members shall be representatives of the general public. Members representing the general public shall not be licensed real estate brokers or salesmen and shall not have a financial interest, other than as consumers, in the practice of a licensed real estate broker or salesman.

(b) No current member of the Florida Real Estate Commission shall be eligible for appointment to the Foundation Advisory Committee.

2. The chairman of the Florida Real Estate Commission or a member of the commission designated by him shall serve as an ex officio nonvoting member of the advisory committee.

(c) Except for the initial appointees, members of the advisory committee shall hold office for staggered terms of 4 years, with the terms of three members expiring on January 31 of each odd-numbered year. In making the initial appointments, the Governor shall designate three members, including two representatives of the general public, for terms expiring in 1986, three members for terms expiring in 1987, and three members for terms expiring in 1988.

2. Any vacancy shall be filled by appointment for the unexpired portion of the term. Each member shall serve until his successor is qualified.

3. Each member of the advisory committee is entitled to per diem and travel expenses as set by legislative appropriation for each day that the member engages in the business of the advisory committee.

3. It is grounds for removal from the advisory committee, if:

(a) A broker or salesman member of the committee ceases to be an active licensee, or

(b) A public member of the committee or a person related to the member within the second degree of consanguinity or within the second degree of affinity acquires a real estate license or a financial interest in the practice of a licensed real estate broker or salesman.

4. (a) The committee shall elect a chairman annually from among its membership.

(b) The first meeting of the advisory committee shall be called by the chairman of the Florida Real Estate Commission or his designated representative. The committee shall meet not less than semiannually and, in addition, on call of its chairman or on petition of any six of its members.

(c) The advisory committee is subject to the sunshine law pursuant to s. 286.011.

5. (a) The advisory committee shall solicit advice and information from real estate licensees, the commission, universities, colleges, real estate schools registered pursuant to this chapter and the general public for the purpose of submitting proposals for study and research.

(b) The advisory committee shall select the education or research proposals that shall be funded.

(c) The advisory committee shall select the university or college within the state to perform the education study or research study.

6. (a) The director of the Division of Real Estate of the Department of Professional Regulation, hereinafter referred to as the "director," or his designated representative shall submit to the advisory committee, in advance of each fiscal year and shall continuously inform the advisory committee of changes in its substance and scheduling.

7. The advisory committee shall have the power and authority to adopt all rules necessary to administer this provision.

8. (a) No current member of the Florida Real Estate Commission shall be eligible for appointment to the Foundation Advisory Committee.

(b) The director shall submit to the advisory committee all proposals received for its review and approval in developing an educational and research agenda at the beginning of each fiscal year and shall continuously inform the advisory committee of changes in its substance and scheduling.

9. The advisory committee shall be permitted to fund or offer educational courses designed to qualify persons for licensure of the renewal of licenses pursuant to this chapter.

10. Neither the foundation nor the committee shall expend any funds for the purpose of employing staff or other employment assistance.

11. The foundation shall invest $3 million from the portion of the Professional Regulation Trust Fund credited to the real estate profession, under the same limitations as applied to investments of other state funds, and the income earned thereon shall be transferred to the Education and Research Foundation Trust Fund which is hereby created under the advisory committee. Funds in the Education and Research Foundation Trust Fund shall be available to the foundation to fund the activities and projects authorized under this section. However, any amount in the trust fund in excess of $1 million shall revert to the portion of the Professional Regulation Trust Fund credited to the real estate profession. In the event the foundation is abolished, the funds in the trust fund shall revert to such portion of the Professional Regulation Trust Fund.

475.05 Power of commission to enact bylaws, rules, and regulations and decide questions of practice.--The commission may enact bylaws and regulations for its own government and rules in the exercise of its powers, not in conflict with the constitution and laws of the United States or of this state, and amend the same at its pleasure. The commission may decide questions of practice arising in the proceedings before it, having regard to this chapter and the rules then in force. Printed copies of rules, or written copies under the seal of the commission, shall be prima facie evidence of their existence and
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475.10 Seal.--The commission shall adopt a seal by which it shall authenticate its proceedings. Copies of the proceedings, records, and acts of the commission, and certificates purporting to relate the facts concerning such proceedings, records, and acts, signed by the chairman, the custodian of such records, or another person authorized to make such certification and authenticated by such seal, shall be prima facie evidence thereof in all the courts of this state.

475.125 Fees.--
(1) The commission by rule may establish fees to be paid for applications, examination, reexamination, licensing and renewal, reinstatement, and recordkeeping. The fee for initial application and examination may not exceed $100. The biennial renewal fee may not exceed $100. The commission may also establish by rule a late renewal penalty. The commission shall establish fees which are adequate to ensure its continued operation. Fees shall be based on estimates made by the department of the revenue required to implement this chapter and other provisions of law relating to the regulation of real estate practitioners.
(2) The application and license fees shall be refunded upon a determination by the commission that the state is not entitled to the fees or that only a portion of the resources have been expended in the processing of the application, or if for any other reason the application is not completely processed. The commission shall implement this provision by rule.

475.15 Registration of licenses of members, officers, and directors of firm.--Each partnership or corporation which acts as a broker shall register with the commission and shall renew the licenses of its members, officers, and directors for each license period. The registration of such a partnership shall be canceled automatically during any period of time that the license of any of its partners is not in force. If the license of at least one active broker member is not in force, the registration of such a corporation shall be canceled automatically during that period of time.

475.17 Qualifications for practice.--
(1) (a) An applicant for licensure who is a natural person shall be 18 years of age, a bona fide resident of the state, honest, truthful, trustworthy, and of good character and shall have a good reputation for fair dealing. An applicant for a broker's license or a salesman's license shall be competent and qualified to make real estate transactions and conduct negotiations therefor with safety to investors and to those with whom he may undertake a relationship of trust and confidence. If the applicant has been denied registration or a license or has been disbarred, or his registration or license to practice or conduct any regulated profession, business, or vocation has been revoked or suspended, by this or any other state, any nation, or any possession or district of the United States, or any court or lawful agency thereof, because of any conduct or practices which would have warranted a like result under this chapter, or if the applicant has been guilty of conduct or practices in this state or elsewhere which would have been grounds for revoking or suspending his license under this chapter had the applicant then been registered, the applicant shall be deemed not to be qualified unless, because of lapse of time and subsequent good conduct and reputation, it appears to the commission that the interest of the public and investors will not likely be endangered by the granting of registration.
(2) No application may be approved if the applicant has acted or attempted to act, or has held himself out as entitled to act, during the period of 1 year next prior to the filling of the application, as a real estate broker or salesman in this state in violation of this chapter. This paragraph shall be deemed to bar any person from licensure who has performed any of the acts or services described in s. 475.013(3), unless exempt pursuant to s. 475.01(3) during a period of 1 year next preceding the filing of the application, or during the pendency of the application, and until a valid current license has been duly issued to him, regardless of whether the performance of the act or service was done for compensation or valuable consideration.
(2) In addition to other requirements under this chapter, the commission may require the satisfactory completion of one or more of the educational courses or equivalent courses conducted, offered, sponsored, prescribed, or approved pursuant to s. 475.04, taken at an accredited college, university, or community college or at a registered real estate school, as a condition precedent for any person to become licensed or to renew his license as a broker, broker-salesman, or salesman. The course or courses required for one to become initially licensed shall not exceed a total of 63 classroom hours of 50 minutes each, inclusive of examination, for a salesman, and 72 classroom hours of 50 minutes each, inclusive of examination, for a broker. No person may be licensed as a real estate broker unless, in addition to the other requirements of law, he has held an active real estate salesman's license in the office.
of one or more licensed real estate brokers for at least 12 months during the preceding 5 years shall satisfactorily complete an examination administered by the accredited college, university, or community college or by the registered real estate school shall be the basis for determining satisfactory completion of the course. However, notice of satisfactory completion shall not be issued if the student has absences in excess of 8 classroom hours. When such requirement is made, provisions shall be made to make sure that the course or courses are available by correspondence or other suitable means to any person who, by reason of hardship, cannot attend the place or places where the course is regularly conducted.

(3) All individuals engaged in the activity of dealing in business enterprises or business opportunities for another and for valuable consideration on January 1, 1982, may continue to operate in this activity without complying with the qualification-for-practice provisions of subsection (2) and s. 475.175 for a period of 2 years. During this 2-year period, all such individuals shall either qualify as real estate brokers under the provisions of this chapter or satisfactorily complete commission-approved courses of instruction and pass an examination prescribed by the commission. The total classroom hours of instruction in any such course or courses of instruction shall not exceed the combined total for broker applicants and salesman applicants contained in subsection (2). After this 2-year period, full compliance with this chapter is mandatory.

475.175 Examinations.--
(1) A person shall be entitled to take the license examination to practice in this state if he:
(a) Submits to the department the appropriate application and fee and, if required by the department, fingerprints for processing through appropriate law enforcement agencies; and
(b) Submits at the time of examination the certificate specified in subsection (2), the examination admissions card issued by the commission, and proof of identification.
(2) Each accredited college, university, community college, or registered real estate school shall notify the commission of the names of all persons who have satisfactorily completed the educational requirements provided for in s. 475.17(2). Furthermore, each such educational institution shall provide to each person satisfactorily completing the educational requirements provided for in s. 475.17(2) a certificate as proof of such satisfactory completion.

475.181 License.--
(1) The department shall license any applicant whom the commission certifies to be qualified to practice as a broker or salesman:
(2) The commission shall certify for licensure any applicant who satisfies the requirements of s. 475.17 and 475.175. The commission may refuse to certify any applicant who has violated any of the provisions of s. 475.42 or who is subject to discipline under s. 475.25. The application shall expire 1 year from the date received if the applicant fails to take the appropriate examination.
(3) The department may not issue a license to any applicant who is under investigation in another state or territory for any act which would constitute a violation of this chapter or chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.
(4) An applicant who passes the appropriate examination and has been certified by the commission, but who has failed to request initial licensure within 6 months from the date of notification, must be recertified by the commission before licensure.

475.182 Renewal of license; continuing education.--
(1) The department shall renew a license upon receipt of the renewal application and fee. The renewal application for an active license as broker, broker-salesman, or salesman shall include proof satisfactory to the commission that the licensee has, since the issuance or renewal of his current license, satisfactorily completed at least 14 classroom hours of 40 minutes each of a continuing education course, as prescribed by the commission. The commission shall accept as a substitute for such continuing education course, on a classroom-hour-for-classroom-hour basis, any satisfactorily completed education course offered by the Realtors National Marketing Institute, the American Institute of Real Estate Appraisers, the National Association of Realtors, the Society of Real Estate Appraisers, Inc., the Florida Association of Realtors, or any accredited university within this state; however, pursuant to a hearing under chapter 120, the commission may refuse to substitute any such course which, in the opinion of the commission, fails to adequately educate the person taking the course within the intent of this section. This section shall not serve to exclude those courses which have previously been approved as substitutes, nor is it intended to restrict societies or institutions which may seek approval of their courses pursuant to hearings under chapter 120. The commission may accept as a substitute for such continuing education course, on a classroom-hour-for-classroom-hour basis, any satisfactorily completed education course that the commission, following a hearing under chapter 120, finds is adequate to educate licensees within the intent of this section.
(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.
(3) Any license which is not renewed at the end of the biennium prescribed by the department shall automatically revert to inactive status. Such license may be reactivated only if the licensee meets the other qualifications for reactivation in s. 475.183.

(4) Sixty days prior to the end of the biennium and automatic reversion of a license to inactive status, the department shall mail a notice of renewal and possible reversion to the last known address of the licensee.

475.1825 Certain expired registrations granted inactive status.--The registration of any real estate broker or salesman that expired after June 30, 1969, and before July 1, 1979, solely due to nonrenewal shall be considered to be inactive under the provisions of this chapter. The inactive status granted under this section shall relate back to the original date of nonrenewal. The reactivation of any inactive license under this section shall be accomplished pursuant to s. 475.183(2).

475.183 Inactive status.--
(1) A license which has become inactive may be reactivated pursuant to s. 475.182 upon application to the department. The commission shall prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license shall not exceed 12 classroom hours for each year the license was inactive. The commission shall substitute for such continuing education requirements, on a classroom-hour-for-classroom-hour basis, any satisfactorily completed education course approved in the manner specified in s. 475.182(1). Any such license which has been inactive for more than 4 years shall automatically expire if the licensee has not made application for renewal of such license. Once license expires, it becomes null and void without any further action by the board or department. One year prior to expiration of the license, the department shall give notice to the licensee.
(2) The board shall promulgate rules relating to licenses which have become inactive and for the renewal of inactive licenses. The board shall prescribe by rule a fee not to exceed $50 for the reactivation of an inactive license and a fee not to exceed $50 for the renewal of an inactive license.

475.215 Multiple licenses.--
(1) A licensed broker may be issued upon request additional licenses as a broker, but not as a salesman or as a broker-salesman, whenever it is clearly shown that the requested additional licenses are necessary to the conduct of real estate brokerage business and that the additional licenses will not be used in a manner likely to be prejudicial to any person, including a licensee under this chapter.
(2) A salesman or broker-salesman shall have no more than one registered employer at any one time.

475.22 Broker to maintain office and sign at entrance of office.--Each active broker shall maintain an office, which shall consist of at least one enclosed room in a building of stationary construction. Each active broker shall maintain a sign on or about the entrance of his principal office and each branch office, which sign may be easily observed and read by any person about to enter such office and shall be of such form and minimum dimensions as shall be prescribed by the commission.

475.23 License to expire on change of address.--A license shall cease to be in force whenever a broker changes his business address, a real estate school operates under a permit issued pursuant to s. 475.451 changes its business address, or a salesman working for a broker or an instructor working for a real estate school changes employer. In each such case, the old license or permit shall be surrendered or accounted for and a replacement shall be issued upon request therefor on a form provided by the commission. The fee for the issuance of the replacement license shall be in an amount prescribed by the commission, not to exceed $10.

475.24 Branch office; fees.--Whenever any licensee desires to conduct business at some other location, either in the same or a different municipality or county than that in which he is licensed, such other place of business shall be registered as a branch office, and an annual registration fee prescribed by the commission, in an amount not exceeding $20, shall be paid for each such office. It shall be necessary to maintain and register a branch office whenever, in the judgment of the commission, the business conducted at a place other than the principal office is of such a nature that the public interest requires registration of the branch office. Any office shall be deemed to be a branch office if the name or advertising of a broker having a principal office located elsewhere is displayed in such a manner as to reasonably lead the public to believe that such office is owned or operated by such broker.

475.25 Discipline.--
(1) The commission may deny an application for license, registration, or permit, or renewal thereof; may suspend a license or permit for a period not exceeding 10 years; may revoke a license or permit; may impose an administrative fine not to
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exceed $1,000 for each count or separate offense; and may issue a reprimand, or any or all of the foregoing, if it finds that the licensee, permittee, or applicant

(a) Has violated any provision of s. 475.42 or of s. 455.227(1). (b) Has been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme, or device, culpable negligence, or breach of trust in any business transaction in this state or any other state, nation, or territory, has committed an overt act in furtherance of such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in any such misconduct and committed an overt act in furtherance of such intent, design, or scheme. It is immaterial to the guilt of the licensee that the victim or intended victim of the misconduct has sustained no damage or loss; that the damage or loss has been settled and paid after discovery of the misconduct; or that such victim or intended victim was a customer or a person in confidential relation with the licensee or was an identified member of the general public that such victim or intended victim was a customer or a person in confidential relation with the licensee or was an identified member of the general public.

(c) Has advertised property or services in a manner which is fraudulent, false, deceptive, or misleading in form or content. (d) Has failed to account or deliver to any person, including a licensee under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, a share of a real estate commission, or any other document or thing of value, including a share of a real estate commission, or any secret or illegal profit, or any divisible share or portion thereof which has come into his hands and which is not his property or which he is not in law or equity entitled to retain under the circumstances. However, if the licensee, in good faith, entertains doubt as to what person is entitled to the accounting and delivery of the escrowed property, or if conflicting demands have been made upon him for the escrowed property, which property he still maintains in his escrow or trust account, the licensee shall promptly notify the commission of such doubts or conflicting demands and shall promptly:

1. Request that the commission issue an escrow disbursement order determining who is entitled to the escrowed property.
2. With the consent of all parties, submit the matter to arbitration, or

3. By interpleader or otherwise, seek adjudication of the matter by a court.

If the licensee promptly employs one of the escape procedures contained herein, and if he abides by the order or judgment resulting therefrom, no administrative complaint may be filed against the licensee for failure to account for, deliver, or maintain the escrowed property.

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

(f) Has been convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the activities of a licensed broker or salesman or involves moral turpitude or fraudulent or dishonest dealing. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

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

(h) Has shared a commission with, or paid a fee or other compensation to, a person not properly licensed as a broker, broker-salesman, or salesman under the laws of this state for the sale of an interest in real estate, business, clients, prospects, or customers, or for any one or more of the services set forth in s. 475.01(1)(c). For the purposes of this section, it is immaterial that the person to whom such payment or compensation is given made the referral or performed the service from within this state or elsewhere, however, a licensed broker of this state may pay a referral fee or share a real estate brokerage commission with a broker licensed or registered under the laws of a foreign state so long as the foreign broker does not violate any law of this state.

(i) Has become temporarily incapacitated from acting as a broker or salesman with safety to investors or those in a fiduciary relation with him because of drunkenness, use of drugs, or temporary mental derangement, but suspension of a license in such a case shall be only for the period of such incapacity.

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

(k) Has failed, if a broker, to immediately place, upon receipt, any money fund, deposit, check, or draft entrusted to him by any person dealing with him as a broker in escrow with a title company, banking institution, or savings and loan association located and doing business in this state, or to deposit such funds in a trust or escrow account maintained by him with some bank or savings and loan association located and doing business in
this state, wherein the funds shall be kept until disbursement thereof is properly authorized; or has failed, if a salesman, to immediately place with his registered employer any money, fund, deposit, check, or draft entrusted to him by any person dealing with him as agent of his registered employer. The commission shall establish rules to provide for records to be maintained by the broker and the manner in which such deposits shall be made.

(1) Has made or filed a report or record which the licensee knows to be false, has willfully failed to file a report or record required by state or federal law, has willfully impeded or obstructed such filing, or has induced another person to impede or obstruct such filing; but such reports or records shall include only those which are signed in the capacity of a licensed broker or salesman.

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

(n) Is confined in any state or federal prison or mental institution or, through mental disease or deterioration, can no longer safely be entrusted to deal with the public or in a confidential capacity.

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

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

(2) A license may be revoked or canceled if it was issued through the mistake of inadvertence of the commission. Such revocation or cancellation shall not prejudice any subsequent application for licensure filed by the person against whom such action was taken.

(3) The department shall reissue the license of a licensee against whom disciplinary action was taken upon certification by the commission that the licensee has complied with all of the terms and conditions of the final order imposing discipline.

475.37 Effect of reversal of order of court or commission.--If the order of the court or commission denying, revoking, or suspending a license is finally reversed and set aside, the defendant shall be restored to his rights and privileges as a broker or salesman as of the date of filing the mandate or a copy thereof with the commission. The matters and things alleged in the information shall not thereafter be reexamined in any other proceeding concerning the licensure of the defendant. If the inquiry concerned was in reference to an application for licensure, the application shall stand approved, and such application shall be remanded for further proceedings according to law.

475.38 Payment of costs.--The commission shall not be required to advance any fees or costs to any officer or witness, or to execute any bond in any proceeding in
the courts, any general statute to the contrary notwithstanding, but in every case in which the commission is liable for any fees or costs, a voucher therefor shall be presented to the commission and, if approved, audited and paid as are other expenses of the commission. The commission may, if it is satisfied that a defendant is unable to pay or advance any fees or costs and that the service from which such fees or costs have accrued or will accrue is probably necessary in the interests of justice, upon application by the defendant, order that such fees or costs be incurred at the expense of the commission and be paid as are other fees and costs, but the defendant shall remain liable to the commission for all sums so paid.

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

475.42 Violations and penalties.-- (1) VIOLATIONS.--
(a) No person shall operate as a broker or salesman without being the holder of a valid and current license therefor.
(b) No person licensed as a salesman shall operate as a broker or operate as a salesman for any person not registered as his employer.
(c) No broker shall employ, or continue in employment, any person as a salesman who is not the holder of a valid and current license as salesman; but a license as salesman may be issued to a person licensed as an active broker, upon request and surrender of the license as broker, without a fee in addition to that paid for the issuance of the broker's active license.
(d) No salesman shall collect any money in connection with any real estate brokerage transaction, whether as a commission, deposit, payment, rental, or otherwise, except in the name of the employer and with the express consent of the employer; and no real estate salesman, whether the holder of a valid and current license or not, shall commence or maintain any action for a commission or compensation in connection with a real estate brokerage transaction against any person except a person registered as his employer at the time the salesman performed the act or rendered the service for which the commission or compensation is due.
(e) No person shall violate any lawful order or rule of the commission which is binding upon him.
(f) No person shall commit any conduct or practice set forth in s. 475.25(1)(a), (c), (d), or (h).
(g) No person shall make any false affidavit or affirmation intended for use as evidence by or before the commission or a member thereof, or by any of its authorized representatives, unless because of facts that are sufficient to excuse appearance in response to a subpoena from the circuit court; nor shall a person who is present before the commission or a member thereof or one of its authorized representatives acting under authority of this chapter refuse to be sworn or to affirm or fail or refuse to answer fully any question propounded by the commission, the member, or such representative, or by any person by the authority of such officer or appointee; nor shall any person, so being present, conduct himself in a disorderly, disrespectful, or contumacious manner.
(1) No person shall obstruct or hinder in any manner the enforcement of this chapter or the performance of any lawful duty by any person acting under the authority of this chapter or interfere therewith, intimidate, or offer any bribe to any member of the commission or any of its employees or any person who is present, or cause the doing of any act described in subsection (1) of this section.
(j) No person shall obstruct or hinder any person by the authority of such officer or appointee, or by any person by the authority of this chapter refuse to be sworn or to affirm or fail or refuse to answer fully any question propounded by the commission, the member, or such representative, or by any person by the authority of such officer or appointee; nor shall any person, so being present, conduct himself in a disorderly, disrespectful, or contumacious manner.
(k) No person shall obstruct or hinder any person by the authority of such officer or appointee, or by any person by the authority of this chapter refuse to be sworn or to affirm or fail or refuse to answer fully any question propounded by the commission, the member, or such representative, or by any person by the authority of such officer or appointee; nor shall any person, so being present, conduct himself in a disorderly, disrespectful, or contumacious manner.

Appendix A Chapter 475, Florida Statutes 10/02/87

19-A

20-A
475.421 Publication of false or misleading information; promotion of sales, leases, rentals; penalty.--Any person who publishes or causes to be published by means of newspaper, periodicals, radio, television, or written or printed matter any false or misleading information for the purpose of offering for sale or for the purpose of causing or inducing any other person to purchase, lease, or rent real estate located in the state, or to acquire an interest in the title thereto, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

475.451 Schools teaching real estate practice.--(1) Each person, school, or institution, except approved and accredited colleges or universities in this state, which offers or conducts any course of study in real estate practice, teaches any course prescribed by the commission as a condition precedent to licensure or renewal of licensure as a broker or salesman, or teaches any course designed or represented to enable or assist applicants for licensure as brokers or salesmen to pass examinations for such licensure conducted by the department, shall, before commencing or continuing further to offer or conduct such course or courses, obtain a permit from the department and abide by the regulations imposed upon such person, school, or institution by this chapter and pursuant to this chapter.

(2) An applicant for a permit to operate a real estate school, to be a chief administrator of such a school, or to be an instructor in such a school shall meet the qualifications for practice set forth in s. 475.17(1) and the following minimal requirements:

(a) "School permit holder" is defined as that individual who is responsible for directing the overall operation of a real estate school. He shall be the holder of a license as a broker, either active or inactive, or shall have passed the instructor's examination administered by the department. A school permit holder shall also meet the requirements of a school instructor if he is actively engaged in teaching.

(b) "School chief administrative person" is defined as that individual who is responsible for the administration of the overall policies and practices of the school. He shall meet the requirements of a school instructor if he is actively engaged in teaching.

(c) "School instructor" is defined as that individual who actively instructs in the classroom. He shall, before commencing to instruct, certify his competency by passing an instructor's written examination administered by the department. Every second year, each instructor shall recertify his competency by presenting to the department evidence of his successfully completing a minimum of 15 classroom hours of instruction in real estate subjects or instructional techniques, as prescribed by the commission.

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

(3) It is unlawful for an approved school, or institution to offer the courses described in subsection (1) or to conduct classes in such courses, regardless of the number of pupils, whether by correspondence or otherwise, without first procuring a permit, or to guarantee that its pupils will pass any examinations given by the department, or to represent that the issuance of a permit is any recommendation or endorsement of the person, school, or institution to which it is issued or of any course of instruction given thereunder.

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

(5) The location of classes and frequency of class meetings shall be in the discretion of the school offering real estate courses, so long as such courses conform to s. 475.172(2).

