As Introduced

131st General Assembly Regular Session 2015-2016

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, 4735.18, 4735.24,	2
4735.51, and 4735.65 and to enact sections	3
4735.081, 4735.091, and 4735.23 of the Revise	d 4
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, 4735.18, 4735.24, 4735.51, and	8
4735.65 be amended and sections 4735.081, 4735.091, and 4735.23	9
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 20 negotiates the sale, exchange, purchase, rental, or leasing of 21 any real estate; 22 (2) Offers, attempts, or agrees to negotiate the sale, 23 exchange, purchase, rental, or leasing of any real estate; 24 (3) Lists, or offers, attempts, or agrees to list, or 2.5 auctions, or offers, attempts, or agrees to auction, any real 26 estate; 27 (4) Buys or offers to buy, sells or offers to sell, or 28 otherwise deals in options on real estate; 29 30 (5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or 31 janitor, any building or portions of buildings to the public as 32 tenants; 33 (6) Advertises or holds self out as engaged in the 34 business of selling, exchanging, purchasing, renting, or leasing 35 real estate; 36 (7) Directs or assists in the procuring of prospects or 37 the negotiation of any transaction, other than mortgage 38 financing, which does or is calculated to result in the sale, 39 exchange, leasing, or renting of any real estate; 40 (8) Is engaged in the business of charging an advance fee 41 or contracting for collection of a fee in connection with any 42 contract whereby the broker undertakes primarily to promote the 43

sale, exchange, purchase, rental, or leasing of real estate44through its listing in a publication issued primarily for such45purpose, or for referral of information concerning such real46estate to brokers, or both, except that this division does not47apply to a publisher of listings or compilations of sales of48

real estate by their owners;

(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.
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(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 includes all of the following:

(1) <u>A state institution of higher education, as defined in</u> section 3345.011 of the Revised Code;

(2) A nonprofit institution as defined in section 1713.0166of the Revised Code that actually awards, rather than intends to67award, degrees for fulfilling requirements of academic work68beyond high school_issued a certificate of authorization under69Chapter 1713. of the Revised Code;70

(2) An(3) A private institution operated for profit that71otherwise qualifies under the definition of an institution in72section 1713.01 of the Revised Code and that actually awards,73rather than intends to award, degrees for fulfilling74requirements of academic work beyond high school exempt from75regulation under Chapter 3332. of the Revised Code, as76prescribed in section 3333.046 of the Revised Code.77

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(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
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owned by such person, partnership, association, limited
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liability company, limited liability partnership, or
corporation, or acquired on its own account in the regular
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course of, or as an incident to the management of the property
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and the investment in it;
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(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 135official duties; 136

(d) As an attorney at law in the performance of the137attorney's duties;138

(e) As a person who engages in the brokering of the sale
of business assets, not including the sale, lease, exchange, or
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assignment of any interest in real estate;
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(f) As a person who engages in the sale of manufactured 142 homes as defined in division (C) (4) of section 3781.06 of the 143 Revised Code, or of mobile homes as defined in division (0) of 144 section 4501.01 of the Revised Code, provided the sale does not 145 include the negotiation, sale, lease, exchange, or assignment of 146 any interest in real estate; 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.

(2) A person, partnership, association, limited liability
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company, limited liability partnership, or corporation exempt
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under division (I)(1)(a) of this section shall be limited by the
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legal interest in the real estate held by that person or entity
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to performing any of the acts or transactions specified in or
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comprehended by division (A) of this section.

(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.

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

(L) "Superintendent" or "superintendent of real estate"164means the superintendent of the division of real estate and165

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professional licensing of this state. Whenever the division or166superintendent of real estate is referred to or designated in167any statute, rule, contract, or other document, the reference or168designation shall be deemed to refer to the division or169superintendent of real estate and professional licensing, as the170case may be.171

(M) "Inactive license" means the license status in which a
salesperson's license is in the possession of the division,
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renewed as required under this chapter or rules adopted under
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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 renewed as
required under this chapter or rules adopted under this chapter.

(0) "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
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superintendent of real estate and professional licensing to
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remove a license from an inactive, suspended, or broker's
license on deposit status to allow a licensee to provide
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services that require a license under this chapter.

