

CHAPTER 98-250

Committee Substitute for Committee Substitute for House Bill No. 3211

An act relating to real estate; amending s. 475.01, F.S.; revising definitions; amending s. 475.15, F.S.; providing registration and licensing requirements for additional business entities; eliminating a conflicting provision relating to automatic cancellation of the registration of a real estate broker partnership; amending s. 475.17, F.S.; providing additional requirements for licensure as a real estate broker; amending s. 475.183, F.S.; revising the period after which involuntarily inactive licenses expire; revising the time for the required notice to the licensee; amending s. 475.25, F.S.; revising a ground for disciplinary action to exempt licensees from the reporting of certain violators; providing that violations of certain standards of the Appraisal Foundation are grounds for the Florida Real Estate Commission to deny, revoke, or suspend the license of, or to fine, real estate brokers or salespersons; reenacting s. 475.482(1), F.S., relating to recovery from the Real Estate Recovery Fund, to incorporate the amendment to s. 475.25, F.S., in a reference thereto; amending s. 475.272, F.S.; deleting a provision that restricts a real estate licensee to operating as a single agent or as a transaction broker; creating s. 475.2755, F.S.; providing for designated salespersons under certain circumstances; providing disclosure requirements; amending ss. 475.274, 475.2801, and 475.5015, F.S.; applying to designated salespersons provisions relating to scope of coverage, rule authority relating to disciplinary measures, and retention of brokerage records, to conform; amending s. 475.276, F.S.; providing an exception to requirement that real estate licensees provide a notice of nonrepresentation; amending s. 475.278, F.S.; revising provisions relating to disclosure of authorized brokerage relationships and the corresponding duties of real estate licensees; creating s. 475.279, F.S.; providing for the acceptance of facsimile signatures or writing; amending s. 475.451, F.S.; revising provisions relating to the permitting of instructors for proprietary real estate schools or state institutions; providing permit renewal requirements; revising references relating to examinations; amending s. 475.452, F.S.; providing requirements applicable to advance expenses, commissions, or fees for brokers auctioning real property; amending s. 475.484, F.S.; providing applicability with respect to a conflict with federal law in the disciplining of certain licensees against whom a judgment has been paid from the Real Estate Recovery Fund; creating s. 475.5016, F.S.; granting the department authority to inspect and audit brokers and brokerage offices; amending ss. 475.611 and 475.612, F.S.; redesignating registered appraisers as registered assistant appraisers; amending ss. 475.011, 475.616, 475.618, 475.619, 475.620, 475.622, 475.623, 475.626, 475.627, 475.628, 475.629, and 475.630, F.S., to conform and correct references; creating s. 475.6145, F.S.; providing for a seal for the Florida Real Estate Appraisal Board to authenticate its proceedings, records, and acts;

creating s. 475.6147, F.S.; providing a separate section relating to establishment of fees applicable to the regulation of real estate appraisers; amending s. 475.615, F.S.; revising provisions relating to qualifications for registration, licensure, or certification of appraisers; providing for a charge for application for a change in status of appraisal licensure; amending s. 475.617, F.S.; revising continuing education and experience requirements for real estate appraisers; amending s. 475.624, F.S.; revising a ground for disciplinary action to exempt licensees from the reporting of certain violators; creating s. 475.6295, F.S.; granting the department authority to inspect appraisers and appraisal offices; amending ss. 489.103 and 489.503, F.S., relating to exemptions from statutory provisions regulating construction contracting and electrical and alarm system contracting; providing exemptions relating to contracting for certain repairs, maintenance, remodeling, or improvement by a real estate licensee acting as the owner's agent; providing circumstances under which such exemptions do not apply; amending s. 553.991, F.S.; limiting the purpose of the "Florida Building Energy-Efficiency Rating Act" to providing for a statewide uniform system for rating the energy efficiency of buildings; amending s. 553.994, F.S.; deleting the schedule for phasing in the rating system; amending s. 553.996, F.S.; requiring provision of an information brochure to prospective purchasers of certain real property; deleting a provision authorizing such prospective purchasers to receive a rating on the property upon request; providing an effective date.

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

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

475.01 Definitions.—

(1) As used in this part:

(a) "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 she or 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. A broker renders a professional service and is a professional within the meaning of s. 95.11(4)(a). Where the term "appraise" or "appraising" appears in the definition of the term "broker," it specifically excludes those appraisal services which must be performed only by a state-licensed or state-certified appraiser, and those appraisal services which may be performed by a registered assistant appraiser as defined in part II. 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. The term "broker" also includes any person or entity who undertakes to list or sell one or more timeshare periods per year in one or more timeshare plans on behalf of any number of persons, except as provided in ss. 475.011 and 721.20.

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

475.011 Exemptions.—This part does not apply to:

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

Section 3. Section 475.15, Florida Statutes, is amended to read:

475.15 Registration and licensing of general partners, members, officers, and directors of a firm.—Each partnership, limited liability partnership, limited liability company, 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 a partnership is canceled automatically during any period of time that the license or registration of any one or more 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 part. If the license or registration of at least one active broker member is not in force, the registration of a corporation, limited liability company, limited liability partnership, or partnership is canceled automatically during that period of time.

