

61J2-1.011 License Fees and Examination Fees.

(1) Every person, partnership, limited liability partnership, corporation or limited liability company deemed and held to be a licensee under Chapter 475, F.S., must register with the Florida Real Estate Commission (Commission) and must secure a license for each license period.

(2) The application fee for licensure shall be as follows:

Initial application

Broker	\$20.00
Sales Associate	\$20.00

(3) The biennial license fee for an active licensee shall be:

Broker	\$90.00
Sales Associate	\$80.00
Branch office for Broker	\$80.00

(4) The fee and the time of payment for inactive license shall be the same as for an active license, as set forth in paragraph (3) of this rule; however, there is no inactive branch office.

(5) The following fees shall be charged for the following purposes:

(a) Change of Individual License to Professional Association or Professional Association to Individual License	\$30.00
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(b) Checks returned due to insufficient funds or account closed: face value does not exceed \$50.00	\$25.00
face value exceeds \$50.00 but does not exceed \$300.00	\$30.00
face value exceeds \$300.00 (Section 68.065, F.S.)	\$40.00

or an amount
up to 5% of the
face amount
of the check,
whichever is
greater

(c) Late fee	\$45.00
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(d) Duplicate License	\$25.00
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(6) The license fee for school related categories shall be as follows:

(a) Application for School Instructor	\$20.00
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(b) The biennial Permit Fees shall be:

School Permitholder	\$130.00
Additional Location for Permitholder	\$45.00
Chief Administrative Person	\$80.00
School Instructor	\$80.00

(7) Entity, sponsor, organization and individual equivalent education course offering:

For each application for approval of education offering	\$80.00
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For each biennial education course offering renewal	\$80.00
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(8) The initial application for registration of a corporation, partnership, limited liability company or limited liability partnership is:

Corporation, partnership, limited liability company or limited liability partnership	\$90.00
Branch office for a corporation, partnership, limited liability company or limited liability partnership	\$80.00

(9) The biennial renewal of a corporation, partnership, limited liability company or limited liability partnership registration fee shall be:

Corporation, partnership, limited liability company or limited liability partnership	\$90.00
Branch office for a corporation, partnership, limited liability company or limited liability partnership	\$80.00

(10) The fee for request for a change of examination date, which must be in writing, shall be:

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| (a) Requests received by the examination vendor 3 or more days prior to the scheduled date | no fee |
| (b) Requests received by the examination vendor less than 3 days prior to the scheduled date | \$45.00 |

Specific Authority 475.05 FS. Law Implemented 68.065(2), 455.217, 455.2281, 475.04, 475.125, 475.15, 475.182, 475.24, 475.451 FS. History--New 10-10-79, Amended 1-1-80, 4-14-81, 9-13-82, 10-19-83, 8-12-84, 10-13-85, Formerly 21V-1.11, Amended 2-1-87, 1-1-88, 5-5-88, 10-13-88, 9-10-89, 1-4-90, 2-13-90, 3-27-90, 8-21-90, 10-9-90, 1-13-91, 8-19-91, 7-1-93, Formerly 21V-1.011, Amended 7-18-94, 12-17-95, 12-30-97, 1-19-99, 4-18-99, 2-24-00, 11-17-03, 3-8-05, 12-6-07, 8-18-08.

61J2-1.013 Registration Categories.

(1) Registration in the following categories shall show the name, the business address, effective and expiration date:

- (a) Active broker partnership;
- (b) Active broker corporation;
- (c) Active Limited Liability Company;
- (d) Active Limited Liability Partnership;
- (e) Active Professional Limited Liability Company;
- (f) Active Professional Association; and
- (g) Branch office.

(2) An active real estate broker may serve in a non-brokerage capacity as an officer or director with a real estate corporation(s) or a partner in a real estate partnership(s) while maintaining an active license(s) with another real estate brokerage firm(s).

Specific Authority 475.05 FS. Law Implemented 475.15, 475.183, 475.24 FS. History--New 1-1-80, Amended 7-19-83, Formerly 21V-1.13, Amended 6-28-93, Formerly 21V-1.013, Amended 1-18-00, 11-20-07.

61J2-1.014 Inactive Renewal.

(1) A voluntarily inactive licensee may elect to renew as inactive every two years by submitting a request to the Department of Business and Professional Regulation (DBPR), satisfying the required continuing education, and submitting the fee established in Rule 61J2-1.011, Florida Administrative Code.

(2) A renewal notice will be sent to the licensee's address of record. If a licensee does not elect to renew, the status automatically shall revert to involuntarily inactive.

(3) An involuntarily inactive licensee may renew by submitting a request to the DBPR, complying with Rule 61J2-3.010, Florida Administrative Code, and submitting the current renewal fee in addition to any applicable late fee as established in Rule 61J2-1.011, Florida Administrative Code. When the total period of involuntary inactivity exceeds 2 years, the license shall automatically expire per Section 475.183(2), Florida Statutes. Ninety days prior to the expiration, the DBPR shall give notice to the involuntarily inactive licensee.

Specific Authority 475.05, 475.183 FS. Law Implemented 475.183 FS. History--New 11-12-81, Formerly 21V-1.14, Amended 10-13-88, 6-28-93, Formerly 21V-1.014, Amended 10-25-98, 8-8-02, 10-8-08.

61J2-1.015 Exemption of Spouses of Members of Armed Forces from Licensure Renewal Provisions.

A licensee who is the spouse of a member of the Armed Forces of the United States shall be exempt from all licensure renewal provisions under the Rules of the Commission as long as the member of the Armed Forces of the United States is on active duty and for a period of six months after the member's discharge from active duty with the Armed Forces, provided that said licensee is not engaged in the practice of real estate brokerage activity in the private sector for profit. This exemption shall only apply in cases of the licensee's absence from the state because of the member's duties with the Armed Forces.

Specific Authority 120.53, 475.05, 475.42, 455.02(2) FS. Law Implemented 475.01, 475.25, 475.42, 475.421, 475.4511, 455.02(2) FS. History--New 3-14-85, Formerly 21V-1.15, Amended 6-28-93, Formerly 21V-1.015.

61J2-1.016 Review of Fees.

(1) No later than the end of September of each year the Commission shall review the fees in Rule 61J2-1.011, Florida Administrative Code, to ensure the fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance as required in Section 455.219(1), Florida Statutes, and defined in Rule 61-5.002, Florida Administrative Code.

(2) If it is determined the fees are not adequate to cover all anticipated costs and to maintain a reasonable cash balance then an

increase in the appropriate fee(s) will be proposed or, in the alternative, a one-time fee pursuant to Section 455.219(2), Florida Statutes, will be assessed.

(3) If it is determined that there will be an amount in excess of the required reasonable cash balance, then the appropriate decrease in the fee(s) will be proposed.

Specific Authority 475.05 FS. Law Implemented 455.219, 475.125 FS. History—New 2-15-96, Amended 1-18-00.

61J2-2.0261 Refund of Applicant and Registration Fees.

Upon written request, refunds of fees will be made under the following circumstances and in the following amounts:

(1) The Commission shall refund to the applicant, or to the applicant's beneficiary, any portion of the application fee not expended in processing the application. Upon a request for refund, if applicant's license fee is refunded, applicant's application shall be considered null and void.

(2) Any fees accepted or collected in error, or in excess of that required, shall be refunded.

(3) In the event a licensee dies prior to the effective date of a renewal period, the full amount of the fee collected for the renewal of licensee's license shall be refunded to the beneficiary.

Specific Authority 475.125, 475.05 FS. Law Implemented 475.125, 475.175, 475.182 FS. History—New 5-17-84, Formerly 21V-2.261, Amended 10-13-88, 7-20-93, Formerly 21V-2.0261.

61J2-2.027 Applications by Individuals.

The application of a natural person for active licensure, whether the applicant expects to operate alone, or as a partner, or with a corporation, or as a sales associate, is governed by substantially the same rules and forms.

(1) The applicant must meet necessary personal qualifications as follows:

(a) Is 18 years of age or older.

(b) If the application is for broker:

1. Has been registered as an active sales associate for at least 12 months during the preceding 5 years under one or more brokers;

2. Has held a current and valid real estate sales associate's license for at least 12 months during the preceding 5 years in the employ of a governmental agency for a salary and performing the duties authorized in Chapter 475, F.S.; or

3. Has held a current and valid real estate broker's license for at least 12 months during the preceding 5 years in any other state, territory, or jurisdiction of the United States, or in any foreign national jurisdiction.

(c) Hold a high school diploma or its equivalent.

(2) The applicant must make it possible to immediately begin the inquiry as to whether the applicant is honest, truthful, trustworthy, of good character, and bears a good reputation for fair dealings, and will likely make transactions and conduct negotiations with safety to investors and to those with whom the applicant may undertake a relation of trust and confidence. The applicant is required to disclose:

(a) If ever convicted of a crime, or if any judgment or decree has been rendered against the applicant for fraud or dishonest dealings, or

(b) If now a patient of a mental health facility or similar institution for the treatment of mental disabilities, or

(c) If ever called by, or done business under any other name, or alias, than the name signed on the application, with sufficient information to enable the Commission to investigate the circumstances, or

(d) If ever had a broker's or sales associate's license revoked, suspended, or otherwise acted against, or had an application for such licensure denied, by the real estate licensing agency of another state, territory, or country.

(3) Each application shall be accompanied by a completed FBI fingerprint card for processing, and

(4) All applicants for permits to instruct or be a permitholder for a real estate school must comply with Sections 475.451(2)(a) and (c), F.S.

Specific Authority 475.05 FS. Law Implemented 475.17, 475.175, 475.451 FS., Georgia Association of Realtors, Inc., et al. v. Florida Real Estate Commission, et al., Civil Case No. 87-15-Orl-Civ-18 (M.D. Fla. 1987). History—New 1-1-80, Formerly 21V-2.27, Amended 4-10-88, 5-20-90, 1-13-91, 7-15-92, 7-20-93, Formerly 21V-2.027, Amended 11-10-97, 1-18-00, 11-26-03.

61J2-2.029 Examination Areas of Competency.

The answers to the Broker, Sales Associate, and Instructor examination shall be graded on the basis of 100 points for a perfect examination. An applicant who receives a grade of 75 points or higher shall be deemed to have successfully completed the licensure examination. The sales associate examination shall be based upon a knowledge, understanding and application of real estate principles and practices, real estate law and real estate mathematics as contained in the Commission prescribed prerequisite education course syllabus for licensure as a real estate sales associate. To the extent these subject areas can reasonably be separated, 45 points shall be based on law, 45 points on principles and practices and 10 points on real estate mathematics. The broker and instructor examinations shall be based upon a knowledge, understanding and application of real estate law, real estate principles and practices including appraising, finance, investment and brokerage management and real estate mathematics. To the extent these subject areas can reasonably be separated, 45 points shall be based on law, 40 points on principles and practices and 15 points on real estate mathematics.

Specific Authority 475.05 FS. Law Implemented 455.217(1)(b) FS. History—New 1-1-80, Amended 4-13-81, Formerly 21V-2.29, Amended 6-28-93, Formerly 21V-2.029, Amended 1-18-00, 2-4-04, 8-18-08.

61J2-2.030 Notice of Denial.

When an application shall be denied by the Commission, a copy of the order shall be mailed to the applicant by registered or certified mail, or actual service, or constructive service in a manner as provided in Chapter 120, F.S., if service upon the applicant by registered or certified mail, or actual service, is not obtainable, setting forth the reasons for the denial and advising that the applicant has 21 days from date of receipt to request a hearing in accordance with Chapter 120, F.S.

Specific Authority 475.05 FS. Law Implemented 475.181, 120.569, 120.57, 120.60 FS. History—New 1-1-80, Formerly 21V-2.30, Amended 6-28-93, Formerly 21V-2.030, Amended 11-10-97.

61J2-2.031 Where to Apply.

Completed applications for licensure shall be submitted to the Division of Real Estate online or at the address listed on the application.

Specific Authority 475.05 FS. Law Implemented 475.175 FS. History—New 9-16-84, Formerly 21V-2.31, Amended 7-20-93, Formerly 21V-2.031, Amended 1-19-99, 11-26-03.

61J2-2.032 Informal Hearings.

When an applicant for licensure as a real estate sales associate or broker requests a Section 120.57(2), F.S., informal hearing before the Commission, in addition to other requirements of law, before the applicant shall be considered for approval to sit for the real estate examination, the applicant must submit at least 3 letters of reference from persons who know of the applicant's honesty, truthfulness, trustworthiness, good character and good reputation for fair dealing as required in Section 475.17(1)(a), F.S. At least 2 of the letters must be from individuals not related to the applicant.

Specific Authority 475.05 FS. Law Implemented 475.17, 475.25 FS. History—New 5-7-95, Amended 2-4-04.

61J2-3.008 Pre-licensing Education for Broker and Sales Associate Applicants.

(1) Any persons desiring to become licensed as a real estate sales associate must satisfactorily complete the Commission-prescribed course designated as Course I. This course will consist of 63 hours of 50 minutes each, inclusive of examination, in the basic fundamentals of real estate principles and practices, basic real estate, and license law. This rule sets forth the course approval criteria and procedure.

(2) Any licensed sales associate desiring to become licensed as a broker must satisfactorily complete the Commission-prescribed course designated as Course II. This course will consist of 72 hours of 50 minutes each, inclusive of examination, in the fundamentals of real estate appraising, investment, financing, and brokerage and management operations.

(3)(a) Accredited universities, colleges, community colleges and area technical centers in this state that offer transferable college credit courses, or real estate schools registered pursuant to Section 475.451, F.S. ("school"), may offer these Commission-prescribed courses. Satisfactory completion of these courses will not entitle any person to receive a license as a real estate broker or sales associate until such person has met all other requirements of law and has passed the applicable Commission-approved state examination which DBPR administers.

(b) The school permit holder, permitted administrative person, or permitted instructor shall, assure necessary equipment

performance and administer and certify student and course compliance.

(4)(a) A grade of 70% or higher on the Commission-prescribed end-of-course examination constitutes satisfactory course completion. The school shall administer the examination upon completion of the instruction, provided the student has not missed in excess of 8 hours of instruction.

(b) The school must submit to the Commission two complete copies of the course materials and end-of-course examinations; one submission must be blind. The school must also submit a copy of the course, and access to the course, in the format in which the student will use it. When delivered by distance education, the course and examination shall comply with the "Course Approval criteria" as follows:

1. Distance learning necessitates a high level of self-direction and should, therefore, require students to read, conduct research, complete timed exams and similar assignments, designed to measure the student's competency relative to the required subject matter objectives. Distance learning study must be offered on a classroom hour per classroom hour basis.