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

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

sold, leased, or otherwise conveyed on a unit-by-unit basis,195even when those units are a part of a larger building or parcel196of real estate containing more than four residential units.197

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

(T) "Out-of-state commercial salesperson" includes any
person affiliated with an out-of-state commercial broker who is
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not licensed as a real estate salesperson in Ohio.
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(U) "Exclusive right to sell or lease listing agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the210seller in the sale or lease of the seller's property;211

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

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

(1) Grants the broker the exclusive right to represent the222seller in the sale or lease of the seller's property;223

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(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
agreement between a purchaser and broker that meets the
requirements of section 4735.55 of the Revised Code and does
both of the following:

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

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

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
who is the potential transferor of property. "Seller" includes
an owner of property who is seeking to sell the property and a
landlord who is seeking to rent or lease property to another
person.

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

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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 2.57 real estate broker. 258 (Z) "Bona fide" means made in good faith or without 259 260 purpose of circumventing license law. (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 (I) of section 4735.09, and division (A) of section 4735.141 280 of the Revised Code in which instruction is accomplished through 281

use of interactive, electronic media and where the teacher and	282
student are separated by distance or time, or both.	283
(EE) "Licensee" means any individual licensed as a real	284
estate broker or salesperson by the Ohio real estate commission	285
pursuant to this chapter.	286
(FF) "Management level licensee" means a licensee who is	287
employed by or affiliated with a real estate broker and who has	288
supervisory responsibility over other licensees employed by or	289
affiliated with that real estate broker.	290
(GG) "Principal broker" means an individual licensed as a	291
real estate broker under this chapter who oversees and directs	292
the operations of the brokerage.	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
(B)(1) 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 311 liability company, limited liability partnership, or corporation 312 is likely to mislead the public or if the name is not such as to 313 distinguish it from the name of any existing partnership, 314 association, limited liability company, limited liability 315 partnership, or corporation licensed under this chapter, unless 316 there is filed with the application the written consent of such 317 existing partnership, association, limited liability company, 318 319 limited liability partnership, or corporation, executed by a duly authorized representative of it, permitting the use of the 320 name of such existing partnership, association, limited 321 liability company, limited liability partnership, or 322 corporation. 323 (B)(2) The superintendent shall approve the use of a trade 324 name by a brokerage, if the name meets both of the following 325 criteria: 326 (a) The proposed name is not the same as or is clearly 327 distinguishable from a name registered with the division of real 328 estate and professional licensing by another existing brokerage. 329 330 If the superintendent determines that the proposed name is not clearly distinguishable from any other existing brokerage, the 331 superintendent may approve the use of the trade name if there is 332 filed with the superintendent the written consent of the 333 existing brokerage with the same or similar name. 334 (b) The name is not misleading or likely to mislead the 335 public. 336 (3) The superintendent may approve the use of more than 337 one trade name for a brokerage. 338 (4) When a brokerage has received the approval of the 339

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
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(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

380 The governor may appoint a representative from the 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

390 (D) (E) If the superintendent, with the consent of the 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
take the broker's examination who has not established to the
satisfaction of the superintendent that the applicant:
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(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 421 violated any municipal, state, or federal civil rights laws 422 423 relevant to the protection of purchasers or sellers of real 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

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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

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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;	470
nours, in numan resource of personner 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

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practice;

(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
<pre>finance;</pre>	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

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(d) Divisions (B) (6) (a) (iii) and (B) (6) (b) (iii) of this
section do 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 broker's license.

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

(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 535 536 course was completed.

(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

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(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 timesan 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

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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 595 596 all of the following occur:

(a) That broker subsequently submits satisfactory proof to
(b) 597
(c) 598
<

(b) The superintendent then reactivates the broker's602license as a real estate broker;603

(c) The associated real estate salesperson intends to604continue to be associated with that broker and otherwise is in605

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

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

competency.

(D) The principal broker or brokers of a brokerage may 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 680 681 is associated or with whom the applicant intends to be 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

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(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 701 702 an applicant may retake the examination. (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 711 712 superintendent may require an applicant to pay the testing 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 estatesalesperson's license when satisfied that the applicant has720

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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 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 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 739 740 for believing that the applicant again will violate the laws 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

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will violate the laws involved.