(6) Any course prescribed by the commission as a condition precedent to any person's becoming initially licensed as a salesman may be taught in any real estate school through the use of a video tape of instruction by a currently licensed instructor from any such school. The commission may require that any such video tape course have a single session of live instruction by a currently licensed instructor from any such school; however, this requirement shall not exceed three classroom hours. All other prescribed courses, except the continuing education course required by s. 475.182, shall be taught by a currently licensed school instructor personally in attendance at such course. The continuing education course required by s. 475.182 may be taught by an equivalent correspondence course, however, any such course of correspondence shall be required to have a final examination, prepared and administered by the school issuing the correspondence course. The continuing education course provided in this section or provided in any other section in this chapter do not apply with respect to any attorney who is otherwise qualified under the provisions of this chapter.

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

(8) A permit holder pursuant to this section may be issued additional permits whenever it is clearly shown that the requested additional permits are necessary to the conduct of the business of a real estate school and that the additional permits will not be used in a manner likely to be prejudicial to any person, including a licensor or a permit holder under this chapter.

475.4511 Advertising by real estate schools.--

(1) No person representing a real estate school offering and teaching real estate courses under this chapter shall make, cause to be made, or approve any statement, representation, or act, oral, written, or visual, in connection with the operation of the school, its affiliations with individuals or entities of courses offered, or any endorsement of such, if such person knows or believes, or reasonably should know or believe, the statement, representation, or act to be false, inaccurate, misleading, or exaggerated.

(2) A school shall not use advertising of any nature which is false, inaccurate, misleading, or exaggerated. Publicity and advertising of a real estate school, or of its representative, shall be based upon relevant facts and supported by evidence establishing their truth.

(3) No representative of any school or institution coming within the provisions of this chapter shall promise or guarantee employment or placement of any student or prospective student using information, training, or skill purported to be provided, or otherwise enhanced, by a course or school as an inducement to enroll in the school, unless such person offers the student or prospective student a bona fide contract of employment agreeing to employ the student or prospective student.

(4) A school shall advertise only as a school and under the registered name of that school and shall not advertise the school in connection with an advertisement of an affiliated broker, except that a school may advertise jointly in conjunction with an affiliated broker as long as there is a distinctive separation in the advertisement.

(5) No reference may be made in any publication or communication medium as to a "pass/fail ratio" on a state examination by any school approved by the commission.

475.452 Advance fees; deposit; accounting; penalty; damages.

(1) It is unlawful for any broker to contract for or collect any advance fee for the listing of real property from any principal without depositing 75 percent of such amount, when collected, in a trust account with a bank or other recognized depository. Such funds shall be held as trust funds and may not be commingled with the funds of the broker who has collected the fee. Prior to the withdrawal of any fees from the trust account, the broker shall furnish a statement to the principal itemizing how the advance fees are to be expended and the amounts thereof. Amounts may be withdrawn for the benefit of the broker only when actually expended for the benefit of the principal. If days after verified accounts have been mailed to the principal. If the listed property is not sold within the period of time specified in the broker's contract or within 18 months
Section 475.453, Florida Statutes

475.453 Rental information; contract or receipt; refund; penalty.—
(1) Each broker or salesman who attempts to negotiate a rental, or who furnishes rental information to a prospective tenant, for a fee paid by the prospective tenant shall provide each tenant with a contract or receipt, which contract or receipt contains a provision for the repayment of any amount over 25 percent of the fee to the prospective tenant if the prospective tenant does not obtain a rental. If the rental information provided by the broker or salesmen to a prospective tenant is not current or accurate in any material respect, the full fee shall be repaid to the prospective tenant upon demand. A demand for the return of the fee, or any part thereof, shall be made within 30 days following the day on which the rental is negotiated or provided, and the rental information furnished shall be provided to the prospective tenant. The contract or receipt shall also conform to the guidelines adopted by the commissioner in order to effect disclosure of material information regarding the service to be provided to the prospective tenant.

(2) The commission may adopt a guideline for the form of the contract or receipt required to be provided by brokers or salesmen pursuant to the provisions of subsection (1).

475.454 Prosecution of criminal violations; notice to the licensees of, or imposed a penalty against, a licensee, it shall issue a notice to the licensee to show cause why the commission should take no action, which notice shall provide for a hearing, in accordance with chapter 120, upon request.

475.455 Exchange of disciplinary information.—
(1) The commission shall provide for a hearing, in accordance with chapter 120, upon request.

(2) The commissioner shall inform the Division of Florida Land Sales of any disciplinary action the division has taken against any broker or salesmen who participates in any rental information transaction which is in violation of the provisions of subsection (1) shall be subject to suspension or revocation by the commission in the manner prescribed by law.

475.482 Real Estate Recovery Fund.—
There is created the Florida Real Estate Recovery Fund as a separate account in the Professional Regulation Trust Fund.

(1) The Florida Real Estate Recovery Fund shall be established as provided in § 475.484, on order of the commission, as reimbursement to any person or corporation adjudged by a court of competent jurisdiction to have suffered monetary damages by reason of any of the following acts committed as a part of any real estate brokerage transaction involving real property in this state by any broker or salesmen who was licensed under the provisions of this chapter at the time the alleged act was committed:

(a) Any violation of the provisions of this chapter, or

(b) Obtaining money or property by fraud, misrepresentation, deceit, false pretenses, artifice, or trickery by any other act which would constitute a violation of this chapter, or

(2) The Real Estate Recovery Fund shall also be established as provided in § 475.484, on order of the commission, as reimbursement to any person or corporation adjudged by a court of competent jurisdiction to have suffered monetary damages by reason of any of the following acts committed as a part of any real estate brokerage transaction involving real property in this state by any broker or salesmen who was licensed under the provisions of this chapter at the time the alleged act was committed:

(a) Any violation of the provisions of this chapter, or

(b) Obtaining money or property by fraud, misrepresentation, deceit, false pretenses, artifice, or trickery by any other act which would constitute a violation of this chapter, or
to any broker or salesman who is required by a court of competent jurisdiction to pay money damages due to a distribution of escrow moneys which is made in compliance with an escrow disbursement order issued by the commission.

(3) A fee of $3.50 per year shall be added to the license fee for both new licenses and renewals of licenses for brokers, and a fee of $1.50 per year shall be added for new licenses and renewals of licenses for salesmen. This fee shall be in addition to the regular license fee and shall be deposited in or transferred to the Real Estate Recovery Fund. Should the fund at any time exceed $450,000, collection of special fees for this fund shall be discontinued at the end of the 2-year licensing renewal cycle. Such special fees shall not be remitted unless the fund is reduced below $250,000 by disbursement made in accordance with this chapter.

475.483 Conditions for recovery; eligibility.--

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

(a) Such person has received final judgment in a court of competent jurisdiction in this state in any action wherein the cause of action was based on any violation prescribed in s. 475.481.

(b) At the time the action was commenced, such person gave notice thereof to the commission by certified mail; except that, if no notice has been given to the commission, the claim shall be honored if, in the opinion of the commission, the claim is otherwise valid.

(c) The act for which recovery is sought occurred on or after July 1, 1976, and not more than 2 years prior to making such claim.

(d) Such person has caused to be issued a writ of execution upon such judgment, and the officer executing the writ has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment can be found or that the amount realized on the sale of the judgment debtor’s property pursuant to such execution was insufficient to satisfy the judgment.

2. If such person is unable to comply with subparagraph 1. for a valid reason to be determined by the commission, such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets subject to being sold or applied in satisfaction of the judgment and by his search he has discovered no property or assets or he has discovered property and assets and has taken all necessary action and proceedings for the application thereof to the judgment but the amount thereby realized was insufficient to satisfy the judgment.

(e) Any amounts recovered by such person from the judgment debtor, or from any other source, have been applied to the damages awarded by the court; and

(f) Such person is not a person who is precluded by this act from making a claim for recovery.

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

(a) He is the spouse of the judgment debtor or a personal representative of such spouse.

(b) He is a licensed broker or salesman who acted as principal or agent in the transaction which is the subject of the claim; or

(c) Such person’s claim is based upon a real estate transaction in which the licensed broker or salesman was acting on his behalf with respect to the property owned or controlled by him.

(3) The commission may pay attorney’s fees and court costs if the claim is of the type described in s. 475.482(2).

475.4835 Commission powers upon notification of commencement of action.--

When the commission receives notice of any action, as required by s. 475.483(1)(b), the commission may intervene, enter an appearance, file an answer, defend the action, or take any action it deems appropriate on behalf, and in the name, of the defendant and take recourse through any appropriate method of review on behalf, and in the name, of the defendant.

475.484 Payment from the fund.--

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

(a) Under s. 475.482(1), in an amount equal to the unsatisfied portion of such person's judgment or $25,000, whichever is less, but only to the extent and amount reflected in the judgment as being actual or compensatory damages; or

(b) Under s. 475.482(2), in an amount equal to the judgment against the broker or salesman or $25,000, whichever is less.

(2) Upon receipt by a claimant under paragraph (1)(a) of payment from the Real Estate Recovery Fund, the claimant shall assign his additional right, title, and interest in the judgment, to the extent of such payment, to the commission, and thereupon the commission shall be subrogated to the right, title, and interest of the claimant; and any amount subsequently recovered on the judgment by the commission, to the extent of the right, title, and interest of the commission therein, shall be for the purpose of reimbursing the Real Estate Recovery Fund.

(3) Payments for claims arising out of the same transaction shall be limited, in the aggregate, to $25,000, regardless of the number of claimants or parcels of real estate involved in the transaction.
(4) Payments for claims based upon judgments against any one broker or salesman shall not exceed, in the aggregate, $50,000.

(5) If at any time the moneys in the Real Estate Recovery Fund are insufficient to satisfy any valid claim or portion thereof, the commission shall satisfy such unpaid claim or portion thereof as soon as a sufficient amount of money has been deposited in or transferred to the fund. When there is more than one unsatisfied claim outstanding, such claims shall be paid in the order in which the claims were made.

(6) All payments and disbursements from the Real Estate Recovery Fund shall be made by the Treasurer upon a voucher signed by the Secretary of the department. Amounts transferred to the Real Estate Recovery Fund shall not be subject to any limitation imposed by an appropriation act of the Legislature.

(7) Upon the payment of any amount from the Real Estate Recovery Fund in settlement of a claim in satisfaction of a judgment against a broker or salesman as described in s. 475.482(1), the license of such broker or salesman shall be automatically revoked. A discharge of bankruptcy shall not relieve a person from the penalties and disabilities provided in this section.

475.485 Investment of the fund.--The funds in the Real Estate Recovery Fund may be invested by the Treasurer under the same limitations as apply to investment of other state funds, and the interest earned thereon shall be deposited to the credit of the Real Estate Recovery Fund and shall be available for the same purposes as other moneys deposited in the Real Estate Recovery Fund.

475.486 Rules; violations.--

(1) The commission shall adopt such rules as are necessary to effect the efficient administration of ss. 475.482-475.486.

(2) It is unlawful for any person or his agent to file with the commission any notice, statement, or other document required under the provisions of ss. 475.482-475.486 which is false or contains any material misstatement of fact. Any person who violates the provisions of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
Appendix B

Florida Real Estate Commission Rules

Chapter 21V, Florida Administrative Code
CHAPTER II
RULES OF THE FLORIDA REAL ESTATE COMMISSION

CHAPTER 21V-1

REGISTRATION DETAILS AND FEE STRUCTURE

(Omitted numbers have been repealed or reserved or do not apply)

21V-1.11 License fees and examination fees.

21V-1.12 Definition of inactive.

21V-1.13 Registration categories.

21V-1.14 Inactive renewal.

21V-1.15 Exemption of spouses of members of Armed Forces from licensure renewal provisions.

21V-1.11 License fees and examination fees.

(1) Every person, partnership, corporation deemed and held to be a licensee under Chapter 475, Florida Statutes, must register with the Commission and must secure a license for each license period.

(2) The application fee for licensure shall be as follows:

(a) Initial application

<table>
<thead>
<tr>
<th>License Type</th>
<th>Fee</th>
</tr>
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<tbody>
<tr>
<td>Broker</td>
<td>$40.00</td>
</tr>
<tr>
<td>Salesman</td>
<td>$40.00</td>
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</table>

(b) Reapplication fee for less than 12 months after filing initial application:

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<thead>
<tr>
<th>License Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broker</td>
<td>$25.00</td>
</tr>
<tr>
<td>Salesman</td>
<td>$25.00</td>
</tr>
</tbody>
</table>

(c) Reapplication fee for more than 12 months after filing initial application:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broker</td>
<td>$40.00</td>
</tr>
<tr>
<td>Salesman</td>
<td>$40.00</td>
</tr>
</tbody>
</table>

(d) Reinstatement:

<table>
<thead>
<tr>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$20.00</td>
</tr>
</tbody>
</table>

(3) The annual license fees (to be collected biennially) for an active licensee shall be:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broker</td>
<td>$13.00</td>
</tr>
<tr>
<td>Salesman</td>
<td>$7.00</td>
</tr>
</tbody>
</table>

Branch office fee for Broker $20.00
(4) The fee and the time of payment for inactive license shall be the same as for an active license, as set forth in Paragraph 3 of this rule, however, there is no inactive branch office.

(5) The following fees shall be charged for the following purposes:

(a) Change of Individual License to Professional Association or Professional Association to Individual License $18.00
(b) Checks returned insufficient funds or account closed $10.00 or an amount up to 3% of the face amount of the check, whichever is greater $6.00

(6) The Commission may publish and sell the following documents at cost, which may or may not vary with each printing:

Handbook on Real Estate License Law
Real Estate Broker Tax
Wall Certificate of License

(7) The license fee for school related categories shall be as follows:

(a) School
   Application for examination
   School Permit Holder $40.00
   School Instructor $40.00

(b) Resubmission fee for less than 12 months after filing initial application:
   Instructor $25.00
   Permit Holder $25.00

(c) Resubmission fee for more than 12 months after filing initial application:
   Instructor $40.00
   Permit Holder $40.00

(d) Annual Permit Fee (to be collected biennially):
   School Permit Holder $50.00
   School Instructor $25.00
   Chief Administrative Person $25.00

(e) Entity equivalent continuing education
   source offering approval:
   For each application for approval of continuing education offering $50.00
   For each annual continuing education offering renewal $30.00

(8) The initial application for registration for corporations or partnerships is:

   Corporations $40.00
   Partnerships $40.00

(9) The annual renewal of corporations or partnerships registration fee (to be collected biennially) shall be:

   Corporations $80.00
   Partnerships $80.00

(10) The fee for request for a change of examination date, which must be in writing, shall be:

   (a) Requests received in the Commission office more than 7 days prior to the scheduled date: $5.00
   (b) Requests received in the Commission office less than 7 days prior to the scheduled date: $12.00
(4) The fee and the time of payment for inactive license shall be the same as for an active licensee, as set forth in Paragraph 3 of this rule, however, there is no inactive branch office.

(5) The following fees shall be charged for the following purposes:

(a) Change of Individual License to Professional Association or Professional Association to Individual License $10.00

(b) Checks returned insufficient funds or account closed

An amount up to 2% of the face amount of the check, whichever is greater $6.00

(6) The Commission may publish and sell the following documents at cost, which may or may not vary with each printing:

Handbook on Real Estate License Law
Real Estate Broker Tax
Wall Certificate of Licensee

(7) The license fee for school related categories shall be as follows:

(a) School

Application for examination
School Permit Holder $40.00
School Instructor $40.00

(b) Reapplication fee for less than 12 months after filing initial application:

Instructor $25.00
Permit Holder $25.00

(c) Reapplication fee for more than 12 months after filing initial application:

Instructor $40.00
Permit Holder $40.00

(e) Annual Permit Fee (to be collected biennially):

School Permit Holder $50.00
School Instructor $25.00
Chief Administrative Person $25.00

(a) Entity equivalent continuing education source offering approval:

For each application for approval of continuing education offering $50.00
For each annual continuing education offering renewal $50.00

(8) The initial application for registration for corporations or partnerships is:

Corporations $40.00
Partnerships $40.00

(9) The annual renewal of corporations or partnerships registration fee (to be collected biennially) shall be:

Corporations $80.00
Partnerships $80.00

(10) The fee for request for a change of examination date, which must be in writing, shall be:

(a) Requests received in the Commission office more than 7 days prior to the scheduled date: no fee
(b) Requests received in the Commission office less than 7 days prior to the scheduled date: $12.00
(b) Requests received in the Commission office less than 7 days prior to the scheduled date: $12.00

21V-1.12 Definition of inactive.

(1) Type I—One who has attained license status with the commission, but not engaged in the real estate business during this period, and is the holder of an inactive license.

(2) Type II—One who is designated as a member of a partnership or an officer and/or director of corporation, who has not attained license status with the commission, and does not engage personally as a real estate broker.

(3) Type III—A status as outlined in s. 475.182(3), F.S.

21V-1.13 Registration categories.

(1) Registration in the following categories shall show the name, the business address, effective and expiration dates:

(a) Active broker partnership
(b) Active broker corporation
(c) Branch office

(2) Designation as an inactive member of a partnership, or officer, or director of a corporation, Type II, as provided in rule 21V-1.12, F.A.C., will not preserve an active license status during a period while he is not operating as a broker and shall receive no license and shall be incapable of reactivation.

(3) Nothing in Rules 21V-1.12, Florida Administrative Code, and 21V-1.13, Florida Administrative Code, shall preclude an active licensed real estate broker from serving as an inactive Type II real estate broker with a real estate corporation(s) or real estate partnership(s) while maintaining his active license(s) with another real estate firm(s).

21V-1.14 Inactive renewal.

(1) An inactive licensee may elect to renew as inactive every two years by submitting a request and the fee established in Rule 21V-1.11, Florida Administrative Code.

(2) If the licensee does not elect to renew, the status automatically shall revert to inactive.

(3) When the total period of inactivity, inclusive of renewal, exceeds 4 years the inactive status shall automatically expire per 475.183, F.S. One year prior to expiration, the Department of Professional Regulation shall give notice to the licensee.

(4) A renewal notice will be sent to the last known address of the licensee biennially.

21V-1.15 Exemption of spouses of members of Armed Forces from licensure renewal provisions. A licensee who is the spouse of a member of the Armed Forces of the United States now or hereafter on active duty who, at the time of his spouse becoming such a member, was validly licensed with the Florida Real Estate Commission as a real estate salesman or real estate broker shall be exempt from all licensure renewal provisions under the Rules of the Florida Real Estate Commission as long as his spouse is a member of the Armed Forces of the United States on active duty and for a period of six months after his discharge from active duty with the Armed Forces, provided that said licensee is not engaged in the practice of real estate brokerage activity in the private sector for profit.
(b) Requests received in the Commission office less than 7 days prior to the scheduled date: $12.00

21V-1.12 Definition of inactive.

(1) Type I—One who has attained license status with the commission, but not engaged in the real estate business during this period, and is the holder of an inactive license.

(2) Type II—One who is designated as a member of a partnership or an officer and/or director of corporation, who has not attained license status with the commission, and does not engage personally as a real estate broker.

(3) Type III—A status as outlined in s. 475.182(3), F.S.

21V-1.13 Registration categories.

(1) Registration in the following categories shall show the name, the business address, effective and expiration dates:

(a) Active broker partnership
(b) Active broker corporation
(c) Branch office

(2) Designation as an inactive member of a partnership, or officer, or director of a corporation, Type II, as provided in rule 21V-1.12, F.A.C., will not preserve an active license status during a period while he is not operating as a broker and shall receive no license and shall be incapable of reactivation.

(3) Nothing in Rules 21V-1.12, Florida Administrative Code, and 21V-1.13, Florida Administrative Code, shall preclude an active licensed real estate broker from serving as an inactive Type II real estate broker with a real estate corporation(s) or real estate partnership(s) while maintaining his active license(s) with another real estate firm(s).

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(2) If the licensee does not elect to renew, the status automatically shall revert to inactive.

(3) When the total period of inactivity, inclusive of renewal, exceeds 4 years the inactive status shall automatically expire per 475.183, F.S. One year prior to expiration, the Department of Professional Regulation shall give notice to the licensee.

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RULES OF THE FLORIDA REAL ESTATE COMMISSION

CHAPTER 21V-2

INDIVIDUAL APPLICANT'S EXAMINATION RULES

(Omitted numbers have been repealed or reserved or do not apply)

21V-2 26 Refund of applicant and registration fees

21V-2 27 Applications by individuals

21V-2 29 Examination areas of competency

21V-2.26 Refund of applicant and registration fees. Upon request, refunds of fees will be made under the following circumstances and in the following amounts:

(1) On those applications accepted and processed, the Commission shall retain $37.00 of the fee paid. All funds received over and above that amount shall be refunded to the applicant or to his beneficiary.

(a) Upon a request for refund, if applicant's license fee is refunded, applicant's application shall be considered null and void.

(b) Any fees accepted or collected in error, or in excess of that required by statute, shall be refunded.

(c) In the event a licensee dies prior to the effective date of a renewal period, one-half of the fee collected for the renewal of licensee's license shall be refunded to the beneficiary.

21V-2.27 Applications by Individuals. The application of a natural person for active licensure, whether he expects to operate alone, or as a partner, or with a corporation, or as a salesman, is governed by substantially the same rules and forms.

(1) The applicant must show, first, that he has the necessary personal qualifications as follows:

(a) That he is 18 years of age or older.

(b) That he is next prior to the filing of his application a bona fide resident of the State of Florida; and

(c) If the application is for broker, that said applicant has been registered as an active salesman for at least 12 months under one or more brokers within 5 years of the filing of his application for licensure as a real estate broker.

(2) The applicant must make it possible to immediately begin the inquiry as to whether he is honest, truthful, trustworthy, of good character, and bears good reputation for fair dealings, and will likely make transactions and conduct negotiations with safety to investors and to those with whom he may undertake a relation of trust and confidence,

(a) by disclosing his business address, if self-employed, and the names and addresses of all persons or firms by whom he was employed, if he was not self-employed, during the last 5 years before filing his application, and

(b) by giving as references four reputable persons, two of whom shall have known him for the last 5 years or more before filing the application and two other persons who are residents of the State of Florida, all four of whom shall know the applicant and his reputation sufficient to attest to his character, reputation, and competence, waiving any right of action against them by reason of their answers to inquiries propounded by the board, and

(c) he is required to disclose whether he has ever been arrested or convicted of a crime, or if any criminal or civil proceeding is pending against him, or if any judgment or decree has been rendered against him in a case wherein the pleadings charged him with fraudulent or dishonest dealings; or

(d) if he is now an inmate of an insane asylum or similar institution for the treatment of mental disabilities, or
RULES OF THE FLORIDA REAL ESTATE COMMISSION

CHAPTER 21V-2

INDIVIDUAL APPLICANT’S EXAMINATION RULES

(Omitted numbers have been repealed or reserved or do not apply)

21V-2.26 Refund of applicant and registration fees. Upon request, refunds of fees will be made under the following circumstances and in the following amounts:

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   (1) The applicant must show, first, that he has the necessary personal qualifications as follows:

   (a) That he is 18 years of age or older.

   (b) That he is next prior to the filing of his application a bona fide resident of the State of Florida; and

   (c) If the application is for broker, that said applicant has been registered as an active salesman for at least 12 months under one or more brokers within 5 years of the filing of his application for licensure as a real estate broker.

   (2) The applicant must make it possible to immediately begin the inquiry as to whether he is honest, truthful, trustworthy, of good character, and bears good reputation for fair dealings, and will likely make transactions and conduct negotiations with safety to investors and to those with whom he may undertake a relation of trust and confidence,

   (a) by disclosing his business address, if self-employed, and the names and addresses of all persons or firms by whom he was employed, if he was not self-employed, during the last 5 years before filing his application, and

   (b) by giving as references four reputable persons, two of whom shall have known him for the last 5 years or more before filing the application and two other persons who are residents of the State of Florida, all four of whom shall know the applicant and his reputation sufficient to attest to his character, reputation, and competence, waiving any right of action against them by reason of their answers to inquiries propounded by the board, and

   (c) he is required to disclose whether he has ever been arrested or convicted of a crime, or if any criminal or civil proceeding is pending against him, or if any judgment or decree has been rendered against him in a case wherein the pleadings charged him with fraudulent or dishonest dealings; or

   (d) if he is now an inmate of an insane asylum or similar institution for the treatment of mental disabilities, or
(e) if he has ever gone under, been generally called by, or done business under any other name, or alias, than the name signed on his application, with sufficient information to enable the Commission to investigate the circumstances; or

(f) had a broker's or salesman's license revoked, suspended, or otherwise acted against, or had an application for such licensure denied, by the real estate licensing agency of another state, territory, or country.

(3) Each application shall be accompanied by or have attached thereto an FBI fingerprint card with the applicant's fingerprints thereon for processing through the Federal Bureau of Investigation records, and

(4) also three photographs of applicant not less than 2" x 2" in size, and said photographs shall have been made within a period of 1 year next preceding the filing of the application.

(5) An applicant for reexamination must submit proper reapplication forms and fee. If reapplication is made within 1 year from the date the original application was approved, no reference, fingerprint card, or photographs are required.

(6) All applicants for permits to instruct or be a permit holder for real estate school must comply with s. 475.451(2)(a) and (c), F.S.

