

3

REAL ESTATE LICENSE LAW AND COMMISSION RULES

1 **LEARNING OBJECTIVES**

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

- 3 ■ Describe the scope and function of the DBPR and the DRE.
- 4 ■ Describe the composition and member qualifications of the Florida Real Estate Commission.
- 5 ■ Describe the Commission's general powers and duties.
- 6 ■ Distinguish between active and inactive license status and describe the regulations regarding involuntary inactive status.
- 7
- 8 ■ Distinguish between multiple and group licenses.

9 **KEY TERMS**

active license	group license	quasi-judicial
cancel	involuntary inactive	quasi-legislative
cease to be in force	ministerial duties	voluntary inactive
current mailing address	multiple licenses	voluntary relinquish
current status	null and void	
executive powers	promulgates	

10 **INTRODUCTION**

11 The purpose of this unit is to discuss in detail the Florida Real Estate Commission and
 12 its composition and powers. The unit also explains license requirements, including active
 13 and inactive status, license activation, and void and ineffective licenses.

14 **3.1 DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**
 15 **(DBPR)**

16 The Department of Business and Professional Regulation (DBPR) is the agency
 17 charged with licensing and regulating businesses and professionals in Florida. It is the
 18 intent of the Florida Legislature that individuals desiring to engage in a licensed profes-
 19 sion be allowed to do so. Regulation of the real estate industry is necessary to protect the
 20 health, safety, and welfare of the public (consumer protection); however, the Legislature
 21 has mandated that it does not want extraordinary or unreasonable restrictions created

20.165, F.S.
 455.201,
 F.S.
 455.223–
 455.225,
 F.S.
 61J2-
 20.048,
 F.A.C.

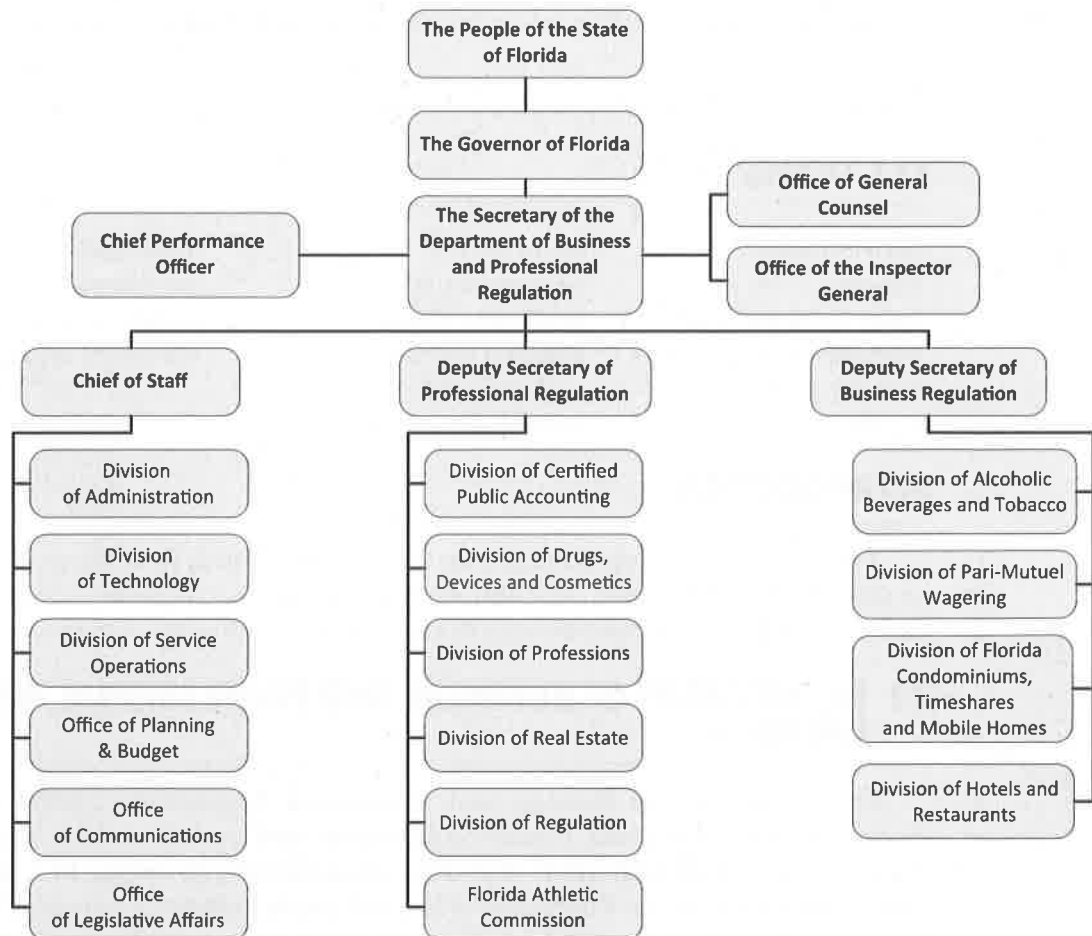
1 that would deter qualified persons from entering their chosen profession. The Legislature
2 believes professions under the DBPR should be regulated when:

- 3 ■ the unregulated practice can harm the public, the potential harm is recognizable,
4 and the danger outweighs any anticompetitive impact that might result from
5 regulation;
- 6 ■ the public is not adequately protected by other state statutes, local ordinances, or
7 federal laws; or
- 8 ■ less restrictive means of regulation are not available.

9 The DBPR is under the executive branch of the governor, and it is governed by Chap-
10 ter 120, F.S. The agency is structured according to the requirements of Chapter 20.165,
11 F.S. The Legislature, under Chapter 455, F.S., granted authority to the DBPR to investi-
12 gate consumer complaints, issue subpoenas when conducting investigations, issue cease
13 and desist orders to unlicensed individuals, and issue citations to individuals licensed by
14 the DBPR.