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(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;

(5) If born after the year 1950, has a high school diplomaor its equivalent as recognized by the state department ofr60education;r61

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

(a) Forty hours of classroom-instruction in real estatepractice;

(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 770 771 prior discrimination. If feasible, the classroom-instruction in 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

(c) Twenty hours of classroom-instruction in real estate 781 appraisal; 782 (d) Twenty hours of classroom-instruction in real estate 783 finance. 784 (G) (1) Successful completion of the instruction required 785 by division (F) (6) of this section shall be determined by the 786 law in effect on the date the instruction was completed. 787 (2) Division (F)(6)(c) of this section does not apply to 788 any new applicant who holds a valid Ohio real estate appraiser 789 license or certificate issued prior to the date of application 790 for a real estate salesperson's license. 791 (H) Any person who has not been licensed as a real estate 792 salesperson or broker within a four-year period immediately 793 preceding the person's current application for the salesperson's 794 examination shall have successfully completed the prelicensure 795 classroom-instruction required by division (F)(6) of this 796 section within a ten-year period immediately preceding the 797 person's current application for the salesperson's examination. 798 (I) Not earlier than the date of issue of a real estate 799 salesperson's license to a licensee, but not later than twelve 800 months after the date of issue of a real estate salesperson 801 license to a licensee, the licensee shall submit proof 802 satisfactory to the superintendent, on forms made available by 803 the superintendent, of the completion of ten-twenty hours of 804 classroom-instruction that shall be completed in schools, 805 seminars, and educational institutions approved by the 806 commission. The instruction shall include, but is not limited 807 to, current practices relating to commercial real estate, 808

who is admitted to practice before the supreme court.

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property management, short sales, and land contracts; contract	809
law; federal and state programs; economic conditions; and	810
fiduciary responsibility. Approval of the curriculum and	811
providers shall be granted according to rules adopted pursuant	812
to section 4735.10 of the Revised Code and may be taken through	813
classroom instruction or distance education.	814
If proof of completion of the required instruction is not	815
submitted within twelve months of the date a license is issued	816
under this section, the licensee's license is suspended	817
automatically without the taking of any action by the	818
superintendent. The superintendent immediately shall notify the	819
broker with whom such salesperson is associated of the	820
suspension of the salesperson's license. A salesperson whose	821
license has been suspended under this division shall have twelve	822
months after the date of the suspension of the salesperson's	823
license to submit proof of successful completion of the	824
instruction required under this division. No such license shall	825
be reactivated by the superintendent until it is established, to	826
the satisfaction of the superintendent, that the requirements of	827
this division have been met and that the licensee is in	828
compliance with this chapter. A licensee's license is revoked	829
automatically without the taking of any action by the	830
superintendent when the licensee fails to submit the required	831
proof of completion of the education requirements under division	832
(I) of this section within twelve months of the date the license	833
is suspended.	834
(J) Examinations shall be administered with reasonable	835
accommodations in accordance with the requirements of the	836
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42	837

"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 837 U.S.C. 12189. The contents of an examination shall be consistent 838 with the classroom instructional requirements of division (F)(6) 839 of this section. An applicant who has completed the classroom840instructional requirements of division (F)(6) of this section at841the time of application shall be examined no later than twelve842months after the applicant is notified of the applicant's843admission to the examination.844

Sec. 4735.091. A real estate broker, real estate	845
salesperson, foreign real estate dealer, and foreign real estate	846
salesperson may be associated with a brokerage as either an	847
employee or an independent contractor.	848

Sec. 4735.10. (A) (1) The Ohio real estate commission may 849 adopt reasonable rules in accordance with Chapter 119. of the 850 Revised Code, necessary for implementing the provisions of this 851 chapter relating, but not limited to, the following: 852

(a) The form and manner of filing applications for853licensure;

(b) Times and form of examination for license;

(c) Placing an existing broker's license on deposit or a
 salesperson's license on an inactive status for an indefinite
 period;
 858

(d) Specifying the process by which a licensee may resign859the licensee's license;860

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

(f) Clarification of the activities that require a license 866
under this chapter; 867

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(g) Permitting a broker to act as principal broker for	868
more than one brokerage.	869
(2) The commission shall adopt reasonable rules in	870
accordance with Chapter 119. of the Revised Code, for	871
implementing the provisions of this chapter relating to the	872
following:	873
(a) The issuance, renewal, suspension, and revocation of	874
licenses, other sanctions that may be imposed for violations of	875
this chapter, the conduct of hearings related to these actions,	876
and the process of reactivating a license;	877
(b) A three-year license and a three-year license renewal	878
system;	879
(c) Standards for the approval of the ten-hour-	880
postlicensure courses as required by division (G) of section	881
4735.07 and division (I) of section 4735.09 of the Revised Code,	882
courses of study required for licenses, courses offered in	883
preparation for license examinations, or courses required as	884
continuing education for licenses.	885
(d) Guidelines to ensure that continuing education classes	886
are open to all persons licensed under this chapter. The rules	887
shall specify that an organization that sponsors a continuing	888
education class may offer its members a reasonable reduction in	889
the fees charged for the class.	890
(e) Requirements for trust accounts and property	891
management accounts. The rules shall specify that:	892
(i) Brokerages engaged in the management of property for	893
another may, pursuant to a written contract with the property	894

