

As Reported by the House Commerce and Labor Committee

131st General Assembly

Regular Session

2015-2016

Am. H. B. No. 532

Representative Smith, R.

A BILL

To amend sections 4735.01, 4735.06, 4735.07, 1
4735.09, 4735.10, 4735.141, 4735.142, 4735.18, 2
4735.24, 4735.51, and 4735.65 and to enact 3
sections 4735.081, 4735.091, and 4735.23 of the 4
Revised Code relating to real estate brokers and 5
salespersons. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4735.01, 4735.06, 4735.07, 7
4735.09, 4735.10, 4735.141, 4735.142, 4735.18, 4735.24, 4735.51, 8
and 4735.65 be amended and sections 4735.081, 4735.091, and 9
4735.23 of the Revised Code be enacted to read as follows: 10

Sec. 4735.01. As used in this chapter: 11

(A) "Real estate broker" includes any person, partnership, 12
association, limited liability company, limited liability 13
partnership, or corporation, foreign or domestic, who for 14
another, whether pursuant to a power of attorney or otherwise, 15
and who for a fee, commission, or other valuable consideration, 16
or with the intention, or in the expectation, or upon the 17
promise of receiving or collecting a fee, commission, or other 18
valuable consideration does any of the following: 19

(1) Sells, exchanges, purchases, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of any real estate;	20 21 22
(2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate;	23 24
(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;	25 26 27
(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;	28 29
(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;	30 31 32 33
(6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;	34 35 36
(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;	37 38 39 40
(8) 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	41 42 43 44 45 46 47 48

real estate by their owners; 49

(9) Collects rental information for purposes of referring 50
prospective tenants to rental units or locations of such units 51
and charges the prospective tenants a fee. 52

(B) "Real estate" includes leaseholds as well as any and 53
every interest or estate in land situated in this state, whether 54
corporeal or incorporeal, whether freehold or nonfreehold, and 55
the improvements on the land, but does not include cemetery 56
interment rights. 57

(C) "Real estate salesperson" means any person associated 58
with a licensed real estate broker to do or to deal in any acts 59
or transactions set out or comprehended by the definition of a 60
real estate broker, for compensation or otherwise. 61

(D) "Institution of higher education" ~~means either~~ 62
includes all of the following: 63

(1) A state institution of higher education, as defined in 64
section 3345.011 of the Revised Code; 65

~~(2) A nonprofit institution as defined in section 1713.01~~ 66
~~of the Revised Code that actually awards, rather than intends to~~ 67
~~award, degrees for fulfilling requirements of academic work~~ 68
~~beyond high school~~ issued a certificate of authorization under 69
Chapter 1713. of the Revised Code; 70

~~(2) An~~ (3) A private institution operated for profit that 71
~~otherwise qualifies under the definition of an institution in~~ 72
~~section 1713.01 of the Revised Code and that actually awards,~~ 73
~~rather than intends to award, degrees for fulfilling~~ 74
~~requirements of academic work beyond high school~~ exempt from 75
regulation under Chapter 3332. of the Revised Code, as 76
prescribed in section 3333.046 of the Revised Code. 77

(4) An institution with a certificate of registration from 78
the state board of career colleges and schools under Chapter 79
3332. of the Revised Code that is approved to offer degree 80
programs in accordance with section 3332.05 of the Revised Code. 81

(E) "Foreign real estate" means real estate not situated 82
in this state and any interest in real estate not situated in 83
this state. 84

(F) "Foreign real estate dealer" includes any person, 85
partnership, association, limited liability company, limited 86
liability partnership, or corporation, foreign or domestic, who 87
for another, whether pursuant to a power of attorney or 88
otherwise, and who for a fee, commission, or other valuable 89
consideration, or with the intention, or in the expectation, or 90
upon the promise of receiving or collecting a fee, commission, 91
or other valuable consideration, does or deals in any act or 92
transaction specified or comprehended in division (A) of this 93
section with respect to foreign real estate. 94

(G) "Foreign real estate salesperson" means any person 95
associated with a licensed foreign real estate dealer to do or 96
deal in any act or transaction specified or comprehended in 97
division (A) of this section with respect to foreign real 98
estate, for compensation or otherwise. 99

(H) Any person, partnership, association, limited 100
liability company, limited liability partnership, or 101
corporation, who, for another, in consideration of compensation, 102
by fee, commission, salary, or otherwise, or with the intention, 103
in the expectation, or upon the promise of receiving or 104
collecting a fee, does, or offers, attempts, or agrees to engage 105
in, any single act or transaction contained in the definition of 106
a real estate broker, whether an act is an incidental part of a 107

transaction, or the entire transaction, shall be constituted a 108
real estate broker or real estate salesperson under this 109
chapter. 110

(I) (1) The terms "real estate broker," "real estate 111
salesperson," "foreign real estate dealer," and "foreign real 112
estate salesperson" do not include a person, partnership, 113
association, limited liability company, limited liability 114
partnership, or corporation, or the regular employees thereof, 115
who perform any of the acts or transactions specified or 116
comprehended in division (A) of this section, whether or not 117
for, or with the intention, in expectation, or upon the promise 118
of receiving or collecting a fee, commission, or other valuable 119
consideration: 120

(a) With reference to real estate situated in this state 121
owned by such person, partnership, association, limited 122
liability company, limited liability partnership, or 123
corporation, or acquired on its own account in the regular 124
course of, or as an incident to the management of the property 125
and the investment in it; 126

(b) As receiver or trustee in bankruptcy, as guardian, 127
executor, administrator, trustee, assignee, commissioner, or any 128
person doing the things mentioned in this section, under 129
authority or appointment of, or incident to a proceeding in, any 130
court, or as a bona fide public officer, or as executor, 131
trustee, or other bona fide fiduciary under any trust agreement, 132
deed of trust, will, or other instrument that has been executed 133
in good faith creating a like bona fide fiduciary obligation; 134

(c) As a public officer while performing the officer's 135
official duties; 136

(d) As an attorney at law in the performance of the attorney's duties;	137 138
(e) As a person who engages in the brokering of the sale of business assets, not including the sale, lease, exchange, or assignment of any interest in real estate;	139 140 141
(f) As a person who engages 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;	142 143 144 145 146 147
(g) As a person who engages in the sale of commercial real estate pursuant to the requirements of section 4735.022 of the Revised Code.	148 149 150
(2) A person, partnership, association, limited liability company, limited liability partnership, or corporation exempt under division (I) (1) (a) of this section shall be limited by the legal interest in the real estate held by that person or entity to performing any of the acts or transactions specified in or comprehended by division (A) of this section.	151 152 153 154 155 156
(J) "Disabled licensee" means a person licensed pursuant to this chapter who is under a severe disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration.	157 158 159 160
(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."	161 162 163
(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and	164 165

professional licensing of this state. Whenever the division or 166
superintendent of real estate is referred to or designated in 167
any statute, rule, contract, or other document, the reference or 168
designation shall be deemed to refer to the division or 169
superintendent of real estate and professional licensing, as the 170
case may be. 171

(M) "Inactive license" means the license status in which a 172
salesperson's license is in the possession of the division, 173
renewed as required under this chapter or rules adopted under 174
this chapter, and not associated with a real estate broker. 175

(N) "Broker's license on deposit" means the license status 176
in which a broker's license is in the possession of the division 177
of real estate and professional licensing and renewed as 178
required under this chapter or rules adopted under this chapter. 179

(O) "Suspended license" means the license status that 180
prohibits a licensee from providing services that require a 181
license under this chapter for a specified interval of time. 182

(P) "Reactivate" means the process prescribed by the 183
superintendent of real estate and professional licensing to 184
remove a license from an inactive, suspended, or broker's 185
license on deposit status to allow a licensee to provide 186
services that require a license under this chapter. 187

(Q) "Revoked" means the license status in which the 188
license is void and not eligible for reactivation. 189

(R) "Commercial real estate" means any parcel of real 190
estate in this state other than real estate containing one to 191
four residential units. "Commercial real estate" does not 192
include single-family residential units such as condominiums, 193
townhouses, manufactured homes, or homes in a subdivision when 194

sold, leased, or otherwise conveyed on a unit-by-unit basis, 195
even when those units are a part of a larger building or parcel 196
of real estate containing more than four residential units. 197

(S) "Out-of-state commercial broker" includes any person, 198
partnership, association, limited liability company, limited 199
liability partnership, or corporation that is licensed to do 200
business as a real estate broker in a jurisdiction other than 201
Ohio. 202