15 The chief administrator of the DBPR is the secretary of the DBPR, who is appointed
16 by the governor, subject to confirmation by the state senate (see Figure 3.1). The main
17 DBPR office is located in Tallahassee, Florida. The divisions under the Department of
18 Business and Professional Regulation that are most relevant to real estate are presented in
19 the following paragraphs.

FIGURE 3.1 ■ Organizational Chart



Source: http://www.myfloridalicense.com/dbpr/os/documents/DBPROrgChart_000.pdf.

1 Division of Professions

2 The Division of Professions administers numerous professional boards. Because of the
3 magnitude of the real estate profession, it is organized as a separate division under the
4 DBPR. The Division of Professions regulates education courses and license examinations
5 for each profession under the DBPR.

455.217,
F.S.

455.2171,
F.S.

6 The Division of Professions contracts with a professional testing service for exam ser-
7 vices. The DBPR, acting with its Division of Professions and the Division of Real Estate,
8 must ensure that the license examinations adequately and reliably measure an applicant's
9 ability to practice real estate.

10 Florida law requires that an accurate record of each applicant's examination questions,
11 answers, papers, grades, and grading key be stored for two years. Examinees' grades and the
12 state examination questions are confidential.

13 Division of Service Operations

14 There are two important units under the Division of Service Operations:

- 15 ■ The Customer Contact Center handles all incoming telephone, postal, and
16 email inquiries from licensees and the general public.
- 17 ■ The Central Intake Unit processes all the license applications and license fees
18 that come into the DBPR. The Central Intake Unit is also responsible for the
19 issuance of all licenses and license renewal notifications for the Department.

20 Division of Florida Condominiums, Timeshares, and Mobile Homes

718, F.S.

719, F.S.

720, F.S.

721, F.S.

21 This Division provides consumer protection for Florida residents through education,
22 complaint resolution, mediation and arbitration, and developer disclosure. It regulates
23 condominiums, cooperatives, time-shares, and mobile home parks. The Division of Flor-
24 ida Condominiums, Timeshares, and Mobile Homes is also charged with providing an
25 arbitration program to handle recall and election disputes for homeowners associations
26 (HOAs).

27 Division of Real Estate (DRE)

20.165, F.S.

475.021, F.S.

28 The Division of Real Estate (DRE) provides all services required to administer the
29 Florida real estate license law. The duties of the DRE are essentially administrative and
30 ministerial. The administrative duties include routine duties and clerical functions on
31 behalf of the FREC. The DRE's **ministerial duties** involve recordkeeping.

32 Important facts concerning the DRE are as follows:

- 33 ■ Florida statute mandates that the DRE offices and the principal office of the
34 Commission be located in Orlando, Florida.
- 35 ■ The director of the DRE is appointed by the secretary of the DBPR, subject
36 to approval by majority vote of the FREC. The director is a senior employee
37 charged with the direct service assistance to the Commission.
- 38 ■ The DBPR employs all DRE personnel to support FREC activities.

Practice Questions

1. The DBPR offices are located in _____, Florida.
2. The secretary of the DBPR is appointed by the _____, subject to confirmation by the state _____.
3. The DRE offices are located in _____, Florida.
4. The DRE ministerial duties involve _____.
5. The director of the DRE is appointed by the DBPR _____.
6. The appointment of the director of the DRE is subject to approval by the _____.

3.2 FLORIDA REAL ESTATE COMMISSION

475.451,
F.S.

475.04, F.S.

475.001,
F.S.

455.201(1),
F.S.

The Florida Real Estate Commission (FREC) is the regulatory body charged by the Florida Legislature with protecting the general public by regulating real estate brokers and brokerage firms, broker associates, sales associates, and real estate schools and instructors. The FREC is also charged with fostering the education of real estate licensees and permit holders. This includes the regulation of proprietary real estate schools and all noncredit, FREC-approved courses offered by colleges, universities, community colleges, and area technical centers. The objective of such regulation is to protect the public (consumer protection) by ensuring that real estate licensees have at least a minimal degree of competence.

Composition and Qualifications

475.02, F.S.

455.209,
F.S.

20.052, F.S.

The Florida Real Estate Commission (FREC) consists of seven members (see Figure 3.2):

- Five of the members are *professional* (licensed) members, of which:
 - four must be Florida real estate brokers who have held active licenses during the five years preceding appointment; and
 - one must be either a Florida real estate broker or sales associate who has held an active license during the two years preceding appointment.
- The two remaining members are *consumer* (unlicensed or lay) members who have never been real estate brokers or sales associates.
- At least one of the seven members must be 60 years of age or older.

FIGURE 3.2 ■ Composition of the Florida Real Estate Commission

Four Active Brokers	One Active Broker or Sales Associate	Two Consumer Members	One 60 years of age or older
Licensed for at least Five Years	Licensed for at least Two Years	Never Been Licensed	Any of the Seven Members

Term of Office and Compensation

The governor, subject to confirmation by the Florida Senate, appoints Commission members to four-year staggered terms. There is no legislated maximum number of years

1 Commissioners may serve, though Commissioners may not serve more than two con-
 2 secutive terms. Each member of the Commission is accountable to the governor, not the
 3 DBPR, for proper performance. All FREC members are exempt from civil liability while
 4 performing in their official capacity.

455.207, F.S.
 61J2-
 20.049,
 F.A.C.

5 Commission members do not receive a salary. In lieu of salary, they are paid \$50 per
 6 day for each day they attend an official meeting and for each day they participate in
 7 other Commission business. Commissioners also are reimbursed for out-of-pocket travel
 8 expenses, including mileage, meals, and hotel charges associated with their official duties.

9 Legal Counsel, Meetings, and Minutes

455.207, F.S.
 61J2-
 20.040,
 F.A.C.