Section 4. Subsection (2) of section 475.17, Florida Statutes, is amended to read:

475.17 Qualifications for practice.—

(2)(a) In addition to other requirements under this part, 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 an area technical center, or at a registered real estate school, as a condition precedent for any person to become licensed or to renew her or his license as a broker, broker-salesperson, or salesperson. 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 salesperson and 72 classroom hours of 50 minutes each, inclusive of examination, for a broker. The satisfactory completion of an examination administered by the accredited college, university, or community college, by the area 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. Such required course or courses must be made available by correspondence or other suitable means to any person who, by reason of hardship, as defined by rule, 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, the person has held:

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

2. A current and valid real estate salesperson'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 in this part for real estate licensees; or

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

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

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

Section 5. Subsection (2) of section 475.183, Florida Statutes, is amended to read:

475.183 Inactive status.—

(2) Any license which has been involuntarily inactive for more than 2 4 years shall automatically expire. Once a license expires, it becomes null and void without any further action by the commission or department. Ninety days ~~Two years~~ prior to expiration of the license, the department shall give notice to the licensee. The commission shall prescribe by rule a fee not to

exceed \$100 for the late renewal of an involuntarily 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.

Section 6. Paragraph (a) of subsection (1) of section 475.25, Florida Statutes, is amended, and paragraph (t) is added to said subsection, 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, and any or all of the foregoing, if it finds that the licensee, registrant, permittee, or applicant:

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

(t) Has violated any standard for the development or communication of a real estate appraisal or other provision of the Uniform Standards of Professional Appraisal Practice, as defined in s. 475.611, as approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, as defined in s. 475.611. This paragraph does not apply to a real estate broker or salesperson who, in the ordinary course of business, performs a comparative market analysis. However, in no event may this comparative market analysis be referred to as an appraisal, as defined in s. 475.611.

Section 7. For the purpose of incorporating the amendment to section 475.25, Florida Statutes, in a reference thereto, subsection (1) of section 475.482, Florida Statutes, is reenacted 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, partnership, or corporation adjudged by a court of competent civil jurisdiction in this state to have suffered monetary damages by reason of any act committed, as a part of any real estate brokerage transaction involving real property in this state, by any broker or salesperson who:

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

(b) Was neither the seller, buyer, landlord, or tenant in the transaction nor an officer or a director of a corporation or a member of a partnership which was the seller, buyer, landlord, or tenant in the transaction; and

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

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

Section 8. Section 475.272, Florida Statutes, is amended to read:

475.272 Purpose.—In order to eliminate confusion and provide for a better understanding on the part of customers in real estate transactions, the Legislature finds that the intent of the Brokerage Relationship Disclosure Act is to provide that:

(1) Disclosed dual agency as an authorized form of representation by a real estate licensee in this state is expressly revoked;

(2) Real estate licensees be required to disclose to customers upon first contact in residential real estate transactions that they are not and will not be represented by a licensee in a real estate transaction unless they engage a real estate licensee in an authorized form of representation, either as a single agent or as a transaction broker;

(3) Disclosure requirements for real estate licensees relating to nonrepresentation and authorized forms of brokerage representation are established;

~~(4) Florida law provides that real estate licensees will operate as single agents or in a limited representative capacity known as transaction brokers;~~

~~(4)(5)~~ Single agents may represent either a buyer or a seller, but not both, in a real estate transaction; and

~~(5)(6)~~ Transaction brokers provide a limited form of nonfiduciary representation to a buyer, a seller, or both in a real estate transaction.

Section 9. Section 475.274, Florida Statutes, is amended to read:

475.274 Scope of coverage.—The authorized brokerage relationships described in ~~ss. 475.2755 and s. 475.278~~ apply in all brokerage activities as defined in s. 475.01(1)(a). The disclosure requirements of ~~ss. 475.276 and 475.278~~ apply only to residential sales as defined in s. 475.276.

Section 10. Section 475.2755, Florida Statutes, is created to read:

475.2755 Designated salesperson.—

(1) For purposes of this part, in any real estate transaction other than a residential sale as defined in s. 475.276, and where the buyer and seller have assets of \$1 million or more, the broker at the request of the customers may designate salespersons to act as single agents for different customers in the same transaction. Such designated salespersons shall have the duties of a single agent as outlined in s. 475.278(3), including disclosure requirements in s. 475.278(3)(b) and (c). In addition to disclosure requirements in s. 475.278(3)(b) and (c), the buyer and seller as customers shall both sign disclosures stating that their assets meet the threshold described in this subsection and requesting that the broker use the designated salesperson form of representation. In lieu of the transition disclosure requirement in s. 475.278(3)(c)2., the required disclosure notice shall include the following:

FLORIDA LAW PROHIBITS A DESIGNATED SALESPERSON FROM DISCLOSING, EXCEPT TO THE BROKER OR PERSONS SPECIFIED BY THE BROKER, INFORMATION MADE CONFIDENTIAL BY REQUEST OR AT THE INSTRUCTION OF THE CUSTOMER THE DESIGNATED SALESPERSON IS REPRESENTING. HOWEVER, FLORIDA LAW ALLOWS A DESIGNATED SALESPERSON TO DISCLOSE INFORMATION ALLOWED TO BE DISCLOSED OR REQUIRED TO BE DISCLOSED BY LAW AND ALSO ALLOWS A DESIGNATED SALESPERSON TO DISCLOSE TO HIS OR HER BROKER, OR PERSONS SPECIFIED BY THE BROKER, CONFIDENTIAL INFORMATION OF A CUSTOMER FOR THE PURPOSE OF SEEKING ADVICE OR ASSISTANCE FOR THE BENEFIT OF THE CUSTOMER IN REGARD TO A TRANSACTION. FLORIDA LAW REQUIRES THAT THE BROKER MUST HOLD THIS INFORMATION CONFIDENTIAL AND MAY NOT USE SUCH INFORMATION TO THE DETRIMENT OF THE OTHER PARTY.