(T) "Out-of-state commercial salesperson" includes any 203
person affiliated with an out-of-state commercial broker who is 204
not licensed as a real estate salesperson in Ohio. 205

(U) "Exclusive right to sell or lease listing agreement" 206
means an agency agreement between a seller and broker that meets 207
the requirements of section 4735.55 of the Revised Code and does 208
both of the following: 209

(1) Grants the broker the exclusive right to represent the 210
seller in the sale or lease of the seller's property; 211

(2) Provides the broker will be compensated if the broker, 212
the seller, or any other person or entity produces a purchaser 213
or tenant in accordance with the terms specified in the listing 214
agreement or if the property is sold or leased during the term 215
of the listing agreement to anyone other than to specifically 216
exempted persons or entities. 217

(V) "Exclusive agency agreement" means an agency agreement 218
between a seller and broker that meets the requirements of 219
section 4735.55 of the Revised Code and does both of the 220
following: 221

(1) Grants the broker the exclusive right to represent the 222
seller in the sale or lease of the seller's property; 223

(2) Provides the broker will be compensated if the broker 224
or any other person or entity produces a purchaser or tenant in 225
accordance with the terms specified in the listing agreement or 226
if the property is sold or leased during the term of the listing 227
agreement, unless the property is sold or leased solely through 228
the efforts of the seller or to the specifically exempted 229
persons or entities. 230

(W) "Exclusive purchaser agency agreement" means an agency 231
agreement between a purchaser and broker that meets the 232
requirements of section 4735.55 of the Revised Code and does 233
both of the following: 234

(1) Grants the broker the exclusive right to represent the 235
purchaser in the purchase or lease of property; 236

(2) Provides the broker will be compensated in accordance 237
with the terms specified in the exclusive agency agreement or if 238
a property is purchased or leased by the purchaser during the 239
term of the agency agreement unless the property is specifically 240
exempted in the agency agreement. 241

The agreement may authorize the broker to receive 242
compensation from the seller or the seller's agent and may 243
provide that the purchaser is not obligated to compensate the 244
broker if the property is purchased or leased solely through the 245
efforts of the purchaser. 246

(X) "Seller" means a party in a real estate transaction 247
who is the potential transferor of property. "Seller" includes 248
an owner of property who is seeking to sell the property and a 249
landlord who is seeking to rent or lease property to another 250
person. 251

(Y) "Resigned" means the license status in which a license 252

has been voluntarily and permanently surrendered to or is 253
otherwise in the possession of the division of real estate and 254
professional licensing, may not be renewed or reactivated in 255
accordance with the requirements specified in this chapter or 256
the rules adopted pursuant to it, and is not associated with a 257
real estate broker. 258

(Z) "Bona fide" means made in good faith or without 259
purpose of circumventing license law. 260

(AA) "Associate broker" means an individual licensed as a 261
real estate broker under this chapter who does not function as 262
the principal broker or a management level licensee. 263

(BB) "Brokerage" means a corporation, partnership, limited 264
partnership, association, limited liability company, limited 265
liability partnership, or sole proprietorship, foreign or 266
domestic, that has been issued a broker's license. "Brokerage" 267
includes the affiliated licensees who have been assigned 268
management duties that include supervision of licensees whose 269
duties may conflict with those of other affiliated licensees. 270

(CC) "Credit-eligible course" means a credit or noncredit- 271
bearing course that is both of the following: 272

(1) The course is offered by an institution of higher 273
education. 274

(2) The course is eligible for academic credit that may be 275
applied toward the requirements for a degree at the institution 276
of higher education. 277

(DD) "Distance education" means courses required by 278
divisions (B) (6) and (G) of section 4735.07, divisions (F) (6) 279
and (J) of section 4735.09, and division (A) of section 4735.141 280
of the Revised Code in which instruction is accomplished through 281

<u>use of interactive, electronic media and where the teacher and</u>	282
<u>student are separated by distance or time, or both.</u>	283
<u>(EE) "Licensee" means any individual licensed as a real</u>	284
<u>estate broker or salesperson by the Ohio real estate commission</u>	285
<u>pursuant to this chapter.</u>	286
<u>(FF) "Management level licensee" means a licensee who is</u>	287
<u>employed by or affiliated with a real estate broker and who has</u>	288
<u>supervisory responsibility over other licensees employed by or</u>	289
<u>affiliated with that real estate broker.</u>	290
<u>(GG) "Principal broker" means an individual licensed as a</u>	291
<u>real estate broker under this chapter who oversees and directs</u>	292
<u>the operations of the brokerage.</u>	293
Sec. 4735.06. (A) Application for a license as a real	294
estate broker shall be made to the superintendent of real estate	295
on forms furnished by the superintendent and filed with the	296
superintendent and shall be signed by the applicant or its	297
members or officers. Each application shall state the name of	298
the person applying and the location of the place of business	299
for which the license is desired, and give such other	300
information as the superintendent requires in the form of	301
application prescribed by the superintendent.	302
<u>(B) (1)</u> If the applicant is a partnership, limited	303
liability company, limited liability partnership, or	304
association, the names of all the members also shall be stated,	305
and, if the applicant is a corporation, the names of its	306
president and of each of its officers also shall be stated.	307
The superintendent has the right to reject the application	308
of any partnership, association, limited liability company,	309
limited liability partnership, or corporation if the name	310

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)~~(2) The superintendent shall approve the use of a trade name by a brokerage, if the name meets both of the following criteria:

(a) The proposed name is not the same as or is clearly distinguishable from a name registered with the division of real estate and professional licensing by another existing brokerage. If the superintendent determines that the proposed name is not clearly distinguishable from any other existing brokerage, the superintendent may approve the use of the trade name if there is filed with the superintendent the written consent of the existing brokerage with the same or similar name.

(b) The name is not misleading or likely to mislead the public.

(3) The superintendent may approve the use of more than one trade name for a brokerage.

(4) When a brokerage has received the approval of the

superintendent to conduct business under one or more trade 340
names, those trade names shall be the only identifying names 341
used by the brokerage in all advertising. 342

(C) A fee of one hundred dollars shall accompany the 343
application for a real estate broker's license. The initial 344
licensing period commences at the time the license is issued and 345
ends on the applicant's first birthday thereafter. However, if 346
the applicant was an inactive or active salesperson immediately 347
preceding application for a broker's license, then the initial 348
licensing period shall commence at the time the broker's license 349
is issued and ends on the date the licensee's continuing 350
education is due as set when the applicant was a salesperson. 351
The application fee shall be nonrefundable. A fee of one hundred 352
dollars shall be charged by the superintendent for each 353
successive application made by an applicant. In the case of 354
issuance of a three-year license, upon passing the examination, 355
or upon waiver of the examination requirement, if the 356
superintendent determines it is necessary, the applicant shall 357
submit an additional fee determined by the superintendent based 358
upon the number of years remaining in a real estate 359
salesperson's licensing period. 360

~~(C)~~ (D) One dollar of each application fee for a real 361
estate broker's license shall be credited to the real estate 362
education and research fund, which is hereby created in the 363
state treasury. The Ohio real estate commission may use the fund 364
in discharging the duties prescribed in divisions (E), (F), (G), 365
and (H) of section 4735.03 of the Revised Code and shall use it 366
in the advancement of education and research in real estate at 367
any institution of higher education in the state, or in 368
contracting with any such institution or a trade organization 369
for a particular research or educational project in the field of 370

real estate, or in advancing loans, not exceeding two thousand 371
dollars, to applicants for salesperson licenses, to defray the 372
costs of satisfying the educational requirements of division (F) 373
of section 4735.09 of the Revised Code. Such loans shall be made 374
according to rules established by the commission under the 375
procedures of Chapter 119. of the Revised Code, and they shall 376
be repaid to the fund within three years of the time they are 377
made. No more than twenty-five thousand dollars shall be lent 378
from the fund in any one fiscal year. 379

The governor may appoint a representative from the 380
executive branch to be a member ex officio of the commission for 381
the purpose of advising on research requests or educational 382
projects. The commission shall report to the general assembly on 383
the third Tuesday after the third Monday in January of each year 384
setting forth the total amount contained in the fund and the 385
amount of each research grant that it has authorized and the 386
amount of each research grant requested. A copy of all research 387
reports shall be submitted to the state library of Ohio and the 388
library of the legislative service commission. 389

~~(D)~~ (E) If the superintendent, with the consent of the 390
commission, enters into an agreement with a national testing 391
service to administer the real estate broker's examination, 392
pursuant to division (A) of section 4735.07 of the Revised Code, 393
the superintendent may require an applicant to pay the testing 394
service's examination fee directly to the testing service. If 395
the superintendent requires the payment of the examination fee 396
directly to the testing service, each applicant shall submit to 397
the superintendent a processing fee in an amount determined by 398
the Ohio real estate commission pursuant to division (A) (2) of 399
section 4735.10 of the Revised Code. 400

