

Linda L. Crawford
and Edward J. O'Donnell
8th EDITION

FLORIDA

REAL ESTATE BROKER'S GUIDE

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Real Estate Education

SAMPLE

FLORIDA

Real Estate Broker's Guide

8th Edition | Linda Crawford and Edward O'Donnell

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I N T R O D U C T I O N

Congratulations on taking the next step in your real estate career! Your decision to take the broker prelicense course indicates your commitment to increasing your professional competence.

This textbook follows the Florida Real Estate Commission (FREC) Course II syllabus and meets Florida's requirements for the 72-hour broker prelicense course. The material is designed to build on the knowledge licensees have obtained in education courses taken during their careers as sales associates.

The book is divided into four major sections.

Part I, "Getting Started in the Real Estate Brokerage Business," focuses on the important laws that regulate a broker's daily activities. Knowledge of these laws helps the licensee provide fair and honest service to consumers and reduces exposure to disciplinary action or civil damages. The material covers requirements for obtaining and maintaining a Florida real estate broker's license, the application and registration process, and the advantages and disadvantages of the different business entities that may be registered as brokerage firms. Escrow account management includes the time requirements for deposits, the procedures in case of disputes over the deposits, and the reconciliation requirements. Because the FREC periodically visits real estate offices to ensure compliance, a unit covering office inspection and discipline is devoted to this. A unit on owning and operating a brokerage firm covers budgeting for a new brokerage firm, accounting, tax requirements, and recruiting and training sales associates.

Part II, "Valuing Real Property," describes the process appraisers use to estimate a property's value. While brokers usually do not prepare appraisals in the normal course of their business, understanding the valuation process is critical in listing, marketing, and selling real property. Also critical is knowledge of laws and rules governing appraisal, set through the Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB). Licensees who list and sell real property must understand the steps involved in preparing a comparative market analysis, a subject covered in detail. Estimating the value of businesses also is included in this section.

Part III, "Listing and Selling Real Property," begins with a discussion of brokerage relationships with customers and principals. Contract law is described, as it relates to a broker's listing and sales agreements. Because financing is the key to nearly every sale, licensees must understand the law as it relates to notes and mortgages, the different types of loan programs, and the qualification process. Every licensee must understand the duties required to close a transaction, as covered in this section. While licensees do not actually prepare closing statements, this section describes the process and contains three practical composite closing statement problems.

Part IV, "Specialties," provides an overview of several important subjects. The investment real estate chapter details the advantages and disadvantages of different types of income properties and provides you with an opportunity to practice financial analysis techniques. Brokers also must understand the laws regulating land planning and the comprehensive plan, as well as environmental issues affecting real estate transactions. Managing investment property is another important brokerage specialty discussed in this section.

Understanding the vocabulary used in a profession is a key ingredient in mastering a subject area. This is particularly true in the real estate profession. Each unit begins with a list of key terms that are highlighted in bold print throughout the text, just before their definitions.

We also have included learning objectives at the beginning of each unit. This is your guide to the most important points to be mastered in the text. End-of-unit questions emphasize these concepts again.

Throughout the material, you will find important information, such as legal references, examples, and case studies. These items were designed to help you better understand and apply each unit's objectives.

The authors wish to express their appreciation to the following persons who were willing to provide their professional advice and assistance necessary to the completion of this book. Special thanks are extended to this edition's textbook reviewer Valleri Crabtree, J.D., independent real estate consultant. Valleri carefully reviewed the entire textbook and contributed greatly to updating this edition of your textbook. We would also like to extend our thanks to Robert Gordon, Senior Instructor, Bob Hogue School of Real Estate and broker of Gordon & Associates Realty, Inc. Robert has been an invaluable asset for every edition of the *Florida Real Estate Broker's Guide*, providing suggestions throughout the years.

We wish you well in your career as a Florida broker.

Linda Crawford
Edward O'Donnell
November 2021

GETTING STARTED IN THE REAL ESTATE BROKERAGE BUSINESS

- UNIT 1** BECOMING A LICENSED REAL ESTATE BROKER
- UNIT 2** OPENING A REAL ESTATE OFFICE
- UNIT 3** OWNING, MANAGING, AND SUPERVISING A REAL ESTATE OFFICE
- UNIT 4** ESCROW MANAGEMENT
- UNIT 5** OFFICE INSPECTIONS, DISCIPLINARY PROCESS, AND REAL ESTATE RECOVERY FUND

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BECOMING A LICENSED REAL ESTATE BROKER

LEARNING OBJECTIVES

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

- Explain the broker applicant requirements and situations that may cause an application to be denied.
- Identify the consequences of failing to disclose a previous conviction.
- Explain nonresident applicant requirements and mutual recognition agreements.
- Explain broker prelicense education and experience requirements and identify exceptions to the course requirement.
- Identify the post-licensing and continuing education requirements for brokers.
- Explain active status and inactive status, and the renewal requirements for members of the U.S. armed forces and their spouses, and how it is unlawful to perform real estate services with an expired real estate license.
- Distinguish between licensure and registration.
- Distinguish between multiple licenses and a group license and explain the provisions for issuance of multiple licenses.
- Identify the rules regarding change of address, residency, and change of business address.
- Identify real estate services that require a real estate license and exemptions from licensure.

KEY TERMS

compensation
 Florida resident
 group license
 involuntary inactive status

licensure
 multiple licenses
 mutual recognition
 agreements

nonresident
 registration
 summary of applicants
 voluntary inactive status

INTRODUCTION

This unit begins with an explanation of who must be licensed and the qualifications necessary for obtaining a Florida broker license. The prelicense education requirement and ways the experience requirement can be satisfied are detailed. Post-licensing and continuing education requirements also are presented, as are exemptions from the educational requirements. Finally, the unit discusses how to obtain a broker's license through mutual recognition and contrasts real estate licensure and registration.

LICENSURE

Becoming a Broker

Florida license law defines a broker as a person who, for another and for compensation (or in anticipation of compensation), performs real estate services. Becoming a broker requires broker prelicense education, experience, and passing the state license exam. While many sales associates want the prestige of a broker's license, they are not interested in opening their own real estate brokerage business. A broker associate is an individual who holds a broker's license but who chooses to register and work in real estate under the direction of another broker. Sales associates and broker associates are employed by and work under the direction and control of a broker or a registered, unlicensed owner-developer.

Application Process

An individual applying for a Florida real estate license must:

- be 18 years of age or older;
- have a high school diploma or its equivalent;
- possess a U.S. Social Security number;
- be honest, truthful, trustworthy, of good character, and have a good reputation for fair dealing; and
- be competent and qualified to make real estate transactions and conduct negotiations with safety to investors and others.

A person desiring to become licensed must submit a Department of Business and Professional Regulation (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.

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You can apply for a Florida real estate license online at www.myfloridalicense.com/dbpr/.

