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REAL ESTATE LICENSE LAW  
AND QUALIFICATIONS FOR  
LICENSURE

**LEARNING OBJECTIVES**

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

- Distinguish among the federal and state laws and administrative rules important to real estate.
- Distinguish among the three license categories.
- Describe license application requirements.
- Describe nonresident application requirements and explain mutual recognition agreements.
- Identify the qualifications for a sales associate license.
- Describe the education requirements for post-license education and continuing education.
- Identify the qualifications for a broker license.
- Distinguish between registration and licensure.
- Identify real estate services that require a real estate license and exemptions for licensure.

**KEY TERMS**

broker  
broker associate  
compensation  
expungement  
Florida resident  
license

license by endorsement  
mutual recognition  
agreement  
nolo contendere/no contest  
owner-developer  
prima facie evidence

real estate services  
reciprocity  
registration  
sales associate  
sealed  
withhold adjudication

**INTRODUCTION**

The purpose of this unit is to give the reader a historical perspective of real estate license law in Florida and to describe in detail the requirements for obtaining a real estate license. The unit discusses real estate services that require a license and exemptions from licensure.

## 2.1 A HISTORICAL PERSPECTIVE OF FLORIDA REAL ESTATE LICENSE LAW

475.001,  
F.S.  
20.03, F.S.

Before the latter part of the 19th century, the real estate business was unorganized and extremely competitive. In 1923, the Florida Legislature passed the Real Estate License Law, Chapter 475 of the Florida Statutes.

In 1925, the Florida Legislature created the Florida Real Estate Commission to administer and enforce the license law. The Legislature granted the Commission authority to keep records and conduct investigations, as well as the power to grant, deny, suspend, and revoke licenses. The Florida Real Estate Commission is also called the *Commission* or the *FREC*.

Today, the Division of Real Estate (DRE) provides support services to the Commission. The DRE is under the Department of Business and Professional Regulation (DBPR).

### STATUTES AND RULES IMPORTANT TO REAL ESTATE

Applicants must meet certain application and academic requirements and demonstrate minimal competence with regard to the real estate business. Prospective licensees must demonstrate knowledge of real estate business practices and knowledge of Florida real estate license law and certain federal laws pertaining to real estate. To be prepared for the licensure examination and to competently perform real estate practices, the licensee must be familiar with the laws regulating the real estate business (scan QR code).

A brief description of the laws and rules that applicants must be familiar with are described as follows:

- *Florida Statute Chapter 20*. Chapter 20, Organizational Structure, establishes the structure of the executive branch of Florida's government. The Florida Constitution provides for the legislative, executive, and judicial branches of government. The executive branch executes the programs and policies adopted by the Legislature. The policies are implemented by the departments of the executive branch, including the Department of Business and Professional Regulation (DBPR).
- *Florida Statute Chapter 475*. This law is often called the Real Estate Professional Practice Act. Chapter 475 was created by the Florida Legislature to establish the legal rights and responsibilities of real estate licensees and real estate appraisers. Chapter 475 is divided into four parts. Part I pertains to real estate brokerage. Real estate licensees are responsible for knowing the provisions of this chapter. The Florida Real Estate Commission (FREC) implements, interprets, and enforces the regulatory provisions of Chapter 475.

Part II of Chapter 475 pertains to real estate appraisers and sets forth the requirements for licensed and certified appraisers according to federal statute. The Florida Real Estate Appraisal Board (FREAB) regulates state-certified, licensed, and registered trainee appraisers. The FREAB functions very similarly to the Florida Real Estate Commission (FREC). Both quasi-judicial bodies follow the same procedures for disciplining licensees.

Part III of Chapter 475, the Commercial Real Estate Sales Commission Lien Act, gives a broker lien rights for earned commission. This act applies only to commercial property (not residential property). The lien is only against the owner's net proceeds (personal property) from the sale and does not attach to the commercial real property (see "Liens on Real Property," Unit 5).



Part IV of Chapter 475, the Commercial Real Estate Leasing Commission Lien Act, gives a broker lien rights for earned commission associated with a brokerage agreement to lease commercial real estate (see “Liens on Real Property,” Unit 5).

- *Florida Statute Chapter 455.* Chapter 455, Business and Professional Regulation: General Provisions, defines the general legal practice and procedure for the DBPR and the licensees of all professions regulated by the DBPR, including real estate. For example, Section 455.10 of the statute provides that an individual cannot be disqualified from practicing an occupation or profession regulated by the State of Florida solely because the person is not a U.S. citizen. Another section of this statute sets forth laws regarding Commission and board organization, meetings, compensation, and so forth. This statute also concerns the unlicensed practice of a profession, including real estate. Requirements concerning license examinations and the use of professional testing services are set forth in Chapter 455. This law also mandates what actions the DBPR may take in regulating licensees. Licensees who fail to comply with the provisions of this chapter can be disciplined by the FREC.
- *Florida Statute Chapter 120.* The Administrative Procedure Act defines the procedural process by which regulatory agencies decide and implement agency action. The licensing and disciplinary process for real estate licensees is outlined in this chapter.
- *Chapter 61J2, F.A.C. (scan QR code).* Chapter 61J2 is the rules of the Florida Real Estate Commission. It is a set of administrative rules developed by the Florida Real Estate Commission, pursuant to the rulemaking process outlined in Chapter 120, Florida Statutes. Administrative rules are published in the Florida Administrative Code (FAC). (Appraisal rules are in Chapter 61J1 of the FAC.).



Figure 2.1 summarizes the information in this list.

**FIGURE 2.1** ■ **Governing Powers**

Statutes and Rule	Governs
Chapter 20, Florida Statute	Executive branch of Florida government
Chapter 475, Part I, Florida Statute	Real estate brokers, sales associates, and schools
Chapter 455, Florida Statute	Department of Business and Professional Regulation and the professions under the Department
Chapter 120, Florida Statute	Procedural process for all governmental entities authorized under the Florida Constitution
Chapter 61J2, Florida Administrative Code	Florida Real Estate Commission rules

### Important Federal and State Laws

The Bureau of Education and Testing’s *Candidate Information Booklet for Sales Associates Examination* lists 38 Florida statutes and one rule of the Florida Administrative Code that are tested on the state license exam. Students are also responsible for knowing the main points associated with eight Federal regulations. The *Candidate Information Booklet* lists the applicable federal and state laws.

The best way to access the Florida statutes is to use the official Online Sunshine website ([www.leg.state.fl.us/statutes/](http://www.leg.state.fl.us/statutes/)).

For the most up-to-date version of the administrative rules of the Florida Real Estate Commission, go to [www.flrules.org/gateway/Division.asp?DivID=283](http://www.flrules.org/gateway/Division.asp?DivID=283).

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1 Download a copy of the *Candidate Information Booklet* at <http://www.myfloridalicense.com/DBPR/examination-information/candidate-information-booklets/>. The booklet  
2 includes important information regarding taking the state license exam (scan QR code).  
3

### Practice Questions

1. Chapter \_\_\_\_\_ is a set of administrative rules developed by the Florida Real Estate Commission.
2. Chapter \_\_\_\_\_ of the Florida statutes establishes the structure of the executive branch of Florida's government.

## 2.2 GENERAL LICENSING PROVISIONS

475.01, F.S.

5 The three categories of real estate licenses are as follows:

- 6 1. *Sales associate*—A person who performs real estate services for compensation but who  
7 does so under the direction, control, or management of a broker or an owner-developer.
- 8 2. *Broker*—A person who, for another and for compensation or other consideration (or  
9 anticipation of compensation or other consideration), performs real estate services.
- 10 3. *Broker associate*—A person who holds a broker's license but chooses to register  
11 and work in real estate under the direction of another broker.

12 An individual typically begins a real estate career in Florida as a licensed **sales associ-**  
13 **ate**. Applicants who have completed the required education and passed the license exam  
14 are initially licensed as voluntary inactive sales associates. Inactive sales associates can  
15 become active by finding an employer and filing the information with the DBPR.

475.011(2),  
F.S.

16 Sales associates and broker associates are employed by and work under the direction and  
17 control of a broker or an owner-developer. An **owner-developer** is an unlicensed entity that  
18 sells, exchanges, or leases its own property. An example of an owner-developer is a real estate  
19 development company that develops raw land into subdivisions and then builds and sells  
20 homes on newly developed homesites. An owner-developer may hire unlicensed salespeople  
21 and licensed associates to sell its properties. Unlicensed salespeople must be paid strictly on  
22 a salaried basis. If the owner-developer wishes to pay its sales staff a commission or other  
23 compensation based on actual sales (that is, on a transactional basis), the sales staff must hold  
24 active real estate licenses. In such cases, the name and address of the owner-developer is reg-  
25 istered with the DBPR. Once the owner-developer information is registered into the DBPR  
26 database, sales associates and broker associates may be registered with the owner-developer.

27 Becoming a **broker** requires additional education, experience, and passing the broker  
28 license exam. While many sales associates want the prestige of a broker's license, they are  
29 not interested in opening their own real estate brokerage business. A **broker associate** is  
30 an individual who holds a broker's license but chooses to register and work in real estate  
31 under the direction of another broker.