Sec. 4735.07. (A) The superintendent of real estate, with 401
the consent of the Ohio real estate commission, may enter into 402
agreements with recognized national testing services to 403
administer the real estate broker's examination under the 404
superintendent's supervision and control, consistent with the 405
requirements of this chapter as to the contents of such 406
examination. 407

(B) No applicant for a real estate broker's license shall 408
take the broker's examination who has not established to the 409
satisfaction of the superintendent that the applicant: 410

(1) Is honest, truthful, and of good reputation; 411

(2) (a) Has not been convicted of a felony or crime of 412
moral turpitude, or if the applicant has been so convicted, the 413
superintendent has disregarded the conviction because the 414
applicant has proven to the superintendent, by a preponderance 415
of the evidence, that the applicant's activities and employment 416
record since the conviction show that the applicant is honest, 417
truthful, and of good reputation, and there is no basis in fact 418
for believing that the applicant again will violate the laws 419
involved; 420

(b) Has not been finally adjudged by a court to have 421
violated any municipal, state, or federal civil rights laws 422
relevant to the protection of purchasers or sellers of real 423
estate or, if the applicant has been so adjudged, at least two 424
years have passed since the court decision and the 425
superintendent has disregarded the adjudication because the 426
applicant has proven, by a preponderance of the evidence, that 427
the applicant's activities and employment record since the 428
adjudication show that the applicant is honest, truthful, and of 429
good reputation, and there is no basis in fact for believing 430

that the applicant will again violate the laws involved. 431

(3) Has not, during any period in which the applicant was 432
licensed under this chapter, violated any provision of, or any 433
rule adopted pursuant to, this chapter, or, if the applicant has 434
violated any such provision or rule, has established to the 435
satisfaction of the superintendent that the applicant will not 436
again violate such provision or rule; 437

(4) Is at least eighteen years of age; 438

(5) Has been a licensed real estate broker or salesperson 439
for at least two years; during at least two of the five years 440
preceding the person's application, has worked as a licensed 441
real estate broker or salesperson for an average of at least 442
thirty hours per week; and has completed one of the following: 443

(a) At least twenty real estate transactions, in which 444
property was sold for another by the applicant while acting in 445
the capacity of a real estate broker or salesperson; 446

(b) Such equivalent experience as is defined by rules 447
adopted by the commission. 448

(6) (a) If licensed as a real estate salesperson prior to 449
August 1, 2001, successfully has completed at an institution of 450
higher education all of the following credit-eligible courses by 451
either classroom instruction or distance education: 452

(i) Thirty hours of ~~classroom~~-instruction in real estate 453
practice; 454

(ii) Thirty hours of ~~classroom~~-instruction that includes 455
the subjects of Ohio real estate law, municipal, state, and 456
federal civil rights law, new case law on housing 457
discrimination, desegregation issues, and methods of eliminating 458

the effects of prior discrimination. If feasible, the ~~classroom-~~ 459
instruction in Ohio real estate law shall be taught by a member 460
of the faculty of an accredited law school. If feasible, the 461
~~classroom-~~instruction in municipal, state, and federal civil 462
rights law, new case law on housing discrimination, 463
desegregation issues, and methods of eliminating the effects of 464
prior discrimination shall be taught by a staff member of the 465
Ohio civil rights commission who is knowledgeable with respect 466
to those subjects. The requirements of this division do not 467
apply to an applicant who is admitted to practice before the 468
supreme court. 469

(iii) Thirty hours of ~~classroom-~~instruction in real estate 470
appraisal; 471

(iv) Thirty hours of ~~classroom-~~instruction in real estate 472
finance; 473

(v) Three quarter hours, or its equivalent in semester 474
hours, in financial management; 475

(vi) Three quarter hours, or its equivalent in semester 476
hours, in human resource or personnel management; 477

(vii) Three quarter hours, or its equivalent in semester 478
hours, in applied business economics; 479

(viii) Three quarter hours, or its equivalent in semester 480
hours, in business law. 481

(b) If licensed as a real estate salesperson on or after 482
August 1, 2001, successfully has completed at an institution of 483
higher education all of the following credit-eligible courses by 484
either classroom instruction or distance education: 485

(i) Forty hours of ~~classroom-~~instruction in real estate 486

practice; 487

(ii) Forty hours of ~~classroom~~-instruction that includes 488
the subjects of Ohio real estate law, municipal, state, and 489
federal civil rights law, new case law on housing 490
discrimination, desegregation issues, and methods of eliminating 491
the effects of prior discrimination. If feasible, the ~~classroom~~- 492
instruction in Ohio real estate law shall be taught by a member 493
of the faculty of an accredited law school. If feasible, the 494
~~classroom~~-instruction in municipal, state, and federal civil 495
rights law, new case law on housing discrimination, 496
desegregation issues, and methods of eliminating the effects of 497
prior discrimination shall be taught by a staff member of the 498
Ohio civil rights commission who is knowledgeable with respect 499
to those subjects. The requirements of this division do not 500
apply to an applicant who is admitted to practice before the 501
supreme court. 502

(iii) Twenty hours of ~~classroom~~-instruction in real estate 503
appraisal; 504

(iv) Twenty hours of ~~classroom~~-instruction in real estate 505
finance; 506

(v) The training in the amount of hours specified under 507
divisions (B) (6) (a) (v), (vi), (vii), and (viii) of this section. 508

(c) Division (B) (6) (a) or (b) of this section does not 509
apply to any applicant who holds a valid real estate 510
salesperson's license issued prior to January 2, 1972. Divisions 511
(B) (6) (a) (v), (vi), (vii), and (viii) or division (B) (6) (b) (v) 512
of this section do not apply to any applicant who holds a valid 513
real estate salesperson's license issued prior to January 3, 514
1984. 515

(d) Divisions (B) (6) (a) (iii) and (B) (6) (b) (iii) of this 516
section do not apply to any new applicant who holds a valid Ohio 517
real estate appraiser license or certificate issued prior to the 518
date of application for a real estate broker's license. 519

(e) Successful completion of the instruction required by 520
division (B) (6) (a) or (b) of this section shall be determined by 521
the law in effect on the date the instruction was completed. 522

(7) If licensed as a real estate salesperson on or after 523
January 3, 1984, satisfactorily has completed a minimum of two 524
years of post-secondary education, or its equivalent in semester 525
or quarter hours, at an institution of higher education, and has 526
fulfilled the requirements of division (B) (6) (a) or (b) of this 527
section. The requirements of division (B) (6) (a) or (b) of this 528
section may be included in the two years of post-secondary 529
education, or its equivalent in semester or quarter hours, that 530
is required by this division. The post-secondary education 531
requirement may be satisfied by completing the credit-eligible 532
courses using either classroom instruction or distance 533
education. Successful completion of any course required by this 534
section shall be determined by the law in effect on the date the 535
course was completed. 536

(C) Each applicant for a broker's license shall be 537
examined in the principles of real estate practice, Ohio real 538
estate law, and financing and appraisal, and as to the duties of 539
real estate brokers and real estate salespersons, the 540
applicant's knowledge of real estate transactions and 541
instruments relating to them, and the canons of business ethics 542
pertaining to them. The commission from time to time shall 543
promulgate such canons and cause them to be published in printed 544
form. 545

(D) Examinations shall be administered with reasonable 546
accommodations in accordance with the requirements of the 547
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 548
U.S.C. 12101. The contents of an examination shall be consistent 549
with the requirements of division (B) (6) of this section and 550
with the other specific requirements of this section. An 551
applicant who has completed the requirements of division (B) (6) 552
of this section at the time of application shall be examined no 553
later than twelve months after the applicant is notified of 554
admission to the examination. 555

(E) The superintendent may waive one or more of the 556
requirements of this section in the case of an application from 557
a nonresident real estate broker pursuant to a reciprocity 558
agreement with the licensing authority of the state from which 559
the nonresident applicant holds a valid real estate broker 560
license. 561

(F) There shall be no limit placed on the number of times 562
an applicant may retake the examination. 563

