



Unit

1

Real Estate License Law Update

In This Unit

History of Florida's license law • The Florida Real Estate Commission
• Required education for renewing an initial license • Required education for subsequent renewals • DBPR renewal process • Inactive licenses • Reporting address changes • Recent changes to Real Estate Regulation in Florida

Your Quick Reference
Guide to the Major
Changes in State Laws

Important Changes You Should Carefully Review

- FREC rule changes include a new syllabus for the sales associate course and retention requirements for school course completion certificates. *Until June 30, 2025, license renewal fees have been reduced by 50%.

Learning Objectives

When you have completed this unit, you will be able to accomplish the following.

- Describe the scope and purpose of each of the four parts of Chapter 475, Florida Statutes, and the difference between licensure and registration.
- Describe the education requirements and procedures for renewing a real estate license.
- Describe the activities that may be legally performed by real estate brokers and sales associates.

HISTORY OF FLORIDA'S LICENSE LAW

In the early 1900s, Florida experienced a land sales boom accompanied by misconduct and fraud. Many customers lost the money they gave to land promoters when the promoters disappeared. The fraudulent activities made consumers wary of dealing with real estate sales people. It became difficult for reputable brokers to do business, so they petitioned the state legislature to regulate the industry with a license law designed to punish those who cheated the public.

The Florida Legislature created Chapter 475, Florida Statutes (F.S.), in 1923 to regulate the practice of real estate. The law is amended as necessary to continue to protect the public from damage due to fraud or incompetence by licensees. Chapter 475, F.S., has four parts:

- *Part I—Real Estate Brokers, Sales Associates, and Schools.* The Florida Real Estate Commission (FREC) regulates the practice of the real estate brokerage business.
- *Part II—Appraisers.* Part II establishes the regulation of certified, licensed, and registered trainee appraisers, as well as appraisal management companies by the Florida Real Estate Appraisal Board (FREAB).
- *Part III—Commercial Real Estate Sales Commission Lien Act.* Part III gives brokers lien rights for earned commissions for the sale of nonresidential property. The broker can collect on the lien only against the owner's net proceeds from the sale. The lien does not attach to the property.
- *Part IV—Commercial Real Estate Leasing Commission Lien Act.* Part IV is similar to Part III in that it gives brokers lien rights for earned commissions for the leasing of nonresidential real estate.

THE FLORIDA REAL ESTATE COMMISSION

Chapter 475, F.S., created the Florida Real Estate Commission (FREC) as a consumer protection agency and gave it broad powers to regulate licensees. The Commission has the duty to advance the education of licensees in ethics, law, and brokerage practices. The FREC governs the conduct of licensees, and it has the power to investigate and discipline licensees who violate the law. While the Florida Legislature creates the laws regulating real estate practice in Florida, the FREC is charged with making rules that implement the law. The rules have the force of law as long as they don't conflict with laws passed by the legislature. The FREC Rules are in Chapter 61J2 of the Florida Administrative Code (F.A.C.).

Organization of the Florida Real Estate Commission

The FREC has seven members who are appointed by the governor:

- Four members must be licensed real estate brokers who have had an active license for at least five years before they were appointed.
- One member may be either a licensed broker or sales associate who has had an active license for at least two years before they were appointed.
- Two members must never have held a real estate license. These members consider real estate issues from a consumer's perspective.
- At least one member must be at least 60 years old (475.02, F.S.).

Administration of the Real Estate License Law

While the FREC is administratively part of the Department of Business and Professional Regulation (DBPR), the members are not Department employees. The Secretary of the DBPR appoints, subject to the approval of the Commission, the director of the Division of Real Estate (DRE). The Division handles the administrative duties involved with carrying out the law.



Web.Link

Florida Department of Business and Professional Regulation, Division of Real Estate: www.myfloridalicense.com

The site has a wide assortment of forms and publications, as well as the statutes and rules affecting real estate.



Web.Link

To find a menu of DBPR forms, go to www.myfloridalicense.com, click "Apply for/ Update Licenses," then click "Real Estate."

Registration of Brokerage Entities

Individuals who sell real estate are *licensed*; business entities that employ licensees are *registered*. The DBPR registers several types of brokerage organizations, including sole proprietorships, general partnerships, limited partnerships, limited liability companies, registered limited liability partnerships, and corporations.

A sales associate or broker associate may be licensed as an individual or may register as a professional corporation, limited liability company, or professional limited liability company. Organizing as a professional corporation offers potential tax advantages, such as the ability to form 401(k) programs. A license will be issued in the licensee's legal name only, and when appropriate, shall include the entity designation. The sales associate or broker associate cannot register as a general partner, member, manager, officer, or director of a brokerage firm (475.161, F.S.). Sales associates or broker associates (or any other person who is not licensed) can own stock in a brokerage corporation, but no person can own more than 40% if they have:

- had a license revoked or suspended that has not been reinstated,
- been convicted of a felony and civil rights have not been restored for at least five years, or
- had an injunction requiring that the individual stop practicing real estate without a license (61J2-5.014, F.A.C.).