2. Schools must demonstrate that the credit hours awarded for distance learning are appropriate to the course offered. The schools may accomplish this objective by demonstrating that students engaged in distance learning have acquired the knowledge, skills, and/or competencies that are at least equivalent to those acquired by students enrolled in classroom studies. Pre-licensure courses shall not be offered by correspondence methods, except by reason of a hardship as defined by rule.

a. The school must demonstrate that the technical processes used in the delivery of the course operate correctly and the instructional strategies its use supports.

b. The school must have in place alternative plans for the provision of uninterrupted learner services and technical support in the event of primary system failure.

c. The school must have policies and technical processes in place to verify and document student identity for enrollment, course participation and course completion.

d. Course submissions shall include a detailed course time-line, and the school shall make the timeline available to students prior to enrollment.

e. The school must present evidence by means of an objective study that the stated course hours are consistent with actual hours required to complete the course.

f. The school must describe in detail, the objective method used to insure students receive only the allotted time to complete the end-of-course examinations.

g. The school must demonstrate that permitted instructors and technical staff are available during normal business hours for student assistance. Instructor and technical assistance must be made available to students and posted in a prominent location.

h. Pre-licensing courses must conform to the Course I and Course II syllabus. Courses must include learning objective for each session of the syllabus. The course school must describe the method of assessment of the student's performance periodically throughout the course of instruction.

i. End-of-course examinations shall not include aids such as, but not limited to, hint, back, or retry functionalities. The school must demonstrate that there is a reasonable method in place to prevent duplication of the end-of-course examination. Students shall not take the end-of-course examination without satisfactorily completing all sessions of the syllabus.

j. The school must require the student to submit a statement that includes, "I certify that I personally completed all assignments and have not duplicated any portion of the end-of-course examination prior to the taking of the final examination."

Thereafter, it is the responsibility of the school offering the Commission-approved courses to keep the course materials current and accurate, as changing times and laws require, and obtain approval from the Commission at least 60 days before implementing any significant changes to the course during its approval period.

Approval or denial of a Commission-required pre-licensing course (Course I or Course II) will be based on the extent to which the course content covers the material set forth in the appropriate Commission-developed course syllabus, effective January 1, 2001 (Course I) effective September 1, 1999 (Course II), incorporated herein by reference. The institution or school may resubmit a denied course with the mandated changes for reevaluation.

(c) The Commission will approve pre-licensure courses for a period of 24 months and evaluate the course for renewal, provided the school submits the renewal application no later than 90 days prior to the course expiration date. A school may grade an examination within 15 days after the expiration date of the course, provided it receives the materials prior to or on the date of expiration. Schools shall notify students of course expiration date upon enrollment.

(d) The school shall develop at least 2 forms of the end-of-course examination, and submit them for approval as provided in

paragraph (4)(b) above. Examinations must test the course material. The answer key must be unique for each form of the examination. The answer key must reference the page number(s) containing the information upon which each question and correct answer is based. At least 70% of the questions on each form of the test shall be application oriented. Application level means the ability to use the learned material in a completely new and concrete situation. It usually involves the application of rules, policies, methods, computations, laws, theories, or any other relevant and available information. No more than 10% of the questions on each form of the test shall be at the knowledge level. Knowledge level means the recall of specific facts, patterns, methods, terms, rules, dates, formulas, names, or other information that should be committed to memory. A school offering the Commission-prescribed courses must maintain a sufficient bank of questions to assure examination validity. The sales associate end-of-course examinations shall contain at least 100 items, or 2 items per instruction hour. The broker end-of-course examinations shall contain at least 95 items, of which 5 items are 2 points each, which shall cover closing statements or escrow accounts, or 2 items per instruction hour. All Questions shall be multiple-choice with 4 answer choices each. The order of the examination questions may not follow the sequence of the course content and the item must not refer the student to the course material. The overall time to complete the end-of-course examination must not exceed the equivalent of 1.8 minutes per item.

(5)(a) The school offering these Commission-prescribed courses shall inform each student of the standards and requirements at the commencement of each course. Notice of course completion shall comply with Rule 61J2-3.015, F.A.C.

(b) In all Commission-approved courses by distance education, the school and permitholder shall provide to students an address, email address and telephone number of a permitted instructor registered with such school, who shall be available to assist the students with instruction. The school shall communicate to all students the times in which the permitted instructor will be available to assist the students with instruction.

(6) Students failing the Commission-prescribed end-of-course examination 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, students failing the end-of-course examination must repeat the course prior to being eligible to take the end-of-course examination again. Schools shall administer a different form of the end-of-course examination to a student that is retaking the exam or repeating the course.

(7) Make-up classes and examinations to enable a student to take the end-of-course examination due to student or family illness may not extend more than 30 days beyond the scheduled class examination without approval from the Commission. Make-up classes must consist of the original course materials that the student missed.

(8) Any active member in good standing with The Florida Bar who is otherwise qualified under the real estate license law is exempt from the Commission-prescribed prerequisite education course for licensure as a real estate salesperson.

(9) Any applicant for licensure who has received a 4-year degree in real estate from an accredited institution of higher education is exempt from the Commission-prescribed prerequisite education courses for licensure.

Specific Authority 475.05 FS. Law Implemented 475.04, 475.17, 475.182, 475.183, 475.451 FS. History--New 1-1-80, Amended 8-24-80, 9-16-84, Formerly 21V-3.08, Amended 7-16-86, 10-13-88, 5-20-90, 1-13-91, 7-20-93, Formerly 21V-3.008, Amended 12-13-94, 6-14-95, 8-2-95, 12-30-97, 9-1-99, 1-18-00, 11-6-00, 1-12-04.

61J2-3.009 Continuing Education for Active and Inactive Broker and Sales Associate Licensees.

(1)(a) All persons holding active or inactive licenses as brokers or sales associates must satisfactorily complete a minimum of 14 hours of instruction of 50 minutes each as the Commission has prescribed or approved during each license renewal period excluding the first renewal period of their current license.

(b) The Commission shall approve any specialty course, seminar or conference in the real estate practice area provided by a public or private school, firm, association, organization, person, corporation or sponsor ("provider"). "Specialty" courses on real estate practices shall be approved for not more than 11 hours of instruction of 50 minutes each. The Commission will approve the course for 24 months plus the remaining period of the renewal cycle following the end of the 24 month period at which point the course will expire. A provider must submit two complete sets, including one blind copy, of course materials and end-of-course examinations to the Commission for evaluation at least 60 days prior to use and receive approval before it may offer the course examination. Approval or denial of a "specialty" course will be based on its compliance with the criteria established in Section 475.182(1), F.S. Thereafter, it is the responsibility of the provider offering the Commission-approved courses to keep the course materials current and accurate, as changing times and laws require, and obtain approval from the Commission at least 60 days before implementing any significant changes to the course during its approval period.

(2)(a) The Commission-prescribed Core Law course totaling 3 hours of instruction of 50 minutes each will review and update licensees on Florida real estate license law, Commission rules, and agency law, and provide an introduction to other state laws, federal laws, and taxes affecting real estate. Approval or denial of the Commission-required Core Law course will be based on the extent to which the course content covers the above-referenced subject areas. Examinations, if required, must test the course material. If course approval is denied, the institution or school may resubmit the course, with the mandated changes for re-evaluation.

(b) Excluding the first renewal period of the current license, a licensee must take the 3-hour Core Law course at least once during each licensure renewal period and will receive 3 hours credit toward the 14 hour requirement. In such event, the “specialty” course hours must total at least 11 hours. A licensee who takes the 3-hour Core Law course in each year of the renewal period shall be allowed a total of 6 hours toward the 14-hour requirement. In such event, the “specialty” course hours must total at least 8 hours. The purpose of this paragraph is to encourage licensees to keep abreast of changes in the law by taking the Core Law course in each year of the renewal period.

(3) Successfully meeting standards established for each Commission-prescribed course constitutes satisfactory completion of the Commission-prescribed continuing education course or courses. A provider shall issue notice of satisfactory classroom course completion only to a licensee attending a minimum of 90% of each of the classroom hours of Commission-prescribed course instruction. Notice of course completion shall be as per Rule 61J2-3.015, F.A.C.

(4)(a) A grade of 80% or higher on the Commission-prescribed continuing education course or courses examination constitutes satisfactory course completion. Students failing the Commission-prescribed course examination must repeat the course of study prior to being eligible to retake the course examination, which must be a different examination from the one the student previously failed. No examination shall contain more than 20% duplication of questions.

(b) A copy of the distance education course materials and a copy of each form of the end-of-course examinations that will be distributed to students shall be submitted to the Commission for evaluation and approval at least 60 days prior to use. The provider must submit two complete sets, including one blind copy, of course materials and a minimum of five end-of-course examinations for each course to the Commission for evaluation and approval at least 60 days prior to its use. The Commission will issue an acknowledgement of receipt and status report to the course provider within 30 days after submission of the course and examinations. Thereafter, it is the responsibility of the provider offering the Commission-approved courses to keep the course material current and accurate, and notify the Commission at least 60 days before implementing any significant changes to the course during its approval period. Examinations must test the course material. If the Commission does not approve the course, the provider may resubmit the course, with the mandated changes for re-evaluation.

(c) The objective of the distance education course of study end-of-course examination is to test fairly and reliably whether students have learned essential facts and concepts from the course. The examination shall consist of a minimum of 30 items or, if delivered in smaller modules, the examination shall consist of a minimum of 10 items for courses of 5 hours or less. For courses greater than 5 hours, but less than 14 hours, the examination shall consist of a minimum of 2 items per instruction hour. All questions shall be multiple choice with 4 answer choices each. The order of the examination questions may not follow the sequence of the course content. The answer key must be unique for each form of the examination. The answer key must reference the page number(s) containing the information on which each question and correct answer is based. At least 70% of the questions on each form of the test shall be at the application level or higher. No more than 10% of the questions on each form of the test shall be at the knowledge level. The answer key must be unique for each form of the examination. Any school offering the Commission-prescribed continuing education course of study by distance education must maintain a sufficient bank of questions to assure examination validity when administering the examination to licensees from a common source such as a specific business, firm or family.

1. Application level means the ability to use the learned material in a completely new and concrete situation. It usually involves the application of rules, policies, methods, computations, laws, theories, or any other relevant and available information.

2. Knowledge level means recalling specific facts, patterns, methods, terms, rules, dates, formulas, names, or other information that must be committed to memory.

(d) In all Commission-approved continuing education courses by distance education, the real estate school and school permitholder shall provide to students an address and telephone number of a permitted instructor registered with such school to answer inquiries. The school shall post the schedule of the instructor’s availability.

(e) A provider may grade an examination within 15 days after the expiration date of the course, provided it receives the materials prior to or on date of expiration. Providers shall notify students of course expiration date upon receipt of course materials.

(5) Accredited universities, colleges and community colleges in this state, area technical centers, approved providers or real estate schools registered pursuant to Section 475.451, F.S., may offer the Commission-prescribed or approved specialty courses. Accredited universities, colleges and community colleges in this state, area technical centers or real estate schools registered pursuant to Section 475.451, F.S., may offer the Commission-prescribed Core Law course. Satisfactory completion of these courses will not entitle any person to renew a license as a real estate broker or sales associate until such person has met all requirements of law.

(6) Any active member in good standing with The Florida Bar and who is otherwise qualified under the real estate license law is exempt from the continuing education requirements of this rule.

(7) An instructor who teaches a Commission-approved continuing education course may use the course towards the satisfactory completion of the sales associate or broker continuing education requirement on a classroom-hour for classroom-hour basis. However, an instructor may not claim the course more than once in a renewal cycle.

Specific Authority 455.2123, 475.01(1)(d), (e), (2), 475.05, 475.42(1)(c) FS. Law Implemented 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 FS. History—New 1-1-80, Amended 8-24-80, 10-19-83, 9-16-84, Formerly 21V-3.09, Amended 10-13-88, 6-17-91, 12-29-91, 12-8-92, 6-28-93, Formerly 21V-3.009, Amended 2-2-94, 11-13-94, 5-13-96, 12-30-97, 10-25-98, 3-7-99, 1-18-00, 9-17-00, 1-12-04, 7-10-06.

61J2-3.010 License Reactivation Education for Brokers and Sales Associates.

(1) Brokers and sales associates holding an involuntarily inactive license may only maintain this status for 2 years. The first day of this allowable 2-year period is the first day the broker or sales associate failed to hold a valid and current active or voluntarily inactive license. After the second year, the broker's or sales associate's right to request an active or voluntarily inactive license automatically expires, by operation of law.

(2) A licensee may reactivate a license that has been involuntarily inactive for more than 12 months but less than 24 months by satisfactorily completing 28 hours of a Commission-prescribed education course derived from the Florida Real Estate Commission Salesperson Course Syllabus (FREC Course I). The course shall contain coverage of the following topics: Real Estate License Law and Qualifications for Licensure (Session 2); Real Estate License Law and Commission Rules (Session 3); Authorized Relationships, Duties and Disclosure (Session 4); Real Estate Brokerage Activities: Guides for Salespersons (Session 5); Violations of License Law, Penalties and Procedures (Session 6); Federal and State Laws Pertaining to Real Estate (Session 7); Real Estate Contracts (Session 11); Real Estate Related Computations and Closing of Transactions (Session 14); and Real Estate Investments and Business Opportunity Brokerage (Session 17).

(3) Students who fail the Commission-prescribed end-of-course examination 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, students who fail the end-of-course examination must repeat the course again to become eligible to take the end-of-course examination. Schools shall administer a different end-of-course examination to a student who retakes the exam or repeats the course.

(4) A licensee may demonstrate satisfactory completion for reactivation by achieving a grade of 70% or higher on the Commission-prescribed end-of-course examination. The end-of-course examination shall contain 2 items per instructional hour or a minimum of 50 questions. The school must develop at least two forms of the end-of-course examination and submit them to the Department for approval. All courses shall conform to the requirements of Rule 61J2-3.008, F.A.C. The school shall test only students who have completed at least 90% of the required hours of instruction.

(5) The school offering these Commission-prescribed courses shall inform each student of the standards and requirements at the commencement of each course and issue a notice of course completion as prescribed by the Commission in Rule 61J2-3.015, F.A.C.

(6) Accredited universities, colleges, community colleges in this state, area technical centers or real estate schools registered pursuant to Section 475.451, F.S., may offer the Commission-prescribed courses. Satisfactory completion of these courses will not entitle any person to reactivate an involuntary inactive license as a real estate broker or sales associate until such person has met all other requirements of law.

Specific Authority 475.05 FS. Law Implemented 475.04, 475.17, 475.182, 475.183, 475.451 FS. History—New 1-1-80, Amended 8-24-80, 9-16-84, Formerly 21V-3.10, Amended 10-13-88, 6-28-93, Formerly 21V-3.010, Amended 12-30-97, 10-25-98, 1-18-00, 3-15-04, 11-8-06, 12-25-07, 8-18-08.

61J2-3.011 Continuing Education for School Instructors.

(1) All persons holding "school instructor" permits shall recertify their competency during each permit period by satisfactorily

completing 7 classroom hours of instruction and/or instructional techniques as prescribed and conducted by the Commission. A school instructor is not required to complete the 7 hours of recertification education as a condition for initial permit renewal if the time between the effective date on the initial permit as an instructor and the beginning of the initial renewal permit is less than 12 months. Of the required 7 classroom hours, up to 3 hours may be applied toward the continuing education core law requirement for licensure pursuant to Rule 61J2-3.009, F.A.C.

(2) Satisfactory completion of the 7-classroom hour seminar is demonstrated by attending all 7-classroom hours of instruction. Satisfactory completion of these courses will not entitle any person to renew a permit as a school instructor until such person has met all other requirements of law.

