(123rd General Assembly)
(Substitute House Bill Number 524)

AN ACT

To amend sections 4735.01, 4735.02, 4735.03, 4735.05, 4735.051, 4735.06, 4735.07, 4735.08, 4735.09, 4735.10, 4735.11, 4735.12, 4735.13, 4735.14, 4735.141, 4735.15, 4735.16, 4735.18, and 4735.25 of the Revised Code to include limited liability companies and limited liability partnerships in the definition of real estate broker and to establish changes in the real estate licensing law.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4735.01, 4735.02, 4735.03, 4735.05, 4735.051, 4735.06, 4735.07, 4735.08, 4735.09, 4735.10, 4735.11, 4735.12, 4735.13, 4735.14, 4735.141, 4735.15, 4735.16, 4735.18, and 4735.25 of the Revised Code be amended to read as follows:

Sec. 4735.01. As used in this chapter:

(A) "Real estate broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration does any of the following:

(1) Sells, exchanges, purchases, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of any real estate;

(2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate;

(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;

(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;

(6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;

(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;

(8) ~~Is employed by or on behalf of the owner of lots, or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission basis or otherwise, to sell such real estate, or any parts of it, in lots or other parcels, and who sells, exchanges, or offers, attempts, or agrees to negotiate the sale or exchange of any such lot or parcel of real estate;~~

~~(9)~~ Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;

~~(10)~~(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(C) "Real estate salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise.

(D) "Institution of higher education" means either of the following:

(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school;

(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school.

(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(F) "Foreign real estate dealer" includes any person, partnership, association, limited liability company, limited liability partnership, or

corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate.

(G) "Foreign real estate salesperson" means any person associated with a licensed foreign real estate dealer to do or deal in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate, for compensation or otherwise.

(H) Any person, partnership, association, limited liability company, limited liability partnership, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker ~~or foreign real estate dealer~~, whether an act is an incidental part of a transaction, or the entire transaction, shall be constituted a real estate broker or real estate salesperson ~~or a foreign real estate dealer or foreign real estate salesperson~~ under this chapter.

(I) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

(1) With reference to real estate situated in this state or any interest in it owned by such person, partnership, association, limited liability company, limited liability partnership, or corporation, or acquired on its own account in the regular course of, or as an incident to the management of the property and the investment in it;

(2) As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, will, or other instrument creating a like bona fide fiduciary obligation;

(3) As a public officer while performing the officer's official duties;

(4) As an attorney at law in the performance of the attorney's duties;

(5) As a person who engages in the brokering of the sale of business assets, not including the negotiation of the sale, lease, exchange, or assignment of any interest in real estate;

(6) As a person who enages in the sale of manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code, or of mobile homes as defined in division (O) of section 4501.01 of the Revised Code, provided the sale does not include the negotiation, sale, lease, exchange, or assignment of any interest in real estate.

(J) "Physically handicapped licensee" means a person licensed pursuant to this chapter who is under a severe physical disability which is of such a nature as to prevent the person from being able to attend any ~~classroom~~ instruction lasting at least three hours in duration.

(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, annually renewed as required under this chapter, and not associated with a real estate broker.

(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and annually renewed as required under this chapter.

(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a license under this chapter for a specified interval of time.

(P) "Reactivate" means the process prescribed by the superintendent of real estate and professional licensing to remove a license from an inactive, suspended, or broker's license on deposit status to allow a licensee to provide services that require a license under this chapter.

(Q) "Revoked" means the license status in which the license is void and not eligible for reactivation.

Sec. 4735.02. No person, partnership, association, limited liability company, limited liability partnership, or corporation shall act as a real

estate broker or real estate salesperson, or advertise or assume to act as such, without first being licensed as provided in this chapter. No person, partnership, association, limited liability company, limited liability partnership, or corporation shall provide services that require a license under this chapter if the licensee's license is inactive, suspended, or a broker's license on deposit, or if the license has been revoked. Nothing contained in this chapter shall be construed as authorizing a real estate broker or salesperson to perform any service constituting the practice of law.

No partnership, association, limited liability company, limited liability partnership, or corporation holding a real estate license shall employ as an officer, director, manager, or principal employee any person previously holding a license as a real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, whose license has been ~~terminated by failure to file a certificate of continuation, by revocation, or by suspension,~~ placed in inactive status, suspended, or revoked and who has not thereafter ~~been relicensed~~ reactivated the license or received a new license.

Sec. 4735.03. There is hereby created the Ohio real estate commission, consisting of five members who shall be appointed by the governor, with the advice and consent of the senate. Four members shall have been engaged in the real estate business as licensed real estate brokers in the state for a period of ten years immediately preceding the appointment. One member shall represent the public. Terms of office shall be for five years, commencing on the first day of July and ending on the thirtieth day of June. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which appointed. No more than three members shall be members of any one political party and no member of the commission concurrently may be a member of the commission and the real estate appraiser board created pursuant to section 4763.02 of the Revised Code. Each member, before entering upon the duties of ~~his~~ office, shall subscribe to and file with the secretary of state the constitutional oath of office. All vacancies which occur shall be filled in the manner prescribed for the regular appointments to the commission. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. Annually, upon the qualification of the member appointed in such year, the commission shall organize by selecting from its members a president and

vice-president, and shall do all things necessary and proper to carry out and enforce this chapter. A majority of the members of the commission shall constitute a quorum, but a lesser number may adjourn from time to time. Each member of the commission shall receive an amount fixed pursuant to section 124.14 of the Revised Code for each day employed in the discharge of ~~his~~ official duties, and ~~his~~ the member's actual and necessary expenses incurred in the discharge of ~~such~~ those duties.

The commission or the superintendent of real estate may investigate complaints concerning the violation of section 4735.02 or 4735.25 of the Revised Code and may subpoena witnesses in connection with such investigations as provided in section 4735.04 of the Revised Code. The commission or the superintendent may make application to the appropriate court for an order enjoining the violation of section 4735.02 or 4735.25 of the Revised Code, and upon a showing by the commission or the superintendent that any person, firm, partnership, association, limited liability company, limited liability partnership, or corporation has violated or is about to violate section 4735.02 or 4735.25 of the Revised Code, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court.

The commission shall:

(A) Adopt canons of ethics for the real estate industry;

(B) Upon appeal by any party affected, or may upon its own motion, review any order or application determination of the superintendent, and may reverse, vacate, or modify any order of the superintendent;

(C) Administer the real estate education and research fund and hear appeals from orders of the superintendent regarding claims against that fund or against the real estate recovery fund;

(D) Direct the superintendent on the content, scheduling, instruction, and offerings of real estate courses for ~~salesman~~ salesperson and broker educational requirements;

(E) Disseminate to licensees and the public, information relative to commission activities and decisions;

(F) Notify licensees of changes in state and federal civil rights laws pertaining to discrimination in the purchase or sale of real estate and relevant case law, and inform licensees that they are subject to disciplinary action if they do not comply with the changes;

(G) Publish and furnish to public libraries and to brokers booklets on housing and remedies available to dissatisfied clients under this chapter and Chapter 4112. of the Revised Code.

Sec. 4735.05. (A) The Ohio real estate commission is a part of the

department of commerce for administrative purposes. The director of commerce is ex officio the executive officer of the commission, or the director may designate any employee of the department as superintendent of real estate and professional licensing to act as executive officer of the commission.

The commission and the real estate appraiser board created pursuant to section 4763.02 of the Revised Code shall each submit to the director a list of three persons whom the commission and the board consider qualified to be superintendent within sixty days after the office of superintendent becomes vacant. The director shall appoint a superintendent from the lists submitted by the commission and the board, and the superintendent shall serve at the pleasure of the director.

(B) The superintendent, except as otherwise provided, shall do all of the following in regard to this chapter:

(1) Administer this chapter;

(2) Issue all orders necessary to implement this chapter;

(3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee;

(4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators or auditors have the right to review and audit the business records of licensees and continuing education course providers during normal business hours.

(5) Appoint a hearing examiner for any proceeding involving ~~license suspension or revocation~~ disciplinary action under section 2301.373 ~~of the Revised Code~~ or ~~proceedings brought under section~~ 4735.18 of the Revised Code;

(6) Administer the real estate recovery fund.

(C) The superintendent may do all of the following:

(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.

(3) Upon the death of a licensed broker or the revocation or suspension of the broker's license, if there is no other licensed broker within the business entity of the broker, appoint upon application by any interested

party, or, in the case of a deceased broker, subject to the approval by the appropriate probate court, recommend the appointment of, an ancillary trustee who is qualified as determined by the superintendent to conclude the business transactions of the deceased, revoked, or suspended broker.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(4) of this section, from licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department.

Sec. 4735.051. (A) Within five business days after a person files a signed written complaint against a licensed real estate broker or licensed real estate salesperson with the division of real estate, the superintendent of real estate shall acknowledge receipt of the complaint and send a notice to the licensee describing the acts complained of. The acknowledgment to the complainant and the notice to the licensee shall state that an informal meeting will be held with the complainant, the licensee, and an investigator from the investigation and audit section of the division if the complainant and licensee both file a request for such a meeting within ten business days thereafter on a form provided by the superintendent.