Application fees New applicants for licensure are assessed an application fee in addition to the initial 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. 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. The fee waiver applies to all professional licenses issued by the DBPR, not just real estate licenses. The three categories of applicants that are exempt from the initial license fee are the following:

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

Each category of exemption has specific qualification requirements. In all cases, license applicants are required to submit a license application, submit fingerprints, complete pre-license 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 real estate applicants pay the unlicensed activity fee and the Real Estate Recovery Fund fee.

Fee waiver for low-income applicants The DBPR is required by Florida law to waive the initial license fee for qualifying low-income applicants. Eligibility is based on the applicant's before-tax household income.

Fee waiver for military personnel and their spouses The DBPR is required by law to waive the initial licensing 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.

Fee waiver for veterans The DBPR is required to waive the initial 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 license fee exemption.

U.S. Social Security number Proof of U.S. citizenship is not required of applicants. However, applicants must possess a U.S. Social Security number. Florida law requires that an applicant's Social Security number be disclosed on all professional license applications. The Social Security number is used in determining child support obligations.



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 name as it appears on their Social Security card. 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 compliance with child support obligations.

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

Reasons for Denial of a License Application

Some application denials are the result of a deficient application. When an application is deficient, the applicant may correct the deficiency and submit an amended application or file a new application.

Examples of a deficient application are:

- neglecting to answer completely all questions on the application;
- neglecting to forward the proper fees with the application request; and
- neglecting to correct errors or omissions on applications returned.

Grounds for denial of a license application are more serious and result in an applicant being denied licensure. A denied application requires a decision by the FREC during a Commission meeting. Examples of cause for license denial are that the applicant:

- lacked minimum qualifications;
- did not possess the character required by the provisions of Florida Statutes 455 and 475;
- did not possess the general competence to deal with the public, or complaints against the applicant were received by the Florida Real Estate Commission (FREC) or the DBPR;
- was guilty of acts that would have resulted in revocation or suspension of a license had the applicant already been licensed;
- acted in violation of any provision of F.S. 475.42 or was at the time subject to discipline under F.S. 475.25; and
- received assistance or cheated while taking a state license exam.

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

WEBLINK



To check the status of your application, go to www.myfloridalicense.com/dbpr/. Select "Check Your Application Status."

Period to inform applicant of approval or denial Any application for licensure that is not processed within the legislated time periods must be considered approved. An applicant must be informed of approval or denial of the application within 90 days after receipt of the last correctly submitted application. When the Commission denies an application, it sends a copy of the denial to the applicant, lists the reasons for the denial, and advises that the applicant has 21 days from the date of receipt of the order to request a hearing in accordance with Chapter 120, F.S.

Practice Questions

1. U.S. citizenship is required of Florida real estate applicants.
 - a. True
 - b. False
2. Broker applicants must possess a U.S. Social Security number.
 - a. True
 - b. False

3. The DBPR has 90 days after receiving an application to check for errors and omissions and to send a notice of insufficiency concerning any additional information required.
 - a. True
 - b. False

WHAT TO DISCLOSE ON THE LICENSE APPLICATION

Fingerprint Process

Applicants must submit their fingerprints as part of the license application process. An applicant's fingerprints are scanned and electronically submitted to the Florida Department of Law Enforcement (FDLE) and to the Federal Bureau of Investigation (FBI). The purpose of the fingerprinting process is to determine whether an applicant has a criminal history. Applicants are encouraged to submit their fingerprints at least five days before submitting the license application. This allows sufficient time for the FDLE to process the fingerprints and submit the results to the DBPR. If an applicant's fingerprint results have not been received by the DBPR when the application is processed, the application will be deemed incomplete.

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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 and contact information on the Livescan device vendors list, go to www.fdle.state.fl.us/Criminal-History-Records/Obtaining-Criminal-History-Information.aspx. Applicants can also contact Pearson VUE at <https://pearson.ibtfingerprint.com>.

WEBLINK



For additional facts regarding the fingerprinting process and for instructions regarding how to submit fingerprint information, download and print the DBPR's "Electronic Fingerprinting Frequently Asked Questions" at www.myfloridalicense.com/dbpr/servop/testing/documents/finger_faq.pdf.

Criminal Background Check

Applicants are cautioned to complete the application carefully, particularly with respect to past history concerning felonies, misdemeanors, and traffic offenses (other than parking, speeding, inspection, or traffic signal violations). Applicants' background questions concern criminal, rather than civil, matters. Applicants are not asked to disclose personal financial information such as bankruptcy, foreclosures, credit information, and so forth because these factors are not considered when determining whether to approve an application. When responding regarding past history (background questions on the application), applicants who have been convicted of a crime, found guilty, or entered a plea of guilty or nolo contendere (no contest), even if court action (*adjudication*) was withheld, should attach full details of all cases with dates and outcomes, including any sentence and conditions imposed. Arrest reports, the disposition of the case or final order(s), and documentation proving all sanctions have been served and satisfied should be attached to the application.



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 the defendant to 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 sentence may be imposed by the court.

Applicants should never assume that a past crime has been expunged and does not require disclosure. Expungement is a process by which a record of a criminal conviction is destroyed or sealed after expiration of time. Expungement is not automatic. Attorneys charge extra for this process, and applicants should confirm that the matter no longer appears on one's criminal history. If the applicant's attorney indicated that the criminal conviction would be expunged, the applicant should contact the attorney who handled the case to confirm that the criminal matter was, indeed, expunged. Statutes in some states permit a person's criminal record to be sealed. State statutes that provide for sealing of records usually pertain to juvenile offenders. If an applicant does not confirm the past crime was expunged or sealed, and in reality it was not, the DBPR will consider the error as a nondisclosure of a past crime that required disclosure.

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

Applicants who filed their license application online and responded "yes" to any of the background questions should mail the documentation with a cover letter. An application number is assigned when an application is filed online. Indicate the application number in the cover letter so that the background documentation can be attached to the online application record.

Applicant Agendas

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

The DRE sends a letter to each applicant on the SOA agenda. The letter details the date, time, and location of the FREC meeting. Applicants are strongly encouraged to

1 appear at the meeting. The letter also outlines the applicant's rights to hire an attorney if
2 desired, bring character witnesses, and submit letters of good character. After the appli-
3 cant appears on an SOA agenda, the FREC will make a decision to approve or deny the
4 applicant for licensure.

5 **Reciprocity for U.S. Armed Service Members and Their Spouses**

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

11 **Reciprocity** is the practice of mutual exchanges of privileges. The law applies to all
12 professional licenses issued by the DBPR, including real estate licenses. The applicant
13 must, at the time of application to the DBPR, currently hold a valid license for the cor-
14 responding profession in another state, U.S. territory, or a foreign jurisdiction. Applicants
15 must submit fingerprints for a background check as part of the application process. The
16 initial fees are waived except for the fingerprint fee.

17 To qualify for a reciprocal real estate license, the eligible military applicant, spouse,
18 or surviving spouse must currently hold a valid real estate license issued in another state,
19 U.S. territory, or foreign jurisdiction. After a satisfactory background check is completed
20 and the license application is approved, the DBPR must issue a reciprocal real estate
21 license without requiring the applicant to complete prelicense education or take the state
22 license exam. Once the license is issued, the licensee is responsible for complying with
23 license renewal requirements, including applicable renewal fees.