(G) (1) Not earlier than the date of issue of a real estate 564
broker's license to a licensee, but not later than twelve months 565
after the date of issue of a real estate broker's license to a 566
licensee, the licensee shall submit proof satisfactory to the 567
superintendent, on forms made available by the superintendent, 568
of the completion of ten hours of ~~classroom~~-instruction that 569
shall be completed in schools, seminars, and educational 570
institutions that are approved by the commission. Approval of 571
the curriculum and providers shall be granted according to rules 572
adopted pursuant to section 4735.10 of the Revised Code and may 573
be taken through classroom instruction or distance education. 574

If the required proof of completion is not submitted to 575

the superintendent within twelve months of the date a license is 576
issued under this section, the license of the real estate broker 577
is suspended automatically without the taking of any action by 578
the superintendent. The broker's license shall not be 579
reactivated by the superintendent until it is established, to 580
the satisfaction of the superintendent, that the requirements of 581
this division have been met and that the licensee is in 582
compliance with this chapter. A licensee's license is revoked 583
automatically without the taking of any action by the 584
superintendent if the licensee fails to submit proof of 585
completion of the education requirements specified under 586
division (G) (1) of this section within twelve months of the date 587
the license is suspended. 588

(2) If the license of a real estate broker is suspended 589
pursuant to division (G) (1) of this section, the license of a 590
real estate salesperson associated with that broker 591
correspondingly is suspended pursuant to division (H) of section 592
4735.20 of the Revised Code. However, the suspended license of 593
the associated real estate salesperson shall be reactivated and 594
no fee shall be charged or collected for that reactivation if 595
all of the following occur: 596

(a) That broker subsequently submits satisfactory proof to 597
the superintendent that the broker has complied with the 598
requirements of division (G) (1) of this section and requests 599
that the broker's license as a real estate broker be 600
reactivated; 601

(b) The superintendent then reactivates the broker's 602
license as a real estate broker; 603

(c) The associated real estate salesperson intends to 604
continue to be associated with that broker and otherwise is in 605

compliance with this chapter. 606

Sec. 4735.081. (A) Each brokerage shall designate at least 607
one affiliated broker to act as the principal broker of the 608
brokerage. Any affiliated broker not so designated shall be an 609
associate broker or management level licensee for that 610
brokerage. 611

(B) A brokerage shall report any change in designation as 612
a principal broker to the superintendent not later than fifteen 613
days after the change occurs. 614

(C) Every principal broker of a brokerage shall do all of 615
the following: 616

(1) Oversee and direct the operations of the brokerage; 617

(2) Comply with the office requirements set forth in 618
division (A) of section 4735.13 and division (A) of section 619
4735.16 of the Revised Code; 620

(3) Display, as required by division (D) of section 621
4735.16 of the Revised Code and division rules, the fair housing 622
statement in the brokerage offices and on the pamphlets required 623
by that section and section 4735.03 of the Revised Code and the 624
rules adopted by the Ohio real estate commission; 625

(4) Renew the licenses of the brokerage and any branch 626
offices as required by section 4735.14 of the Revised Code and 627
pay the fee required under division (B) (2) of section 4735.15 of 628
the Revised Code and commission rules; 629

(5) Maintain the licenses of the brokerage and affiliated 630
salespersons and brokers as required by section 4735.13 of the 631
Revised Code; 632

(6) Return the license of terminated salespersons and 633

<u>brokers as required by division (B) of section 4735.13 of the</u>	634
<u>Revised Code;</u>	635
<u>(7) Comply with the trust or special bank account</u>	636
<u>requirements set forth in divisions (A)(26) and (27) of section</u>	637
<u>4735.18 and section 4735.24 of the Revised Code and commission</u>	638
<u>rules;</u>	639
<u>(8) Maintain complete and accurate trust account records</u>	640
<u>and transaction records as required by division (A)(24) of</u>	641
<u>section 4735.18 of the Revised Code and commission rules;</u>	642
<u>(9) Develop and maintain a written company policy on</u>	643
<u>agency relationships as required by section 4735.54 of the</u>	644
<u>Revised Code and rules adopted by the superintendent of real</u>	645
<u>estate and professional licensing;</u>	646
<u>(10) Develop a written brokerage policy on agency required</u>	647
<u>by section 4735.56 of the Revised Code;</u>	648
<u>(11) Pay affiliate licensees as required by division (A)</u>	649
<u>(31) of section 4735.18 of the Revised Code;</u>	650
<u>(12) Establish practices and procedures to assure that</u>	651
<u>only affiliated licensees perform and are compensated for</u>	652
<u>performing the licensed activity as required by division (A)(34)</u>	653
<u>of sections 4735.18 and 4735.20 of the Revised Code;</u>	654
<u>(13) Establish practices and procedures to assure</u>	655
<u>compliance with the advertising requirements set forth in</u>	656
<u>section 4735.16 of the Revised Code and commission rules;</u>	657
<u>(14) Generally oversee the licensed activity of affiliated</u>	658
<u>licensees and to assure that affiliated licensees are providing</u>	659
<u>real estate services within their area of competency or are</u>	660
<u>working with another affiliated licensee who possesses such a</u>	661

competency. 662

(D) The principal broker or brokers of a brokerage may 663
assign to a management level licensee any of the duties 664
described in division (C) of this section or in commission 665
rules. 666

(E) The superintendent may permit a broker to be licensed 667
with and act as the principal broker for more than one 668
brokerage. 669

(F) Nothing in this section shall be considered prima 670
facie evidence of whether an affiliated licensee is an 671
independent contractor or an employee of the brokerage. 672

Sec. 4735.09. (A) Application for a license as a real 673
estate salesperson shall be made to the superintendent of real 674
estate on forms furnished by the superintendent and signed by 675
the applicant. The application shall be in the form prescribed 676
by the superintendent and shall contain such information as is 677
required by this chapter and the rules of the Ohio real estate 678
commission. The application shall be accompanied by the 679
recommendation of the real estate broker with whom the applicant 680
is associated or with whom the applicant intends to be 681
associated, certifying that the applicant is honest, truthful, 682
and of good reputation, has not been convicted of a felony or a 683
crime involving moral turpitude, and has not been finally 684
adjudged by a court to have violated any municipal, state, or 685
federal civil rights laws relevant to the protection of 686
purchasers or sellers of real estate, which conviction or 687
adjudication the applicant has not disclosed to the 688
superintendent, and recommending that the applicant be admitted 689
to the real estate salesperson examination. 690

(B) A fee of sixty dollars shall accompany the 691
application, which fee includes the fee for the initial year of 692
the licensing period, if a license is issued. The initial year 693
of the licensing period commences at the time the license is 694
issued and ends on the applicant's first birthday thereafter. 695
The application fee shall be nonrefundable. A fee of sixty 696
dollars shall be charged by the superintendent for each 697
successive application made by the applicant. One dollar of each 698
application fee shall be credited to the real estate education 699
and research fund. 700

(C) There shall be no limit placed on the number of times 701
an applicant may retake the examination. 702

(D) The superintendent, with the consent of the 703
commission, may enter into an agreement with a recognized 704
national testing service to administer the real estate 705
salesperson's examination under the superintendent's supervision 706
and control, consistent with the requirements of this chapter as 707
to the contents of the examination. 708

If the superintendent, with the consent of the commission, 709
enters into an agreement with a national testing service to 710
administer the real estate salesperson's examination, the 711
superintendent may require an applicant to pay the testing 712
service's examination fee directly to the testing service. If 713
the superintendent requires the payment of the examination fee 714
directly to the testing service, each applicant shall submit to 715
the superintendent a processing fee in an amount determined by 716
the Ohio real estate commission pursuant to division (A) (1) of 717
section 4735.10 of the Revised Code. 718

(E) The superintendent shall issue a real estate 719
salesperson's license when satisfied that the applicant has 720

received a passing score on each portion of the salesperson's 721
examination as determined by rule by the real estate commission, 722
except that the superintendent may waive one or more of the 723
requirements of this section in the case of an applicant who is 724
a licensed real estate salesperson in another state pursuant to 725
a reciprocity agreement with the licensing authority of the 726
state from which the applicant holds a valid real estate 727
salesperson's license. 728

(F) No applicant for a salesperson's license shall take 729
the salesperson's examination who has not established to the 730
satisfaction of the superintendent that the applicant: 731

(1) Is honest, truthful, and of good reputation; 732

(2) (a) Has not been convicted of a felony or crime of 733
moral turpitude or, if the applicant has been so convicted, the 734
superintendent has disregarded the conviction because the 735
applicant has proven to the superintendent, by a preponderance 736
of the evidence, that the applicant's activities and employment 737
record since the conviction show that the applicant is honest, 738
truthful, and of good reputation, and there is no basis in fact 739
for believing that the applicant again will violate the laws 740
involved; 741