(B) If the complainant and licensee both file with the division requests for an informal meeting, the superintendent shall notify the complainant and licensee of the date of the meeting, which shall be within twenty business days thereafter, except that any party may request an extension of up to fifteen business days for good cause shown. If the ~~parties~~ complainant and licensee reach an accommodation at an informal meeting, the investigator shall so report to the superintendent ~~and~~, the ~~parties~~ complainant, and licensee and the complaint file shall be closed, unless, based upon the investigator's report, the superintendent finds evidence that the licensee has violated section 4735.18 of the Revised Code.

(C) If the ~~parties~~ complainant and licensee fail to agree to an informal meeting or fail to reach an accommodation, or if the superintendent finds evidence of a violation of section 4735.18 of the Revised Code, the superintendent shall, within five business days of such determination, so notify the ~~parties~~ complainant and licensee and shall investigate the conduct of the licensee against whom the complaint is filed.

(D) Within sixty business days after receipt of the complaint, or, if an informal meeting is held, within sixty days of such meeting, the investigator

shall file a written report of the results of the investigator's investigation with the superintendent. Within ~~ten~~ fourteen business days thereafter, the superintendent shall review the report and determine whether there exists reasonable and substantial evidence of a violation of section 4735.18 of the Revised Code by the licensee. If the superintendent finds such evidence exists, within ~~five~~ seven business days of the determination, the superintendent shall notify the ~~parties~~ complainant and licensee of the date of a hearing to be held by a hearing examiner pursuant to Chapter 119. of the Revised Code within fifteen days but not prior to seven days thereafter, except that ~~any party~~ either the superintendent or the licensee may request an extension of up to thirty business days for good cause shown. If the superintendent finds that such evidence does not exist, within five business days thereafter, the superintendent shall so notify the ~~parties~~ complainant and licensee of the superintendent's determination and the basis for the determination. Within fifteen business days after the superintendent notifies the ~~parties~~ complainant and licensee that such evidence does not exist, the complainant may file with the division a request that the commissioners review the determination. If the complainant files such request, the commissioners shall review the determination at the next regularly scheduled meeting held at least fifteen business days after the request is filed. The commission shall hear the testimony of either ~~party~~ the complainant or the licensee at ~~such~~ the meeting upon the request of the ~~party~~ complainant or licensee. If the commissioners affirm the determination of the superintendent, the superintendent shall so notify the complainant and the licensee within five business days thereafter. If the commissioners reverse the determination of the superintendent, a hearing shall be held and the ~~parties~~ complainant and licensee notified as provided in this division.

(E) Within twenty-five business days after the conclusion of formal hearings, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the commission, and the ~~parties~~ complainant and licensee.

(F) The commissioners shall review the hearing examiner's report ~~and the parties' evidence~~ at the next regularly scheduled commission meeting held at least fifteen business days after receipt of the hearing examiner's report. The commission shall hear the testimony of ~~any party~~ the complainant or the licensee upon request. If the complainant is the Ohio civil rights commission, the complaint shall be reviewed by the commissioners directly upon request.

(G) The commission shall decide whether to impose disciplinary sanctions upon a licensee for a violation of section 4735.18 of the Revised

Code. The commission shall decide within sixty days of the filing of the hearing examiner's report or within sixty days of the filing of an Ohio civil rights commission complaint. The commission shall maintain a transcript of the proceedings and issue a written opinion to ~~all~~ the ~~parties~~ complainant and licensee, citing its findings and grounds for any action taken. The commission shall notify the complainant and any other ~~party~~ person who may have suffered financial loss because of the licensee's violations, that the complainant or other ~~party~~ person may sue for recovery under section 4735.12 of the Revised Code.

(H) An investigation under this section is subject to section 4735.32 of the Revised Code.

(I) The commission may impose the following sanctions upon a licensee for a violation of section 4735.18 of the Revised Code:

(1) Revoke a license issued under Chapter 4735. of the Revised Code;

(2) Suspend a license for a term set by the commission;

(3) Impose a fine, not exceeding two thousand five hundred dollars per violation;

(4) Issue a public reprimand;

(5) Require the completion of additional continuing education course work. Any continuing education course work imposed pursuant to this section shall not count toward the continuing education requirements set forth in section 4735.14 of the Revised Code.

All fines imposed pursuant to division (I)(3) of this section shall be credited to the real estate ~~operating~~ recovery fund, which is created in the state treasury under section ~~4735.211~~ 4735.12 of the Revised Code.

Sec. 4735.06. (A) Application for a license as a real estate broker shall be made ~~in writing~~ to the superintendent of real estate on forms furnished by the superintendent and filed with the superintendent and shall be signed by the applicant or its members or officers. Each application shall state the name of the person applying and the location of the place of business for which the license is desired, and give such other information as the superintendent requires in the form of application prescribed by the superintendent.

~~The application shall be accompanied by a recent photograph of the applicant and the names of three resident freeholders of the county in which the applicant resides or has the applicant's place of business. If the applicant has resided, or has engaged in the real estate business, for less than one year in the county from which the application is made, the application shall be accompanied by a recent photograph of the applicant and the names of three resident freeholders of each of the counties where the applicant formerly~~

~~resided or engaged in the real estate business during the period of one year prior to the filing of the application. No one of the freeholders shall be related to the applicant, and one of them shall be the applicant's most recent broker. If the applicant's most recent broker is a relative of the applicant or is not a freeholder, the name of a third freeholder shall be furnished. The freeholders shall furnish information to the superintendent, on forms prescribed by the superintendent, concerning the character of the applicant. If the applicant maintains more than one place of business within the state, the applicant shall apply for and procure a duplicate license for each branch office so maintained by the applicant. Each branch office shall be in the charge of a licensed broker or salesperson.~~

If the applicant is a partnership, limited liability company, limited liability partnership, or association, the names of all the members also shall be stated, and, if the applicant is a corporation, the names of its president and of each of its officers also shall be stated. The superintendent has the right to reject the application of any partnership, association, limited liability company, limited liability partnership, or corporation if the name proposed to be used by such partnership, association, limited liability company, limited liability partnership, or corporation is likely to mislead the public or if the name is not such as to distinguish it from the name of any existing partnership, association, limited liability company, limited liability partnership, or corporation licensed under this chapter, unless there is filed with the application the written consent of such existing partnership, association, limited liability company, limited liability partnership, or corporation, executed by a duly authorized representative of it, permitting the use of the name of such existing partnership, association, limited liability company, limited liability partnership, or corporation.

(B) A fee of sixty-nine dollars shall accompany the application for a real estate broker's license, which fee shall include the license if it is issued. The application fee shall be retained by the superintendent if the applicant is admitted to the examination for the license or the examination requirement is waived, but, if an applicant is not so admitted and a waiver is not involved, one-half of the fee shall be retained by the superintendent to cover the expenses of processing the application and the other one-half shall be returned to the applicant. A fee of sixty-nine dollars shall be charged by the superintendent for each successive application made by an applicant.

(C) Four dollars of each fee for a real estate broker's license shall be credited to the real estate education and research fund, which is hereby created in the state treasury. The Ohio real estate commission may use the fund in discharging the duties prescribed in divisions (E), (F), and (G) of

ction 4735.03 of the Revised Code and shall use it in the advancement of education and research in real estate at any institution of higher education in the state, or in contracting with any such institution for a particular research or educational project in the field of real estate, or in advancing loans, not exceeding eight hundred dollars, to applicants for salesperson licenses, to defray the costs of satisfying the educational requirements of division (F) of section 4735.09 of the Revised Code. Such loans shall be made according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and they shall be repaid to the fund within three years of the time they are made. No more than ten thousand dollars shall be lent from the fund in any one year.

The governor may appoint a representative from the executive branch to be a member ex officio of the commission for the purpose of advising on research requests or educational projects. The commission shall report to the general assembly on the third Tuesday after the third Monday in January of each year setting forth the total amount contained in the fund and the amount of each research grant that it has authorized and the amount of each research grant requested. A copy of all research reports shall be submitted to the state library of Ohio and the library of the legislative service commission.

(D) If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate broker's examination, pursuant to division (A) of section 4735.07 of the Revised Code, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)~~(1)~~(2) of section 4735.10 of the Revised Code.

Sec. 4735.07. (A) The superintendent of real estate, with the consent of the Ohio real estate commission, may enter into agreements with recognized national testing services to administer the real estate broker's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of such examination.

(B) No applicant for a real estate broker's license shall take the broker's examination who has not established to the satisfaction of the superintendent that ~~the person~~ the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude, or if ~~the person~~ the applicant has been so convicted, the superintendent has

isregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if ~~the person~~ the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant's activities and employment record since the adjudication show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will again violate the laws involved.