10 The FREC meetings are held each month at the Division of Real Estate (DRE) head-
 11 quarters in Orlando, Florida. There must be a quorum (majority) consisting of four Com-
 12 mission members to conduct official business. One of the meetings is designated the annual
 13 meeting when the Commission elects from its members a chairperson and vice-chairperson.

14 Legal counsel is provided to the Commission through the Office of the State Attorney
 15 General of the Department of Legal Affairs. An Assistant Attorney General is assigned to
 16 the Division of Real Estate.

Practice Questions

7. Four FREC members must be licensed brokers who have held active licenses for _____ years preceding appointment.
8. One Commission member must be licensed as a broker or a sales associate who has held an active license for _____ years preceding appointment.
9. At least _____ Commissioner must be 60 years of age or older.
10. Two members of the FREC are consumer members who are _____.

17 3.3 COMMISSION GENERAL POWERS AND DUTIES

475.04, F.S.
 475.125,
 F.S.
 475.10, F.S.

18 The FREC makes decisions and sets policies that are carried out by the Division of Real
 19 Estate. The powers and duties of the FREC fall into three general areas of responsibility:

- 20 1. **Executive powers** to regulate and enforce the license law are delegated to the
 21 Commission by the legislature.
 - 22 ■ *Foster the education of applicants and licensees.* The Commission fosters the
 23 education of licensees and instructors in ethical, legal, and business prin-
 24 ciples. It also prescribes post-licensing education requirements and continu-
 25 ing education requirements to qualify for license renewal. Executive powers
 26 include publication of educational materials.
 - 27 ■ *Adopt a seal.* The seal, when affixed to rules, regulations, or other official
 28 documents, properly signed, becomes *prima facie evidence* that the document
 29 is authentic (see “Prima Facie Evidence,” Unit 2).
 - 30 ■ *Establish fees.* The Commission uses the DBPR estimates of required revenue
 31 to determine the amount of licensing fees needed to implement the real
 32 estate license law and other laws and regulations relating to the regulation of
 33 real estate practitioners.

475.05, F.S.

2. **Quasi-legislative** responsibilities include the power to enact and revise administrative rules and bylaws and decide questions regarding the practice of real estate. The Florida Legislature is an elected body that enacts statutes, whereas the Commission is an appointed body with quasi-legislative powers. *Quasi* means almost or nearly.

■ *Create and pass rules and bylaws.* The Commission **promulgates** (adopts) rules that provide details as to how the statutes are to be administered.

■ *Regulate professional practices.* For example, when requested and deemed appropriate, the Commission may issue an escrow disbursement order (EDO) to determine the disposition of escrow (earnest money) deposits in the case of a dispute when requested by the broker holding the escrowed funds. The Commission also establishes rules to support regulations requiring that records be maintained by brokers and the manner in which deposits of money, funds, checks, or drafts are to be made in escrow, pending disbursement.

475.25, F.S.

3. **Quasi-judicial** responsibilities include the power to grant or deny license applications, to determine license law violations, and to administer penalties.

475.181,
F.S.

■ *Grant or deny applications for licensure.* The Commission certifies an applicant as qualified before a license is issued.

475.455,
F.S.

■ *Suspend or revoke licenses and impose administrative fines.* The Commission adopts, by rule, guidelines for the disciplinary actions that it imposes.

■ *Make determinations of violations.* The Commission is obligated to report any criminal violation of Chapter 475, when it knows of such violations, to the state's attorney having jurisdiction. Furthermore, the FREC must inform the Division of Florida Condominiums, Timeshares, and Mobile Homes when any disciplinary action is taken by the FREC against any of its licensees.

Practice Questions

11. List the three general areas of responsibility that encompass the FREC's powers and duties.
 1. _____
 2. _____
 3. _____
12. The Commission's power to enact rules and regulations is an exercise of its _____ power.
13. The Commission's power to determine violations of license law and to administer penalties is an exercise of its _____ power.
14. Fostering education of real estate licensees is an exercise of the FREC's _____ power.
15. The seal, when affixed to official documents, becomes _____ evidence that the document is authentic.
16. The Commission _____ rules and regulations.

3.4 LICENSE RENEWAL AND LICENSE STATUSES

License Renewal Periods

455.203,
F.S.

475.182,
F.S.

The initial effective date of a real estate license is the date DBPR issues the license. All real estate licenses are issued with an expiration date of either March 31 or September 30. The expiration date assigned to a particular license is the date that will give the licensee as close to 24 months of licensure as possible, without exceeding 24 months. License law mandates that the initial license period must provide the licensee at least 18 months of licensure but not more than 24 months.

EXAMPLE: Assume the initial effective date of a sales associate license was July 25, 2023. What expiration date will give the licensee at least 18 months of licensure but not more than a 24-month license period?

Hint: 24 months from the initial effective date is July 25, 2025.

To answer this question, ask yourself which expiration date in 2025 is closest to July 25, 2025, but not after July 25, 2025?

March comes before July, so the expiration date closest to July 25, 2025, but not past July 25 must be March 31, 2025. (September 30, 2025, is after July 25, 2025.) March is four months before July, so this licensee will have approximately 20 months of licensure (24 months minus 4 months). Thereafter, this license will always expire every two years (biennially) on March 31.

If a real estate sales associate later decides to become a broker, the effective date of the broker license will be the issue date of the broker license. The broker license may have a different expiration date than was on the sales associate license. Assume the sales associate's license expired biennially on March 31. Depending on the effective date of the broker license, the new broker license may have a September 30 expiration date.

License Renewal

455.273,
F.S.

Ninety days before the end of a license cycle, the DBPR sends a renewal notice to licensees. The DBPR either mails the notice to the licensee's last known address of record or electronically sends the notice to the licensee's email address of record. It is the licensee's responsibility to keep track of renewal dates and license requirements. Failure to receive the notice will not excuse the licensee from completing the renewal requirements. Sales associates and brokers must complete their post-license education before the first renewal of their initial licenses. After the post-license education is satisfied and the initial license is renewed, licensees must complete 14 hours of continuing education during each renewal period.