another may, pursuant to a written contract with the property894owner, exercise signatory authority for withdrawals from895property management accounts maintained in the name of the896

property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of 898 section 4735.18 of the Revised Code. 899 (ii) The interest earned on property management trust 900 accounts maintained in the name of the property owner or the 901 broker shall be payable to the property owner unless otherwise 902 specified in a written contract. 903 904 (f) Notice of renewal forms and filing deadlines; (q) Special assessments under division (A) of section 905 4735.12 of the Revised Code. 906 (B) The commission may adopt rules in accordance with 907 Chapter 119. of the Revised Code establishing standards and 908 quidelines with which the superintendent of real estate shall 909 comply in the exercise of the following powers: 910 (1) Appointment and recommendation of ancillary trustees 911 under section 4735.05 of the Revised Code; 912 (2) Rejection of names proposed to be used by 913 partnerships, associations, limited liability companies, limited 914 liability partnerships, and corporations, under division $\frac{(A)}{(B)}$ 915 of section 4735.06 of the Revised Code, including procedures for 916 the application and approval of more than one trade name for a 917 brokerage; 918 (3) Acceptance and rejection of applications to take the 919 broker and salesperson examinations and licensure, with 920 appropriate waivers pursuant to division (E) of section 4735.07 921

(4) Approval of applications of brokers to place their 923 licenses in an inactive status and to become salespersons under 924

and section 4735.09 of the Revised Code;

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section 4735.13 of the Revised Code;	925
(5) Appointment of hearing examiners under section 119.09	926
of the Revised Code;	927
(6) Acceptance and rejection of applications to take the	928
foreign real estate dealer and salesperson examinations and	929
licensure, with waiver of examination, under sections 4735.27	930
and 4735.28 of the Revised Code;	931
(7) Qualification of foreign real estate under section	932
4735.25 of the Revised Code.	933
If at any time there is no rule in effect establishing a	934
guideline or standard required by this division, the	935
superintendent may adopt a rule in accordance with Chapter 119.	936
of the Revised Code for such purpose.	937
(C) The commission or superintendent may hear testimony in	938
matters relating to the duties imposed upon them, and the	939
president of the commission and superintendent may administer	940
oaths. The commission or superintendent may require other proof	941
of the honesty, truthfulness, and good reputation of any person	942
named in an application for a real estate broker's or real	943
estate salesperson's license before admitting the applicant to	944
the examination or issuing a license.	945
Sec. 4735.141. (A) Except as otherwise provided in this	946
division and in section 4735.13 of the Revised Code and except	947
for a licensee who has placed the licensee's license in resigned	948
status pursuant to section 4735.142 of the Revised Code, each	949
person licensed under section 4735.07 or 4735.09 of the Revised	950
Code shall submit proof satisfactory to the superintendent of	951
real estate that the licensee has satisfactorily completed	952
thirty hours of continuing education, as prescribed by the Ohio	953

real estate commission pursuant to section 4735.10 of the	954
Revised Code, on or before the licensee's birthday occurring	955
three years after the licensee's date of initial licensure, and	956
on or before the licensee's birthday every three years	957
thereafter. If the person is licensed as a broker or broker on	958
deposit, or acts as a management level licensee, the continuing	959
education shall include a three-hour course on the duties of a	960
principal broker and other issues involved in operating a real	961
estate brokerage. The continuing education may be completed by	962
either classroom instruction or distance education.	963
Persons licensed as real estate salespersons who	964
subsequently become licensed real estate brokers shall continue	965
to submit proof of continuing education in accordance with the	966
time period established in this section.	967
eine period escapitoned in ento secoton.	507
The requirements of this section shall not apply to any	968
disabled licensee as provided in division (E) of this section.	969
Each licensee who is seventy years of age or older, within	970
a continuing education reporting period, shall submit proof	971
satisfactory to the superintendent of real estate that the	972
licensee has satisfactorily completed—a both of the following:	973
<u>(1) A</u> total of nine classroom hours of continuing	974
education, including instruction in Ohio real estate law;	975
recently enacted state and federal laws affecting the real	976
estate industry; municipal, state, and federal civil rights law;	977
and canons of ethics for the real estate industry as adopted by	978
the commission <u>;</u>	979
(2) If lighted as a broken broken on dependit on satir-	0.0.0
(2) If licensed as a broker, broker on deposit, or acting	980
as a management level licensee, a three-hour continuing	981
education course on the duties of a principal broker and other	982

issues involved in operating a real estate brokerage.