(3) Has not, during any period in which ~~the person~~ the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to, this chapter, or, if ~~the person~~ the applicant has violated any such provision or rule, has established to the satisfaction of the superintendent that ~~the person~~ the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) Has been a licensed real estate broker or salesperson for at least two years; during at least two of the five years preceding the person's application, has worked as a licensed real estate broker or salesperson for an average of at least thirty hours per week; and has completed one of the following:

(a) At least twenty real estate transactions, in which property was sold for another by the applicant while acting in the capacity of a real estate broker or salesperson;

(b) Such equivalent experience as is defined by rules adopted by the commission.

(6)(a) If licensed as a real estate salesperson prior to ~~January~~ August 1, ~~1990~~ 2001, successfully has completed at an institution of higher education all of the following:

(i) Thirty hours of classroom instruction in real estate practice;

(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in

municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Thirty hours of classroom instruction in real estate appraisal;

(iv) Thirty hours of classroom instruction in real estate finance;

(v) Three quarter hours, or its equivalent in semester hours, in financial management;

(vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;

(vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;

(viii) Three quarter hours, or its equivalent in semester hours, in business law.

(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:

(i) Forty hours of classroom instruction in real estate practice;

(ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Twenty hours of classroom instruction in real estate appraisal;

(iv) Twenty hours of classroom instruction in real estate finance;

(v) The training in the amount of hours specified under divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section.

(c) Division (B)(6)(a) or (b) of this section does not apply to any applicant who holds a valid real estate salesperson's license issued prior to January 2, 1972 ~~salesperson's~~ Divisions (B)(6)(a)(v), (vi), (vii), and (viii) or division (B)(6)(b)(v) of this section do not apply to any applicant who holds

a valid real estate salesperson's license issued prior to January 3, 1984.

(7) If licensed as a real estate salesperson on or after January 3, 1984, satisfactorily has completed a minimum of two years of post-secondary education, or its equivalent in semester or quarter hours, at an institution of higher education, and has fulfilled the requirements of division (B)(6)(a) or (b) of this section. The requirements of division (B)(6)(a) or (b) of this section may be included in the two years of post-secondary education, or its equivalent in semester or quarter hours, that is required by this division.

(C) Each applicant for a broker's license shall be examined in the principles of real estate practice, Ohio real estate law, and financing and appraisal, and as to the duties of real estate brokers and real estate salespersons, the applicant's knowledge of real estate transactions and instruments relating to them, and the canons of business ethics pertaining to them. The commission from time to time shall promulgate such canons and cause them to be published in printed form.

~~salesperson's~~

(D) Examinations shall be ~~given entirely in writing, except that they shall be~~ administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101. The contents of an examination shall be consistent with the requirements of division (B)(6)~~(a)~~ of this section and with the other specific requirements of this section. An applicant who has completed the requirements of division (B)(6)~~(a)~~ of this section at the time of application ~~may~~ shall be examined ~~at the next regularly scheduled examination~~ no later than twelve months after the applicant is notified of admission to the examination.

(E) The superintendent may waive one or more of the ~~requirement~~ requirements of ~~examination~~ this section in the case of an application from a nonresident real estate broker ~~of a state having similar requirements and under the laws of which similar recognition is extended to licensed real estate brokers and real estate salespersons of this~~ pursuant to a reciprocity agreement with the licensing authority of the state from which the nonresident applicant holds a valid real estate broker license.

(F) There shall be no limit placed on the number of times an applicant may retake the examination.

(G) ~~The superintendent in the superintendent's discretion may waive the requirement of examination if the applicant has been licensed as a real estate broker by the superintendent or commission at some time during the two-year period immediately preceding the date of the current application.~~

~~(H)~~(1) ~~Each~~ No later than twelve months after the date of issue of a real

estate broker's license to a licensee ~~successfully~~, the licensee shall ~~complete,~~ submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion of ten hours of classroom instruction in real estate brokerage at an institution of higher education or any other institution that is approved by the commission~~, ten hours of classroom instruction in real estate brokerage~~. That instruction shall include, but not be limited to, current issues in managing a real estate company or office. ~~Upon completion of the instruction, the licensee shall cause to be filed with the superintendent a certificate from the institution showing that the licensee successfully has completed the requirements of this division in accordance with the appropriate time period, as follows:~~

~~(a) Persons licensed on or after January 1, 1990, but before January 1, 2001, shall submit proof of successful completion of instruction to the superintendent within twelve months after the date of issuance of the salesperson's license;~~

~~(b) Persons licensed on or after January 1, 2001, shall submit proof of successful completion of instruction to the superintendent on or before the date the licensee's first continuing education requirement, after licensure as a salesperson, must be met under section 4735.141 of the Revised Code.~~

If the ~~instruction~~ required proof of completion is not ~~successfully completed~~ submitted to the superintendent within ~~the time period prescribed by this division~~ twelve months of the date a license is issued under this section, the license of the real estate broker is suspended automatically without the taking of any action by the ~~commission~~ superintendent. The ~~broker then shall have one year after the date of the suspension of the broker's license to successfully complete the instruction required under this division, and the~~ broker's license shall not be ~~reinstated~~ reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent if the licensee fails to submit proof of completion of the education requirements specified under division (G)(1) of this section within twelve months of the date the license is suspended.

(2) If the license of a real estate broker is suspended pursuant to division ~~(H)~~(G)(1) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (B) of section 4735.20 of the Revised Code. However, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if all of the following occur:

(a) That broker subsequently submits satisfactory proof to the superintendent that the broker has complied with the requirements of division ~~(H)~~(G)(1) of this section and requests that the broker's license as a real estate broker be reactivated;

(b) The superintendent then reactivates the broker's license as a real estate broker;

(c) The associated real estate salesperson intends to continue to be associated with that broker and otherwise is in compliance with this chapter.

Sec. 4735.08. The superintendent of real estate shall issue a real estate broker's license when ~~he~~ the superintendent is satisfied that:

(A) An applicant who is not a partnership, association, limited liability company, limited liability partnership, or corporation satisfies one of the following:

(1) Has received a ~~grade of seventy-five per cent or better~~ passing score on each portion of the real estate broker's examination ~~administered under the supervision of the superintendent~~ as determined by rule by the real estate commission;

(2) Is qualified to be licensed without examination as a nonresident real estate broker, under division (E) of section 4735.07 of the Revised Code~~;~~

~~(3) Is qualified, as determined in the discretion of the superintendent, to be licensed without examination as one who was licensed as a real estate broker at some time during the two-year period immediately preceding the date of the current application, under division (G) of section 4735.07 of the Revised Code~~.

(B) All the members or officers who are authorized to perform the functions of a real estate broker as the agents of an applicant that is a partnership, association, limited liability company, limited liability partnership, or corporation, are licensed themselves as real estate brokers under this chapter.

Sec. 4735.09. (A) Application for a license as a real estate salesperson shall be made ~~in writing~~ to the superintendent of real estate on forms furnished by the superintendent and signed by the applicant. The application shall be in the form prescribed by the superintendent and shall contain such information as is required by this chapter and the rules of the Ohio real estate commission. The application shall be accompanied by ~~a recent photograph of the applicant and~~ the recommendation of the real estate broker with whom the applicant is associated or with whom the applicant intends to be associated, certifying that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have

violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, which conviction or adjudication the applicant has not disclosed to the superintendent, and recommending that the applicant be admitted to the real estate salesperson examination ~~for real estate salesman~~.

(B) A fee of forty-nine dollars shall accompany the application, which fee shall include the license if it is issued. The application fee shall be retained by the superintendent if the applicant is admitted to the examination for the license or the examination requirement is waived, but, if an applicant is not so admitted and a waiver is not involved, one-half of the fee shall be retained by the superintendent to cover the expenses of processing the application and the other one-half shall be returned to the applicant. A fee of forty-nine dollars shall be charged by the superintendent for each successive application made by the applicant. Four dollars of each fee shall be credited to the real estate education and research fund.

(C) There shall be no limit placed on the number of times an applicant may retake the examination.

(D) The superintendent, with the consent of the commission, may enter into an agreement with a recognized national testing service to administer the real estate salesperson's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of the examination.

If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate salesperson's examination, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(1) of section 4735.10 of the Revised Code.

(E) The superintendent shall issue a real estate salesperson's license when satisfied that the applicant has received a ~~grade of seventy-five per cent or better~~ passing score on each portion of the salesperson's examination as determined by rule by the real estate commission, except that the superintendent may waive one or more of the ~~requirement~~ requirements of ~~examination if~~ this section in the case of an applicant who is a licensed real estate salesperson in another state ~~and that state does both of the following:~~

~~(1) It applies licensing requirements similar to those applied in this state as determined by the superintendent.~~

~~(2) It extends similar~~ pursuant to a reciprocity ~~to licensed real estate~~

~~salespersons in this~~ agreement with the licensing authority of the state from which the applicant holds a valid real estate salesperson's license.

(F) No applicant for a salesperson's license shall take the salesperson's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude or, if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to this chapter, or, if the applicant has violated such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) If born after the year 1950, has a high school diploma or its equivalent as recognized by the state department of education;

(6)(a) ~~Has~~ If beginning instruction prior to August 1, 2001, has successfully completed at an institution of higher education all of the following:

(i) Thirty hours of classroom instruction in real estate practice;

(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing

discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Thirty hours of classroom instruction in real estate appraisal;

(iv) Thirty hours of classroom instruction in real estate finance.

