

CHAPTER 2015-54

Committee Substitute for Committee Substitute for Senate Bill No. 608

An act relating to real estate brokers and appraisers; amending s. 475.15, F.S.; requiring the Florida Real Estate Commission to adopt certain rules pertaining to broker registration on a temporary, emergency basis; amending s. 475.17, F.S.; clarifying education requirements that apply for postlicensure and initial real estate licensure; amending s. 475.183, F.S.; authorizing the commission to reinstate the license of an individual in certain circumstances; amending s. 475.611, F.S.; revising the supervision requirements for registered trainee appraisers; amending s. 475.612, F.S.; revising the supervision requirements for select graduate students; amending s. 475.621, F.S.; requiring the Department of Business and Professional Regulation to collect annual fees set by and transmitted to the appraisal subcommittee; amending s. 475.629, F.S.; requiring an appraiser to prepare and retain a work file in certain circumstances; requiring an appraisal management company to prepare and retain an order file in certain circumstances; requiring the work file and the order file to be retained for a specified period; requiring the work file and the order file to contain certain data, information, and documentation; requiring appraisal management companies to retain certain items; deleting the prohibition against the inspection or copying of certain records by the department, which had been allowed only in connection with a pending investigation or complaint; amending s. 475.6295, F.S.; providing that duly authorized agents and employees of the department may inspect an appraisal management company at all reasonable hours; amending s. 475.631, F.S.; removing the board's authority to enter into written agreements with similar licensing or certification authorities; providing an effective date.

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

Section 1. 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. 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. The commission shall adopt rules that allow a brokerage to register a broker on a temporary, emergency basis if a sole broker of a brokerage dies or is unexpectedly unable to remain a broker.

Section 2. Subsection (6) of section 475.17, Florida Statutes, is amended to read:

475.17 Qualifications for practice.—

(6) The postlicensure education requirements of this section, and the education course requirements for one to become initially licensed, do not apply to any applicant or licensee who has received a 4-year degree, or higher, in real estate from an accredited institution of higher education.

Section 3. Subsection (4) is added to section 475.183, Florida Statutes, to read:

475.183 Inactive status.—

(4) The commission may reinstate the license of an individual whose license has become void if the commission determines that the individual failed to comply because of illness or economic hardship, as defined by rule. The individual must apply to the commission for reinstatement within 6 months after the date that the license becomes void. Such individual must meet all continuing education requirements prescribed by law, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this section.

Section 4. Paragraph (r) of subsection (1) of section 475.611, Florida Statutes, is amended to read:

475.611 Definitions.—

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

(r) “Registered trainee appraiser” means a person who is registered with the department as qualified to perform appraisal services only under the direct supervision of a ~~licensed~~ ~~or~~ certified appraiser. A registered trainee appraiser may accept appraisal assignments only from her or his primary or secondary supervisory appraiser.

Section 5. Subsection (5) of section 475.612, Florida Statutes, is amended to read:

475.612 Certification, licensure, or registration required.—

(5) This section does 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 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 who is responsible for the report's content.

Section 6. Subsection (2) of section 475.621, Florida Statutes, is amended to read:

475.621 Registry of licensed and certified appraisers.—

(2) The department shall collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual fee as set by, and transmitted to, the appraisal subcommittee ~~to be transmitted to the Federal Financial Institutions Examinations Council on an annual basis.~~

Section 7. Section 475.629, Florida Statutes, is amended to read:

475.629 Retention of records.—~~An appraiser registered, licensed, or certified under this part or an appraisal management company registered under this part shall prepare and retain a work file for each appraisal, appraisal review, or appraisal consulting assignment. An appraisal management company registered under this part shall prepare and retain an order file for each appraisal, appraisal review, or appraisal consulting assignment. The work file and the order file shall be retained,~~ for 5 years or the period specified in the Uniform Standards of Professional Appraisal Practice, whichever is greater. The work file must contain, original or true copies of any contracts engaging the appraiser's or appraisal management company's services, appraisal reports, and supporting data assembled and formulated by the appraiser or company in preparing appraisal reports or engaging in appraisal management services and all other data, information, and documentation required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of The Appraisal Foundation, as established by rule of the board. The order file must contain original or true copies of any contracts engaging the appraiser's services, the appraisal reports, any engagement materials or instructions from the client, and all other documents required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of The Appraisal Foundation, as established by rule of the board. Notwithstanding the foregoing, while general contracts and materials pertaining to impaneling of an appraiser by an appraisal management company shall be retained under this section, such contracts and materials are not required to be maintained within the order file. Except as otherwise specified in the Uniform Standards of Professional Appraisal Practice, the period for retention of the records applicable to each engagement of the services of the appraiser or appraisal management company runs from the date of the submission of the appraisal report to the client. Appraisal management companies shall also retain the company accounts, correspondence, memoranda, papers, books, and other records in accordance with administrative rules adopted by the board. These records must be made available by the appraiser or appraisal management company for inspection and copying by the department upon reasonable notice to the appraiser or company. ~~However, the department may not inspect or copy the records of an appraisal management company except in connection with a pending investigation or complaint. 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 or the period specified in the Uniform Standards of Professional Appraisal Practice, whichever is greater.

Section 8. Section 475.6295, Florida Statutes, is amended 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 appraisal management company, appraiser or appraisal office certified, registered, or 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 9. Section 475.631, Florida Statutes, is amended to read:

475.631 Nonresident licenses and certifications.—

~~(1) Notwithstanding the requirements for certification set forth in ss. 475.615 and 475.616, the board may enter into written agreements with similar licensing or certification authorities of other states, territories, or jurisdictions of the United States to ensure for state-certified appraisers nonresident licensure or certification opportunities comparable to those afforded to nonresidents by this section. Whenever the board determines that another jurisdiction does not offer nonresident licensure or certification to state-certified appraisers substantially comparable to those afforded to certified appraisers or licensees of that jurisdiction by this section, the board shall require certified appraisers or licensees of that jurisdiction who apply for nonresident certification to meet education, experience, and examination requirements substantially comparable to those required by that jurisdiction with respect to state-certified appraisers who seek nonresident licensure or certification, not to exceed such requirements as are prescribed in ss. 475.615 and 475.616.~~

~~(1)(2)(a)~~ Any resident state-certified appraiser who becomes a nonresident shall, within 60 days, notify the board of the change in residency and comply with nonresident requirements. Failure to notify and comply is a violation of the license law, subject to the penalties in s. 475.624.

~~(2)(b)~~ All nonresident applicants, certified appraisers, and licensees shall comply with all requirements of board rules and this part. The board may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary for the regulation of nonresident certified appraisers and licensees.

Section 10. This act shall take effect July 1, 2015.

Approved by the Governor May 21, 2015.

Filed in Office Secretary of State May 21, 2015.