Specific Authority 455.2123, 475.05 FS. Law Implemented 455.2123, 475.451(2)(c) FS. History—New 7-28-80, Amended 8-24-80, 1-3-84, Formerly 21V-3.11, Amended 7-25-90, 7-20-93, Formerly 21V-3.011, Amended 12-30-97, 1-18-00, 9-17-00, 2-4-04.

61J2-3.012 Equivalency for Prelicensing Education.

(1) Any person who has attended an accredited college, university, community college, area technical center or a real estate school licensed in Florida pursuant to Section 475.451, F.S., and who, while attending said institutions or real estate school, satisfactorily completed real estate courses covering substantially the same subject matter, classroom hours of attendance, and completion standards as prescribed by the Commission in Rule 61J2-3.008, F.A.C., shall be deemed to have satisfactorily completed the course.

(2) Any person who has obtained a degree with a major in real estate which substantially covers the Commission prescribed course subject matter at such college or university shall also be deemed to have satisfactorily completed the course. Application for equivalency evaluation shall be accompanied by an official transcript from the college or university or by appropriate certificate issued by a real estate school registered in Florida pursuant to Section 475.451, F.S., showing the real estate subjects taken together with date completed and grade attained. The Commission may request supportive documentation to determine course equivalency.

Specific Authority 475.05 FS. Law Implemented 475.04, 475.17, 475.182, 475.183, 475.451 FS. History—New 1-1-80, Amended 9-16-84, Formerly 21V-3.12, Amended 6-28-93, Formerly 21V-3.012, Amended 12-30-97, 1-18-00, 4-28-04.

61J2-3.013 Distance Education Courses for Hardship Cases.

(1) Distance Education courses containing the same subject matter and requiring substantially the same assignment work will be prescribed by the Commission for any person who by reason of hardship cannot attend the place for classroom instruction prescribed in Rules 61J2-3.008, 61J2-3.010 and 61J2-3.020, F.A.C. The scholastic standards and other related requirements will be substantially the same as the courses offered by classroom instruction, having due regard, however, to the different method of presentation. A copy of the course and all course materials shall be submitted to the Commission for evaluation at least 60 days prior to use. The approval or denial of the course will be based on the extent to which the course complies with the requirements set forth in Rule 61J2-3.008, 61J2-3.009, or 61J2-3.020, F.A.C. Examinations, if required, must test the course material. If course approval is denied, the institution or school may resubmit the course, with the mandated changes.

(2) A hardship case is defined as a case wherein a person desiring to take the Commission prescribed courses cannot, by reason of a physical disability, attend the place where the classes are conducted.

(3) Any person desiring to complete the education course by means of distance education shall make a request to the Commission in writing, setting forth the basis of the alleged hardship. The Commission shall require said request to be supported by statements of doctors and other persons having knowledge of the facts.

Specific Authority 455.2123, 475.05 FS. Law Implemented 455.2123, 475.04, 475.17(2), 475.451(3), (6) FS.; Georgia Association of Realtors, Inc., et al. v. Florida Real Estate Commission, et al., Civil Action No. 87-15-Orl-Civ-18 (M. D. Fla. 1987). History—New 1-1-80, Amended 8-24-80, Formerly 21V-3.13, Amended 4-10-88, 10-13-88, 7-20-93, Formerly 21V-3.013, Amended 12-30-97, 9-17-00.

61J2-3.015 Notices of Satisfactory Course Completion.

(1) Applicants for initial licensure as a broker or salesperson must provide the course completion report with the application or at the individuals scheduled examination as proof that they have satisfactorily completed the applicable Commission prescribed course.

(2) An application for renewal or reactivation of an existing status as a broker, broker-salesperson, salesperson or instructor

shall contain an affirmation by the individual of having satisfactorily completed the applicable Commission prescribed, conducted or approved course(s). The BPR shall perform random audits of up to 25% of the licensees and instructor permitholders to verify compliance with continuing education or post-license education requirements. Each licensee and instructor permitholder shall retain the course completion report as proof of successful completion of continuing education or post-license education requirements for at least 2 years following the end of the renewal period for which the education is claimed. Failing to provide evidence of compliance with continuing education or post-license education requirements or the furnishing of false or misleading information regarding compliance with said requirements shall be grounds for disciplinary action against the licensee or instructor.

(3) Commission approved equivalent courses offered by accredited Florida universities, colleges, community colleges and area technical centers shall provide students with the applicable course completion report (notice) described below. The course completion report for these equivalent courses must contain the college equivalent course identifying number.

(4) All requests for equivalency for credit courses taken at universities, colleges and community colleges outside of Florida must be accompanied by an official transcript. An official transcript contains the seal of the institution and the signature of the registrar.

(5) The course completion report must be typed or printed in ink and must be completely filled out by the institution, school or sponsor certifying successful course completion.

(6) The course completion reports shall contain the following information for the type of course being completed.

(a) Pre-licensing Course for Salesperson.

Name of School

Address of School

Course Title: Course I

Start Date

Finish Date

Exam Date

Social Security Number

Student Name

Student Address

Authorized Signature for the School

(b) Pre-licensing Course for Broker.

Name of School

Address of School

Course Title: Course II

Start Date

Finish Date

Exam Date

Salesperson License Number

Social Security Number

Student Name

Student Address

Authorized Signature for the School

(c) Broker and Salesperson Continuing Education and Reactivation Education.

Name of School

Address of School

Course Title

Course Hours

Start Date

Finish Date

License Number

Student Name

Student Address

Authorized Signature for the School
(d) Post-licensing Education for Broker and Salesperson.

Name of School
Address of School
Course Title
Course Hours
Start Date
Finish Date
License Number
Student Name
Student Address

Authorized Signature for the School
(e) Instructor Continuing Education.

Name of School
Address of School
Course Title
Course Hours
Start Date
Finish Date
Permit Number
Student Name
Student Address

Authorized Signature for the School

(f) Each course completion report shall contain the following information:

The student named in this report has completed the referenced course in accordance with the requirements of the Florida Real Estate Commission. The original course completion report is to be given to the student and a copy retained by the school.

Specific Authority 455.2123, 475.05 FS. Law Implemented 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 FS. History—New 1-1-80, Amended 8-24-80, 9-16-84, Formerly 21V-3.15, Amended 10-13-88, 12-29-91, 6-7-92, 6-28-93, Formerly 21V-3.015, Amended 9-11-94, 12-30-97, 1-18-00, 10-15-00.

61J2-3.016 Video Tape Quality Standards.

Specific Authority 475.04, 475.05, 474.17, 475.451 FS. Law Implemented 475.04, 475.451 FS. History—New 8-24-80, Formerly 21V-3.16, 21V-3.016, Repealed 5-4-08.

61J2-3.017 Video Tape Classroom Viewing Conditions.

Specific Authority 475.04, 475.05, 475.17, 475.451 FS. Law Implemented 475.04, 475.17, 475.451 FS. History—New 8-24-80, Formerly 21V-3.17, Amended 7-20-93, Formerly 21V-3.017, Amended 11-16-97, Repealed 4-27-08.

61J2-3.020 Post-licensing Education for Active and Inactive Broker and Sales Associate Licensees.

(1) All applicants for licensure who pass a broker or sales associate licensure examination must satisfactorily complete a Commission-prescribed post-licensing course prior to the first renewal following initial licensure. The licensee must take the post-licensing course or courses at an accredited university, college, community college, area technical center in this state, real estate school registered, pursuant to Section 475.451, F.S., or Commission-approved sponsor (“provider”).

(a) For a licensed sales associate, the post-licensing education requirement shall consist of one or more Commission-approved courses which shall not exceed 45 hours of 50 minutes each, inclusive of examination, in subjects as provided for in Section 475.17(3)(a), F.S. Post-licensing courses shall consist of a minimum of 15 hours of instruction of 50 minutes each.

(b) For a broker, the post-licensing education requirement shall consist of one or more Commission-approved courses which shall not exceed 60 hours of 50 minutes each, inclusive of examination, in subjects as provided for in Section 475.17(3)(a), F.S.

(2) Post-licensing education courses shall be training oriented, to the maximum extent possible, and shall build on the academic body of knowledge acquired during the pre-licensing education courses. All courses shall emphasize development of skills necessary for licensees to operate effectively and provide increased protection to the public.

(3) The provider must submit two complete copies of the course materials and end-of-course examination; one submission must be blind. The provider must also submit a copy of the course, or access to the course, in the format in which the student will use it. The course and examination, when delivered via distance education, shall comply with the "Course Approval Criteria" as follows:

(a) Distance learning necessitates a high level of self-direction and should, therefore, require students to read, conduct research, complete timed-exams and similar assignments, designed to measure the student's competency relative to the required subject matter objectives. Distance learning study must be offered on a classroom-hour for classroom-hour basis.

(b) Providers must demonstrate that the credit hours awarded for distance learning are appropriate to the course offered. The provider may accomplish this objective by demonstrating that students engaged in distance learning have acquired the knowledge, skills, and/or competencies that are at least equivalent to those acquired by students enrolled in classroom studies.

1. The provider must demonstrate that the technical processes used in the delivery of the course operate correctly and the instructional strategies its use supports.

2. The provider must have in place alternative plans for the provision of uninterrupted learner services and technical support in the event of primary system failure.

3. The provider must have policies and technical processes in place to verify and document student identity for enrollment, course participation and course completion.

4. Course submissions shall include a detailed course time-line, and the provider shall make the time-line available to students prior to enrollment.

5. The provider must present evidence by means of an objective study that the stated course hours are consistent with actual hours required to complete the course.

6. The provider must describe in detail, the objective method used to ensure students receive only the allotted time to complete the end-of-course examinations.

7. The provider must demonstrate that instructors and technical staff are available to assist students with instruction. Instructor and technical assistance hours must be made available to students and posted in a prominent location.

8. Post-licensing courses must include learning objectives for each session of the syllabus. The course provider must describe the method of assessment of the student's performance periodically throughout the course of instruction.

9. End-of-course examinations shall not include aids such as, but not limited to, hint, back, or retry functionalities. The provider must demonstrate that there is a reasonable method in place to prevent duplication of the end-of-course examination. Students shall not take the end-of-course examination without satisfactorily completing all sessions of the syllabus.

10. The provider must require the student to submit a statement that includes "I certify that I personally completed all assignments and have not duplicated any portion of the end-of-course examination" prior to the taking of the final examination.

Thereafter, it is the responsibility of the provider offering the Commission-approved courses to keep the course materials current and accurate, as changing times and laws require, and obtain approval from the Commission at least 60 days before implementing any significant changes to the course during its approval period. If the Commission does not approve the course, the provider may resubmit a denied course, with the mandated changes for re-evaluation.

(4) A grade of 75% or higher on the Commission-prescribed end-of-course examination constitutes satisfactory course completion. The provider shall develop at least 2 unique forms of the end-of-course examinations and submit them for approval with a detailed course syllabus. The answer key must be unique for each form of the examination and reference the page number(s) containing the information on which each question and correct answer is based. Examinations must test the material. At least 70% of the questions on each form of the test shall be application oriented. Application level means the ability to use the learned material in a completely new and concrete situation. It usually involves the application of rules, policies, methods, computations, laws, theories, or any other relevant and available information. No more than 10% of the questions on each form of the test shall be at the knowledge level. Knowledge level means the recall of specific facts, patterns, methods, terms, rules, dates, formulas, names or other information that should be committed to memory. A provider offering the Commission-prescribed courses must maintain a sufficient bank of questions to assure examination validity. End-of-course examinations shall contain at least 100 items. A course that is thirty-hours or less shall contain a minimum of 50 items. All questions shall be multiple choice with 4 answer choices each. The order of the examination questions may not follow the sequence of the course content. The overall time to complete the end-of-course

examination must not exceed the equivalent of 1.8 minutes per item.

(5) The Commission shall approve post-licensure courses for a period of 24 months and consider renewals only if the provider submits the renewal application no later than 90 days prior to the course expiration date. A provider may grade an examination within 15 days after the expiration of the course, provided it receives the materials prior to or on date of expiration.

(6) The provider shall administer the examination and issue a notice of satisfactory completion, as per Rule 61J2-3.015, F.A.C., provided the student has not missed in excess of 10% of the instruction and has passed the end-of-course examination with a grade of 75% or higher.

(7) The provider offering these Commission-prescribed or approved courses shall inform each student of the standards and requirements at the commencement of each course. Notice of course completion shall comply with Rule 61J2-3.015, F.A.C. In all Commission-approved courses offered by distance education, the provider or permitholder shall provide to students an address, e-mail address and telephone number of a Commission-approved instructor registered with such provider, who shall be available to assist the students with instruction. Instructor and technical assistance hours must be made available to students and posted in a prominent location.

(8)(a) Students failing a Commission-prescribed end-of-course examination 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, students failing the Commission-prescribed end-of-course examination must repeat the course prior to being eligible to again take the end-of-course examination. Providers shall administer a different form of the end-of-course examination to a student that is retaking the exam or repeating the course.

(b) Make-up classes and examinations to enable a student to take the prescribed end-of-course examination due to student or family illness may not extend more than 30 days beyond the class scheduled end-of-course examination date without Commission approval. Make-up classes must consist of the original course materials which the student missed.

(9) The Commission will allow an additional 6-month period after the first renewal following initial licensure for brokers and sales associates that cannot, due to individual physical hardship, complete the course or courses within the required time. Individual physical hardship is defined as a case wherein a person desiring to take the Commission-prescribed courses cannot, by reason of a physical hardship, attend the place where the classes are conducted. Any person desiring to complete the education course by means of distance education shall make a request to the Commission in writing, setting forth the basis of the alleged hardship. The Commission shall require said request to be supported by statements of doctors and other persons having knowledge of the facts.

(10) Any licensee who has received a 4-year degree in real estate from an accredited institution of higher education is exempt from the post-license education requirements.

Specific Authority 475.05, 475.17 FS. Law Implemented 475.04, 475.17, 475.182 FS. History—New 1-1-89, Amended 1-4-90, 6-28-93, Formerly 21V-3.020, Amended 8-2-95, 12-30-97, 2-24-00, 7-23-00, 5-12-04.

61J2-4.007 Registration Requirements.

Every partnership shall be registered and at least one of its partners licensed or registered as an active broker. Each partner who expects to deal with the public in the partnership's practice or business as a broker shall hold a valid and current active broker's license or registration.

Specific Authority 475.05 FS. Law Implemented 475.01, 475.15 FS. History—New 1-1-80, Formerly 21V-4.07, Amended 10-13-88, 6-28-93, Formerly 21V-4.007, Amended 3-8-95, 2-4-04.

61J2-4.009 Incorporation by Reference.

All of the provisions and requirements of Rules 61J2-5.014 through Rule 61J2-5.018 shall apply to partnerships and its partners so far as they may be made applicable by reading into them "partnership" for "corporation" and "partners" for "officers" or "directors."

Specific Authority 475.05 FS. Law Implemented 475.01, 475.05, 475.15 FS. History—New 1-1-80, Formerly 21V-4.09, Amended 7-20-93, Formerly 21V-4.009.

61J2-4.010 Successor Partnerships.