(b) Any person who has not been licensed as a real estate salesperson or broker within a four-year period immediately preceding the person's current application for the salesperson's examination shall have successfully completed the classroom instruction required by division (F)(6)(a) of this section within a ten-year period immediately preceding the person's current application for the salesperson's examination.

(7) If beginning instruction, as determined by the superintendent, on or after August 1, 2001, has successfully completed at an institution of higher education all of the following:

(a) Forty hours of classroom instruction in real estate practice;

(b) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(c) Twenty hours of classroom instruction in real estate appraisal;

(d) Twenty hours of classroom instruction in real estate finance.

(G) ~~Each~~ No later than twelve months after the date of issue of a real estate salesperson license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of ~~successful~~ completion, at an institution of higher education or any other institution approved by the commission, of ten hours of classroom instruction in real estate courses that cover current issues regarding consumers, real estate practice, ethics, and real estate law. ~~Upon completion of the instruction, the licensee shall cause to have filed with the superintendent a certificate from the institution showing that the licensee~~

~~successfully has completed the requirements of this division in accordance with the appropriate time period, as follows:~~

~~(1) Persons licensed on or after January 1, 1990, but before January 1, 2001, shall submit proof of successful completion of the instruction to the superintendent within twelve months after the date of issuance of the real estate broker's license;~~

~~(2) Persons licensed on or after January 1, 2001, shall submit proof of successful completion of the instruction to the superintendent on or before the licensee's first continuing education requirement, after licensure as a broker, must be met under section 4735.141 of the Revised Code.~~

If proof of ~~successful~~ completion of the required instruction is not submitted within ~~the time period prescribed by this division~~ twelve months of the date a license is issued under this section, the licensee's license is suspended automatically without the taking of any action by the ~~commission~~ superintendent. The superintendent immediately shall notify the broker with whom such salesperson is associated of the suspension of the salesperson's license. A salesperson whose license has been suspended under this division shall have ~~one year~~ twelve months after the date of the suspension of the salesperson's license to submit proof of successful completion of the instruction required under this division. No such license shall be reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent when the licensee fails to submit the required proof of completion of the education requirements under division (G) of this section within twelve months of the date the license is suspended.

(H) Examinations shall ~~be given entirely in writing, except that they shall~~ be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101. The contents of an examination shall be consistent with the classroom instructional requirements of division (F)(6)~~(a)~~ or (7) of this section. ~~All persons whose applications are pending shall be notified by mail at least sixty days prior to such examination, except that an~~ An applicant who has completed the classroom instructional requirements of division (F)(6)~~(a)~~ or (7) of this section at the time of application ~~may~~ shall be examined ~~at the next regularly scheduled examination~~ no later than twelve months after the applicant is notified of the applicant's admission to the examination. ~~Nothing in this section shall be construed to prevent an applicant from completing, in the discretion of the superintendent, the~~

~~classroom instructional requirements of division (F)(6)(a) of this section concurrently with the processing of the applicant's application for examination.~~

Sec. 4735.10. (A)(1) The Ohio real estate commission may adopt reasonable rules in accordance with Chapter 119. of the Revised Code, necessary for implementing the provisions of this chapter relating, but not limited to, the following:

(a) The form and manner of filing applications for license;

(b) Times and form of examination for license;

(c) Placing an existing broker's license ~~in escrow~~ on deposit or a salesperson's license on an inactive status for an indefinite period ~~upon good cause shown~~.

(2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following:

(a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, ~~and~~ the conduct of hearings related to these actions, and the process of reactivating a license;

(b) Standards for the approval of courses of study required for licenses, or offered in preparation for license examinations, or required as continuing education for licenses. The rules shall specify that no standard for the approval of a course of study required as continuing education for licensees shall require that licensees pass an examination as a condition for the successful completion of a continuing education requirement. A person providing a continuing education course may administer examinations for the purpose of evaluating the effectiveness of the course.

(c) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class.

(d) Requirements for trust accounts and property management accounts. The rules shall specify that:

(i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of section 4735.18 of the Revised Code.

(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable

to the property owner unless otherwise specified in a written contract.

(e) Annual ~~certificates of continuation in business~~ notice of renewal forms and filing deadlines ~~based on a staggered system of renewal with deadlines distributed throughout the year~~;

(f) Special assessments under division (A) of section 4735.12 of the Revised Code.

(B) The commission ~~shall~~ may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers:

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;

(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (A) of section 4735.06 of the Revised Code;

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with ~~waiver of examination, under sections~~ appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code;

(4) Approval of applications of brokers to place their licenses on deposit and to become salespersons under section 4735.13 of the Revised Code;

(5) Appointment of hearing examiners under section 119.09 of the Revised Code;

(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of examination, under sections 4735.27 and 4735.28 of the Revised Code;

(7) Qualification of foreign real estate under section 4735.25 of the Revised Code.

If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent ~~shall~~ may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose.

(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or superintendent may require other proof of the honesty, truthfulness, and good reputation of any person named in an application for a real estate broker's or real estate salesperson's license before admitting the applicant to the examination or issuing a license.

Sec. 4735.11. The form and size of licenses issued under this chapter shall be prescribed by the Ohio real estate commission. Each broker's or

reign real estate dealer's license shall show the name and address of the licensee, and in the case of partnership, association, limited liability company, limited liability partnership, and corporation licenses, the name and address of each of the members or officers of the partnership, association, limited liability company, limited liability partnership, or corporation. A real estate ~~salesman's~~ salesperson's license or a foreign real estate ~~salesman's~~ salesperson's license shall show the name of the real estate broker or foreign real estate dealer with whom ~~he~~ the salesperson is or is to be associated. Each license shall be issued under the seal prescribed in section 121.20 of the Revised Code and be signed by the president of the commission ~~and the superintendent of real estate~~.

Sec. 4735.12. (A) The real estate recovery fund is hereby created in the state treasury, to be administered by the superintendent of real estate. Amounts collected by the superintendent as prescribed in this section and interest earned on the assets of the fund shall be credited by the treasurer of state to the fund. The amount of money in the fund shall be ascertained by the superintendent as of the first day of ~~October~~ July of each year. ~~If that amount is less than one million dollars, the director of budget and management may, upon the request of the superintendent, transfer from the real estate operating fund to the real estate recovery fund such sum as will bring the real estate recovery fund to that amount.~~

The commission, in accordance with rules adopted under division (A)(2)(f) of section 4735.10 of the Revised Code, shall impose a special assessment not to exceed ten dollars annually on each licensee filing a notice of renewal under section 4735.14 of the Revised Code if the amount available in the fund is less than one million dollars on the first day of July preceding that filing. The commission may impose a special assessment not to exceed five dollars annually if the amount available in the fund is greater than one million dollars, but less than two million dollars on the first day of July preceding that filing. The commission shall not impose a special assessment if the amount available in the fund exceeds two million dollars on the first day of July preceding that filing.

(B)(1) Any person who obtains a final judgment in any court of competent jurisdiction against any broker or salesperson licensed under this chapter, on the grounds of conduct that is in violation of this chapter or the rules adopted under it, and that is associated with an act or transaction ~~of a broker or salesperson~~ that only a licensed real estate broker or licensed real estate salesperson is authorized to perform as specified ~~or comprehended~~ in division (A) or (C) of section 4735.01 of the Revised Code, may file a verified application, as described in division (B)(3) of this section, in any

court of common pleas for an order directing payment out of the real estate recovery fund of the portion of the judgment that remains unpaid and that represents the actual and direct loss sustained by the applicant.

(2) Punitive damages, attorney's fees, and interest on a judgment are not recoverable from the fund. In the discretion of the superintendent of real estate, ~~attorney's fees and~~ court costs may be recovered from the fund, and, if the superintendent authorizes the recovery of ~~attorney's fees or~~ court costs, the order of the court of common pleas then may direct their payment from the fund.

(3) The application shall specify the nature of the act or transaction upon which the underlying judgment was based, the activities of the applicant in pursuit of remedies available under law for the collection of judgments, and the actual and direct losses, attorney's fees, and the court costs sustained or incurred by the applicant. The applicant shall attach to the application a copy of each pleading and order in the underlying court action.

(4) The court shall order the superintendent to make such payments out of the fund when the person seeking the order has shown all of the following:

(a) The person has obtained a judgment, as provided in this division;

(b) All appeals from the judgment have been exhausted and the person has given notice to the superintendent, as required by division (C) of this section;

(c) The person is not a spouse of the judgment debtor, or the personal representative of such spouse;

(d) The person has diligently pursued the person's remedies against all the judgment debtors and all other persons liable to the person in the transaction for which the person seeks recovery from the fund;

(e) The person is making the person's application not more than one year after termination of all proceedings, including appeals, in connection with the judgment.