475.182,
F.S.
61J2-3.020,
F.A.C.

To renew a real estate license, the licensee submits the renewal notice and the biennial license fee. By submitting the renewal notice to the DBPR, the licensee is attesting to having completed the education requirement (see "Post-licensing Education and Continuing Education," Unit 2).

If licensees renew after the expiration date, a late fee is charged. If a licensee does not renew a license by the expiration date, the license reverts automatically to involuntary inactive status (involuntary inactive status is discussed later in this unit). An active licensee who fails to renew a license following the expiration date has 24 months in which to renew the license. A real estate licensee must not practice real estate following the expiration date of the license. It is also unlawful for a licensee holding a current inactive license to perform the services of real estate for compensation.

455.02, F.S.

Armed Forces Renewal Exemption. A licensee in good standing who is a member of the U.S. armed forces is exempt from the renewal provisions during the licensee's period of active duty and two years after discharge from active duty. If the military duty is out of state, the exemption also applies to a licensed spouse, or a licensed surviving spouse provided the member of the armed forces was serving on active duty at the time of death. The armed forces exemption applies, provided the licensee is not engaged in real estate brokerage activity in the private sector for profit.

If a servicemember (or the servicemember's spouse) is actively engaged in real estate in the private sector, for profit, during active duty and for the two years following discharge, the servicemember must complete the required license renewal provisions. However, the DBPR will waive the license renewal fee.

Active vs. Inactive Status

475.183,
F.S.475.182,
F.S.

An **active license** is required to engage in real estate brokerage services. Sales associates achieve active status by finding an employer and registering with the DBPR under the employing broker or owner-developer. Licensees who choose not to engage in the real estate business may place their licenses on inactive status. There are two types of inactive status: (1) voluntary inactive and (2) involuntary inactive.

61J2-1.014,
F.A.C.

Voluntary Inactive. A licensee who has qualified for a real estate license but who voluntarily chooses not to engage in the real estate business during a given period and requests such a change is placed on **voluntary inactive** status. A licensee cannot legally perform any real estate services for compensation while holding a voluntary inactive license. A licensee may change an active license to a voluntary inactive license status by submitting the proper form to the DBPR. Such licensees hold a current inactive license.

Voluntary inactive sales associates and broker associates who subsequently wish to activate their licenses may do so at any time simply by completing the proper form requesting an active license with an active broker or owner-developer. (To be active, sales associates must be registered with an employer.) As with an active license, a licensee may renew a current voluntary inactive license indefinitely. Voluntary inactive licensees who satisfactorily complete the prescribed continuing education courses every two years must pay the appropriate fees to qualify for renewal of a voluntary inactive license. A license that is not renewed at the end of the license period reverts automatically to involuntary inactive status, except for initial licenses when post-licensing education requirements have not been completed satisfactorily. In this case, the license becomes null and void.

475.01(1)
(g), F.S.61J2-3.010,
F.A.C.

Involuntary Inactive. If a licensee fails to renew an active or voluntary inactive license before the expiration date (other than the first renewal), the license reverts automatically to **involuntary inactive** status. The licensee must complete continuing education and renew the license to either active or voluntary inactive status within the next two years.

475.183,
F.S.455.271(6),
F.S.61J2-3.010,
F.A.C.61J2-1.014,
F.A.C.

Involuntary inactive licensees may activate their license during the two-year period following expiration of a valid current license only after satisfactorily completing FREC-prescribed courses of instruction. When a licensee has been involuntary inactive for:

- 12 months or less, they may satisfy the education requirement by completing 14 hours of FREC-approved continuing education; or
- more than 12 months but less than 24 months, they are required to complete 28 hours of a Commission-prescribed reactivation education course.

1 **Reinstatement of a Null and Void License.** A license can only remain in an involuntary
 2 inactive status for up to two years. After two years, the license automatically expires
 3 (becomes null and void) by operation of law without further FREC or DBPR action. Once
 4 their license becomes void, individuals who want to practice real estate again must reap-
 5 ply and requalify for licensure, and retake and pass the state license exam.

6 The FREC may reinstate the license of an individual whose license has become null
 7 and void if the Commission determines that the former licensee failed to comply with
 8 the statute because of physical hardship or economic hardship. The former licensee must
 9 apply to the FREC for reinstatement within six months after the date that the license
 10 became null and void. There is no legislative authority to extend the renewal requirement
 11 beyond the six-month period (see "Hardship Cases," Unit 2 for additional information
 12 regarding physical hardship and economic hardship).

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

13 Other License Classifications

14 **Null and Void.** When a license is **null and void**, it no longer exists. A license becomes
 15 null and void when the following situations occur:

- 16 ■ When a license has been involuntary inactive for more than two years, the
 17 license becomes null and void without any further action by the DBPR or FREC.
- 18 ■ A license that has been revoked after a disciplinary proceeding becomes null and
 19 void. Revocation of a license is a permanent penalty.
- 20 ■ Failure to complete the post-license education requirement before the expiration
 21 of the initial license will cause the license to become null and void.
- 22 ■ A person who no longer wants to engage in the real estate business can **volun-**
 23 **tarily relinquish** or **cancel** the license, provided there is no investigation or
 24 disciplinary proceeding pending against the licensee. The licensee sends written
 25 communication to the DBPR indicating that the licensee is retiring or no longer
 26 desires to be licensed. When a license is canceled, it becomes null and void.
 27 Cancellation of a license is effective on the date the Commission accepts the
 28 voluntary relinquishment. Cancellation does not involve disciplinary action.

475.183(2)(b),
 F.S.