21V-2.29 Examination areas of competency. The answers to the broker, salesman, and instructor examinations shall be graded on the basis of 100 points for a perfect examination. An applicant who receives a grade of 75 points or higher shall be deemed to have successfully completed the licensure examination. The salesman examination shall be based upon a knowledge, understanding, and application of real estate law, real estate principles, and practices, real estate mathematics as contained in the commission-prescribed prerequisite education course for licensure as a real estate salesman. To the extent these subject areas can reasonably be separated, 45 points shall be based on law, 45 points on principles and practices, and 10 points on real estate mathematics. The broker and instructor examinations shall be based upon a knowledge, understanding, and application of real estate law, real estate principles, and practices including appraising, finance, investment and brokerage management, and real estate mathematics. To the extent these subject areas can reasonably be separated, 45 points shall be based on law, 40 points on principles and practices, and 15 points on real estate mathematics.

21V-2.30 Notice of denial. When an application shall be denied by the commission, a copy of the order shall be forthwith mailed to the applicant, registered or certified mail, or actual service, or constructive service, in the manner as provided in chapter 120, F.S., if service upon the applicant by registered or certified mail, or actual service, is not obtainable, setting forth the reasons for the denial and advising the applicant that he has 20 days from date of mailing to request a hearing in accordance with chapter 120, F.S.

21V-2.31 Where to apply. Completed applications for licensure examinations shall be submitted to the Division of Real Estate, 400 West Robinson Street, Orlando, Florida 32801, within a reasonable period of time prior to the scheduled examination.
(e) if he has ever gone under, been generally called by, or done business under any other name, or alias, than the name signed on his application, with sufficient information to enable the Commission to investigate the circumstances; or

(f) had a broker's or salesman's license revoked, suspended, or otherwise acted against, or had an application for such licensure denied, by the real estate licensing agency of another state, territory, or country.

(3) Each application shall be accompanied by or have attached thereto an FBI fingerprint card with the applicant's fingerprints thereon for processing through the Federal Bureau of Investigation records, and

(4) also three photographs of applicant not less than 2" x 2" in size, and said photographs shall have been made within period of 1 year next preceding the filing of the application.

(5) An applicant for reexamination must submit proper reapplication forms and fee. If reapplication is made within year from the date the original application was approved, no reference, fingerprint card, or photographs are required.

(6) All applicants for permits to instruct or be a permit holder for real estate school must comply with s. 475.451(2)(a) and (c), F.S.

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RULES OF THE FLORIDA REAL ESTATE COMMISSION

CHAPTER 21V-3

MINIMUM EDUCATIONAL REQUIREMENTS

(Omitted numbers have been repealed or reserved or do not apply)

21V-3 008 Prelicensing education for broker and salesman applicants.

(1) Persons desiring to become licensed as a real estate salesman shall satisfactorily complete the educational course prescribed by the Florida Real Estate Commission and designated as Course I. This course will consist of a minimum of 63 classroom hours of 50 minutes each, inclusive of examination, in the basic fundamentals of real estate principles and practices, basic real estate law, and real estate license law. Textbooks used in this course shall include the Florida Real Estate Commission Handbook.

(2) Any Florida licensed salesman desiring to become licensed as a broker must satisfactorily complete the educational course prescribed by the Florida Real Estate Commission and designated as Course II. This course will consist of a minimum of 72 classroom hours of 50 minutes each, inclusive of examination, in the fundamentals of real estate appraising, real estate investment, real estate financing, and real estate brokerage management. Each salesman must, as a prerequisite to registering for Course II, have been licensed by the Department of Professional Regulation as an active salesman for a period of not less than 6 months. The six-month active period is not applicable to a full-time degree-seeking student majoring in real estate at an accredited university, college, or community college.

(3) No application for licensure as a real estate broker will be accepted unless such applicant holds a current valid active or inactive license and has also held an active salesman's license in the office of one or more Florida licensed real estate brokers for at least 12 months during the preceding 5 years.

(4) The Commission prescribed Course I for salesman, or a Commission approved course equivalent to Course I, may be taught through the use of a video tape of instruction by a currently licensed instructor or by an instructor certified by an accredited university, college, or community college. Quality standards of the video tape and standards for classroom use of video tape instruction are detailed elsewhere in the Commission rules.

(5) The school permit holder, licensed administrative person, or licensed instructor must certify attendance, assure classroom control, assure necessary equipment performance, and administer the end of course examination.

(6) Course content and level of instruction of a video tape course shall be the same as that contained in the Commission prescribed Course I syllabus and Instructor's Guide. This Commission prescribed course is structured for sequential presentation in twenty 3-hour sessions. The first session must be conducted by "live instruction" using, as applicable, a licensed school instructor or a certified teacher. In addition, whenever the video tape is not current with the latest law or real estate practice, the tape must be corrected prior to its use in the classroom or a licensed instructor must be in attendance during the affected portion of that session.

(7) A copy of the initial course video tape must be submitted to the Commission for review and approval at least 30 days prior to its first use in a classroom. After approval,
Minimum Educational Requirements

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(7) A copy of the initial course video tape must be submitted to the Commission for review and approval at least 30 days prior to its first use in a classroom. After approval,
subsequent changes to the course video tape must be submitted to the Commission for review and approval prior to use in a classroom.

(8) Satisfactory course completion is demonstrated by achieving a grade of 70 percent or higher on the Commission prescribed end of course examination. The examination is administered by the applicable college, university, community college, or real estate school upon completion of the classroom instruction. However, notice of satisfactory course completion shall not be issued to any student having absences in excess of 8 classroom hours. If an applicant does not pass the licensing examination within 2 years after the successful course completion date, the course is invalid for licensure. Applications for licensure may not be accepted by the Department of Professional Regulation if received less than 60 days prior to the end of the 2 year period of course eligibility.

(9) The institution or school offering these Commission prescribed courses shall fully inform each student of the standards and requirements at the commencement of each course. Notice of course completion shall be made on a form prescribed by the Commission.

(10) Students failing the Commission prescribed end of course examination must repeat the Commission prescribed course prior to being eligible to again take the end of course examination. Make up classes to enable a student to take the end of course examination and make up examinations due to student or family illness may not extend more than 30 days beyond their class scheduled examination without approval from the Commission.

(11) These Commission prescribed courses may be offered by accredited universities, colleges, and community colleges in this state or by real estate schools registered pursuant to s. 475.451, F.S. Satisfactory completion of these courses will not entitle any person to receive a license as a real estate broker or salesman until such person has met all other requirements of law and has passed the applicable examination administered by the Department of Professional Regulation.

(12) Any active member in good standing of the Florida Bar who is otherwise qualified under the Real Estate License Law is exempt from the Commission prescribed prerequisite education course for licensure as a real estate salesman. This must be noted on the application to take the salesman's examination by affixing a copy of the applicant's current Bar card.

21V-3.09 Continuing education for active and inactive broker and salesman licensees.

(1) All persons holding active or inactive licenses as a broker or salesman must satisfactorily complete a minimum of 14 classroom hours of 50 minutes each as prescribed by the Florida Real Estate Commission during each license period; that is, since issuance of their initial license or renewal of their current two year license.

(2) Persons who held an inactive license on September 30, 1983, and, subsequent to this date, wish to activate their license or renew their inactive license as active or inactive, must provide proof satisfactory to the Commission that they have satisfactorily completed all accumulated continuing or reactivated education.

(3) The Florida Real Estate Commission prescribed "core" course or courses will review and update licensees on the Florida Real Estate License Law and provide an introduction to other state laws, federal laws, and federal income taxes affecting real estate. In addition, "specialty" courses on real estate practice will be prescribed or approved by the Commission.

(4) The Commission may approve any course, seminar or conference in the real estate practice area provided by a public or private school, firm, association, organization, person, corporation or society which is equivalent to the Commission prescribed continuing education "specialty" course.

(5) The continuing education course required in this rule may be taught by a Commission approved equivalent correspondence course. Such correspondence course subject mat-
subsequent changes to the course video tape must be submitted to the Commission for review and approval prior to use in a classroom.

(8) Satisfactory course completion is demonstrated by achieving a grade of 70 percent or higher on the Commission prescribed end of course examination. The examination is administered by the applicable college, university, community college, or real estate school upon completion of the classroom instruction. However, notice of satisfactory course completion shall not be issued to any student having absences in excess of 8 classroom hours. If an applicant does not pass the licensing examination within 2 years after the successful course completion date, the course is invalid for licensure. Applications for licensure may not be accepted by the Department of Professional Regulation if received less than 60 days prior to the end of the 2 year period of course eligibility.

(9) The institution or school offering these Commission prescribed courses shall fully inform each student of the standards and requirements at the commencement of each course. Notice of course completion shall be made on a form prescribed by the Commission.

(10) Students failing the Commission prescribed end of course examination must repeat the Commission prescribed course prior to being eligible to again take the end of course examination. Make up classes to enable a student to take the end of course examination and make up examinations due to student or family illness may not extend more than 30 days beyond their class scheduled examination without approval from the Commission.

(11) These Commission prescribed courses may be offered by accredited universities, colleges, and community colleges in this state or by real estate schools registered pursuant to s. 475.451, F.S. Satisfactory completion of these courses will not entitle any person to receive a license as a real estate broker or salesman until such person has met all other requirements of law and has passed the applicable examination administered by the Department of Professional Regulation.

(12) Any active member in good standing of the Florida Bar who is otherwise qualified under the Real Estate License Law is exempt from the Commission prescribed prerequisite education course for licensure as a real estate salesman. This must be noted on the application to take the salesman's examination by affixing a copy of the applicant's current Bar card.

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(2) Persons who held an inactive license on September 30, 1983, and, subsequent to this date, wish to activate their license or renew their inactive license as active or inactive, must provide proof satisfactory to the Commission that they have satisfactorily completed all accumulated continuing or reactivated education.

(3) The Florida Real Estate Commission prescribed "core" course or courses will review and update licensees on the Florida Real Estate License Law and provide an introduction to other state laws, federal laws, and federal income taxes affecting real estate. In addition, "specialty" courses on real estate practice will be prescribed or approved by the Commission.

(4) The Commission may approve any course, seminar or conference in the real estate practice area provided by a public or private school, firm, association, organization, person, corporation or society which is equivalent to the Commission prescribed continuing education "specialty" course.

(5) The continuing education course required in this rule may be taught by a Commission approved equivalent correspondence course. Such correspondence course subject mat-
ter, assignment work, scholastic standards and other related requirements shall be substantially the same as the course offered by classroom instruction, having due regard however, to the different method of presentation.

(6) Satisfactory completion of the Commission prescribed continuing education course or courses of classroom instruction is demonstrated by successfully meeting standards established for each Commission prescribed course. Notice of satisfactory course completion shall not be issued to any licensee not attending a minimum of 90% of the classroom hours of Commission prescribed course instruction.

(7) Satisfactory completion of the Commission prescribed continuing education course by correspondence study is demonstrated by achieving a grade of 80% or higher on the Commission approved course final examination prepared and administered by the Florida institution or licensed real estate school offering such correspondence course after completing the correspondence study material.

(8) A copy of the correspondence course, including a typical end of course examination, shall be submitted to the Commission for an equivalency evaluation at least thirty (30) days prior to its use. Thereafter, the course and examination shall be maintained by each institution or school offering the correspondence course in accordance with the Commission approved standards as subsequently modified by changing times, standards and laws.

(9) The objective of the correspondence course of study end of course examination is to test fairly and reliably whether students have learned essential facts and concepts from the course. This examination shall consist of a minimum of thirty (30) questions. All questions shall be multiple choice with four (4) answer choices each. Any Florida institution or licensed real estate school offering the continuing education course by correspondence must maintain a sufficient bank of questions to assure examination validity when administered to licensees from a common source such as a specific business, firm, etc.

(10) The Florida institution, licensed real estate school or Commission approved entity offering these Commission prescribed or approved courses shall fully inform each student of the standards and requirements at the commencement of each course. Notice of course completion shall be made on a form prescribed by the Commission.

(11) These Commission prescribed or approved courses may be offered by accredited universities, colleges, and community colleges in this state or by real estate schools licensed pursuant to Section 475.451, Florida Statutes, or at a place approved by the Commission. Satisfactory completion of these courses will not entitle any person to renew a license as a real estate broker or salesman until such person has met all requirements of law.

(12) Any active member in good standing of the Florida Bar and who is otherwise qualified under the Real Estate License Law is exempt from the continuing education requirements of this rule.

21V-3.10 License reactivation for inactive brokers and salesmen.

(1) Brokers and salesmen not holding a valid current active or inactive license (Type III) may only maintain this status for four years. The first day of this allowable four year period is the first day the broker or salesman failed to hold a valid current active or inactive license or October 1, 1983, whichever date is later. After the fourth year, the broker’s and salesman’s right to request an active or inactive license automatically expires.

(2) Brokers and salesmen wishing to reactivate their license as active or inactive within this four year period must satisfactorily complete a Florida Real Estate Commission prescribed educational course of instruction. This course of instruction shall consist of 7 classroom hours of instruction, inclusive of quiz, for each year the broker or salesman failed to hold a valid current active or inactive license.
ter, assignment work, scholastic standards and other related requirements shall be substantially the same as the course offered by classroom instruction, having due regard however, to the different method of presentation.

(6) Satisfactory completion of the Commission prescribed continuing education course or courses of classroom instruction is demonstrated by successfully meeting standards established for each Commission prescribed course. Notice of satisfactory course completion shall not be issued to any licensee not attending a minimum of 90% of the classroom hours of Commission prescribed course instruction.

(7) Satisfactory completion of the Commission prescribed continuing education course by correspondence study is demonstrated by achieving a grade of 80% or higher on the Commission approved course final examination prepared and administered by the Florida institution or licensed real estate school offering such correspondence course after completing the correspondence study material.

(8) A copy of the correspondence course, including a typical end of course examination, shall be submitted to the Commission for an equivalency evaluation at least thirty (30) days prior to its use. Thereafter, the course and examination shall be maintained by each institution or school offering the correspondence course in accordance with the Commission approved standards as subsequently modified by changing times, standards and laws.

(9) The objective of the correspondence course of study end of course examination is to test fairly and reliably whether students have learned essential facts and concepts from the course. This examination shall consist of a minimum of thirty (30) questions. All questions shall be multiple choice with four (4) answer choices each. Any Florida institution or licensed real estate school offering the continuing education course by correspondence must maintain a sufficient bank of questions to assure examination validity when administered to licensees from a common source such as a specific business, firm, etc.
(3) Brokers and salesmen not holding a valid current active or inactive license on October 1, 1983, and prior to the end of the four year period noted above in this rule, who wish to renew their license as active or inactive, must provide proof satisfactory to the Commission that they have satisfactorily completed all required accumulated continuing or reactivated education.

(4) When the accumulated quantity of classroom hours of continuing and reactivated education is less than 21, the reactivation education requirement may be met by satisfactorily completing the continuing education requirement of Rule 21V-3.09. When the accumulated quantity is 21 classroom hours or more, the requirement shall be met by satisfactorily completing Commission prescribed classroom hours of the prerequisite education course for licensure as a salesman (Cl). Emphasis shall be placed on the Real Estate Law and License Law portions of this course.

(5) When the requirement is less than 14 classroom hours of instruction, satisfactory completion is demonstrated by completing the continuing education course(s) in accordance with Rule 21V-3.09(6) or (7). When the requirement is 21 classroom hours or more, satisfactory completion is demonstrated by achieving a grade of 70% or higher on the Commission prescribed end of course quiz. This quiz is administered by the applicable university, college, community college or real estate school; however, notice of satisfactory completion shall not be issued to any student who has not attended at least 90% of the required classroom hours of instruction.

(6) The institution or school offering these Commission prescribed courses shall fully inform each student of the standards and requirements at the commencement of each course. Notice of course completion shall be made on a form prescribed by the Commission.

(7) Students failing the Commission prescribed end of course quiz must repeat the Commission prescribed course prior to being eligible to again take the end of course quiz. The

(8) These Commission prescribed courses may be offered by accredited universities, colleges, and community colleges in this state or by real estate schools registered pursuant to s. 475.451, F.S. Satisfactory completion of these courses will not entitle any person to reactivate a license as a real estate broker or salesman until such person has met all other requirements of law.

(9) Any active member in good standing of the Florida Bar who is otherwise qualified under the Real Estate License Law is exempt from the continuing education requirement of this rule. This must be noted on the renewal request by affixing a copy of the licensee's current Bar card.

21V-3.11 Continuing education for school Instructors.

(1) All persons holding “school instructor” permits shall recertify their competency during each permit period by satisfactorily completing a minimum of 15 classroom hours of instruction in real estate subjects and/or instructional techniques as prescribed by the Real Estate Commission. A school instructor is not required to complete the 15-hours of recertification education as a condition for initial permit renewal if the time between the effective date on the initial permit as an instructor and the beginning of the initial renewal permit is less than 12 months.

(2) The Real Estate Commission prescribed 15 classroom hours of instruction shall consist of one 7 classroom hour seminar conducted by the Commission and a minimum of 8 classroom hours of Commission approved instruction in real estate subjects and/or instructional techniques. The 8 classroom hour course of instruction may be offered by accredited universities, colleges, and community colleges in this state, by real estate schools registered pursuant to s. 475.451, F.S., and entities approved by the Commission. Requests for approval to offer the 8 classroom hour instructor course shall be made to the Commission. This request shall include a detailed
(3) Brokers and salesmen not holding a valid current active or inactive license on October 1, 1983, and prior to the end of the four year period noted above in this rule, who wish to renew their license as active or inactive, must provide proof satisfactory to the Commission that they have satisfactorily completed all required accumulated continuing or reactivated education.

(4) When the accumulated quantity of classroom hours of continuing and reactivated education is less than 21, the reactivation education requirement may be met by satisfactorily completing the continuing education requirement of Rule 21V-3.09. When the accumulated quantity is 21 classroom hours or more, the requirement shall be met by satisfactorily completing Commission prescribed classroom hours of the prerequisite education course for licensure as a salesman (CI). Emphasis shall be placed on the Real Estate Law and License Law portions of this course.

(5) When the requirement is less than 14 classroom hours of instruction, satisfactory completion is demonstrated by completing the continuing education course(s) in accordance with Rule 21V-3.09(6) or (7). When the requirement is 21 classroom hours or more, satisfactory completion is demonstrated by achieving a grade of 70% or higher on the Commission prescribed end of course quiz. This quiz is administered by the applicable university, college, community college or real estate school; however, notice of satisfactory completion shall not be issued to any student who has not attended at least 90% of the required classroom hours of instruction.

(6) The institution or school offering these Commission prescribed courses shall fully inform each student of the standards and requirements at the commencement of each course. Notice of course completion shall be made on a form prescribed by the Commission.

(7) Students failing the Commission prescribed end of course quiz must repeat the Commission prescribed course prior to being eligible to again take the end of course quiz. The end of course quiz may not be administered more than 30 days beyond the last class without approval from the Commission.

(8) These Commission prescribed courses may be offered by accredited universities, colleges, and community colleges in this state or by real estate schools registered pursuant to s. 475.451, F.S. Satisfactory completion of these courses will not entitle any person to reactivate a license as a real estate broker or salesman until such person has met all other requirements of law.

(9) Any active member in good standing of the Florida Bar who is otherwise qualified under the Real Estate License Law is exempt from the continuing education requirement of this rule. This must be noted on the renewal request by affixing a copy of the licensee's current Bar card.

21V-3.11 Continuing education for school instructors.

(1) All persons holding "school instructor" permits shall recertify their competency during each permit period by satisfactorily completing a minimum of 15 classroom hours of instruction in real estate subjects and/or instructional techniques as prescribed by the Real Estate Commission. A school instructor is not required to complete the 15-hours of recertification education as a condition for initial permit renewal if the time between the effective date on the initial permit as an instructor and the beginning of the initial renewal permit is less than 12 months.

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course description and the criteria for satisfactory course completion.

(3) Satisfactory completion of the 7 classroom hour seminar is demonstrated by attending all 7 classroom hours of instruction. Satisfactory completion of the remaining classroom hours of instruction is demonstrated by attending and passing Commission approved course in accordance with the standards established by the individual institution, school or Commission approved entity offering said course.

(4) The institution, school or approved entity offering the Commission approved 8 classroom hour course shall fully inform each student of the standards and requirements at the commencement of each course. The enforcement thereof shall be the responsibility of the Real Estate Commission and the Department of Professional Regulation and their decision on any such matters shall be final. Notice of satisfactory course completion shall be made on a form prescribed by the Commission. Satisfactory completion of these courses will not entitle any person to renew a permit as a school instructor until such person has met all other requirements of law.

(5) Active members in good standing of the Florida Bar holding a current school instructor permit are exempt from the continuing education requirement of this rule.

21V-3.12 Equivalency for prelicensing education. Any person who has attended an accredited college, university, or community college or a real estate school licensed in Florida pursuant to Section 475.451, Florida Statutes, and who, while attending such college, university, or real estate school, took and satisfactorily completed, within the next preceding one year, real estate courses covering substantially the same subject matter, classroom hours of attendance, and completion standards as prescribed by the Florida Real Estate Commission as a prerequisite to licensing as a real estate broker or salesman shall be deemed to have satisfactorily completed the educational courses. Any person who has obtained a degree with a major in real estate which substantially covers the Commission prescribed course at such college or university shall be deemed to have satisfactorily completed the course. Applications for equivalency evaluation shall be accompanied by an official transcript from the college or university or by appropriate certificate issued by a real estate school registered in Florida pursuant to Section 475.451, Florida Statutes, showing the real estate subjects taken together with date completed and grade attained. The Commission may request supportive documentation to determine course equivalency.

21V-3.13 Correspondence courses for hardship cases.

(1) Correspondence courses containing the same subject matter and requiring substantially the same assignment work will be prescribed by the Florida Real Estate Commission for any Florida resident who by reason of hardship cannot attend the place for classroom instruction prescribed in rules 21V-3.08 and 21V-3.10. The scholastic standards and other related requirements will be substantially the same as the courses offered by classroom instruction, having due regard, however, to the different method of presentation. Enforcement of said standards and requirements shall be the responsibility of the Florida Real Estate Commission and the Department of Professional Regulation.

(2) A hardship case is first defined to include any case wherein for a period of 1 year next prior to, or following the date upon which a person desires to make application for licensing or renewal, a class has not been, and will not be, conducted within a radius of 50 miles of the home, or business address, of such person who is otherwise eligible for licensing as a real estate broker or salesman.

(3) A hardship case is next defined to include any cases wherein a person desiring to take the Florida Real Estate Commission prescribed courses cannot, by reason of a permanent physical disability, attend the place where the classes are conducted.

(4) Any person desiring to complete the education course by means of correspondence, shall make a request therefor to
course description and the criteria for satisfactory course completion.

(3) Satisfactory completion of the 7 classroom hour seminar is demonstrated by attending all 7 classroom hours of instruction. Satisfactory completion of the remaining classroom hours of instruction is demonstrated by attending and passing Commission approved course in accordance with the standards established by the individual institution, school or Commission approved entity offering said course.

(4) The institution, school or approved entity offering the Commission approved 8 classroom hour course shall fully inform each student of the standards and requirements at the commencement of each course. The enforcement thereof shall be the responsibility of the Real Estate Commission and the Department of Professional Regulation and their decision on any such matters shall be final. Notice of satisfactory course completion shall be made on a form prescribed by the Commission. Satisfactory completion of these courses will not entitle any person to renew a permit as a school instructor until such person has met all other requirements of law.

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(3) A hardship case is next defined to include any cases wherein a person desiring to take the Florida Real Estate Commission prescribed courses cannot, by reason of a permanent physical disability, attend the place where the classes are conducted.

(4) Any person desiring to complete the education course by means of correspondence, shall make a request therefor to
Florida Real Estate Commission, in writing, setting forth the basis of the alleged hardship. The Florida Real Estate Commission may, in appropriate cases, require said request to be supported by sworn statements of doctors and other persons having knowledge of the facts.

IV-3.14 Application for Florida Real Estate Commission prescribed or conducted courses.

(1) Applications to take any Florida Real Estate Commission prescribed course shall be made directly to the authorized institution or school offering said course. Registration forms, fees for registration, and other required administrative material must be returned to the appropriate educational institution, as that particular institution may prescribe.

(2) Application to take Florida Real Estate Commission conducted courses shall be made to the Florida Real Estate Commission in the manner prescribed by the Commission.

IV-3.15 Notices of satisfactory course completion.

(1) Applicants for initial licensure as a broker or salesman must provide proof with the application or at the individuals' scheduled examination that they have satisfactorily completed the applicable Commission prescribed course. An application for renewal or reactivation of an existing status as a broker, broker-salesman, salesman or instructor must have attached hereto the notice received of having satisfactorily completed the applicable Florida Real Estate Commission prescribed, conducted or Commission approved course(s).

(2) Commission approved equivalent courses offered by accredited Florida universities, colleges, and community colleges shall provide students with the applicable grade report notice described below. The grade report for these equivalent courses must contain the college equivalent course identifying number.

(3) All requests for equivalency for credit courses taken at universities, colleges, and community colleges outside of Florida must be accompanied by an official transcript. An official transcript contains the seal of the institution and the signature of the registrar.

(4) Salesman prelicensing courses completed through video tape instruction and continuing education courses completed by correspondence study must be noted on the grade report.

(5) The grade report must be typed or printed in ink and must be completely filled out by the institution or school certifying successful course completion.