(5) Divisions (B)(1) to (4) of this section do not apply to any of the following:

(a) Actions arising from property management accounts maintained in the name of the property owner;

(b) A bonding company when it is not a principal in a real estate transaction;

(c) A person in an action for the payment of a commission or fee for the performance of an act or transaction specified or comprehended in division (A) or (C) of section 4735.01 of the Revised Code;

(d) ~~Acts that occurred on or before March 4, 1975~~ losses incurred by

investors in real estate if the applicant and the licensee are principals in the investment.

(C) A person who applies to a court of common pleas for an order directing payment out of the fund shall file notice of the application with the superintendent. The superintendent may defend any such action on behalf of the fund and shall have recourse to all appropriate means of defense and review, including examination of witnesses, verification of actual and direct losses, and challenges to the underlying judgment required in division (B)(4)(a) of this section to determine whether the underlying judgment is based on activity only a licensed broker or licensed salesperson is permitted to perform The superintendent may move the court at any time to dismiss the application when it appears there are no triable issues and the application is without merit. The motion may be supported by affidavit of any person having knowledge of the facts and may be made on the basis that the application, including the judgment referred to in it, does not form the basis for a meritorious recovery claim; provided, that the superintendent shall give written notice to the applicant at least ten days before such motion. The superintendent may, subject to court approval, compromise a claim based upon the application of an aggrieved party. The superintendent shall not be bound by any prior compromise or stipulation of the judgment debtor.

(D) Notwithstanding any other provision of this section, the liability of the fund shall not exceed forty thousand dollars for any one licensee. If a ~~licensee~~ licensee's license is ~~reinstated~~ reactivated as provided in division (E) of this section, the liability of the fund for the licensee under this section shall again be forty thousand dollars, but only for transactions ~~which~~ that occur subsequent to the time of ~~reinstatement~~ reactivation.

If the forty-thousand-dollar liability of the fund is insufficient to pay in full the valid claims of all aggrieved persons by whom claims have been filed against any one licensee, the forty thousand dollars shall be distributed among them in the ratio that their respective claims bear to the aggregate of valid claims or in such other manner as the court finds equitable. Distribution of moneys shall be among the persons entitled to share in it, without regard to the order of priority in which their respective judgments may have been obtained or their claims have been filed. Upon petition of the superintendent, the court may require all claimants and prospective claimants against one licensee to be joined in one action, to the end that the respective rights of all such claimants to the fund may be equitably adjudicated and settled.

(E) If the superintendent pays from the fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed broker or

salesperson, the license of the broker or salesperson shall be automatically suspended upon the date of payment from the fund. ~~No such broker or salesperson~~ The superintendent shall ~~be granted reinstatement~~ not reactivate the suspended license of that broker or salesperson until the broker or salesperson has repaid in full, plus interest per annum at the rate specified in division (A) of section 1343.03 of the Revised Code, the amount paid from the fund on ~~his~~ the broker's or salesperson's account. A discharge in bankruptcy does not relieve a person from the suspension and requirements for ~~reinstatement~~ reactivation provided in this section unless the underlying judgment has been included in the discharge and has not been reaffirmed by the debtor.

(F) ~~Two dollars of each fee collected for a real estate broker's license or a real estate salesperson's license, or for the renewal of such licenses, may, as determined by the superintendent, be credited to the fund, if the fund balance does not exceed two million dollars.~~

If, at any time, the money deposited in the fund is insufficient to satisfy any duly authorized claim or portion of a claim, the superintendent shall, when sufficient money has been deposited in the fund, satisfy such unpaid claims or portions, in the order that such claims or portions were originally filed, plus accumulated interest per annum at the rate specified in division (A) of section 1343.03 of the Revised Code.

(G) When, upon the order of the court, the superintendent has paid from the fund any sum to the judgment creditor, the superintendent shall be subrogated to all of the rights of the judgment creditor to the extent of the amount so paid, and the judgment creditor shall assign all the judgment creditor's right, title, and interest in the judgment to the superintendent to the extent of the amount so paid. Any amount and interest so recovered by the superintendent on the judgment shall be deposited in the fund.

(H) Nothing contained in this section shall limit the authority of the superintendent to take disciplinary action against any licensee under other provisions of this chapter; nor shall the repayment in full of all obligations to the fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to this chapter.

(I) The superintendent shall collect from the fund a service fee in an amount equivalent to the interest rate specified in division (A) of section 1343.03 of the Revised Code multiplied by the annual interest earned on the assets of the fund, to defray the expenses incurred in the administration of the fund.

Sec. 4735.13. (A) The license of a real estate broker shall be prominently displayed in the office or place of business of the broker, and

no license shall authorize the licensee to do business except from the location specified in it. If the broker maintains more than one place of business within the state, the broker shall apply for and procure a duplicate license for each branch office maintained by the broker. Each branch office shall be in the charge of a licensed broker or salesperson. The branch office license shall be prominently displayed at the branch office location.

(B) The license of each real estate ~~salesman~~ salesperson shall be mailed to and remain in the possession of the licensed broker with whom ~~he~~ the salesperson is or is to be associated until ~~canceled~~ the licensee places the license on inactive status or until the ~~salesman leaves the broker~~ salesperson leaves the brokerage or is terminated. The broker shall keep each ~~salesman's~~ salesperson's license in a way that it can, and shall on request, be made immediately available for public inspection at the office or place of business of the broker. Except as provided in division (G) of this section, immediately upon the salesperson's leaving the association or termination of the association of a real estate ~~salesman~~ salesperson with the broker, the broker shall return the ~~salesman's~~ salesperson's license to the superintendent of real estate ~~for cancellation~~.

The failure of a broker to return the license of a real estate salesperson who leaves or who is terminated within three business days of the receipt of a written request from the salesperson for the return of the license, when a copy of the request also is forwarded to the superintendent, is prima facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(C) Any licensee who is convicted of a felony or a crime involving moral turpitude or of violating any federal, state, or municipal civil rights law pertaining to discrimination in housing, or any court that issues a finding of an unlawful discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code or that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination, shall notify the superintendent of the conviction or finding within fifteen days. If a licensee fails to notify the superintendent within the required time, the superintendent immediately may revoke the license of the licensee.

Any court that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination also shall notify the Ohio civil rights commission within fifteen days of the conviction.

(D) In case of any change of business location, a broker shall give ~~a~~ notice in writing to the superintendent, whereupon the superintendent shall issue new licenses for the unexpired period without charge. ~~A~~ If a broker

~~who~~ changes a business location without giving the required notice and without ~~the issuance of the~~ receiving new licenses ~~is guilty of misconduct~~ that action is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(E) If a real estate broker desires to associate ~~himself~~ with another real estate broker in the capacity of a real estate ~~salesman~~ salesperson, ~~he~~ the broker shall apply to the superintendent to deposit ~~his~~ the broker's real estate broker's license with the superintendent and for the issuance of a real estate ~~salesman's~~ salesperson's license. The application shall be made on a form prescribed by the superintendent and shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated~~, a fee of thirteen dollars to cover the expenses of the superintendent in holding the applicant's real estate broker's license,~~ and a fee of twenty-five dollars for the real estate ~~salesman's~~ salesperson's license. Four dollars of ~~each~~ the fee shall be credited to the real estate education and research fund. If the superintendent is satisfied that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, and that the association of the real estate broker and the applicant will be in the public interest, the superintendent shall grant the application and issue a real estate ~~salesman's~~ salesperson's license to ~~him~~ the applicant. Any license so deposited with the superintendent shall be subject to this chapter. ~~On or before the first day of November of each year, a~~ A broker who intends to deposit ~~his~~ the broker's license with the superintendent, as provided in this section, shall give written notice of this fact in a format prescribed by the superintendent to all ~~salesmen~~ salespersons associated with ~~him~~ the broker when applying to place the broker's license on deposit.

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, ~~he~~ the broker shall notify the superintendent of ~~his~~ the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of twenty-five dollars. Four dollars of the fee shall be credited to the real estate education and research fund.

No real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is a licensed real estate broker shall perform any acts as a

real estate broker other than as the agent of the partnership, association, limited liability company, limited liability partnership, or corporation, and ~~he~~ such broker shall not have any real estate ~~salesmen~~ salespersons associated with ~~him~~ the broker.

(G) If a real estate broker or ~~salesman~~ salesperson enters the armed forces, ~~he~~ the broker or salesperson may place ~~his~~ the broker's or salesperson's license on deposit with the Ohio real estate commission ~~until six months after his discharge from the armed services~~. The licensee shall ~~pay a fee of seven dollars to cover the expense of the commission in holding the existing license~~ not be required to renew the license annually until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter. Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because ~~he~~ the licensee is in the armed forces shall satisfy the commission that ~~he~~ the licensee has complied with the continuing education requirements within twelve months of ~~his~~ the licensee's discharge. The commission shall notify the licensee of ~~his~~ the licensee's obligations under section 4735.141 of the Revised Code at the time ~~he~~ the licensee applies for ~~release~~ reactivation of ~~his~~ the licensee's license.