455.227(5),
 F.S.

29 **Cease to Be in Force.** The DBPR must be notified within 10 days when the following
 30 occurs:

- 31 ■ A broker changes business address
- 32 ■ A real estate school changes business address
- 33 ■ A sales associate changes employer
- 34 ■ An instructor changes employer

475.23, F.S.

475.42(1)(b),
 F.S.

35 The purpose of timely notifying the DBPR of the change in business address and
 36 change of employer is so that the DBPR database can be updated. All official DBPR com-
 37 munications will be mailed to the address of record or emailed to the email address of
 38 record, so it is very important that the DBPR has up-to-date contact information. License
 39 law requires that sales associates and broker associates be registered under their employing
 40 broker.

1 **EXAMPLE:** If a sales associate leaves one brokerage firm and wants to work for
 2 another brokerage firm, the DBPR must be informed of the associate's new employer. Until
 3 the sales associate is registered under the new employer, the sales associate cannot
 4 work. The license ceases to be in force until the sales associate has registered under the
 5 new broker. Otherwise, the sales associate would be acting as a broker (performing real
 6 estate services without being registered under an employing broker). The DBPR may issue
 7 a \$1,000 citation to a sales associate who works in the capacity as a sales associate
 8 without being properly registered under the employing broker.

9 When a license **ceases to be in force** it means that under Florida law, the associate is
 10 not authorized to perform real estate services that require a real estate license, because the
 11 associate is not properly registered. The DBPR database would indicate that the associate's
 12 license is active and registered under the previous employer, when in fact, the associate
 13 is working for the new employer. The DBPR database is not updated until the change of
 14 employer information is submitted to the DBPR.

15 **EXAMPLE:** If a broker changes his or her business address, the new location must
 16 be registered and a fee paid. New brokerage business may not be conducted (the license
 17 ceases to be in force) until the DBPR is notified of the new business location and it is
 18 properly registered. To avoid a gap in brokerage service the broker can register the new
 19 brokerage office in advance. The DBPR may issue a \$1,000 citation for failure to timely
 20 notify the DBPR of the change in business address.

21 The most efficient way to notify the Commission of a change of address or employer
 22 is through the DBPR's online portal. (When making changes online, it is recommended
 23 that the licensee print the change and preserve the documentation.) At the time of filing
 24 the change of business address notification, the broker or real estate school must inform
 25 the Commission of the names of any sales associates or instructors who are no longer
 26 employed by the brokerage or the school. The DBPR updates its database by removing
 27 sales associates and instructors who should no longer be registered under the brokerage
 28 or the school. Sales associates who are no longer employed with the broker of record are
 29 placed on inactive status. When a broker changes business address, the licenses of the
 30 sales associates employed by the broker remain in force. The same is true for instructors
 31 employed by a real estate school that changes business address.

32 **Current Mailing Address.** Licensees are responsible for notifying the DBPR in writing
 33 of their current mailing address, email address, and place of practice. **Current mailing**
 34 **address** is the current residential address a licensee uses to receive mail through the U.S.
 35 Postal Service. A post office box is an acceptable mailing address. The DBPR sends official
 36 communication to a licensee at the last known mailing address or email address, referred
 37 to by the DBPR as the address of record.

38 **Change of Address.** Licensees must notify the DBPR in writing within 10 calendar days
 39 of a change in current mailing address or email address. Licensees may mail or fax the
 40 appropriate form to the DBPR, or licensees may submit a change of address or email
 41 address online at the DBPR Online Service website. The DBPR may issue a \$1,000 cita-
 42 tion for a first-time failure to timely notify the Commission (DBPR) of the current mailing
 43 address or a change in the current mailing address. Second or subsequent violations of
 44 failure to notify the DBPR of a change in either the mailing address or email address will
 45 result in disciplinary proceedings against the licensee. Licensees who do not keep their
 46 address up to date with the DBPR may miss important notices. If a notice requires action
 47 on the part of the licensee, the licensee's failure of timely action may lead to administra-
 48 tive discipline.

455.275(1)
and (2), F.S.

475.22(1),
F.S.

61J2-10.038,
F.A.C.

61J2-
24.002(aa),
F.A.C.

19

475.180(2),
F.S.

1 **Rules Pertaining to Nonresident Licensees.** A Florida real estate licensee who moves
2 out of state and becomes a nonresident of Florida is required by law to notify the Commis-
3 sion within 60 days of the change in residency. The licensee agrees to keep the licensee's
4 mailing address current. Nonresident licensees must satisfactorily complete the post-
5 licensing and continuing education required of all Florida real estate licensees. Nonresi-
6 dent applicants and licensees must comply with all other F.S. 475 requirements and FREC
7 rules. Licensees must always notify the FREC within 10 days of their change in mailing
8 address or email address; however, licensees have up to 60 days to comply with nonresi-
9 dent requirements.



NONRESIDENT LICENSEE REQUIREMENTS

Any resident licensee who becomes a nonresident must notify the Commission within 60 days of the change in residency and comply with all nonresident requirements.

A Florida resident licensee who fails to notify the Commission of becoming a nonresident as prescribed in Section 475.180 may be issued a citation and fined \$600.

Reference: Section 475.180, F.S., and 61J2-24.002, F.A.C.

10 Eligibility for Receiving Commission

475.25(1)
(h), F.S.

11 A real estate licensee may not share compensation with an unlicensed person for per-
12 forming real estate services or for referral of real estate business, prospects, or customers. A
13 real estate licensee whose license is inactive at the time of performing real estate services
14 may not receive compensation. Prior to paying a referral fee or a commission to another
15 brokerage office, the broker should verify that the brokerage to receive the compensation
16 is properly licensed. Sharing commission or paying a fee to a person who is not properly
17 licensed may subject the licensee to disciplinary action.



