

Senate Bill No. 1424

An act relating to real estate professionals; amending s. 475.25, F.S.; providing an exception to provisions governing the return of escrowed personal property; amending s. 475.622, F.S.; requiring supervisors of registered assistant real estate appraisers to sign appraisals and make certain disclosures; creating s. 475.6221, F.S.; requiring registered assistant real estate appraisers to be supervised by licensed or certified appraisers; providing supervisory guidelines; prohibiting direct payments for services to registered assistant real estate appraisers with the supervising appraiser's agreement; providing an effective date.

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

Section 1. Paragraph (d) of subsection (1) of section 475.25, Florida Statutes, is amended to read:

475.25 Discipline.—

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

(d)1. Has failed to account or deliver to any person, including a licensee under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft, abstract of title, mortgage, conveyance, lease, or other document or thing of value, including a share of a real estate commission if a civil judgment relating to the practice of the licensee's profession has been obtained against the licensee and said judgment has not been satisfied in accordance with the terms of the judgment within a reasonable time, or any secret or illegal profit, or any divisible share or portion thereof, which has come into the licensee's hands and which is not the licensee's property or which the licensee is not in law or equity entitled to retain under the circumstances. However, if the licensee, in good faith, entertains doubt as to what person is entitled to the accounting and delivery of the escrowed property, or if conflicting demands have been made upon the licensee for the escrowed property, which property she or he still maintains in her or his escrow or trust account, the licensee shall promptly notify the commission of such doubts or conflicting demands and shall promptly:

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

- b. With the consent of all parties, submit the matter to arbitration;
- c. By interpleader or otherwise, seek adjudication of the matter by a court; or
- d. With the written consent of all parties, submit the matter to mediation. The department may conduct mediation or may contract with public or private entities for mediation services. However, the mediation process must be successfully completed within 90 days following the last demand or the licensee shall promptly employ one of the other escape procedures contained in this section. Payment for mediation will be as agreed to in writing by the parties. The department may adopt rules to implement this section.

If the licensee promptly employs one of the escape procedures contained herein, and if she or he abides by the order or judgment resulting therefrom, no administrative complaint may be filed against the licensee for failure to account for, deliver, or maintain the escrowed property. If the buyer of a residential condominium unit delivers to a licensee written notice of the buyer's intent to cancel the contract for sale and purchase, as authorized by s. 718.503, or if the buyer of real property in good faith fails to satisfy the terms in the financing clause of a contract for sale and purchase, the licensee may return the escrowed property to the purchaser without notifying the commission or initiating any of the procedures listed in sub-subparagraphs a.-d.

2. Has failed to deposit money in an escrow account when the licensee is the purchaser of real estate under a contract where the contract requires the purchaser to place deposit money in an escrow account to be applied to the purchase price if the sale is consummated.

Section 2. Section 475.622, Florida Statutes, is amended to read:

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

(1) Each appraiser registered, licensed, or certified under this part 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.

(3) The primary or secondary supervising licensed or certified appraiser of a registered assistant real estate appraiser must sign any appraisal report signed by the registered assistant.

(4) The supervising appraiser of a registered assistant real estate appraiser must disclose his or her appropriate designation and number any time the registered assistant is required to make such disclosures.

Section 3. Section 475.6221, Florida Statutes, is created to read:

475.6221 Employment of registered assistant real estate appraisers.—

(1) A registered assistant real estate appraiser must perform appraisal services under the supervision of a licensed or certified appraiser who is designated as the primary supervisor. The primary supervisor may also designate additional licensed or certified appraisers as secondary supervisors. A secondary supervisor must be affiliated with the same firm or business as the primary supervisor and the primary or secondary supervisor must have the same business address as the registered assistant real estate appraiser. A registered assistant real estate appraiser must notify the Division of Real Estate of the name and address of any primary and secondary supervisor for whom the registered assistant will perform appraisal services, and must also notify the division within 10 days after terminating such relationship. Termination of the relationship with a primary supervisor automatically terminates the relationship with the secondary supervisor.

(2) A registered assistant real estate appraiser may not receive payment directly from the recipient of an appraisal report, unless the primary supervising licensed or certified appraiser agrees to the payment arrangement.

Section 4. This act shall take effect July 1, 2001.

Approved by the Governor June 19, 2001.

Filed in Office Secretary of State June 19, 2001.