Ordinarily when a partner dies or withdraws, or a new partner is added, that partnership is dissolved and a new one is created. For Commission purposes, if the business is continued by two or more persons, one of whom is an active broker with the partnership, the partnership will be deemed to be continued. In this latter case, it is only necessary to cancel, issue, or reissue registration and

licenses, perfecting the changes in organization, including change of name of the partnership, if any, and including a reissue of licenses to each sales associate if there is a change of name or address. If there is dispute between two former partners, or groups thereof, as to the right to use a trade name or firm name, no registration or licenses shall be issued to either until the dispute is settled by agreement or judicially and the registration and licenses of all, as well as the sales associate(s), shall be involuntary inactive until the dispute is so settled, or a request shall be filed for the issuance of registration and licenses under another name.

Specific Authority 475.05 FS. Law Implemented 475.01, 475.15 FS. History—New 1-1-80, Formerly 21V-4.10, Amended 7-20-93, Formerly 21V-4.010, Amended 2-4-04.

61J2-5.012 Domestic Corporations.

Before initial registration is granted, proof must be furnished of legal corporate existence. Before renewal registration is granted, the Commission may require proof of legal corporate existence. Proof may be by letter from the Secretary of State or by certification.

Specific Authority 475.05 FS. Law Implemented 475.42(1)(k) FS. History—New 1-1-80, Formerly 21V-5.12, 21V-5.012.

61J2-5.013 Foreign Corporation.

Before registration is granted or, if demanded, renewal registration is issued to a foreign corporation, and licenses to its active officers and directors, proof shall be filed that the corporation is authorized to do business in the State of Florida. A letter from the Secretary of State shall be deemed to be sufficient proof.

Specific Authority 475.05 FS. Law Implemented 475.42(1)(k) FS. History—New 1-1-80, Formerly 21V-5.13, 21V-5.013.

61J2-5.014 Registration of Corporation.

Unless the Commission or BPR shall have information that the corporation has been in violation of Chapters 475 and 455, Florida Statutes, or the rules promulgated under said chapters, it will be assumed to be qualified for registration if its officers and directors are qualified and if the answers to questions in the application, or in supplemental inquiries, are satisfactory. Otherwise, investigation and other proceedings, as in cases of individual applicants, shall commence. No registration shall be granted or renewed for any corporation if it shall appear that the individual(s) having control of the corporation has been denied, revoked, or suspended and not reinstated, or if a person having control of the corporation has been convicted of a felony in any court and has not had civil rights restored for at least 5 years, or if an injunction has been entered against the individual for operating as a real estate licensee without a license. A person shall be deemed to be in control of a corporation where such person or spouse, children, or member of the household shall own or control, directly or indirectly, more than 40 percent of the voting stock of such corporation.

Specific Authority 475.05 FS. Law Implemented 455.227, 475.15, 475.17 FS. History—New 1-1-80, Amended 7-15-84, Formerly 21V-5.14, Amended 7-20-93, Formerly 21V-5.014.

61J2-5.015 License Status of Officers and Directors Required.

All officers and directors of a real estate brokerage corporation, domestic or foreign, shall be registered. No registration shall be issued to the corporation or licenses to any officer or director, unless the corporation shall cause to register, and biennially renew the license of at least one active officer. A foreign corporation shall biennially present proof that at least one active officer, holding a valid and current active license, or for whom such a license is requested, is authorized to transact brokerage business in the State of Florida, and to bind the corporation with respect to such business.

Specific Authority 475.05 FS. Law Implemented 475.01(3), 475.15 FS. History—New 1-1-80, Formerly 21V-5.15, Amended 7-20-93, Formerly 21V-5.015, Amended 2-24-00.

61J2-5.016 License Status of Active Officers and Directors.

Officers and directors who expect to be active must qualify and become licensed in the same manner and procedure as any other applicant for active license. No registration shall be issued to the corporation or partnership unless every broker licensed with the corporation or partnership is registered as an officer, director or partner of the corporation or partnership. No sales associate or broker associate may be registered as an officer, director of a brokerage corporation or general partner of a brokerage partnership.

Specific Authority 475.05 FS. Law Implemented 475.01, 475.15, 475.161 FS. History—New 1-1-80, Amended 7-15-84, 6-9-85, Formerly 21V-5.16, Amended 6-28-93, Formerly 21V-5.016, Amended 4-15-04.

61J2-5.017 Registration of Inactive Officers and Directors.

Individual applications for renewal shall not be required of inactive officers and directors of a corporation. Registration shall be maintained upon the representations contained in the application or request for renewal by the corporation.

Specific Authority 475.05 FS. Law Implemented 475.01, 475.011, 475.15, 475.183 FS. History—New 1-1-80, Formerly 21V-5.17, Amended 6-28-93, Formerly 21V-5.017.

61J2-5.018 Vacancies of Office.

(1) A corporation shall have at all times registered the name(s) of its officer(s) and director(s). In the event that a corporation has but one active broker, and such broker dies, resigns, or is otherwise removed from the position as the active broker, then, in such event, such vacancy shall be filled within 14 calendar days during which no new brokerage business may be performed by the corporation or a licensee registered with the corporation until a new active broker is appointed and registered with the corporation. It shall be the duty of the corporation to immediately notify the Commission of such vacancy and of the steps taken to fill this vacancy.

(2) Failure to appoint another active broker within 14 calendar days will result in the automatic cancellation of the corporate registration, and the licenses of all its officer(s), director(s) and salesperson(s) will become involuntarily inactive.

(3) If a corporation has more than one active broker and one such broker dies, resigns, or is otherwise removed from the position as an active broker, neither the corporate registration nor licenses of any of its officer(s), director(s) or salesperson(s) is affected by this vacancy.

(4) If an active broker officer or director resigns or is removed from the broker's corporate office, the broker may have a license reissued individually or with a partnership or another corporation. If an active broker officer or director is already licensed as active when the broker takes the corporate office, the broker shall surrender the current license within 7 calendar days, and apply for issuance or reissuance of a license in the corporate capacity. However, surrender of the broker's current license is not required if the broker is holder of multiple licenses.

Specific Authority 475.05 FS. Law Implemented 475.01(3), 475.15, 475.31, 475.42 FS. History—New 1-1-80, Formerly 21V-5.18, Amended 6-28-93, Formerly 21V-5.018.

61J2-5.019 Responsibility for Registration Status.

(1) It shall be the duty of every active corporate officer and director to see that the corporation and each of its officers, directors and salespersons are holders of current registration and licenses. It shall be the duty of every active broker partner of a partnership to see that each partner of a partnership required to hold registration and license does in fact hold registration and license.

(2) No corporate registration or license of any of its officers, directors, and salespersons shall be valid unless and until such corporation has an active broker other than as provided in Rule 61J2-5.018, F.A.C.

(3) The registration of such partnership shall be cancelled automatically during that period of time that at least one partner is not the holder of a current and valid active broker's license.

Specific Authority 475.05 FS. Law Implemented 475.01, 475.15, 475.31, 475.42 FS. History—New 1-1-80, Formerly 21V-5.19, Amended 6-28-93, Formerly 21V-5.019.

61J2-5.020 Execution of Papers by Corporation.

All applications, requests, changes of address and employment for salespersons, or other papers and documents required of corporations, shall be signed in the name of the corporation, by an active broker officer or director. Whenever multiple licenses are requested by a broker and one or more of the licenses are under partnerships or corporations, a statement of disclosure shall be signed by a partner of the partnership, or officer of the corporation, other than the applicant for the license. If more than one person connected with a partnership or corporation requests multiple licenses in other capacities, the statement of disclosure may not be signed by one for the other, but by a majority of the remaining directors or partners.

Specific Authority 475.05 FS. Law Implemented 475.01, 475.15, 475.23, 475.42 FS. History—New 1-1-80, Formerly 21V-5.20, Amended 7-20-93, Formerly 21V-5.020.

61J2-6.006 Employment by More Than One Entity.

(1) A salesperson or broker-salesperson may only be employed by one broker or by one owner-developer. Owner-developers

shall be defined as any of those unlicensed entities enumerated in s. 475.011(2), F.S.

(2) One owner-developer may produce proof that various properties are owned in the name of various entities, but all such entities are so connected, subsidiary, interlocking or affiliated, so that such ownership or control, for practical purposes, is substantially in the same individual or individuals, in which case a salesperson or broker-salesperson may have a group license. Each entity shall execute the certificate attached to the request for a group license.

Specific Authority 475.05 FS. Law Implemented 475.01(1)(d), 475.011(2) FS. History—New 1-1-80, Amended 9-17-81, Formerly 21V-6.06, Amended 6-28-93, Formerly 21V-6.006.

61J2-9.007 Change of Name.

If a name or trade name is lawfully changed, a request for the reissuance of the license or registration shall be filed, and the license or registration shall be reissued.

Specific Authority 475.05 FS. Law Implemented 475.15, 475.25, 475.42, 475.125 FS. History—New 1-1-80, Formerly 21V-9.07, Amended 6-28-93, Formerly 21V-9.007.

61J2-10.022 Office.

The required office, pursuant to Section 475.22(1), Florida Statutes, may be in a residential location, if not contrary to local zoning ordinances, provided the minimum office requirements are met and the required broker's sign is properly displayed, pursuant to Section 475.22(1), Florida Statutes, and Rule 61J2-10.024, Florida Administrative Code. Sales associates must be registered from and work out of an office maintained and registered in the name of the employer.

Specific Authority 475.05 FS. Law Implemented 475.22 FS. History—New 1-1-80, Formerly 21V-10.22, Amended 7-20-93, Formerly 21V-10.022, Amended 12-30-97, 2-4-04.

61J2-10.023 Branch Office.

(1) If a broker desires to conduct business from more than one office, each additional office must be registered as a branch office, and the fee must be paid for its registration, as provided in subsection 61J2-1.011(3), Florida Administrative Code.

(2) A mere temporary shelter, on a subdivision being sold by the broker, for the protection of salespersons and customers and at which transactions are not closed and salespersons are not permanently assigned, is not deemed to be a branch office. The permanence, use, and character of activities customarily conducted at the office or shelter shall determine whether it must be registered.

(3) If a broker closes a branch office and, at about the same time, establishes another at a different location, the registration of the office which was closed may not be transferred. Such new location is a new branch office which must be registered and the fee paid as though the other had not been closed. Upon application to the BPR, the broker may reopen the first office at any time during the license period without payment of an additional fee.

Specific Authority 475.05 FS. Law Implemented 475.23, 475.24 FS. History—New 1-1-80, Formerly 21V-10.23, Amended 6-28-93, Formerly 21V-10.023, Amended 12-30-97.

61J2-10.025 Advertising.

(1) All advertising must be in a manner in which reasonable persons would know they are dealing with a real estate licensee. All real estate advertisements must include the licensed name of the brokerage firm. No real estate advertisement placed or caused to be placed by a licensee shall be fraudulent, false, deceptive or misleading.

(2) When the licensee's personal name appears in the advertisement, at the very least the licensee's last name must be used in the manner in which it is registered with the Commission.

(3)(a) When advertising on a site on the Internet, the brokerage firm name as required in subsection (1) above shall be placed adjacent to or immediately above or below the point of contact information. "Point of contact information" refers to any means by which to contact the brokerage firm or individual licensee including mailing address(es), physical street address(es), e-mail address(es), telephone number(s) or facsimile telephone number(s).

(b) The remaining requirements of subsections (1) and (2) apply to advertising on a site on the Internet.

Specific Authority 120.53, 475.05, 475.25(1)(c) FS. Law Implemented 475.01, 475.25, 475.42, 475.421, 475.4511 FS. History—New 1-1-80,

Amended 2-17-81, 3-14-85, Formerly 21V-10.25, Amended 12-29-91, 7-20-93, Formerly 21V-10.025, Amended 4-18-99, 7-4-06, 2-5-07.

61J2-10.027 Use of Association Names.

No licensee shall use an identification or designation of any association or organization having to do with real estate unless entitled to use such identification or designation.

Specific Authority 475.05 FS. Law Implemented 475.25(1)(b) FS. History—New 1-1-80, Formerly 21V-10.27, Amended 7-20-93, Formerly 21V-10.027.

61J2-10.028 Kickbacks or Rebates.

(1) Any real estate licensee who receives, or makes any arrangement or agreement to receive, directly or indirectly, any kickback or rebate, for the placement of, or favor in, any business transaction which forms a part of, or is incident to, any transaction(s) negotiated or handled by said licensee, is a violation of Section 475.25(1)(b) or (d), Florida Statutes, or both of said subsections of the Florida Statutes, unless prior to the time of the placement of, or favor in, said business transaction, the licensee shall have fully advised the principal if any and all affected parties in the transaction(s), which the licensee is handling, of all facts pertaining to the arrangement of kickbacks or rebates.

(2) The sharing of brokerage compensation by a licensee with a party to the real estate transaction with full disclosure to all interested parties is not considered a violation of Chapter 475, Part I, Florida Statutes.

Specific Authority 475.05 FS. Law Implemented 475.25(1)(b), (d) FS. History—New 1-1-80, Formerly 21V-10.28, Amended 6-28-93, Formerly 21V-10.028, Amended 12-30-97.

61J2-10.029 Advance Fee Accounting and Reporting Procedures.

Specific Authority 475.05 FS. Law Implemented 475.452(1), (2), (3) FS. History—New 1-1-80, Formerly 21V-10.29, Amended 10-28-90, 7-20-93, Formerly 21V-10.029, Amended 11-10-97, 1-18-00, 2-4-04, Repealed 9-6-07.

61J2-10.030 Rental Information.

(1) Each broker or sales associate who furnishes a rental information list to a prospective tenant for a fee paid by the tenant shall provide such prospective tenant with a written contract or receipt agreement containing the following provision in type size 10 point bold or larger:

NOTICE

PURSUANT TO FLORIDA LAW:

If the rental information provided under this contract is not current or accurate in any material aspect, you may demand within 30 days of this contract date a return of your full fee paid. If you do not obtain a rental you are entitled to receive a return of 75% of the fee paid, if you make demand within 30 days of this contract date.

(2) Each contract or receipt agreement shall be contained on one side of one page not larger than 8 1/2 × 11 inches. The type size of the balance of the terms of the contract shall be in a size not smaller than 8 point type.

Each licensee shall furnish to the BPR a copy of the current contract or receipt agreement within 30 days of use of such agreement.

Specific Authority 475.05 FS. Law Implemented 475.453(1), (2) FS. History—New 1-1-80, Formerly 21V-10.30, Amended 6-28-93, Formerly 21V-10.030, Amended 11-20-07.

61J2-10.031 Time for Payment of Administrative Fines and Costs.

In cases where the Commission imposes an administrative fine and costs, if any, for violation of Chapters 455 and 475, Florida Statutes, or the rules promulgated thereunder, the fine and costs shall be paid within 30 days of the filing of the final order unless directed otherwise by the Commission.

Specific Authority 455.227(2) FS. Law Implemented 455.227(3), 475.42 FS. History—New 2-25-80, Formerly 21V-10.31, Amended 7-20-93, Formerly 21V-10.031, Amended 12-30-97.

61J2-10.032 Notice Requirements.

(1)(a) A real estate broker, upon receiving conflicting demands for any trust funds being maintained in the broker's escrow account, must provide written notification to the Commission within 15 business days of the last party's demand and the broker must

institute one of the settlement procedures as set forth in Section 475.25(1)(d)1., Florida Statutes, within 30 business days after the last demand.