Practice Questions

4. Broker applicants are required to disclose misdemeanor offenses on the license application.
 - a. True
 - b. False
5. If a broker applicant's past criminal history is not discovered until after the applicant becomes a broker, the DBPR will likely take no action.
 - a. True
 - b. False
6. Applicants' background questions concern civil and criminal matters.
 - a. True
 - b. False

24 **NONRESIDENT APPLICANT REQUIREMENTS**

25 **Nonresident Applicants**

26 Florida residency is not required to possess a Florida real estate license. For applica-
27 tion and licensing purposes, the FREC rules define a **Florida resident** as a person who has
28 resided in Florida continuously for a period of four calendar months or more within the
29 preceding year, regardless of whether the person resided in a recreational vehicle, hotel,

1 rental unit, or other temporary or permanent location. Any person who presently resides
2 in Florida in any of the previously described accommodations with the intention of resid-
3 ing continuously in Florida for four months or longer, beginning on the date the person
4 established the current period of residence, is also considered a legal Florida resident. This
5 is the test used to determine whether an applicant for licensure qualifies as a nonresident
6 under mutual recognition.

7 **Mutual Recognition Agreements**

8 The intent of **mutual recognition agreements** is to recognize the education and expe-
9 rience of individuals licensed in another state or nation when the other jurisdiction has
10 education and experience requirements comparable to Florida's requirements. A person
11 who is licensed in a mutual recognition state and who wants to obtain a Florida license
12 through mutual recognition must complete the process of Florida licensure *before* becom-
13 ing a resident of Florida. The agreements apply exclusively to *nonresidents* who are licensed
14 in other jurisdictions. A resident of Florida who is licensed in a mutual recognition state
15 *cannot* apply for a Florida real estate license under mutual recognition.

16 A nonresident applicant requests mutual recognition on the Florida real estate license
17 application and indicates from which state mutual recognition is being requested. An
18 applicant applying for mutual recognition must obtain a *certification of license history* from
19 the real estate commission in the state where the applicant is licensed. A certification
20 of license history must contain the applicant's initial license exam information, current
21 license status, the number of active months of licensure within the preceding five years,
22 and whether any disciplinary action has been taken against the licensee. The certification
23 is submitted with the application.

24 Real estate applicants approved for licensure under mutual recognition are exempt
25 from the prelicense education course. However, the mutual recognition applicant must
26 demonstrate mastery of Florida's real estate license law by passing a written Florida-spe-
27 cific real estate law license exam. The exam consists of 40 questions worth 1 point each.
28 A grade of 30 points (75%) or higher is required to pass the exam. After demonstrating
29 knowledge of Florida license law, the applicant is issued a Florida real estate license. Indi-
30 viduals who receive a Florida real estate license under mutual recognition must fulfill the
31 same post-license and continuing education requirements as all other Florida real estate
32 licensees.

33 Mutual recognition agreements also ensure that Florida licensees have an opportu-
34 nity for licensure in mutual recognition states. The agreements are state-specific, and
35 what is required of Florida licensees varies among mutual recognition states depending on
36 how another state's license law compares with Florida's license law. A Florida real estate
37 licensee interested in obtaining a license from a mutual recognition state should contact
38 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. (Note: Reciprocity for U.S. armed service members and their spouses is the only exception.)

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

7. A person who has resided in Florida for three months every winter is considered a Florida resident for licensure purposes.
 - a. True
 - b. False
8. An applicant who is applying for a broker's license holds a valid broker's license in a state with which Florida has a mutual recognition agreement. The applicant is exempt from the broker prelicense course but must pass the broker state license exam.
 - a. True
 - b. False

BROKER PRELICENSE EDUCATION AND EXPERIENCE REQUIREMENTS

Prelicense Education

Broker applicants who possess a Florida sales associate's license must fulfill their sales associate's post-licensing education before the expiration of the initial sales associate's license or before applying for a broker's license (whichever occurs first).

Broker candidates must successfully complete the broker course (Course II) or an equivalent FREC-approved prelicense course. Course II consists of 69 hours of instruction and 3 hours for the end-of-course examination in the fundamentals of real estate appraising, investment, financing, and brokerage operations and management. A passing score of at least 70 is required on the end-of-course exam. Students 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.

Exemptions to the broker prelicense course requirement Broker applicants who have received a four-year degree or higher in real estate from an accredited institution of higher education are exempt from the prelicense education course. Although active members in

good standing with The Florida Bar are exempt from the sales associate course (Course I), they are *not* exempt from the broker prelicense course (Course II) (see Figure 1.1). Individuals who qualify for the education exemptions must complete the license application and fingerprint requirements.

FIGURE 1.1 ■ Summary of Education Exemptions

	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.

Experience Requirement

Broker applicants must fulfill an experience requirement in addition to the education requirement. A broker applicant fulfills the experience requirement by having 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:

- 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 employment can be under a Florida real estate broker or a broker licensed in another state or in any foreign jurisdiction.
- The applicant held an active sales associate license while working as a salaried employee of a government 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.
- 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.

The experience cannot be earned by working for an owner-developer unless the owner-developer is a licensed broker who holds a current, valid, active real estate license and the associate is registered under the developer's broker's license. A broker applicant who holds a Florida real estate sales associate license must fulfill the 45-hour post-licensing education requirement before the initial sales associate license expires in order to be eligible to obtain a Florida broker license, even if the applicant is applying real estate experience from another state. If the broker applicant does not hold a Florida real estate sales associate license, the 45-hour sales associate post-licensing education requirement does not apply.

Exam eligible When the application processing is complete and the application has been approved, the DBPR notifies the national testing vendor. The vendor then sends a notice informing the candidate of eligibility to take the state license examination. FREC rules mandate the content of the state license examination. To the extent subject areas can reasonably be separated, 45 points are based on law, 40 points on principles and practices, and 15 points on real estate mathematics. The math questions consist of 8 points concerning the Closing Disclosure and 7 points of general math calculations. The passing score on the state license exam is a grade of 75 or higher.

1 Examinees' answers are graded at the test site. Examinees receive a photo-bearing
2 exam report immediately following completion of the exam. If a broker candidate does
3 not pass the state license exam within two years after the course completion date (the
4 date the applicant passes the end-of-course exam), the course completion expires and the
5 applicant must again complete the prelicense education course.

6 **WEBLINK**
7 @
8 Download a copy of the *Candidate Information Booklet for the Real Estate Broker Examination* at www.myfloridalicense.com/dbpr/servop/testing/documents/RE.brokercib.pdf. The booklet includes important information regarding taking the state license exam.