(b) Has not been finally adjudged by a court to have 742
violated any municipal, state, or federal civil rights laws 743
relevant to the protection of purchasers or sellers of real 744
estate or, if the applicant has been so adjudged, at least two 745
years have passed since the court decision and the 746
superintendent has disregarded the adjudication because the 747
applicant has proven, by a preponderance of the evidence, that 748
the applicant is honest, truthful, and of good reputation, and 749
there is no basis in fact for believing that the applicant again 750

will violate the laws involved. 751

(3) Has not, during any period in which the applicant was 752
licensed under this chapter, violated any provision of, or any 753
rule adopted pursuant to this chapter, or, if the applicant has 754
violated such provision or rule, has established to the 755
satisfaction of the superintendent that the applicant will not 756
again violate such provision or rule; 757

(4) Is at least eighteen years of age; 758

(5) If born after the year 1950, has a high school diploma 759
or its equivalent as recognized by the state department of 760
education; 761

(6) Has successfully completed at an institution of higher 762
education all of the following credit-eligible courses by either 763
classroom instruction or distance education: 764

(a) Forty hours of ~~classroom~~-instruction in real estate 765
practice; 766

(b) Forty hours of ~~classroom~~-instruction that includes the 767
subjects of Ohio real estate law, municipal, state, and federal 768
civil rights law, new case law on housing discrimination, 769
desegregation issues, and methods of eliminating the effects of 770
prior discrimination. If feasible, the ~~classroom~~-instruction in 771
Ohio real estate law shall be taught by a member of the faculty 772
of an accredited law school. If feasible, the ~~classroom~~- 773
instruction in municipal, state, and federal civil rights law, 774
new case law on housing discrimination, desegregation issues, 775
and methods of eliminating the effects of prior discrimination 776
shall be taught by a staff member of the Ohio civil rights 777
commission who is knowledgeable with respect to those subjects. 778
The requirements of this division do not apply to an applicant 779

who is admitted to practice before the supreme court. 780

(c) Twenty hours of ~~classroom~~-instruction in real estate appraisal; 781
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(d) Twenty hours of ~~classroom~~-instruction in real estate finance. 783
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(G) (1) Successful completion of the instruction required by division (F) (6) of this section shall be determined by the law in effect on the date the instruction was completed. 785
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(2) Division (F) (6) (c) of this section does not apply to any new applicant who holds a valid Ohio real estate appraiser license or certificate issued prior to the date of application for a real estate salesperson's license. 788
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(H) Only for noncredit course offerings, an institution of higher education shall obtain approval from the appropriate state authorizing entity prior to offering a real estate course that is designed and marketed as satisfying the salesperson license education requirements of division (F) (6) of this section. The state authorizing entity may consult with the superintendent in reviewing the course for compliance with this section. 792
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(I) 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 prelicensure ~~classroom~~-instruction required by division (F) (6) of this section within a ten-year period immediately preceding the person's current application for the salesperson's examination. 800
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~~(I)~~ (J) Not earlier than the date of issue of a real estate salesperson's license to a licensee, but not later than 807
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twelve months after the date of issue of a real estate 809
salesperson license to a licensee, the licensee shall submit 810
proof satisfactory to the superintendent, on forms made 811
available by the superintendent, of the completion of ~~ten~~twenty 812
hours of ~~classroom~~ instruction that shall be completed in 813
schools, seminars, and educational institutions approved by the 814
commission. The instruction shall include, but is not limited 815
to, current practices relating to commercial real estate, 816
property management, short sales, and land contracts; contract 817
law; federal and state programs; economic conditions; and 818
fiduciary responsibility. Approval of the curriculum and 819
providers shall be granted according to rules adopted pursuant 820
to section 4735.10 of the Revised Code and may be taken through 821
classroom instruction or distance education. 822

If proof of completion of the required instruction is not 823
submitted within twelve months of the date a license is issued 824
under this section, the licensee's license is suspended 825
automatically without the taking of any action by the 826
superintendent. The superintendent immediately shall notify the 827
broker with whom such salesperson is associated of the 828
suspension of the salesperson's license. A salesperson whose 829
license has been suspended under this division shall have twelve 830
months after the date of the suspension of the salesperson's 831
license to submit proof of successful completion of the 832
instruction required under this division. No such license shall 833
be reactivated by the superintendent until it is established, to 834
the satisfaction of the superintendent, that the requirements of 835
this division have been met and that the licensee is in 836
compliance with this chapter. A licensee's license is revoked 837
automatically without the taking of any action by the 838
superintendent when the licensee fails to submit the required 839

proof of completion of the education requirements under division 840
(I) of this section within twelve months of the date the license 841
is suspended. 842

~~(J)~~ (K) Examinations shall be administered with reasonable 843
accommodations in accordance with the requirements of the 844
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 845
U.S.C. 12189. The contents of an examination shall be consistent 846
with the classroom instructional requirements of division (F) (6) 847
of this section. An applicant who has completed the classroom 848
instructional requirements of division (F) (6) of this section at 849
the time of application shall be examined no later than twelve 850
months after the applicant is notified of the applicant's 851
admission to the examination. 852

Sec. 4735.091. A real estate broker, real estate 853
salesperson, foreign real estate dealer, and foreign real estate 854
salesperson may be associated with a brokerage as either an 855
employee or an independent contractor. 856

Sec. 4735.10. (A) (1) The Ohio real estate commission may 857
adopt reasonable rules in accordance with Chapter 119. of the 858
Revised Code, necessary for implementing the provisions of this 859
chapter relating, but not limited to, the following: 860

(a) The form and manner of filing applications for 861
licensure; 862

(b) Times and form of examination for license; 863

(c) Placing an existing broker's license on deposit or a 864
salesperson's license on an inactive status for an indefinite 865
period; 866

(d) Specifying the process by which a licensee may resign 867
the licensee's license; 868

(e) Defining any additional license status that the commission determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts;

(f) Clarification of the activities that require a license under this chapter;

(g) Permitting a broker to act as principal broker for more than one brokerage.

(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, the conduct of hearings related to these actions, and the process of reactivating a license;

(b) A three-year license and a three-year license renewal system;

(c) Standards for the approval of the ~~ten-hour~~ postlicensure courses as required by division (G) of section 4735.07 and division ~~(I)~~ (J) of section 4735.09 of the Revised Code, courses of study required for licenses, courses offered in preparation for license examinations, or courses required as continuing education for licenses.

(d) 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.	898
(e) Requirements for trust accounts and property management accounts. The rules shall specify that:	899 900
(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.	901 902 903 904 905 906 907
(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.	908 909 910 911
(f) Notice of renewal forms and filing deadlines;	912
(g) Special assessments under division (A) of section 4735.12 of the Revised Code.	913 914
(B) The commission 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:	915 916 917 918
(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;	919 920
(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (A) (B) of section 4735.06 of the Revised Code, <u>including procedures for the application and approval of more than one trade name for a</u>	921 922 923 924 925

<u>brokerage;</u>	926
(3) Acceptance and rejection of applications to take the	927
broker and salesperson examinations and licensure, with	928
appropriate waivers pursuant to division (E) of section 4735.07	929
and section 4735.09 of the Revised Code;	930
(4) Approval of applications of brokers to place their	931
licenses in an inactive status and to become salespersons under	932
section 4735.13 of the Revised Code;	933
(5) Appointment of hearing examiners under section 119.09	934
of the Revised Code;	935
(6) Acceptance and rejection of applications to take the	936
foreign real estate dealer and salesperson examinations and	937
licensure, with waiver of examination, under sections 4735.27	938
and 4735.28 of the Revised Code;	939
(7) Qualification of foreign real estate under section	940
4735.25 of the Revised Code.	941
If at any time there is no rule in effect establishing a	942
guideline or standard required by this division, the	943
superintendent may adopt a rule in accordance with Chapter 119.	944
of the Revised Code for such purpose.	945
(C) The commission or superintendent may hear testimony in	946
matters relating to the duties imposed upon them, and the	947
president of the commission and superintendent may administer	948
oaths. The commission or superintendent may require other proof	949
of the honesty, truthfulness, and good reputation of any person	950
named in an application for a real estate broker's or real	951
estate salesperson's license before admitting the applicant to	952
the examination or issuing a license.	953