Sec. 4735.14. (A) Each license issued under this chapter, shall be valid without further recommendation or examination until ~~canceled~~ placed in an inactive status, revoked, suspended, or such license expires by operation of law.

(B) Each licensed broker, brokerage, or salesperson shall file, on or before the date the Ohio real estate commission has adopted by rule for that licensee in accordance with division (A)(2)(e) of section 4735.10 of the Revised Code, a ~~certificate of continuation in business~~ notice of renewal on a form prescribed by the superintendent of real estate. The licensee shall indicate on the form whether the licensee wishes to maintain the licensee's license in an active or inactive status. The ~~certificate of continuation in business~~ notice of renewal shall be mailed by the superintendent to the most current personal residence address of each broker or salesperson as filed with the superintendent by the licensee and the place of business address of the brokerage two months prior to the filing deadline.

(C) The license of any real estate broker, brokerage, or salesperson that fails to file a ~~certificate of continuation~~ notice of renewal on or before the filing deadline of each ensuing year shall be ~~canceled~~ suspended automatically without the taking of any action by the superintendent. A ~~canceled~~ suspended license may be reactivated within ~~one year~~ twelve

months of ~~cancellation~~ the date of suspension, provided that the renewal fee plus a penalty fee of fifty per cent of the renewal fee is paid to the superintendent. Failure to reactivate the license as provided in this division shall result in automatic revocation of the license without the taking of any action by the superintendent. No person, partnership, association, corporation, limited liability company, or limited partnership shall engage in any act or acts for which a real estate license is required while that entity's license is ~~canceled~~ placed in an inactive status, suspended, or revoked. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code to provide to licensees notice of suspension or revocation or both.

(D) Each licensee shall notify the commission of a change in personal residence address. a licensee's failure to notify the commission of a change in personal residence address does not negate the requirement to file the license renewal by the required deadline established by the commission by rule under division (A)(2)(e) of section 4735.10 of the Revised Code.

(E) The superintendent shall not renew a license if the licensee is not in compliance with this chapter.

Sec. 4735.141. (A) Except as otherwise provided in this division, each person licensed under section 4735.07 or 4735.09 of the Revised Code shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed thirty ~~classroom~~ hours of continuing education, as prescribed by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code, on or before the licensee's birthday occurring three years after the licensee's date of initial licensure, and on or before the licensee's birthday every three years thereafter.

Persons licensed as real estate salespersons who subsequently become licensed real estate brokers shall continue to submit proof of continuing education in accordance with the time period established in this section.

The requirements of this section shall not apply to any physically handicapped licensee as provided in division (E) of this section.

Each licensee who is seventy years of age or older on ~~June 13, 1996~~ ~~June 13, 1996~~ June 14, 1999, shall submit, on or before the licensee's birthday occurring three years after ~~the effective date of this amendment~~ June 30, 1999, and on or before the licensee's birthday every three years thereafter, proof satisfactory to the superintendent of real ~~esate~~ estate that the licensee has satisfactorily completed ~~June 13, 1996~~ a total of nine classroom hours of continuing education, including instruction in Ohio real estate law; recently enacted state and federal laws affecting the real estate industry; municipal, state, and federal civil rights law; and canons of ethics

for the real estate industry as adopted by the commission. A licensee who is seventy years of age or older whose license is in an inactive status is exempt from the continuing education requirements specified in this section. The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this paragraph.

A person providing any course of continuing education may administer examinations to licensees for the purpose of evaluating the effectiveness of the course, but passage of an examination by a licensee shall not be a condition for successful completion of the continuing education requirements of this section.

(B) The continuing education requirements of this section shall be completed in schools, seminars, and educational institutions approved by the commission. Such approval shall be given according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and shall not be limited to institutions providing two-year or four-year degrees. Each school, seminar, or educational institution approved under this division shall be open to all licensees on an equal basis.

(C) If the requirements of this section are not met by a licensee within the period specified, the licensee's license shall be suspended automatically without the taking of any action by the superintendent. The superintendent shall notify the licensee of the license suspension. Any license so suspended shall remain suspended until it is reactivated by the superintendent. No such license shall be reactivated until it is established, to the satisfaction of the superintendent, that the requirements of this section have been met. If the requirements of this section are not met within ~~one year~~ twelve months from the date the license was suspended, the license shall be revoked automatically without the taking of any action by the ~~commission. A person whose license has been revoked and whose revoked license was issued prior to January 1, 1980, may have the person's license reactivated by the superintendent at any time after it has been revoked upon submitting proof satisfactory to the superintendent that the person has satisfactorily completed during the period since the revocation of the person's license thirty classroom hours of continuing education as prescribed by the commission pursuant to section 4735.10 of the Revised Code. Upon reactivation of the person's license, the licensee shall comply with the educational requirements of division (A) of this section~~ superintendent.

(D) If the license of a real estate broker is suspended pursuant to division (C) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (B) of section 4735.20 of the Revised Code. However, the suspended license of the

associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if all of the following occur:

(1) That broker subsequently submits proof to the superintendent that the broker has complied with the requirements of this section and requests that the broker's license as a real estate broker be reactivated.

(2) The superintendent then reactivates the broker's license as a real estate broker.

(3) The associated real estate salesperson intends to continue to be associated with that broker, has complied with the requirements of this section, and otherwise is in compliance with this chapter.

Any person whose license is reactivated pursuant to this division shall submit proof satisfactory to the superintendent that the person has completed thirty hours of continuing education, as prescribed by the Ohio real estate commission, on or before the third year following the licensee's birthday occurring immediately after reactivation.

(E) Any licensee who is a physically handicapped licensee at any time during the last three months of the third year of the licensee's continuing education reporting period may receive an extension of time to submit proof to the superintendent that the licensee has satisfactorily completed the required thirty hours of continuing education. To receive an extension of time, the licensee shall submit a request to the division of real estate for the extension and proof satisfactory to the commission that the licensee was a physically handicapped licensee at some time during the last three months of the three-year reporting period. The proof shall include, but is not limited to, a signed statement by the licensee's attending physician describing the physical disability, certifying that the licensee's disability is of such a nature as to prevent the licensee from attending any ~~classroom~~ instruction lasting at least three hours in duration, and stating the expected duration of the physical disability. The licensee shall request the extension and provide the physician's statement to the division no later than one month prior to the end of the licensee's three-year continuing education reporting period, unless the physical disability did not arise until the last month of the three-year reporting period, in which event the licensee shall request the extension and provide the physician's statement as soon as practical after the occurrence of the physical disability. A licensee granted an extension pursuant to this division who is no longer a physically handicapped licensee and who submits proof of completion of the continuing education during the extension period, shall submit, for future continuing education reporting periods, proof of completion of the continuing education requirements according to the schedule established in division (A) of this section.

Sec. 4735.15. The fees for branch office licenses, transfers, ~~certificates of continuation in business~~ annual renewals, late filings, and foreign real estate dealer and ~~salesman~~ salesperson licenses shall be as follows:

(A) Branch office license, eight dollars;

(B) ~~Transfer~~ Reactivation or transfer of a broker's license into or out of a partnership, association, limited liability company, limited liability partnership, or corporation or from one partnership, association, limited liability company, limited liability partnership, or corporation to another partnership, association, limited liability company, limited liability partnership, or corporation, twenty-five dollars. An application for such transfer shall be made to the superintendent of real estate on forms provided by the superintendent.

(C) ~~Transfer~~ Reactivation or transfer of a license by a real estate ~~salesman~~ salesperson, twenty dollars;

(D) ~~Certificate of continuation in the business~~ Annual renewal of a real estate ~~broker~~ broker's license, forty-nine dollars. If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the full broker's ~~continuation~~ renewal fee shall be required for each member of such partnership, association, limited liability company, limited liability partnership, or corporation that is a real estate broker. If the real estate broker has not less than eleven nor more than twenty real estate ~~salesmen~~ salespersons associated with ~~him~~ the broker, an additional fee of sixty-four dollars shall be assessed to the brokerage. For every additional ten real estate ~~salesmen~~ salespersons or fraction of that number, the brokerage assessment fee shall be increased in the amount of thirty-seven dollars.

(E) ~~Certificate of continuation in business~~ Annual renewal of real estate ~~salesman~~ salesperson's license, thirty-nine dollars;

(F) ~~Certificate of continuation in the business~~ Annual renewal of a real estate ~~broker~~ broker's or ~~salesman~~ salesperson's license filed within ~~fifteen days~~ twelve months after the ~~thirty-first day of December~~ licensee's renewal date, an additional late filing penalty of fifty per cent of the required fee~~.~~;

(G) Foreign real estate dealer's license and each annual renewal of the license, thirty dollars per ~~salesman~~ salesperson employed by the dealer, but not less than one hundred fifty dollars;

(H) Foreign real estate ~~salesman's~~ salesperson's license and each annual renewal of the license, fifty dollars.

All fees collected under this section shall be paid to the treasurer of state. Four dollars of each such fee shall be credited to the real estate education and research fund.

