

## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: February 18, 1998 Revised: \_\_\_\_\_

Subject: Real Estate

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Masterton</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

### I. Summary:

This bill makes various changes to the regulation of real estate brokers and salespersons in the areas of business entity registration, licensure qualifications, inactive licenses, disciplinary violations and penalties, agency disclosure requirements, instructor qualifications, and the Real Estate Recovery Fund.

In addition, the bill amends several provisions relating to the regulation of real estate appraisers in the areas of licensure categories, licensure qualifications, and disciplinary procedures.

Finally, the bill amends the Florida Building Energy-Efficiency Rating Act to simplify notice requirements.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 475.15, 475.17, 475.183, 475.25, 475.272, 475.278, 475.451, 475.452, 475.484, 475.5016, 475.611, 475.612, 475.6145, 475.6147, 475.615, 475.617, 475.624, 475.6295, 553.991, 553.994, and 553.996.

### II. Present Situation:

Chapter 475, part I, Florida Statutes, provides for the regulation of real estate brokers and salespersons by the Florida Real Estate Commission (FREC) within the Division of Real Estate of the Department of Business and Professional Regulation (DBPR). The part sets forth requirements for licensure as a real estate broker or salesperson, post licensure requirements, requirements for license renewal, grounds for disciplinary action against a licensee, penalties for disciplinary violations, and conditions for recovery from the Real Estate Recovery Fund.

Chapter 475, part II, Florida Statutes, provides for the regulation of real estate appraisers by the Florida Real Estate Appraisal Board, also within the Division of Real Estate of the DBPR. The part sets forth licensure requirements for real estate appraisers, grounds for disciplinary action, and penalties for disciplinary violations. To certify appraisers in accordance with federal law, state standards for licensure must conform to federal standards set by the Appraisal Standards Subcommittee (consisting of the heads of certain federal financial regulatory agencies). Current requirements in the Florida law do not conform to recently adopted federal requirements.

Chapter 553, part XI, F.S., contains the Florida Building Energy-Efficiency Rating Act, a statewide system for rating the energy efficiency of buildings and providing disclosure of the rating system to prospective purchasers.

### **III. Effect of Proposed Changes:**

This bill amends various provisions relating to the regulation of real estate brokers and salespersons and real estate appraisers and revises provisions relating to the Florida Building Energy-Efficiency Rating Act.

Sections 1 and 2. Amend ss. 475.01 and 475.011, F.S., to make technical changes related to renaming the licensure category of “registered assistant appraiser.”

Section 3. Amends s. 475.15, F.S., to allow real estate partnerships to maintain licensure as long as one partner holds a current broker’s license and to allow the registration of limited liability companies and limited liability partnerships.

Section 4. Amends s. 475.17, F.S., to clarify that a person licensed as a real estate salesperson who applies for a broker’s license must complete salesperson post-licensure education requirements. This section also exempts from certain broker licensure requirements investigators who are employed by the Division of Real Estate for at least 24 months and who have held a current salespersons license for at least 12 months.

Section 5. Amends s. 475.183, F.S., to provide that licenses automatically expire after two years of involuntary inactive status. The DBPR must notify licensees 90 days prior to the expiration of an inactive license. Currently, inactive licenses expire after four years and the DBPR must give notice two years prior to expiration.

Section 6. Amends s. 475.25, F.S., to exempt real estate licensees from the requirement that they report violations of the licensing law and to make violation of the Uniform Standards for Professional Appraisal Practice a disciplinable offense for licensed real estate brokers and salespersons performing appraisals. The section also clarifies that comparative market analyses are not considered appraisals if they are not represented as appraisals.

Sections 7-11. Reenact ss. 475.180, 475.181, 475.22, 475.422, and 475.482, F.S., to incorporate the changes to s. 475.25, F.S.

Section 12. Amends s. 475.272, F.S., to eliminate intent language requiring that a licensed broker be either a single agent or a transaction broker.

Section 13. Amends s. 475.278, F.S., to clarify that existing requirements to disclose all known facts that materially affect the value of property being bought or sold apply to residential property only (the disclosure requirements specifically would not apply to commercial transactions).