(6) The following sample grade report forms are envelope size. Although uniformity in size is highly desirable, any minor changes to fit existing stationary containing the same information will be accepted.
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(6) The following sample grade report forms are envelope size. Although uniformity in size is highly desirable, any minor changes to fit existing stationary containing the same information will be accepted.
FLORIDA REAL ESTATE COMMISSION HANDBOOK

PRELICENSING COURSE FOR SALESMAN
SUNSHINE COMMUNITY COLLEGE
1122 Main Street
BENTON, FLORIDA 32000

COURSE: Course I, Introduction to RE P & P
START DATE (First Class): 2/13/85
FINISH DATE (Last Class): 4/06/85
EXAM DATE (Final Class): 4/14/85
SS NO.: ____________
NAME: James B. Jones
BOX OR APT: Apartment A-301
NO OR ST.: 1134 Main Street
CITY, ST., ZIP: Benton, Florida 32000

THE STUDENT NAMED IN THIS REPORT HAS
COMPLETED THE REFERENCED COURSE IN
ACCORDANCE WITH THE REQUIREMENTS
OF THE FLORIDA REAL ESTATE COMMISSION

AUTHORIZED SIGNATURE

THIS ORIGINAL REPORT MUST BE ATTACHED TO
YOUR DEPARTMENT OF PROFESSIONAL
REGULATION APPLICATION FOR LICENSURE
OR PRESENTED AT YOUR SCHEDULED EXAMINATION

PRELICENSING COURSE FOR BROKER
SMITH SCHOOL OF REAL ESTATE
5022 Orange Building
MANOKEE, FLORIDA 33000

COURSE: Course II, Real Estate P & P
START DATE (First Class): 2/13/85
FINISH DATE (Last Class): 4/06/85
EXAM DATE (Final Class): 4/13/85
SALESMAN LIC. NO.: ____________
NAME: James B. Jones
BOX OR APT: Apartment A-301
NO OR ST.: 1134 Main Street
CITY, ST., ZIP: Benton, Florida 32000

THE STUDENT NAMED IN THIS REPORT HAS
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RULES OF THE FLORIDA REAL ESTATE COMMISSION

BROKER AND SALESMAN CONTINUING EDUCATION
OCEANVIEW UNIVERSITY
2700 Lime Avenue
CITRUS, FLORIDA 34000

COURSE: __________________________
START DATE: _______________________
FINISH DATE: _______________________
LIC. NO.: __________________________
NAME: ____________________________
BOX OR APT: _______________________
NO OR ST.: _________________________
CITY, ST., ZIP: _____________________

THE STUDENT NAMED IN THIS REPORT HAS
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AUTHORIZED SIGNATURE

NOTE:
The (course) block must show one of the following:
1. Continuing Education Course - 14 hours
2. Continuing Education Course - "core" law
3. Continuing Education Course - "specialty"
4. Reactivation Education Course (no of hours)

INSTRUCTOR CONTINUING EDUCATION
BIG TREE COMMUNITY COLLEGE
BIG TREE ROAD
BIG TREE, FLORIDA 32960

COURSE: __________________________
DATE: ____________________________
PERMIT NO: _______________________
NAME: ____________________________
BOX OR APT: _______________________
NO OR ST.: _________________________
CITY, ST., ZIP: _____________________

THE STUDENT NAMED IN THIS REPORT HAS
COMPLETED THE REFERENCED COURSE IN
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OF THE FLORIDA REAL ESTATE COMMISSION

AUTHORIZED SIGNATURE

THIS ORIGINAL REPORT MUST BE ATTACHED TO
YOUR DEPARTMENT OF PROFESSIONAL
REGULATION APPLICATION FOR PERMIT RENEWAL

66
PRELICENSING COURSE FOR SALESMAN
SUNSHINE COMMUNITY COLLEGE
1122 Main Street
BENTON, FLORIDA 32000

COURSE: Course I, Introduction to Real Estate P & P
START DATE: (First Class): 2/13/85
FINISH DATE: (Last Class): 4/06/85
EXAM DATE: (Final Class): 4/14/85

NAME: James B Jones
BOX OR APT: Apartment A-301
NO OR ST: 1134 Main Street
CITY, ST, ZIP: Benton Florida 32000

THE STUDENT NAMED IN THIS REPORT HAS COMPLETED THE REFERENCED COURSE IN ACCORDANCE WITH THE REQUIREMENTS OF THE FLORIDA REAL ESTATE COMMISSION

AUTHORIZED SIGNATURE

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PRELICENSING COURSE FOR BROKER
SMITH SCHOOL OF REAL ESTATE
5022 Orange Building
MANOKEE, FLORIDA 33000

COURSE: Course II, Real Estate P & P
START DATE: (First Class): 2/13/85
FINISH DATE: (Last Class): 4/06/85
EXAM DATE: (Final Class): 4/13/85
SALES MAN LIC. NO.: __________________

NAME: James B Jones
BOX OR APT: Apartment A-301
NO OR ST: 1134 Main Street
CITY, ST, ZIP: Benton Florida 32000

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RULES OF THE FLORIDA REAL ESTATE COMMISSION

BROKER AND SALESMAN CONTINUING EDUCATION
OCEANVIEW UNIVERSITY
2700 Lime Avenue
CITRUS, FLORIDA 34000

COURSE: __________________
START DATE: __________________
FINISH DATE: __________________
LIC. NO.: __________________

NAME: __________________
BOX OR APT: __________________
NO OR ST: __________________
CITY, ST, ZIP: __________________

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NOTE
The (course) block must show one of the following:
1. Continuing Education Course: 14 hours
2. Continuing Education Course: "core" law
3. Continuing Education Course: "specialty"
4. Reactivation Education Course (no of hours)

INSTRUCTOR CONTINUING EDUCATION
BIG TREE COMMUNITY COLLEGE
BIG TREE ROAD
BIG TREE, FLORIDA 32960

COURSE: __________________
DATE: __________________
PERMIT NO: __________________

NAME: __________________
BOX OR APT: __________________
NO OR ST: __________________
CITY, ST, ZIP: __________________

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AUTHORIZED SIGNATURE

THIS ORIGINAL REPORT MUST BE ATTACHED TO YOUR DEPARTMENT OF PROFESSIONAL REGULATION APPLICATION FOR PERMIT RENEWAL

66
21V-3.16 Video tape quality standards.

(1) In addition to Commission evaluation of the video tape course content noted in rule 21V-3.08, the Commission will also evaluate overall quality of the video tape program and its resultant display on the classroom monitor receiver. Programs or lessons produced and displayed for individual or group instruction must maintain standards such that the clarity and stability of the video tape, the monitor/receiver display, and the quality of the sound and viewing conditions do not interfere with the learning process. All students within the "viewing footprint" noted in rule 21V-3.17 must be able to clearly see and hear the entire video taped course instruction. The following general criteria will be used for evaluating video taped productions.

(2) Picture clarity—Although color is preferred, the program (lesson) may be recorded in black and white, but it must be suitable for a compatible color system. It must have adequate picture definition (resolution) to avoid visual fatigue of the viewer and not interfere with the learning process. Factors which will be considered in evaluating a video tape program for picture clarity include brightness, contrast, definition, distortion, interference, focus, noise, resolution, smear, snow, and streaking.

(3) Picture stability—Factors which will be considered in evaluating a video tape program for picture stability include interface, jitter, video level, modulation, picture signal, random interlace, raster, roll synchronization, and tearing.

(4) Audio quality—Factors which will be considered in evaluating audio (sound) portion of a program include crosstalk, fidelity, level, and modulation.

21V-3.17 Video tape classroom viewing conditions.

(1) The typical classroom "viewing footprint" using the video tape instruction method shall be established below. Any significant variation from the "footprint" or from other guidelines herein established must have prior approval from the Florida Real Estate Commission. Multiple monitors may be used. When multiple monitors are used, they must not interfere with one another or distract students in different groups.

(2) To assure unobstructed viewing by all students in the classroom, each monitor shall be located, based on the classroom facility, 4 to 6 feet above the floor. The maximum vertical viewing angle (or tilt upward) for a student nearest the monitor shall not exceed 30 degrees.

(3) The minimum viewing distance from each 17-inch monitor shall be from 3 to 4 feet; for a 24-inch screen, approximately 5 feet. The best distance for a particular classroom situation can be determined by experimentation. Distortion from sitting too near a monitor is likely to be as great as from sitting too far away from it.

(4) Maximum viewing distances, assuming 20/20 eyesight, shall not exceed 15 feet from a 17-inch monitor or 22 feet from a 24-inch monitor. Students with defective vision shall be placed within the "viewing footprint" as applicable for their particular deficiency.

(5) Each student shall have adequate space within the "viewing footprint" to comfortably view the monitor for extended periods of time. In addition, each student shall also have an appropriate writing surface for holding notebook/textbook and for taking notes.

(6) There must be at least a 10-minute break after each 50 minutes of tape viewing. In addition, it is recommended that no more than 150 minutes of viewing time be administered during any 5-hour interval.

(7) Any classroom configuration not in accordance with the above classroom viewing conditions, including use of video projection units, must have prior Commission approval.

21V-3.18 Examination review.

(1) Each candidate who has taken the Department of
21V-3.16 Video tape quality standards.

(1) In addition to Commission evaluation of the video tape course content noted in rule 21V-3.08, the Commission will also evaluate overall quality of the video tape program and its resultant display on the classroom monitor receiver. Programs or lessons produced and displayed for individual or group instruction must maintain standards such that the clarity and stability of the video tape, the monitor/receiver display, and the quality of the sound and viewing conditions do not interfere with the learning process. All students within the "viewing footprint" noted in rule 21V-3.17 must be able to clearly see and hear the entire video taped course instruction. The following general criteria will be used for evaluating video taped productions.

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(7) Any classroom configuration not in accordance with the above classroom viewing conditions, including use of video projection units, must have prior Commission approval.

21V-3.18 Examination review.

(1) Each candidate who has taken the Department of
Professional Regulation Real Estate Examination for licensure shall have the right to review a master copy of his/her most recent examination, answer key, and his/her answer sheet within two years from the date of the examination.

(2) The candidate shall make request to the Florida Real Estate Commission office, by telephone or in writing, for an appointment to review his/her examination. The examination review, consisting of not more than one hour, shall be conducted at the Commission office during normal working hours. Appointments for review will not be scheduled on the day an examination is being conducted by the Department of Professional Regulation.

(3) An employee of the Division of Real Estate staff shall remain with the candidate during the reviewing process. The employee is not permitted to defend the examination or attempt to answer or refute any questions.

(4) Only the candidate shall be permitted to attend the examination review, and only one review of the candidate's examination will be allowed. The candidate will not be permitted to copy questions from the test booklet but may write on a separate paper, in the presence of the examination review monitor, any objections or questions he/she has to the examination.

(5) The candidate shall leave the written objections and questions with the examination review monitor when he/she leaves the review room.

(6) If desired, a review by the Commission validation committee may be requested in writing, within thirty (30) days from the date of the examination review. The candidate may obtain the required form and instructions from the review monitor.

(7) The candidate shall notify the Department of Professional Regulation, in writing, within sixty (60) days from the date of the failure notice, if he/she desires a hearing as provided by Section 120.57, Florida Statutes. The candidate shall state with specificity the grounds of appeal, particular examination question(s) or procedures objected to, and the objections.

21V-3.19 Security and monitoring procedures for licensure examinations.

(1) Security shall commence immediately when an item is developed for real estate examinations.

(a) Each question, as developed shall be secured by the responsible development person or persons.

(b) Items in development stage shall be locked in the development vault or safe on each occasion when the developer leaves the area for any reason and shall be secured in the vault or safe at the end of each working day.

(c) No unauthorized person shall be admitted to the developer's office without announcement to insure that all items, while in the development stage, can be secured before entry by the unauthorized person.

1. An “authorized person” is defined as any individual who is:

—a member of the Commission.

—a consultant to the Department who has been hired to assist in the development of the examination.

—an employee of the Department who has a bona fide need to review the questions.

(d) It shall be the developer's responsibility to insure security defined above to the best of her/his ability until such time as the printing of the examination is required.

(2) Printing of examination.

It shall be the responsibility of the contracted computer
Professional Regulation Real Estate shall have the right to review a master recent examination, answer key, within two years from the date of

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(1) Security shall commence immediately when an item is developed for real estate examinations.

(a) Each question, as developed shall be secured by the responsible development person or persons.

(b) Items in development stage shall be locked in the development vault or safe on each occasion when the developer leaves the area for any reason and shall be secured in the vault or safe at the end of each working day.

(c) No unauthorized person shall be admitted to the developer's office without announcement to insure that all items, while in the development stage, can be secured before entry by the unauthorized person.

1. An "authorized person" is defined as any individual who is:

— a member of the Commission.

— a consultant to the Department who has been hired to assist in the development of the examination.

— an employee of the Department who has a bona fide need to review the questions.

(d) It shall be the developer's responsibility to insure security defined above to the best of her/his ability until such time as the printing of the examination is required.

(2) Printing of examination.

It shall be the responsibility of the contracted computer
services company to print all required examinations and provide for security as directed by the Commission.

(3) Secured shipment of test booklets to examination site.

(a) It shall be the responsibility of the computer services company to insure secured shipment of test booklets to the examination site.

(b) Such shipment may be by personal delivery or by an approved delivery agent or service whose securing credentials have been approved by the Commission.

(4) Security at examination sites.

(a) It shall be the computer services company's responsibility to insure that the test booklets are delivered to the examination site on schedule.

(b) Test booklets and other examination materials, upon arrival at the examination site, shall be audited and accounted for by the Commission Examination Supervisor and shall balance with the audit furnished by the computer services company.

(c) For each examination administration, the Commission shall provide one examination supervisor and at least one proctor for each 50 candidates.

(d) The examination supervisor, by employing delegation responsibilities to the proctor force, shall insure that the examination is not compromised in any manner to include cheating or loss of examination booklets and materials.

(5) Examination supervisor responsibilities.

The examination supervisor's responsibilities shall be to maintain test security, protect the candidate from disturbances, and conduct the examination quietly and efficiently.

(6) Actions prior to examination date:

(a) The examination supervisor shall inspect the examination site to ensure all required preparations have been made by the site management. The following check list shall be used:

1. Adequate space between candidates to discourage cheating.
2. Each station includes a proctor table.
3. Public address system check.
4. Security guard when necessary.
5. Bathroom facilities.
6. Food services if necessary.
7. Lighting, heating, cooling.
8. 
9. Proctor area.
10. Security area.

(b) The examination supervisor shall determine that all test booklets, answer sheets, and other required examination materials are secured at the examination site.

(c) The examination supervisor shall ensure that all required supplies are at the examination site and securely stored.

(d) The examination supervisor shall conduct a proctor briefing at the examination site. This briefing shall include, but not be limited to, specific job assignments, review of proctor duties and responsibilities.

(7) Actions on scheduled examination dates:

(a) All supervisory personnel and proctors shall report to
services company to print all required examinations and provide for security as directed by the Commission.

(3) Secured shipment of test booklets to examination site.

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(7) Actions on scheduled examination dates:

(a) All supervisory personnel and proctors shall report to
the examination site one hour prior to the scheduled examination start time. Administrative preparations shall include marking each place with candidate numbers and distribution of examination materials and supplies to station proctors. All administrative preparations shall be completed thirty minutes prior to the scheduled examination start time.

(b) Candidates shall be admitted to the examination room beginning thirty minutes prior to the scheduled examination start time and shall be promptly directed to their assigned seat.

(c) The examination supervisor shall designate an examination booklet supply control point and an admission control point. The assistant examination supervisor or a section proctor shall be used at the booklet/supply control point. The examination supervisor shall supervise the admission control point. Candidates without proper admission cards shall not be admitted to the examination.

(d) At the time designated, the examination supervisor shall read the administrative instructions to the seated candidates. At the conclusion of the instructions, the examination supervisor shall announce the starting time and the amount of time allowed for completion of the examination.

(e) At the conclusion of the allotted examination time, the examination supervisor shall instruct examinees to stop.

(f) Monitoring responsibilities.

(a) During the testing period, proctors shall walk quietly about their station and keep a close watch to prevent any attempt to copy questions or answers or to remove pages from examination booklets. Proctors shall not in any way disturb or embarrass any candidate. Any suspected cheating shall be immediately reported to the examination supervisor who will take the necessary corrective action.

(b) If a defective examination booklet or answer sheet is found, the proctor shall collect the defective material and give it to the section proctor.

(c) When the candidate raises his/her hand, the proctor shall go to the candidate and determine his/her needs. If the candidate wishes to leave the examination room, he/she shall place all of their papers inside the cover sheet and leave them at his/her place until he/she returns. The candidate shall not take any papers or test materials from the examination room.

(d) If a candidate has completed the examination before time is called, the proctor shall collect the answer sheet and examination booklet and mark the candidate roster, in the examination booklet returned column, next to the candidate's number, check the answer sheet grid for correctness, and ensure that the candidate's number is on the booklet, then excuse the candidate.

(e) When time is called, the proctors shall move quickly through their section to collect all answer sheets and examination booklets. The roster shall then be recorded with the information outlined in (d) above and booklets counted. Candidates shall then be excused.

(f) All examination booklets and answer sheets shall be returned to the booklet control point.

(g) During the testing period, a proctor shall remain in the immediate vicinity of the restroom facilities and shall monitor candidate traffic into and out of restrooms. Candidates will not be permitted to remain for excessive time periods in the restrooms. Conversation between candidates taking breaks from the examination shall be prohibited.

(9) Secured return of test booklets and answer sheets to the computer services company shall be accomplished by the examination supervisor.

(a) An audit shall be performed by the examination supervisor immediately upon the return of the test booklets, answer sheets and other examination materials.

(b) The audit shall balance with the audits described above.
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(9) Secured return of test booklets and answer sheets to the computer services company shall be accomplished by the examination supervisor.

(a) An audit shall be performed by the examination supervisor immediately upon the return of the test booklets, answer sheets and other examination materials.

(b) The audit shall balance with the audits described above.
(c) The examination supervisor will turn over the test booklets, answer sheets and other materials to the computer services company who will check the audit and receipt for the material.

(10) Disposition of test booklets; secured processing of answer sheets.

(a) Test booklets for examinations shall be disposed of and filed in accordance with the following procedure:

1. Twenty-eight copies of the examination booklets shall be delivered to the Commission and retained for one (1) year.
   
   a. This procedure shall insure that there are adequate copies of the booklet available for the Commission to use in their review of preliminary analysis of the examination and candidate review sessions.

   b. After the above defined one (1) year period, the retention schedule shall change from twenty-eight copies to eight copies.

(b) In the event any irregularity occurs during the examination with any booklet, it shall be the examination supervisor's responsibility to prepare a detailed report of such irregularity and submit same to the commission.

(c) Candidate answer sheets shall be processed and secured in accordance with the following procedure:

1. Answer sheets for examination shall be:

   a. Turned over to the testing service responsible for scoring and microfilming.

   b. When the answer sheets are returned to the Commission by the computer services company, the Commission shall inventory all answer sheets and cause all to be filed into a secured filing cabinet.

1. Thereafter, an answer sheet shall not leave the filing cabinet unless same is checked out and such removal is evidenced on a form, describing the date of check out and the individual who is receiving the file.

(d) Destruction of examination booklets and related materials:

When in accordance with procedure, it is appropriate to destroy test booklets, it shall be the Commission's responsibility to schedule such destruction.

(11) Security of Candidates' Examination Grades. In accordance with chapter 455.217(2), F.S., the grades achieved by candidates on examinations shall remain confidential unless the candidate waives such confidentiality in writing.
(c) The examination supervisor will turn over the test booklets, answer sheets and other materials to the computer services company who will check the audit and receipt for the material.

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(11) Security of Candidates’ Examination Grades. In accordance with chapter 455.217(2), F.S., the grades achieved by candidates on examinations shall remain confidential unless the candidate waives such confidentiality in writing.
21 V-4.061 Definition.

(1) A general partnership is an association of two or more persons for the purpose of jointly conducting a business, each being responsible for all of the debts incurred in the prosecution of that business, each having the power to bind the other or others in transactions coming within the fair scope of the partnership business, and each being entitled to receive a share of the profits in such proportion as shall have been agreed upon. A partnership, as between the partners, can be created only by contract, being used upon consent, which contract may be in writing, or oral, or implied from the conduct of the parties in their dealings with each other. As will be noted hereinafter, an ostensible partnership, or quasi-partnership, may exist so far as the public is concerned, though contrary to the intent of the parties thereby bound as partners. A joint adventure has most of the aspects and creates most of the rights and liabilities of a partnership, except that it and the liabilities are confined to one, or at least a very limited number of, business transactions.

(2) A limited partnership is one created under Florida Statutes, chapter 620, consisting of one or more general partners and one or more limited partners. It can be created only by an instrument in writing, filed with the Secretary of State, and recorded in the public records of the county in which the principal office is located. The liability of the general partner, or partners, is nearly the same as in a general partnership. A limited partner is not liable to creditors of the partnership unless his name appears in the partnership name (with certain exceptions) or he takes part in the control of the business.

(3) A quasi-partnership or, as it is sometimes called, an ostensible partnership, exists where there is not a real partnership, but the parties act, or do business, in such manner that a member of the public, having no knowledge of the private relations of such parties, would reasonably be deceived into believing that a partnership exists. As such an arrangement is fraudulent and deceitful, it is, for the purpose of administering the law, deemed to be a partnership, and any registrants who shall so operate without assuming the obligations of partners by registering as partners, and registering the partnership, shall be deemed to violate the law and these regulations, and shall be subject to suspension of their registrations. This regulation shall not be deemed to prohibit two or more brokers not registered as partners from occupying the same office or suite of offices, provided that each makes his true status or capacity clear on signs, in telephone listings, advertising, representations, and by other means of solicitation or publicity, or from engaging in a joint adventure. Advertisements reflecting that a properly registered broker is a franchisee shall not come within the meaning of quasi or ostensible partnership.

21 V-4.07 Registration requirements. Every partnership shall be registered and at least one of its members licensed as an active broker. Each member who expects to deal with the public in the partnership's practice or business as a broker shall hold a valid current active license. All other partners shall, at all times, be designated as inactive, Type II, as provided in 21 V-1.12.

21 V-4.09 Incorporation by reference. All of the provisions and requirements of s. 21 V-5.14 to s. 21 V-5.19 of these rules and regulations shall apply to partnerships and their members so far as they may be made applicable by reading into them "partnership" for "corporation" and "members" for "officers" or "directors."

21 V-4.10 Successor partnerships. Ordinarily, when a partner...
RULES OF THE FLORIDA REAL ESTATE COMMISSION

CHAPTER 21V-4

PARTNERSHIPS

(Omitted numbers have been repealed or reserved or do not apply)

21V-4.061 Definition. 21V-4.10 Successor partnerships
21V-4.07 Registration requirements 21V-4.11 Trade and fictitious names
21V-4.09 Incorporation by reference

21V-4.061 Definition.

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(2) A limited partnership is one created under Florida Statutes, chapter 620, consisting of one or more general partners and one or more limited partners. It can be created only by an instrument in writing, filed with the Secretary of State, and recorded in the public records of the county in which the principal office is located. The liability of the general partner, or partners, is nearly the same as in a general partnership. A limited partner is not liable to creditors of the partnership unless his name appears in the partnership name (with certain exceptions) or he takes part in the control of the business.

(3) A quasi-partnership or, as it is sometimes called, an ostensible partnership, exists where there is not a real partnership, but the parties act, or do business, in such manner that a member of the public, having no knowledge of the private relations of such parties, would reasonably be deceived into believing that a partnership exists. As such an arrangement is fraudulent and deceitful, it is, for the purpose of administering the law, deemed to be a partnership, and any registrants who shall so operate without assuming the obligations of partners by registering as partners, and registering the partnership, shall be deemed to violate the law and these regulations, and shall be subject to suspension of their registrations. This regulation shall not be deemed to prohibit two or more brokers not registered as partners from occupying the same office or suite of offices, provided that each makes his true status or capacity clear on signs, in telephone listings, advertising, representations, and by other means of solicitation or publicity, or from engaging in a joint adventure. Advertisements reflecting that a properly registered broker is a franchisee shall not come within the meaning of quasi or ostensible partnership.

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21V-4.10 Successor partnerships. Ordinarily, when a partner
dies or withdraws, or a new partner is added, that partnership is dissolved and a new one is created if the business is continued. However, for administrative purposes of the Florida Real Estate Commission, if the business is continued by two or more persons, the partnership will be deemed to be continued. In this latter case, it shall only be necessary to cancel, issue, or reissue registration and licenses, perfecting the changes in organization, including change of name of the partnership, if any, and including a reissue of licenses to salesmen if there is a change of name or address. If there shall be a dispute between two former partners, or groups thereof, as to the right to use a trade name or firm name, no registration or licenses shall be issued to either until the dispute shall be settled by agreement or judicially, and the registration and licenses of all, as well as the salesmen, shall be canceled until the dispute is so settled, or request shall be filed for the issuance of registration and licenses under another name.