### Practice Questions

3. A licensed real estate broker who chooses to register under an employing broker is referred to as a \_\_\_\_\_.
4. Unlicensed sales staff employed by an owner-developer must be paid a \_\_\_\_\_ and not \_\_\_\_\_ or other forms of compensation based on actual sales.

## 2.3 APPLICATION REQUIREMENTS

475.175,  
F.S.  
475.181(2);  
F.S.



475.125,  
F.S.  
61J2-1.011,  
F.A.C.

455.219(7)  
(a), F.S.

14

455.213(12),  
F.S.

A person desiring to be licensed must submit a DBPR license application. The application is available on the internet at the DBPR's Form Center (see the web link that follows). Applicants may download, print, and mail the application, or they may apply online. The license application expires two years after the date the DBPR receives the appropriate signed or electronically authenticated application.

You can apply for a Florida real estate license online at [www.myfloridalicense.com/dbpr/](http://www.myfloridalicense.com/dbpr/) (scan QR code) and select "Apply For/Update Licenses."

### Application Fees

New applicants for licensure are assessed an application fee in addition to the biennial license fee. Applicants for initial licensure and for subsequent license renewal also pay an unlicensed activity fee and may be required to pay a Real Estate Recovery Fund fee, if applicable (see "Real Estate Recovery Fund," Unit 6). Applicants submit the license exam fee and the fingerprint processing fee directly to the vendor that is providing the service.

### Initial License Fee Exemptions

The DBPR exempts three categories of applicants from the initial licensing fee for a professional license:

1. Low-income applicants
2. Military personnel and their spouses
3. Military veterans and their spouses

The fee waiver applies to all professional licenses issued by the DBPR, not just real estate licenses. Each category of exemption has specific qualification requirements. In all cases, license applicants are required to submit a license application, submit fingerprints, complete prelicense education, and pass the state exam. All applicants pay the license examination fee and the fingerprint processing fee to the vendor that is providing the service. The fee waiver does not include the examination fee and the fingerprint processing fee, because these fees are paid to outside vendors rather than to the DBPR. The DBPR can only waive fees paid directly to it. If applicable during the current biennial license period, all applicants pay the unlicensed activity fee and the Real Estate Recovery Fund fee ("Real Estate Recovery Fund" is explained in Unit 6).

**Fee Waiver for Low-Income Applicants.** The DBPR is required by Florida law to waive the initial biennial license fee for qualifying low-income applicants. Eligibility is based on the applicant's before-tax household income (see Figure 2.2).

**Fee Waiver for Military Personnel and Their Spouses.** The DBPR is required by law to waive the initial biennial license fee for a member of the U.S. armed services that has served on active duty. The fee waiver also applies to a spouse who was married to the active duty member during a period of active duty, and to a surviving spouse of a member of the U.S. armed services who at the time of death was serving on active duty (see Figure 2.2).

**DBPR Veterans Fee Waiver Program.** The DBPR is required to waive the initial biennial license fee, the application fee, and the unlicensed activity fee for military veterans and their spouses who apply for a license issued by the DBPR. Note that this group is exempt from three types of fees. The application must be made within 60 months after honorable discharge from the U.S. armed services. If a veteran submits a license application after the 60 months has lapsed, the veteran applicant and spouse would be entitled only to the initial biennial license fee exemption (see Figure 2.2).

FIGURE 2.2 ■ DBPR Fee Waivers Per Applicant Category

Applicant Category	Application Fee	Initial Biennial License Fee	Unlicensed Activity Fee
Low-income		✓	
Military personnel and spouses		✓	
Military veterans and spouses*	✓	✓	✓

\*The applicant or applicant's spouse must have been honorably discharged within the last 60 months before the date of application.

## 1 Fingerprints

2 Applicants must submit their fingerprints as part of the license application process.  
 3 An applicant's fingerprints are scanned and electronically submitted to the Florida Department of Law Enforcement (FDLE) and the Federal Bureau of Investigation (FBI). The  
 4 purpose of the fingerprinting process is to determine whether an applicant has a criminal  
 5 history. It typically takes up to five days for the fingerprint process to be completed and the  
 6 results to be forwarded to the DBPR for evaluation. The evaluation process will not begin  
 7 until the DBPR has received the fingerprint report and the application.  
 8

9 The DBPR accepts electronic fingerprinting services offered by Livescan device vendors that are approved by the FDLE and listed at its site. To view the vendor options  
 10 and contact information at Livescan Device Vendors List go to [http://www.fdle.state.fl.us/  
 11 cms/Criminal-History-Records/Documents/ApplicantLivescanService-ProvidersVendors.aspx](http://www.fdle.state.fl.us/cms/Criminal-History-Records/Documents/ApplicantLivescanService-ProvidersVendors.aspx). Applicants can also contact Pearson VUE at <https://pearson.ibtfingerprint.com>.  
 12

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 14 For additional facts regarding the fingerprinting process and for instructions regarding how to submit fingerprint information, download and print  
 15 the DBPR's "Electronic Fingerprinting Frequently Asked Questions" at  
 16 [www.myfloridalicense.com/dbpr/servop/testing/documents/finger\\_faq.pdf](http://www.myfloridalicense.com/dbpr/servop/testing/documents/finger_faq.pdf).  
 17



## BACKGROUND CHECK OF CRIMINAL HISTORY

On the license application, applicants are asked whether they are currently under criminal investigation in any jurisdiction or have ever been convicted of a crime, found guilty, or entered a plea of guilty or nolo contendere (no contest) to a criminal charge, even if the applicant received a withhold of adjudication.

When the court determines that a defendant is not likely to again engage in a criminal act and that the ends of justice and the welfare of society do not require that the defendant suffer the penalty imposed by law, the court may **withhold adjudication** of guilt, stay (stop) the imposition of the sentence, and place the defendant on probation. A withhold of adjudication must be disclosed on the application.

**Nolo contendere** is a plea of no contest entered in a criminal court of law. The defendant does not admit or deny the charges, though a fine or a sentence may be imposed by the court.

## 18 Background Check Questions

19 Applicants are cautioned to complete the application carefully, particularly with  
 20 respect to past history concerning felonies, misdemeanors, and certain traffic offenses. On  
 21 the license application are four questions concerning the applicant's criminal history. The  
 22 questions are summarized as follows:

- 1 1. Have you ever been convicted or found guilty of, or entered a plea of nolo con-  
2 tendere or guilty to, regardless of adjudication, a crime in any jurisdiction, or are  
3 you currently under criminal investigation? This question applies to any criminal  
4 violation of the laws of any county, state, or nation, including felony, misde-  
5 meanor, and traffic offenses (other than parking, speeding, inspection, or traffic  
6 signal violations), without regard to whether you were placed on probation, had  
7 adjudication withheld, were paroled, or pardoned. If you intend to answer no  
8 because you believe those records have been expunged or sealed by court order  
9 pursuant to Florida statute or an applicable law of another state, you are respon-  
10 sible for verifying the expungement or sealing prior to answering no. Your answer  
11 to this question may be checked against local, state, and federal records. Failure  
12 to answer this question accurately may result in the denial or revocation of your  
13 license.
- 14 2. Has any judgment or decree of a court been entered against you in this or any  
15 other state or nation, related to the practice or profession for which you are  
16 applying, or is there any such case or investigation pending?
- 17 3. Have you ever had an application for registration, certification, or licensure in  
18 Florida or in any other jurisdiction denied, or is there now pending a proceeding  
19 or investigation to deny such an application?
- 20 4. Has any license, registration, or permit to practice any regulated profession,  
21 occupation, vocation, or business been revoked, annulled, suspended, relin-  
22 quished, surrendered, or otherwise disciplined in Florida or in any other jurisdic-  
23 tion, or is any such proceeding or investigation now pending?

24 Applicants' background questions concern criminal matters. Applicants are not asked  
25 to disclose personal financial information such as bankruptcy, foreclosures, credit informa-  
26 tion, and so forth. Applicants who answered yes to question 1 who have been convicted of  
27 a crime, found guilty, or entered a plea of guilty or nolo contendere, even if court action  
28 (*adjudication*) was withheld, are instructed to attach full details of all cases with dates  
29 and outcomes, including any sentence and conditions imposed. Applicants are required  
30 to provide a copy of the arrest report, disposition or final order(s), and documentation  
31 providing all sanctions that have been served or satisfied. Applicants must provide docu-  
32 mentation for each occurrence.

33 If the applicant was unable to secure documentation, the applicant should attach to  
34 the application proof that the applicant sent a certified letter to the clerk of court of the  
35 relevant jurisdiction stating the status of criminal records has been requested and that the  
36 information is required for license application purposes. If an applicant is currently on  
37 probation, the applicant should attach a letter from the probation officer, on an official  
38 letterhead, stating the status of the probation.

39 It is recommended that applicants who have a criminal history submit character let-  
40 ters with the application. The Commission has indicated that it would like such appli-  
41 cants to submit at least three letters. One of the letters may be from a family member and  
42 the other two letters should be from people who are not related to the applicant and that  
43 can attest to the applicant's character.