Practice Questions

9. Broker applicants must complete at least 12 months of real estate experience during the previous five years working for a broker or an owner-developer.
- True
 - False
10. A broker applicant who received a master's degree in real estate from an accredited institution is exempt from the broker prelicense education course.
- True
 - False
11. A Florida-licensed attorney is exempt from the broker prelicense education course.
- True
 - False

LICENSEE EDUCATION REQUIREMENTS

Post-Licensing Education

11 Broker licensees are required to successfully complete post-licensing education *before*
12 *the first renewal* of their licenses. This requirement has the effect of placing all initial
13 licenses in a conditional (probationary) status because failure to complete the post-
14 licensing education requirement will cause the initial license to become null and void by
15 operation of law. However, in such cases, brokers may request and receive a sales associate
16 license if they complete 14 hours of continuing education within the six months follow-
17 ing expiration of the broker license and have complied with all requirements for renewal.

18 The broker post-license course requirement is satisfied by completing one or more
19 courses totaling 60 hours of 50 minutes each, including the end-of-course exam. To receive
20 credit for the post-license course, students must earn a grade of at least 75% on the end-
21 of-course exam. Students who fail the end-of-course exam may retest only one time using
22 a different form of the end-of-course exam. If the student fails the alternate exam, the
23 course becomes invalid and the student must retake the post-license course.

24 A licensed broker who has received a four-year degree or higher in real estate from
25 an accredited institution of higher education is exempt from the post-license education
26 requirement. Florida-licensed attorneys who are also licensed real estate brokers must
27 complete the post-licensing education requirement. (Refer to Figure 1.1.)

Hardship Cases

The Commission may allow real estate licensees an additional six-month period following the initial license expiration to complete the post-license education requirement if, due to individual physical hardship, as defined by rule, they could not complete the education requirement before the license expiration date. A physical hardship is defined as a licensee's long-term illness or an illness involving a close relative or person for whom the licensee has caregiving responsibilities; the required course was not reasonably available; or the licensee had an economic or technological hardship that substantially relates to the ability to complete education requirements. An economic hardship is defined as the inability to meet reasonable basic living expenses. Licensees must request the post-license hardship extension in writing to the Commission, setting forth the basis of the alleged hardship. The Commission may request documentation to support the request. There is no 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 brokers. 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.

Continuing Education

After completing the post-license education requirement during the initial license period, active and inactive licensees must complete at least 14 hours of continuing education during every two-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 three-hour Business Ethics course once during each license renewal period. Licensees who complete the Core Law course and the Business Ethics course will receive six credit hours toward the 14-hour requirement.

While only three 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 three-hour Business Ethics course in each year of the renewal period receives three hours of Business Ethics and three hours of specialty education toward the 14-hour requirement.

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.

1 Active members in good standing with The Florida Bar are exempt from the continu-
2 ing education requirements for real estate licensees. (Refer to Figure 1.1.)

Practice Questions

12. Before the first renewal of a broker license, brokers must complete 60 hours of a Florida Real Estate Commission (FREC)–approved broker post-license course.
- True
 - False
13. A real estate licensee who has attained a four-year degree or higher in real estate from an accredited institution of higher education is exempt from the post-license education requirements.
- True
 - False
14. A real estate broker did not complete the broker post-licensing education requirement because the broker was undergoing cancer treatment. Eight months following expiration of the broker’s initial license, the licensee requested a post-license hardship extension. The Commission is authorized to grant the broker an extension to complete the post-licensing education.
- True
 - False

LICENSE RENEWAL PERIODS

3
4 The initial effective date of a real estate license is the date the DBPR issues the
5 license. All real estate licenses are issued with an expiration date of either March 31
6 or September 30. The expiration date assigned to a particular license is the date that
7 will give the licensee as close to 24 months of licensure as possible, without exceeding
8 24 months. License law mandates that the initial license period must provide the licensee
9 at least 18 months of licensure but not more than 24 months.

10 For example, assume the initial effective date of a license is July 25, 2020. The license
11 will expire on March 31, 2022 (approximately 20 months of licensure). Thereafter, every
12 two years (biennially) on March 31, the real estate license expires and must be renewed.

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

License Renewal

18
19 Ninety days before the end of a license cycle, the DBPR sends a renewal notice to
20 licensees. The DBPR either mails the notice to the licensee’s last known address of record
21 or electronically sends the notice to the licensee’s email address of record. It is the respon-
22 sibility of licensees to keep track of their renewal dates and license requirements. Failure
23 to receive the notice will not excuse the licensee from completing the renewal require-
24 ments. Brokers and sales associates must complete their post-license education before the
25 first renewal of their initial licenses. After the post-license education is satisfied and the

1 initial license is renewed, licensees must complete 14 hours of continuing education dur-
2 ing each renewal period.

3 To renew a real estate license, the licensee submits a renewal notice and the biennial
4 license fee. By submitting the renewal notice to the DBPR, the licensee is attesting to
5 having completed the education requirement.

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

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

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

24 **Active vs. Inactive Status**

25 An active license is required to engage in real estate brokerage services. Licensees
26 who choose not to engage in the real estate business may place their licenses on inactive
27 status. There are two types of inactive status: (1) voluntary inactive and (2) involuntary
28 inactive.

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

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

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

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

- 8 ■ 12 months or less, they may satisfy the education requirement by completing
9 14 hours of FREC-approved continuing education; or
- 10 ■ more than 12 months but less than 24 months, they are required to complete
11 28 hours of a Commission-prescribed reactivation education course.

12 A broker license can be in involuntary inactive status for no more than two years.
13 After two years the license automatically expires (becomes null and void) by operation
14 of law without further FREC or DBPR action. Once the broker license becomes void,
15 individuals who want to practice real estate can apply for a broker license provided the
16 applicant can meet the experience requirement. (See “Experience Requirement” earlier
17 in this unit.)

18 **EXAMPLE:** A Florida broker failed to renew his license and it became null and void
19 after two years. The applicant applied for a broker’s license. The applicant was able to
20 document that he held an active real estate license in another state. The applicant used
21 the experience and licensure information to obtain a Florida broker license. The applicant
22 will have to retake the broker prelicense course (Course II), and retake and pass the state
23 broker license exam.

24 **EXAMPLE:** A Florida broker failed to renew her license and it became null and
25 void after two years. The applicant does not hold an active real estate license in any
26 state or jurisdiction. Therefore, the applicant does not meet the experience requirement
27 for a Florida broker license. This applicant must apply for a sales associate license,
28 retake the sales associate prelicense course (Course I), and retake and pass the state
29 sales associate license exam. This applicant will need to be an active real estate
30 sales associate for a minimum of two years before once again meeting the experience
31 requirement for a Florida broker license. The applicant will also have to complete the
32 sales associate post-license education requirement before applying for a broker license.

33 **Reinstatement of a null and void license** The FREC may reinstate the license of an indi-
34 vidual whose license has become null and void as a result of a failure to timely renew if the
35 Commission determines that the former licensee failed to comply with the statute because
36 of physical hardship or economic hardship. The former licensee must apply to the FREC
37 for reinstatement within six months after the date that the license became null and void.
38 There is no legislative authority to extend the renewal requirement beyond the six-month
39 period. (See “Hardship Cases” earlier in this unit for additional information regarding
40 physical hardship and economic hardship.)