State Exam Testing

Candidates for a real estate license can take their state exam in person or online as well as the traditional testing at a Pearson Vue exam site.

Candidates who take the exam online need a computer with a webcam, microphone, and a strong internet connection. The exam is monitored by a live proctor. The proctor may ask to see the candidate's walls, floor space, and the desktop. The candidate may not take a break, leave the room, or move out of the proctor's view.

Members of the Armed Services and Spouses

The DBPR shall waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran who applies to the department for a license within 60 months after being honorably discharged from the United States Armed Forces. (455.213(12), F.S.)

Any person licensed by the DBPR who is a member of the armed services on active duty is exempt from renewal requirements as long as that person is a member of the armed services and for a period of two years after discharge from active duty, provided the service member is not engaged in the profession for profit.

If the member's spouse is also a licensee, the spouse has the same exemption, provided:

- the spouse does not practice real estate brokerage activity for profit, and
- the spouse is absent from the state because of the member's duties with the armed forces.

Applicants who hold a real estate license in another state or jurisdiction and who are on active military duty, were honorably discharged, or are the spouse or surviving spouse of an armed forces member shall be granted a Florida real estate license by the DBPR. The individual does not need to pay any fees or pass any examination. The individual may renew the license by completing the appropriate post-licensing or continuing education requirements and paying the required DBPR fees. The applicant must submit fingerprints along with the license application. (455.02, F.S.)



Practice Questions

1. An applicant for a real estate license need not pay a fee if she was honorably discharged from the military four years earlier.
 - a. True
 - b. False
2. A sales associate may be registered with the DBPR as a professional corporation.
 - a. True
 - b. False

Answers to practice questions may be found in the back of the book.

Renewal Fees Reduced!

Senate Bill 7046 required the DBPR to temporarily waive 50% of the initial licensing fee and 50% of the renewal fees. The reductions are available from July 1, 2023 through June 30, 2025. Renewals are \$32 for Sales Associates and \$36 for Brokers plus unlicensed activity fee and recovery fund fee.

REQUIRED EDUCATION FOR RENEWING AN INITIAL LICENSE

Licenses must complete a post-licensing course before the first renewal or their license will be null and void (see Figure 1.1). The first real estate license is not a two-year license. It must be renewed between 18 and 24 months after the license becomes effective because there are only two renewal dates each year: March 31 and September 30.

For example, if sales associate Jeannie received her license on April 15, 2023, she must renew by March 31, 2025 (just under 24 months later). Before renewing, she must successfully complete a 45-hour sales associate post-licensing course or her license will become null and void. If Jeannie wants to stay in real estate, she has to start over by taking the prelicensing course and passing the state exam.

Licenses with a four-year degree (or higher) in real estate are exempt from sales associate and broker post-licensing requirements. For example, a person without a four-year degree in real estate but who has a master's degree in real estate is also exempt. Members of The Florida Bar are not exempt.

A licensee who fails the final exam can retake a different exam immediately. The maximum time for a licensee to retake the final exam is one year. (61J2-3.020)

Sales associates or brokers who, due to individual physical hardship as defined by rule, cannot complete the courses within the required time may be granted a six-month extension by the Commission (61J2-3.013 and 61J2-3.020).



Caution

IN PRACTICE

Don't let your associates wait until the last minute to take the post-licensing course

If they put it off until the last minute and fail to complete it in time, they lose their license. The only exception is an extension by the FREC due to individual physical hardship.

REQUIRED EDUCATION FOR SUBSEQUENT RENEWALS

This course material meets the *entire* 14-hour FREC continuing education requirement.

After the first renewal, a real estate licensee must complete a FREC-approved 14-hour continuing education course before all subsequent renewals (see Figure 1.1). The course shall include three hours of Core Law (Units 1–3), three hours of Business Ethics and Practices (Units 4–6), and eight hours of specialty education (Units 7–14) as part of the 14-hour continuing education requirement. Licensees may take the course in a classroom with no examination or by distance learning with a final examination. Members of The Florida Bar are exempt from the continuing education requirements.

Continuing education course providers must electronically transmit to the DBPR the names of students who complete the course within 30 days of the course completion. However, the provider must electronically report the completion of a licensee's course within 10 business days beginning on the 30th day before the renewal deadline or before the renewal date, whichever occurs sooner.

The three-hour core law portion updates licensees on Florida real estate license law, agency law, other state and federal laws, and taxes. The FREC gives credit for six hours of core law if the licensee takes the three-hour core law class in each year of the renewal period.