(b) A broker, who has a good faith doubt as to whom is entitled to any trust funds held in the broker's escrow account, must provide written notification to the Commission within 15 business days after having such doubt and must institute one of the settlement procedures as set forth in Section 475.25(1)(d)1., Florida Statutes, within 30 business days after having such doubt. The determination of good faith doubt is based upon the facts of each case brought before the Commission.

(c) If one of the parties to a failed real estate sales transaction does not respond to the broker's inquiry as to whether that party is placing a demand on the trust funds or is willing to release them to the other party, the broker may send a certified notice letter, return receipt requested, to the non-responding party. This notice should include the information that a demand has been placed by the other party, that a response must be received by a certain date, and that failure to respond will be construed as authorization for the broker to release the funds to the other party.

(2)(a) If the broker has instituted a settlement procedure other than a request for an Escrow Disbursement Order, the broker shall provide written notification to the Commission within 30 business days of the receipt of the last demand or good faith doubt of the procedure instituted to resolve the matter.

(b) If the broker has requested an Escrow Disbursement Order and the broker is notified in writing that no Escrow Disbursement Order will be issued, then the broker shall institute another settlement procedure and so notify the Commission within 30 business days after the broker's receipt of such notification.

(c) If the broker has requested an Escrow Disbursement Order and the dispute is subsequently settled or goes to court before the Order is issued, the broker shall notify the Commission within 10 business days of such event.

(3) For purposes of this rule, where a broker is required to provide written notification within a certain period, the effective date of that notification is deemed to be the date of the postmark or other dispatch of notification. A request for an Escrow Disbursement Order as a settlement procedure is deemed instituted when the completed request form is mailed or otherwise dispatched to the Commission.

(4) Brokers who are entrusted with an earnest money deposit (EMD), pursuant to a residential sales contract utilized by the Department of Housing and Urban Development (HUD) in the sale of property owned by HUD, are not required to follow the notice or settlement procedures of Section 475.25(1)(d)1., Florida Statutes, and subsection (1) of this rule. The broker is to follow HUD's Agreement to Abide, Broker Participation Requirements, and 24 C.F.R. s. 291.135 as they pertain to the proper disposition of EMDs.

Specific Authority 475.05, 475.25 FS. Law Implemented 83.49(3)(d), 475.25 FS. History—New 10-13-85, Formerly 21V-10.32, Amended 2-18-92, 12-8-92, 6-28-93, Formerly 21V-10.032, Amended 11-16-93, 6-6-94, 8-6-96, 11-10-97, 1-17-02.

61J2-10.034 Trade Names.

An individual broker, partnership or corporation may use a trade name and, if so, it must be disclosed upon the request for license, and be placed upon the registration or license. The trade name shall not be, and the Commission will refuse to issue a license containing a trade name which is the same as the real or trade name of another registrant or licensee registered or licensed with the Commission. No individual, partnership or corporation may be registered under more than one trade name. The actual name of the individual or an entity is not a trade name.

Specific Authority 475.05 FS. Law Implemented 475.15, 475.181, 475.42(1)(k) FS. History—New 6-28-93, Formerly 21V-10.034.

61J2-10.038 Mailing Address.

(1) Pursuant to Section 455.275(1), Florida Statutes, the Commission defines "current mailing address" as the current residential address which is used by a licensee or permit holder to receive mail through the United States Postal Service.

(2) Each licensee and permit holder is required to notify the BPR in writing of the current mailing address and any change in the current mailing address within 10 days after the change.

Specific Authority 475.05 FS. Law Implemented 455.275 FS. History—New 4-9-95.

61J2-14.008 Definitions.

(1)(a) A "deposit" is a sum of money, or its equivalent, delivered to a real estate licensee, as earnest money, or a payment, or a part payment, in connection with any real estate transaction named or described in Section 475.01(1)(a), Florida Statutes, or for the

purpose of obtaining satisfaction, release, or assignment of mortgages, or quit claim or other deeds deemed necessary or desirable in acquiring or perfecting the title to real estate, or assembling interest therein, or such sum delivered in escrow, trust or on condition, in connection with any transaction conducted, or being conducted, by such licensee within the scope of Chapter 475, Florida Statutes.

(b) A deposit, as so defined, shall extend to and include not only cash, or currency, but any medium of exchange, or any securities to be converted into money, delivered for any of the purposes aforesaid, to be held or converted into cash or bank credits. A broker shall not be responsible for the payment of any check or draft, unless the broker, through culpable negligence, fails to deposit the same in the regular course of business, and the check or draft is not paid due to such culpable negligence, and damage results to some party entitled to complain of said culpable negligence.

(2)(a) "Trust" or "escrow" account means an account in a bank or trust company, title company having trust powers, credit union, or a savings and loan association within the State of Florida. Only funds described in this rule shall be deposited in trust or escrow accounts. No personal funds of any licensee shall be deposited or intermingled with any funds being held in escrow, trust or on condition except as provided in subsection 61J2-14.010(2), Florida Administrative Code.

(b) When a deposit is placed or to be placed with a title company or an attorney, the licensee who prepared or presented the sales contract ("Licensee"), shall indicate on that contract the name, address, and telephone number of such title company or attorney. Within three (3) business days after each deposit is due under the sales contract, the Licensee's broker shall make written request to the title company or attorney to provide written verification of receipt of the deposit. Within ten (10) business days of the date the Licensee's broker made the written request for verification of the deposit, the Licensee's broker shall provide Seller's broker with either a copy of the written verification, or, if no verification is received by Licensee's broker, written notice that Licensee's broker did not receive verification of the deposit. If Seller is not represented by a broker, then Licensee's broker shall notify the Seller directly in the same manner indicated herein.

(3) "Immediately" means the placement of a deposit in an escrow account no later than the end of the third business day following receipt of the item to be deposited. Saturdays, Sundays and legal holidays shall not be considered as business days.

Specific Authority 475.05, 475.25(1)(k) FS. Law Implemented 475.25(1)(k) FS. History—New 1-1-80, Formerly 21V-14.08, Amended 10-13-88, 12-29-91, 7-20-93, Formerly 21V-14.008, Amended 7-5-95, 7-4-06, 12-6-07.

61J2-14.009 Real Estate Sales Associate.

Every sales associate who receives any deposit, as defined in Rule 61J2-14.008, Florida Administrative Code, shall deliver the same to the broker or employer no later than the end of the next business day following receipt of the item to be deposited. Saturday, Sundays and legal holidays shall not be construed as business days. Receipt by a sales associate or any other representative of the brokerage firm constitutes receipt by the broker for purposes of paragraph 61J2-14.008(1)(d), Florida Administrative Code.

Specific Authority 475.05 FS. Law Implemented 475.25(1)(k) FS. History—New 1-1-80, Formerly 21V-14.09, Amended 7-20-93, Formerly 21V-14.009, Amended 7-5-95, 11-10-97, 2-5-04.

61J2-14.010 Real Estate Broker.

(1) Every broker who receives from sales associates, principals, prospects, or other persons interested in any real estate transaction, any deposit, fund, money, check, draft, personal property, or item of value shall immediately place the same in a bank, savings and loan association, trust company, credit union or title company having trust powers, in an insured escrow or trust account. The broker must be a signatory on all escrow accounts. If the brokerage entity has more than one broker licensee, then one broker licensee may be designated as the signatory. If the deposit is in securities, intended by the depositor to be converted into cash, the conversion shall be made at the earliest practical time, and the proceeds shall be immediately deposited in said account.

(2) A broker may place and maintain up to \$1,000 of personal or brokerage funds per each sales escrow account. A broker may place and maintain up to \$5,000 of personal or brokerage funds per each property management escrow account. Personal or brokerage funds in any escrow account shall not exceed \$5,000 per account. A broker shall be provided a reasonable amount of time to correct escrow errors if there is no shortage of funds and such errors pose no significant threat to economically harm the public. For purposes of this subsection, reasonable amount of time shall be defined as 30 days from the date the last reconciliation statement was performed or should have been performed.

Specific Authority 475.05 FS. Law Implemented 475.25(1)(d)1., (k), 475.452 FS. History—New 1-1-80, Formerly 21V-14.10, Amended 2-17-86, 10-13-88, 12-29-91, 6-28-93, Formerly 21V-14.010, Amended 2-5-04.

61J2-14.011 Rights of Broker in Deposits.

A broker who receives a deposit shall not have any right to or lien upon said deposit, except upon the written agreement or order of the depositor so long as the depositor or depositor's legal representative has sole control of said deposit, until the transaction involved has been closed, and no person has any claim except the party ultimately to receive the same, in which case the broker may deduct the agreed commission unless the amount or time of payment is disputed. In case of a dispute as to the amount of the commission, or the time of payment, the broker may retain only the amount of the claim in said account and in trust, until the dispute is settled by agreement, arbitration, mediation or court proceedings, as provided in Section 475.25(1)(d)1., Florida Statutes. A depositor has the right to demand return of a deposit until such time as another party has acquired some interest or equity, subject to the right to make an express agreement to compensate the broker for time and expense incurred prior to a demand for the return of the deposit; and such right to demand return of the deposit shall again accrue upon a breach by the other party to the contract or agreement under which it is held, or the expiration of the time fixed or a reasonable time, for performance of the things necessary to establish the exclusive right of such other party to said deposit. A broker shall not deliver the deposit to the other party to the transaction until such transaction is closed, except as otherwise directed or agreed to specifically by the depositor. The interested parties involved, other than the broker, may by express agreement, alter the disposal of the deposit, but the burden shall be on the broker to establish good faith in the matter if such agreement is to the broker's advantage. The broker shall recognize and comply with the joint directions of said parties in such cases, except where the parties act in bad faith with intent to deprive the broker of a commission, in which case the broker shall proceed as provided in Section 475.25(1)(d)1., Florida Statutes.

Specific Authority 475.05 FS. Law Implemented 475.25(1)(d)1., (k) FS. History—New 1-1-80, Formerly 21V-14.11, Amended 6-28-93, Formerly 21V-14.011, Amended 2-5-04.

61J2-14.012 Broker's Records.

(1) A broker who receives a deposit as previously defined shall preserve and make available to the BPR, or its authorized representative, all deposit slips and statements of account rendered by the depository in which said deposit is placed, together with all agreements between the parties to the transaction. In addition, the broker shall keep an accurate account of each deposit transaction and each separate bank account wherein such funds have been deposited. All such books and accounts shall be subject to inspection by the DBPR or its authorized representatives at all reasonable times during regular business hours.

(2) Once monthly, a broker shall cause to be made a written statement comparing the broker's total liability with the reconciled bank balance(s) of all trust accounts. The broker's trust liability is defined as the sum total of all deposits received, pending and being held by the broker at any point in time. The minimum information to be included in the monthly statement-reconciliation shall be the date the reconciliation was undertaken, the date used to reconcile the balances, the name of the bank(s), the name(s) of the account(s), the account number(s), the account balance(s) and date(s), deposits in transit, outstanding checks identified by date and check number, an itemized list of the broker's trust liability, and any other items necessary to reconcile the bank account balance(s) with the balance per the broker's checkbook(s) and other trust account books and records disclosing the date of receipt and the source of the funds. The broker shall review, sign and date the monthly statement-reconciliation.

(3) Whenever the trust liability and the bank balances do not agree, the reconciliation shall contain a description or explanation for the difference(s) and any corrective action taken in reference to shortages or overages of funds in the account(s). Whenever a trust bank account record reflects a service charge or fee for a non-sufficient check being returned or whenever an account has a negative balance, the reconciliation shall disclose the cause(s) of the returned check or negative balance and the corrective action taken.

Specific Authority 475.05 FS. Law Implemented 475.25(1)(d)1., (k), 475.5015 FS. History—New 1-1-80, Formerly 21V-14.12, Amended 10-13-88, 7-19-89, 1-13-91, 6-28-93, Formerly 21V-14.012, Amended 11-10-97.

61J2-14.014 Interest-Bearing Escrow Accounts.

(1) A broker is allowed to place escrow funds in an interest-bearing account. The placement of escrow monies in an interest-bearing account, designation of the party who is to receive the interest, and the time the earned interest must be disbursed, must be done with the written permission of all the parties to the transaction. Said escrow account must be in an insured account in a depository located and doing business in Florida.

(2) In order to disburse principal and interest to the designated party at the time agreed, the broker must first transfer said principal and interest to a non-interest-bearing escrow account before disbursement. In the event the broker is designated by all

parties to receive the interest, only the principal is to be transferred to the non-interest-bearing escrow account for further disbursement. The interest is to be transferred directly to the broker's operating account.

(3) As an alternative to subsection (2) above, the broker may establish an individual interest-bearing escrow account for a specific transaction or sum of money. On the date agreed upon for disbursement of the principal and interest, the broker shall close the account with checks issued to the appropriate person(s) or business entity(ies) for the principal and interest.

Specific Authority 475.05 FS. Law Implemented 475.25(1)(k) FS. History—New 9-17-81, Formerly 21V-14.14, Amended 10-13-88, 4-16-91, 2-18-92, 11-8-92, 6-28-93, Formerly 21V-14.014.

61J2-17.009 Minimum Standard for Prelicense Course of Study.

A permit shall be issued to a real estate school when the course of study to be offered is designed to enable or assist individuals to pass a licensure examination administered by the BPR and that: (1) covers the material contained in the applicable Commission prescribed course; (2) consists of not less than 15 hours of classroom, or individual instruction; and (3) is not comprised solely of a study of questions and answers.

Specific Authority 475.04, 475.05 FS. Law Implemented 475.451 FS. History—New 1-1-80, Formerly 21V-17.09, Amended 6-28-93, Formerly 21V-17.009, Amended 11-24-97.

61J2-17.011 School Instructor Requirements and Qualifications.

A person shall qualify for an instructor's permit by meeting the qualifications for practice set forth in Section 475.451(2)(c), Florida Statutes. "Extensive real estate experience" shall be defined as a minimum of three years of full-time experience as a broker. This experience must include having participated in closing at least five real estate transactions as a licensee, or as the employing broker of licensees, for either party to the transaction, within the 12-month period immediately preceding the filing of an instructor's application.

Specific Authority 475.05 FS. Law Implemented 475.04, 475.451 FS. History—New 10-13-88, Amended 1-13-91, 8-19-91, 6-28-93, Formerly 21V-17.011, Amended 11-24-97.

61J2-17.013 Interpretation of Particular Phrases.

Whenever used, the phrases set forth shall be construed as follows:

(1) "To guarantee that its pupils will pass any examinations given by the department" as prohibited by Section 475.451(3), Florida Statutes, and shall be construed to include, but without limitation, any representation, agreement, promise or understanding whereby a person enrolled in any school or course is to receive any refund of money or other thing of value if such person should fail the examination offered by the Division.

(2) "Each person, school, or institution" used in Section 475.451(1), Florida Statutes, is construed to include only one address or location; and a person, school or institution, offering or conducting a course at more than one address or location, must obtain a permit for each address or location.

Specific Authority 475.05 FS. Law Implemented 475.04, 475.451 FS. History—New 6-28-93, Formerly 21V-17.013.

61J2-17.014 Guest Lecturers.

Guest lecturers may be used by a real estate school offering Commission prescribed or approved equivalent courses so long as:

- (1) Guest lecturers provide no more than 20% of the total course;
- (2) Guest lecturers have prior written approval of the Commission; and
- (3) An instructor licensed with such school is available on the premises.