21V-4.11 Trade and fictitious names. An individual broker, partnership or corporation may use a trade name and, if so, it must be disclosed upon the request for license, and be placed upon the registration or license. The trade name shall not be, and the Commission will refuse to issue a license containing a trade name which is, the same as the real or trade name of another registrant or licensee which is registered or licensed with the Commission. No individual, partnership or corporation may be registered under more than one trade name. Trade names are required to be advertised and registered with the clerk of the circuit court, whether used by an individual corporation or partnership. The actual name of the individual or an entity is not a trade name.

RULES OF THE FLORIDA REAL ESTATE COMMISSION
CHAPTER 21V-5
CORPORATIONS

(Omitted numbers have been repealed or reserved or do not apply)

21V-5 12 Domestic corporations
21V-5 13 Foreign corporation
21V-5 14 Registration of corporation
21V-5 15 License status of officers and directors required
21V-5 16 License status of active officers and directors
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21V-5 18 Vacancies of office
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21V-5 20 Execution of papers by corporation

21V-5.12 Domestic corporations. Before initial registration is granted, proof must be furnished of legal corporate existence. Before renewal registration is granted, the Commission may require proof of legal corporate existence. Proof may be by letter from the Secretary of State or by certification.

21V-5.13 Foreign corporation. Before registration is granted or, if demanded, renewal registration is issued, to a foreign corporation, and licenses to its active officers and directors, proof shall be filed that the corporation is authorized to do business in the State of Florida. A letter from the Secretary of State shall be deemed to be sufficient proof.

21V-5.14 Registration of corporation. Unless the Commission or department shall have information that the corporation has been in violation of chapters 475 and 455, F.S., or the rules promulgated under said chapters, it will be assumed to be qualified for registration if its officers and directors are qualified, and the answers to questions propounded in the application or in supplemental inquiries are satisfactory. Otherwise, investigation and other proceedings, as in cases of individual applicants, shall be begun and maintained. No registration shall be granted or renewed for any corporation if it shall appear that the individual having control of the corporation has been denied, revoked, or suspended and has not been permitted to be reinstated, or if a person having control of the corporation has been convicted of a felony in
dies or withdraws, or a new partner is added, that partnership is dissolved and a new one is created if the business is continued. However, for administrative purposes of the Florida Real Estate Commission, if the business is continued by two or more persons, the partnership will be deemed to be continued. In this latter case, it shall only be necessary to cancel, issue, or reissue registration and licenses, perfecting the changes in organization, including change of name of the partnership, if any, and including a reissue of licenses to salesmen if there is a change of name or address. If there shall be a dispute between two former partners, or groups thereof, as to the right to use a trade name or firm name, no registration or licenses shall be issued to either until the dispute shall be settled by agreement or judicially, and the registration and licenses of all, as well as the salesmen, shall be canceled until the dispute is so settled, or request shall be filed for the issuance of registration and licenses under another name.

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any court and has not been restored to his civil rights for at least 5 years, or if an injunction has been entered against the individual for operating as a real estate licensee without license. A person shall be deemed to be in control of a corporation where such person or spouse, children, or member of his household shall own or control, directly or indirectly, more than 40 percent of the voting stock of such corporation.

21V-5.15 License status of officers and directors required. All officers and directors of a corporation, domestic or foreign, required to register, and maintain registration, shall be registered. All officers and directors who perform, or personally direct, sales or sales forces, advertising, soliciting or who come in contact with the owners of property listed or to be listed or with the investing public, in connection with brokerage transactions, shall be licensed and renew as active. Officers who perform no duties, or only clerical duties, are not required to be licensed or renew as active. Members of the board of directors who have no other connection with the corporation than the attendance at periodic meetings of the board of directors and the performance of the usual and customary duties of a director are not required to be licensed as active. No registration shall be issued to the corporation or partnership unless every broker licensed with the corporation or partnership is registered as an officer, director or partner of the corporation or partnership. No salesman or broker-salesman may be registered as an officer, director or general partner of the corporation or partnership.

21V-5.16 License status of active officers and directors. Officers and directors who expect to be active must possess the qualifications required by law and become licensed in the same manner and by the same procedure as any other applicant for active license; but requests for licenses, while such person is an officer or director of that, or any other corporation, shall be included with request for registration for the corporation and its other officers and directors.

21V-5.17 Registration of inactive officers and directors. Individual applications for renewal shall not be required of inactive officers and directors of a corporation—Type II as provided in 21V-1.12. Inactive registration shall be maintained upon the representations contained in the application or request for renewal by the corporation.

21V-5.18 Vacancies of office. A corporation shall have at all times registered the name(s) of its officer(s) and director(s). In the event that a corporation has but one active broker, and such broker dies, resigns, or is otherwise removed from his position as the active broker, then, in such event, such vacancy shall be filled within a reasonable time. Failure to appoint another active broker within reasonable time will result in automatic cancellation of the corporation registration, and licenses of all its officers, directors, and salesmen, until such time as another active broker has filled the vacancy.

It shall be the duty of the corporation to immediately notify the commission of such vacancy and of the steps taken to fill this vacancy.

If a corporation has more than one active broker and one such broker dies, resigns, or is otherwise removed from his position as an active broker, then, in such event, neither the corporate registration nor licenses of any of its officers, directors, or salesmen is affected by this vacancy.

If an active broker or director resigns or is removed from his corporate office, he may have his license reissued to him individually or with a partnership or another corporation. If an active broker officer or director is already licensed as active when he takes the corporate office, he shall immediately surrender his current license, if any, and apply for issuance or
any court and has not been restored to his civil rights for at least 5 years, or if an injunction has been entered against the individual for operating as a real estate licensee without license. A person shall be deemed to be in control of a corporation where such person or spouse, children, or member of his household shall own or control, directly or indirectly, more than 40 percent of the voting stock of such corporation.

21V-5.15 License status of officers and directors required. All officers and directors of a corporation, domestic or foreign, required to register, and maintain registration, shall be registered. All officers and directors who perform, or personally direct, sales or sales forces, advertising, soliciting or who come in contact with the owners of property listed or to be listed or with the investing public, in connection with brokerage transactions, shall be licensed and renew as active. Officers who perform no duties, or only clerical duties, are not required to be licensed or renew as active. Members of the board of directors who have no other connection with the corporation than the attendance at periodic meetings of the board of directors and the performance of the usual and customary duties of a director are not required to be licensed as active. No registration shall be issued to the corporation or licenses to any officer or director, unless the corporation shall cause to register, and biennially renew the license of at least one active officer. A foreign corporation shall biennially present proof that at least one active officer, holding a valid current active license, or for whom such a license is requested, is fully authorized to transact its brokerage business in the State of Florida, and to bind the corporation in respect to such business.

21V-5.16 License status of active officers and directors. Officers and directors who expect to be active must possess the qualifications required by law and become licensed in the same manner and by the same procedure as any other applicant for active license; but requests for licenses, while such person is an officer or director of that, or any other corporation, shall be included with request for registration for the corporation and its other officers and directors.

No registration shall be issued to the corporation or partnership unless every broker licensed with the corporation or partnership is registered as an officer, director or partner of the corporation or partnership. No salesman or broker-salesman may be registered as an officer, director or general partner of the corporation or partnership.

21V-5.17 Registration of inactive officers and directors. Individual applications for renewal shall not be required of inactive officers and directors of a corporation—Type II as provided in 21V-1.12. Inactive registration shall be maintained upon the representations contained in the application or request for renewal by the corporation.

21V-5.18 Vacancies of office. A corporation shall have at all times registered the name(s) of its officer(s) and director(s). In the event that a corporation has but one active broker, and such broker dies, resigns, or is otherwise removed from his position as the active broker, then, in such event, such vacancy shall be filled within a reasonable time. Failure to appoint another active broker within reasonable time will result in automatic cancellation of the corporation registration, and licenses of all its officers, directors, and salesmen, until such time as another active broker has filled the vacancy.

It shall be the duty of the corporation to immediately notify the commission of such vacancy and of the steps taken to fill this vacancy.

If a corporation has more than one active broker and one such broker dies, resigns, or is otherwise removed from his position as an active broker, then, in such event, neither the corporate registration nor licenses of any of its officers, directors, or salesmen is affected by this vacancy.

If an active broker or director resigns or is removed from his corporate office, he may have his license reissued to him individually or with a partnership or another corporation. If an active broker officer or director is already licensed as active when he takes the corporate office, he shall immediately surrender his current license, if any, and apply for issuance or
reissuance of license in the corporate capacity. However, surrender of his current license is not required if the broker is holder of license under the authority of multiple license.

21V-5.19 Responsibility for registration status. It shall be the duty of every active corporate officer and director to see that the corporation and each of its officers and directors and salesmen are holders of the appropriate current registration and licenses. It shall be the duty of every active broker member of a partnership to see that each member of a partnership required to hold registration and license does in fact hold the appropriate registration and license.

No corporate registration or license of any of its officers, directors, or salesmen shall be valid unless and until such corporation has an active broker, and as further provided in 21V-5.18.

The registration of such partnership shall be canceled automatically during that period of time that the license of its partners is not in force.

21V-5.20 Execution of papers by corporation. All applications, requests, changes of address and employment for salesmen, or other papers and documents required of corporations, shall be signed with the name of the corporation, by an active broker officer or director. Whenever multiple licenses are requested by a broker and one or more of them shall be under partnerships or corporations, a statement of disclosure shall be signed by some member of the partnership, or officer of the corporation, other than the applicant for the license; and if more than one person connected with a partnership or corporation shall request multiple licenses in other capacities, the statement of disclosure may not be signed by one for the other, but by a majority of the directors or partners other than those requesting multiple licenses.
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21V-8.03 Registration required. Every licensed broker who desires to conduct brokerage transactions at any place other than the principal office shall biennially register and receive a registration for each of said branch offices. A mere temporary shelter, on a subdivision being sold by the broker, for the protection of salesmen and customers and at which transactions are not closed and salesmen are not permanently assigned, is not deemed to be a branch office. The permanence, use, and character of activities customarily conducted at the office or shelter shall determine whether it must be registered.

21V-8.04 Registration not transferable. If a broker shall close a branch office and, at about the same time, establish another at a different location, the registration of the office which closed may not be transferred. Such new location is a new branch office which must be registered and the fee paid as though the other had not been closed. Upon application to the Commission, the broker may, of course, reopen the first office at any time during the license year, without payment of additional fee.

21V-9.061 Change of address. When a corporation or partnership changes the address of the principal office, it shall file a form furnished by the department showing new location, pay the required fees, and surrender the old registration, unless it is lost or destroyed. It is the duty of all brokers, partners, officers, and directors to surrender their old licenses and apply for new licenses.

21V-9.07 Change of name. If the registrant changes his name or trade name, the old registration shall be surrendered and a request for a reissuance of the registration shall be filed, and the registration shall be reissued.

21V-9.08 Lost or destroyed registration. If any registration is lost or destroyed, a new registration shall be reissued without fee. In such case, the registrant shall file an affidavit stating that the old registration has been destroyed or, that after diligent search had been made, it is not to be found. It shall be deemed to be a violation of these rules and regulations for any false affidavit concerning the reissuance of a registration to be made or for any such old registration, if found, to be used, or permitted by the registrant to be used, for any purpose, other than to deliver it to the department.
CHAPTER 21V-8
BRANCH OFFICES

(OMitted numbers have been repealed or reserved or do not apply)

21V-8.03 Registration required. Every licensed broker who desires to conduct brokerage transactions at any place other than the principal office shall biennially register and receive a registration for each of said branch offices. A mere temporary shelter, on a subdivision being sold by the broker, for the protection of salesmen and customers and at which transactions are not closed and salesmen are not permanently assigned, is not deemed to be a branch office. The permanence, use, and character of activities customarily conducted at the office or shelter shall determine whether it must be registered.

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CHAPTER 21V-9
REISSUANCE OF CERTIFICATE

(OMitted numbers have been repealed or reserved or do not apply)

21V-9.06 Change of address. When a corporation or partnership changes the address of the principal office, it shall file a form furnished by the department showing new location, pay the required fees, and surrender the old registration, unless it is lost or destroyed. It is the duty of all brokers, partners, officers, and directors to surrender their old licenses and apply for new licenses.

21V-9.07 Change of name. If the registrant changes his name or trade name, the old registration shall be surrendered and a request for a reissuance of the registration shall be filed, and the registration shall be reissued.

21V-9.08 Lost or destroyed registration. If any registration is lost or destroyed, a new registration shall be reissued without fee. In such case, the registrant shall file an affidavit stating that the old registration has been destroyed or, that after diligent search had been made, it is not to be found. It shall be deemed to be a violation of these rules and regulations for any false affidavit concerning the reissuance of a registration to be made or for any such old registration, if found, to be used, or permitted by the registrant to be used, for any purpose, other than to deliver it to the department.
21V-10.16 Title. It shall be deemed fraudulent and dishonest dealing by trick, scheme, or device for any broker or salesman to sell or offer for sale any property where he has notice that the title is not merchantable or upon which he has notice that a mortgage or other lien exists, and about which he fails to inform the purchaser before any portion of the purchase price is paid.

21V-10.17 Mortgage releases. It shall be deemed fraudulent and dishonest dealing by trick, scheme, or device for any broker or salesman to knowingly sell or offer for sale any property which is covered by a mortgage which also covers other property sold, unless the particular property sold or offered for sale may be released from the mortgage at any time before foreclosure sale, upon payment of an amount less than that remaining due from the purchaser after the sale.

21V-10.18 Promises to resell. It shall be deemed fraudulent and dishonest dealing by trick, scheme, or device and false promises for any broker or salesman to procure, induce, or influence any person to buy any property by promising, representing, or guaranteeing that he, his employer, or the owner, will resell or repurchase the property at any future time. Proof that such promise, representation, or guarantee plan has been approved for use by another agency of the State of Florida or has been strictly performed shall be prima facie evidence that such activity was not fraudulent or dishonest.

21V-10.19 Lotteries. Lotteries and schemes of sale involving selling of certificates, chances, or other devices whereby it is represented that the purchaser is to receive property to be selected, in an order to be determined by chance, or by some means other than the order, or prior sale, or whereby property more or less valuable will be secured according to chance, or the amount of sales made, or whereby the price will depend upon chance or the amount of sales made, or whereby the buyer may or may not receive any property, are declared to be methods by reason of which the public interests are endangered. It shall be immaterial that the scheme is actually carried out, or intended to be carried out, by some other means than chance.

21V-10.20 Free lot schemes. Plans or schemes through which the public is invited to solve puzzles or sign cards upon the pretense of drawing in order to receive property free or at a nominal price, or at cost, and all schemes which pretend to be, but are not actually, lotteries and drawings, or where the persons answering advertisements, giving their names or signing cards, are told that they may be selected to receive property free or at a reduced price, or at cost, are declared to be plans of selling, by reason of which the interests of the public are endangered.

21V-10.21 Equity trading. Any plan or scheme whereby the public is invited or induced to trade their equities in property for other property or equities therein, or are otherwise induced or advised, to the advantage of another, to commit a breach of a contract to purchase, or to pay for property already purchased, or are induced or advised to surrender equities in exchange for certificates or contracts to be applied in the future on the purchase of other property, is declared to be a plan of selling, by reason of which the interests of the public are endangered. Provided, however, that this section...
21V-10.16 Title. It shall be deemed fraudulent and dishonest dealing by trick, scheme, or device for any broker or salesman to sell or offer for sale any property where he has notice that the title is not merchantable or upon which he has notice that a mortgage or other lien exists, and about which he fails to inform the purchaser before any portion of the purchase price is paid.

21V-10.17 Mortgage releases. It shall be deemed fraudulent and dishonest dealing by trick, scheme, or device for any broker or salesman to knowingly sell or offer for sale any property which is covered by a mortgage which also covers other property sold, unless the particular property sold or offered for sale may be released from the mortgage at any time before foreclosure sale, upon payment of an amount less than that remaining due from the purchaser after the sale.

21V-10.18 Promises to resell. It shall be deemed fraudulent and dishonest dealing by trick, scheme, or device and false promises for any broker or salesman to procure, induce, or influence any person to buy any property by promising, representing, or guaranteeing that he, his employer, or the owner, will resell or repurchase the property at any future time. Proof that such promise, representation, or guarantee plan has been approved for use by another agency of the State of Florida or has been strictly performed shall be prima facie evidence that such activity was not fraudulent or dishonest.

21V-10.19 Lotteries. Lotteries and schemes of sale involving selling of certificates, chances, or other devices whereby it is represented that the purchaser is to receive property to be selected, in an order to be determined by chance, or by some means other than the order, or prior sale, or whereby property more or less valuable will be secured according to chance, or the amount of sales made, or whereby the price will depend upon chance or the amount of sales made, or whereby the buyer may or may not receive any property, are declared to be methods by reason of which the public interests are endangered. It shall be immaterial that the scheme is actually carried out, or intended to be carried out, by some other means than chance.

21V-10.20 Free lot schemes. Plans or schemes through which the public is invited to solve puzzles or sign cards upon the pretense of drawing in order to receive property free or at a nominal price, or at cost, and all schemes which pretend to be, but are not actually, lotteries and drawings, or where the persons answering advertisements, giving their names or signing cards, are told that they may be selected to receive property free or at a reduced price, or at cost, are declared to be plans of selling, by reason of which the interests of the public are endangered.

21V-10.21 Equity trading. Any plan or scheme whereby the public is invited or induced to trade their equities in property for other property or equities therein, or are otherwise induced or advised, to the advantage of another, to commit a breach of a contract to purchase, or to pay for property already purchased, or are induced or advised to surrender equities in exchange for certificates or contracts to be applied in the future on the purchase of other property, is declared to be a plan of selling, by reason of which the interests of the public are endangered. Provided, however, that this section
shall not apply to readjustment made with, or by the consent of, the vendor of the property in which the equity holder originally invested.

21V-10.22 Office. Each active broker is required to have an office and the address of the office must be registered with the department. The office shall consist of at least one enclosed room or building of stationary construction wherein negotiations and closings of real estate transactions of others may be conducted and carried on with privacy and wherein the said broker's books, records, and files pertaining to real estate transactions of others are maintained. The office may be in the residence of the broker provided the minimum office requirements are met and the required broker's sign is properly displayed. Salesmen are not required or permitted to have an office but must be registered from, and work out of, an office maintained and registered in the name of the employer.

21V-10.23 Branch office. If a broker desires to conduct business from more than one office, each additional office must be registered as a branch office, and the fee must be paid for its registration. Salesmen, at the discretion of the broker, may be registered from the principal office or from the branch office they regularly work out of or report to. If they work out of the branch office only occasionally or their connection with a branch office is temporary, they should be registered from the principal office. A branch office certificate may not be reissued to a new location.

21V-10.24 Signs. All licensed real estate brokers, holding an active license, shall erect and maintain a sign on or about the entrance of their principal office and all branch offices, which sign may be easily observed and read by persons about to enter the offices. Every such sign shall contain, in letters not less than one inch in height, the name of the broker, together with his trade name, if any, and if a partnership or corporation, shall contain the name of the firm or corporation along with the name of the principal broker(s) and the words "Licensed Real Estate Broker" (or Lic. Real Estate Broker). The names of all active members of the partnership or all active broker members of the corporation may be added beneath the name of the principal broker(s). If the broker so desires, the names of salesmen may be placed below or nearby, or at any place except between the name of the broker or brokers and the description as "licensed real estate broker(s).” The broker must caption these names by the word “Salesmen,” “Broker-Salesmen” or “Associates,” or “Realtor Associates,” indicating that they are not brokers or members of the firm or corporation, and, in all cases a line or observable space shall separate the words Licensed Real Estate Broker from the salesmen’s names.

21V-10.25 Advertising. All advertising must be in a manner in which a reasonable person would know that he is dealing with a real estate licensee or brokerage. No real estate advertisement placed or caused to be placed by a licensee shall be fraudulent, false, deceptive or misleading. All real estate advertisements must include the licensed name of the brokerage firm.

21V-10.27 Use of association names. No licensee shall use an identification or designation of any association or organization having to do with real estate in such manner as to lead persons to believe that said licensee is a member in good standing of such association, or organization, when in fact said licensee is not a member thereof in good standing and is not otherwise entitled to use such identification or designation.

21V-10.28 Receipt of kickbacks, rebates. Any real estate broker or salesman who receives, or makes an arrangement or agreement to receive, directly or indirectly, any kickback or rebate, for the placement of, or favor in, any business transaction which forms a part of, or is incident to, any transaction or transactions negotiated or handled by said broker or salesman as an agent, shall be deemed to be in violation of s. 475.25(1)(b), or s. 475.25(1)(d), or both, of said subsections of the Florida Statutes, unless prior to the time of the placement of, or favor in, said business transaction, the broker or salesman shall have fully and completely advised his principal and all affected parties in the transaction, or transactions, which the broker or salesman is handling, of all facts pertaining to the arrangement of kickback or rebate.
shall not apply to readjustment made with, or by the consent of, the vendor of the property in which the equity holder originally invested.

21V-10.22 Office. Each active broker is required to have an office and the address of the office must be registered with the department. The office shall consist of at least one enclosed room or building of stationary construction wherein negotiations and closings of real estate transactions of others may be conducted and carried on with privacy and wherein the said broker’s books, records, and files pertaining to real estate transactions of others are maintained. The office may be in the residence of the broker provided the minimum office requirements are met and the required broker’s sign is properly displayed. Salesmen are not required or permitted to have an office but must be registered from, and work out of, an office maintained and registered in the name of the employer.

21V-10.23 Branch office. If a broker desires to conduct business from more than one office, each additional office must be registered as a branch office, and the fee must be paid for its registration. Salesmen, at the discretion of the broker, may be registered from the principal office or from the branch office they regularly work out of or report to. If they work out of the branch office only occasionally or their connection with a branch office is temporary, they should be registered from the principal office. A branch office certificate may not be reissued to a new location.

21V-10.24 Signs. All licensed real estate brokers, holding an active license, shall erect and maintain a sign on or about the entrance of their principal office and all branch offices, which sign may be easily observed and read by persons about to enter the offices. Every such sign shall contain, in letters not less than one inch in height, the name of the broker, together with his trade name, if any, and if a partnership or corporation, shall contain the name of the firm or corporation along with the name of the principal broker(s) and the words “Licensed Real Estate Broker” (or Lic. Real Estate Broker). The names of all active members of the partnership or all active broker members of the corporation may be added beneath the name of the principal broker(s). If the broker so desires, the names of salesmen may be placed below or nearby, or at any place except between the name of the broker or brokers and the description as “licensed real estate broker(s).” The broker must caption these names by the word “Salesmen,” “Broker-Salesmen” or “Associates,” or “Realtor Associates,” indicating that they are not brokers or members of the firm or corporation, and, in all cases a line or observable space shall separate the words Licensed Real Estate Broker from the salesmen’s names.

21V-10.25 Advertising. All advertising must be in a manner in which a reasonable person would know that he is dealing with a real estate licensee or brokerage. No real estate advertisement placed or caused to be placed by a licensee shall be fraudulent, false, deceptive or misleading. All real estate advertisements must include the licensed name of the brokerage firm.

21V-10.27 Use of association names. No licensee shall use an identification or designation of any association or organization having to do with real estate in such manner as to lead persons to believe that said licensee is a member in good standing of such association, or organization, when in fact said licensee is not a member thereof in good standing and is not otherwise entitled to use such identification or designation.

21V-10.28 Receipt of kickbacks, rebates. Any real estate broker or salesman who receives, or makes an arrangement or agreement to receive, directly or indirectly, any kickback or rebate, for the placement of, or favor in, any business transaction which forms a part of, or is incident to, any transaction or transactions negotiated or handled by said broker or salesman as an agent, shall be deemed to be in violation of s. 475.25(1)(b), or s. 475.25(1)(d), or both, of said subsections of the Florida Statutes, unless prior to the time of the placement of, or favor in, said business transaction, the broker or salesman shall have fully and completely advised his principal and all affected parties in the transaction, or transactions, which the broker or salesman is handling, of all facts pertaining to the arrangement of kickback or rebate.
21V-10.29  Advance fee accounting and reporting procedures.

(1) Any broker who claims, demands, charges, receives, collects, or contracts for in a listing, advertisement, or offer to sell or lease real property or any interest therein for the purpose of promoting the sale or lease of real estate or for the referral of real estate brokers or salesmen, or both, in advance of the transaction actually closing, shall deposit not less than 75 percent of the advance fee so collected into a special trust and escrow account entitled “advance fee trust account” or “advance fee escrow account” in a trust or escrow bank account maintained by said broker with some bank located and doing business in Florida, or in a recognized depository. The advance fee trust or escrow account shall not be commingled with any other funds, trust, escrow, or otherwise, of the broker.

(2) The broker must maintain separate and distinct accounting records and files for the advance fee operations and periodically report all such activity to the department, including, but not limited to, all fees collected, all funds expended or withdrawn from said escrow or trust account, and all monies or funds returned to the principal during the period of the report. For the purpose of this rule the broker may withdraw amounts from the advance fee trust or escrow account when expended for the benefit of the principal which benefit shall be for direct or special advertising the principal's interest only or as provided by statute. Expenses such as telephone calls, office supplies, rental, automobiles, commissions, controlled publications, etc., are considered overhead of the broker and shall not be paid from the broker's advance fee trust or escrow account or other recognized depository. All unexpended funds shall be returned to the principal at the end of the contract period or as provided by law, whichever period is shorter, unless a sale of the property is consummated, and in such event said advance fee funds shall be disbursed in accordance with the listing contract. The provisions of s. 475.452 may not be waived.