In all cases, the fee and any penalty shall accompany the application for the license ~~or~~, license transfer, or license reactivation or shall accompany the filing of the ~~certificate of continuation in business~~ annual renewal.

The commission may establish by rule reasonable fees for services not otherwise established by this chapter.

Sec. 4735.16. (A) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state and shall erect or maintain a sign on the premises plainly stating that the licensee is a real estate broker. If the real estate broker maintains one or more branch offices, the real estate broker shall erect or maintain a sign at each branch office plainly stating that the licensee is a real estate broker.

(B)(1) Any licensed real estate broker or salesperson who advertises to buy, sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, including, but not limited to, any licensed real estate broker or salesperson who advertises to sell, exchange, or lease real estate that the licensee owns, shall be identified in the advertisement by name and by indicating that the licensee is a real estate broker or real estate salesperson. Except a real estate salesperson who advertises the sale, exchange, or lease of real estate that the salesperson owns and that is not listed for sale, exchange, or lease with a real estate broker, any real estate salesperson who advertises, as provided in this section, also shall indicate in the advertisement the name of the broker under whom the salesperson is licensed and the fact that the salesperson's broker is a real estate broker. The name of the broker shall be displayed in equal prominence with the name of the salesperson in the advertisement.

~~Any~~ (2) If any real estate broker or real estate salesperson ~~who~~ advertises in a manner other than as provided in this section ~~is guilty of violating~~ or the rules adopted under this section, that advertisement is prima facie evidence of a violation under division (A)(21) of section 4735.18 of the Revised Code.

When the superintendent determines that prima facie evidence of a violation of division (A)(21) of section 4735.18 of the Revised Code or any of the rules adopted thereunder exists, the superintendent may do either of the following:

(a) Initiate disciplinary action under section 4735.051 of the Revised Code for a violation of division (A)(21) of section 4735.18 of the Revised Code, in accordance with Chapter 119. of the Revised Code;

(b) Personally, or by certified mail, serve a citation upon the licensee.

(C)(1) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the

icensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of two hundred dollars per violation, not to exceed two thousand five hundred dollars per citation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code.

(2) If any licensee is cited three times within twelve consecutive months, the superintendent shall initiate disciplinary action pursuant to section 4735.051 of the Revised Code for any subsequent violation that occurs within the same twelve-month period.

(3) If a licensee fails to request a hearing within thirty days of the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final.

(4) Unless otherwise indicated, the licensee named in a final citation must meet all requirements contained in the final citation within thirty days of the effective date of that citation.

(5) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (C)(4) of this section.

(D) A real estate broker or salesperson obtaining the signature of a party to a listing or other agreement involved in a real estate transaction shall furnish a copy of the listing or other agreement to the party immediately after obtaining the party's signature. Every broker's office shall prominently display in the same immediate area as licenses are displayed a statement that it is illegal to discriminate against any person because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, national origin, disability as defined in that section, or ancestry in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services and that blockbusting also is illegal. The statement shall bear the United States department of housing and urban development equal housing logo, shall contain the information that the broker and the broker's salespersons are licensed by the division of real estate and that the division can assist with any consumer complaints or inquiries, and shall explain the provisions of section 4735.12 of the Revised Code. The statement shall provide the division's address and telephone number. The Ohio real estate commission shall provide by rule for the wording and size of the statement. The pamphlet required under section 4735.03 of the Revised Code shall contain the same statement that is required on the statement displayed as provided in this section and shall be made available by real estate brokers and salespersons to their clients. The commission shall provide the wording

and size of the pamphlet.

Sec. 4735.18. (A) Subject to section 4735.32 of the Revised Code, the superintendent of real estate, upon the superintendent's own motion, may investigate the conduct of any licensee. Subject to section 4735.32 of the Revised Code, the Ohio real estate commission shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any licensee who, whether or not acting in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found to have been convicted of a felony or a crime of moral turpitude, and shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any licensee who, in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found guilty of:

(1) Knowingly making any misrepresentation;

(2) Making any false promises with intent to influence, persuade, or induce;

(3) A continued course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise;

(4) Acting for more than one party in a transaction except as permitted by and in compliance with section 4735.71 of the Revised Code;

(5) Failure within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to others;

(6) Dishonest or illegal dealing, gross negligence, incompetency, or misconduct;

(7)(a) By final adjudication by a court, a violation of any municipal or federal civil rights law relevant to the protection of purchasers or sellers of real estate or, by final adjudication by a court, any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate, in the licensee's practice as a licensed real estate broker or salesperson;

(b) A second or subsequent violation of any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code or any second or subsequent violation of municipal or federal civil rights laws relevant to purchasing or selling real estate whether or not there has been a final adjudication by a court, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate. For any second offense under this division, the commission shall suspend for a minimum of

two months or revoke the license of the broker or salesperson. For any subsequent offense, the commission shall revoke the license of the broker or salesperson.

(8) Procuring a license under this chapter, for the licensee or any salesperson by fraud, misrepresentation, or deceit;

(9) Having violated or failed to comply with any provision of sections 4735.51 to 4735.74 of the Revised Code or having willfully disregarded or violated any other provisions of this chapter;

(10) As a real estate broker, having demanded, without reasonable cause, other than from a broker licensed under this chapter, a commission to which the licensee is not entitled, or, as a real estate salesperson, having demanded, without reasonable cause, a commission to which the licensee is not entitled;

(11) Having paid commissions or fees to, or divided commissions or fees with, anyone not licensed as a real estate broker or salesperson;

(12) Having falsely represented membership in any real estate professional association of which the licensee is not a member;

(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;

(14) Having offered anything of value other than the consideration recited in the sales contract as an inducement to a person to enter into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;

(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;

(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property ~~or cemetery interment rights~~;

(17) Having placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's authorized agent;

(18) Having induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu of it a new contract with another principal;

(19) Having negotiated the sale, exchange, or lease of any real property directly with an owner, purchaser, lessor, or tenant knowing that such owner, purchaser, lessor, or tenant had a written outstanding contract granting exclusive agency in connection with such property to another real estate broker;

(20) Having offered real property for sale or for lease without the

knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

(21) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any properties, terms, values, policies, or services of the business conducted;

(22) Having knowingly withheld from or inserted in any statement of account or invoice any statement that made it inaccurate in any material particular;

(23) Having published or circulated unjustified or unwarranted threats of legal proceedings which tended to or had the effect of harassing competitors or intimidating their customers;

(24) Having failed to keep complete and accurate records of all transactions for a period of three years from the date of the transaction, such records to include copies of listing forms, earnest money receipts, offers to purchase and acceptances of them, and records of receipts and disbursements of all funds received by the licensee as broker and incident to the licensee's transactions as such, and any other instruments or papers related to the performance of any of the acts set forth in the definition of a real estate broker;

(25) Failure of a real estate broker or salesperson to furnish all parties involved in a real estate transaction true copies of all listings and other agreements to which they are a party, at the time each party signs them;

(26) Failure to maintain at all times a special or trust bank account in a depository located in this state. The account shall be noninterest-bearing, separate and distinct from any personal or other account of the broker, and, except as provided in division (A)(27) of this section, shall be used for the deposit and maintenance of all escrow funds, security deposits, and other moneys received by the broker in a fiduciary capacity. The name, account number, if any, and location of the depository wherein such special or trust account is maintained shall be submitted in writing to the superintendent. Checks drawn on such special or trust bank accounts are deemed to meet the conditions imposed by section 1349.21 of the Revised Code.

(27) Failure to maintain at all times a special or trust bank account in a depository in this state, to be used exclusively for the deposit and maintenance of all rents, security deposits, escrow funds, and other moneys received by the broker in a fiduciary capacity in the course of managing real property. This account shall be separate and distinct from any other account maintained by the broker. The name, account number, and location of the

depository shall be submitted in writing to the superintendent. This account may earn interest, which shall be paid to the property owners on a pro rata basis.

Division (A)(27) of this section does not apply to brokers who are not engaged in the management of real property on behalf of real property owners.

(28) Having failed to put definite expiration dates in all written agency agreements to which the broker is a party;

(29) Having an unsatisfied final judgment in any court of record against the licensee arising out of the licensee's conduct as a licensed broker or salesperson;

(30) Failing to render promptly upon demand a full and complete statement of the expenditures by the broker or salesperson of funds advanced by or on behalf of a party to a real estate transaction to the broker or salesperson for the purpose of performing duties as a licensee under this chapter in conjunction with the real estate transaction;

(31) Failure within a reasonable time, after the receipt of the commission by the broker, to render an accounting to and pay a real estate salesperson the salesperson's earned share of it;

(32) ~~Failure to notify the real estate salesperson that the licensee does not intend to list such salesperson on the continuation in business form;~~

~~(33)~~ Performing any service for another constituting the practice of law, as determined by any court of law;

~~(34)~~(33) Having been adjudicated incompetent for the purpose of holding the license by a court, as provided in section 5122.301 of the Revised Code. A license revoked or suspended under this division shall be ~~reinstated~~ reactivated upon proof to the commission of the removal of the disability.