The continuing education may be completed by either 984 classroom instruction or distance education. The required proof 985 of completion shall be submitted on or before the licensee's 986 birthday that falls in the third year of that continuing 987 education reporting period. A licensee who is seventy years of 988 age or older whose license is in an inactive status is exempt 989 from the continuing education requirements specified in this 990 section. The commission shall adopt reasonable rules in 991 accordance with Chapter 119. of the Revised Code to carry out 992 the purposes of this paragraph. 993

(B) The continuing education requirements of this section 994 shall be completed in schools, seminars, and educational 995 institutions approved by the commission. Such approval shall be 996 given according to rules established by the commission under the 997 procedures of Chapter 119. of the Revised Code, and shall not be 998 limited to institutions providing two-year or four-year degrees. 999 Each school, seminar, or educational institution approved under 1000 this division shall be open to all licensees on an equal basis. 1001

(C) If the requirements of this section are not met by a 1002 licensee within the period specified, the licensee's license 1003 shall be suspended automatically without the taking of any 1004 action by the superintendent. The superintendent shall notify 1005 the licensee of the license suspension, and such notification 1006 shall be sent by regular mail to the personal residence address 1007 of the licensee that is on file with the division. Any license 1008 so suspended shall remain suspended until it is reactivated by 1009 the superintendent. No such license shall be reactivated until 1010 it is established, to the satisfaction of the superintendent, 1011 that the requirements of this section have been met. If the 1012

requirements of this section are not met within twelve months 1013 from the date the license was suspended, the license shall be 1014 revoked automatically without the taking of any action by the 1015 superintendent. 1016

(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 (H) of section 4735.20 of the
Revised Code. A sole broker shall notify affiliated salespersons
of the suspension in writing within three days of receiving the
notice required by division (C) of this section.

(1) The suspended license of the associated real estate 1024 salesperson shall be reactivated and no fee shall be charged or 1025 collected for that reactivation if that broker subsequently 1026 submits proof to the superintendent that the broker has complied 1027 with the requirements of this section and requests that the 1028 broker's license as a real estate broker be reactivated, and the 1029 superintendent then reactivates the broker's license as a real 1030 estate broker. 1031

(2) If the real estate salesperson submits an application 1032 to leave the association of the suspended broker in order to 1033 associate with a different broker, the suspended license of the 1034 associated real estate salesperson shall be reactivated and no 1035 fee shall be charged or collected for that reactivation. The 1036 superintendent may process the application regardless of whether 1037 the licensee's license is returned to the superintendent. 1038

Any person whose license is reactivated pursuant to this 1039 division shall comply with the requirements of this section and 1040 otherwise be in compliance with this chapter. 1041

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(E) Any licensee who is a disabled licensee at any time 1042 during the last three months of the third year of the licensee's 1043 continuing education reporting period may receive an extension 1044 of time as deemed appropriate by the superintendent to submit 1045 proof to the superintendent that the licensee has satisfactorily 1046 completed the required thirty hours of continuing education. To 1047 receive an extension of time, the licensee shall submit a 1048 request to the division of real estate for the extension and 1049 proof satisfactory to the commission that the licensee was a 1050 disabled licensee at some time during the last three months of 1051 the three-year reporting period. The proof shall include, but is 1052 not limited to, a signed statement by the licensee's attending 1053 physician describing the disability, certifying that the 1054 licensee's disability is of such a nature as to prevent the 1055 licensee from attending any instruction lasting at least three 1056 hours in duration, and stating the expected duration of the 1057 disability. The licensee shall request the extension and provide 1058 the physician's statement to the division no later than one 1059 month prior to the end of the licensee's three-year continuing 1060 education reporting period, unless the disability did not arise 1061 until the last month of the three-year reporting period, in 1062 which event the licensee shall request the extension and provide 1063 the physician's statement as soon as practical after the 1064 occurrence of the disability. A licensee granted an extension 1065 pursuant to this division who is no longer a disabled licensee 1066 and who submits proof of completion of the continuing education 1067 during the extension period, shall submit, for future continuing 1068 education reporting periods, proof of completion of the 1069 continuing education requirements according to the schedule 1070 established in division (A) of this section. 1071