(2) For purposes of this section, the term “buyer” means a transferee or lessee in a real property transaction, and the term “seller” means the transferor or lessor in a real property transaction.

Section 11. Section 475.276, Florida Statutes, is amended to read:

475.276 Notice of nonrepresentation.—

(1) APPLICABILITY.—

(a) Residential sales.—The real estate licensee disclosure requirements of this section and s. 475.278 apply to all residential sales. As used in this section, the term “residential sales” means the sale of improved residential property of four units or fewer, the sale of unimproved residential property intended for use of four units or fewer, or the sale of agricultural property of 10 acres or fewer.

(b) Disclosure limitations.—The real estate licensee disclosure requirements of this section and s. 475.278 do not apply to: nonresidential transactions; the rental or leasing of real property, unless an option to purchase all or a portion of the property improved with four or fewer residential units is given; auctions; appraisals; and dispositions of any interest in business enterprises or business opportunities, except for property with four or fewer residential units.

(2) NOTICE REQUIREMENT.—Unless otherwise exempted by this part, all real estate licensees are required to provide to any potential seller or buyer at first contact the notice of nonrepresentation as outlined in subsection (3), except in situations where:

(a) A licensee knows that the potential seller or buyer is represented by a single agent or a transaction broker; or

(b) An owner is selling new residential units built by the owner, and the circumstances or setting of the first contact should reasonably inform the potential buyer that the owner’s employee or single agent is acting on behalf of the owner, whether by the location of the sales office, by office signage,

placards, or identification badges worn by the owner’s employee or single agent.

If first contact between a licensee and a customer occurs during the course of a telephone conversation or any other communication in which the licensee is unable to provide the required notice of nonrepresentation, the licensee shall provide an oral notice and thereafter provide the required notice of nonrepresentation at the time of the first face-to-face contact, execution of a brokerage relationship agreement, or execution of a contractual agreement for purchase and sale, whichever occurs first.

(3) CONTENTS OF NOTICE.—

(a) Required information.—The notice required under subsection (2) must contain the following information:

NOTICE OF NONREPRESENTATION

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

You are hereby notified that (insert name of brokerage firm) and I do not represent you in any capacity. You should not assume that any real estate broker or salesperson represents you unless you agree to engage a real estate licensee in an authorized brokerage relationship, either as a single agent or as a transaction broker. You are advised not to disclose any information you want to be held in confidence until you make a decision on representation. Your signature below acknowledges receipt of this form and does not establish a brokerage relationship.

.....
Date

.....
(Signature Optional)

.....
(Signature Optional)

(b) Required format.—The notice required under subsection (2) must be printed as a separate and distinct form on paper no smaller than 8½ inches by 11 inches. Nothing may be added to the form except a brokerage firm logo containing only the firm name, address, and relevant phone numbers. The form title and first sentence are to be in bold typeface of no less than 16-point type. The remainder of the form must be of 12-point type or larger.

Section 12. Section 475.278, Florida Statutes, is amended to read:

475.278 Authorized brokerage relationships; required disclosures.—

(1) AUTHORIZED BROKERAGE RELATIONSHIPS.—A real estate licensee in this state may enter into a brokerage relationship as either a single agent or as a transaction broker with potential buyers and sellers. A real estate licensee may not operate as a disclosed or nondisclosed dual agent. As used in this section, the term “dual agent” means a broker who

represents as a fiduciary both the prospective buyer and the prospective seller in a real estate transaction. Once a brokerage relationship is established, this part does not prevent a licensee from changing from one brokerage relationship to the other as long as the buyer or the seller, or both, gives consent as required by subparagraph (3)(c)2. before the change and the appropriate disclosure of duties as provided in this part is made to the buyer or seller. This part does not require a customer to enter into a brokerage relationship with any real estate licensee.

(2) TRANSACTION BROKER RELATIONSHIP.—

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

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

(b) Disclosure requirements.—Duties of a transaction broker must be fully described and disclosed in writing to a buyer or seller either as a separate and distinct disclosure document or included as part of another document such as a listing agreement or agreement for representation. The disclosure must be made before, or at the time of, entering into a listing agreement or an agreement for representation. When incorporated into other documents, the required notice must be of the same size type, or larger, as other provisions of the document and must be conspicuous in its placement so as to advise customers of the duties of limited representation, except that the first sentence of the information identified in paragraph (c) must be printed in uppercase and bold type.

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

TRANSACTION BROKER NOTICE

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

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

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

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

.....
Date

.....
Signature

.....
Signature

(3) SINGLE AGENT RELATIONSHIP.—

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

1. Dealing honestly and fairly;
2. Loyalty;
3. Confidentiality;
4. Obedience;
5. Full disclosure;
6. Accounting for all funds;
7. Skill, care, and diligence in the transaction; ~~and~~
8. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing; and.