DISCIPLINARY GUIDELINES

Sharing a commission with or paying a fee to a person not properly licensed under Chapter 475, F.S., is a violation of section 475.25(1)(h), F.S. For a first violation, the licensee may be issued a \$1,000 to \$2,500 administrative fine and be subject to a 30-day suspension to possible revocation of the license, depending on the details of the case.

Reference: 61J2-24.001(3)(i), F.S.

18 **DBPR License Portal.** The license status of individuals who are licensed in Florida can
19 be verified using the Department's license portal online service. The DBPR maintains a
20 database of all professional licenses issued by the Department. An individual may search
21 the license status of anyone who possesses a license issued by the DBPR (see the web link
22 that follows). Two terms are used to describe the status of DBPR applications and real
23 estate licenses: *primary status* and *secondary status*. Primary status is the first status, fol-
24 lowed by the secondary status.



25 To access the DBPR's online license portal, visit www.myfloridalicense.com/dbpr/
26 online-services (scan QR code).

1 **EXAMPLE 1:** A search of Jane Doe, licensed sales associate, revealed the follow-
2 ing license status: Current/Active.

3 Current is the primary status. A **current status** indicates that the licensee is up to
4 date with respect to the DBPR's requirements for licensure (e.g., timely renewal). Active
5 is the secondary status. Active indicates that the licensed sales associate is allowed to
6 operate under the associated license. Sales associates must have a registered broker or
7 be registered with an owner-developer (the associated license). It is prudent for sales
8 associates and other licensees who are required to have their license associated with
9 another licensee to verify the association by selecting "View Related License Information"
10 when conducting a license search. Licensees should not assume their license is registered
11 with the appropriate broker/brokerage. Errors do happen, so when becoming initially
12 licensed or changing employers, verify your license status and that your license is associ-
13 ated with your registered broker.

14 **EXAMPLE 2:** A search of John Jones, licensed real estate sales associate, indi-
15 cated the following license status: Probation/Active.

16 The primary status is probation. This status allows the licensee to continue to
17 practice real estate while completing conditions imposed by the FREC as a condition of
18 discipline, such as to complete education courses and pay fines. The secondary status is
19 active. This indicates a licensee has been disciplined but is able to continue to operate
20 under the associated license.



PRIMARY STATUS ELIGIBILITY

To perform real estate services for another for compensation, the primary status must state either *current* or *probation* and the secondary status must state *active*. Any other primary status (such as involuntary inactive or null and void) indicates that the licensee may not operate.

21 **EXAMPLE 3:** A licensee's status is Involuntary Inactive/Active.

22 The primary status is involuntary inactive, indicating that the licensee has not com-
23 pleted a timely renewal of the license (the license is past the expiration date). However,
24 the secondary status is active. The secondary status does not change automatically in the
25 database system when someone fails to renew the license. The secondary status indi-
26 cated is whatever status existed before the license expiration until the information in the
27 database is manually updated. Therefore, a licensee should always refer to the primary
28 status first and then look to the secondary status. If a license is involuntary inactive in the
29 primary status, the licensee has failed to comply with the renewal requirements and may
30 not operate regardless of what the secondary status indicates.

31 Change of Employer

32 When sales associates choose to work for a different brokerage firm, the associates
33 have certain responsibilities to their former employer.

34 **Listings.** Duplication of records from a previous employer constitutes breach of trust, even if the
35 person copying the records originated them, when done for the purpose of taking listings to a new
36 employer. Furthermore, the removal of records from a previous employer's office constitutes theft.

37 **Fiduciary Duties.** A sales associate represents the broker when working with buyers and
38 sellers, or tenants and landlords. A sales associate is obligated by what is known as *fiduciary*
39 duties to the employing broker. The associate must work with the broker's customers and
40 clients with the same trust and professionalism as if the broker were working directly with
41 the customer. Additionally, sales associates must represent their broker with trust and

1 confidence. Because of this *fiduciary* relationship, after leaving an employer, sales associ-
 2 ates must not divert buyers and sellers of the former broker/employer from completion of
 3 a transaction. To do so would expose the associate to liability for breach of the fiduciary
 4 allegiance to the former employer. Sales associates and broker associates represent their
 5 employing broker (principal) and, as such, a fiduciary duty exists. To divert buyers or sell-
 6 ers or to use confidential information is both unethical and illegal in Florida. Addition-
 7 ally, a sales associate may have agreed contractually to a noncompete agreement.

8 Because of the fiduciary relationship between sales associates and their employers, the
 9 obligations of sales associates do not end with termination of employment. Sales associ-
 10 ates are prohibited from disclosing confidential information learned as a result of employ-
 11 ment. Licensees are further prohibited from doing anything that might discredit a former
 12 employer or damage the goodwill of the employer's business.

Practice Questions

17. If a licensee does not renew a license by the expiration date, the license reverts auto-
 matically to _____ status.
18. A real estate licensee must not perform real estate services following the
 _____ date on the license.
19. A licensee who is a member of the U.S. armed forces is exempt from the renewal
 provisions during active duty and _____ after discharge.
20. A license that has been involuntary inactive for more than _____
 becomes _____ and _____ without further action by the DBPR or
 FREC.
21. A licensee who has been involuntary inactive for more than _____ months
 but less than _____ months must complete _____ hours of reactivation
 education.
22. Licensees must notify the DBPR within _____ days of a change in current mailing
 address.
23. The only broker of a real estate brokerage retires and changes his license status to
 voluntary inactive. The sales associates' licenses _____
 _____ until the associates are registered under a new broker-employer.
24. A sales associate who is registered under the retiring broker in the previous question
 has been working with several prospective buyers. The associate wants to continue
 showing property to the prospects. The associate must register under a new broker-
 employer _____ to continue to perform real estate services.
25. A licensed sales associate who moves from Florida to another state must comply with
 nonresident licensee requirements within _____ days.