44 Applicants should never assume that a past crime has been expunged and does not  
45 require disclosure. **Expungement** is a process by which the record of a criminal conviction  
46 is destroyed or sealed after expiration of time. Expungement is not automatic. Attorneys  
47 charge extra for this process, and applicants should confirm that the matter no longer  
48 appears on one's criminal history. If the applicant's attorney indicated that the criminal



1 conviction would be expunged, contact the attorney who handled the case to confirm  
 2 that the criminal matter was, indeed, expunged. Statutes in some states permit a person's  
 3 criminal record to be **sealed**. State statutes that provide for sealing of records usually per-  
 4 tain to juvenile offenders. If an applicant does not confirm the past crime was expunged  
 5 or sealed, and in reality, it was not, the DBPR will consider the error a nondisclosure of a  
 6 past crime that required disclosure.

7 For out-of-state criminal history, an applicant should first contact the attorney who  
 8 handled the matter. The applicant should also contact the court where the matter took  
 9 place. An applicant who is not sure or cannot confirm the expungement of a criminal mat-  
 10 ter should disclose it. It is better to disclose only to find out that the matter did not have to  
 11 be disclosed than to not disclose and be charged with obtaining a license by fraud. Failure  
 12 to truthfully disclose criminal history information may result in the Commission deciding  
 13 to deny the applicant a real estate license. In cases where a license has already been issued  
 14 and a criminal offense is later discovered, revocation of the license may result.

15 Applicants who responded yes to question 2 are instructed to provide a copy of the  
 16 judgment or decree. The applicant must also supply documentation providing all sanctions  
 17 that have been served and satisfied or, if not, stating the current status of any proceedings.  
 18 If an applicant responded yes to question 3 regarding denial or a pending proceeding or  
 19 investigation to deny an application, the applicant must supply copies of documentation  
 20 explaining the denial or pending action. Applicants who responded yes to question 4 must  
 21 supply copies of the order(s) showing the disciplinary action taken against the license  
 22 or permit to practice a regulated profession. If the investigation to discipline the license  
 23 to practice a regulated profession is pending, the applicant must provide documentation  
 24 showing the status of the pending action.

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25 For information regarding Florida's seal and expunge process, visit the Florida Depart-  
 26 ment of Law Enforcement's Seal and Expunge home page at [https://www.fdle.state.fl.us/  
 27 Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx](https://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx).

28 Applicants can file their applications online. However, for study purposes, the sales  
 29 associate license application can be downloaded at [http://www.myfloridalicense.com/  
 30 DBPR/real-estate-commission/](http://www.myfloridalicense.com/DBPR/real-estate-commission/) (scan QR code).

### 31 Applicant Agendas

32 Applicants who have answered yes to the background questions on the license appli-  
 33 cation and disclosed one or more crimes and applicants whose fingerprint results disclose  
 34 issues in the applicant's background are flagged by the Division of Real Estate (DRE). A  
 35 list of flagged applicants is prepared each month and placed on a nonappearance agenda  
 36 called a *Consent Agenda*. The applications and all supporting documentation are sent to  
 37 the FREC for its review. The FREC will either approve the application or the Commis-  
 38 sion will determine that they have additional questions for the applicant and request the  
 39 applicant appear at a future FREC meeting called a *Summary of Applicant (SOA)*.

40 The DRE sends a letter to each applicant on the SOA agenda. The letter details the  
 41 date, time, and location of the FREC meeting. Applicants are strongly encouraged to  
 42 appear at the meeting. The letter also outlines the applicant's rights to hire an attorney if  
 43 desired, bring character witnesses, and submit letters of good character. After the appli-  
 44 cant appears on an SOA agenda, the FREC will make a decision to approve or deny the  
 45 applicant for licensure.



## 1 Time Periods

2 **Period to Check for Errors and Omissions.** A 30-day period is allowed after receipt of the  
3 application for the DBPR to check for errors and omissions and to send the applicant a  
4 *notice of insufficiency* concerning any additional information required. An applicant's fail-  
5 ure to supply additional information may not be grounds for denial of a license application  
6 unless the applicant was notified within the 30-day period.

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7 To check the status of your application, go to [www.myfloridalicense.com/dbpr/](http://www.myfloridalicense.com/dbpr/). Select  
8 Check Your Application Status.

120.60(1),  
F.S.

9 **Period to Inform Applicant of Approval or Denial.** Any application for licensure that is  
10 not processed within the legislated time periods must be considered approved. An appli-  
11 cant must be informed of approval or denial of the application within 90 days after receipt  
12 of the last correctly submitted application. When the Commission denies an application,  
13 it sends a copy of the denial to the applicant, lists the reasons for the denial, and advises  
14 that the applicant has 21 days from the date of receipt of the order to request a hearing in  
15 accordance with Chapter 120, F.S.

61J2-3.015,  
F.A.C.

## 16 Exam Eligible

17 When the application processing is complete and the applicant is considered qualified,  
18 the DBPR notifies the national testing vendor. The vendor then sends a notice informing  
19 the candidate of eligibility to take the state license examination.

20 Applicants schedule examination appointments directly through the testing ven-  
21 dor. License examinations for sales associate and broker applicants are given in person  
22 at a testing center or online proctor through the testing vendor. Examinees must show  
23 sufficient identification before being allowed to take the test. Sufficient identification  
24 is defined as two forms of signature identification, one of which must contain a pho-  
25 tograph and the applicant's signature. Student and employment identification cards are  
26 not accepted. Examinees must also provide a copy of the course completion certificate  
27 issued by the school at the scheduled examination (in-person or proctored) as proof that  
28 they have completed the Commission-prescribed course satisfactorily. (The school issues  
29 a course completion certificate directly to the student only.)

## 30 License by Endorsement for U.S. Armed Service Members and Their Spouses

455.02(3)  
(a), F.S.

31 The Occupational Opportunity Act provides license reciprocity to active duty and  
32 former active duty members of the U.S. armed forces and their spouses, including surviv-  
33 ing spouses. Former active duty members must have been honorably discharged. In the  
34 case of a surviving spouse, the member of the armed forces must have been serving on  
35 active duty at the time of death.

36 **License by endorsement** are qualifications from another state that will be accepted by another  
37 state regardless if an agreement between states exists. The law applies to all professional licenses  
38 issued by the DBPR, including real estate licenses. The applicant must, at the time of application  
39 to the DBPR, currently hold a valid license for the corresponding profession in another state,  
40 U.S. territory, or a foreign jurisdiction. Applicants must submit fingerprints for a background  
41 check as part of the application process. The initial fees are waived except for the fingerprint fee.

42 To qualify for a real estate license by endorsement, the eligible military applicant, spouse,  
43 or surviving spouse must currently hold a valid real estate license issued in another state,  
44 U.S. territory, or foreign jurisdiction. After a satisfactory background check is completed

1 and the license application is approved, the DBPR must issue a real estate license without  
 2 requiring the applicant to complete prelicense education or take the state license exam.  
 3 Once the license is issued, the licensee is responsible for complying with license renewal  
 4 requirements, including applicable renewal fees.

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5 Information concerning professional licensure for military personnel, veterans, and  
 6 military spouses is available on the DBPR website at: [http://www.myfloridalicense.com/](http://www.myfloridalicense.com/DBPR/military-services/military-on-active-duty/)  
 7 [DBPR/military-services/military-on-active-duty/](http://www.myfloridalicense.com/DBPR/military-services/military-on-active-duty/).

**Practice Questions**

5. Which fees are charged to a veteran applicant who applies for a real estate license within 60 months after honorable discharge? Choose all that apply.
- Application fee
  - Initial licensing fee
  - License exam fee (paid to vendor providing the service)
  - Fingerprint processing fee (paid to vendor providing the service)
  - Unlicensed activity fee (if applicable)
6. The time period for the DBPR to check for errors and omissions is \_\_\_\_\_ days.
7. The time period for the DBPR to inform the applicant of approval or denial of the license application is \_\_\_\_\_ days.

**2.4 NONRESIDENT APPLICANT REQUIREMENTS**

9 Applicants are not required to be residents of Florida.

10 **Florida Resident Defined.** For application and licensing purposes, the FREC rules define  
 11 a **Florida resident** as a person who has resided in Florida continuously for a period of four  
 12 calendar months or more within the preceding year, regardless of whether the person  
 13 resided in a recreational vehicle, hotel, rental unit, or other temporary or permanent  
 14 location. Any person who presently resides in Florida in any of the previously described  
 15 accommodations with the intention of residing continuously in Florida for four months  
 16 or longer, beginning on the date the person established the current period of residence,  
 17 is also considered a legal Florida resident. This is the test used to determine whether an  
 18 applicant for licensure qualifies as a nonresident under mutual recognition.