Sec. 4735.141. (A) Except as otherwise provided in this 954
division and in section 4735.13 of the Revised Code and except 955
for a licensee who has placed the licensee's license in resigned 956
status pursuant to section 4735.142 of the Revised Code, each 957
person licensed under section 4735.07 or 4735.09 of the Revised 958
Code shall submit proof satisfactory to the superintendent of 959
real estate that the licensee has satisfactorily completed 960
thirty hours of continuing education, as prescribed by the Ohio 961
real estate commission pursuant to section 4735.10 of the 962
Revised Code, on or before the licensee's birthday occurring 963
three years after the licensee's date of initial licensure, and 964
on or before the licensee's birthday every three years 965
thereafter. If the person is licensed as a broker or broker on 966
deposit, or acts as a management level licensee, the continuing 967
education shall include a three-hour course on the duties of a 968
principal broker and other issues involved in operating a real 969
estate brokerage. The continuing education may be completed by 970
either classroom instruction or distance education. 971

Persons licensed as real estate salespersons who 972
subsequently become licensed real estate brokers shall continue 973
to submit proof of continuing education in accordance with the 974
time period established in this section. 975

The requirements of this section shall not apply to any 976
disabled licensee as provided in division (E) of this section. 977

Each licensee who is seventy years of age or older, within 978
a continuing education reporting period, shall submit proof 979
satisfactory to the superintendent of real estate that the 980
licensee has satisfactorily completed ~~a~~ both of the following: 981

(1) A total of nine classroom hours of continuing 982
education, including instruction in Ohio real estate law; 983

recently enacted state and federal laws affecting the real 984
estate industry; municipal, state, and federal civil rights law; 985
and canons of ethics for the real estate industry as adopted by 986
the commission; 987

(2) If licensed as a broker, broker on deposit, or acting 988
as a management level licensee, a three-hour continuing 989
education course on the duties of a principal broker and other 990
issues involved in operating a real estate brokerage. 991

The continuing education may be completed by either 992
classroom instruction or distance education. The required proof 993
of completion shall be submitted on or before the licensee's 994
birthday that falls in the third year of that continuing 995
education reporting period. A licensee who is seventy years of 996
age or older whose license is in an inactive status is exempt 997
from the continuing education requirements specified in this 998
section. The commission shall adopt reasonable rules in 999
accordance with Chapter 119. of the Revised Code to carry out 1000
the purposes of this paragraph. 1001

(B) The continuing education requirements of this section 1002
shall be completed in schools, seminars, and educational 1003
institutions approved by the commission. Such approval shall be 1004
given according to rules established by the commission under the 1005
procedures of Chapter 119. of the Revised Code, and shall not be 1006
limited to institutions providing two-year or four-year degrees. 1007
Each school, seminar, or educational institution approved under 1008
this division shall be open to all licensees on an equal basis. 1009

(C) If the requirements of this section are not met by a 1010
licensee within the period specified, the licensee's license 1011
shall be suspended automatically without the taking of any 1012
action by the superintendent. The superintendent shall notify 1013

the licensee of the license suspension, and such notification 1014
shall be sent by regular mail to the personal residence address 1015
of the licensee that is on file with the division. Any license 1016
so suspended shall remain suspended until it is reactivated by 1017
the superintendent. No such license shall be reactivated until 1018
it is established, to the satisfaction of the superintendent, 1019
that the requirements of this section have been met. If the 1020
requirements of this section are not met within twelve months 1021
from the date the license was suspended, the license shall be 1022
revoked automatically without the taking of any action by the 1023
superintendent. 1024

(D) If the license of a real estate broker is suspended 1025
pursuant to division (C) of this section, the license of a real 1026
estate salesperson associated with that broker correspondingly 1027
is suspended pursuant to division (H) of section 4735.20 of the 1028
Revised Code. A sole broker shall notify affiliated salespersons 1029
of the suspension in writing within three days of receiving the 1030
notice required by division (C) of this section. 1031

(1) The suspended license of the associated real estate 1032
salesperson shall be reactivated and no fee shall be charged or 1033
collected for that reactivation if that broker subsequently 1034
submits proof to the superintendent that the broker has complied 1035
with the requirements of this section and requests that the 1036
broker's license as a real estate broker be reactivated, and the 1037
superintendent then reactivates the broker's license as a real 1038
estate broker. 1039

(2) If the real estate salesperson submits an application 1040
to leave the association of the suspended broker in order to 1041
associate with a different broker, the suspended license of the 1042
associated real estate salesperson shall be reactivated and no 1043

fee shall be charged or collected for that reactivation. The 1044
superintendent may process the application regardless of whether 1045
the licensee's license is returned to the superintendent. 1046

Any person whose license is reactivated pursuant to this 1047
division shall comply with the requirements of this section and 1048
otherwise be in compliance with this chapter. 1049

(E) Any licensee who is a disabled licensee at any time 1050
during the last three months of the third year of the licensee's 1051
continuing education reporting period may receive an extension 1052
of time as deemed appropriate by the superintendent to submit 1053
proof to the superintendent that the licensee has satisfactorily 1054
completed the required thirty hours of continuing education. To 1055
receive an extension of time, the licensee shall submit a 1056
request to the division of real estate for the extension and 1057
proof satisfactory to the commission that the licensee was a 1058
disabled licensee at some time during the last three months of 1059
the three-year reporting period. The proof shall include, but is 1060
not limited to, a signed statement by the licensee's attending 1061
physician describing the disability, certifying that the 1062
licensee's disability is of such a nature as to prevent the 1063
licensee from attending any instruction lasting at least three 1064
hours in duration, and stating the expected duration of the 1065
disability. The licensee shall request the extension and provide 1066
the physician's statement to the division no later than one 1067
month prior to the end of the licensee's three-year continuing 1068
education reporting period, unless the disability did not arise 1069
until the last month of the three-year reporting period, in 1070
which event the licensee shall request the extension and provide 1071
the physician's statement as soon as practical after the 1072
occurrence of the disability. A licensee granted an extension 1073
pursuant to this division who is no longer a disabled licensee 1074

and who submits proof of completion of the continuing education 1075
during the extension period, shall submit, for future continuing 1076
education reporting periods, proof of completion of the 1077
continuing education requirements according to the schedule 1078
established in division (A) of this section. 1079

(F) The superintendent shall not renew a license if the 1080
licensee fails to comply with this section, and the licensee 1081
shall be required to pay the penalty fee provided in section 1082
4735.14 of the Revised Code. 1083

(G) A licensee shall submit proof of completion of the 1084
required continuing education with the licensee's notice of 1085
renewal. The proof shall be submitted in the manner provided by 1086
the superintendent. 1087

Sec. 4735.142. (A) Any person licensed under section 1088
4735.07 or 4735.09 of the Revised Code, at any time prior to the 1089
date the licensee is required to file a notice of renewal 1090
pursuant to division (B) of section 4735.14 of the Revised Code 1091
may apply to the superintendent of real estate and professional 1092
licensing to place the licensee's license in a permanently 1093
resigned status. 1094

(B) A licensee, at anytime during which a license has 1095
been suspended pursuant to division (G) of section 4735.07, 1096
division ~~(I)~~(J) of section 4735.09, division (E) of section 1097
4735.12, division (C) of section 4735.14, division (C) of 1098
section 4735.141, or section 4735.182 of the Revised Code, may 1099
apply to the superintendent on a form prescribed by the 1100
superintendent to permanently resign the licensee's license 1101
voluntarily. The resignation of a license is considered to be 1102
final without the taking of any action by the superintendent. 1103

(C) If a person whose license is in a permanently resigned status pursuant to a request made under this section wishes to obtain an active or inactive license, the person shall apply for such a license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable, or in the rules adopted by the commission pursuant to division (A) of section 4735.10 of the Revised Code.

(D) If placing a broker's license in a permanently resigned status will result in the closure of the broker's brokerage, the broker, within three days after applying to the superintendent to place the license in a permanently resigned status, shall provide to each salesperson associated with that broker a written notice stating that fact.

(E) This section does not apply to any licensee whose license has been suspended pursuant to division (F) of section 4735.181 of the Revised Code or due to disciplinary action ordered by the commission pursuant to section 4735.051 of the Revised Code.