(3) Reporting will be for a calendar month period ending at the close of business on the last day of the month. Reports will be due in the department on or before the 15th day of the following month.

(a) The monthly report will be prepared in detail and will provide an accounting, with appropriate explanation, of all transactions involving the “advance fee” account.

(b) Formats of these reports should take the form of a receipts and expenditures ledger with appropriate subaccounts showing the details of each and status of each advance fee. Copies of a ledger and account sheet will be accepted provided they are properly annotated to provide a clean audit trail for the entire term of the advance fee deposit.

(4) If accounting records, as noted in preceding, do not provide a clear trail then it will be necessary to prepare a complete report from the records available for each deposit.

(a) The report should be arranged in six columns showing the following for each deposit received:

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Date of transaction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Column 2</td>
<td>Name, address, telephone of principal</td>
</tr>
<tr>
<td>Column 3</td>
<td>Registered name of salesman and/or broker involved together with Florida Real Estate Commission License number</td>
</tr>
<tr>
<td>Column 4</td>
<td>Reason for deposit</td>
</tr>
<tr>
<td>Column 5</td>
<td>Amount of deposit</td>
</tr>
</tbody>
</table>

(b) Below this information, on the same sheet, every expenditure made from the advance fee will be shown as follows:

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Column 2</td>
<td>Reason for expenditure</td>
</tr>
<tr>
<td>Column 6</td>
<td>Amount of expenditure</td>
</tr>
</tbody>
</table>

(c) If during the reporting period a deposit is returned, the following entry will appear last:
21V-10.29 Advance fee accounting and reporting procedures.

(1) Any broker who claims, demands, charges, receives, collects, or contracts for in a listing, advertisement, or offer to sell or lease real property or any interest therein for the purpose of promoting the sale or lease of real estate or for the referral of real estate brokers or salesmen, or both, in advance of the transaction actually closing, shall deposit not less than 75 percent of the advance fee so collected into a special trust and escrow account entitled “advance fee trust account” or “advance fee escrow account” in a trust or escrow bank account maintained by said broker with some bank located and doing business in Florida, or in a recognized depository. The advance fee trust or escrow account shall not be commingled with any other funds, trust, escrow, or otherwise, of the broker.

(2) The broker must maintain separate and distinct accounting records and files for the advance fee operations and periodically report all such activity to the department, including, but not limited to, all fees collected, all funds expended or withdrawn from said escrow or trust account, and all monies or funds returned to the principal during the period of the report. For the purpose of this rule the broker may withdraw amounts from the advance fee trust or escrow account when expended for the benefit of the principal which benefit shall be for direct or special advertising the principal’s interest only or as provided by statute. Expenses such as telephone calls, office supplies, rental, automobiles, commissions, controlled publications, etc., are considered overhead of the broker and shall not be paid from the broker’s advance fee trust or escrow account or other recognized depository. All unexpended funds shall be returned to the principal at the end of the contract period or as provided by law, whichever period is shorter, unless a sale of the property is consummated, and in such event said advance fee funds shall be disbursed in accordance with the listing contract. The provisions of s. 475.452 may not be waived.

(3) Reporting will be for a calendar month period ending at the close of business on the last day of the month. Reports will be due in the department on or before the 15th day of the following month.

(a) The monthly report will be prepared in detail and will provide an accounting, with appropriate explanation, of all transactions involving the “advance fee” account.

(b) Formats of these reports should take the form of a receipts and expenditures ledger with appropriate subaccounts showing the details of each and status of each advance fee. Copies of a ledger and account sheet will be accepted provided they are properly annotated to provide a clean audit trail for the entire term of the advance fee deposit.

(4) If accounting records, as noted in preceding, do not provide a clear trail then it will be necessary to prepare a complete report from the records available for each deposit.

(a) The report should be arranged in six columns showing the following for each deposit received:

| Column 1 | Date of transaction |
| Column 2 | Name, address, telephone of principal |
| Column 3 | Registered name of salesman and/or broker involved together with Florida Real Estate Commission License number |
| Column 4 | Reason for deposit |
| Column 5 | Amount of deposit |

(b) Below this information, on the same sheet, every expenditure made from the advance fee will be shown as follows:

| Column 1 | Date |
| Column 2 | Reason for expenditure |
| Column 6 | Amount of expenditure |

(c) If during the reporting period a deposit is returned, the following entry will appear last:
(d) After an advance fee has been returned, regardless of the reason, Column 6 of the cumulative sheets of transactions for that deposit should be equal to Column 5.

(5) The monthly report will include a copy of the signed listing agreement or contract as mailed to principal and, where applicable, a copy of the verified accounts relating to expenditures, or quarterly accountings. A copy of the monthly bank statement for the advance fee escrow or trust account will also be included in the monthly report. Reports that fail to provide the above information will be unacceptable.

(6) When the escrow account has a zero balance or small balance required to keep the account active and the account has had no activity during the reporting period, a negative report will be submitted. A negative report for any monthly period will contain a copy of the account bank statement.

(7) All reports will be covered by a letter containing a certification that the report is a true accounting of all transactions in the advance fee escrow account for the period reported. The certification of the report will be signed by the broker or his authorized representative.

21V-10.30 Rental company contracts. Any broker or salesman who attempts to negotiate a rental or who furnishes information to a prospective tenant for a fee paid by the tenant shall provide such prospective tenant with a contract or receipt agreement in writing which contract or receipt agreement must contain the following provision or legend in type size 10 point bold or larger:

NOTICE

PURSUANT TO FLORIDA LAW:
If the rental information provided under this contract is not current or accurate in any material respect, you may demand within 30 days of this contract date a return of your full fee paid. If you do not obtain a rental you are entitled to receive a return of 75% of the fee paid, if you make demand within 30 days of this contract date.

Each contract or receipt agreement shall be contained on one side of a page not larger than 8 inches x 11 inches. The type size of the balance of the terms of the contract shall be in a size not smaller than 8 point type.

Each rental data company shall furnish to the department a copy of its contract or receipt agreement currently being utilized within 30 days of the commencing use of such agreement.

21V-10.31 Time for payment of civil penalties. In cases where the Commission imposes a civil penalty for violation of chapters 455 and 475, F.S., or the rules promulgated thereunder, the penalty shall be paid within 30 days of its imposition by order of the Commission.

21V-10.32 Notice requirements. A real estate broker upon receiving conflicting demands on an earnest money deposit held in the broker's escrow account must notify the Florida Real Estate Commission, in writing, within five (5) working days of last party's demand and must institute one of the procedures of Section 475.25(1)(d), Florida Statutes, within thirty (30) days after the last demand. A real estate broker who has good faith doubt as to who is entitled to an earnest money deposit in the broker's escrow account must notify the Florida Real Estate Commission, in writing, within fifteen (15) working days from the contractual closing date and institute one of the procedures of Section 475.25(1)(d), Florida Statutes, within thirty (30) days after the scheduled date of closing.
(d) After an advance fee has been returned, regardless of the reason, Column 6 of the cumulative sheets of transactions for that deposit should be equal to Column 5.

(5) The monthly report will include a copy of the signed listing agreement or contract as mailed to principal and, where applicable, a copy of the verified accounts relating to expenditures, or quarterly accountings. A copy of the monthly bank statement for the advance fee escrow or trust account will also be included in the monthly report. Reports that fail to provide the above information will be unacceptable.

(6) When the escrow account has a zero balance or small balance required to keep the account active and the account has had no activity during the reporting period, a negative report will be submitted. A negative report for any monthly period will contain a copy of the account bank statement.

(7) All reports will be covered by a letter containing a certification that the report is a true accounting of all transactions in the advance fee escrow account for the period reported. The certification of the report will be signed by the broker or his authorized representative.

21V-10.30 Rental company contracts. Any broker or salesman who attempts to negotiate a rental or who furnishes information to a prospective tenant for a fee paid by the tenant shall provide such prospective tenant with a contract or receipt agreement in writing which contract or receipt agreement must contain the following provision or legend in type size 10 point bold or larger:

NOTICE
PURSUANT TO FLORIDA LAW:
If the rental information provided under this contract is not current or accurate in any material respect, you may demand within 30 days of this contract date a return of your full fee paid. If you do not obtain a rental you are entitled to receive a return of 75% of the fee paid, if you make demand within 30 days of this contract date.

Each contract or receipt agreement shall be contained on one side of a page not larger than 8 inches x 11 inches. The type size of the balance of the terms of the contract shall be in a size not smaller than 8 point type.

Each rental data company shall furnish to the department a copy of its contract or receipt agreement currently being utilized within 30 days of the commencing use of such agreement.

21V-10.31 Time for payment of civil penalties. In cases where the Commission imposes a civil penalty for violation of chapters 455 and 475, F.S., or the rules promulgated thereunder, the penalty shall be paid within 30 days of its imposition by order of the Commission.

21V-10.32 Notice requirements. A real estate broker upon receiving conflicting demands on an earnest money deposit held in the broker's escrow account must notify the Florida Real Estate Commission, in writing, within five (5) working days of last party's demand and must institute one of the procedures of Section 475.25(1)(d), Florida Statutes, within thirty (30) days after the last demand. A real estate broker who has good faith doubt as to who is entitled to an earnest money deposit in the broker's escrow account must notify the Florida Real Estate Commission, in writing, within fifteen (15) working days from the contractual closing date and institute one of the procedures of Section 475.25(1)(d), Florida Statutes, within thirty (30) days after the scheduled date of closing.
RULES OF THE FLORIDA REAL ESTATE COMMISSION

CHAPTER 21V-14

UNDS ENTRUSTED TO BROKERS—DEPOSITS AND ESCROWS

(Omitted numbers have been repealed or reserved or do not apply)

21V-14.08 Definitions.

(1)(a) A “deposit” is a sum of money, or its equivalent, delivered to a real estate broker or a salesman, as earnest money, or a payment, or a part payment, in connection with any real estate transaction named or described in s. 75.01(1)(c), F.S., or for the purpose of obtaining satisfaction, lease, or assignment of mortgages, or quit claim or other deeds deemed necessary or desirable in acquiring or perfecting his title to real estate, or assembling interests therein, or any such sum delivered in escrow, trust, or on condition, in connection with any transaction conducted, or being conducted, by such broker or salesman within the purview of chapter 175, F.S.

(b) A deposit, as so defined, shall extend to and include not only cash, or currency, but any medium of exchange, or any securities to be converted into money, delivered for any of the purposes aforesaid, to be held or converted into cash or bank credits. A broker shall not be responsible for the payment of any check or draft, unless he shall, through culpable negligence, fail to cash or deposit the same in the usual course of business, and the check or draft is not paid due to such culpable negligence, and damage results to some party entitled to complain of said culpable negligence.

(c) “Trust” or “escrow” account shall be construed to mean an account in a bank or trust company, title company having trust powers, or a savings and loan association within the State of Florida. Only funds described in this rule shall be deposited in trust or escrow accounts. No personal funds of any person shall be deposited or intermingled with any funds trust, or on condition.

salesman. Every real estate salesman, as defined above, shall immediately, pay over or deliver the same to the under whom he shall be licensed as a

estate broker. Every licensed real estate from his salesman, principal, prospect, or any real estate transaction, any deposit, personal property, or item of value shall same in a solvent bank savings and loan company, or title company having trust powers, in deposit is in securities, intended into cash, the conversion shall be time, and the proceeds shall be account. The broker is ultimately said escrow account; therefore, the all escrow accounts.

In deposits. No broker who any right to or lien upon said written agreement or order of the depositor has sole control of said transaction involved has been completely claim thereto except the party same, in which case the broker may unless the amount of disputed. In case of a dispute as to commission, or the time of payment the amount only of his claim in the dispute shall be settled by court proceedings, as provided for depositor has the right to demand such time as another party has equity therein, subject to the right to compensate the broker for his prior to a demand for the return of
RULES OF THE FLORIDA REAL ESTATE COMMISSION

CHAPTER 21V-14

UNDS ENTRUSTED TO BROKERS—DEPOSITS AND ESCROWS

(No numbers have been repeated or reserved or do not apply)

21V-14.08 Definitions.

1(a) A "deposit" is a sum of money, or its equivalent, delivered to a real estate broker or a salesman, as earnest money, or a payment, or a part payment, in connection with any real estate transaction named or described 75.01(1)(c), F.S., or for the purpose of obtaining satisfaction, lease, or assignment of mortgages, or quit claim deeds deemed necessary or desirable in acquiring or perfecting a title to real estate, or assembling interests therein, such sum delivered in escrow, trust, or on condition, connection with any transaction conducted, or being, by such broker or salesman within the purview of 75, F.S.

(b) A deposit, as so defined, shall extend to and not only cash, or currency, but any medium of exchange, securities to be converted into money, delivered for any purposes aforesaid, to be held or converted into bank credits. A broker shall not be responsible for payment of any check or draft, unless he shall, by such broker or salesman within the purview of 75, F.S.

(c) "Trust" or "escrow" account shall be construed to mean an account in a bank or trust company, title having trust powers, or a savings and loan association.
the deposit; and such right to demand return of the deposit shall again accrue upon a breach by the other party of the contract or agreement under which it is held, or the expiration of the time fixed or a reasonable time, for performance of the things necessary to fix the exclusive right of such other party to said deposit. A broker shall not deliver the deposit to the other party to the transaction until such transaction is finally closed, except as otherwise directed or agreed to specifically by the depositor. The interested parties involved, other than the broker, may by express agreement alter the disposal of the deposit from that herein stated, but the burden shall be on the broker to establish his good faith in the matter if such agreement is to his advantage and he shall recognize and comply with the joint directions of said parties in such cases, except where the parties act in bad faith with intent to deprive him of his commission, in which case he shall proceed as provided in s. 475.25(1)(d).

21V-14.12 Broker’s records. A broker who received a deposit such as defined herein shall preserve and make available to the department or its authorized representative all deposit slips and statements of account rendered by the bank or trust company, or title company with trust powers in which said deposit is placed, together with all agreements between the parties representing the transaction, particularly the deposit, and all contracts, agreements, instructions, and directions to or with the said depository and shall keep an accurate account in his books of each deposit transaction as well as an account in his books of each separate bank account wherein such trust funds have been deposited, together with a record of all withdrawals therefrom, and shall support such accounts by such additional data as good accounting practice requires. All such books and accounts shall be subject to inspection by the department or its authorized representatives at all reasonable times during regular business hours.

21V-14.13 Commission to be held in trust account or operating account. Any broker who shall receive any funds, money, check, draft, or other things of value, which by the terms of any lawful cooperative broker contract, or any other contract, whether the same shall be oral or written, is to be shared, divided, or paid over, to any other broker, or non-licensed person, the broker receiving the same shall hold it in his trust or escrow account for such other broker, or nonlicensed person, and upon demand, or on the date provided by the terms of said contract, shall promptly account for and pay or deliver the same to the broker or nonlicensed person entitled to receive it, provided, however, that such broker may deduct such lawful set-offs, or counter-claims as may at that time be due and owing to him by the other broker or nonlicensed person entitled to receive such refunds. In the case of a broker receiving a commission, part of which is due to one of his registered salesmen, said broker may transfer and disburse said commission from his operating account and shall not be required to disburse to his salesman directly from his trust or escrow account provided, however, that said broker shall be required to account for and pay said commission to the salesman and may properly deduct any lawful set-offs, or counter-claims due said broker from the said salesman.

21V-14.14 Interest bearing escrow accounts. A licensed real estate broker is not prohibited from placing escrow money, entrusted to him by any person dealing with him as a broker, in an interest bearing account. The placement of escrow money in an interest bearing account and the designation of the party who is to receive the interest must be with the permission of all the interested parties. Said escrow account must be in a title company, banking institution, or savings and loan association located and doing business in Florida. The placement of escrow money must be in only these three types of institutions and not in stock or bond brokerage houses.
the deposit; and such right to demand return of the deposit shall again accrue upon a breach by the other party of the contract or agreement under which it is held, or the expiration of the time fixed or a reasonable time, for performance of the things necessary to fix the exclusive right of such other party to said deposit. A broker shall not deliver the deposit to the other party to the transaction until such transaction is finally closed, except as otherwise directed or agreed to specifically by the depositor. The interested parties involved, other than the broker, may by express agreement alter the disposal of the deposit from that herein stated, but the burden shall be on the broker to establish his good faith in the matter if such agreement is to his advantage and he shall recognize and comply with the joint directions of said parties in such cases, except where the parties act in bad faith with intent to deprive him of his commission, in which case he shall proceed as provided in s. 475.25(1)(d).

21V-14.12 Broker’s records. A broker who received a deposit such as defined herein shall preserve and make available to the department or its authorized representative all deposit slips and statements of account rendered by the bank or trust company, or title company with trust powers in which said deposit is placed, together with all agreements between the parties representing the transaction, particularly the deposit, and all contracts, agreements, instructions, and directions to or with the said depository and shall keep an accurate account in his books of each deposit transaction as well as an account in his books of each separate bank account wherein such trust funds have been deposited, together with a record of all withdrawals therefrom, and shall support such accounts by such additional data as good accounting practice requires. All such books and accounts shall be subject to inspection by the department or its authorized representatives at all reasonable times during regular business hours.

21V-14.13 Commission to be held in trust account or operating account. Any broker who shall receive any funds, money, check, draft, or other things of value, which by the terms of any lawful cooperative broker contract, or any other contract, whether the same shall be oral or written, is to be shared, divided, or paid over, to any other broker, or non-licensed person, the broker receiving the same shall hold it in his trust or escrow account for such other broker, or nonlicensed person, and upon demand, or on the date provided by the terms of said contract, shall promptly account for and pay or deliver the same to the broker or nonlicensed person entitled to receive it, provided, however, that such broker may deduct such lawful set-offs, or counter-claims as may at that time be due and owing to him by the other broker or nonlicensed person entitled to receive such refunds. In the case of a broker receiving a commission, part of which is due to one of his registered salesmen, said broker may transfer and disburse said commission from his operating account and shall not be required to disburse to his salesman directly from his trust or escrow account provided, however, that said broker shall be required to account for and pay said commission to the salesman and may properly deduct any lawful set-offs, or counter-claims due said broker from the said salesman.

21V-14.14 Interest bearing escrow accounts. A licensed real estate broker is not prohibited from placing escrow money, entrusted to him by any person dealing with him as a broker, in an interest bearing account. The placement of escrow money in an interest bearing account and the designation of the party who is to receive the interest must be with the permission of all the interested parties. Said escrow account must be in a title company, banking institution, or savings and loan association located and doing business in Florida. The placement of escrow money must be in only these three types of institutions and not in stock or bond brokerage houses.
RULES OF THE FLORIDA REAL ESTATE COMMISSION
CHAPTER 21V-16
REAL ESTATE SCHOOLS—DEFINITIONS AND INTERPRETATIONS

(Omitted numbers have been repealed or reserved or do not apply)

21V-16.03 Interpretation of particular phrases and clauses
Whenever used in said act and these rules, the phrases and clauses hereinafter set forth shall be construed as follows:

(1) “Guarantee that their pupils will pass any examination given by the department” shall be construed to include, but without limitation, any representation, agreement, promise, or understanding whereby a person enrolled in any school or course is to receive any refund of money or other thing of value if such person should fail the examination offered by the Department of Professional Regulation.

(2) The term “each person, school, or institution” used in s. 475.451(1), F.S., is construed to include only one address, or location, and a person, school, or institution offering, or conducting a course at more than one address, or location, shall be deemed to be operating a separate school at each address, or location, and shall be required to obtain a permit for each such school.

21V-16.04 Correspondence course instructor. In all Commission approved continuing education correspondence courses, the real estate school and school permit holder shall provide an address and telephone number of an instructor licensed with such school to answer inquiries. The instructor will be available during normal working hours each day.

21V-16.06 Guest lecturers. Guest lecturers may be used to aid and assist a real estate school instructor offering Commis-

sion prescribed or Commission approved equivalent courses so long as:

(1) Guest lecturers do not provide over 20% of the total course/seminar instruction;

(2) Guest lecturers have prior approval of the Florida Real Estate Commission; and

(3) A real estate instructor licensed with such school must be present at all times.

21V-16.07 Required communication by school permit holder. It is required that each school permit holder post in every classroom and administrative area, and read at the beginning of each course, the following: Recruiting for employment opportunities for any real estate brokerage firm must be accomplished outside the prescribed classroom instructional time. Noncompliance should be reported to the Florida Real Estate Commission.
Interpretation of particular phrases and clauses. Whenever used in said act and these rules, the phrases and clauses hereinafter set forth shall be construed as follows:

(1) “Guarantee that their pupils will pass any examination given by the department” shall be construed to include, but without limitation, any representation, agreement, promise, or understanding whereby a person enrolled in any school or course is to receive any refund of money or other thing of value if such person should fail the examination offered by the Department of Professional Regulation.

(2) The term “each person, school, or institution” used in s. 475.451(1), F.S., is construed to include only one address, or location, and a person, school, or institution offering, or conducting a course at more than one address, or location, shall be deemed to be operating a separate school at each address, or location, and shall be required to obtain a permit for each such school.

Correspondence course instructor. In all Commission approved continuing education correspondence courses, the real estate school and school permit holder shall provide an address and telephone number of an instructor licensed with such school to answer inquiries. The instructor will be available during normal working hours each day.

Guest lecturers. Guest lecturers may be used to aid and assist a real estate school instructor offering Commission prescribed or Commission approved equivalent courses so long as:

(1) Guest lecturers do not provide over 20% of the total course/seminar instruction;

(2) Guest lecturers have prior approval of the Florida Real Estate Commission; and

(3) A real estate instructor licensed with such school must be present at all times.

Required communication by school permit holder. It is required that each school permit holder post in every classroom and administrative area, and read at the beginning of each course, the following: Recruiting for employment opportunities for any real estate brokerage firm must be accomplished outside the prescribed classroom instructional time. Noncompliance should be reported to the Florida Real Estate Commission.
CHAPTER 21V-17
REAL ESTATE SCHOOLS—ADMINISTRATIVE PROCEDURES AND REGULATIONS

(Omitted numbers have been repealed or reserved or do not apply)

21V-17.09 Minimum standard for course of study. No permit shall be granted to an applicant unless it shall be made to appear that a course of study to be offered by the applicant which is designed or represented to enable anyone to pass an examination for licensure conducted by the Department of Professional Regulation (1) substantially covers the material contained in the applicable Florida Real Estate Commission prescribed course; (2) consists of not less than 15 hours of classroom or individual instruction; and (3) is not comprised solely of a study of questions and answers which would indicate that there has been an attempt to obtain questions from actual examinations given by the Department of Professional Regulation.

21V-17.10 Investigation of schools. The holder of a permit under these rules shall be required to have said permit in his immediate possession at all times while conducting, or supervising, any course of study and shall exhibit the same upon demand of any authorized representative of the Department of Professional Regulation, and no such person shall attempt in any manner to obstruct, or hinder, such authorized representative who is conducting an investigation of any person, school, or institution.

CHAPTER 21V-18
REAL ESTATE SCHOOLS—GROUNDS AND PROCEDURES FOR DENIAL, REVOCATION, AND SUSPENSION

(Omitted numbers have been repealed or reserved or do not apply)

21V-18.05 Grounds for denial. An application for a permit shall be denied whenever it shall appear from information received by the Florida Real Estate Commission or the Department of Professional Regulation that:

(1) The applicant has made any false statement in his application.
(2) The applicant has failed to respond to any interrogatory propounded to him under these rules within 20 days after mailing of such interrogatories to the applicant.
(3) The applicant has failed, after notice and opportunity to be heard, to show cause why the application should not be denied.
(4) The applicant is defendant in any proceeding pending before the Florida Real Estate Commission or the Department of Professional Regulation for the revocation or suspension of his license as a real estate broker or salesman, provided that all proceeding on said application shall be stayed during the pendency of said cause and if such proceeding be finally dismissed, a permit shall thereupon be issued to him unless other grounds for denial shall exist.

21V-18.07 Grounds for suspension. A permit shall be suspended whenever it shall appear from information received by the Florida Real Estate Commission or the Department of Professional Regulation that:
RULES OF THE FLORIDA REAL ESTATE COMMISSION

CHAPTER 21V-17

REAL ESTATE SCHOOLS—ADMINISTRATIVE PROCEDURES AND REGULATIONS

(Omitted numbers have been repealed or reserved or do not apply)

21V-17.09 Minimum standard for course of study. No permit shall be granted to an applicant unless it shall be made to appear that a course of study to be offered by the applicant which is designed or represented to enable anyone to pass an examination for licensure conducted by the Department of Professional Regulation (1) substantially covers the material contained in the applicable Florida Real Estate Commission prescribed course; (2) consists of not less than 15 hours of classroom or individual instruction; and (3) is not comprised solely of a study of questions and answers which would indicate that there has been an attempt to obtain questions from actual examinations given by the Department of Professional Regulation.

21V-17.10 Investigation of schools. The holder of a permit under these rules shall be required to have said permit in immediate possession at all times while conducting, supervising, any course of study and shall exhibit the upon demand of any authorized representative of Department of Professional Regulation, and no such person shall attempt in any manner to obstruct, or hinder, authorized representative who is conducting an investigation of any person, school, or institution.