~~(35)~~(34) Having authorized or permitted a person to act as an agent in the capacity of a real estate broker, or a real estate salesperson, who was not then licensed as a real estate broker or real estate salesperson under this chapter;

(35) Having knowingly inserted or participated in inserting any materially inaccurate term in a document, including naming a false consideration;

(36) Having failed to inform the licensee's client of the existence of an offer or counter offer or having failed to present an offer or counter offer in a timely manner, unless otherwise instructed by the client, provided the instruction of the client does not conflict with any state or federal law.

(B) Whenever the commission, pursuant to section 4735.051 of the

Revised Code, imposes disciplinary sanctions for any violation of this section, the commission also may impose such sanctions upon the broker with whom the salesperson is affiliated if the commission finds that the broker had knowledge of the salesperson's actions that violated this section.

(C) The commission shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any foreign real estate dealer or salesperson who, in that capacity or in handling the dealer's or salesperson's own property, is found guilty of any of the acts or omissions specified or comprehended in division (A) of this section insofar as the acts or omissions pertain to foreign real estate. If the commission imposes such sanctions upon a foreign real estate salesperson for a violation of this section, the commission also may suspend or revoke the license of the foreign real estate dealer with whom the salesperson is affiliated if the commission finds that the dealer had knowledge of the salesperson's actions that violated this section.

(D) The commission may suspend, in whole or in part, the imposition of the penalty of suspension of a license under this section.

(E) The commission immediately shall notify the real estate appraiser board of any disciplinary action taken under this section against a licensee who also is a state-certified real estate appraiser under Chapter 4763. of the Revised Code.

Sec. 4735.25. (A)(1) No person, other than an actual bona fide owner selling for ~~his~~ the owner's own account in a single transaction and not by way of repeated or successive transactions, or a person excepted from obtaining a license under section 4735.01 of the Revised Code, shall sell, lease, or otherwise deal in this state in any foreign real estate unless the person has qualified the foreign real estate pursuant to this section and unless one of the following applies:

(a) The person was licensed under section 1707.15 or 1707.16 prior to October 14, 1969;

(b) The person was licensed as a foreign real estate dealer or ~~salesman~~ salesperson under former section 1707.331 of the Revised Code prior to the effective date of this section, but only until the expiration date of the license;

(c) The person is licensed under section 4735.27 or 4735.28 of the Revised Code.

(2) A licensed foreign real estate dealer or licensed foreign real estate ~~salesman~~ salesperson who is acting in a fiduciary capacity for a bona fide owner of foreign real estate in the sale or lease of that real estate, or who is otherwise dealing in foreign real estate in a fiduciary capacity for its bona fide owner, in a single transaction and not by way of repeated or successive

transactions for that owner, need not qualify such real estate under this section.

(B) Any person, other than one of the excepted persons under division (A) of this section, desiring to sell, lease, or otherwise deal in any foreign real estate shall file an application with the superintendent of real estate in the form the superintendent prescribes, which application shall set forth the following:

(1) An exact description of the foreign real estate sought to be sold, leased, or dealt in;

(2) A map or plat prepared by a competent surveyor showing the boundaries and dimensions of the foreign real estate and all lots or subdivisions of it;

(3) The names of the owners of the foreign real estate, with a detailed statement showing the financial responsibility of each owner, together with the post office address of each, including street numbers or another pertinent description; and if any such owner is a corporation or association, a copy of its articles or certificate of incorporation or of the agreement by which it was created, unless a copy is already on file in the office of the secretary of state, together with proof that it is qualified to do business in this state, if it is a foreign corporation;

(4) A list and description of all liens and encumbrances on the foreign real estate;

(5) A full description of all improvements or developments of every nature to be made or promised to be made on the foreign real estate, the cost of the improvements or developments, and the security, if any, for their completion;

(6) A copy of any building restrictions or other restrictions upon the use of the foreign real estate;

(7) A copy, description, or plan showing the form of contract, method, and terms of sale, lease, or other dealing to be used in connection with the foreign real estate;

(8) A list or schedule of all sales prices of the foreign real estate;

(9) A list or schedule of all commissions, allowances, or compensations in any form that have been arranged or agreed to be paid to the applicant, and to any dealers or ~~salesmen~~ salespersons, by the owner or by any person interested in the foreign real estate;

(10) Other information that the superintendent requires.

(C) All the statements, exhibits, and documents required by the superintendent under this section, except properly certified public documents, shall be verified by the oath of the applicant or of any person

having knowledge of the facts, and in such manner and form as required by the superintendent. Failure to comply with the requests of the superintendent in this regard shall be a sufficient reason for a refusal by the superintendent to qualify the foreign real estate.

(D) Upon filing the application, the applicant shall pay to the superintendent a filing fee of five hundred dollars plus an additional one dollar for each lot, unit, parcel, or interest included in the offering, with the aggregate fee not to exceed two thousand five hundred dollars, and shall deposit with the superintendent a sum the superintendent may require for the purpose of defraying the cost of verifying the statements of the applicant, or for the purpose of determining that the provisions of this chapter have been and will be complied with and that the foreign real estate will not be sold, leased, or dealt in within this state on grossly unfair terms, or in a method or on terms that might defraud or deceive purchasers in this state.

(E) The superintendent~~, through the division of real estate~~ or the superintendent's designee employed by the department of commerce, may inspect and examine the foreign real estate or investigate the applicant or the persons interested in, dealing in, or selling, the foreign real estate. The actual cost of the inspection or examination, including the proper proportion of the salaries of employees of the division of real estate who conduct it, shall be paid by the applicant and may be retained by the superintendent out of any deposit. An itemized statement of such cost shall be furnished to the applicant.

(F) In order either to prevent fraud in the sale of foreign real estate or to provide security for the performance of agreements to make improvements on it, the superintendent may require all payments for the foreign real estate to be made to a bank in this state, and to be impounded in that bank and held in escrow upon the terms the superintendent reasonably requires.

(G) If the superintendent is of the opinion that the proposed sale, lease, or disposal is not on grossly unfair terms, that the provisions of this chapter have been complied with, and that the foreign real estate will not be sold, leased, or dealt in, in a method or on terms that might defraud or deceive persons in this state, ~~he~~ the superintendent shall allow the qualification of the foreign real estate for sale, lease, or other disposition on the terms stated in the application or on other terms, calculated to prevent fraud or deception, the superintendent approves.

SECTION 2. That existing sections 4735.01, 4735.02, 4735.03, 4735.05, 4735.051, 4735.06, 4735.07, 4735.08, 4735.09, 4735.10, 4735.11, 4735.12, 4735.13, 4735.14, 4735.141, 4735.15, 4735.16, 4735.18, and 4735.25 of the

Revised Code are hereby repealed.

SECTION 3. Notwithstanding section 4735.141 of the Revised Code as amended by this act, all persons licensed under sections 4735.07 and 4735.09 of the Revised Code before January 1, 2001, shall submit proof satisfactory to the Superintendent of Real Estate that the licensee has satisfactorily completed continuing education, as prescribed by the Ohio Real Estate Commission pursuant to section 4735.10 of the Revised Code and as to the number of hours required under section 4735.141 of the Revised Code, as that section existed prior to this act, in accordance with the appropriate time period, as follows:

(A) For continuing education that, under section 4735.141 of the Revised Code, as it existed prior to this act, would have been due in the year 2001, on or before the licensee's birthday in the year 2002, and on or before the licensee's birthday every three years thereafter;

(B) For continuing education that, under section 4735.141 of the Revised Code, as it existed prior to this act, would have been due in the year 2002, on or before the licensee's birthday in the year 2003, and on or before the licensee's birthday every three years thereafter;

(C) For continuing education that, under section 4735.141 of the Revised Code, as it existed prior to this act, would have been due in the year 2003, on or before the licensee's birthday in the year 2004, and on or before the licensee's birthday every three years thereafter.

SECTION 4. Notwithstanding section 4735.14 of the Revised Code, for the license renewal period beginning January 1, 2001, and ending December 31, 2001, licensees shall pay prorated license renewal fees on or before the licensee's birthday in the year 2001. Beginning January 1, 2002, and every year thereafter, license renewal fees shall be paid on or before the licensee's birthday in the amount specified in section 4735.14 of the Revised Code. The prorated license renewal fee shall be paid as follows:

Month of birth	Broker license renewal fee	Salesperson license renewal fee
January	$49.00	$39.00
February	$53.00	$42.00
March	$57.00	$45.00
April	$61.00	$48.00
May	$65.00	$51.00

June	$69.00	$54.00
July	$73.00	$57.00
August	$77.00	$60.00
September	$81.00	$63.00
October	$85.00	$66.00
November	$89.00	$69.00
December	$93.00	$72.00

SECTION 5. Sections 4735.07 and 4735.141 of the Revised Code are presented in this act as composites of the sections as amended by both Am. Sub. H.B. 18 and Am. Sub. H.B. 283 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

_____

Speaker _____ of the House of Representatives.

_____

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

_____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

_____

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

_____

Secretary of State.

File No. _____ Effective Date _____