The FREC-approved specialty education course must be relevant to the modern practice of real estate by a real estate licensee, including technology used in the real estate industry. Once per renewal cycle, the FREC grants up to three hours of specialty education to a licensee who attends a FREC meeting. The licensee must make an appointment with the DRE and must stay for the entire legal agenda [475.182(1)(b)].

IN PRACTICE

Complete your continuing education early

Complete your continuing education early to ensure your credits have time to post in the state system. Sometime before the renewal date, check the CE credits at www.myfloridalicense.com, notifying your education provider if credit has not been posted. Last-minute completion of the education may make it impossible for the state database to reflect the data before the license goes involuntary inactive. Because you can't practice real estate without a current active license, you'll be "out of business" until the credits post.



DBPR RENEWAL PROCESS

At least 90 days before the end of a licensure cycle, the department shall:

- send a licensure renewal notification to an active or inactive licensee at the licensee's last known address of record or email address provided to the department, and
- send a notice of pending cancellation of licensure to a delinquent status licensee at the licensee's last known address of record or email address provided to the department.

Licensees who do not receive a renewal notice should ensure that the department has their current address on file. Failure to receive a renewal notice from the state does not excuse a licensee from completing the education requirement.

IN PRACTICE

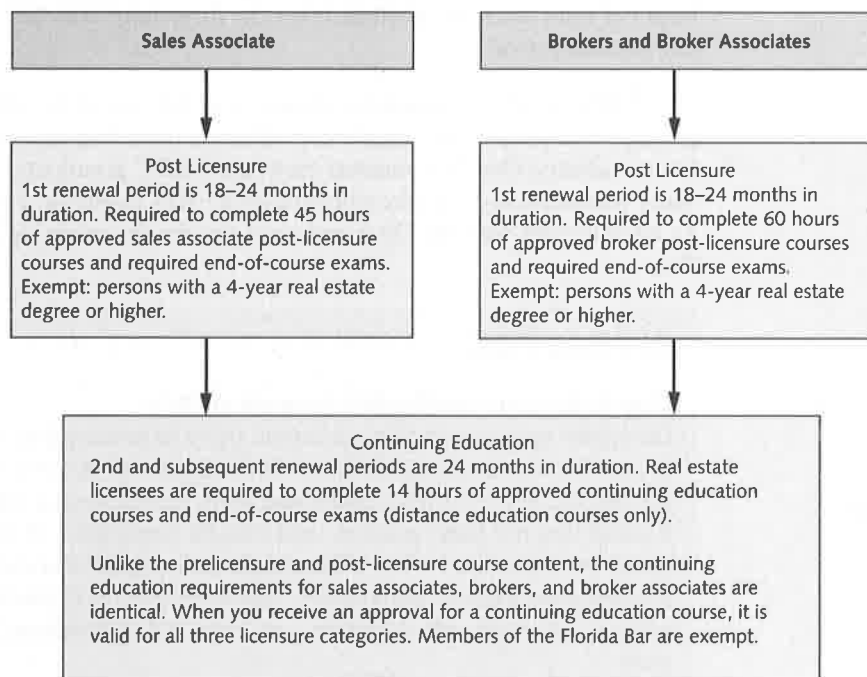
If you didn't get your renewal notice (and it was returned to the DBPR), it's possible that the DBPR does not have your current address. Be sure to check; this violation may cost you \$500!

The licensee need not send proof of the required education with the renewal application. The licensee should retain the original grade report for the FREC-approved education course for at least two years following the end of the renewal period.

The DBPR will not accept renewal payments online more than 90 days before the end of the license period. The DBPR will no longer renew a license if a licensee has not completed the appropriate continuing or post-licensing education. Licensees should obtain the required education on time to avoid becoming ineligible to work.

After renewing, licensees receive an acknowledgment email with a facsimile of the license to print. Figure 1.1 details education requirements for license renewal.

FIGURE 1.1 ■ Education Requirements for Florida License Renewal



Source: Florida Department of Business and Professional Regulation

INACTIVE LICENSES

Voluntary Inactive Licensees

A person must have an active license to perform real estate services for another person for compensation. Many licensees do not work in real estate and have elected to have *voluntary inactive* license status. If these individuals complete the required education and renew every two years, they may remain in this status indefinitely. They may become active at any time without paying a fee by using the www.myfloridalicense.com database, or mailing or faxing a Form RE-10.



Involuntary Inactive Licensees

When a license expires and is not renewed, it becomes *involuntary inactive*. After two years, the license will become null and void. A licensee may reactivate an involuntary inactive license within the first 12 months after expiration by successfully completing the 14-hour continuing education requirement, applying for renewal, and paying the required late renewal fee. If the license has been involuntary inactive for more than 12 months but less than 24 months, the licensee must successfully complete a 28-hour “reactivation” course and pay the required late renewal fees by the end of the second year.