21V-18.05 Grounds for denial. An application for a permit shall be denied whenever it shall appear from information received by the Florida Real Estate Commission or the Department of Professional Regulation that:

(1) The applicant has made any false statement in his application.

(2) The applicant has failed to respond to any interrogatory propounded to him under these rules within 20 days after mailing of such interrogatories to the applicant.

(3) The applicant has failed, after notice and opportunity to be heard, to show cause why the application should not be denied.

(4) The applicant is defendant in any proceeding pending before the Florida Real Estate Commission or the Department of Professional Regulation for the revocation or suspension of his license as a real estate broker or salesman, provided that all proceeding on said application shall be stayed during the pendency of said cause and if such proceeding be finally dismissed, a permit shall thereupon be issued to him unless other grounds for denial shall exist.

21V-18.07 Grounds for suspension. A permit shall be suspended whenever it shall appear from information received by the Florida Real Estate Commission or the Department of Professional Regulation that:
The holder of a permit has been guilty of any act which would constitute grounds for suspending his license as a real estate broker or salesman, pursuant to chapter 475 and chapter 455, F.S., whether such act be committed as a real estate broker, salesman, or as an instructor in, or operator of, a school, or otherwise.

(2) The holder of a permit has had his license as a real estate broker or salesman suspended.

(3) The holder of a permit has violated any of the rules and regulations of the Florida Real Estate Commission or the Department of Professional Regulation adopted pursuant to chapter 475 and chapter 455, F.S.

21V-18.08 Duration of revocation, suspension, or denial. When any permit, registration or license shall be denied, revoked, or suspended in accordance with these rules, the duration of such denial, suspension, or revocation shall be:

(1) In case of denial, the order of denial shall continue in force and effect until such time as the Florida Real Estate Commission or the Department of Professional Regulation shall determine that the cause for denial no longer exists, or be otherwise satisfied that the applicant is, because of qualifications and character, entitled to receive a permit, registration or license.

(2) In cases of suspension because of disability, lack of qualifications, noncompliance with these rules, or any continuing fact, or circumstance, the order of suspension shall remain in full force and effect during a term to be determined by the Florida Real Estate Commission not to exceed 10 years, or until the compliance with any lawful order of the Florida Real Estate Commission, or both.

(3) In cases of revocation, the order of revocation shall remain in full force and effect until modified, vacated, or rescinded upon good cause therefor being shown to the Florida Real Estate Commission.

21V-18.09 Procedure for denial. When it appears from information received by the Florida Real Estate Commission or the Department of Professional Regulation that ground for denial of any application for a permit exists, or may exist, the Florida Real Estate Commission shall enter an order setting forth such grounds and ordering the applicant to show cause, within 20 days after date of mailing said order by registered mail to the applicant, why said application should not be denied. If by his answer, or response, to said order to show cause, the applicant shall deny any fact essential to such denial, the case shall be set for hearing before an examiner for the taking of testimony. If the applicant shall fail to show cause within the time required, or fail to submit any answer, or response, to said order raising an issue of fact or law, the application shall be finally denied. If after taking of testimony the preponderance of evidence shall show that grounds for denial do, in fact, exist, the application shall be finally denied, but if the grounds for denial are not established by a preponderance of the evidence, the applicant shall be entitled to receive a permit.

21V-18.10 Procedure for suspension and revocation. The procedure for suspension or revocation of a permit issued pursuant to these rules shall be the same as the procedure for suspension or revocation of registration as a broker or salesman and in accordance with chapter 475, F.S., and rules and regulations adopted pursuant thereto.

21V-18.11 Other applicable rules. All proceedings and hearings for denial, suspension, or revocation of a permit to conduct a course as an instructor in, or operator of, a school, issued under chapter 475, F.S., and these rules, shall be conducted in the manner provided for denial, suspension, or revocation of license as a real estate broker or salesman, under chapter 475, F.S., and the Rules and Regulations of the Florida Real Estate Commission adopted pursuant thereto.
(1) The holder of a permit has been guilty of any act which would constitute grounds for suspending his license as a real estate broker or salesman, pursuant to chapter 475 and chapter 455, F.S., whether such act be committed as a real estate broker, salesman, or as an instructor in, or operator of, a school, or otherwise.

(2) The holder of a permit has had his license as a real estate broker or salesman suspended.

(3) The holder of a permit has violated any of the rules and regulations of the Florida Real Estate Commission or the Department of Professional Regulation adopted pursuant to chapter 475 and chapter 455, F.S.

21V-18.08 Duration of revocation, suspension, or denial. When any permit, registration or license shall be denied, revoked, or suspended in accordance with these rules, the duration of such denial, suspension, or revocation shall be:

(1) In case of denial, the order of denial shall continue in force and effect until such time as the Florida Real Estate Commission or the Department of Professional Regulation shall determine that the cause for denial no longer exists, or be otherwise satisfied that the applicant is, because of qualifications and character, entitled to receive a permit, registration or license.

(2) In cases of suspension because of disability, lack of qualifications, noncompliance with these rules, or any continuing fact, or circumstance, the order of suspension shall remain in full force and effect during a term to be determined by the Florida Real Estate Commission not to exceed 10 years, or until the compliance with any lawful order of the Florida Real Estate Commission, or both.

(3) In cases of revocation, the order of revocation shall remain in full force and effect until modified, vacated, or rescinded upon good cause therefor being shown to the Florida Real Estate Commission.

21V-18.09 Procedure for denial. When it appears from information received by the Florida Real Estate Commission or the Department of Professional Regulation that ground for denial of any application for a permit exists, or may exist, the Florida Real Estate Commission shall enter an order setting forth such grounds and ordering the applicant to show cause, within 20 days after date of mailing said order by registered mail to the applicant, why said application should not be denied. If by his answer, or response, to said order to show cause, the applicant shall deny any fact essential to such denial, the case shall be set for hearing before an examiner for the taking of testimony. If the applicant shall fail to show cause within the time required, or fail to submit any answer, or response, to said order to show cause, the applicant shall deny any fact essential to such denial, the case shall be set for hearing before an examiner for the taking of testimony. If the applicant shall fail to show cause within the time required, or fail to submit any answer, or response, to said order raising an issue of fact or law, the application shall be finally denied. If after taking of testimony the preponderance of evidence shall show that grounds for denial do, in fact, exist, the application shall be finally denied, but if the grounds for denial are not established by a preponderance of the evidence, the applicant shall be entitled to receive a permit.

21V-18.10 Procedure for suspension and revocation. The procedure for suspension or revocation of a permit issued pursuant to these rules shall be the same as the procedure for suspension or revocation of registration as a broker or salesman and in accordance with chapter 475, F.S., and rules and regulations adopted pursuant thereto.

21V-18.11 Other applicable rules. All proceedings and hearings for denial, suspension, or revocation of a permit to conduct a course as an instructor in, or operator of, a school, issued under chapter 475, F.S., and these rules, shall be conducted in the manner provided for denial, suspension, or revocation of license as a real estate broker or salesman, under chapter 475, F.S., and the Rules and Regulations of the Florida Real Estate Commission adopted pursuant thereto.
RULES OF THE FLORIDA REAL ESTATE COMMISSION

CHAPTER 21V-20

RULES GOVERNING INTERNAL ORGANIZATION AND OPERATION

(Omitted numbers have been repealed or reserved or do not apply)

21V-20.09 Probable cause panel. The probable cause panel shall determine if probable cause exists that the licensed real estate broker, broker-salesman, or salesman, or the subject of the investigation violated the Florida Real Estate License Law as described in chapter 475, F.S., or any of the Commission's rules and regulations. The probable cause panel shall be composed of not less than two members of the Commission. The members of the panel shall be appointed by the chairman of the Commission. The panel members shall not participate in the determination and issuance of the final order to be rendered in each disciplinary case.

21V-20.40 Membership. The Florida Real Estate Commission, created by chapter 475, F.S., is a regulatory agency and performs its functions pursuant to chapter 475, and such other functions as may be delegated by law. The Commission's membership shall be comprised of seven members who are designated as a chairman, vice chairman, and members, as set forth in chapter 475, F.S.

21V-20.41 Meetings. Regular meetings of the Commission for the purpose of transacting its business will be held on the second Tuesday of each month and succeeding days thereafter as may be necessary for the completion thereof, unless the Commission shall otherwise direct. Notice of all meetings, including any changes, shall be published pursuant to law.

21V-20.42 Chairman. The chairman is the chief officer of the Commission and presides at all hearings and conferences, when present. In the absence of the chairman, the vice chairman presides. Four members of the Commission shall constitute a quorum to do business.

21V-20.43 Minutes. All official actions of the Commission are to be recorded by the director of the Division of Real Estate in a permanent minute book which shall be open to public inspection during regular office hours, 8:00 A.M. to 4:30 P.M., of the Commission.

21V-20.44 Orders. All official and formal orders of the Commission shall be recorded by the director of the Division of Real Estate in a permanent order book which shall be open to public inspection during regular office hours, 8:00 A.M. to 4:30 P.M., of the Commission, subject to the provisions of ss. 475.05 and 475.31, F.S.

21V-20.47 Internal. The office of the director shall be the custodian of all the Commission's official records. The record books required under chapter 475, including the minutes and formal orders of the Commission, shall be kept by said office. The director shall establish such sections as the department may direct.

21V-20.48 Principal office. The principal office of the Commission shall be located in Orlando, Florida, at 400 West Robinson Street. The Commission may also be contacted Department of Professional Regulation, 130 Tallahassee, Florida 32301.

member compensation. Unless otherwise directed, a Commission member shall be paid for each day he attends an official Commission, which shall include Probable cause hearings, and for each day he participates in any
21V-20.09 Probable cause panel. The probable cause panel shall determine if probable cause exists that the licensed real estate broker, broker-salesman, or salesman, or the subject of the investigation violated the Florida Real Estate License Law as described in chapter 475, F.S., or any of the Commission's rules and regulations. The probable cause panel shall be composed of not less than two members of the Commission. The members of the panel shall be appointed by the chairman of the Commission. The panel members shall not participate in the determination and issuance of the final order to be rendered in each disciplinary case.

21V-20.40 Membership. The Florida Real Estate Commission, created by chapter 475, F.S., is a regulatory agency and performs its functions pursuant to chapter 475, functions as may be delegated by law. The membership shall be comprised of seven members designated as a chairman, vice chairman, and members, forth in chapter 475, F.S.

21V-20.41 Meetings. Regular meetings of the for the purpose of transacting its business will second Tuesday of each month and succeeding as may be necessary for the completion thereof,
other business involving the Commission. Other business involving the Commission shall be defined as:

(1) Attendance at instructor’s seminars sponsored by the Florida Real Estate Commission.

(2) Appearances before a legislative committee, upon direction of the Chairman of the Florida Real Estate Commission or the Chairman of the Committee.

(3) Attendance at a meeting with the staff or contractors of the Department of Professional Regulation at the request of the Secretary of the Department or the Division Director of the Division of Real Estate.

21V-20.50 Criteria for Investigative employment.

(1) An investigator employed by the Department of Professional Regulation and assigned to conduct real estate related investigations shall possess the following minimum educational experience qualifications:

(a) A high school diploma; however, an equivalency diploma issued by a State Department of Education or by the United States Armed Forces Institute, or qualifying Administration’s Educational Attainment comparison test may be substituted for high school diploma; and

(b) Graduation from an accredited four-year college or university; however, regulatory investigative experience or law enforcement or non-law enforcement investigative experience may be substituted on a year-for-year basis for the require college or university training; and

(c) A minimum of two years of regulatory investigative experience or two years of law enforcement or non-law enforcement investigative experience.

(2) In addition to the minimum educational and experience qualifications of subsections (1)(a), (b), and (c), an investigator prior to being assigned to conduct real estate related investigations by the department shall:

(a) Have not less than two years of real estate related investigative experience; or

(b) Complete a minimum of 90 days of orientation and training under the direct supervision of an experienced real estate investigator.

21V-20.51 Authorized signatures on final orders. A Final Order of the Florida Real Estate Commission may be signed by either the chairman or vice-chairman of the Florida Real Estate Commission or the director of the Division of Real Estate. Neither the chairman nor the vice-chairman of the Commission is precluded from signing a Final Order of the Commission by virtue of the fact that they served on a probable cause panel and did not participate in the decision on which the Final Order is based.
other business involving the Commission. Other business involving the Commission shall be defined as:

(1) Attendance at instructor’s seminars sponsored by the Florida Real Estate Commission.

(2) Appearances before a legislative committee, upon direction of the Chairman of the Florida Real Estate Commission or the Chairman of the Committee.

(3) Attendance at a meeting with the staff or contractors of the Department of Professional Regulation at the request of the Secretary of the Department or the Division Director of the Division of Real Estate.

21V-20.50 Criteria for Investigative employment.

(1) An investigator employed by the Department of Professional Regulation and assigned to conduct real estate related investigations shall possess the following minimum educational experience qualifications:

(a) A high school diploma; however, an equivalency diploma issued by a State Department of Education or by the United States Armed Forces Institute, or qualifying Administration’s Educational Attainment comparison test may be substituted for high school diploma; and

(b) Graduation from an accredited four-year college or university; however, regulatory investigative experience or law enforcement or non-law enforcement investigative experience may be substituted on a year-for-year basis for the require college or university training; and

(c) A minimum of two years of regulatory investigative experience or two years of law enforcement or non-law enforcement investigative experience.

(2) In addition to the minimum educational and experience qualifications of subsections (1)(a), (b), and (c), an investigator prior to being assigned to conduct real estate related investigations by the department shall:

(a) Have not less than two years of real estate related investigative experience; or

(b) Complete a minimum of 90 days of orientation and training under the direct supervision of an experienced real estate investigator.

21V-20.51 Authorized signatures on final orders. A Final Order of the Florida Real Estate Commission may be signed by either the chairman or vice-chairman of the Florida Real Estate Commission or the director of the Division of Real Estate. Neither the chairman nor the vice-chairman of the Commission is precluded from signing a Final Order of the Commission by virtue of the fact that they served on a probable cause panel and did not participate in the decision on which the Final Order is based.
RULES OF THE FLORIDA REAL ESTATE COMMISSION

CHAPTER 21V-22

REAL ESTATE RECOVERY FUND

(Omitted numbers have been repealed or reserved or do not apply)

21V-22.01 Parties to action. Any civil action which ultimately seeks financial relief from the Real Estate Recovery Fund under Section 475.482(1), F.S., is required to have named an individual real estate broker or individual real estate salesman as defendant. Any such civil action must result in a final judgment against an individual real estate broker or individual real estate salesman.

21V-22.01 Disciplinary Guidelines

The minimum penalty for all below listed sections is a reprimand and/or a fine up to $1,000.00 per count. The only exception is for discipline cases with payment from the recovery fund which, according to Section 475.484(7), Florida Statutes, requires the penalty of revocation. The Florida Real Estate Commission upon a specific finding of mitigating or aggravating circumstances shall impose a penalty other than is provided in this rule. The maximum penalties are as listed:

1. 455.227(1)(a) - Up to 1 year suspension
2. 455.227(1)(b) - Up to 8 years suspension or revocation
3. 455.227(1)(c) - Up to 7 years suspension or revocation
4. 455.227(1)(d) - Suspension for period of incapacity
5. 455.227(1)(e) - Revocation
6. 475.22 - Up to 90 days suspension
7. 475.24 - Up to 90 days suspension
8. 475.25(1)(b) - Up to 5 years suspension or revocation
9. 475.25(1)(c) - Up to 1 year suspension
10. 475.25(1)(d) - Up to 5 years suspension
11. 475.25(1)(e) - Up to 8 years suspension or revocation
12. 475.25(1)(f) - Up to 7 years suspension or revocation
13. 475.25(1)(g) - Up to 6 years suspension or revocation
14. 475.25(1)(h) - Up to 5 years suspension
15. 475.25(1)(i) - Suspended for period of incapacity
16. 475-25(1)(j) - Up to 6 months suspension
17. 475.25(1)(k) - Up to 2 years suspension
18. 475.25(1)(l) - Up to 2 years suspension
19. 475.25(1)(m) - Revocation
20. 475.25(1)(n) - Suspension for period of confinement to revocation
21. 475.25(1)(o) - Depends on original violation

110
RULES OF THE FLORIDA REAL ESTATE COMMISSION

CHAPTER 21V-22

REAL ESTATE RECOVERY FUND

(OMitted numbers have been repeated or reserved or do not apply)

21V-22.01 Parties to action.

21V-22.01 Parties to action. Any civil action which ultimately seeks financial relief from the Real Estate Recovery Fund under Section 475.482(1), F.S., is required to have named an individual real estate broker or individual real estate salesman as defendant. Any such civil action must result in a final judgment against an individual real estate broker or individual real estate salesman.

21V-24.001 Disciplinary Guidelines

The minimum penalty for all below listed sections is a reprimand and/or a fine up to $1,000.00 per count. The only exception is for discipline cases with payment from the recovery fund which, according to Section 475.484(7), Florida Statutes, requires the penalty of revocation. The Florida Real Estate Commission upon a specific finding of mitigating or aggravating circumstances shall impose a penalty other than is provided in this rule. The maximum penalties are as listed:

(1) 455.227(1)(a) - Up to 1 year suspension
(2) 455.227(1)(b) - Up to 8 years suspension or revocation
(3) 455.227(1)(c) - Up to 7 years suspension or revocation
(4) 455.227(1)(d) - Suspension for period of incapacity
(5) 455.227(1)(a) - Revocation
(6) 475.22 - Up to 90 days suspension
(7) 475.24 - Up to 90 days suspension
(8) 475.25(1)(b) - Up to 5 years suspension or revocation
(9) 475.25(1)(c) - Up to 1 year suspension
(10) 475.25(1)(d) - Up to 5 years suspension
(11) 475.25(1)(e) - Up to 8 years suspension or revocation
(12) 475.25(1)(f) - Up to 7 years suspension or revocation
(13) 475.25(1)(g) - Up to 6 years suspension or revocation
(14) 475.25(1)(b) - Up to 5 years suspension
(15) 475.25(1)(i) - Suspended for period of incapacity
(16) 475-25(1)(j) - Up to 6 months suspension
(17) 475.25(1)(k) - Up to 2 years suspension
(18) 475.25(1)(l) - Up to 2 years suspension
(19) 475.25(1)(m) - Revocation
(20) 475.25(1)(n) - Suspension for period of confinement to revocation
(21) 475.25(1)(o) - Depends on original violation
(22) 475.25(1)(p) - Suspended up to 5 years or revocation
(23) 475.25(2)    - Revocation
(24) 475.42(1)(a) - Up to 3 years suspension to revocation
(25) 475.42(1)(b) - Up to 3 years suspension to revocation
(26) 475.42(1)(c) - Up to 2 years suspension
(27) 475.42(1)(d) - Up to 3 years suspension
(28) 475.42(1)(e) - Up to 3 years suspension or revocation
(29) 475.42(1)(g) - Up to 3 years suspension
(30) 475.42(1)(b) - Up to 5 years suspension
(31) 475.42(1)(i) - Revocation
(32) 475.42(1)(j) - Up to 5 years suspension or revocation
(33) 475.42(1)(k) - Up to 6 months suspension
(34) 475.42(1)(l) - Up to 3 years suspension
(35) 475.421 - Up to 1 year suspension
(36) 475.451 - Up to 6 months suspension
(37) 375.452 - Up to 3 years suspension
(38) 475.453 - Up to 3 years suspension
(39) 475.453 - Up to 6 years suspension or revocation
Appendix C

Department of Professional Regulation

Organizational Chart
Appendix D

Division of Real Estate

Organizational Chart
Appendix E

DPR Disciplinary Proceedings Flowchart
PROCESS OF A COMPLAINT

Complaints

Department of Professional Regulation

Consumers Complaints Section

Investigate

Probable Cause Panel

Probable Cause Panel

Prosecution Attorney Review

Legal Services Section

Probable Cause Panel

Probable Cause Panel

Formal Hearing, Before DOAH

Informal Hearing, Before Respective Board

Probable Cause Found

Administrative Complaint Filed

Election of Rights, By Licensee

No Hearing/Contest to Charge

Final Action, Before Respective Board

Probable Cause Found

Letter of Guidance Issued

Stepulation/Settlement by Licensee

To Respective Board for Approval

Final Board Action And Disposition

Final Order

Appeal Procedures To District Court Appeals

Case Disposition

FINDINGS

NO PROBABLE CAUSE

Dismissal/Closure

PROBABLY CAUSE FOUND

No Hearing/Contest to Charge

Final Action, Before Respective Board
A Review of

Section 475.045, Florida Statutes

Relating to the

Florida Real Estate Commission
Education & Research Foundation
and the Foundation Advisory Committee

Prepared Pursuant to the Sundown Act
Section 11.611, Florida Statutes

By Staff of

The Senate Economic, Community, and
Consumer Affairs Committee

December, 1987
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<td>2. Impact on the Commission</td>
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I. INTRODUCTION

The Florida Legislature adopted the Sundown Act in 1978 as a supplement to the Regulatory Reform Act of 1976 because it was found to be in the public interest to systematically review the need for and benefits derived from boards, committees, commissions, and councils adjunct to executive agencies of the state. The Sundown Act requires the Legislature to review these entities to determine which, if any, should be reestablished in the public interest. Finally, the Sundown Act provides that no unit may be created or reestablished for more than 10 years.

In establishing the need for a board, committee, commission, or council, it must be ascertained that the assigned function of the executive agency to which the entity is adjunct could not be performed adequately without the input or service provided by the body under review, and that the input or service could not be provided better by any other means.

If the need for an advisory body is demonstrated, then the board, committee, commission, or council must be determined to be efficiently and effectively meeting that need. In order to recommend reestablishment of the entity under review, both public need and benefits must be present.

This review concerns the Florida Real Estate Commission Education and Research Foundation and the Foundation Advisory Committee created under chapter 475, Florida Statutes, the Florida Real Estate licensure law. The report examines the
provisions of the law and rules which relate to the committee. It addresses the manner in which the committee operates, its revenues and expenditures, and its relationship to the Florida Real Estate Commission. The foundation's goals and activities are reviewed, other means of serving the public need are discussed, and the potential impact of Sundown is considered. These findings are followed by conclusions regarding public need and benefit and by recommendations.
II. SUMMARY

The Florida Real Estate Commission Education and Research Foundation and the administering Foundation Advisory Committee were established by the 1985 Legislature for the purpose of promoting knowledge related to real estate in the state of Florida among both professionals in the field and the general public. This goal is an extension of the statutorily defined duty of the Florida Real Estate Commission to educate its licensees and its authority to publish and sell materials to inform members of the real estate profession and the public. The broad wording of the purposes of the education and research foundation give the 9-member advisory committee considerable latitude in the selection of educational projects including:

-- The initiation and funding of studies relating to real estate, urban or rural economics, and changes in state and municipal laws (as requested by the Governor or the presiding officers of the Legislature);

-- The provision of assistance to real estate education programs conducted by universities, colleges, and real estate schools; and

-- The publication of research studies and consumer interest information for use by the public and by state agencies.

Appointments to the advisory committee were made in February 1986 and the committee has held four meetings since that
time. The interest income intended to fund foundation projects, however, was not accrued and appropriated until the 1987 legislative session. At its October 23, 1987, meeting, the advisory committee approved three education and research proposals for funding.

The Sundown repeal date of October 1, 1988, (scheduled to coincide with the Sunset date for chapter 475, F.S., as a whole) falls too early in the history of the foundation and its advisory committee to draw conclusions about the effectiveness of the education and research initiative. However, the potential benefit of increasing knowledge on topics related to real estate is significant. Depending on the research projects and educational activities selected by the advisory committee, beneficiaries of the endeavor may include not just the members of the real estate industry, but the public through an increased consumer awareness, colleges and universities through the funding of research and support of teaching activities, and the state as a whole through research on topics related to growth management and the state economy.

This review recommends the reenactment of the FREC Education and Research Foundation and the Foundation Advisory Committee and a continued monitoring of its development and achievements based on its statutorily mandated annual reports. Staff recommends that section 475.045, Florida Statutes, be amended to require consumer members of the committee to possess an education, research, or consumer affairs background and to
specify that direct or indirect public benefit is the primary criterion for project funding.
III. FINDINGS

A. THE LAW

1. History

Through the creation of section 475.045, Florida Statutes, chapter 85-199, Laws of Florida, established the Florida Real Estate Commission Education and Research Foundation and the Foundation Advisory Committee to administer it. The general purpose of the foundation is to promote various educational activities to expand the knowledge of both the public and real estate licensees regarding Florida real estate. To fulfill this goal, the advisory committee is directed to solicit advice from specified individuals and entities, such as real estate licensees and schools, to select educational or research projects to be funded, and to select the Florida university or college to perform each study. Activities and projects supported by the foundation are to be funded by the interest income earned on $3 million from the real estate profession portion of the Professional Regulation Trust Fund.

2. Intent

According to staff of the Division of Real Estate, the Education and Research Foundation was created to benefit the general public. These benefits may be direct, through the provision of information to consumers, for example, or indirect, through improvements in the regulation and performance of real
estate licensees. The intent of the statute is reflected in the purposes and duties of the foundation listed under section 475.045(1)(b), Florida Statutes.