Unlicensed Activity

An individual may not operate as a broker without having a valid and current active license. Brokers may not employ, or continue to employ, broker associates and sales associates who do not hold valid licenses. A licensee may not practice real estate following the expiration date of the license. A broker or an associate who does so, even accidentally, commits an unlawful act. Unlicensed activity includes providing real estate services for compensation without an active real estate license. An individual who operates as a broker, broker associate, or sales associate without a valid and current active license may be charged with the administrative violation of unlicensed activity under Section 475.42, F.S. If a case of unlicensed activity is prosecuted criminally, the individual will be charged with unlicensed practice of a profession, which is a third-degree felony.

FIGURE 1.2 ■ Penalties for Practicing Without a Current Active License

Rule 61J2-24.001 Violation	First Violation	Second and Subsequent Violations
(w) Section 475.42(1)(a), F.S. Practice without a valid and current license	(w) \$250 to \$2,500 administrative fine and suspension to revocation	(w) \$1,000 to \$5,000 Administrative fine and suspension to revocation
(x) Section 475.42(1)(b), F.S. Practicing beyond scope as a sales associate	(x) \$250 to \$1,000 administrative fine and suspension to revocation	(x) \$1,000 to \$5,000 Administrative fine and suspension to revocation
(y) Section 475.42(1)(c), F.S. Broker employs a sales associate who is not the holder of a valid and current license	(y) \$250 to \$1,000 administrative fine and suspension to revocation	

Practice Questions

15. An involuntary inactive license will become null and void after one year.
 - a. True
 - b. False
16. A broker can be fined or the license suspended or revoked for hiring a sales associate who is not the holder of a valid active license.
 - a. True
 - b. False
17. A licensee who is a member of the U.S. armed forces is exempt from the renewal provisions during active duty and 24 months after discharge.
 - a. True
 - b. False

REGISTRATION AND LICENSURE



UNDERSTANDING THE TERMS LICENSURE AND REGISTRATION

Generally, in order to perform services of real estate for compensation, an individual must hold an active real estate license. To be licensed, an individual must demonstrate real estate knowledge and competency by providing proof of education, experience, passing a license examination, and so forth.

To register, it is necessary to submit to the DBPR certain information about a person or entity so that the information can be entered into the DBPR's computer database.

For example, brokerage entities are registered with the DBPR, officers and directors of a brokerage corporation are registered with the DBPR under the brokerage entity, and sales associates and broker associates are registered under the name of the business brokerage/employer.

Registration is the process of submitting information to be entered into the DBPR's records. Information placed on record with the DBPR includes:

- name and address of each licensed broker, broker associate, and sales associate;
- employer's name and business address for each sales associate and broker associate;
- license status (active or inactive) for each sales associate and broker associate; and
- broker's involvement as an officer, director, or general partner of a real estate brokerage.

Sales associates and broker associates licensed in Florida must be registered under their employing broker (or owner-developer, if applicable). Sales associates and broker associates may have only one registered employer at any given time. Florida licensees may also hold active licenses in other states.

Registering Associates Under an Owner-Developer

An owner-developer is an unlicensed entity that sells, exchanges, or leases its own property. An example of an owner-developer is a real estate development company that develops raw land into subdivisions, and then builds and sells homes on newly developed homesites. An owner-developer may hire unlicensed salespeople and licensed associates to sell its properties. Unlicensed salespeople must be paid strictly on a salaried basis. If the owner-developer wishes to pay its sales staff a commission or other compensation based on actual sales (that is, on a transactional basis), the sales staff must hold active real estate licenses. In such cases, the name and address of the owner-developer is registered with the DBPR. Once the owner-developer information is registered into the DBPR database, sales associates and broker associates may be registered with the owner-developer.

Brokerage Entity Registration

A broker may choose from a variety of business structures. Some brokers choose to own their business in their own name as a sole proprietorship. Others choose more structured business entities—for example, a real estate partnership or a corporation. If a broker chooses to form a business entity to broker real estate, the business entity must be registered with the DBPR. Brokers must renew the brokerage entity's registration every two years. (Brokerage business entity registration is detailed in Unit 2.)

Individuals who do not intend to engage actively in the real estate business include, for example, an unlicensed person who will be an officer or director of a real estate corporation. Individuals who are responsible for activities that do not require a license simply register for identification purposes with the DBPR under the brokerage entity. However, an individual who wishes to actively engage in real estate activities must be licensed and registered as active under the brokerage entity.

Licensure

Licensure is obtained when an applicant has met all the qualifications for practice that are specified in the Florida Statute and has passed the state license exam. Passing the license examination gives the applicant the right to request and be issued a real estate license. The license is a written document that serves as *prima facie evidence* that it is good and sufficient on its face (at first view) that the licensee (holder) is duly licensed as of the effective date shown on the license. Information indicated on the face of the license includes the licensee's full name and address, type of license, license number, effective date, and expiration date. The two-letter prefix before the license number indicates the license type. BK signifies broker; SL, sales associate; and BL, broker associate.

Failure to Register

A licensee may be issued a citation for failing to properly register with the DBPR (see Figure 1.3).

FIGURE 1.3 ■ 61J2-24.002, F.A.C. Citation Authority for Failure to Register

Registration Violations for Which a Citation May Be Issued	Fine
(k) Sales associate operating as an associate without a registered employer due to failure to renew or properly register	\$500
(t) Broker failed to ensure that the brokerage is properly registered; failed to ensure each officer, director, and sales associate is properly licensed	\$500

Practice Questions

18. Unlicensed salespeople who work for an owner-developer may be paid on a commission basis, provided the owner-developer and the salespeople register with the DBPR.
 - a. True
 - b. False
19. A real estate license is the document issued by the DBPR that serves as prima facie evidence that the individual named on the license possesses a valid license.
 - a. True
 - b. False
20. Sales associates and broker associates may have only one registered employer at any given time.
 - a. True
 - b. False

MULTIPLE LICENSES AND GROUP LICENSE

Multiple Licenses

Multiple licenses are issued to a broker who qualifies as the broker for more than one business entity. A separate broker license must be obtained for each business that a person is a broker. Additional (multiple) broker licenses may be issued by the DBPR when it is shown to the Commission's satisfaction that the additional licenses are necessary and that the licenses will not be used in a manner that is prejudicial or harmful to another person. A broker who holds more than one Florida broker license is said to hold multiple licenses. Multiple licenses allow a licensee to legally act as a broker for more than one brokerage firm.

EXAMPLE: Jane Doe is the broker for both Extra-Fine Real Estate Services and Midnight Realty, two separate brokerage entities. Jane needs multiple broker licenses to qualify both brokerage entities.

The Commission may deny a broker's request for multiple licenses. The practice referred to as "rent a broker" is discouraged by the Commission. The FREC holds the broker accountable for oversight and supervision of sales associates and broker associates registered under the broker. If a broker's primary broker license is disciplined, a broker who has multiple broker's licenses may find that the FREC will take disciplinary action against all of the broker's licenses.

Because sales associates and broker associates may have only one registered employer at a time, sales associates and broker associates may not hold multiple licenses. A broker licensee, therefore, may not be licensed as a broker associate for one firm and at the same time be licensed as a broker with another firm.