Specific Authority 475.05 FS. Law Implemented 475.04(1), 475.451(1),(2)(a),(c) FS. History—New 6-28-93, Formerly 21V-17.014.

61J2-17.015 Required Communication by School Permit Holders.

No real estate school, permit holder or instructor shall recruit for employment opportunities for any real estate brokerage firm during classroom instructional time. Each school permit holder must post in every classroom and administrative area, and read at the beginning of each course, the following statement: "Recruiting for employment opportunities for any real estate brokerage firm must be accomplished outside the prescribed classroom instructional time. Noncompliance should be reported to the Commission."

Specific Authority 475.05 FS. Law Implemented 475.451(1),(2)(a),(c) FS. History—New 6-28-93, Formerly 21V-17.015.

61J2-17.016 Renewal of Instructor Permits.

(1) An instructor permit shall be renewed on a biennial basis. The schedule for biennial renewal shall be as established in Rule 61-6.001, Florida Administrative Code.

(2) Any permit which is not renewed at the end of the permit period established in Rule 61-6.001, Florida Administrative Code, shall automatically revert to involuntarily inactive status pursuant to Section 475.451(2)(c)3., Florida Statutes.

(3) An involuntarily inactive instructor permit holder must complete the following in order to obtain an active permit:

(a) Successfully complete the continuing education requirements of Rule 61J2-3.011, Florida Administrative Code.

(b) File a renewal application.

(c) Pay the required fee pursuant to paragraph 61J2-1.011(7)(d), Florida Administrative Code.

(d) Pay the late fee pursuant to paragraph 61J2-1.011(5)(c), Florida Administrative Code.

(4) Any permit which has been involuntarily inactive for 2 years shall automatically expire pursuant to Section 475.183(2), Florida Statutes. Once a permit expires, it becomes null and void without any further action by the Commission or Department of Business and Professional Regulation.

Specific Authority 475.05, 475.451 FS. Law Implemented 475.451 FS. History—New 10-25-98.

61J2-20.009 Probable Cause Panel.

A probable cause panel shall determine if probable cause exists that a licensee, registrant, a permit holder, or the subject of the investigation violated Chapter 475, Part I, Florida Statutes, or any of the Commission's rules. A probable cause panel shall consist of two members of the Commission. The members of the panel shall be appointed by the chairperson of the Commission. As provided in s. 455.225(4), Florida Statutes, one of the panel members may be a former member of the Commission.

Specific Authority 475.05 FS. Law Implemented 455.225 FS. History—New 11-21-79, Amended 3-15-82, 11-16-83, Formerly 21V-20.09, Amended 6-28-93, Formerly 21V-20.009.

61J2-20.040 Membership.

(1) The Florida Real Estate Commission, created by Chapter 475, Part I, Florida Statutes, is a regulatory agency and performs its functions pursuant to Chapter 475, Part I, and such other functions as may be delegated by law. The Commission's membership as set forth in Chapter 475, Part I, Florida Statutes, shall consist of 7 members who shall elect from the members a chairperson and vice chairperson.

(2) Three consecutive unexcused absences or absences constituting 50 percent or more of the Commission's meetings within any 12-month period shall cause the membership in question to become void, and the position shall be considered vacant. An unexcused absence is one where no advance notice of an absence is given to the chairperson, vice chairperson or Director of the Division or, if there is advance notice of an absence, no explanation of the absence is given.

Specific Authority 475.05 FS. Law Implemented 455.207(3), 475.02 FS. History—New 1-1-80, Formerly 21V-20.40, Amended 11-8-92, 7-20-93, Formerly 21V-20.040.

61J2-20.042 Chairperson.

Specific Authority 475.05 FS. Law Implemented 120.53, 455.207 FS. History—New 1-1-80, Formerly 21V-20.42, Amended 6-28-93, Formerly 21V-20.042, Repealed 9-6-07.

61J2-20.047 Official Records.

The office of the Division Director shall be the custodian of all the Commission's official records except disciplinary actions.

Specific Authority 475.05 FS. Law Implemented 120.53, 475.021 FS. History—New 1-1-80, Formerly 21V-20.47, Amended 6-28-93, Formerly 21V-20.047, Amended 11-10-97.

61J2-20.048 Principal Office.

The principal office of the Commission shall be located at 400 West Robinson Street, Orlando, Florida 32801-1757. The Commission may also be contacted through the Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-0750.

Specific Authority 475.05 FS. Law Implemented 120.53, 455.205 FS. History—New 1-1-80, Formerly 21V-20.48, Amended 7-20-93, Formerly 21V-20.048.

61J2-20.049 Commission Member Compensation.

Unless otherwise provided by law, a Commission member shall be compensated \$50.00 for each day in attendance at an official meeting of the Commission, including Probable Cause Panel Meetings, and for each day the member participates in any other business involving the Commission. "Other business involving the Commission" shall be defined as:

- (1) Attendance at instructors' seminars sponsored by the Commission.
- (2) Appearances before a legislative committee, upon direction of the chairperson of the Commission or the chairperson of the Committee.
- (3) Attendance at a meeting with the staff or contractors of the BPR at the request of the Secretary of the BPR or the Division Director.
- (4) Attendance at a conference or trade association meeting in the capacity of a member of the Commission.
- (5) Attendance at the Florida Association of Realtor's Legislative Days in Tallahassee in the capacity of a member of the Commission regarding legislation being promoted by the Commission.

Specific Authority 475.05 FS. Law Implemented 455.207(4) FS. History—New 9-17-81, Amended 10-19-83, Formerly 21V-20.49, Amended 10-15-91, 7-20-93, Formerly 21V-20.049, Amended 6-5-96.

61J2-20.051 Authorized Signatures on Final Orders.

A Final Order of the Commission may be signed by either the chairperson or vice chairperson of the Commission or the Division Director. Serving on a probable cause panel does not preclude the chairperson or the vice chairperson from signing a Final Order of the Commission.

Specific Authority 120.53(1)(a),(b), 475.05 FS. Law Implemented 455.225(6), 475.03(1), 475.10 FS. History—New 5-22-83, Formerly 21V-20.51, Amended 6-28-93, Formerly 21V-20.051.

61J2-20.052 Designation of Official Reporter.

(1) The Commission designates the Department of Business and Professional Regulation (BPR) as its official reporter for the purpose of publishing and indexing by subject matter, after a proceeding has been held, all orders rendered which affect substantial interests.

(2) The BPR maintains and stores such orders in the offices of the agency clerk at the Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750. The agency clerk's office is open to the public between the hours of 9:00 a.m. and 4:00 p.m., excluding holidays and weekends. For further information regarding the indexing of orders by the BPR, refer to Rule Chapter 61-14, Florida Administrative Code.

Specific Authority 475.05 FS. Law Implemented 120.53(2) FS. History—New 8-23-93, Amended 4-19-94.

61J2-23.001 Time-share Resale Listing Agreement Disclosures.

Pursuant to Section 475.42(1)(n), Florida Statutes, it shall be a violation of Chapter 475, Florida Statutes, for any broker or salesperson to enter into any agreement with any person engaging the services of the broker in connection with the resale of a time-share period unless the agreement complies in all respects with the following provisions.

(1) In addition to all other requirements of and obligations under Chapter 475, Florida Statutes, all agreements engaging the services of a broker in connection with the resale of a time-share period shall contain all of the following:

(a) The following statement in conspicuous type located immediately prior to the space in the agreement reserved for the signature of the owner of the time-share period: THERE IS NO GUARANTEE THAT YOUR TIME-SHARE PERIOD CAN BE SOLD AT ANY PARTICULAR PRICE OR WITHIN ANY PARTICULAR PERIOD OF TIME. Any written advertising material utilized by a broker or salesperson in connection with the solicitation of a listing agreement for the resale of a time-share period must also contain this statement in conspicuous type.

(b) A complete and clear disclosure of any fees, commissions, and other costs or compensation payable to or received by the broker under the agreement, whether directly or indirectly.

(c) The term of the agreement; a statement regarding the ability of any party to extend the term of the agreement; and a description of the conditions under which the agreement may be extended and all related costs.

(d) If a fee or other compensation to be paid in advance of closing of the resale of the time-share period is charged by the broker, a statement describing the promotional efforts that the broker will undertake, including all methods typically or customarily used by the broker to generate prospective resale purchasers, and including a description of the average circulation and geographical distribution area of any printed or media advertising, including catalogues, used by the broker.

(e) A description of the services to be provided by the broker under the agreement, and a description of the obligations of each party regarding a resale purchase, including any costs to be borne and any obligations regarding notification of the managing entity of the time-share plan and any exchange company.

(f) A statement disclosing whether the agreement grants exclusive rights to the broker to locate a purchaser during the term of the agreement; a statement disclosing to whom and when any proceeds from a sale of the time-share period will be disbursed; a statement whether any party may terminate the agreement and under what conditions; and a statement disclosing the amount of any commission or other compensation due to the broker from any party upon a termination of the agreement prior to the closing of the resale.

(g) A statement disclosing whether the agreement permits the broker or any other person to make any use whatsoever of the time-share period in question and a detailed description of any such permitted use rights, including a disclosure of to whom any rents or profits generated from such use of the time-share period will be paid.

(h) A statement disclosing the existence of any judgments or pending litigation against the broker resulting from or alleging a violation by the broker of Chapters 475, 498, 718 or 721, Florida Statutes, or resulting from or alleging consumer fraud on the part of the broker.

(2) All agreements described in subsection (1) must be reduced to writing, and the person engaging the services of the broker must receive a fully executed copy of the written agreement on the day he signs it. If the agreement is initially entered into by telephone or by any other oral means, the broker must make all of the disclosures required by subsection (1) to the person engaging his services prior to accepting anything of value from such person. In any event, a written agreement executed by the broker must be presented for signature to the person engaging his services within 10 days after the date the agreement was initially orally entered into.

Specific Authority 475.05, 475.42 FS. Law Implemented 475.42 FS. History—New 10-25-89, Formerly 21V-23.001.

61J2-23.002 Time-share Resale Contract Disclosures.

Pursuant to Section 475.42(1)(n), Florida Statutes, it shall be a violation of Chapter 475, Florida Statutes, for any broker or salesperson to utilize any form of contract or purchase and sale agreement in connection with the resale of a time-share period unless the contract or purchase and sale agreement complies in all respects with the following provisions.

(1) All forms of contract or purchase and sale agreement utilized by a broker or salesperson in connection with the resale of a time-share period shall contain all of the following:

(a) An explanation of the form of time-share ownership being purchased and a legally sufficient description of the time-share period being purchased.

(b) The name and address of the managing entity of the time-share plan.

(c) The following statement in at least 10-point, capitalized type located immediately prior to the space in the contract reserved for the signature of the purchaser: THE CURRENT YEAR'S ASSESSMENT FOR COMMON EXPENSES ALLOCABLE TO THE TIME-SHARE PERIOD YOU ARE PURCHASING IS _____. THIS ASSESSMENT, WHICH MAY BE INCREASED FROM TIME TO TIME BY THE MANAGING ENTITY OF THE TIME-SHARE PLAN, IS PAYABLE IN FULL EACH YEAR ON OR BEFORE _____. THIS ASSESSMENT (INCLUDES/DOES NOT INCLUDE) YEARLY AD VALOREM REAL ESTATE TAXES, WHICH (ARE/ARE NOT) BILLED AND COLLECTED SEPARATELY. (If ad valorem real property taxes are not included in the current year's assessment for common expenses, the following statement must be included: THE MOST RECENT ANNUAL ASSESSMENT FOR AD VALOREM REAL ESTATE TAXES FOR THE TIME-SHARE PERIOD YOU ARE PURCHASING IS _____.) EACH OWNER IS PERSONALLY LIABLE FOR THE PAYMENT OF HIS ASSESSMENTS FOR COMMON EXPENSES, AND FAILURE TO TIMELY PAY THESE ASSESSMENTS MAY RESULT IN RESTRICTION OR LOSS OF YOUR USE AND/OR OWNERSHIP RIGHTS. In making the disclosures required by this paragraph, the broker may rely upon information provided in writing by the managing entity of the time-share plan.

(d) The disclosure required by Section 721.06(1)(h), Florida Statutes, if applicable.

(e) A complete and accurate disclosure of the terms and conditions of the purchase and closing, including the obligations of the seller and/or the purchaser for closing costs and title insurance.

(f) A statement disclosing the existence of any mandatory exchange program membership included in the time-share plan.

Specific Authority 475.05, 475.42 FS. Law Implemented 475.42 FS. History—New 10-25-89, Formerly 21V-23.002.

61J2-24.001 Disciplinary Guidelines.

(1) Pursuant to Section 455.2273, F.S., the Commission sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon licensees guilty of violating Chapter 455 or 475, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which normally will be imposed for each count during a formal or an informal hearing. For purposes of this rule, the order of penalties, ranging from lowest to highest, is: reprimand, fine, probation, suspension, and revocation or denial. Pursuant to Section 475.25(1), F.S., combinations of these penalties are permissible by law. Nothing in this rule shall preclude any discipline imposed upon a licensee pursuant to a stipulation or settlement agreement, nor shall the range of penalties set forth in this rule preclude the Probable Cause Panel from issuing a letter of guidance.

(2) As provided in Section 475.25(1), F.S., the Commission may, in addition to other disciplinary penalties, place a licensee on probation. The placement of the licensee on probation shall be for such a period of time and subject to such conditions as the Commission may specify. Standard probationary conditions may include, but are not limited to, requiring the licensee: to attend pre-licensure courses; to satisfactorily complete a pre-licensure course; to attend post-licensure courses; to satisfactorily complete a post-licensure course; to attend continuing education courses; to submit to and successfully complete the state-administered examination; to be subject to periodic inspections and interviews by a DBPR investigator; if a broker, to place the license on a broker associate status; or, if a broker, to file escrow account status reports with the Commission or with a DBPR investigator at such intervals as may be prescribed.

(3) The penalties are as listed unless aggravating or mitigating circumstances apply pursuant to subsection (4). The verbal identification of offenses is descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATIONS

(a) Section 475.22, F.S.

Broker fails to maintain office and sign at entrance of office

(b) Section 475.24, F.S.

Failure to register a branch office

(c) Section 475.25(1)(b), F.S.

Guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence or

RECOMMENDED RANGE OF PENALTY

(a) The usual action of the Commission shall be to impose a suspension of up to 90 days.

(b) The usual action of the Commission shall be to impose a suspension of up to 90 days.

(c) In the case of fraud, misrepresentation and dishonest dealing, the usual action of the Commission shall be to impose a penalty of revocation.

breach of trust. Guilty of violating a duty imposed by law or by the terms of a listing agreement; aided, assisted or conspired with another; or formed an intent, design or scheme to engage in such misconduct and committed an overt act in furtherance of such intent, design or scheme

(d) Section 475.25(1)(c), F.S.

False, deceptive or misleading advertising

(e) Section 475.25(1)(d), F.S.

Failed to account or deliver to any person as required by agreement or law, escrowed property

(f) Section 475.25(1)(e), F.S.

Violated any rule or order or provision under Chapters 475 and 455, F.S.

(g) Section 475.25(1)(f), F.S.

Convicted or found guilty of a crime related to real estate or involves moral turpitude or fraudulent or dishonest dealing.