19 **Mutual Recognition Agreements.** The intent of **mutual recognition agreements** is to  
 20 recognize the education and experience of individuals licensed in another state or nation  
 21 when the other jurisdiction has education and experience requirements comparable to  
 22 Florida's requirements. A person who is licensed in a mutual recognition state and who  
 23 wants to obtain a Florida license through mutual recognition must complete the process  
 24 of Florida licensure *before* becoming a resident of Florida. The agreements apply exclu-  
 25 sively to **nonresidents** who are licensed in other jurisdictions. A resident of Florida who is  
 26 licensed in a mutual recognition state cannot apply for a Florida real estate license under  
 27 mutual recognition.

28 A nonresident applicant requests mutual recognition on the Florida real estate license  
 29 application and indicates from which state mutual recognition is being requested. An  
 30 applicant applying for mutual recognition must obtain a *certification of license history* from  
 31 the real estate commission in the state where the applicant is licensed. A certification  
 32 of license history must contain the applicant's initial license exam information, current

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 26.001,  
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1 license status, the number of active months of licensure within the preceding five years,  
 2 and whether any disciplinary action has been taken against the licensee. The certification  
 3 is submitted with the application.

4 Real estate applicants approved for licensure under mutual recognition are exempt  
 5 from the prelicense education course. However, the mutual recognition applicant must  
 6 demonstrate mastery of Florida's real estate license law by passing a written Florida-spe-  
 7 cific real estate law license exam. The exam consists of 40 questions worth 1 point each.  
 8 A grade of 30 points (75%) or higher is required to pass the exam. After demonstrating  
 9 knowledge of Florida license law, the applicant is issued a Florida real estate license. Indi-  
 10 viduals who receive a Florida real estate license under mutual recognition must fulfill the  
 11 same post-license and continuing education requirements as all other Florida real estate  
 12 licensees (post-license education and continuing education requirements are explained  
 13 later in this unit).

14 Mutual recognition agreements also ensure that Florida licensees have an opportu-  
 15 nity for licensure in mutual recognition states. The agreements are state specific, and  
 16 what is required of Florida licensees varies among mutual recognition states depending on  
 17 how another state's license law compares with Florida's license law. A Florida real estate  
 18 licensee interested in obtaining a license from a mutual recognition state should contact  
 19 that state's real estate commission for information regarding application procedures.



## MUTUAL RECOGNITION IS NOT RECIPROCITY

**Reciprocity** is an agreement between two states that allows a real estate licensee with a valid license in one of the states to obtain a real estate license in the other state. Florida does not have reciprocity with other states.

Florida instead has entered into contractual agreements, called **mutual recognition agreements**, with some other states. The Florida Real Estate Commission and another state's licensing agency enter into a contract to recognize each other's real estate license education. Mutual recognition applicants must demonstrate knowledge of Florida's real estate laws by passing a license law exam that consists of 40 questions concerning Florida-specific real estate law. After demonstrating knowledge of Florida license law, the applicant is issued a Florida real estate license. Only nonresidents of Florida may use education obtained in a mutually recognized state to obtain a Florida real estate license.

### Practice Questions

8. An applicant is considered to be a Florida resident for licensure purposes if the applicant has resided in Florida for \_\_\_\_\_ consecutive calendar months within the preceding year.
9. Mutual recognition applicants must pass a \_\_\_\_\_ question real estate law license exam with a grade of \_\_\_\_\_ or higher.

## 2.5 SALES ASSOCIATE QUALIFICATIONS FOR LICENSURE

21 U.S. citizenship is not required to become licensed. Qualifications for a real estate  
 22 license are as follows:

- 23 ■ Be 18 years of age or older
- 24 ■ Have a high school diploma or its equivalent

455.10, F.S.

475.17, F.S.

61J2-2.027

- 1 ■ Possess a U.S. Social Security number
- 2 ■ Be honest, truthful, trustworthy, of good character, and possessing a reputation
- 3 for fair dealing
- 4 ■ Be competent and qualified to make real estate transactions and conduct nego-
- 5 tiations with safety to investors and others with whom the applicant may under-
- 6 take a relation of trust and confidence

7 When completing an application for licensure, the applicant must disclose:

- 8 ■ regardless of adjudication, whether the applicant has ever been convicted or
- 9 found guilty of a crime, has ever entered a plea of guilty or *nolo contendere* (no
- 10 contest) to a crime, or is currently under criminal investigation;
- 11 ■ whether the applicant has ever done business under any name (“also known as”
- 12 [A/K/A] or alias) other than the name signed on the application (this includes
- 13 maiden names);
- 14 ■ whether in Florida or in any other state or jurisdiction, the applicant has had
- 15 disciplinary action against a license (registration or permit) to practice a regu-
- 16 lated profession (disciplinary action includes revocation, annulment, suspen-
- 17 sion, relinquishment, surrender, or a pending investigation against a professional
- 18 license); and
- 19 ■ whether in Florida or in any other state or jurisdiction, the applicant has had an
- 20 application for a real estate license denied or there is a pending proceeding to
- 21 deny an application.



## LICENSE APPLICATION

A U.S. Social Security number is required to apply for a real estate license. In the Full Legal Name section of the license application, applicants must enter their names as they appear on their Social Security cards. Florida law requires that an applicant's Social Security number be disclosed on all professional license applications. The Social Security number is used to determine whether applicants are in compliance with child support obligations.

A real estate license application is valid for two years from the date the complete application is received by the DBPR.

Reference: Section 475.181(2), 455.213, F.S., and 559.79, F.S.

## 22 Education Requirements

475.17(2),  
F.S.

61J2-3.008,  
F.A.C.

23 Sales associate candidates must successfully complete the Commission-prescribed pre-

24 license course for sales associates (Course I) or an equivalent FREC-approved prelicense

25 course. The course is based on understanding and applying the fundamentals of real estate

26 principles and practices, real estate law, real estate license law, and real estate mathematics.

27 Course I consists of 60 hours of instruction plus 3 hours for an end-of-course examination.

28 The end-of-course examination consists of 100 questions worth 1 point each and is usually

29 organized with 45 questions on principles and practices, 45 questions on real estate law, and 10

30 math questions. A passing score of at least 70 is required on the end-of-course exam.



## REGULATIONS PERTAINING TO PRELICENSE COURSES

A student may not miss more than eight hours of instruction. An instructional hour is considered to be 50 minutes (Section 475.17, F.S.).

A student may attend makeup classes to take the end-of-course exam or a makeup exam if absences were due to student or family illness, if done within 30 days of the regularly scheduled exam time, or later with Commission approval. Makeup classes must consist of the original course material that the student missed (61J2-3.008, F.A.C.).

The school or institution provides each student passing the end-of-course exam with a FREC-prescribed grade report of successful completion of the course (Section 475.175, F.S.).

The student must pass the school-administered end-of-course exam with a grade of 70 or higher (61J2-3.008, F.A.C.).

A student failing the end-of-course exam must wait at least 30 days from the date of the original examination to retest. Within one year of the original examination, a student may retest a maximum of one time. Otherwise, a student failing the end-of-course exam must repeat the course before being eligible to retake the end-of-course examination. Schools must administer a different form of the end-of-course exam to a student who is retaking the exam or repeating the course (61J2-3.008, F.A.C.).

Students may choose to complete a distance-learning course and satisfactorily complete a timed, distance learning course examination (Section 475.17, F.S.).

The prelicense course may be taken by correspondence or other suitable means by anyone who, because of individual physical hardship, cannot attend the course where it is regularly conducted or who does not have access to distance learning courses (Section 475.17, F.S.).

- 1 **Exemptions to the Prelicense Course Requirement.** Attorneys who are active members
- 2 of The Florida Bar are exempt from Course I. Additionally, individuals who have received
- 3 a four-year degree or higher in real estate from an accredited institution of higher educa-
- 4 tion are exempt from the prelicense course (see Figure 2.3). Individuals who qualify for the
- 5 education exemptions must complete the license application and fingerprint requirements.

**FIGURE 2.3** ■ Summary of Education Exemptions

61J2-3.008(8), F.A.C.  
475.17(6), F.S.  
61J2-3.012(2), F.A.C.

**35**

	FREC Course I (Sales)	FREC Course II (Broker)	Post-License	Continuing Education	License Exam
4-year or higher real estate degree	Exempt	Exempt	Exempt	Not exempt	Not exempt
Florida-licensed attorney*	Exempt	Not exempt	Not exempt	Exempt	Not exempt

\* Must be an active member of The Florida Bar. Exempt from Course I only, but must pass the license exam.



## TIME LIMIT FOR PRELICENSE EDUCATION

If an applicant does not pass the state license exam within two years after the course completion date, the course completion expires and the applicant must again complete the prelicense education course.

The completion date is the date the student passed the prelicense end-of-course exam.

Reference: Section 475.181(2), F.S.

## 1 License Examinations

2 The license examination consists of multiple-choice questions and is administered as  
3 a computerized test. The license exam is offered in English and Spanish. Students who  
4 want the Spanish version must request the Spanish language examination when making  
5 the test reservation. Students who elect to take the license exam in Spanish may toggle  
6 between the Spanish and English translation of each question while taking the exam. The  
7 passing score on the license exam is a grade of 75 or higher.