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

(b) Disclosure requirements.—

1. Single agent disclosure.—Duties of a single agent must be fully described and disclosed in writing to a buyer or seller either as a separate and distinct disclosure document or included as part of another document such as a listing agreement or other agreement for representation. The disclosure must be made before, or at the time of, entering into a listing agreement or an agreement for representation. When incorporated into other documents, the required notice must be of the same size type, or larger, as other provisions of the document and must be conspicuous in its placement so as to advise customers of the duties of a single agent, except that the first sentence of the information identified in paragraph (c) must be printed in uppercase and bold type.

2. Transition to transaction broker disclosure.—A single agent relationship may be changed to a transaction broker relationship at any time during the relationship between an agent and principal, provided the agent gives the disclosure required under paragraph (2)(b) and the principal gives to the agent consent as required under subparagraph (c)2. before a change in relationship. This disclosure must be in writing to the principal either as a separate and distinct document or included as part of other documents such as a listing agreement or other agreements for representation. When incorporated into other documents, the required notice must be of the same size type, or larger, as other provisions of the document and must be conspicuous in its placement so as to advise customers of the duties of limited representation, except that the first sentence of the information identified in subparagraph (c)2. must be printed in uppercase and bold type.

(c) Contents of disclosure.—

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

SINGLE AGENT NOTICE

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

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

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

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

.....
Date	Signature

2. Transition disclosure.—The notice required under subparagraph (b)2. must include the following information in the following form as well as the information required in paragraph (2)(c):

CONSENT TO TRANSITION TO TRANSACTION BROKER

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

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

(4) NO BROKERAGE RELATIONSHIP – DUTIES.—A real estate licensee owes to a customer with whom the licensee has no brokerage relationship the following duties:

- (a) Dealing honestly and fairly;
- (b) Disclosing all known facts that materially affect the value of the residential real property which are not readily observable to the buyer; and

(c) Accounting for all funds entrusted to the licensee.

Section 13. Section 475.279, Florida Statutes, is created to read:

475.279 Facsimile signatures or writing accepted.—When any act performed under this part must be performed in writing or acknowledged with a signature, the provision of an instrument or writing by electronic means or facsimile, including a signature transmitted by electronic means or facsimile, is binding and sufficient.

Section 14. Section 475.2801, Florida Statutes, is amended to read:

475.2801 Rules.—The commission may adopt rules establishing disciplinary guidelines, notices of noncompliance, and citations for violations of ss. 475.2755, 475.276, and 475.278.

Section 15. Section 475.451, Florida Statutes, is amended to read:

475.451 Schools teaching real estate practice.—

(1) Each person, school, or institution, except approved and accredited colleges, universities, community colleges, and area technical 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 salesperson, or teaches any course designed or represented to enable or assist applicants for licensure as brokers or salespersons 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, community colleges, and area technical centers 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, or to be an instructor for a proprietary real estate 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” ~~means the is defined as that~~ individual who is responsible for directing the overall operation of a proprietary real estate school. A school permitholder ~~She or he~~ must be the holder of a license as a broker, either active or voluntarily inactive, or must have passed an instructor’s examination approved by the commission ~~administered by the department~~. A school permitholder must also meet the requirements of a school instructor if ~~she or he is~~ actively engaged in teaching.

(b) “Chief administrative person” ~~means the 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. A chief administrative person ~~She or he~~ must also meet the requirements of a school instructor if ~~she or he is~~ actively engaged in teaching.

(c) “School instructor” means an individual who actively instructs persons in the classroom in noncredit college courses in a college, university, or community college or courses in an area technical center or proprietary real estate school.

1. ~~Before commencing to provide such instruction, the applicant instruct noncredit college courses in a college, university, or community college, or courses in an area technical center or proprietary real estate school, she or he must certify the applicant’s her or his competency and obtain an instructor permit 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 examination approved by the commission administered by the Division of Real Estate.

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

3. The department shall renew an instructor permit upon receipt of a renewal application and fee. The renewal application shall include proof that the permitholder has, since the issuance or renewal of the current permit, Every second year, each instructor must recertify her or his competency by presenting to the commission evidence of her or 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 commission shall adopt rules providing for the renewal of instructor permits at least every 2 years. Any permit which is not renewed at the end of the permit period established by the department shall automatically revert to involuntarily inactive status.

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 the applicant 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 any person, 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 required for licensure 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 ~~commits 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. 475.17(2).

(6) Any course prescribed by the commission as a condition precedent to any person's becoming initially licensed as a salesperson may be taught in any real estate school through the use of a video tape of instruction by a currently permitted 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 permitted licensed instructor from any such school; however, this requirement shall not exceed 3 classroom hours. All other prescribed courses, except the continuing education course required by s. 475.182, shall be taught by a currently permitted 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 requirements 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 the person continuously holds such a permit and complies with all other requirements of this chapter.

(8) A permitholder ~~under 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 licensee or a permitholder under this chapter.

Section 16. Subsection (6) is added to section 475.452, Florida Statutes, to read:

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

(6) This section does not apply to a real estate broker auctioning real property if in advance of the auction the broker and seller have entered into a written agreement specifically providing for anticipated expenses to be incurred and paid. However, any trust funds received by the broker in advance of the auction may not be disbursed or otherwise used as an advance commission or fee for services without first having complied with the provisions of this subsection.

