

Committee Substitute for House Bill No. 417

An act relating to real estate brokers and salespersons; amending s. 475.01, F.S.; eliminating the definition of the term “first contact”; amending s. 475.011, F.S.; providing a regulatory exemption for certain registered securities dealers and financial institutions in connection with certain transactions; amending s. 475.181, F.S.; referencing certification requirements of the Florida Real Estate Commission for licensure as a broker or salesperson; amending s. 475.25, F.S.; providing a ground for discipline relating to designation of salespersons as single agents for different customers in certain transactions; providing penalties; conforming cross references; amending s. 475.272, F.S.; revising intent of the Brokerage Relationship Disclosure Act to eliminate required disclosure of nonrepresentation; amending ss. 475.274 and 475.2755, F.S.; conforming cross references; repealing s. 475.276, F.S., relating to notice of nonrepresentation; amending s. 475.278, F.S.; requiring notice relating to disclosure of information prior to engaging in an authorized brokerage relationship; providing applicability or nonapplicability of brokerage relationship disclosure requirements to various real estate transactions; amending s. 475.2801, F.S.; removing a cross reference, to conform; amending ss. 475.482 and 475.483, F.S.; revising eligibility requirements for recovery from the Real Estate Recovery Fund; amending s. 475.5015, F.S.; removing a cross reference, to conform; providing an effective date.

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

Section 1. Subsection (1) of section 475.01, Florida Statutes, 1998 Supplement, 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.

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

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

(d) "Customer" means a member of the public who is or may be a buyer or seller of real property and may or may not be represented by a real estate licensee in an authorized brokerage relationship.

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

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

~~(g) "First contact" means at the commencement of the initial meeting of or communication between a licensee and a seller or buyer; however, the term does not include:~~

~~1.—A bona fide "open house" or model home showing that does not involve eliciting confidential information; the execution of a contractual offer or an agreement for representation; or negotiations concerning price, terms, or conditions of a potential sale;~~

~~2.—Unanticipated casual encounters between a licensee and a seller or buyer that do not involve eliciting confidential information; the execution of a contractual offer or an agreement for representation; or negotiations concerning price, terms, or conditions of a potential sale;~~

~~3.—Responding to general factual questions from a prospective buyer or seller concerning properties that have been advertised for sale; or~~

~~4.—Situations in which a licensee's communications with a customer are limited to providing general factual information, oral or written, about the~~

~~qualifications, background, and services of the licensee or the licensee's brokerage firm.~~

~~In any of the situations described in subparagraphs 1.-4., "first contact" occurs when the communications between the licensee and the prospective seller or buyer proceed in any way beyond the conditions or limitations described in subparagraphs 1.-4.~~

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

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

~~(i)(j)~~ "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.

~~(j)(k)~~ "Salesperson" 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. A salesperson renders a professional service and is a professional within the meaning of s. 95.11(4)(a).

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

~~(l)(m)~~ "Transaction broker" means a broker who provides limited 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.

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

Section 2. Subsection (12) is added to section 475.011, Florida Statutes, 1998 Supplement, to read:

475.011 Exemptions.—This part does not apply to:

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

with the sale, exchange, purchase, or rental of a business enterprise. Any reference to rental in this subsection includes a lease transaction.

Section 3. Subsection (1) of section 475.181, Florida Statutes, 1998 Supplement, is amended to read:

475.181 Licensure.—

(1) The department shall license any applicant whom the commission certifies, pursuant to subsection (2), to be qualified to practice as a broker or salesperson.

(2) The commission shall certify for licensure any applicant who satisfies the requirements of ss. 475.17, 475.175, and 475.180. 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 after ~~from~~ the date received if the applicant fails to take the appropriate examination.

Section 4. Paragraph (q) of subsection (1) of section 475.25, Florida Statutes, 1998 Supplement, 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, and any or all of the foregoing, if it finds that the licensee, registrant, permittee, or applicant:

(q) Has violated any provision of s. 475.2755 ~~475.276~~ or s. 475.278, including the duties owed under those sections.

Section 5. Section 475.272, Florida Statutes, 1998 Supplement, 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;~~

~~(2)(3) Disclosure requirements for real estate licensees relating to nonrepresentation and authorized forms of brokerage representation are established;~~

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

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

Section 6. Section 475.274, Florida Statutes, 1998 Supplement, is amended to read:

475.274 Scope of coverage.—The authorized brokerage relationships described in ss. 475.2755 and 475.278 apply in all brokerage activities as defined in s. 475.01(1)(a). The disclosure requirements of s. ss. 475.276 and 475.278 apply only to residential sales as defined in s. 475.278(5)(a) ~~475.276~~.

Section 7. Section 475.2755, Florida Statutes, 1998 Supplement, is amended 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. 475.278(5)(a) ~~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 8. Section 475.276, Florida Statutes, 1998 Supplement, is repealed.

Section 9. Subsections (2) and (3) of section 475.278, Florida Statutes, 1998 Supplement, are amended, and subsection (5) is added to said section, to read:

475.278 Authorized brokerage relationships; required disclosures.—

(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 or before the showing of property, whichever occurs first. 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:

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

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.

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;
- 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 or before the showing of property, whichever occurs first. 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:

IMPORTANT NOTICE

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

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.

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;
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]

(5) APPLICABILITY.—

(a) Residential sales.—The real estate licensee disclosure requirements of this section apply to all residential sales. As used in this subsection, the term “residential sale” 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 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.

Section 10. Section 475.2801, Florida Statutes, 1998 Supplement, 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 11. Subsection (1) of section 475.482, Florida Statutes, 1998 Supplement, 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, 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, a member of a limited liability company, or a partner of a limited liability 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 12. Subsections (1) and (2) of section 475.483, Florida Statutes, are 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 a final judgment in a court of competent civil jurisdiction in this state against an individual broker or salesperson in any action wherein the cause of action was based on a real estate brokerage transaction. If such person is 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. The filing of a bankruptcy petition by a broker or salesperson does not relieve a claimant from the obligation to obtain a final judgment against the licensee. In this instance, the claimant must seek to have assets involving the real estate transaction that gave rise to the claim removed from the bankruptcy proceedings so that the matter might be heard in a court of competent civil jurisdiction in this state. If, after due diligence, the claimant is precluded by action of the bankruptcy court from securing a final judgment against 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. 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.

(d)1. Such person has caused to be issued a writ of execution upon such judgment, and the person has executed an affidavit 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 her or his search the person has discovered no property or assets or she 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.

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

(g) Such person has executed an affidavit showing that the final judgment is not on appeal or, if it was the subject of an appeal, that the appellate proceedings have concluded and the outcome of the appeal.

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

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

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

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

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

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

Section 13. Section 475.5015, Florida Statutes, 1998 Supplement, 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 14. This act shall take effect October 1, 1999.

Approved by the Governor June 18, 1999.

Filed in Office Secretary of State June 18, 1999.