(F) The superintendent shall not renew a license if the 1072

licensee fails to comply with this section, and the licensee 1073 shall be required to pay the penalty fee provided in section 1074 4735.14 of the Revised Code. 1075

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

1080 Sec. 4735.18. (A) Subject to section 4735.32 of the Revised Code, the superintendent of real estate, upon the 1081 superintendent's own motion, may investigate the conduct of any 1082 licensee. Subject to section 4735.32 of the Revised Code, the 1083 Ohio real estate commission shall impose disciplinary sanctions 1084 upon any licensee who, whether or not acting in the licensee's 1085 capacity as a real estate broker or salesperson, or in handling 1086 the licensee's own property, is found to have been convicted of 1087 a felony or a crime of moral turpitude, and may impose 1088 disciplinary sanctions upon any licensee who, in the licensee's 1089 capacity as a real estate broker or salesperson, or in handling 1090 the licensee's own property, is found guilty of: 1091

Knowingly making any misrepresentation;

(2) Making any false promises with intent to influence, 1093persuade, or induce; 1094

(3) A continued course of misrepresentation or the making
 1095
 of false promises through agents, salespersons, advertising, or
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 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 1101

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remit any money coming into the licensee's possession which 1102 belongs to others; 1103 (6) Dishonest or illegal dealing, gross negligence, 1104 incompetency, or misconduct; 1105 (7) (a) By final adjudication by a court, a violation of 1106 any municipal or federal civil rights law relevant to the 1107 protection of purchasers or sellers of real estate or, by final 1108 adjudication by a court, any unlawful discriminatory practice 1109 pertaining to the purchase or sale of real estate prohibited by 1110 Chapter 4112. of the Revised Code, provided that such violation 1111 arose out of a situation wherein parties were engaged in bona 1112 fide efforts to purchase, sell, or lease real estate, in the 1113 licensee's practice as a licensed real estate broker or 1114 salesperson; 1115

(b) A second or subsequent violation of any unlawful 1116 discriminatory practice pertaining to the purchase or sale of 1117 real estate prohibited by Chapter 4112. of the Revised Code or 1118 any second or subsequent violation of municipal or federal civil 1119 rights laws relevant to purchasing or selling real estate 1120 whether or not there has been a final adjudication by a court, 1121 provided that such violation arose out of a situation wherein 1122 parties were engaged in bona fide efforts to purchase, sell, or 1123 lease real estate. For any second offense under this division, 1124 the commission shall suspend for a minimum of two months or 1125 revoke the license of the broker or salesperson. For any 1126 subsequent offense, the commission shall revoke the license of 1127 the broker or salesperson. 1128

(8) Procuring a license under this chapter, for thelicensee or any salesperson by fraud, misrepresentation, ordeceit;1131

(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
1134
chapter;

(10) As a real estate broker, having demanded, without 1136 reasonable cause, other than from a broker licensed under this 1137 chapter, a commission to which the licensee is not entitled, or, 1138 as a real estate salesperson, having demanded, without 1139 reasonable cause, a commission to which the licensee is not 1140 entitled; 1141

(11) Except as permitted under section 4735.20 of the 1142 Revised Code, having paid commissions or fees to, or divided 1143 commissions or fees with, anyone not licensed as a real estate 1144 broker or salesperson under this chapter or anyone not operating 1145 as an out-of-state commercial real estate broker or salesperson 1146 under section 4735.022 of the Revised Code; 1147

(12) Having falsely represented membership in any real 1148
estate professional association of which the licensee is not a 1149
member; 1150

(13) Having accepted, given, or charged any undisclosed 1151 commission, rebate, or direct profit on expenditures made for a 1152 principal; 1153

(14) Having offered anything of value other than the 1154 consideration recited in the sales contract as an inducement to 1155 a person to enter into a contract for the purchase or sale of 1156 real estate or having offered real estate or the improvements on 1157 real estate as a prize in a lottery or scheme of chance; 1158

(15) Having acted in the dual capacity of real estatebroker and undisclosed principal, or real estate salesperson and1160

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

(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;

(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;
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(19) Having negotiated the sale, exchange, or lease of any 1171 real property directly with a seller, purchaser, lessor, or 1172 tenant knowing that such seller, purchaser, lessor, or tenant is 1173 represented by another broker under a written exclusive agency 1174 agreement, exclusive right to sell or lease listing agreement, 1175 or exclusive purchaser agency agreement with respect to such 1176 property except as provided for in section 4735.75 of the 1177 Revised Code: 1178