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

Has license disciplined or acted against or an application denied by another jurisdiction

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

Has shared a commission with or paid a fee to a person not properly licensed under Chapter 475, F.S.

(j) Section 475.25(1)(i), F.S.

Impairment by drunkenness, or use of drugs or temporary mental derangement

(k) Section 475.25(1)(j), F.S.

Rendered an opinion that the title to property sold is good or merchantable when not based on opinion of a licensed attorney or has failed to advise prospective buyer to consult an attorney on the merchantability of title or to obtain title insurance

In the case of concealment, false promises and false pretenses, the usual action of the Commission shall be to impose a penalty of a 3 to 5 year suspension and an administrative fine not to exceed \$5,000.

In the case of culpable negligence and breach of trust, the usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and to a 1 year suspension.

In the case of violating a duty imposed by law or a listing agreement; aided, assisted or conspired; or formed an intent, design or scheme to engage in such misconduct, the usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 5 year suspension.

(d) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 1 year suspension

(e) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 5 year suspension.

(f) The usual action of the Commission shall be to impose an 8 year suspension to revocation and an administrative fine not to exceed \$5,000.

(g) The usual action of the Commission shall be to impose a 7 year suspension to revocation and an administrative fine not to exceed \$5,000.

(h) Imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida or suspension of the license until the license is unencumbered in the jurisdiction in which the disciplinary action was originally taken, and an administrative fine not to exceed \$5,000.

(i) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 5 year suspension.

(j) The usual action of the Commission shall be to impose a penalty of suspension for the period of incapacity.

(k) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 6 month suspension.

(l) Section 475.25(1)(k), F.S.

Has failed, if a broker, to deposit any money in an escrow account immediately upon receipt until disbursement is properly authorized. Has failed, if a sales associate, to place any money to be escrowed with his registered employer

(m) Section 475.25(1)(l), F.S.

Has made or filed a report or record which the licensee knows to be false or willfully failed to file a report or record or willfully impeded such filing as required by State or Federal Law.

(n) Section 475.25(1)(m), F.S.

Obtained a license by fraud, misrepresentation or concealment

(o) Section 475.25(1)(n), F.S.

Confined in jail, prison or mental institution; or through mental disease can no longer practice with skill and safety

(p) Section 475.25(1)(o), F.S.

Guilty for the second time of misconduct in the practice of real estate that demonstrates incompetent, dishonest or negligent dealings with investors

(q) Section 475.25(1)(p), F.S.

Failed to give Commission 30 day written notice after a guilty or nolo contendere plea or convicted of any felony

(r) Section 475.25(1)(q), F.S.

Licensee has failed to give the

Transaction Broker Notice or
Single Agent Notice at the requisite period of time under the provisions of Section 475.278,
F.S.; failed to properly secure the Consent to
Transition to Transaction Broker or Designated
Sales Associate forms as required in Section 475.2755 or

(l) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and a 90 day suspension to revocation.

(m) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 2 year suspension.

(n) In the case of a licensee who renews the license without having complied with Rule 61J2-3.009, F.A.C., and the act is discovered by the DBPR, the usual action of the Commission shall be to impose a penalty of revocation. In the case of a licensee who renews the license without having complied with Rule 61J2-3.009, F.A.C., and the licensee brings the matter to the attention of the DBPR, the usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000. In all other cases, the usual action of the Commission shall be to impose a penalty of revocation and an administrative fine not to exceed \$5,000 and a penalty of revocation.

(o) The usual action of the Commission shall be to impose a penalty of revocation

(p) The usual action of the Commission shall be to impose an administrative fine of not to exceed \$5,000 and a 1 year suspension to revocation.

(q) The usual action of the Commission shall be to impose a 5 year suspension to revocation

(r) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 5 year suspension

475.278, F.S.; failed to act in a manner as prescribed in Section 475.2755 or 475.278, F.S.

(s) Section 475.25(1)(r), F.S.

Failed to follow the requirements of a written listing agreement

(t) Section 475.25(1)(s), F.S.

Has had a registration suspended, revoked or otherwise acted against in any jurisdiction.

(u) Section 475.25(1)(t), F.S.

Violated the Uniform Standards of Professional Appraisal Practice as defined in Section 475.611, F.S.

(v) Section 475.25(1)(u), F.S.

Has failed, if a broker, to direct, control, or manage a broker associate or sales associate employed by such broker.

(w) Section 475.25(1)(v), F.S.

Has failed, if a broker, to review the brokerage's trust accounting procedures in order to ensure compliance with this chapter.

(x) Section 475.25(2), F.S.

License issued by error of the Commission

(y) Section 475.42(1)(a), F.S.

Practice without a valid and current license

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

Practicing beyond scope as a sales associate

(aa) Section 475.42(1)(c), F.S.

Broker employs a sales associate who is not the holder of a valid and current license

(bb) Section 475.42(1)(d), F.S.

A sales associate shall not collect any money in connection with any real estate brokerage transaction except in the name of the employer

(cc) Section 475.42(1)(e), F.S.

A violation of any order or rule of the Commission

(dd) Section 475.42(1)(g), F.S.

Makes false affidavit or affirmation or false testimony before the Commission.

(ee) Section 475.42(1)(h), F.S.

Fails to comply with subpoena

(ff) Section 475.42(1)(i), F.S.

Obstructs or hinders the enforcement of Chapter 475, F.S.

(gg) Section 475.42(1)(j), F.S.

No broker or sales associate shall place upon the public records any false, void or unauthorized

(s) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 3 year suspension.

(t) The usual action of the Commission shall be to impose a 6 year suspension to revocation and an administrative fine not to exceed \$5,000.

(u) The usual action of the Commission shall be to impose a 5 year suspension to revocation.

(v) The usual action of the Commission shall be to impose an administrative fine not to exceed \$ 5,000, and up to a 1 year suspension to revocation.

(w) The usual action of the Commission shall be to impose an administrative fine not to exceed \$ 5,000, and a 1 year suspension to revocation.

(x) The usual action of the Commission shall be to impose a penalty of an administrative fine not to exceed \$5,000, and a 1 year suspension to revocation.

(y) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and a 3 year suspension to revocation.

(z) The usual action of the Commission shall be to impose a 3 year suspension to revocation.

(aa) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and a 90 day to a 2 year suspension.

(bb) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 3 year suspension.

(cc) The usual action of the Commission shall be to impose an 8 year suspension to revocation and an administrative fine not to exceed \$5,000.

(dd) The usual action of the Commission shall be to impose of an administrative fine not exceed \$5,000 and up to a 3 year suspension

(ee) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and a 6 month to a 5 year suspension.

(ff) The usual action of the Commission shall be to impose revocation.

(gg) The usual action of the Commission shall be to impose a 5 year suspension to revocation.

information that affects the title or encumbers any real property

(hh) Section 475.42(1)(k), F.S.

Failed to register trade name with the Commission

(ii) Section 475.42(1)(l), F.S.

No person shall knowingly conceal information relating to violations of Chapter 475, F.S.

(jj) Section 475.42(1)(m), F.S.

Fails to have a current license as a broker or sales associate while listing or selling one or more timeshare periods per year

(kk) Section 475.42(1)(n), F.S.

Licensee fails to disclose all material aspects of the resale of timeshare period or timeshare plan and the rights and obligations of both buyer or seller

(ll) Section 475.42(1)(o), F.S.

Publication of false or misleading information; promotion of sales, leases and rentals

(mm) Section 475.451, F.S.

School teaching real estate practice fails to obtain a permit from the department and does not abide by regulations of Chapter 475, F.S., and rules adopted by the Commission

(nn) Section 475.453, F.S.

Broker or sales associate participates in any rental information transaction that fails to follow the guidelines adopted by the Commission and Chapter 475, F.S.

(oo) Section 475.25(1)(c), F.S.

Failure to produce records within 5 business days from receipt of request for inspection or audit or to maintain records as required.

(hh) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 to a 6 month suspension

(ii) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 3 year suspension

(jj) The usual action of the Commission shall be to impose revocation

(kk) The usual action of the Commission shall be to impose revocation

(ll) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 1 year suspension

(mm) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 6 month suspension

(nn) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 3 year suspension

(oo) The usual action of the Commission shall be to impose an administrative fine not to exceed \$5,000 and up to a 3 month suspension.

(4)(a) When either the Petitioner or Respondent is able to demonstrate aggravating or mitigating circumstances to the Commission in a Section 120.57(2), F.S., hearing or to a Division of Administrative Hearings hearing officer in a Section 120.57(1), F.S., hearing by clear and convincing evidence, the Commission or hearing officer shall be entitled to deviate from the above guidelines in imposing or recommending discipline, respectively, upon a licensee. Whenever the Petitioner or Respondent intends to introduce such evidence to the Commission in a Section 120.57(2), F.S., hearing, advance notice of no less than seven (7) days shall be given to the other party or else the evidence can be properly excluded by the Commission.

(b) Aggravating or mitigating circumstances may include, but are not limited to, the following:

1. The degree of harm to the consumer or public.
2. The number of counts in the Administrative Complaint.
3. The disciplinary history of the licensee.
4. The status of the licensee at the time the offense was committed.
5. The degree of financial hardship incurred by a licensee as a result of the imposition of a fine or suspension of the license.
6. Violation of the provision of Chapter 475, F.S., wherein a letter of guidance as provided in Section 455.225(3), F.S., previously has been issued to the licensee.

Specific Authority 455.2273, 475.05 FS. Law Implemented 455.227, 455.2273, 475.22, 475.24, 475.25, 475.42, 475.421, 475.422, 475.452, 475.453, 475.455, 475.482 FS. History—New 11-24-86, Amended 10-13-88, 4-20-89, 5-20-90, 12-29-91, 11-8-92, 6-28-93, Formerly 21V-24.001,

Amended 11-16-93, 2-29-96, 12-30-97, 11-29-98, 1-18-00, 2-5-04, 1-30-06, 12-25-07.

61J2-24.002 Citation Authority.

(1) Pursuant to Section 455.224, F.S. (1999), the Commission sets forth violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a violation for which there is no substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation. Next to each violation is the fine or other conditions to be imposed.

(2) The following violations with accompanying fine or other conditions may be disposed of by citation:

VIOLATION	FINE
(a) Section 475.180(2)(a), F.S. – a nonresident failed to file the required irrevocable consent form; a resident licensee who failed to notify the Commission of becoming a nonresident as prescribed	\$300.00
(b) Sections 475.17(2)(a), 475.17(3)(a), 475.17(4)(a), F.S., Rule 61J2-3.008 and 61J2-3.009, F.A.C. failed to provide the required number of classroom hours for an approved or prescribed course	\$500.00
(c) Section 475.175(2), F.S. and subsection 61J2-17.012(2), F.A.C. – failed to provide a course roster to the Division for each course	\$100.00
(d) Section 475.175(2), F.S. and Rule 61J2-3.015, F.A.C. – failed to provide a course completion report to a student	\$100.00
(e) Section 475.22(1), F.S. and Rule 61J2-10.022, F.A.C. – failed to maintain the required office as prescribed	\$200.00
(f) Section 475.22(1), F.S. and Rule 61J2-10.024, F.A.C. – failed to maintain the required office entrance sign	\$100.00
(g) Section 475.22(2), F.S. – failed to register an out of state Florida broker’s office	\$100.00
(h) Section 475.24, F.S., Rule 61J2-8.003 and 61J2-10.023, F.A.C. – failed to register a location as a branch office	\$200.00
(i) Section 475.25(1)(b) and (d), F.S. – misconduct involving economic loss resulting in full restitution to the complainant	\$300.00
(j) Section 475.25(1)(k), F.S. and paragraph 61J2-14.008(1)(d), F.A.C. – failed to immediately deposit trust funds provided the deposit is not more than 3 days late	\$200.00
(k) Section 475.25(1)(m) and 61J2-3.009, F.S. 1. Renewed a license without completing the continuing education requirement and the act is discovered by the DBPR but the licensee has completed the continuing education requirements within thirty (30) days after his or her renewal date	\$200.00 and completion of the continuing education requirement for the previous renewal cycle
2. Renewed a license without completing the continuing education requirement and the act is discovered by the DBPR but the licensee has completed the continuing education requirements within ninety (90) days after his or her renewal date	\$500.00 and completion of

	the continuing education requirement for the previous renewal cycle
3. Renewed a license without having complied with Rule 61J2-3.009, F.A.C., and voluntarily notified the DBPR more than thirty (30) days but no more than 90 days after the renewal cycle ended	\$500.00 and completion of the continuing education requirement for the previous renewal cycle
(l) Section 475.25(1)(q), F.S. – failed to give the appropriate disclosure or notice at the appropriate time under the provisions of Section 475.2755 or 475.278, F.S., (A citation may only be given for a first time violation.)	\$300.00
(m) Section 475.25(1)(r), F.S. – failed to include the required information in a listing agreement; failed to give a copy to a principal within 24 hours; contains a self renewal clause	\$200.00
(n) Section 475.42(1)(b), F.S. – sales associate operating as a sales associate without a registered employer due to failure to renew or properly register	\$500.00
(o) Section 475.42(1)(j), F.S. – having a lis pendens placed by an attorney (Citation may be issued only if no other violation is present)	\$500.00
(p) Section 475.42(1)(k), F.S. and Rule 61J2-10.034, F.A.C. – operated as a broker under a tradename without causing the trade name to be noted in the records of the Commission	\$100.00
(q) Section 475.451(3), F.S. – failed to obtain a multiple permit	\$500.00
(r) Section 475.4511(2), F.S. – advertised false, inaccurate, misleading, or exaggerated information	\$500.00
(s) Section 475.4511(4), F.S. – failed to have a distinctive separation in a joint advertisement of a school with an affiliated broker	\$100.00
(t) Subsection 61J2-3.008(6), F.A.C. – failed to certify classroom attendance per occurrence	\$300.00
(u) Paragraph 61J2-3.009(5)(e), F.A.C. – failed to have a distance education course instructor available per published schedule	\$300.00
(v) Subsection 61J2-3.009(6), F.A.C. – failed to inform students of course standards and requirements	\$100.00
(w) Subsection 61J2-3.015(2), F.A.C. – failed to provide a course completion report to a student; if a licensee, as the result of an audit/inspection, failed to provide a course completion report to the DBPR	\$200.00
(x) Rule 61J2-5.016, F.A.C. – sales associate or broker associate serving as an officer or director of a registered brokerage corporation	\$200.00
(y) Subsection 61J2-5.019(1), F.A.C. – failed to ensure that the corporation or partnership is properly registered; failed to ensure each officer, director and	\$200.00

sales associate is properly licensed	
(z) Rule 61J2-10.025, F.A.C. – advertised in a manner in which a reasonable person would not know one is dealing with a real estate licensee or brokerage; failed to include the registered name of the brokerage firm in the advertisement; failed to use the licensee’s last name as registered with the Commission in an advertisement	\$200.00
(aa) Rule 61J2-10.027, F.A.C. – used the name or identification of an association or organization when the licensee was not in good standing or otherwise not entitled to use same	\$300.00
(bb) Subsection 61J2-10.032(1), F.A.C. – broker failed to notify the Commission within the prescribed 15 business days but does so within 25 business days; or, if a Notice of Noncompliance has been issued pursuant to Rule 61J2-24.003, F.A.C. and not timely complied with, failed to notify the Commission within 45 days but does so within 55 days	\$100.00
(cc) Subsection 61J2-10.032(1) and (2), F.A.C. – broker failed to institute a settlement procedure within the prescribed 30 business days but does so within 40 business days; or, if a Notice of Noncompliance has been issued pursuant to Rule 61J2-24.003, F.A.C. and not timely complied with, failed to institute a settlement procedure within 60 days but does so within 70 days	\$100.00
(dd) Subsection 61J2-10.032(2)F.A.C. – broker failed to notify the Commission that the dispute settled or went to court, or of the final accounting and disbursement within the prescribed 10 business days but broker does so within 20 business days; or, if a Notice of Noncompliance has been issued pursuant to 61J2-24.003 and not timely complied with, failed to notify the Commission that the dispute settled or went to court, or of the final accounting and disbursement within 40 days but does so within 50 days	\$100.00
(ee) Rule 61J2-10.038, F.A.C. – failed to notify the DBPR of the current mailing address or any change in the current mailing address	\$100.00
(ff) Subsection 61J2-14.012(2), F.A.C. – failed to properly reconcile an escrow account when the account balances	\$100.00
(gg) Subsection 61J2-14.014(1), F.A.C. – failed to secure the written permission of all interested parties prior to placing trust funds in an interest bearing escrow account	\$300.00
(hh) Subsection 61J2-14.014(2), F.A.C. – failed to stop interest from accruing prior to disbursement	\$100.00
(ii) Subsection 61J2-17.013(1), F.A.C. – guaranteed that a pupil would pass an examination	\$500.00
(jj) Failed to register a school location	\$100.00
(kk) Rule 61J2-17.014, F.A.C. – improper use of a guest lecturer	\$100.00
(ll) Rule 61J2-17.015, F.A.C. – failed to post the required language regarding recruitment for employment; recruiting for employment opportunities during class time	\$300.00
(mm) Rule 61J2-10.038, F.A.C. – failed to notify the DBPR of any change in address of a branch office within 10 days of the change in the current mailing address	\$1000.00

(3) Citations may be issued to real estate licensees, permit holders, and registrants by the Division of Real Estate.