3.5 MULTIPLE LICENSES AND GROUP LICENSE

Multiple Licenses

14 **Multiple licenses** are issued to a broker who qualifies as the broker for more than one business
 15 entity. A separate broker license must be obtained for each business. Additional (multiple) broker
 16 licenses may be issued by the DBPR when it is shown to the Commission's satisfaction that the
 17

10

475.215(2),
F.S.

1 additional licenses are necessary and that the licenses will not be used in a manner that is prejudi-
 2 cial or harmful to another person. A broker who holds more than one Florida broker license is said
 3 to hold multiple licenses. Multiple licenses allow a broker to legally act as a broker for more than
 4 one brokerage firm. Because sales associates and broker associates may have only one registered
 5 employer at a time, sales associates and broker associates may not hold multiple licenses.

6 **EXAMPLE 1:** Jane Doe is the broker for both Extra-Fine Real Estate Services
 7 and Extra-Fine Property Management. One company handles only sales, while the other
 8 handles only rentals. Jane must register both real estate companies with the DBPR.
 9 Therefore, she needs multiple broker licenses to qualify both brokerage entities.

10 **EXAMPLE 2:** Ray Jones is a sales associate registered under Extra-Fine Real Estate
 11 Services. Ray would like to try representing a few landlords that purchased his listings. He
 12 is wondering if he can work for both Extra-Fine Real Estate Services and Extra-Fine Property
 13 Management since Jane Doe is the broker of both companies. Sales associates and broker
 14 associates may engage in real estate activities that require a real estate license only on behalf
 15 of the brokerage company where the associate is registered. It is true that Jane is the broker
 16 of both companies; however, the associate is registered under Extra-Fine Real Estate Services,
 17 and sales associates may have only one registered employer at any one time.

18 Group License

61J2-6.006,
F.A.C.

19 A **group license** is sometimes issued to sales associates or broker associates who are
 20 registered under an owner-developer. An owner-developer may own properties in the
 21 names of various entities. If the entities are all connected so that ownership and control is
 22 with the same individual(s), sales associates and broker associates employed by the owner-
 23 developer may be issued a group license.

24 The owner-developer sends an affidavit to the DBPR with a list of all the legal com-
 25 pany names used by the owner-developer. This allows the associate to sell for all the affili-
 26 ated entities owned by the owner-developer. Owner-developers are not required to hold
 27 real estate licenses if they only sell their own properties. The owner-developer is registered
 28 with the DBPR under a pseudo number (not a real estate license) that is entered into the
 29 DBPR records. The pseudo number becomes a placeholder under which sales associates
 30 and broker associates register. To activate a sales associate license under an owner-devel-
 31 oper, the sales associate and the developer complete the appropriate DBPR form. The
 32 sales associate's name and license number are entered on the form. The owner-developer's
 33 name, business location address, and pseudo number are entered on the form. In actual
 34 practice, the sales associate (or broker associate) is issued a real estate license and no dis-
 35 tinction regarding group license is made on the associate's license.

36 **EXAMPLE:** Joseph Jones is an owner-developer. He owns and controls two
 37 development companies, Happy Estates and Excellent Homes. A sales associate is
 38 employed by Jones to sell properties for both development companies. The associate is
 39 registered as active under the owner-developer's pseudo number. The associate is said to
 40 have a group license so that she can work for both Happy Estates and Excellent Homes.
 41 The licensee has one sales associate license and one employer (Jones).

Practice Questions

26. A _____ license is sometimes issued to sales associates or broker associ-
 ates who are registered under an owner-developer.
27. _____ are issued to a broker who qualifies as the broker
 for more than one business entity.

3.6 SUMMARY OF IMPORTANT POINTS

- 2 ■ The DBPR is under the executive branch of the governor. Chapter 455, F.S.,
3 grants authority to the DBPR to investigate consumer complaints, issue subpoe-
4 nas when conducting investigations, issue cease and desist orders to unlicensed
5 individuals, and issue citations to individuals licensed by the DBPR.
- 6 ■ The chief administrator of the DBPR is the secretary of the DBPR, who is
7 appointed by the governor, subject to confirmation by the state senate.
- 8 ■ The Commission consists of seven members: five professional members and two
9 consumer members. Four of the professional members must have held active bro-
10 ker licenses during the five years preceding appointment. The fifth professional
11 member must have been licensed as an active broker or sales associate for the
12 two years preceding appointment.
- 13 ■ Members of the Commission are appointed by the governor, subject to senate
14 confirmation, and are not employees of the DBPR.
- 15 ■ The Commission's powers are primarily quasi-judicial and quasi-legislative. The
16 FREC exercises its quasi-legislative powers when it adopts rules. It exercises its
17 quasi-judicial powers when it hears complaints, disciplines licensees, and grants
18 or denies recovery fund claims.
- 19 ■ There are two types of inactive status: voluntary and involuntary. A licensee
20 who has qualified for a real estate license but who voluntarily chooses not to
21 engage in the real estate business may request voluntary inactive status. Involun-
22 tary inactive status occurs when a licensee fails to renew an active or voluntary
23 inactive license before the expiration date.
- 24 ■ A null and void license no longer exists. When an individual performs real estate
25 services with a void license, that activity is considered unlicensed activity. A
26 license becomes null and void when an involuntary inactive status has continued
27 more than two years. When the FREC revokes a real estate license, the license
28 becomes null and void. A license that is voluntarily relinquished by the licensee
29 is canceled by the FREC without the involvement of disciplinary action. Once
30 canceled, the license is null and void.
- 31 ■ A licensee in good standing who is a member of the U.S. armed forces is exempt
32 from license renewal provisions during active duty and for two years after dis-
33 charge from active duty. The armed forces exemption is valid, assuming the
34 service member is not actively engaging in real estate practices during the
35 exemption period. This is another example of an ineffective license.
- 36 ■ Licensees must notify the DBPR within 10 days of a change in mailing address or
37 email address.
- 38 ■ Resident licensees who move out of the state must notify the Commission within
39 60 days of the change in residency.
- 40 ■ "Multiple licenses" refers to those cases in which a broker holds more than one
41 broker's license.
- 42 ■ A group license is issued to a sales associate or a broker associate employed by
43 an owner-developer (real estate developer) who owns properties in the name of
44 various entities. A group license entitles the licensee to work for the separate
45 sales projects owned by the owner-developer.