8 Examinees' answers are graded by the testing vendor. Examinees receive a photo-bearing  
9 exam report immediately following completion of the exam. The testing vendor uploads the  
10 grade information to the DBPR system, and the DBPR issues a license number to examinees  
11 with grades of 75 or higher. The DBPR sends an email to the applicants who passed the  
12 exam with instructions to access their online accounts and print the real estate license.

13 New sales associates must change their license to active status before legally operating  
14 as a sales associate. A change from inactive to active status is accomplished by submitting  
15 DBPR form RE 11: Change of Status for Sales Associates and Broker Associates. The form  
16 is signed by the broker or owner-developer and the sales associate. Florida brokers may  
17 also register new licensees online at the DBPR's website. New licensees must not begin  
18 working until the DBPR website indicates that the license has been changed to active  
19 status under the proper broker or brokerage entity.

20 To download and print the Change of Status for Sales Associates and Broker Sales  
21 Associates form, go to [www.myfloridalicense.com/dbpr/re/documents/DBPR\\_RE\\_11\\_](http://www.myfloridalicense.com/dbpr/re/documents/DBPR_RE_11_Change_of_Status_Associates.pdf)  
22 [Change\\_of\\_Status\\_Associates.pdf](http://www.myfloridalicense.com/dbpr/re/documents/DBPR_RE_11_Change_of_Status_Associates.pdf).

### WEBLINK



23 To monitor the progress of a request for change of status, go to [www.myfloridalicense.com](http://www.myfloridalicense.com).  
24 Select "Check Your Application Status" and follow the prompts.

25 **Failure Notice and Examinee Rights.** Examinees who fail the license exam are entitled  
26 to review the questions they answered incorrectly. Examinees are entitled to review only  
27 their most recently administered exam. Requests to review the exam must be received  
28 within 21 days after the date of the examination (release date on the original exam report).  
29 Review appointments are scheduled with the test vendor.

30 Applicants who fail the license exam have the right, at their own expense, to have  
31 an attorney review the exam with them. If the examination review results in a corrected  
32 score, the new score will apply only to the applicant who challenged the examination  
33 questions.

34 An applicant also has the right to petition for a formal hearing before the Division  
35 of Administrative Hearings. A request for a hearing before an administrative law judge  
36 must be filed within 21 days from the date of the onsite grade notice, or 21 days from the  
37 date of the letter notifying the student of the DBPR evaluation decision regarding the  
38 student's challenges. The request for a hearing is filed with the Chief, Bureau of Education  
39 and Testing, DBPR.

40 **Qualifications for Reexamination in a Foreign Language.** Florida statute provides for  
41 the right to have a license examination translated into a foreign language. This section  
42 does not apply to the Spanish language because the license exam is already provided in  
43 Spanish. A group of 15 or more license applicants who have failed the license exam may  
44 request that the license exam be translated into the applicants' native language. The cost  
45 of translating and administering the state license examine in a group's native language  
46 (other than Spanish) must be paid by the applicants.

61J2-2.029,  
F.A.C.

61J2-3.015,  
F.A.C.

475.17(5)  
(a), F.S.

61J2-3.013,  
F.A.C.

455.217,  
F.S.

120.57, F.S.

120.569,  
F.S.

61-11.017(2)  
(a), F.A.C.

61-11.010(4),  
F.A.C.

61J2-2.030,  
F.A.C.

455.11, F.S.

61-11, F.A.C.



**WEBLINK**

1 The Department's administrative rule regarding examinations is available at  
2 [www.flrules.org/gateway/ChapterHome.asp?Chapter=61-11](http://www.flrules.org/gateway/ChapterHome.asp?Chapter=61-11).

**Practice Questions**

10. Circle the corresponding letter(s) to indicate which qualifications are required for a Florida real estate license.
- U.S. citizenship
  - Florida resident
  - High school diploma or its equivalent
  - Social Security number
  - Age 18 or older
11. \_\_\_\_\_ who are active members of The \_\_\_\_\_ are exempt from the sales associate prelicense course.
12. Circle the corresponding letter(s) to indicate which sales associate requirements are NOT required of individuals who have received a four-year degree or higher in real estate.
- Prelicense course
  - State license exam
  - Post-license course
13. A real estate license application is valid for \_\_\_\_\_ years.
14. A real estate applicant must pass the license exam within \_\_\_\_\_ years after the course completion date.
15. A real estate license applicant must file a request to review the MOST recent license exam within \_\_\_\_\_ days.

**5**

475.17, F.S.  
61J2-3.020,  
F.A.C.

**2.6 POST-LICENSING EDUCATION**

3  
4 Sales associates are required to successfully complete a prescribed post-licensing edu-  
5 cation requirement before the first renewal of their licenses. This requirement has the  
6 effect of placing all initial licenses in a conditional (probationary) status because fail-  
7 ure to complete the post-licensing education requirement will cause the initial license  
8 to become null and void by operation of law. Sales associates who do not complete the  
9 45-hour post-licensing requirement and want to continue in the real estate business are  
10 required to requalify for licensure by repeating the prelicense course and end-of-course  
11 exam and by again passing the state licensing exam.

12 Students must pass the 45-hour end-of-course exam with a score of 75% or higher. Stu-  
13 dents who fail the end-of-course exam may retest only one time using a different form of  
14 the end-of-course examination. If the student fails the alternate exam, the course becomes  
15 invalid and the student must retake the post-license course. Florida-licensed attorneys  
16 who are also licensed real estate sales associates must complete the post-licensing educa-  
17 tion requirement. A licensed sales associate who has received a four-year degree or higher  
18 in real estate from an accredited institution of higher education is exempt from the sales  
19 post-license education requirement (see Figure 2.3).

475.183(4),  
F.S.  
61J2-3.013,  
F.A.C.

**Hardship Cases**

20  
21 The Commission may allow real estate licensees an additional six-month period fol-  
22 lowing the initial license expiration to complete the post-license education requirement  
23 if, due to individual physical hardship, as defined by rule, they could not complete the



1 education requirement before the license expiration date. A physical hardship is defined  
 2 as a licensee's long-term illness or an illness involving a close relative or person for whom  
 3 the licensee has caregiving responsibilities; the required course was not reasonably avail-  
 4 able, or the licensee had an economic or technological hardship that substantially relates  
 5 to the ability to complete education requirements. An economic hardship is defined as the  
 6 inability to meet reasonable basic living expenses. Licensees must request the post-license  
 7 hardship extension in writing to the Commission, setting forth the basis of the alleged  
 8 hardship. The Commission may request documentation to support the request. There is no  
 9 legislative authority to extend the post-license requirement beyond the six-month period.



## TIPS REGARDING POST-LICENSE EDUCATION

Students should not enroll in a post-license course until first becoming licensed. If you take your post-license course before becoming licensed, the course will not count.

Students are encouraged to take their post-license education soon after becoming licensed. Do not wait until the last minute. It is wise to allow yourself ample time so that if you need to retake the exam, you can do so before the expiration date on your license. If you are taking the course by distance education, your school will need time to grade your exam and electronically submit the results to the state before your expiration date. Furthermore, you need to allow for unexpected events, such as computer problems, sickness, and emergencies.

10

## CONTINUING EDUCATION

61J2-3.009,  
F.A.C.

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After completing the post-licensing education requirement during the initial license period, active and inactive licensees must complete at least 14 hours of continuing education during every 2-year license period after that. Three of the 14 hours must consist of core law, which includes updates to applicable rules and statutes. Real estate licensees must also take a 3-hour business ethics course once during each license renewal period. Licensees who complete the core law course and the business ethics course will receive 6 credit hours toward the 14-hour requirement.

While only 3 hours of core law are required in the two-year, 14-hour renewal cycle, the Florida legislature encourages licensees to take three hours of core law in each year of the renewal cycle to stay current on changes in the Florida real estate laws. A licensee who takes the three-hour core law course in each year of the renewal period receives three hours of core law credit and three hours of specialty credit toward the 14-hour continuing education requirement. A licensee who takes the 3-hour business ethics course in each year of the renewal period receives 3 hours of business ethics and 3 hours of specialty education toward the 14-hour requirement.

475.182,  
F.S.

A licensee may substitute attendance at one legal agenda session of the FREC for three classroom hours of specialty continuing education (CE) credit. A licensee may substitute three CE credits only one time per renewal cycle. To obtain the credit, the licensee must notify the DRE at least seven days in advance of the licensee's intent to attend the FREC's legal agenda session. A licensee may not earn CE credit for attending a legal agenda session if the licensee is a party to a disciplinary action slated for that FREC legal agenda.

Active members in good standing with The Florida Bar are exempt from the continuing education requirements for real estate licensees (see Figure 2.3).

## Practice Questions

16. After the initial license period, licensees must complete 14 hours of continuing education every \_\_\_\_\_ years.
17. The 14-hour continuing education requirement includes a 3-hour business ethics course and a 3-hour \_\_\_\_\_ requirement.
18. Licensees who attend one legal agenda session for the FREC may substitute \_\_\_\_\_ specialty continuing education credits per renewal cycle.
19. Sales associates must successfully complete \_\_\_\_\_ hours of post-licensing education before the first renewal of their licenses.