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 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 may 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;	1134
(2) Making any false promises with intent to influence, persuade, or induce;	1135 1136
(3) A continued course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise;	1137 1138 1139
(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;	1140 1141 1142
(5) Failure within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to others;	1143 1144 1145
(6) Dishonest or illegal dealing, gross negligence, incompetency, or misconduct;	1146 1147
(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;	1148 1149 1150 1151 1152 1153 1154 1155 1156 1157
(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	1158 1159 1160 1161 1162

whether or not there has been a final adjudication by a court, 1163
provided that such violation arose out of a situation wherein 1164
parties were engaged in bona fide efforts to purchase, sell, or 1165
lease real estate. For any second offense under this division, 1166
the commission shall suspend for a minimum of two months or 1167
revoke the license of the broker or salesperson. For any 1168
subsequent offense, the commission shall revoke the license of 1169
the broker or salesperson. 1170

(8) Procuring a license under this chapter, for the 1171
licensee or any salesperson by fraud, misrepresentation, or 1172
deceit; 1173

(9) Having violated or failed to comply with any provision 1174
of sections 4735.51 to 4735.74 of the Revised Code or having 1175
willfully disregarded or violated any other provisions of this 1176
chapter; 1177

(10) As a real estate broker, having demanded, without 1178
reasonable cause, other than from a broker licensed under this 1179
chapter, a commission to which the licensee is not entitled, or, 1180
as a real estate salesperson, having demanded, without 1181
reasonable cause, a commission to which the licensee is not 1182
entitled; 1183

(11) Except as permitted under section 4735.20 of the 1184
Revised Code, having paid commissions or fees to, or divided 1185
commissions or fees with, anyone not licensed as a real estate 1186
broker or salesperson under this chapter or anyone not operating 1187
as an out-of-state commercial real estate broker or salesperson 1188
under section 4735.022 of the Revised Code; 1189

(12) Having falsely represented membership in any real 1190
estate professional association of which the licensee is not a 1191

member;	1192
(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;	1193 1194 1195
(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;	1196 1197 1198 1199 1200
(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;	1201 1202 1203
(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;	1204 1205 1206
(17) Having advertised or 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;	1207 1208 1209
(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;	1210 1211 1212
(19) Having negotiated the sale, exchange, or lease of any real property directly with a seller, purchaser, lessor, or tenant knowing that such seller, purchaser, lessor, or tenant is represented by another broker under a written exclusive agency agreement, exclusive right to sell or lease listing agreement, or exclusive purchaser agency agreement with respect to such property except as provided for in section 4735.75 of the Revised Code;	1213 1214 1215 1216 1217 1218 1219 1220

(20) Having offered real property for sale or for lease 1221
without the knowledge and consent of the owner or the owner's 1222
authorized agent, or on any terms other than those authorized by 1223
the owner or the owner's authorized agent; 1224

(21) Having published advertising, whether printed, radio, 1225
display, or of any other nature, which was misleading or 1226
inaccurate in any material particular, or in any way having 1227
misrepresented any properties, terms, values, policies, or 1228
services of the business conducted; 1229

(22) Having knowingly withheld from or inserted in any 1230
statement of account or invoice any statement that made it 1231
inaccurate in any material particular; 1232

(23) Having published or circulated unjustified or 1233
unwarranted threats of legal proceedings which tended to or had 1234
the effect of harassing competitors or intimidating their 1235
customers; 1236

(24) Having failed to keep complete and accurate records 1237
of all transactions for a period of three years from the date of 1238
the transaction, such records to include copies of listing 1239
forms, earnest money receipts, offers to purchase and 1240
acceptances of them, records of receipts and disbursements of 1241
all funds received by the licensee as broker and incident to the 1242
licensee's transactions as such, and records required pursuant 1243
to divisions (C) (4) and (5) of section 4735.20 of the Revised 1244
Code, and any other instruments or papers related to the 1245
performance of any of the acts set forth in the definition of a 1246
real estate broker; 1247

(25) Failure of a real estate broker or salesperson to 1248
furnish all parties involved in a real estate transaction true 1249

copies of all listings and other agreements to which they are a 1250
party, at the time each party signs them; 1251

(26) Failure to maintain at all times a special or trust 1252
bank account in a depository located in this state. The account 1253
shall be noninterest-bearing, separate and distinct from any 1254
personal or other account of the broker, and, except as provided 1255
in division (A) (27) of this section, shall be used for the 1256
deposit and maintenance of all escrow funds, security deposits, 1257
and other moneys received by the broker in a fiduciary capacity. 1258
The name, account number, if any, and location of the depository 1259
wherein such special or trust account is maintained shall be 1260
submitted in writing to the superintendent. Checks drawn on such 1261
special or trust bank accounts are deemed to meet the conditions 1262
imposed by section 1349.21 of the Revised Code. Funds deposited 1263
in the trust or special account in connection with a purchase 1264
agreement shall be maintained in accordance with section 4735.24 1265
of the Revised Code. 1266

(27) Failure to maintain at all times a special or trust 1267
bank account in a depository in this state, to be used 1268
exclusively for the deposit and maintenance of all rents, 1269
security deposits, escrow funds, and other moneys received by 1270
the broker in a fiduciary capacity in the course of managing 1271
real property. This account shall be separate and distinct from 1272
any other account maintained by the broker. The name, account 1273
number, and location of the depository shall be submitted in 1274
writing to the superintendent. This account may earn interest, 1275
which shall be paid to the property owners on a pro rata basis. 1276

Division (A) (27) of this section does not apply to brokers 1277
who are not engaged in the management of real property on behalf 1278
of real property owners. 1279

(28) Having failed to put definite expiration dates in all	1280
written agency agreements to which the broker is a party;	1281
(29) Having an unsatisfied final judgment or lien in any	1282
court of record against the licensee arising out of the	1283
licensee's conduct as a licensed broker or salesperson;	1284
(30) Failing to render promptly upon demand a full and	1285
complete statement of the expenditures by the broker or	1286
salesperson of funds advanced by or on behalf of a party to a	1287
real estate transaction to the broker or salesperson for the	1288
purpose of performing duties as a licensee under this chapter in	1289
conjunction with the real estate transaction;	1290
(31) Failure within a reasonable time, after the receipt	1291
of the commission by the broker, to render an accounting to and	1292
pay a real estate salesperson the salesperson's earned share of	1293
it;	1294
(32) Performing any service for another constituting the	1295
practice of law, as determined by any court of law;	1296
(33) Having been adjudicated incompetent for the purpose	1297
of holding the license by a court, as provided in section	1298
5122.301 of the Revised Code. A license revoked or suspended	1299
under this division shall be reactivated upon proof to the	1300
commission of the removal of the disability.	1301
(34) Having authorized or permitted a person to act as an	1302
agent in the capacity of a real estate broker, or a real estate	1303
salesperson, who was not then licensed as a real estate broker	1304
or real estate salesperson under this chapter or who was not	1305
then operating as an out-of-state commercial real estate broker	1306
or salesperson under section 4735.022 of the Revised Code;	1307
(35) Having knowingly inserted or participated in	1308

inserting any materially inaccurate term in a document, 1309
including naming a false consideration; 1310

(36) Having failed to inform the licensee's client of the 1311
existence of an offer or counteroffer or having failed to 1312
present an offer or counteroffer in a timely manner, unless 1313
otherwise instructed by the client, provided the instruction of 1314
the client does not conflict with any state or federal law; 1315

(37) Having failed to comply with section 4735.24 of the 1316
Revised Code; 1317

(38) Having acted as a broker without authority, impeded 1318
the ability of a principal broker to perform any of the duties 1319
described in section 4735.081 of the Revised Code, or impeded 1320
the ability a management level licensee to perform the 1321
licensee's duties. 1322

(B) Whenever the commission, pursuant to section 4735.051 1323
of the Revised Code, imposes disciplinary sanctions for any 1324
violation of this section, the commission also may impose such 1325
sanctions upon the broker with whom the salesperson is 1326
affiliated if the commission finds that the broker had knowledge 1327
of the salesperson's actions that violated this section. 1328

(C) The commission shall, pursuant to section 4735.051 of 1329
the Revised Code, impose disciplinary sanctions upon any foreign 1330
real estate dealer or salesperson who, in that capacity or in 1331
handling the dealer's or salesperson's own property, is found 1332
guilty of any of the acts or omissions specified or comprehended 1333
in division (A) of this section insofar as the acts or omissions 1334
pertain to foreign real estate. If the commission imposes such 1335
sanctions upon a foreign real estate salesperson for a violation 1336
of this section, the commission also may suspend or revoke the 1337

license of the foreign real estate dealer with whom the 1338
salesperson is affiliated if the commission finds that the 1339
dealer had knowledge of the salesperson's actions that violated 1340
this section. 1341

(D) The commission may suspend, in whole or in part, the 1342
imposition of the penalty of suspension of a license under this 1343
section. 1344

Sec. 4735.23. At the request of the superintendent of real 1345
estate, the department of higher education may, in consultation 1346
with the division of real estate, perform a review of programs 1347
offered by an institution of higher education pursuant to 1348
division (B) (6) (a) or (b) of section 4735.07 and division (F) (6) 1349
of section 4735.09 of the Revised Code. The superintendent or 1350
the chancellor of higher education may request from the 1351
institution any information the superintendent or chancellor 1352
considers necessary to perform this review. 1353