Section 17. Subsection (7) of section 475.484, Florida Statutes, is amended to read:

475.484 Payment 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 salesperson as described in s. 475.482(1), the license of such broker or salesperson shall be automatically suspended upon the date of payment from the fund. The license of such broker or salesperson may not be reinstated until the licensee has repaid in full, plus interest, the amount paid from the fund. No further administrative action is necessary. A discharge of bankruptcy does not relieve a licensee from the penalties and disabilities provided in this section, except to the extent that this subsection conflicts with 11 U.S.C. s. 525, in which case the commission may order the license not to be suspended or otherwise discriminated against.

Section 18. Section 475.5015, Florida Statutes, is amended to read:

475.5015 Brokerage business records.—Each broker shall keep and make available to the department such books, accounts, and records as will enable the department to determine whether such broker is in compliance with the provisions of this chapter. Each broker shall preserve at least one legible copy of all books, accounts, and records pertaining to her or his real estate brokerage business for at least 5 years from the date of receipt of any money, fund, deposit, check, or draft entrusted to the broker or, in the event no funds are entrusted to the broker, for at least 5 years from the date of execution by any party of any listing agreement, offer to purchase, rental property management agreement, rental or lease agreement, or any other written or verbal agreement which engages the services of the broker. If any brokerage record has been the subject of or has served as evidence for litigation, relevant books, accounts, and records must be retained for at least 2 years after the conclusion of the civil action or the conclusion of any appellate proceeding, whichever is later, but in no case less than a total of 5 years as set above. Disclosure documents required under ss. 475.2755, 475.276, and 475.278 shall be retained by the real estate licensee in all transactions that result in a written contract to purchase and sell real property.

Section 19. Section 475.5016, Florida Statutes, is created to read:

475.5016 Authority to inspect and audit.—Duly authorized agents and employees of the department shall have the power to inspect and audit in a lawful manner at all reasonable hours any broker or brokerage office licensed under this chapter, for the purpose of determining if any of the provisions of this chapter, chapter 455, or any rule promulgated under authority of either chapter is being violated.

Section 20. Paragraphs (a), (e), and (l) of subsection (1) and subsection (2) of section 475.611, Florida Statutes, are amended to read:

475.611 Definitions.—

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

(a) “Appraisal” or “appraisal services” means the services provided by certified ~~or~~, licensed appraisers, or registered assistant appraisers, and includes:

1. “Appraisal assignment” denotes an engagement for which a person 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, review, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.

2. “Analysis assignment” denotes 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.

(e) “Appraiser” means any person who is a registered assistant real estate appraiser, licensed real estate appraiser, or a certified real estate appraiser. An appraiser renders a professional service and is a professional within the meaning of s. 95.11(4)(a).

(l) “Registered assistant appraiser” means a person who is registered with the department as qualified to perform appraisal services under the supervision of a licensed or certified appraiser.

(2) Wherever the word “operate” or “operating” appears in this part with respect to a registered assistant appraiser, licensed appraiser, or certified appraiser; in any order, rule, or regulation of the board; in any pleading, indictment, or information under this part section; 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 part section as constituting or defining a registered assistant appraiser, licensed appraiser, or certified appraiser, not including, however, any of the exceptions stated therein. A single act is sufficient to bring a person within the meaning of this subsection section, and each act, if prohibited herein, constitutes a separate offense.

Section 21. Section 475.612, Florida Statutes, is amended to read:

475.612 Certification, ~~or~~ licensure, or registration required.—

(1) A person may not use the title “certified real estate appraiser,” “licensed real estate appraiser,” or “registered assistant real estate appraiser,” or any abbreviation or words to that effect, or issue an appraisal report in connection with any federally related transaction, unless such person is certified, licensed, or registered by the department under pursuant to this part section. However, the work upon which an appraisal report is based may be performed by a person who is not a certified ~~or~~, licensed appraiser, or registered assistant appraiser if the report is approved and signed by a certified or licensed appraiser.

(2) This section does not preclude a broker, salesperson, or broker-salesperson who is not a certified ~~or~~, licensed real estate appraiser, or registered assistant 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 as certified, ~~or licensed, or registered~~ under this part section.

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

(4) This section ~~does~~ shall not prevent any state court or administrative law judge from certifying as an expert witness in any legal or administrative proceeding an appraiser who is not certified, licensed, or registered; nor ~~does~~ shall it prevent any appraiser from testifying, with respect to the results of an appraisal.

(5) This section ~~does~~ shall not apply to any full-time graduate student who is enrolled in a degree program in appraising at a college or university in this state, if the student is acting under the direct supervision of a certified or licensed appraiser or 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 individual.

(6) This section ~~does~~ shall not apply to any employee of a local, state, or federal agency who performs appraisal services within the scope of her or his employment. However, this exemption ~~does~~ shall not apply where any local, state, or federal agency requires an employee to be registered, licensed, or certified to perform appraisal services.

Section 22. Section 475.6145, Florida Statutes, is created to read:

475.6145 Seal.—The board shall adopt a seal by which it shall authenticate its proceedings, records, and acts. Copies of the proceedings, records, and acts of the board, and certificates purporting to relate the facts concerning such proceedings, records, and acts, which are signed by the board chair, the custodian of such records, or any other person authorized to make such certification and which are authenticated by such seal, shall be prima facie evidence of such proceedings, records, and acts in all courts of this state.