A final order of discipline rendered against a broker for a violation of this part (475.215, F.S.) or Section 455.227(1) applies to the primary license of the broker as well as any multiple licenses held by that broker at the time the final order becomes effective.

Reference: 475.215, F.S.

Group License

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

The owner-developer sends an affidavit to the DBPR with a list of all the legal company names used by the owner-developer. This allows the associate to sell for all the affiliated entities owned by the owner-developer. Owner-developers are not required to hold real estate licenses if they only sell their own properties. The owner-developer is registered with the DBPR under a pseudo number (not a real estate license) that is entered into the DBPR records. The pseudo number becomes a placeholder under which sales associates and broker associates register. To activate a sales associate license under an owner-developer, the sales associate and the developer complete the appropriate DBPR form. The sales associate's name and license number are entered on the form. The owner-developer's

name, business location address, and pseudo number are entered on the form. In actual practice, the sales associate (or broker associate) is issued a real estate license and no distinction regarding group license is made on the associate's license.

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

Practice Questions

21. A real estate broker who legally operates as the broker for more than one real estate brokerage holds multiple licenses.
 - a. True
 - b. False
22. A sales associate who is employed by an owner-developer is not registered with the DBPR.
 - a. True
 - b. False
23. A broker associate may be issued multiple licenses.
 - a. True
 - b. False

CHANGE OF ADDRESS, RESIDENCY, AND BUSINESS ADDRESS

Current Mailing Address

Licensees are responsible for notifying the DBPR in writing of their current mailing address, email address, and place of practice. License law defines current mailing address as the current residential address a licensee uses to receive mail through the U.S. Postal Service. A post office box is considered an acceptable mailing address. The DBPR sends official communication to a licensee at the last known mailing address or email address, referred to by the DBPR as the address of record. **Place of practice** is defined as the physical location of the real estate brokerage office established and maintained pursuant to Chapter 475.22(1), F.S.

Change of address Licensees must notify the DBPR in writing within 10 calendar days of a change in current mailing address or email address. Licensees may mail or fax the appropriate form to the DBPR, or licensees may submit a change of address online at the DBPR Online Service website. The DBPR may issue a \$500 citation for a first-time failure to timely notify the DBPR of the current mailing address or a change in the current mailing address or email address. Second or subsequent violations of failure to notify the DBPR of a change in either the mailing address or email address will result in disciplinary proceedings against the licensee. Licensees who do not keep their address up-to-date with the DBPR may miss important notices. If a notice requires action on the part of the licensee, the licensee's failure of timely action may lead to administrative discipline.

Change of residency A Florida real estate licensee who moves out of state and becomes a **nonresident** of Florida is required by law to notify the Commission within 60 days of the

1 change in residency. The licensee agrees to keep the licensee's mailing address current.
 2 Nonresident applicants and licensees must comply with all other F.S. 475 requirements
 3 and FREC rules, including post-licensing and continuing education required of all Florida
 4 real estate licensees (see the following text box).



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, F.S., may be issued a citation and fined \$300.

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

5 **Change of business address** The DBPR must be notified within 10 calendar days when
 6 a broker changes a business address. The purpose of timely notifying the DBPR of the
 7 change in business address is so that the DBPR database can be updated.

8 **EXAMPLE :** If a broker changes a business address, the new location must be
 9 registered and a fee paid. New brokerage business may not be conducted (the license
 10 "ceases to be in force") until the DBPR is notified of the new business location and it is
 11 properly registered. To avoid a gap in brokerage service, the broker can register the new
 12 brokerage office in advance. The DBPR may issue a \$500 citation for failure to timely
 13 notify the DBPR of the change in business address.

14 The most efficient way to notify the Commission of a change of address is through the
 15 DBPR's online portal. (When making changes online, it is recommended that the licensee
 16 print the change and preserve the documentation.) At the time of filing the change of
 17 business address notification, the broker must inform the Commission of the names of any
 18 sales associates who are no longer employed by the brokerage. The DBPR updates its data-
 19 base by removing sales associates who should no longer be registered under the brokerage.
 20 Sales associates who are no longer employed with the broker of record are placed on inac-
 21 tive status. When a broker changes business address, the licenses of the sales associates
 22 employed by the broker remain in force.

23 **Change of registered employer** If a sales associate leaves one brokerage firm and wants
 24 to work for another brokerage firm, the DBPR must be informed of the associate's new
 25 employer. Until the sales associate is registered under the new employer, the sales associ-
 26 ate cannot work. The license "ceases to be in force" until the sales associate has registered
 27 under the new broker. Otherwise, the sales associate would be acting as a broker (perform-
 28 ing real estate services without being registered under an employing broker). Associates
 29 should not engage in the practice of real estate with the new employer until the change is
 30 posted on the DBPR licensing portal. The DBPR may issue a \$500 citation for failure to
 31 notify the DBPR within 10 calendar days of the change in employers.

Practice Questions

24. A resident licensee who becomes a nonresident must notify the Commission of the change in residency within 15 days.
- True
 - False

25. A broker relocates her brokerage office across town. The broker must notify the DBPR of the change in business address before business can be conducted at the new business location.
- True
 - False
26. The DBPR has discovered that a broker has failed to update his change of current mailing address with the DBPR on two separate occasions. The DBPR is authorized to issue the broker a \$500 citation.
- True
 - False

REAL ESTATE SERVICES

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: A BAR SALE

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

Real estate services are further defined in law to include the following activities in the sale, exchange, or lease of real property, including mineral rights, business enterprises, or business opportunities:

- Offer to, agree to, or attempt to perform real estate activities
- Advertise or otherwise indicate to the public that one is in the business of performing real estate services
- Direct or assist in the procurement of sellers, buyers, lessors, or lessees
- Negotiate or close a real estate transaction (Note that case law has determined that the intention to close a real estate transaction is sufficient.)

Anyone who performs real estate services for another person for compensation of any type must be licensed, unless specifically exempted by law. **Compensation** is defined as anything of value or a valuable consideration, directly or indirectly paid, promised, or expected to be paid or received.

Compensation includes money in the form of a salary, bonuses, commissions, and gratuities. Compensation is also things of value, such as dinner, flowers, wine, gift certificates, event tickets, and so forth.

It is a violation of license law to share a commission with or to pay a fee or other compensation to an unlicensed person for the referral of real estate business clients, prospects,

1 or customers. However, a Florida broker may pay a referral fee to a broker licensed in
2 another state so long as the foreign broker does not violate Florida law.

3 **Business opportunities** Chapter 475, F.S., defines as real estate “any interest in business
4 enterprises or business opportunities.” Because the definition of real property includes any
5 interest in business enterprises or business opportunities, individuals who specialize in the
6 sale of businesses, known as **business brokers**, must hold Florida real estate licenses.