UNIT 3 EXAM

1. The following statements are true with respect to the members of the Florida Real Estate Commission EXCEPT that they
 - a. are a mix of real estate practitioners and consumer members.
 - b. are accountable to the governor for proper performance.
 - c. are DBPR employees.
 - d. depend on the DRE for their administrative assistance.
2. Members of the FREC are appointed by the
 - a. governor and confirmed by the secretary of state.
 - b. governor and confirmed by the DBPR secretary.
 - c. DBPR Secretary and confirmed by the governor.
 - d. governor and confirmed by the state senate.
3. Which duty is an exercise of the FREC's quasi-legislative power?
 - a. Adopt a seal
 - b. Make determinations of violations
 - c. Promulgate rules
 - d. Grant or deny applications for licensure
4. Real estate licensees on active duty with the U.S. Army are required to renew their licenses
 - a. every two years.
 - b. on discharge.
 - c. within one year after discharge.
 - d. within two years after discharge.
5. The term of office for each Commission member is
 - a. two years.
 - b. four years.
 - c. five years.
 - d. seven years.
6. The members of the Commission receive
 - a. no compensation for their services.
 - b. only a per diem fee when on official business.
 - c. \$50 per day when on official business, plus out-of-pocket travel expenses.
 - d. an annual salary equal to a state legislator's annual salary.
7. Which Commission responsibility is an exercise of its quasi-judicial power?
 - a. Adopt a seal
 - b. Create and pass rules
 - c. Regulate professional practices
 - d. Grant or deny license applications
8. The Commission is NOT empowered to
 - a. make determinations of violations.
 - b. impose administrative fines.
 - c. levy fines and imprisonment as penalties for certain crimes.
 - d. adopt an official seal that, when used on a document, certificate, proceeding, or act of the Commission, is prima facie evidence of its authenticity in all matters of law in this state.
9. Specific responsibilities of the FREC do NOT include
 - a. determining the amount of licensing fees needed to operate the Commission.
 - b. reporting criminal violations to the state's attorney.
 - c. informing the Division of Florida Condominiums, Timeshares, and Mobile Homes of disciplinary action against any of its licensees.
 - d. providing the services necessary for the preparation and administration of licensing examinations.
10. Which power is NOT granted to the DBPR under Florida Statute 455?
 - a. Issue citations
 - b. Investigate consumer complaints
 - c. Appoint FREC members
 - d. Issue subpoenas

11. Which statement regarding the Department of Business and Professional Regulation (DBPR) is TRUE?
 - a. The DBPR Secretary is appointed by the Commission.
 - b. The DBPR is under the executive branch of the state government.
 - c. The main DBPR office is located in Orlando.
 - d. The DBPR does not have the legal authority to issue citations.
12. FREC may reinstate a null and void license when
 - a. it is determined that the licensee failed to comply with the statute because of physical hardship or economic hardship.
 - b. the licensee timely pays the renewal fee and completes the education requirement the next day after the license is null and void.
 - c. the licensee timely completes the education but fails to pay the renewal fee prior to the license becoming null and void due to a busy work schedule.
 - d. the licensee apologizes for the oversight and promises to timely renew in the future.
13. How many members of the FREC may hold a current active sales associate license?
 - a. One
 - b. Two
 - c. Four
 - d. Five
14. If an active licensee fails to renew her third two-year license before the expiration date on the license, the license will
 - a. revert automatically to involuntary inactive status at the end of the license period.
 - b. be suspended automatically.
 - c. be canceled, and the licensee will have to retake both the course and the licensing exams.
 - d. be canceled, and the licensee will have to retake the licensing exam only.
15. An involuntary inactive license will automatically become void without further action by the FREC or the DBPR after
 - a. 2 years.
 - b. 4 years.
 - c. 5 years.
 - d. 10 years.
16. Who may NOT reactivate a license to active status?
 - a. A voluntary inactive sales associate
 - b. A licensed corporate director of a real estate company
 - c. An involuntary inactive broker
 - d. A sales associate who did not complete post-licensing education before the expiration of the initial license
17. An owner-developer owns several properties with different names, but all are business entities closely connected and controlled by the owner-developer. A sales associate working for that owner-developer may legally obtain
 - a. a group license.
 - b. multiple licenses.
 - c. either a group license or multiple licenses, but not both.
 - d. neither a group license nor multiple licenses.
18. A broker moves his real estate office to a new, trendy location. He is so busy coordinating the move that he forgets to notify the DBPR. The broker's license
 - a. will cease to be in force.
 - b. is null and void.
 - c. is automatically suspended.
 - d. is canceled.
19. Which statement is TRUE regarding multiple licenses?
 - a. A broker associate may hold multiple licenses.
 - b. A broker who qualifies as the broker for more than one brokerage company holds multiple licenses.
 - c. Sales associates may be registered under more than one brokerage company provided the companies are owned by the same broker.
 - d. Unlicensed owner-developers are issued multiple licenses if they own more than one real estate development.

20. A broker decides to relocate her real estate brokerage office. She notifies the DBPR of the change in business address. She also informs the DBPR of the names of two sales associates who are no longer associated with her brokerage. The sales associates' licenses will be
- a. suspended until they find new employment.
 - b. canceled.
 - c. null and void.
 - d. placed on inactive status.