(20) Having offered real property for sale or for lease 1179 without the knowledge and consent of the owner or the owner's 1180 authorized agent, or on any terms other than those authorized by 1181 the owner or the owner's authorized agent; 1182

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

(22) Having knowingly withheld from or inserted in anystatement of account or invoice any statement that made it1189

customers;

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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

(24) Having failed to keep complete and accurate records 1195 of all transactions for a period of three years from the date of 1196 1197 the transaction, such records to include copies of listing 1198 forms, earnest money receipts, offers to purchase and acceptances of them, records of receipts and disbursements of 1199 all funds received by the licensee as broker and incident to the 1200 licensee's transactions as such, and records required pursuant 1201 to divisions (C)(4) and (5) of section 4735.20 of the Revised 1202 Code, and any other instruments or papers related to the 1203 performance of any of the acts set forth in the definition of a 1204 real estate broker; 1205

(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 1210 bank account in a depository located in this state. The account 1211 shall be noninterest-bearing, separate and distinct from any 1212 personal or other account of the broker, and, except as provided 1213 in division (A) (27) of this section, shall be used for the 1214 deposit and maintenance of all escrow funds, security deposits, 1215 and other moneys received by the broker in a fiduciary capacity. 1216 The name, account number, if any, and location of the depository 1217 wherein such special or trust account is maintained shall be 1218 submitted in writing to the superintendent. Checks drawn on such 1219 special or trust bank accounts are deemed to meet the conditions1220imposed by section 1349.21 of the Revised Code. Funds deposited1221in the trust or special account in connection with a purchase1222agreement shall be maintained in accordance with section 4735.241223of the Revised Code.1224

(27) Failure to maintain at all times a special or trust 1225 bank account in a depository in this state, to be used 1226 exclusively for the deposit and maintenance of all rents, 1227 security deposits, escrow funds, and other moneys received by 1228 1229 the broker in a fiduciary capacity in the course of managing real property. This account shall be separate and distinct from 1230 any other account maintained by the broker. The name, account 1231 number, and location of the depository shall be submitted in 1232 writing to the superintendent. This account may earn interest, 1233 which shall be paid to the property owners on a pro rata basis. 1234

Division (A)(27) of this section does not apply to brokers 1235 who are not engaged in the management of real property on behalf 1236 of real property owners. 1237

(28) Having failed to put definite expiration dates in all1238written agency agreements to which the broker is a party;1239

(29) Having an unsatisfied final judgment or lien in any
court of record against the licensee arising out of the
licensee's conduct as a licensed broker or salesperson;
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(30) Failing to render promptly upon demand a full and 1243
complete statement of the expenditures by the broker or 1244
salesperson of funds advanced by or on behalf of a party to a 1245
real estate transaction to the broker or salesperson for the 1246
purpose of performing duties as a licensee under this chapter in 1247
conjunction with the real estate transaction; 1248

(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) Performing any service for another constituting thepractice of law, as determined by any court of law;1254

(33) Having been adjudicated incompetent for the purpose
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of holding the license by a court, as provided in section
5122.301 of the Revised Code. A license revoked or suspended
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under this division shall be reactivated upon proof to the
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commission of the removal of the disability.
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(34) Having authorized or permitted a person to act as an 1260 agent in the capacity of a real estate broker, or a real estate 1261 salesperson, who was not then licensed as a real estate broker 1262 or real estate salesperson under this chapter or who was not 1263 then operating as an out-of-state commercial real estate broker 1264 or salesperson under section 4735.022 of the Revised Code; 1265

(35) Having knowingly inserted or participated in
inserting any materially inaccurate term in a document,
including naming a false consideration;
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(36) Having failed to inform the licensee's client of the 1269 existence of an offer or counteroffer or having failed to 1270 present an offer or counteroffer in a timely manner, unless 1271 otherwise instructed by the client, provided the instruction of 1272 the client does not conflict with any state or federal law; 1273

(37) Having failed to comply with section 4735.24 of the 1274
Revised Code; 1275

(38) Having acted as a broker without authority, impeded1276the ability of a principal broker to perform any of the duties1277