7 **Presumption of acting as a real estate broker** If an individual performs services of real
8 estate for another person and a disciplinary case is filed as a result of that activity, there is
9 a presumption that the individual is acting as a real estate licensee. Even if the individual
10 attempts to perform a service of real estate for another person without being compensated
11 for the service, the individual may be held liable. If an individual has sold or leased real
12 estate that is not titled in his name, or has maintained an office bearing signs that real
13 estate is for sale or lease, or has advertised real estate for sale or lease, there is a presump-
14 tion that the individual was acting or attempting to act as a real estate broker. The burden
15 of proof is upon the individual to show that he or she was not acting or attempting to act
16 as a broker or sales associate. Unlicensed individuals may find themselves facing charges
17 of unlicensed activity.

18 Exemptions From a Real Estate License

19 Individuals may buy, sell, exchange, or lease real property for themselves. Therefore,
20 individuals and business entities are exempt from a real estate license in the following
21 circumstances:

- 22 ■ Property owners do not need a real estate license to buy, sell, exchange, or lease
23 their own real estate.
- 24 ■ Corporations, partnerships, trusts, and joint ventures may buy, sell, exchange,
25 or lease their own property. Salaried employees of these business entities may
26 buy, sell, exchange, or lease real property for their employer, provided the
27 activity is incidental to their employment and they are not paid a commission or
28 compensated on a transactional basis.
- 29 ■ A partner in a real estate partnership can receive a pro rata share of profits. For
30 example, a 40% partner is allowed to receive 40% of the profits of the business
31 without having a real estate license. However, if the 40% partner received more
32 than 40% of the profits, then an active real estate license is required. This also
33 holds true for unlicensed co-owners of real property. Each co-owner can only
34 receive a pro rata share of the proceeds of the sale. If an unlicensed co-owner
35 receives more than this share, the difference between that ownership share and
36 the share received may be viewed as an illegal commission paid to an unlicensed
37 person.

38 Also exempt from real estate licensure are salaried employees:

- 39 ■ who work in an onsite rental office in a leasing capacity and who do not receive
40 a commission (there is no restriction on the duration of the rental leases for this
41 exemption);
- 42 ■ who are managers of condominiums or cooperative apartment complexes who
43 rent individual units for periods no longer than one year and who are not paid
44 a commission (if the condominium or cooperative meets certain requirements,
45 property managers must obtain community association manager licenses [CAM
46 licenses] from the DBPR; salaried managers of community associations are
47 required to obtain CAM licenses);

- 1 ■ of an owner-developer (real estate developer), provided they do not receive a
2 commission;
- 3 ■ of a governmental agency who perform real estate services for the state or local
4 government and who do not receive commission (this exemption includes
5 persons who appraise railroad property for tax purposes); and
- 6 ■ of business entities who negotiate the sale or purchase of radio, television,
7 or cable enterprises, provided the sale does not involve real property (if the
8 transaction involves the sale or lease of land, buildings, or other improvements
9 to land, a real estate license must be retained for that portion of the transaction).

10 Chapter 475 of the Florida Statutes exempts the following individuals from holding a
11 real estate license:

- 12 ■ Persons who sell cemetery lots. (This exemption exists because Chapter 475,
13 F.S., excludes cemetery lots from the definition of real property.)
- 14 ■ Individuals who rent lots in a mobile home park or recreational travel park.
- 15 ■ Attorneys-at-law when acting within the scope of their professional duties in an
16 attorney-client relationship. An attorney licensed to practice law in Florida or in
17 any other state is not entitled to receive compensation for performing real estate
18 services unless the attorney also holds a Florida real estate license.
- 19 ■ Certified public accountants (CPAs) when performing accounting duties within
20 the scope of their professional duties.
- 21 ■ A person who has been given a power of attorney (called an *attorney-in-fact*) in
22 order to sign contracts and conveyances on someone's behalf. A person cannot
23 appoint another individual as an attorney-in-fact for the purpose of conducting
24 real estate services for others.
- 25 ■ Owners of time-share periods for their own use and occupancy who later offer
26 the time-share periods for resale.
- 27 ■ State-certified and licensed real estate appraisers who are licensed under
28 Chapter 475, Part II, for the purpose of conducting appraisal services.
- 29 ■ Court-appointed individuals acting within the limitations of their duties.
- 30 ■ Hotel and motel clerks who rent lodging accommodations on behalf of the
31 establishment.
- 32 ■ Federally regulated banks and dealers registered with the Securities and
33 Exchange Commission (SEC) selling business enterprises to accredited investors.
- 34 ■ Apartment property owners or property management firms for the purpose of
35 paying a finder's fee of not more than \$50 to a tenant of the complex for a rental
36 referral.

Practice Questions

27. An individual who specializes in the sale of business opportunities is exempt from a real estate license.
 - a. True
 - b. False
28. A person employed by a real estate developer receives a salary plus commission for each lot the employee sells. The employee is exempt from real estate licensure.
 - a. True
 - b. False

S U M M A R Y O F I M P O R T A N T P O I N T S

- A broker associate is an individual who meets the requirements of a broker but chooses to work in real estate under the direction (employ) of another broker.
- Applicants must be at least 18 years old and have earned a high school diploma or its equivalent. U.S. citizenship is not required, and applicants do not have to be Florida residents. However, applicants must possess a Social Security number.
- The DBPR may waive the initial application, license, and unlicensed activity fees for military veterans and their spouses who apply for a DBPR license within 60 months of honorable discharge from the armed forces.
- A resident of Florida is a person who has resided in Florida continuously for a period of four calendar months or more within the preceding year.
- Broker applicants must complete at least 24 months of experience during the five-year period preceding application to become a Florida-licensed real estate broker.
- Brokers must complete 60 hours of post-license education before the expiration of their initial license. Failure to do so will cause the license to become null and void.
- Fourteen hours of continuing education each license period is required for all real estate licensees following the initial license period.
- A licensee in good standing who is a member of the U.S. armed forces is exempt from renewal provisions during the period of active duty and two years after discharge from active duty.
- There are two types of inactive status: voluntary and involuntary. A licensee who has qualified for a real estate license but who voluntarily chooses not to engage in the real estate business may request voluntary inactive status. Involuntary inactive status occurs when a licensee fails to renew an active or voluntary inactive license before the expiration date.
- 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.
- “Multiple licenses” refers to those cases in which a broker holds more than one broker’s license.
- A group license is issued to a sales associate or a broker associate employed by an owner-developer (real estate developer) who owns properties in the name of various entities. A group license entitles the licensee to work in the various sales projects owned by the owner-developer.
- Licensees must notify the DBPR in writing within 10 days of a change in mailing address or email address.
- Resident licensees who move out of the state must notify the Commission within 60 days of the change in residency.
- Real estate services include any real estate activities involving compensation for performing the service for another. Compensation is anything of value paid or promised to be paid to an individual for performing services of real estate.

I N T E R N E T E X E R C I S E

To answer the following questions, you will need to use the internet. Begin by going to the Division of Real Estate (DRE) website at www.myfloridalicense.com/DBPR/real-estate-commission/. At the DRE website, locate and select the link to go to “Statutes and Rules.”

Select “Florida Administrative Code Chapter 61J2” to answer the following questions. The FREC’s citation authority is Rule 61J2-24.002.