3. **Provisions**

   a. **Powers and Duties**

   The Foundation Advisory Committee is directed to solicit proposals for studies and research from real estate licensees, the FREC, universities and colleges, registered real estate schools, and the general public. Selection of the education or research proposals to be funded and the university or college to carry out each project is to be made by the committee. A report of the foundation's activities and accomplishments must be published annually. In addition, the committee must annually file with the Governor, the presiding officers of the Senate and the House of Representatives, and the Secretary of Professional Regulation a complete accounting of all funds received and disbursed by the foundation during the year. To carry out the above duties, the advisory committee is empowered to adopt rules as necessary. Although the range of educational and research activities authorized under 475.045, Florida Statutes, is quite broad, the foundation's powers are limited in that it may not employ staff and may not fund or offer educational courses designed to qualify persons for initial licensure or license renewal.
b. Membership

The nine members of the Foundation Advisory Committee are appointed by the Governor for staggered terms of four years. Six members must be active real estate licensees with at least 5 years of experience and one may be a real estate salesman rather than a broker. The other three members must be representatives of the general public who do not hold real estate licenses or have a financial interest in the practice of any licensee. Current members of the FREC are ineligible for appointment to the committee. The FREC chairman or a commission member designated by him serves as an ex officio nonvoting member of the advisory committee. A member may be removed from the committee when he ceases to conform to the requirements for his membership category.

The current members of the Foundation Advisory Committee are:

<table>
<thead>
<tr>
<th>Name</th>
<th>Town</th>
<th>Term Expires</th>
</tr>
</thead>
<tbody>
<tr>
<td>William L. Brookfield, Jr., Chairman</td>
<td>Ormond Beach</td>
<td>1/31/88</td>
</tr>
<tr>
<td>Curtis A. Root, Vice-Chairman</td>
<td>Bradenton</td>
<td>1/31/88</td>
</tr>
<tr>
<td>Herbert R. Fischer, Member</td>
<td>Tampa</td>
<td>1/31/88</td>
</tr>
<tr>
<td>Richard S. Rubin, Member</td>
<td>Tamarac</td>
<td>1/31/88</td>
</tr>
<tr>
<td>Joseph M. Martinez, Jr., Member</td>
<td>Pembroke Pines</td>
<td>1/31/88</td>
</tr>
<tr>
<td>John M. Parker, Member</td>
<td>Sarasota</td>
<td>1/31/88</td>
</tr>
<tr>
<td>Natalie Gray, Consumer Member</td>
<td>Panama City</td>
<td>1/31/88</td>
</tr>
<tr>
<td>Willie Lee Lucas, Consumer Member</td>
<td>Jacksonville</td>
<td>1/31/90</td>
</tr>
<tr>
<td>Lorenzo Thomas, Consumer Member</td>
<td>Bradenton</td>
<td>1/31/90</td>
</tr>
<tr>
<td>Brian J. Ladell, Ex Officio Member</td>
<td>Clearwater</td>
<td>12/31/87</td>
</tr>
</tbody>
</table>
B. RULES

The text of proposed rules 21V-25.001 through 21V-25.007, Florida Administrative Code, relating to the structure and operation of the Foundation Advisory Committee was published in the September 11, 1987, Florida Administrative Weekly. The rules reiterate the statutory requirements for a 9-member body and for meetings on a semi-annual basis or upon the call of the chairman or the petition of six members. The rules provide for duties of the chairman and vice-chairman and for a 5-member quorum. Official minutes of the committee are to be maintained by the director of the Division of Real Estate, along with other committee records and formal orders. The division offices in Orlando are to serve as the official office of the committee. Unless otherwise provided by law, each committee member is to be compensated $50 for each day of official committee business, including committee meetings, appearances before legislative committees upon request of the division director, and attendance at meetings with staff upon request of the division director or department secretary. No public comment was made at the rule hearing scheduled by the FREC to coincide with the October 23, 1987, FAC meeting. The rules are slated to take effect in November 1987. A copy of the rules follows this report as Appendix B.
Section 475.045(1)(b), Florida Statutes, specifies eight duties of the FREC Education and Research Foundation all of which are subsumed under the broad purpose of expanding the knowledge of real estate professionals and the general public on the subject of real estate in Florida. The various authorized activities fall into three general categories:

-- Research studies relating directly or indirectly to real estate or urban or rural economics, and studies relating to changes in state statutes or municipal ordinances when requested by the Governor or the presiding officers of the Legislature;

-- Assistance to real estate education programs conducted by universities, colleges, and registered real estate schools, including increasing the number of teaching personnel in degree-granting programs and developing and updating teaching materials for use in real estate courses; and

-- Publication and dissemination (with or without charge) of the findings and results of research studies, educational materials, and consumer information for use by the public and by state agencies.

The foundation is prohibited from funding or offering educational courses designed to qualify individuals for initial licensure or license renewal. The activities and accomplishments of the foundation are to be presented in annual reports.
complete accounting of all funds received and disbursed must also be made on an annual basis.

The Education and Research Foundation exists as an entity only through its creation by name in section 475.045(1), Florida Statutes, and the list of its assigned purposes and duties therein. In other words, the foundation does not exist as an incorporated body and no provision has been made to establish tax-exempt status for the foundation. This could pose a problem in the event that any gifts or grants were offered to the foundation.

D. THE FOUNDATION ADVISORY COMMITTEE

1. Procedures

Since its inception, the Foundation Advisory Committee (FAC) has held four meetings on the following dates: March 21, 1986; May 15, 1986; January 20, 1987; and October 23, 1987. The committee elected a chairman and vice-chairman, became familiarized with its duties, and was briefed by division staff on the requirements of the Sunshine Law and the Administrative Procedure Act. The committee was addressed by Dr. Richard Floyd of the Texas Real Estate Research Center at Texas A & M University on the subject of the research center's activities and by Dr. Wayne Archer of the University of Florida on the subject of the committee's priorities.

Dr. Hal Smith of the University of Florida has served as an advisor to the committee and presented at its second
meeting draft statements of foundation policies and procedures and a research proposal form which were adopted by the committee with minor modifications. The policies and procedures address the manner in which proposals are to be reviewed, the annual establishment of a research agenda, the solicitation of input from and distribution of the research agenda to public and private educational institutions, and the publication of research reports. As of October 15, 1987, Dr. Smith became a paid consultant under contract with the Division of Real Estate. Through the current fiscal year, he will be compensated in the amount of approximately $6,000. In subsequent years the consultant contract is expected to be in the amount of $18,000 and will be subject to competitive bidding. Dr. Smith's primary responsibilities will be to assist in evaluating proposals and to review research results with an emphasis on effectively communicating information to the target group, which in most cases will be the general public.

Division staff prepared draft administrative rules for the committee which were approved at its third meeting. Although no public hearing was requested, the FREC scheduled a hearing to coincide with the FAC's fourth meeting in order to provide an opportunity for comment. No objections to the proposed rules have been made and they are scheduled to take effect in November 1987.

Formal solicitation of proposals was made on January 12, 1987, to public and private colleges and universities, community colleges, and proprietary schools and their
instructors. Although proprietary schools are not eligible to receive research project funding, several have submitted suggestions for studies and their input is welcomed by the committee. More than one dozen proposals have been received by the FAC so far. A number of proposals arrived soon after the committee's establishment, and before it had funds to allocate, because the educational institutions, having participated in the foundation's creation, had already developed ideas for real estate related studies. At its October 23, 1987, meeting the FAC approved three projects for funding. These are described in the following section of this report.

Although the initial appointments to the FAC took effect on February 1, 1986, the committee was unable to immediately proceed to the selection of research projects for several reasons. First, funds had to be allocated by the Legislature and this did not occur until the 1987 session when a total of $269,000 was appropriated. Of this amount, $17,000 is for expenses, primarily committee member per diem and travel expenses, and $252,000 is allocated to fund research projects. Committee activities were further delayed due to concern over the House Appropriations Committee interpretation of section 475.045, Florida Statutes, as intending a specific appropriation for each project selected by the FAC. Committee members and division staff feared such an approach would render committee activities ineffectual, but this concern was allayed with the 1987 appropriation.
2. **Research Projects**

The research project proposals submitted to the FAC can be divided into two groups: those with a clear public benefit potential and those which would tend to benefit primarily the real estate industry.

In the former group are proposals for:

-- A study of the need for public housing;

-- A Spanish language homebuyers' handbook;

-- An index of suburban housing values as a measure of real property appreciation;

-- A review of FREC disciplinary cases in order to identify escrow disbursement problems;

-- A comprehensive analysis of pre- and post-licensure educational requirements including a comparison of formal complaint histories, licensee education profiles, and work tasks of licensees;

-- An examination of the relationship between educational requirements and the frequency of violations;

-- An analysis of the effect of impact fees on new housing prices; and

-- A study of closing costs and how to reduce them.
Among the proposed studies which would primarily benefit the industry are:

-- A study of why and how some real estate sales people earn more money than others;

-- The expansion of a database management system for an appraiser into a full decision support system;

-- A study of the use of public computer information systems in the real estate industry;

-- Broker education regarding the benefits of single agency in which the broker works for the buyer; and

-- An assessment of the economic impact of business brokers in the state.

All three projects approved for funding by the FAC at its October 1987 meeting fall in the public benefit category. Although the statute creating the education and research foundation does not include project selection criteria, current members of the advisory committee seem to be very aware of the fact that public benefit is the primary purpose of the foundation. The projects selected are briefly described below.

-- Homebuyers' guide: A handbook will be developed to assist prospective homebuyers throughout every phase of their home purchase from determining what price range they can afford and selecting among various options for financing to the transaction closing. The guide will
be prepared in English and translated into Spanish. This project was proposed by Florida State University associate professor of business, Dr. H. Glenn Boggs and will be completed for a cost of $19,250, excluding printing.

-- Licensee education requirements: A study will be conducted to determine what body of knowledge should be included in pre- and post-licensure educational curricula and what methods should be employed to convey this information to a typical applicant. The total cost of this 1-year study, including 12% indirect costs (i.e. overhead) is $52,534. This study was proposed by University of North Florida associate professor of real estate Dr. Jerry Belloit.

-- Indexation of suburban housing values: This relatively esoteric study involves the development of a mathematical formula, and ultimately a computer program, for use in the measurement of real property appreciation. Public benefit is anticipated to result from the study's relevance to equitable property tax assessments. This study was proposed by University of Miami associate professor of finance Dr. Raymond Chiang and has been allocated $13,500.

Projects not initially selected by the committee were not necessarily rejected. Several required data which is not presently accessible and may be resubmitted in revised form.
3. Revenues and Expenditures

Pursuant to section 475.045(10), Florida Statutes, $3 million from the real estate profession portion of the Professional Regulation Trust Fund is invested by the Treasurer for the purpose of funding the Education and Research Foundation Trust Fund. Income on the principal amount is available to the foundation to fund authorized studies and projects. The trust fund balance is not to exceed $1 million and any excess funds must revert to the real estate portion of the Professional Regulation Trust Fund. The foundation is authorized to charge for its publications and to accept gifts and grants from foundations, individuals, and other sources. To date, no funds other than accrued interest have been deposited in the fund. The financial transactions of the foundation are subject to an annual audit by the state auditor.

The following table presents the deposits and expenditures of the Education and Research Foundation Trust Fund since its creation by the 1985 Legislature:

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<tr>
<td>Revenue</td>
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<td>Interest</td>
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<tr>
<td>Prorata DPR Cash</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Disbursements</td>
<td>1,975</td>
<td>2,441</td>
</tr>
<tr>
<td>Ending Balance</td>
<td>$165,598</td>
<td>$367,766</td>
</tr>
</tbody>
</table>

At the time of the foundation's creation, the Department of Professional Regulation estimated that the income from the $3 million investment would be approximately 10 percent, or about
$300,000, per year. Interest accrued in FY 1986-87 did not reach that level.

Disbursements indicated in the table for the last two fiscal years are for per diem and travel expenses of committee members attending regular committee meetings. The law precludes the expenditure of trust fund moneys for employing staff and administrative support is provided by existing staff of the Division of Real Estate. To provide more specialized services relating to review and evaluation of research studies, however, the division has hired a consultant who is to be paid $6,000 in FY 1987-88 and $18,000 per year thereafter.

E. POTENTIAL IMPACT OF ABOLITION

1. Impact on the Public

Because the Foundation Advisory Committee is pursuing a research agenda which makes public benefit a top priority, the abolition of the FREC Education and Research Foundation would result in Floridians losing opportunities to benefit as individual consumers and as citizens of an environmentally sensitive growth state. Although it is too early in the foundation's history to document the impact of its demise on the citizenry, the potential loss of valuable information from future studies is significant.

2. Impact on the Commission

If the Foundation Advisory Committee were to be abolished while the Education and Research Foundation itself
remained, the FREC would have to assume the duties of directing the research initiative. Given the present workload of real estate commission members, this would seem to be an unacceptable additional burden. Unlike many advisory bodies which serve purely to assist an executive entity, the FAC is empowered to promulgate rules and to carry out the task of reviewing, selecting, and funding research and educational projects. In addition, the activities of the foundation may in some instances aid the FREC in carrying out its duty to foster the education of members of the real estate profession as well as its authority to produce publications for use by applicants, licensees, and the public.

F. ALTERNATIVES

Other means could be employed to enhance the knowledge of real estate, but none are preferable to the present arrangement. As discussed above, if the research activities were maintained but the administering committee were abolished, an undue burden would be placed on the FREC. In addition, the membership of the FAC could be more closely tailored to the educational function it serves, a modification which would not be appropriate for the FREC. A second alternative would be to assign the administration of the research function to a postsecondary education council. In addition to generating rivalries, however, this would deprive the FREC of the potential reinforcement by the Education and Research Foundation of its statutorily mandated educational duties.
IV. CONCLUSIONS AND RECOMMENDATIONS

The Foundation Advisory Committee is performing efficiently and effectively in carrying out the objectives of the FREC Education and Research Foundation. The committee is operating in compliance with statutory requirements although it has not yet begun to publish the required annual reports of its activities since funding for projects was not available until the 1987 legislative appropriation. Administration by the FAC of the real estate education and research activities under the foundation relieves the FREC of unacceptable, additional administrative burdens.

Based upon the findings in this report, it is recommended:

--That section 475.045, Florida Statutes, establishing the FREC Education and Research Foundation and the Foundation Advisory Committee, be revived and readopted pursuant to the provisions of the Sundown Act;

--That paragraph 475.045(2)(a), Florida Statutes, be amended to require the three committee members who are representatives of the general public to possess qualifications in the fields of education, research, or consumer affairs which relate to the committee's education and research activities;

--That paragraph 475.045(5)(b), Florida Statutes, be amended to require that priority in funding be given to projects demonstrating the greatest potential for direct or indirect benefit to the public. This requirement would clarify the
committee's purpose and ensure that future members adhere to the public benefit emphasis established by the current committee.

--That subsection 475.045(9), Florida Statutes, be amended to allow the FAC to use foundation funds to hire consultants to assist in accomplishing the goals of the foundation.
V. APPENDICES

Appendix A

Section 475.045, Florida Statutes

Appendix B

Proposed Rule
Chapter 21V-25, Florida Administrative Code
Appendix A

Chapter 475.045, Florida Statutes

* These Statutes are compiled by the staff of the Senate ECCA Committee based on the 1987 session law and the 1986 Supplement.
475.045 Florida Real Estate Commission Education and Research Foundation; Foundation Advisory Committee.

1(a) There is established a Florida Real Estate Commission Education and Research Foundation, hereinafter referred to as the "Foundation", which shall be administered by the Foundation Advisory Committee.

(b) The purposes, objectives, and duties of the Foundation are as follows:

1. To create and promote educational projects to expand the knowledge of the public and real estate licensees in matters pertaining to Florida real estate.

2. To augment the existing real estate programs by increasing the number of teaching personnel and real estate courses in the state in degree-granting programs in universities and colleges in this state.

3. To conduct studies in all areas that relate directly or indirectly to real estate or urban or rural economics and to publish and disseminate the findings and results of the studies.

4. To assist the teaching program in real estate offered by the universities, colleges, and real estate schools registered pursuant to this chapter in the state, when requested to do so.

5. To develop and from time to time revise and update materials for use in the courses in real estate offered by the universities, colleges, and real estate schools registered pursuant to this chapter in the state, when requested to do so.

6. To make studies of, and recommend changes in, state statutes and municipal ordinances; provided, however, that such studies are requested by the Governor or the presiding officers of the Legislature. The Foundation shall maintain political nonadvocacy.

7. To periodically review the progress of persons conducting such research and studies. The results of any research project or study shall not be published or disseminated until it has been reviewed and approved in writing by the advisory committee or its designated representative.

8. To prepare information of consumer interest concerning Florida real estate and to make the information available to the public and appropriate state agencies.

(c) The Foundation may make a charge for its publications and may receive gifts and grants from foundations, individuals, and other sources for the benefit of the foundation.

(d) A report of the activities and accomplishments of the Foundation shall be published annually.

(e) On or before January 1 of each year, the advisory committee shall file with the Governor, the presiding officer of each house of the Legislature, and the secretary of the department a complete and detailed written report accounting for all funds received and disbursed by the Foundation during the preceding year.

(f) The state auditor shall audit the financial transactions of the Foundation in each fiscal year.

2(a) There is created the Foundation Advisory Committee which is composed of nine persons appointed by the Governor without regard to race, creed, sex, religion, or national origin of the appointee, with the following representation:

1. Six active real estate licensees, one of whom may be a real estate salesperson. All licensees shall have been active real estate licensees for at least the past 5 years.

2. Three members shall be representatives of the general public. Members representing the general public shall not be licensed real estate brokers or salesmen and shall not have a financial interest, other than as consumers, in the practice of a licensed real estate broker or salesman.

(b) No current member of the Florida Real Estate Commission or a member of the house of the Legislature, shall be eligible for appointment to the Foundation Advisory Committee.

2. The chairman of the Florida Real Estate Commission or a member of the commission designated by him shall serve as an ex officio nonvoting member of the advisory committee.

(c) Except for the initial appointees, members of the advisory committee shall hold office for staggered terms of 4 years, with the term of three members expiring on January 31 of each odd-numbered year. In making the initial appointments, the Governor shall designate three members, including two representatives of the general public, for terms expiring in 1986; three members for terms expiring in 1987; and three members for terms expiring in 1988.

2. Any vacancy shall be filled by appointment for the unexpired portion of the term. Each member shall serve until his successor is qualified.

3. Each member of the advisory committee is entitled to per diem and travel expenses as set by legislative appropriation for each day that the member engages in the business of the advisory committee.

4. It is grounds for removal from the advisory committee if:

(a) A broker or salesman member of the committee ceases to be an active licensee.

(b) A public member of the committee or a person related to the member within the second degree of consanguinity or within the second degree of affinity acquires a real estate license or a financial interest in the practice of a licensed real estate broker or salesman.

4(a) The committee shall elect a chairman annually from among its membership.

(b) The first meeting of the advisory committee shall be called by the chairman of the Florida Real Estate Commission or his designated representative. The committee shall meet not less than semiannually, and, in addition, on call of its chairman or on petition of any six of its members.

(c) The advisory committee is subject to the sunshine law pursuant to s. 286.011.

5(a) The advisory committee shall solicit advice and information from real estate licensees, the commission.
universities, colleges, real estate schools registered pursuant to this chapter and the general public for the purpose of submitting proposals for study and research.

(b) The advisory committee shall select the education or research proposals that shall be funded.

(c) The advisory committee shall select the university or college within the state to perform the education study or research study.

(6)(a) The director of the Division of Real Estate of the Department of Professional Regulation, hereinafter referred to as the "director," or his designated representative shall submit to the advisory committee, in advance of each fiscal year, a budget for expenditures of all funds provided for the foundation in a form that is related to the proposed schedule of activities for the review and approval of the advisory committee.

(b) The director shall submit to the advisory committee all proposals received for its review and approval in developing an educational and research agenda at the beginning of each fiscal year and shall continuously inform the advisory committee of changes in its substance and scheduling.

(7) The advisory committee shall have the power and authority to adopt all rules necessary to administer this provision.

(8) Neither the foundation nor the committee shall be permitted to fund or offer educational courses designed to qualify persons for licensure or the renewal of licenses pursuant to this chapter.

(9) Neither the foundation nor the committee shall expend any funds for the purpose of employing staff or other employment assistance.

(10) The Treasurer shall invest $3 million from the portion of the Professional Regulation Trust Fund credited to the real estate profession, under the same limitations as applied to investments of other state funds, and the income earned thereon shall be transferred to the Education and Research Foundation Trust Fund which is hereby created under the advisory committee. Funds in the Education and Research Foundation Trust Fund shall be available to the foundation to fund the activities and projects authorized under this section. However, any amount in the trust fund in excess of $1 million shall revert to the portion of the Professional Regulation Trust Fund credited to the real estate profession. In the event the foundation is abolished, the funds in the trust fund shall revert to such portion of the Professional Regulation Trust Fund.
Appendix B
Proposed Rules; Chapter 21V-25,
Florida Administrative Code
18. DEPARTMENT OF PROFESSIONAL REGULATION
Florida Real Estate Commission
Education Foundation and Research Advisory Committee

RULE TITLES. RULE NOS.:
Membership 21V-25 001
Meetings 21V-25 002
Chairman 21V-25 003
Minutes 21V-25 004
Internal 21V-25 005
Principal Office 21V-25 006
Committee Members Compensation 21V-25 007

PURPOSE AND EFFECT The purpose and effect of the rules are to allow the Committee to operate efficiently.

SUMMARY: The proposed rules implement the requirements of Section 75.045, F.S. in that the chapter establishes the internal workings of the Committee. The proposed rule chapter deals with the membership, meeting dates, minutes, office location of the Committee. Also, the chapter deals with how much and when a committee member can be compensated.

RULEMAKING AUTHORITY: 475.045, F.S.
LAW IMPLEMENTED: 475.045, F.S.
SUMMARY OF THE ESTIMATED ECONOMIC IMPACT OF THE RULE: The rule shall have minimal impact on the agency. The cost of promulgation is not substantial.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 9:00 a.m., October 23, 1987
PLACE: Office of the Florida Real Estate Commission, 400 West Robinson Street, Orlando, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES AND ECONOMIC IMPACT STATEMENT IS Darlene Keller, Acting Director, Division of Real Estate, 400 West Robinson Street, Orlando, Florida.

THE FULL TEXT OF THE PROPOSED RULES ARE:

21V 25.003 Chairman. The chairman is the chief officer of the Committee and presides at all hearings and conferences, when present. In the absence of the chairman, the vice chairman presides. The chairman and vice chairman shall be elected by the Committee. Five members of the Committee shall constitute a quorum to do business.

Specific Authority: 475.045 F.S. Law Implemented: 475.045 F.S. History: New

21V-25.004 Minutes. All official actions of the Committee are to be recorded by the director of the Division of Real Estate in a permanent minute book which shall be open to public inspection during regular office hours, 8:00 a.m. to 4:30 p.m.

Specific Authority: 475.045 F.S. Law Implemented: 475.045 F.S. History: New

21V-25.005 Internal. The office of the director shall be the custodian of all the Committee's official records. The record books required under Chapter 475, F.S., including the minutes and formal orders of the Committee, shall be kept by said office.

Specific Authority: 475.045 F.S. Law Implemented: 475.045 F.S. History: New

21V-25.006 Principal Office. The principal office of the Committee shall be located in Orlando, Florida, at 400 West Robinson Street. The Committee may also be contacted through the Department of Professional Regulation, 130 North Monroe Street, Tallahassee, Florida.

Specific Authority: 475.045 F.S. Law Implemented: 475.045 F.S. History: New

21V-25.007 Committee Members Compensation. Unless otherwise provided by law, a Committee member shall be compensated $50.00 for each day he/she attends an official meeting of the Committee, and for each day he/she participates in any other business involving the Committee. Other business involving the Committee shall be defined as:

1. Appearances before a legislative committee, upon direction of the director of the Division of Real Estate.

2. Attendance at a meeting with the staff or contractors of the Department of Professional Regulation at the request of the secretary of the Department or the director of the Division of Real Estate.

Specific Authority: 475.045 F.S. Law Implemented: 475.045 F.S. History: New

NAME OF PERSON ORIGINATING PROPOSED RULE: Darlene Keller, Acting Director, Division of Real Estate

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Members of the Advisory Committee

DATE PROPOSED RULE APPROVED: January 20, 1987

21V 25.001 Membership. The Florida Real Estate Commission's Education Foundation and Research Advisory Committee, created by Chapter 475, F.S., performs its functions pursuant to Chapter 475, F.S. and such other functions as may be delegated by law. The Committee's membership shall be comprised of nine members who are designated as a chairman, vice chairman, and members as set forth in Chapter 475, F.S.

Specific Authority: 475.045 F.S. Law Implemented: 475.045 F.S. History: New

21V 25.002 Meetings. Regular meetings of the advisory committee for the purpose of transacting its business will be held not less than semiannually and, in addition, on call of its chairman or on petition of any six of its members. Notice of all meetings, including any changes, shall be published pursuant to law.

Specific Authority: 475.045 F.S. Law Implemented: 475.045 F.S. History: New