## 2.7 BROKER REQUIREMENTS

475.17(2)  
(c), F.S.

Applicants who hold a Florida sales associate license must fulfill the 45-hour post-licensing education requirement first. This is true even if the Florida broker applicant is submitting real estate experience from another state. If the applicant does not hold a Florida sales associate license, the 45-hour post-licensing education requirement does not apply.

Broker applicants must successfully complete Course II or an equivalent FREC-approved course (unless qualifying as a broker under the mutual recognition provision). Course II consists of 69 hours of instruction plus three hours for the end-of-course examination.

### Broker Experience Requirements

475.17(2)  
(b), F.S.  
61J2-2.027,  
F.A.C.

Broker applicants must fulfill an experience requirement in addition to the education requirement. To fulfill the experience requirement, a broker applicant must have held an active real estate license for at least 24 months during the five-year period preceding application to become a Florida real estate broker. A broker applicant can fulfill the experience requirement in one of three ways:

1. The applicant has held an active sales associate license under one or more real estate brokers for at least 24 months during the five-year period preceding application to become a Florida real estate broker. The experience cannot be earned by working for an owner-developer unless the owner-developer is also registered as a real estate brokerage with a qualifying broker. The employment can be under a Florida real estate broker or a broker licensed in another state or in any foreign jurisdiction.
2. The applicant held an active sales associate license while working as a salaried employee of a governmental agency and performing the duties authorized in Chapter 475, F.S., for at least 24 months during the five-year period preceding application to become a Florida real estate broker.
3. The applicant held an active broker license in another state or in any foreign jurisdiction for at least 24 months during the five-year period preceding application to become a Florida real estate broker.

475.17, F.S.  
61J2-3.020,  
F.A.C.

### 1 Broker Post-Licensing Education

2 Broker licensees are required to successfully complete post-licensing education before  
3 the first renewal of their licenses. If a broker does not complete the 60-hour post-licensing  
4 requirement, the broker's license becomes null and void by operation of law. However,  
5 the broker may revert to a sales associate's license after completing 14 hours of continu-  
6 ing education within the six months following expiration of the broker's license—and  
7 provided the broker has complied with all requirements for renewal.

8 A licensee who has received a four-year degree or higher in real estate from an accred-  
9 ited institution of higher education is exempt from the broker prelicense and post-license  
10 education requirements to become initially licensed (see Figure 2.3).

### 11 Broker Continuing Education

12 Broker licensees must complete the same continuing education requirements required  
13 for sales associates (see "Continuing Education," earlier in this unit).

### Practice Questions

20. A broker applicant must have held an active real estate license for at LEAST  
\_\_\_\_\_ during the preceding \_\_\_\_\_.
21. A broker must complete \_\_\_\_\_ hours of post-licensing education before  
the \_\_\_\_\_ of the initial broker license.

## 14 2.8 REGISTRATION AND LICENSURE

475.215(2),  
F.S.

15 **Registration** is the process of submitting information to the DBPR that is entered  
16 into the Department's records. Information placed on record with the DBPR includes  
17 the name and address of each licensed broker and sales associate; the name and business  
18 address of each sales associate's employer; the sales associate's and broker's license status  
19 (active or inactive); and the person's involvement as an officer, director, or partner of a  
20 real estate business. Sales associates and broker associates licensed in Florida must be reg-  
21 istered under their employing broker (or owner-developer, if applicable). Sales associates  
22 and broker associates may have only one registered employer at any given time. Florida  
23 licensees may also hold active licenses in other states. Individuals who do not intend to  
24 engage actively in the real estate business, such as a director of a real estate corporation,  
25 simply register this information with the DBPR so that the information can be entered  
26 into the database. However, an individual who wishes to actively engage in the real estate  
27 industry must be licensed and registered as active with the DBPR.

28 Licensure is obtained when an applicant has met all the qualifications for practice that  
29 are specified in Florida statute and has passed the state license exam. Passing the license  
30 examination gives the applicant the right to request and be issued a real estate **license**.  
31 The license is a written document that serves as **prima facie evidence** that the licensee  
32 (holder) possesses a current and valid license. The license indicates the licensee's full  
33 name and address, type of license, license number, effective date, expiration date, the  
34 name of the governor, and the DBPR secretary. The two-letter prefix before the license  
35 number indicates the license type: BK signifies broker; SL, sales associate; BO, branch  
36 office; CQ, corporations and LLCs; and PR, partnerships and LLPs.



## PRIMA FACIE EVIDENCE

**Prima facie evidence** is a legal term used to refer to evidence that is good and sufficient on its face (at first view) to be accepted by the court as a fact. Unless it is refuted by evidence to the contrary, prima facie evidence will prove a case (presumptive evidence).

Official Commission documents become prima facie evidence once they are signed by the FREC chairperson or the chairperson's designee and affixed with the Commission's seal (see "Commission General Powers and Duties," Unit 3).

### Practice Questions

22. A real estate license serves as \_\_\_\_\_ evidence that the person named on the license possesses a current and valid license.
23. Circle the corresponding letter(s) to indicate which information is included on the face of the real estate license.
- Florida governor's name
  - Name of the secretary of the DBPR
  - Licensee's name and address
  - License type
  - Expiration date
  - Licensee's email address
  - License number

## 2.9 REAL ESTATE SERVICES

475.01, F.S.

Florida real estate license law identifies real estate-related activities called **real estate services** that require a Florida real estate license. Real estate services include any real estate activity involving compensation for performing the service for another.

### TO REMEMBER: REAL ESTATE SERVICES

A	Advertise real estate services
B	Buy
A	Appraise (non-federally related transactions)
R	Rent or provide rental information or lists
S	Sell
A	Auction
L	Lease
E	Exchange

1 Real estate services are further defined in license law to include the following activi-  
2 ties in the sale, exchange, or lease of real property, including mineral rights, business  
3 enterprises, or business opportunities:

- 4 ■ Offer to, agree to, or attempt to perform real estate activities
- 5 ■ Advertise or otherwise indicate to the public that one is in the business of per-  
6 forming real estate services
- 7 ■ Direct or assist in the procurement of sellers, buyers, lessors, or lessees
- 8 ■ Negotiate or close a real estate transaction (note that case law has determined  
9 that the intention to close a real estate transaction is sufficient)

10 Anyone who performs real estate services for another person for compensation of  
11 any type must be licensed, unless specifically exempted by law. **Compensation** is defined  
12 as anything of value or a valuable consideration, directly or indirectly paid, promised, or  
13 expected to be paid or received. Compensation includes money in the form of a salary,  
14 bonuses, commissions, and gratuities. Compensation is also things of value such as dinner,  
15 flowers, wine, gift certificates, event tickets, and so forth.

16 It is a violation of license law to share a commission with or to pay a fee or other  
17 compensation to an unlicensed person for the referral of real estate business clients, pros-  
18 pects, or customers. However, a Florida broker may pay a referral fee to a broker licensed  
19 in another state so long as the foreign broker does not violate Florida law.

## 20 **Presumption of Acting as a Real Estate Broker**

475.43, F.S.

21 If an individual performs services of real estate for another person and a disciplinary  
22 case is filed as a result of that activity, there is a presumption that the individual is acting  
23 as a real estate licensee. Even if the individual attempts to perform a service of real estate  
24 for another person without being compensated for the service, the individual may be held  
25 liable. If an individual has sold or leased real estate that is not titled in his name, or has  
26 maintained an office bearing signs that real estate is for sale or lease, or has advertised real  
27 estate for sale or lease, there is a presumption that the individual was acting or attempting  
28 to act as a real estate broker. The burden of proof is upon the individual to show that he  
29 was not acting or attempting to act as a broker or sales associate. Unlicensed individu-  
30 als may find themselves facing charges of unlicensed activity. Licensed sales associates  
31 beware—don't find yourself defending real estate activities conducted for friends or rela-  
32 tives. Any real estate activities must be with your broker's knowledge and consent.

## 33 **EXEMPTIONS FROM A REAL ESTATE LICENSE**

475.011, F.S.

34 A person who performs real estate services for others must be licensed, unless specifi-  
35 cally exempted by law. The Florida statutes identify specific exemptions from the require-  
36 ment to be licensed as a real estate broker or sales associate. The exemptions have been  
37 organized into five groups for study purposes. The five groups are:

- 38 1. Owner exemptions
- 39 2. Exemptions based on career
- 40 3. Salaried employee exemptions
- 41 4. Court and legally appointed persons
- 42 5. Miscellaneous exemptions

1 **Owner Exemptions.** This group includes individuals and business entities that are exempt  
2 from licensure because they are selling their own property.

- 3 ■ Property owners may buy, sell, exchange, and lease their own property.
- 4 ■ Officers and directors of corporations (and owners of other business entities) may  
5 buy, sell, exchange, and lease the property of the business entity.
- 6 ■ Partners in a real estate partnership are exempt from licensure if selling property  
7 owned by the partnership provided the partner receives a share of the profits in  
8 proportion to their interest in the partnership. For example, a 40% partner may  
9 receive 40% of the profits of the business. A real estate license is required if the  
10 40% partner received more than 40% of the profits.
- 11 ■ Owners of time-share periods who own the time-share for their own use and  
12 occupancy may later sell their interest.