Section 23. Section 475.6147, Florida Statutes, is created to read:

475.6147 Fees.—

(1) The board by rule may establish fees to be paid for application, licensing and renewal, certification and recertification, reinstatement, and record-making and recordkeeping. The fee for initial application may not exceed \$150, and the combined cost of the application and examination may not exceed \$300. The initial license fee and the license renewal fee may not exceed \$150 for each year of the duration of the license. The board may also establish by rule a late renewal penalty. The board 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 part and other provisions of law relating to the regulation of real estate appraisers.

(2) Application and license fees shall be refunded upon a determination by the board 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 shall be refunded if for any other reason the application is not completely processed. The board shall implement this subsection by rule.

Section 24. Section 475.615, Florida Statutes, is amended to read:

475.615 Qualifications for registration, licensure, or certification.—

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

(2) The board is authorized to waive or modify any education, experience, or examination requirements established in this section in order to conform with any such requirements established by the Appraisal Qualifications Board of the Appraisal Foundation and recognized by the Appraisal Subcommittee or any successor body recognized by federal law.

(3) Appropriate fees, as set forth in the rules of the board pursuant to s. 475.6147, and fingerprints for processing through appropriate law enforcement agencies must accompany all applications for registration, licensure, and certification.

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

~~(5)~~(4) At the time of filing a notarized application for registration, licensure, or certification, the applicant must sign a pledge to comply with the Uniform Standards of Professional Appraisal Practice upon registration, licensure, or certification, and must indicate in writing that she or he understands the types of misconduct for which disciplinary proceedings may be initiated. The application shall expire 1 year from the date received, if the applicant for registration, licensure, or certification fails to take the appropriate examination.

~~(6)~~(5) All applicants must be competent and qualified to make real estate appraisals with safety to those with whom they may undertake a relationship of trust and confidence and the general public. If any applicant has been

denied registration, licensure, or certification, or has been disbarred, or the applicant's registration, license, or certificate 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 part section, or if the applicant has been guilty of conduct or practices in this state or elsewhere which would have been grounds for disciplining her or his registration, license, or certification under this part section had the applicant then been a registered assistant appraiser or a licensed, or certified appraiser, 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 board that the interest of the public is not likely to be endangered by the granting of registration, licensure, or certification.

(7)(6) No applicant seeking to become registered, licensed, or certified under this part section may be rejected solely by virtue of membership or lack of membership in any particular appraisal organization.

Section 25. Subsections (3) and (4) of section 475.616, Florida Statutes, are amended to read:

475.616 Examination requirements.—To be licensed or certified as an appraiser, the applicant must demonstrate, by passing a written examination, that she or he possesses:

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

(4) An understanding of the types of misconduct for which disciplinary proceedings may be initiated against a licensed or certified appraiser, as set forth in this part section.

Section 26. Section 475.617, Florida Statutes, is amended to read:

475.617 Education and experience requirements.—

(1) To be registered as an assistant appraiser, an applicant must present evidence satisfactory to the board that she or he has successfully completed at least up to 75 hours of approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice from a nationally recognized or state-recognized appraisal organization, area technical center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. The board may increase the required number of hours to not more than 100 hours. A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved on an hour-for-hour basis.

(2) To be licensed as an appraiser, an applicant must present evidence satisfactory to the board that she or he:

(a) Has 2 years of experience in real property appraisal as defined by rule.

(b) Has successfully completed at least ~~90~~ 75 classroom hours, inclusive of examination, of approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice from a nationally recognized or state-recognized appraisal organization, area technical center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. The board may increase the required number of hours to not more than 120 hours. A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved by the board and substituted on an hour-for-hour basis.

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

(a) Has 2,500 hours ~~2~~ years of experience obtained over a 24-month period in real property appraisal as defined by rule.

(b) Has successfully completed at least ~~120~~ up to 165 classroom hours, inclusive of examination, of approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice from a nationally recognized or state-recognized appraisal organization, area technical center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. The board may increase the required number of hours to not more than 165 hours. A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved by the board and substituted on an hour-for-hour basis.

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

(a) Has 3,000 hours ~~2~~ years of experience obtained over a 30-month period in real property appraisal as defined by rule.

(b) Has successfully completed at least ~~180~~ 165 classroom hours, inclusive of examination, of approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice from a nationally recognized or state-recognized appraisal organization, area technical center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. The board may increase the required number of hours to not more than 225 hours. A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved by the board and substituted on an hour-for-hour basis.

(5) Each applicant must furnish, under oath, a detailed statement of the experience for each year of experience she or he claims. Upon request, the

applicant shall furnish to the board, for its examination, copies of appraisal reports or file memoranda to support the claim for experience.

Section 27. Subsection (4) of section 475.618, Florida Statutes, is amended to read:

475.618 Renewal of registration, license, certification, or instructor permit; continuing education.—

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

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

475.619 Inactive status.—

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

Section 29. Section 475.620, Florida Statutes, is amended to read:

475.620 Corporations and partnerships ineligible for licensure or certification.—

(1) A license or certification may not be issued under this part section to a corporation, partnership, firm, or group. However, an appraiser licensed or certified under this part section may provide an 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 her or him.