Sec. 4735.24. (A) Except as otherwise provided in this 1354
section, when earnest money connected to a real estate purchase 1355
agreement is deposited in a real estate broker's trust or 1356
special account, the broker shall maintain that money in the 1357
account in accordance with the terms of the purchase agreement 1358
until one of the following occurs: 1359

(1) The transaction closes and the broker disburses the 1360
earnest money to the closing or escrow agent or otherwise 1361
disburses the money pursuant to the terms of the purchase 1362
agreement. 1363

(2) The parties provide the broker with separate written 1364
instructions that both parties have signed that specify how the 1365
broker is to disburse the earnest money and the broker acts 1366

pursuant to those instructions. 1367

(3) The broker receives a copy of a final court order that 1368
specifies to whom the earnest money is to be awarded and the 1369
broker acts pursuant to the court order. 1370

(4) The earnest money becomes unclaimed funds as defined 1371
in division (M) (2) of section 169.02 of the Revised Code and, 1372
after providing the notice that division (D) of section 169.03 1373
of the Revised Code requires, the broker has reported the 1374
unclaimed funds to the director of commerce pursuant to section 1375
169.03 of the Revised Code and has remitted all of the earnest 1376
money to the director. 1377

(B) A purchase agreement may provide that in the event of 1378
a dispute regarding the disbursement of the earnest money, the 1379
broker will return the money to the purchaser without notice to 1380
the parties unless, within two years from the date the earnest 1381
money was deposited in the broker's trust or special account, 1382
the broker has received one of the following: 1383

(1) Written instructions signed by both parties specifying 1384
how the money is to be disbursed; 1385

(2) Written notice that a court action to resolve the 1386
dispute has been filed. 1387

(C) (1) If the parties dispute the disbursement of the 1388
earnest money and the purchase agreement contains the provision 1389
described in division (B) of this section, not later than the 1390
first day of September following the two year anniversary date 1391
of the deposit of the earnest money in the broker's account, the 1392
broker shall return the earnest money to the purchaser unless 1393
the parties provided the broker with written instructions or a 1394
notice of a court action as described in division (B) of this 1395

section. 1396

(2) If the broker cannot locate the purchaser at the time 1397
the disbursement is due, after providing the notice that 1398
division (D) of section 169.03 of the Revised Code requires, the 1399
broker shall report the earnest money as unclaimed funds to the 1400
director of commerce pursuant to section 169.03 of the Revised 1401
Code and remit all of the earnest money to the director. 1402

Sec. 4735.51. As used in sections 4735.51 to 4735.74 of 1403
the Revised Code: 1404

(A) "Agency" and "~~Agency~~agency relationship" mean a 1405
relationship in which a licensee represents another person in a 1406
real estate transaction. 1407

(B) "Agency agreement" means a contract between a licensee 1408
and a client in which the client promises to pay the broker a 1409
valuable consideration, or agrees that the licensee may receive 1410
a valuable consideration from another, for performing an act 1411
that requires a real estate license under this chapter. 1412

(C) "Agent" and "real estate agent" mean a person licensed 1413
by this chapter to represent another in a real estate 1414
transaction. 1415

(D) "Affiliated licensee" means a real estate broker or a 1416
real estate salesperson licensed by this chapter who is 1417
affiliated with a brokerage. 1418

(E) "~~Brokerage~~" means ~~a corporation, partnership, limited-~~ 1419
~~partnership, association, limited liability company, limited-~~ 1420
~~liability partnership, or sole proprietorship issued a broker's-~~ 1421
~~license. "Brokerage" includes the affiliated licensees who have-~~ 1422
~~been assigned management duties that include supervision of-~~ 1423
~~licensees whose duties may conflict with those of other-~~ 1424

affiliated licensees.	1425
(F) "Client" means a person who has entered into an agency relationship with a licensee.	1426 1427
(G) <u>(F)</u> "Confidential information" means all information that a client directs to be kept confidential or that if disclosed would have an adverse effect on the client's position in the real estate transaction, except to the extent the agent is required by law to disclose such information, and all information that is required by law to be kept confidential.	1428 1429 1430 1431 1432 1433
(H) <u>(G)</u> "Contemporaneous offers" means <u>offers to purchase or lease on behalf of two or more clients represented by the same licensee for the same property that the licensee knows, has known, or has reason to know will be taken under consideration by the owner or owner's authorized representative during the same period of time.</u>	1434 1435 1436 1437 1438 1439
<u>(H)</u> "Dual agency relationship" means any of the dual agency relationships set forth in section 4735.70 of the Revised Code.	1440 1441 1442
(I) "In-company transaction" means a real estate transaction in which the purchaser and seller are both represented by the same brokerage.	1443 1444 1445
(J) "Licensee" means any individual licensed as a real estate broker or salesperson by the Ohio real estate commission pursuant to this chapter.	1446 1447 1448
(K) "Management level licensee" means a licensee who is employed by or affiliated with a real estate broker and who has supervisory responsibility over other licensees employed by or affiliated with that real estate broker.	1449 1450 1451 1452

~~(I)~~—"Purchaser" means a party in a real estate transaction 1453
who is the potential transferee of property. "Purchaser" 1454
includes a person seeking to buy property and a person seeking 1455
to rent property as a tenant or lessee. 1456

~~(M)~~—(K) "Real estate transaction" means any act that is 1457
described in division (A) of section 4735.01 of the Revised Code 1458
or that is related to the execution of an act described in that 1459
section. 1460

~~(N)~~—(L) "Subagency" and "subagency relationship" mean an 1461
agency relationship in which a licensee acts for another 1462
licensee in performing duties for the client of that licensee. 1463

~~(O)~~—(M) "Timely" means as soon as possible under the 1464
particular circumstances. 1465

Sec. 4735.65. (A) In representing a purchaser in an agency 1466
relationship, a licensee shall: 1467

(1) Seek a property at a price and with purchase or lease 1468
terms acceptable to the purchaser. Unless the client so directs, 1469
the licensee is not obligated to seek additional purchase or 1470
lease possibilities if the purchaser is a party to a contract to 1471
purchase property, or has entered into a lease or has extended a 1472
letter of intent to lease. 1473

(2) Within the scope of knowledge required for licensure, 1474
answer the purchaser's questions and provide information to the 1475
purchaser regarding any offers or counteroffers; 1476

(3) Assist the purchaser in developing, communicating, and 1477
presenting offers or counteroffers; 1478

(4) Present any offer to purchase or lease to the seller 1479
or the seller's agent in a timely manner, even if the property 1480

is subject to a contract of sale, lease, or letter of intent to 1481
lease, and accept delivery of and present any counteroffers to 1482
the purchaser in a timely manner; 1483

(5) Within the scope of knowledge required for licensure, 1484
answer the purchaser's questions regarding the steps the 1485
purchaser must take to fulfill the terms of any contract. 1486

(B) A licensee does not breach any duty or obligation to 1487
the purchaser by showing the same properties to other purchasers 1488
or by preparing or presenting contemporaneous offers to purchase 1489
or lease the same property. Prior to preparing a contemporaneous 1490
offer, a licensee shall disclose that fact to all clients for 1491
whom the licensee is preparing, presenting, or has prepared or 1492
presented contemporaneous offers to purchase or lease the same 1493
property and shall refer to another licensee any client that 1494
requests such referral. 1495

(1) The disclosure required by this section shall be 1496
provided in writing unless written disclosure cannot be 1497
delivered in a timely manner, in which case the licensee shall 1498
provide the disclosure verbally. 1499

(2) A licensee does not breach a duty of confidentiality 1500
to any client by disclosing the fact of contemporaneous offers, 1501
but shall maintain as confidential between the purchasers the 1502
identity of the purchasers and the terms of the offers. 1503

(C) A licensee does not breach any duty or obligation to 1504
the purchaser by acting as an agent or subagent for other 1505
purchasers, or as an agent or subagent for sellers, except that 1506
any dual agency relationship must be disclosed to a client 1507
pursuant to section 4735.71 of the Revised Code. 1508

~~(C)~~ (D) Nothing in this section shall be construed as 1509

permitting a licensee to perform any act or service that	1510
constitutes the practice of law.	1511
Section 2. That existing sections 4735.01, 4735.06,	1512
4735.07, 4735.09, 4735.10, 4735.141, 4735.142, 4735.18, 4735.24,	1513
4735.51, and 4736.65 of the Revised Code are hereby repealed.	1514