13 **Exemptions Based on Career.** Florida statute exempts certain individuals from real estate  
14 licensure because of their career (or occupation).

- 15 ■ Attorneys-at-law, when acting within the scope of their professional duties in  
16 the attorney-client relationship, are exempt from real estate licensure. However,  
17 holding a Florida attorney license does *not* entitle an attorney to compensation  
18 for performing real estate services. For example, an attorney must be a real estate  
19 licensee if the attorney wants to charge a fee for referring a commercial client to  
20 a broker.
- 21 ■ Certified public accountants (CPAs) are exempt from real estate licensure when  
22 performing accounting duties within the scope of their professional duties.
- 23 ■ State-certified and licensed real estate appraisers licensed under Chapter 475,  
24 Part II, are exempt from a real estate license when conducting appraisals.

25 **Salaried Employee Exemptions.** Salaried employees are individuals who receive a sal-  
26 ary and do not receive compensation based on the actual real estate transaction. Florida  
27 Statute 475 exempts salaried employees in specific situations:

- 28 ■ Salaried employees of a business entity may buy, sell, exchange, and lease prop-  
29 erty for their employers. However, the employees may not be paid on a trans-  
30 actional basis. (The employees may not receive a fee, commission, or other  
31 compensation based on the transaction.)
- 32 ■ Salaried employees of an apartment community who work in an onsite rental  
33 office are exempt from licensure. The employees cannot be compensated based  
34 on transactions completed. Salaried employees may complete leases regardless of  
35 the length of tenancy. (Note: Real estate licensees are prohibited from complet-  
36 ing leases that are more than one year in duration [see “Leases,” Unit 9].)
- 37 ■ Salaried managers of a condominium or cooperative apartment complex who  
38 rent individual units for periods *no longer than one year*, and do not receive com-  
39 pensation based on transactions. (Note: The salaried rental apartment agent [in  
40 the previous bullet] has no restriction on the duration of the leases. However,  
41 managers of condominiums and cooperative units are limited to leases of one  
42 year or less.) See also the Web link at the end of this section.
- 43 ■ Salaried employees of an owner-developer (real estate developer), are exempt  
44 from real estate licensure, provided the employees do not receive compensation  
45 based on transactions.

1 **Court and Legally Appointed Persons.** Sometimes, a court of law will require an unli-  
 2 censed individual to liquidate real estate. In some situations, an individual may authorize  
 3 another person to sign legal documents on one's behalf.

- 4 ■ Court-appointed individuals acting within the limitations of their duties are  
 5 exempt from licensure. For example, a personal representative designated in a  
 6 will or an executor of an estate of a deceased person is exempt from a real estate  
 7 license.
- 8 ■ An *attorney-in-fact* is a person who has been authorized by another person to act  
 9 in his place. For example, a seller who is stationed overseas in the armed ser-  
 10 vices may choose to give a power of attorney to a trusted relative to sign legal  
 11 documents, such as a sale contract or a deed, on the seller's behalf. A real estate  
 12 license is not required to act as an attorney-in-fact. (However, a power of attor-  
 13 ney cannot be used to authorize an individual to conduct real estate services—to  
 14 do so would be unlicensed activity.)

15 **Miscellaneous Exemptions** There are several other diverse groups that are exempt from  
 16 licensure when they perform services related to real estate.

- 17 ■ Individuals who rent lots in a mobile home park or recreational travel park.  
 18 (Rentals in mobile home parks and recreational vehicle lot rentals are not con-  
 19 sidered real property.)
- 20 ■ Persons who sell cemetery lots. (Cemetery lots are not considered real property.)
- 21 ■ Dealers who are registered with the Securities and Exchange Commission (SEC)  
 22 selling business enterprises to accredited investors.
- 23 ■ Hotel and motel clerks who rent transient occupancy of public lodging  
 24 establishments.
- 25 ■ Tenants of an apartment community may receive a fee up to \$50 for the referral  
 26 of a new tenant to the same apartment community.

27 Property managers of residential community associations are required to obtain a com-  
 28 munity association manager (CAM) license from the Department of Business and Profes-  
 29 sional Regulation (DBPR) for communities of more than 10 units or when the annual  
 30 budget exceeds \$100,000. For more information visit the Division of Professions, Regula-  
 31 tory Council of Community Association Managers at [http://www.myfloridalicense.com/](http://www.myfloridalicense.com/DBPR/community-association-managers-and-firms/)  
 32 [DBPR/community-association-managers-and-firms/](http://www.myfloridalicense.com/DBPR/community-association-managers-and-firms/).

WEBLINK





**Practice Questions**

24. Using the memory tool A BAR SALE, list the services of real estate.

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_

25. Circle the corresponding letter(s) to indicate which individuals listed are exempt from real estate licensure.

- a. A person who has been given a power of attorney for the purpose of signing a contract on another person's behalf
- b. A salesperson for a real estate developer who receives commission for each lot the salesperson sells
- c. Owners of a time-share period who offer their time-share period for resale
- d. A salaried employee of a corporation who sells property owned by the corporation solely as part of the employee's responsibilities as an employee

**2.10 SUMMARY OF IMPORTANT POINTS**

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- A *sales associate* is a person who performs real estate services for compensation or other consideration but does so under the direction, control, and management of an active broker or owner-developer.
  - A *broker* is a person who, for another and for compensation or other consideration, performs real estate services.
  - A *broker associate* is an individual who meets the requirements of a broker but who chooses to work in real estate under the direction (employ) of another broker.
  - An *owner-developer* is an unlicensed entity that sells, exchanges, or leases its own property. Sales staff must hold active real estate licenses to be paid commission. The sales staff is exempt from licensure if paid strictly on a salaried basis.
  - The DBPR is required to waive the initial license fee for eligible low-income applicants.
  - The DBPR waives the initial licensing fee for a member of the armed services that has served on active duty. The fee waiver also applies to a spouse who was married to the active duty member during a period of active duty, and to a surviving spouse of a member of the armed services who at the time of death was serving on active duty.
  - The DBPR waives the application fee, the initial license fee, and the unlicensed activity fee for military veterans and their spouses who apply for a real estate license within 60 months after honorable discharge from the armed services.

- 1 ■ The DBPR issues a license by endorsement to eligible military applicants,  
2 spouses, or surviving spouses who currently hold a valid real estate license issued  
3 in another state, U.S. territory, or foreign jurisdiction at the time of application.  
4 The initial fees are waived except for fingerprinting. The applicants are exempt  
5 from taking prelicense education and the state exam.
- 6 ■ To become a sales associate, applicants must complete (1) a 63-hour prelicense  
7 course with a score of at least 70 and (2) the application process, including the  
8 DBPR license application, fingerprints submission, background check informa-  
9 tion, affidavit of honesty (attest statement), initial license and application fee  
10 payment, and passage of the state license exam with a score of at least 75.
- 11 ■ Applicants must be at least 18 years of age and have earned a high school  
12 diploma or its equivalent. U.S. citizenship is not required, and applicants do  
13 not have to be Florida residents. Applicants must possess a U.S. Social Security  
14 number.
- 15 ■ Sales associates must complete a 45-hour post-licensing course before the expi-  
16 ration of their initial license. Brokers must complete a 60-hour post-licensing  
17 course during the initial license period. Failure to complete the post-license  
18 education before the expiration of the initial license will cause the license to  
19 become null and void.
- 20 ■ Fourteen hours of continuing education each license period is required for all  
21 real estate licensees following the initial license period. The continuing educa-  
22 tion requirement includes a three-hour core law course and a three-hour business  
23 ethics course.
- 24 ■ Individuals who have earned a four-year degree or higher in real estate are  
25 exempt from the sales associate and broker prelicense courses, as well as the  
26 post-license requirement. They are not exempt from the continuing education  
27 requirement.
- 28 ■ Florida-licensed attorneys who are active members of The Florida Bar are exempt  
29 from the sales associate prelicense course and from continuing education. They  
30 are not exempt from the broker prelicense education and the post-license  
31 requirement.
- 32 ■ To become a broker, applicants must complete a 72-hour prelicense course with a  
33 score of at least 70; have at least 24 months of active real estate licensure during  
34 the previous five years, and successfully pass the state broker exam. Applicants  
35 who hold a Florida sales associate license must also complete the sales associate  
36 post-licensing education before being eligible for a broker license.
- 37 ■ Real estate services include any real estate activities involving compensation for  
38 performing the service for another. Compensation is anything of value paid or  
39 promised to be paid to an individual for performing any service of real estate.

### Note to Readers

The same FREC rule may appear in several different forms: “Rule 61J2-1.011, Florida Administrative Code”; “Chapter 61J2-1.011, F.A.C.”; “Commission Rule 61J2-1.011”; simply as “61J2-1.011”; et cetera. Similar variations apply to the same Florida law: “Chapter 475.01, Florida Statutes”; “Florida Statute 475.01”; “Section 475.01”; “s. 475.01”; “475.01, F.S.”; et cetera.