(2) The term “state-registered assistant appraiser,” “state-licensed appraiser,” or “state-certified appraiser” may only be used to refer to an individual who is registered, licensed, or certified under this part 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 registration, licensure, or certification under this part section of a corporation, partnership, firm, or group, or anyone other than an individual appraiser. Corporations, partnerships, firms, or groups which employ certified or, licensed appraisers, or registered assistant appraisers who provide appraisal reports, as defined by this part

section, may represent to the public and advertise that they offer appraisals performed by registered, licensed, or certified appraisers.

Section 30. Section 475.622, Florida Statutes, is amended to read:

475.622 Display and disclosure of licensure, or certification, or registration.—

(1) Each appraiser registered, licensed, or certified under this part section shall place her or his registration, license, or certification number adjacent to or immediately beneath the designation “state-registered assistant real estate appraiser,” “state-licensed real estate appraiser,” “state-certified residential real estate appraiser,” or “state-certified general real estate appraiser,” or their appropriate abbreviations as defined by rule, as applicable, when such term is used in an appraisal report or in a contract or other instrument used by the appraiser in conducting real property appraisal activities. The applicable designation shall be included in any newspaper, telephone directory, or other advertising medium, as defined by rule, used by the appraiser.

(2) A registered assistant appraiser or, licensed, or certified appraiser may not sign any appraisal report or communicate same without disclosing in writing that she or he is a state-registered assistant appraiser or, state-licensed, state-certified residential, or state-certified general appraiser, as applicable, even if the appraisal performed is outside of the scope of the appraiser’s registration, licensure, or certification as an appraiser.

Section 31. Section 475.623, Florida Statutes, is amended to read:

475.623 Registration of office location.—Each appraiser registered, licensed, or certified under this part section shall furnish in writing to the department each business address from which she or he operates in the performance of appraisal services. Each appraiser must notify the department of any change of address within 10 days on a form provided by the department.

Section 32. Section 475.624, Florida Statutes, is amended to read:

475.624 Discipline.—The board may deny an application for registration, licensure, or certification; may investigate the actions of any appraiser registered, licensed, or certified under this part section; and may reprimand or impose an administrative, fine not to exceed \$5,000 for each count or separate offense against any such appraiser; and may, revoke, or suspend, for a period not to exceed 10 years, the registration, license, or certification of any such appraiser, or place any such appraiser on probation, if it finds that the registered assistant registrant, licensee, or certificateholder:

(1) Has violated any provisions of this part or of s. 455.227(1); however, licensees under this part are exempt from the provisions of s. 455.227(1)(i).

(2) Has been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest conduct, 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 her or him by law or by the terms of a contract, whether written, oral, express, or implied, in an appraisal assignment; 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 such misconduct and committed an overt act in furtherance of such intent, design, or scheme. It is immaterial to the guilt of the ~~registered assistant registrant~~, licensee, or certificateholder 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 ~~registered assistant registrant~~, licensee, or certificateholder, or was an identified member of the general public.

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

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

(5) Has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of a registered ~~assistant appraiser or~~, licensed, or certified appraiser, or which involves moral turpitude or fraudulent or dishonest conduct. The record of a conviction certified or authenticated in such form as admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

(6) Has had a registration, license, or certification as an appraiser revoked, suspended, or otherwise acted against, or has been disbarred, or has had her or his registration, license, or certificate to practice or conduct any regulated profession, business, or vocation revoked or suspended by this or any other state, any nation, or any possession or district of the United States, or has had an application for such registration, licensure, or certification to practice or conduct any regulated profession, business, or vocation denied by this or any other state, any nation, or any possession or district of the United States.

(7) Has become temporarily incapacitated from acting as an appraiser with safety to those in a fiduciary relationship with her or him because of drunkenness, use of drugs, or temporary mental derangement; however, suspension of a license, ~~or certification,~~ or registration in such cases shall only be for the period of such incapacity.

(8) Is confined in any county jail, postadjudication; 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.

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

(10) Has been found guilty, for a second time, of any misconduct that warrants disciplinary action, or has been found guilty of a course of conduct or practice which shows that she or he is incompetent, negligent, dishonest, or untruthful to an extent that those with whom she or he may sustain a confidential relationship may not safely do so.

(11) Has made or filed a report or record, either written or oral, which the registered assistant, licensee, or certificateholder 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. However, such reports or records shall include only those which are signed or presented in the capacity of a registered assistant appraiser or licensed or certified appraiser.

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

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

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

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

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

(17) Has accepted an appraisal assignment if the employment itself is contingent upon the appraiser 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 upon the consequences resulting from the appraisal assignment.

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

Section 33. Paragraph (a) of subsection (1) of section 475.626, Florida Statutes, is amended to read:

475.626 Violations and penalties.—

(1) VIOLATIONS.—

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

Section 34. Subsections (1) and (2) of section 475.627, Florida Statutes, are amended to read:

475.627 Appraisal course instructors.—

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

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

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

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

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

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

Section 35. Section 475.628, Florida Statutes, is amended to read:

475.628 Professional standards for ~~licensed and certified~~ appraisers registered, licensed, or certified under this part.—Each appraiser registered, licensed, or certified under this part section shall comply with the Uniform Standards of Professional Appraisal Practice. Statements on appraisal standards which may be issued for the purpose of clarification, interpretation, explanation, or elaboration through the Appraisal Foundation shall also be binding on any appraiser registered, licensed, or certified under this part section.