Section 14. Creates s. 475.279, F.S., to authorize the use of signatures by electronic means or facsimile in real estate transactions.

Section 15. Amends s. 475.451, F.S., to revise provisions relating to instructor permits for proprietary real estate schools or state institutions and to provide permit renewal requirements.

Section 16. Amends s. 475.452, F.S., to exempt brokers performing auctions from requirements relating to the receipt of advance fees, if a written agreement between the broker and the seller provides for incurring and paying anticipated expenses.

Section 17. Amends s. 475.484, F.S., to authorize FREC to waive the imposition of disciplinary penalties against a bankrupt licensee if the penalties would conflict with federal bankruptcy laws.

Section 18. Creates s. 475.5016, F.S., to authorize the department to inspect or audit a broker or brokerage office to determine if the licensure laws have been violated.

Sections 19 and 20. Amend ss. 475.611 and 475.612, F.S., to change the licensure category of “registered appraiser” to “registered assistant appraiser.” This change clarifies that a registered appraiser works under the supervision of a certified appraiser.

Section 21. Creates s. 475.6145, F.S., to authorize the Florida Real Estate Appraisal Board to adopt a seal.

Section 22. Creates s. 475.6147, F.S., to establish in statute various fees that are currently specified in board rules. (The existing statute authorizes the board to adopt fees, but does not impose statutory maximums.)

Section 23. Amends s. 475.615, F.S., to require fingerprints of applicants and to allow the Florida Real Estate Appraisal Board to establish a special fee for appraisers who change status within 180 days of renewal.

Section 24. Amends s. 475.616, F.S., to replace the word “section” with the word “part.”

Section 25. Amends s. 475.617, F.S., to prescribe the numbers of years or hours of experience and education required for licensure, in accordance with federal standards, and to establish the maximum numbers of hours of education that the board may require.

Section 26-30. Amend ss. 475.618, 475.619, 475.620, 475.622, and 475.623, F.S., to reflect the renamed licensure category of registered assistant appraiser and to change references from “section” to “part.”

Section 31. Amends s. 475.624, F.S., to authorize the board to assess a fine up to \$5,000 for a disciplinary violation and to exempt real estate appraisers from the requirement that they report violations of the licensing laws.

Section 32-35. Amend ss. 475.626, 475.627, 475.628, and 475.629, F.S., to make technical changes reflecting the renamed licensure category of “registered assistant appraiser.”

Section 36. Creates s. 475.6295, F.S., authorizing the department to inspect and audit appraisers offices to determine if licensure laws have been violated.

Section 37. Amends s. 475.630, F.S., to change references from “section” to “part.”

Section 38. Amends s. 553.991, F.S., to delete language referring to the purpose of the Florida Building Energy-Efficiency Rating Act to ensure disclosure of energy-efficiency ratings.

Section 39. Amends s. 553.994, F.S., to delete obsolete language.

Section 40. Amends s. 553.996, F.S., to delete the requirement that an energy-efficiency rating report be provided to prospective purchasers at their request and to provide, instead, for distribution of an information brochure about the availability of energy-efficiency ratings, at no cost to prospective purchasers of real property.

Section 41. Provides an effective date of July 1 of the year in which the legislation is enacted.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

Real estate appraiser licensees filing for a change in status within 180 days of renewing their licenses may pay reduced fees for such applications. Applicants for initial real estate appraiser licenses will incur additional costs to process the fingerprints required by the bill.

**B. Private Sector Impact:**

Exempting real estate brokers and salespersons and real estate appraisers from the requirement to report violations of the licensing law should encourage peer review by private professional organizations.

To the extent that amendments to the education and experience requirements for real estate appraiser licensees bring Florida law into conformance with federal standards, licensees and Florida financial institutions will benefit.

**C. Government Sector Impact:**

According to the Division of Real Estate and the Department of Business and Professional Regulation, the fiscal impact of this bill on the agency is insignificant.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill provides adequate and appropriate standards and guidelines to direct the agency's implementation of the proposed legislation.

**VIII. Amendments:**

None.