**Practice Exercise: When a Real Estate License Is (or Is Not) Required**

Instructions: In each of the following scenarios, an individual is performing an activity that may or may not require a real estate license. Determine if a real estate license is required or not required and give a brief description of your answer. (For answers, see the Unit 2 answer key.)

1. Chris works as an administrative assistant in a brokerage office. He is a salaried employee who does not have a real estate license. Last week, Chris showed a listing to a customer because the broker was too busy to show the property to the customer. Chris walked the customer through the property, pointing out its features and discussing the homeowners association clubhouse, pool, and annual dues.

Was Chris required to be licensed to show the property to the customer?

2. A court of law appoints Matthew, who is unlicensed, to sell property in an estate.

Is Matthew required to be licensed in order to be compensated for selling the property?

3. Mariah and John have agreed to sell a parcel of land that they both own. They each own a 50% share of the property. Mariah has a broker's license; John is not licensed.

Is John required to be licensed in order to receive 50% of the proceeds from the sale of the land?

4. An owner-developer pays a commission to employee Sally for selling a lot in the development. Sally has an inactive real estate license, and the developer is not a broker.

Did Sally need her license to get paid for selling the lot?

5. Teresa is a sales associate who is registered under the broker for Complete Real Estate Services, Inc. Teresa also works on the weekends as a leasing agent for College Town Apartments. College Town Apartments pays Teresa a salary.

Is Teresa in violation of Chapter 475, F.S.?

## UNIT 2 EXAM

1. A licensed sales associate may operate
  - a. for any registered broker.
  - b. for the broker registered as the sales associate's employer.
  - c. independently if registered with the DBPR.
  - d. as a broker associate.
2. A sales associate applicant is NOT required to comply with which requirement?
  - a. Submit an application fee
  - b. Be 18 years of age or older
  - c. Be a bona fide Florida resident
  - d. Possess a Social Security number
3. Which person does NOT meet the experience requirements to obtain a Florida broker's license?
  - a. An applicant who has held an active California broker's license for the preceding three years
  - b. An applicant who has held an active Ohio sales associate license during four of the preceding five years while employed by an Ohio broker
  - c. An applicant who has held an active Florida sales associate license for the preceding two years while employed by a Florida broker
  - d. An applicant who has held an active Florida sales associate license during two of the preceding five years while employed by an owner-developer
4. What information appears on the face of a real estate license?
  - a. Governor's signature
  - b. Secretary of the DBPR's signature
  - c. License number
  - d. Licensee's email address
5. A sales associate applicant is NOT required to disclose which information on the license application?
  - a. Convicted of a crime
  - b. Proof of U.S. citizenship
  - c. Maiden name, if applicable
  - d. A finding of guilt in conduct that would have resulted in disciplinary action if the applicant had been licensed to practice real estate
6. A real estate licensee works on a commission basis for two separate brokerage companies. Which statement is TRUE?
  - a. Sales associates may have only one registered employer at any given time.
  - b. The sales associate may work for both companies as long as the associate is registered under both employers.
  - c. This is legal as long as the associate only works part time for each company.
  - d. The sales associate must be registered as a broker associate for this to be legal.
7. What is the Latin term for a plea of "no contest"?
  - a. Prima facie
  - b. Caveat emptor
  - c. Writ of mandamus
  - d. Nolo contendere
8. John is an active Marine ordered to relocate to Florida. His spouse, a valid real estate broker in Tennessee, where they currently live, wants to continue their career as a real estate broker in Florida. The spouse may get a license by
  - a. completing a license by mutual agreement application, providing proof of spouse's military status, submitting fingerprints for a background check, and passing the state's law exam.
  - b. completing a license by exam for a broker application, providing proof of spouse's military status, submitting fingerprints for a background check, passing prelicense education for a broker, and passing the state's broker exam.
  - c. completing a license by endorsement application for a real estate broker, providing proof of spouse's military status, and submitting fingerprints for a background check.
  - d. completing a license by exam for a sales associate application, providing proof of spouse's military status, submitting fingerprints for a background check, passing prelicense education for a sales associate, and passing the state's sales exam.

9. Which event may cause the FREC to refuse to certify an individual as qualified for licensure?
  - a. Dropped out of high school and later earned a GED
  - b. Was convicted of fraud in an insurance scam
  - c. Changed residency to a state other than Florida
  - d. Lost a lot of one's own money in a bad real estate investment
10. An applicant has held a real estate license in good standing in another state since 2019. The applicant is licensed in a state that has a mutual recognition agreement with Florida. Five months ago, the license applicant moved to Orlando, Florida. Is this licensee eligible to apply for a Florida real estate license under mutual recognition?
  - a. No, the applicant is now considered a Florida resident.
  - b. No, Florida does not have reciprocity with other states.
  - c. Yes, the applicant may apply for a Florida license under mutual recognition.
  - d. Yes, the applicant may exchange the out-of-state license for a Florida license.
11. A woman received her Florida sales associate's license last year. Which requirement must she complete to become a licensed real estate broker?
  - a. Successfully complete the 45-hour post-licensing course
  - b. Complete 14 hours of continuing education for sales associates
  - c. Document at least three closed real estate transactions
  - d. Complete at least three years' experience as a sales associate before taking the broker license exam
12. A man has a North Carolina broker's license, but he is not licensed in Florida. He sells a parcel of land he owns in Florida. Assuming all else is proper, this is a legal transaction because
  - a. mutual recognition agreements allow this.
  - b. Florida law exempts from licensure individual owners selling their own real property.
  - c. Florida has honored his nonresident broker's license.
  - d. he has the knowledge and qualifications necessary to handle the transaction.
13. A sales associate applicant who has submitted a correctly completed application for the state license examination and who successfully passes the state exam may legally begin to operate as a licensee when the
  - a. application and proper fees are received by the state.
  - b. applicant receives a return receipt acknowledging acceptance of the application.
  - c. applicant receives the canceled check as evidence of payment followed by an assigned date for the state exam.
  - d. applicant is notified of having passed the state exam, has filed the appropriate form to become registered as active with the DBPR, and the DBPR website indicates the applicant's license status is active.
14. If the post-licensing requirement is not fulfilled before the first renewal and a sales associate licensee wishes to continue in the real estate business, the licensee
  - a. must retake the state exam within one year.
  - b. must requalify for licensure.
  - c. is allowed a six-month grace period to meet the requirement but must hold an inactive license during that period.
  - d. must retake the prelicense course within one year.
15. Services of real estate do NOT include
  - a. advertising rental property lists.
  - b. appraising real property.
  - c. selling cemetery lots for compensation.
  - d. conducting an auction of real property.

16. Which statement BEST describes who must be licensed to practice real estate in Florida?
- Anyone who performs any of the services of real estate
  - Anyone who performs any of the services of real estate for another
  - Anyone who performs any of the services of real estate for another for compensation
  - Anyone who performs any of the services of real estate for another for compensation, unless specifically exempted by law
17. Which individual is NOT exempt from licensure under F.S. 475?
- A salaried employee of a governmental agency who performs real estate services for the state and does not receive commission
  - Individual dealing in personal property only
  - Individual serving as a personal representative and acting within the statutory limits of that designated role
  - An employee of a real estate developer who receives a salary plus bonuses based on sales quotas
18. A salaried individual manages a condominium building and rents units for three-month to six-month periods. The manager
- must be licensed under F.S. 475 because leasing is one of the real estate services.
  - must be licensed under F.S. 475 because she rents condominium units for compensation.
  - must be licensed by the Division of Condominiums and Time Share Sales.
  - is exempt from licensure under F.S. 475.
19. A developer purchased a tract of land and subdivided the property into individual lots. The developer hired his son, who was not licensed to sell the lots. The father agreed to pay his son a salary of \$200 per week. After two weeks, the son had sold only two lots, so the father decided to add an incentive. The father promised his son that after every fifth lot was sold, he would give his son a lot free and clear. After one more week, the son had sold only one more lot. The son quit his job to go work for another developer who paid a higher weekly salary. Which statement applies to this arrangement?
- There is no violation of F.S. 475.
  - The son alone has violated F.S. 475.
  - Only the father has violated F.S. 475.
  - Both the father and the son have violated F.S. 475.
20. FBI files reveal that six months ago a man worked as a real estate broker in Georgia, where he was charged with arson related to a large insurance claim. To avoid a long court fight without pleading guilty, the man agreed to revocation of his real estate license and entered a plea of nolo contendere. The FREC has just received the man's application for licensure as a sales associate disclosing the previously stated information. The application shows that all academic requirements have been met. The FREC will
- use its discretion to determine the applicant's qualification for licensure based on the facts in the criminal background check and an interview with the applicant.
  - approve the application because the applicant was not convicted of a crime.
  - deny the application because the applicant agreed to revocation of the Georgia license.
  - refer the case to the Florida Department of Justice because of the serious nature of the offense.