

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 664
SPONSOR: Regulated Industries Committee and Senator Carlton
SUBJECT: Real Estate Professionals/Distance Learning
DATE: January 24, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaccaro	Caldwell	RI	Favorable/CS
2.	_____	_____	AED	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill requires that distance-learning courses be made available as an option to classroom instruction in order to qualify to be initially licensed as a real estate broker or salesperson or to meet educational requirements prior to first renewal following initial licensure. The bill also makes distance-learning courses an option for required continuing education of real estate brokers, salespersons, and appraisers. The bill also provides the Florida Real Estate Commission rulemaking authority with respect to implementation of distance learning courses.

This bill substantially amends the following sections of the Florida Statutes: 475.17, 475.182, 475.451, and 475.618.

This bill reenacts s. 475.05 of the Florida Statutes.

II. Present Situation:

The regulation of real estate brokers, salespersons, and schools is established under part I of ch. 475, F.S. Regulation is administered by the Florida Real Estate Commission (commission) under the Department of Business and Professional Regulation (department). The regulation of real estate appraisers is established under part II of ch. 475, F.S. Regulation is administered by the Florida Real Estate Appraisal Board.

Section 475.04, F.S., authorizes the commission to support the education of licensees and permit holders “concerning the ethical, legal, and business principles which govern their conduct.” To this end, the commission is authorized to conduct or approve real estate educational courses for those individuals.

Section 475.17(2), F.S., provides that the commission may require educational courses for persons to become initially licensed or for license renewal. Courses for initial licensure may not exceed 63 classroom hours for a salesperson or 72 classroom hours for a broker. Courses must be taken at an accredited college, university, or community college, at an area technical center, or at a registered real estate school. Satisfactory completion of this requirement is determined by the successful passage of an examination covering the class material. 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 where the course is conducted. Rule 61J2-3.013, F.A.C., defines a hardship case as a case wherein a person desiring to take the Commission prescribed courses cannot, by reason of a physical disability, attend the place where the classes are conducted. The rule requires a written request stating the alleged hardship supported by statements of doctors and other persons having knowledge of the hardship. The rule also requires that the scholastic standards and other related requirements for correspondence courses be substantially similar as the courses offered by classroom instruction.

The commission is also authorized to prescribe postlicensure education requirements to be completed prior to the first license renewal following initial licensure. Courses must also be taken at an accredited college, university, or community college, at an area technical center, at a registered real estate school, or may be given by a commission-approved sponsor. Courses may not exceed 45 classroom hours for a licensed salesperson or 60 classroom hours for a licensed broker. *See* s. 475.17(3)(a) and (4)(a), F.S. Satisfactory completion of coursework is demonstrated by successfully meeting all standards established for the commission-prescribed or commission-approved institution or school. *See* s. 475.17(3)(b) and (4)(b), F.S. Courses must be made available by correspondence or other suitable means to any person who cannot attend normal classes due to hardship, as defined by commission rule. *See* 475.17(5)(c), F.S.

License renewal is mandated by s. 475.182, F.S., which requires 14 classroom hours of continuing education during each biennium following the first renewal. The commission may accept substitute studies on a classroom-hour-for-classroom-hour basis if the commission finds the courses are adequate to satisfy the intent of educating licensees. This section prohibits the commission from requiring a monitored, written examination given at a centralized location, if instruction is provided by an approved correspondence course. Section 475.618, F.S., mandates license renewal for real estate appraisers. An application for renewal must include proof that the applicant has satisfactorily completed any continuing education prescribed by the Florida Real Estate Appraisal Board.

Section 475.451, F.S., addresses permitting and operational requirements for proprietary schools that provide real estate courses. These provisions require a permit to be obtained by the school and by instructors. Accredited colleges, universities, community colleges, and area technical centers are exempt from these permitting requirements. Proprietary real estate courses are required to meet the standards of s. 475.17, F.S., but schools are authorized to determine the frequency and location of classes. Video instruction for initial licensure is specifically authorized under s. 475.451(6), F.S., pursuant to guidelines adopted by the commission, including requiring live instruction as a part of the video course. Continuing education required by s. 475.182, F.S., may be taught by correspondence.

Currently the terms “distance learning,” “distance education courses,” “correspondence courses” or “course of correspondence” are not defined by statute. Rule 61J2-3.009, FAC, defines “distance education” as “education that takes place when the learner is separated from the source of instruction by time and/or distance.” The term “distance learning” is commonly associated with the provision of instruction or education via telecommunications, and the term “correspondence course” is commonly thought of as hard copy instruction material provided through the mail.

Finally, pursuant to s. 475.05, F.S., the commission may enact bylaws for its own government and adopt rules to implement the provisions of law conferring duties upon it.

III. Effect of Proposed Changes:

Section 1 amends s. 475.17, F.S., to require that the commission approve distance-learning courses as an option to classroom instruction in order to qualify to be initially licensed as a real estate broker or salesperson or to meet educational requirements prior to first renewal following initial licensure. Satisfactory completion of a timed distance-learning-course examination is required; however, the bill prohibits any requirement that the examination be monitored or given at a centralized location. The bill continues to authorize correspondence courses due to hardship but also requires that correspondence courses be made available to persons who do not have access to distance learning. The bill does not require a showing of hardship nor does it require a prior written request prior to taking a distance learning course.

Section 2 amends s. 475.182, F.S., to require that distance-learning courses be substituted on a classroom-hour-for-classroom-hour basis for purposes of satisfying continuing education requirements for license renewal. The bill prohibits the commission from requiring that a timed distance-learning-course examination be monitored or given at a centralized location.

Section 3 amends s. 475.451, F.S., to allow proprietary schools to provide distance learning courses.

Section 4 reenacts s. 475.05, F.S., relating to rule authority of the commission.

Section 5 amends s. 475.618, F.S., to require that the Florida Real Estate Appraisers Board approve distance learning courses as an option to classroom hours for satisfactory completion of continuing education. Satisfactory completion of a timed distance-learning-course examination is required; however, the bill prohibits any requirement that the examination be monitored or given at a centralized location.

Section 6 to provide that the bill takes effect July 1, 2002.

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:**

The department anticipates that the bill could potentially increase real estate broker and salesperson licensees by 25%. The department estimates increased Regulatory Trust Fund revenues of \$2.3 million associated with fees for application, examination, reexamination, licensing renewal, certification, recertification, reinstatement, and fingerprinting.

B. Private Sector Impact:

Applicants and licensees who take required courses through distance learning may potentially save money by not having to physically attend classes.

C. Government Sector Impact:

The department reports that the bill will potentially increase workload in the licensing, investigative, complaints, and legal divisions due to increased applications and licensees; however, any actual increase cannot be determined at present.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.