License Reinstatement

The Florida Real Estate Commission may reinstate the license of an individual whose license has become null and void if the Commission determines that the individual has made a good-faith effort to complete the 28-hour reactivation course, but has failed to comply because of illness or unusual hardship. The individual must apply to the Commission for reinstatement within six months after the license became null and void, show proof of reactivation education and renewal fees, and pay an applicable fee in an amount determined by rule.

REPORTING ADDRESS CHANGES

Brokers who change their business address or email address must file a change notice within 10 days along with the names of sales associates no longer associated with the firm. Such notification also fulfills the change of business address requirements for licensees within the firm.

Because the firm’s license ceases to be in force when a broker moves, the firm may not conduct business until notifying the DBPR by mail or fax.

Sales associates who change their personal mailing address or email address must notify the DBPR within 10 days by fax, mail, or online at www.myfloridalicense.com (61J224.002, 61J2-24.002).



Practice Questions

3. Sales associates who change their personal mailing address must notify the DRE within 10 days.
 - a. True
 - b. False
4. If the license has been involuntary inactive for more than 12 months but less than 24 months, the licensee must complete a 14-hour continuing education course and pay the required late renewal fees by the end of the second year.
 - a. True
 - b. False

RECENT CHANGES TO REAL ESTATE REGULATION IN FLORIDA

Changes to Chapter 61J2, Florida Administrative Code

Figure 1.2 summarizes important Florida Real Estate Commission rule changes made since 2021. This abbreviated summary, sorted by rule number, is for your convenience; but it may not provide a full understanding of the change if the rule is not read in its entirety.

FIGURE 1.2 ■ Florida Real Estate Commission Rules Changes After 2021

Rule	Effective Date	Description of Change
61J2-1.011	11/22/2022	Reduced initial fees slightly for sales associates and instructors.
61J2-2.027	12/22/2020	Minor language changes.
61J2-3.008	8/20/2022	Rule to establish new revision of FREC-1 Syllabus by 1/1/2023.
61J2-3.015	2/9/2023	Changed rule to require schools to retain course completion certificates for five years (formerly two years). Requires schools to include the retention period in all course completion certificates
61J2-24.001	5/10/2022	Updates the disciplinary penalty guideline ranges as well as offenses which may be resolved by issuance of a Citation or a Notice of Noncompliance.
	3/2/2023	Updates the penalty to \$500.00 per violation for schools failing to retain course completion certificates for the retention period required by the rule after Notices of Noncompliance and Minor Violations are issued.
61J2-24.002	5/10/2022	Updates the disciplinary penalty guideline ranges as well as offenses which may be resolved by issuance of a Citation or a Notice of Noncompliance.
61J2-24.003	3/2/2023	Authorizes issuance of a Notice of Noncompliance for a first violation of failure to retain copies of course completion certificates for the period required by rule.
61J2-24.006	7/5/2022	Clarifies terms of probation to include live attendance at meetings.



The current Rules of the Florida Real Estate Commission are available online at <https://www.flrules.org/gateway/Division.asp?DivID=283>.

Case Study

APPLICANT FAILS TO REPORT CRIMINAL HISTORY

• **Facts:** The respondent submitted an application for a sales associate license. The applicant answered “no” to the first question on the application, which asks whether the applicant has ever been convicted of a crime or pleaded nolo contendere. The respondent passed the sales associate examination and was issued a license. The DBPR later received the results of state and federal records search, which revealed a criminal history not disclosed on the application, including armed robbery. The applicant served more than three years in prison.

The DBPR moved to revoke the subject’s license. The respondent claimed that her criminal record had been expunged. The administrative law judge determined that the respondent had not taken any action to have the record expunged.

• **Practice Questions:**

5. What is the MOST likely charge against the respondent?
 - a. Operating without a current, valid license
 - b. Failure to promptly request that her conviction be expunged
 - c. Obtaining a license by fraud, misrepresentation, or concealment
 - d. Impairment by temporary mental derangement

6. What is the MOST likely recommended order?
 - a. Revocation
 - b. \$250 to \$1,000 administrative fine and 30-day suspension to revocation
 - c. Suspension until the conviction has been expunged
 - d. Reprimand to \$500 fine

• **What Really Happened?** The administrative law judge (ALJ) rejected the sales associate’s arguments. The ALJ found the applicant had violated the law and recommended that the respondent’s license be revoked and that she be charged fees in accordance with Subsection 455.227(3), F.S.

• **Penalty:** The Florida Real Estate Commission ordered that the respondent’s license be revoked.