1. A broker who fails to obtain a multiple permit may be issued a citation and fined what amount?
2. A licensee who fails to timely notify the DBPR of a change in current mailing address may be issued a citation and fined what amount?

UNIT 1 EXAM

1. Mississippi Fuel Company is a publicly traded company (listed on the New York Stock Exchange) that purchases land and oil rights and drills for oil and gas. A member of the board of directors is responsible for negotiating the company's oil leases. The board member receives an annual salary and an end-of-the-year bonus. Which statement is TRUE of this situation?
 - a. The board member must be a licensed real estate broker.
 - b. The board member must be a licensed real estate sales associate.
 - c. The corporation must be registered with the DBPR on behalf of the FREC because it is involved in real estate sales and lease negotiations.
 - d. The board member does not need a real estate license, provided the salary and bonuses are not associated with any particular real estate transaction.
2. Which individual is NOT exempt from licensure?
 - a. A person who appraises real estate for the county property appraiser's office
 - b. A person who lists and sells businesses
 - c. An individual who rents mobile home lots in a mobile home park
 - d. An individual who sells cemetery lots
3. A Florida-licensed real estate broker from Tallahassee decides to move to Alabama and open a real estate office. What must the broker do?
 - a. Notify the DBPR of the change of business address within 10 days after the change
 - b. Notify the DBPR within 60 days of becoming a nonresident
 - c. Notify the DBPR of the change in current mailing address and email address (if applicable) within 10 days after the change
 - d. The broker must do all of these.
4. A nonresident holds a Florida real estate broker's license. Which statement is TRUE?
 - a. Nonresident broker licensees are exempt from the broker post-license course.
 - b. The broker must successfully complete 14 hours of continuing education every license period following the initial license period.
 - c. The broker will be assessed a nonresident fee in addition to the renewal fee every license period.
 - d. The broker's license status is automatically changed to voluntary inactive status until the broker reestablishes Florida residency.
5. A broker has been licensed for 10 years. If the broker does NOT renew the license by the end of the license period, the license will automatically
 - a. expire.
 - b. revert to voluntary inactive status.
 - c. revert to involuntary inactive status.
 - d. be canceled.
6. A developer purchased a tract of land and subdivided the property into individual lots. The developer hired his son, who was not licensed. The father agreed to pay his son a salary of \$200 per week. The father promised his son that after every fifth lot was sold, he would give his son a lot free and clear. The son sold only two lots. The son quit his job to go work for another developer, who paid a higher weekly salary. Which statement applies to this arrangement?
 - a. There is no violation of F.S. 475 because the two men are related.
 - b. The son alone has violated F.S. 475 because he sold property without a license.
 - c. Only the father has violated F.S. 475 because he promised a bonus based on sales.
 - d. Both the father and the son have violated F.S. 475.

7. A broker purchased a list of Federal Housing Administration (FHA) foreclosure properties from an FHA employee. The broker agrees to pay the FHA employee a percentage of any commissions he earns from the sale of properties on the list. Which statement is TRUE?
- The broker may compensate the FHA employee because the FHA pays his salary.
 - The fee paid to the FHA employee is a referral fee, which is legal under Florida real estate law.
 - FHA foreclosure properties are not covered under Chapter 475, F.S.
 - The broker has violated Chapter 475, F.S., by compensating an unlicensed person for performing services that require a real estate license.
8. Which broker applicant is exempt from the prelicense and post-license education requirements?
- Active member in good standing with The Florida Bar
 - Individual who became licensed through mutual recognition
 - Individual who received a four-year degree or higher in real estate from an accredited institution of higher education
 - A nonresident applicant
9. Carla has had an inactive Georgia real estate license since 1980. She also has had an active New York real estate broker license since 1996. Carla relocated to Boca Raton six months ago, and she wants a Florida real estate broker's license. Which statement BEST describes Carla's qualifications for a Florida broker license?
- Carla may apply for mutual recognition.
 - Carla has fulfilled the experience requirement because she has been licensed in Georgia since 1980.
 - Carla must enroll in the sales associate prelicense course.
 - Carla meets the experience requirement; however, she must complete the broker prelicense course successfully.
10. Who must hold an active real estate license under Chapter 475, F.S.?
- Business brokers who negotiate leases on commercial property
 - Property managers who pay \$50 finders' fees to tenants who refer prospective renters
 - Salaried employees of the owners of apartment complexes who rent units from onsite rental offices
 - Salaried employees of corporations involved in buying and selling company-owned property
11. A broker hired a sales associate whose initial license expired on September 30 of this year. At the annual Thanksgiving dinner, the broker learns that the sales associate neglected to complete her post-license education. She reassures the broker that everything is okay because she renewed her license on time, and she promises to take the post-license course immediately. Based on this information, which statement(s) is (are) TRUE?
- The sales associate's license became null and void on October 1 of this year.
 - The FREC can discipline the sales associate for practicing real estate without a valid real estate license.
 - The broker can be disciplined for continuing to employ a sales associate who is not properly licensed.
 - All of these are true.

12. John holds a valid Florida real estate license. His wife is a corporal in the U.S. Army. She is assigned to duty in Saudi Arabia, so the couple moves overseas. Under these circumstances, which statement is TRUE of John's real estate license?
- John is exempt from all renewal requirements for up to two years after the couple returns to the United States, provided the spouse remains on active duty.
 - John is exempt from all renewal requirements while his wife is on active duty and for two years after discharge from active duty, provided the military duty is out of state.
 - John is exempt from all renewal requirements, and he may perform real estate services in Saudi Arabia, provided he doesn't violate any laws of that nation.
 - John is exempt from continuing education courses while living in Saudi Arabia, but he must continue to renew his real estate license every renewal cycle.
13. A broker who has been licensed in Florida for 20 years decides to close his real estate office. If the broker wants to occasionally perform real estate services for compensation, which option is BEST?
- Place his license in voluntary inactive status
 - Place his license in involuntary inactive status
 - Keep his broker license active and not inform the DBPR that he has closed his office
 - Change to broker associate status under another broker
14. A broker owns and operates Root and Toot Realty in St. Petersburg. The broker also owns and operates Root Commercial Realty in Clearwater. The broker also serves in a nonbrokerage capacity as vice president of a third real estate company. Based on this information, which statement is TRUE?
- The broker must apply for and hold multiple licenses and have the nonbrokerage involvement registered by the qualifying broker.
 - The broker must apply for a group license and register the nonbrokerage involvement.
 - The broker is in violation of Chapter 475, F.S.
 - The broker needs only one broker license but must register both offices.
15. Which statement is TRUE regarding a broker who changes business address and does not notify the DBPR?
- The license ceases to be in effect until the broker notifies the DBPR of the new business address.
 - The license is suspended until the broker notifies the DBPR of the new business address.
 - The broker cannot conduct brokerage business; however, the broker's sales associates may continue to conduct new business under the broker.
 - The broker may continue to conduct brokerage business without interruption, provided the broker notifies the DBPR within 10 days of the change in business address.

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