(4) Citations are to be served upon the subject either by personal service or certified mail, restricted delivery, to the subject’s last known address.

(5) The subject has 30 days from the date the citation becomes a final order to pay the fine. All fines are to be made payable to the “Department of Business and Professional Regulation – R. E. Citations” and sent to the Division of Real Estate in Orlando. A

copy of the citation shall accompany the payment of the fine.

Specific Authority 475.05 FS. Law Implemented 455.224, 475.25(1) FS. History—New 12-29-91, Amended 4-16-92, 1-20-93, 6-28-93, Formerly 21V-24.002, Amended 8-23-93, 4-7-94, 4-12-95, 7-5-95, 2-13-96, 6-5-96, 7-23-96, 1-22-97, 3-30-97, 11-10-97, 3-24-98, 7-1-98, 10-25-98, 1-19-99, 1-18-00, 10-15-00, 2-21-02, 2-5-04, 1-30-06.

61J2-24.003 Notification of Noncompliance.

(1) Pursuant to Sections 455.225(3) and 120.695, F.S., the Commission sets forth below those statutes and rules which are considered minor violations for which the DBPR shall provide a licensee, registrant or permitholder with a notice of noncompliance. A violation is considered a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. The notice of noncompliance shall only be issued for an initial offense of a listed minor violation.

- (a) Paragraph 61J2-3.009(5)(e), F.A.C. – failure to have a distance education instructor available.
- (b) Subsection 61J2-3.009(6), F.A.C. – failure to inform students of course standards and requirements.
- (c) Subsection 61J2-3.015(2), F.A.C. – failure to provide a course completion report to a student.
- (d) Rule 61J2-5.016, F.A.C. – sales associate or broker associate serving as officer or director of a registered brokerage corporation.
- (e) Subsection 61J2-5.019(1), F.A.C. – failure to ensure that the corporation or partnership is properly registered; failure to ensure each officer, director and sales associate is properly licensed.
- (f) Rule 61J2-10.023, F.A.C. – failure to register a branch office.
- (g) Rule 61J2-10.024, F.A.C. – failure to maintain the office entrance sign as required.
- (h) Subsection 61J2-10.025(1), F.A.C. – failure to use the brokerage firm name in an advertisement.
- (i) Subsection 61J2-10.025(2), F.A.C. – failure to use the licensee’s last name in an advertisement.
- (j) Subsections 61J2-10.032(1) and (2), F.A.C. – failure to perform the required act within the stated time frame but does so no later than 30 days after the stated time frame.
- (k) Rule 61J2-10.034, F.A.C. – failure to register a trade name with the Division of Real Estate.
- (l) Rule 61J2-14.012, F.A.C. – failure to sign the escrow account reconciliation if the account balances.
- (m) Subsection 61J2-14.014(2), F.A.C. – failure to stop interest from accruing prior to disbursement.
- (n) Subsections 61J2-17.012(1) and (3), F.A.C. – failure to maintain the course roster as required.
- (o) Subsection 61J2-17.012(2), F.A.C. – failure to deliver the course roster as required.
- (p) Subsection 61J2-17.013(2), F.A.C. – failure to obtain a permit for a school location.
- (q) Rule 61J2-17.014, F.A.C. – improper use of a guest lecturer.
- (r) Rule 61J2-17.015, F.A.C. – improper recruiting; failure to post the required statement.
- (s) Section 475.25(1)(m), F.S., and Rule 61J2-3.009, F.A.C. – renewed license without having complied with Rule 61J2-3.009, F.A.C., and voluntarily notified the DBPR within thirty (30) days after the renewal cycle ended.

(2) The DBPR shall issue a notice of noncompliance to the licensee, registrant or permitholder subject to the statute and rule that the statute and rule have been violated. The notice of noncompliance shall identify the statute and rule being violated and shall provide information on how to comply with the statute and rule. The DBPR shall allow 15 days for compliance with the statute and rule and shall so notify the licensee, registrant or permitholder. The time for compliance shall begin to run from the time the licensee, registrant or permitholder receives the notice of noncompliance. The failure of a licensee, registrant or permitholder to comply with the notice of noncompliance within the time allowed shall thereafter result in the issuance of a citation pursuant to Rule 61J2-24.002, F.A.C., and, if there is no citation for the violation, then the institution of regular disciplinary proceeding pursuant to Section 455.225, F.S.

(3) The notice of noncompliance may be delivered to the licensee, registrant or permit holder’s current mailing address by certified mail, by restricted delivery or by personal service. The notice of noncompliance may be issued by the Division of Real Estate.

Specific Authority 475.05 FS. Law Implemented 120.695, 455.225(3) FS. History—New 1-9-94, Amended 1-1-96, 11-10-97, 6-30-98, 10-25-98, 9-17-00, 7-4-06.

61J2-24.004 Mediation.

(1) "Mediation" means a process, pursuant to Section 455.2235, F.S., whereby a mediator appointed by the DBPR acts to encourage and facilitate resolution of a legally sufficient complaint. It is an informal process with the objective of assisting the complainant and subject of the complaint to reach a mutually acceptable resolution.

(2) The Commission finds that mediation is an acceptable method of dispute resolution for the following violation as it is economic in nature or can be remedied by the subject of the complaint:

Has failed to deliver to a licensee a share of a real estate commission if the licensee has obtained a civil judgment and the judgment has not been satisfied pursuant to Section 475.25(1)(d), F.S.

Specific Authority 455.2235, 475.05 FS. Law Implemented 455.2235 FS. History—New 12-13-94.

61J2-24.005 Revocation.

(1) Pursuant to Section 455.227(5), F.S., revocation of a license is permanent except for the following violations:

(a) Section 61J2-3.015, F.S. – filing an application for renewal of a license when the individual had not complied with the provisions of Rule 61J2-3.009 or 61J2-3.020, F.A.C., whichever is applicable.

(b) Section 475.25(1)(m), F.S. – obtaining a license by means of fraud, misrepresentation or concealment when the licensee had filed an application for licensure which contained false or fraudulent information or answers.

(2) An individual whose license has been revoked for the above listed violations may not apply for a sales associate's license for a period of five (5) years after the date of filing of the final order revoking the license unless the Commission specifies a lesser period of time in the final order, said lesser period of time based upon mitigating factors presented by the Respondent. The applicant must meet all the requirements for initial licensure as a sales associate, including examination, as required in Sections 475.17 and 475.175, F.S., The Commission may refuse to certify the applicant pursuant to Section 475.17(1)(a), 475.181 or 475.25(1), F.S.

Specific Authority 455.227, 475.05 FS. Law Implemented 455.227 FS. History—New 2-13-96, Amended 4-28-98, 2-5-04.

61J2-24.006 Probation.

(1) Unless otherwise stated in the final order a term of probation shall be ninety (90) days, to commence thirty (30) days after the filing of the final order.

(2) If a respondent is unable to complete the requirements of probation within the ninety (90) days or such other time specified in the final order, the Division Director is authorized to grant a ninety (90) days extension for the following reasons:

(a) Illness;

(b) Unavailability of a required course.

(3) In the event the Division Director denies a request for extension or the request for extension involves a reason other than stated in subsection (2), then the request shall be heard by the Commission.

(4) It is the responsibility of the respondent to submit to the Division Director or the Commission written documentation to substantiate the request for extension. Such request must be made prior to the expiration of the initial term of probation. Failure to request an extension either of the Division Director or the Commission within the initial term of probation will result in the automatic denial of the request for extension and any penalty or penalties associated with the failure to timely complete probation will become effective.

(5) The respondent will be released early from probation upon the successful completion of the terms of probation and the required information being submitted to the Division of Real Estate Legal Section.

(6) When as a term of probation, the Commission orders a respondent to attend one or more meetings of the Commission, the respondent shall comply with the following in order to obtain credit for attending the meeting:

(a) The respondent shall arrive not less than 5 minutes prior to the published starting time and date on the meeting agenda, absent good cause. Inability to find a parking space shall not constitute good cause. The respondent is responsible for arriving early enough to obtain suitable parking;

(b) Appropriate dress is required. Appropriate dress includes casual business attire. Respondents may choose to wear coat, tie or other business attire at their option. Items of prohibited clothing include denim, shorts, flip-flops, sneakers, sandals, t-shirts, hats, caps or other leisure attire;

(c) The respondent shall pay attention. Engaging in disruptive behavior is prohibited. Disruptive behavior includes, but is not limited to, sleeping, excessive conversation, or the reading of newspapers, magazines, or other outside materials;

(d) The demeanor and behavior of all respondents shall be consistent with an orderly public meeting and consistent with judicial or quasi-judicial proceedings;

(e) The respondent is permitted short absences from the meeting for not more than 5 minutes each hour. Failure to remain in the meeting at least 55 minutes per hour without prior permission of Division staff or the Chair of the Commission will result in a Commission decision to not award credit for attendance at a Commission meeting;

(f) Except as otherwise allowed by this section, the respondent is required to attend the meeting in its entirety;

(g) All electronic devices must be turned off; and

(h) Failure to comply with this subsection or any other direction of the Commission consistent with an orderly public meeting will result in loss of credit for attendance at the entire meeting of the Commission.

(i) Any respondent requiring special accommodations to attend the meeting, because of a disability, must contact the Division of Real Estate staff at 400 West Robinson Street, Suite N801, Orlando, Florida 32801-1757, Call.Center@dbpr.state.fl.us, (850)487-1395 at least two weeks prior to the meeting date. The Commission will make a reasonable accommodation for those respondents who demonstrate they require special accommodations because they are a person who has a mental or physical impairment that substantially limits one or more of the major life activities of such individual.

Specific Authority 475.05 FS. Law Implemented 455.227, 475.25 FS. History—New 2-13-96, Amended 11-10-97, 12-8-02, 7-10-06.

61J2-26.001 Examination Requirements.

(1) The Florida Real Estate Commission has determined that it is in the best interest of the public's welfare to ensure a nonresident seeking licensure in this State, pursuant to s. 475.180, Florida Statutes, is knowledgeable in Florida law, statutes and administrative rules. To properly ensure such applicant has this knowledge, a written examination will be mandatory. This examination will consist of 40 questions, with each question being worth one (1) point. An applicant who receives a grade of 30 points or higher shall be deemed to have successfully completed the examination requirement for nonresident licensure.

(2) The subject area of the examination shall consist of general real estate license law. While knowledge of all subject areas is required, particular emphasis will be placed on Chapters 455 and 475, Florida Statutes, and on the rules of the Florida Real Estate Commission found in Chapter 61J2 of the Florida Administrative Code.

(3) This examination will be required of all applicants for nonresident licensure, regardless of jurisdiction, and shall become a part of each written agreement implementing the provisions of s. 475.180, Florida Statutes.

Specific Authority 475.05, 475.180 FS. Law Implemented 475.180 FS. History—New 11-6-94.

61J2-26.002 Residency.

The Florida Real Estate Commission recognizes that nonresidents of Florida may have a lesser opportunity than Florida residents to avail themselves of the education, experience, and examination requirements necessary for Florida licensure, and that such nonresidents may therefore apply for licensure under s. 475.180(1), Florida Statutes, as implemented in Rule Chapter 61J2-2, Florida Administrative Code. For purposes of s. 475.180(1), Florida Statutes, a "resident" of Florida is defined as:

(1) a person who has resided (regardless of whether the place or base of residence is a recreational vehicle, hotel, rental unit, or any other temporary or permanent situs) in Florida, continuously for a period of 4 calendar months or more, within the preceding one year; or

(2) a person who presently resides (regardless of whether the place or base of residence is a recreational vehicle, hotel, rental unit, or any other temporary or permanent situs) in Florida, with the intention to reside continuously in Florida for a period of 4 months or more, commencing on the date that the person began the current period of residence in Florida.

Specific Authority 475.05, 475.180 FS. Law Implemented 475.180 FS. History—New 11-6-94.

61J2-26.003 Post-License and Continuing Education.

(1) The Florida Real Estate Commission has determined that it is in the best interest of the public welfare that a non-resident securing licensure pursuant to s. 475.180, Florida Statutes, keep abreast of current Florida law. To properly ensure such knowledge subsequent to securing licensure through s. 475.180, Florida Statutes, the non-resident licensee must satisfy post-license and continuing education requirements as follows:

(a) All applicants for non-resident licensure must satisfactorily complete a Commission prescribed or approved post-license educational course prior to the first renewal following licensure. The standards and requirements for the post-license education

course will be in accordance with Rule 61J2-3.020, Florida Administrative Code.

(b) Subsequent to the first renewal period, all non-resident licensees are required to satisfactorily complete the continuing education requirements pursuant to Rule 61J2-3.009, Florida Administrative Code. The standards and requirements for continuing education will be in accordance with Rule 61J2-3.009, Florida Administrative Code.

(2) Failure of a non-resident licensee to satisfactorily complete the post-license education requirement shall result in the penalties prescribed in s. 475.17(3) or (4), as applicable.

(3) Hardship cases for post-license education shall be governed by and as defined in Rule 61J2-3.013, Florida Administrative Code.

Specific Authority 475.05, 475.180 FS. Law Implemented 475.180 FS. History—New 11-30-94.