Section 36. Section 475.629, Florida Statutes, is amended to read:

475.629 Retention of records.—An appraiser registered, licensed, or certified under this part section shall retain, for at least 5 years, original or true copies of any contracts engaging the appraiser's services, appraisal reports, and supporting data assembled and formulated by the appraiser in preparing appraisal 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 appraisal report to the client. These records must be made

available by the appraiser for inspection and copying by the department 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 37. Section 475.6295, Florida Statutes, is created to read:

475.6295 Authority to inspect.—Duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours any appraiser or appraisal office licensed under this chapter, for the purpose of determining if any of the provisions of this chapter, chapter 455, or any rule promulgated under authority of either chapter is being violated.

Section 38. Paragraph (c) of subsection (2) of section 475.630, Florida Statutes, is amended to read:

475.630 Temporary practice.—

(2) In order to register with the board, the appraiser must:

(c) ~~Agree in writing to cooperate with any investigation initiated under this part section by promptly supplying such documents that any authorized representative of the department may request. If the department sends a notice by certified mail to the last known address of a nonresident appraiser to produce documents or to appear in conjunction with an investigation and the nonresident appraiser fails to comply with that request, the board may impose on that nonresident appraiser any disciplinary action or penalty authorized under this part section.~~

Section 39. Subsection (17) is added to section 489.103, Florida Statutes, to read:

489.103 Exemptions.—This part does not apply to:

(17) Contracting for repair, maintenance, remodeling, or improvement by any person licensed under part I of chapter 475 while acting as the owner's agent pursuant to that license, where all work requiring a contractor is performed by a contractor who has a current, valid certificate or registration issued under this part to perform such work, and where the aggregate contract for labor, materials, and all other items is less than \$5,000; however, this exemption does not apply:

(a) If the maintenance, repair, remodeling, or improvement is a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than \$5,000 for the purpose of evading this part or otherwise.

(b) To a person who advertises that he or she is qualified to engage in contracting.

Section 40. Subsection (17) is added to section 489.503, Florida Statutes, to read:

489.503 Exemptions.—This part does not apply to:

(17) Contracting for repair, maintenance, remodeling, or improvement by any person licensed under part I of chapter 475 while acting as the owner's agent pursuant to that license, where all work requiring a contractor is performed by a contractor who has a current, valid certificate or registration issued under this part to perform such work, and where the aggregate contract for labor, materials, and all other items is less than \$5,000; however, this exemption does not apply:

(a) If the maintenance, repair, remodeling, or improvement is a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than \$5,000 for the purpose of evading this part or otherwise.

(b) To a person who advertises that he or she is qualified to engage in contracting.

Section 41. Section 553.991, Florida Statutes, is amended to read:

553.991 Purpose.—The purpose of this part is to provide for a statewide uniform system for rating the energy efficiency of buildings ~~and to ensure that those ratings are disclosed to prospective purchasers at their request.~~ It is in the interest of the state to encourage the consideration of the energy-efficiency rating system in the market so as to provide market rewards for energy-efficient buildings and to those persons or companies designing, building, or selling energy-efficient buildings.

Section 42. Section 553.994, Florida Statutes, is amended to read:

553.994 Applicability.—The rating system shall apply to all public, commercial, and existing residential buildings in the state, ~~and may be applied to new residential buildings, except as identified by the department by rule in accordance with the procedures of chapter 120, according to the following schedule:~~

- ~~(1) For new residential buildings, by January 1, 1994.~~
- ~~(2) For existing residential buildings, by January 1, 1995.~~
- ~~(3) For new public buildings, by January 1, 1994.~~
- ~~(4) For existing public buildings, by July 1, 1994.~~
- ~~(5) For new commercial buildings, by January 1, 1995.~~
- ~~(6) For existing commercial buildings, by January 1, 1996.~~

Section 43. Section 553.996, Florida Statutes, is amended to read:

553.996 Energy-efficiency rating disclosure; information brochure.—

~~(1)(a) In accordance with the schedules in s. 553.994, the prospective purchaser of real property with a building for occupancy located thereon~~

~~shall be provided written notification that the purchaser may have the building's energy-efficiency rating determined. Such notice shall be provided at the time of, or prior to, the purchaser's execution of the contract for sale and purchase.~~

~~(b) The energy-efficiency rating of a residential or commercial building shall be provided upon request of the prospective purchaser, in writing, at the time of, or prior to, the purchaser's execution of the contract for sale and purchase.~~

~~(2) A prospective purchaser of real property with a building for occupancy located thereon Concurrent with the provisions of subsection (1), the prospective purchaser shall be provided with a copy of an information brochure, at the time of or prior to the purchaser's execution of the contract for sale and purchase, notifying the purchaser of the option for an energy-efficiency rating on the building. Such brochure shall be prepared, made available for distribution, and provided at no cost by the department. Such brochure shall contain information relevant to that class of building, including, but not limited to:~~

~~(1)(a) How to analyze the building's energy-efficiency rating.~~

~~(2)(b) Comparisons to statewide averages for new and existing construction of that class.~~

~~(3)(c) Information concerning methods to improve the building's energy-efficiency rating.~~

~~(4)(d) A notice to residential purchasers that the energy-efficiency rating may qualify the purchaser for an energy-efficient mortgage from lending institutions.~~

Section 44. This act shall take effect July 1 of the year in which enacted.

Approved by the Governor May 27, 1998.

Filed in Office Secretary of State May 27, 1998.