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described in section 4735.081 of the Revised Code, or impeded 1278 the ability a management level licensee to perform the 1279 licensee's duties. 1280 (B) Whenever the commission, pursuant to section 4735.051 1281 of the Revised Code, imposes disciplinary sanctions for any 1282 violation of this section, the commission also may impose such 1283 sanctions upon the broker with whom the salesperson is 1284 affiliated if the commission finds that the broker had knowledge 1285 of the salesperson's actions that violated this section. 1286 (C) The commission shall, pursuant to section 4735.051 of 1287 the Revised Code, impose disciplinary sanctions upon any foreign 1288 real estate dealer or salesperson who, in that capacity or in 1289 handling the dealer's or salesperson's own property, is found 1290 quilty of any of the acts or omissions specified or comprehended 1291 in division (A) of this section insofar as the acts or omissions 1292 pertain to foreign real estate. If the commission imposes such 1293 sanctions upon a foreign real estate salesperson for a violation 1294 of this section, the commission also may suspend or revoke the 1295 license of the foreign real estate dealer with whom the 1296 salesperson is affiliated if the commission finds that the 1297 dealer had knowledge of the salesperson's actions that violated 1298 1299 this section. (D) The commission may suspend, in whole or in part, the 1300

imposition of the penalty of suspension of a license under this1301section.1302Sec. 4735.23. At the request of the superintendent of real1303estate, the department of higher education may, in consultation1304with the division of real estate, perform a review of programs1305offered by an institution of higher education pursuant to1306

division (B)(6)(a) or (b) of section 4735.07 and division (F)(6)

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of section 4735.09 of the Revised Code. The superintendent or	1308
the chancellor of higher education may request from the	1309
institution any information the superintendent or chancellor	1310
considers necessary to perform this review.	1311
Sec. 4735.24. (A) Except as otherwise provided in this	1312
section, when earnest money connected to a real estate purchase	1313
agreement is deposited in a real estate broker's trust or	1314
special account, the broker shall maintain that money in the	1315
account in accordance with the terms of the purchase agreement	1316
until one of the following occurs:	1317
(1) The transaction closes and the broker disburses the	1318
earnest money to the closing or escrow agent or otherwise	1319
disburses the money pursuant to the terms of the purchase	1320
agreement.	1321
(2) The parties provide the broker with <u>separate</u> written	1322
	1322 1323
(2) The parties provide the broker with <u>separate</u> written	-
(2) The parties provide the broker with <u>separate</u> written instructions that both parties have signed that specify how the	1323
(2) The parties provide the broker with <u>separate</u> written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts	1323 1324
(2) The parties provide the broker with <u>separate</u> written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts pursuant to those instructions.	1323 1324 1325
 (2) The parties provide the broker with <u>separate</u> written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts pursuant to those instructions. (3) The broker receives a copy of a final court order that 	1323 1324 1325 1326
 (2) The parties provide the broker with <u>separate</u> written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts pursuant to those instructions. (3) The broker receives a copy of a final court order that specifies to whom the earnest money is to be awarded and the 	1323 1324 1325 1326 1327
 (2) The parties provide the broker with <u>separate</u> written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts pursuant to those instructions. (3) The broker receives a copy of a final court order that specifies to whom the earnest money is to be awarded and the broker acts pursuant to the court order. 	1323 1324 1325 1326 1327 1328
 (2) The parties provide the broker with <u>separate</u> written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts pursuant to those instructions. (3) The broker receives a copy of a final court order that specifies to whom the earnest money is to be awarded and the broker acts pursuant to the court order. (4) The earnest money becomes unclaimed funds as defined 	1323 1324 1325 1326 1327 1328 1329
 (2) The parties provide the broker with <u>separate</u> written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts pursuant to those instructions. (3) The broker receives a copy of a final court order that specifies to whom the earnest money is to be awarded and the broker acts pursuant to the court order. (4) The earnest money becomes unclaimed funds as defined in division (M) (2) of section 169.02 of the Revised Code and, 	1323 1324 1325 1326 1327 1328 1329 1330
 (2) The parties provide the broker with <u>separate</u> written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts pursuant to those instructions. (3) The broker receives a copy of a final court order that specifies to whom the earnest money is to be awarded and the broker acts pursuant to the court order. (4) The earnest money becomes unclaimed funds as defined in division (M) (2) of section 169.02 of the Revised Code and, after providing the notice that division (D) of section 169.03 	1323 1324 1325 1326 1327 1328 1329 1329 1330 1331
 (2) The parties provide the broker with <u>separate</u> written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts pursuant to those instructions. (3) The broker receives a copy of a final court order that specifies to whom the earnest money is to be awarded and the broker acts pursuant to the court order. (4) The earnest money becomes unclaimed funds as defined in division (M) (2) of section 169.02 of the Revised Code and, after providing the notice that division (D) of section 169.03 of the Revised Code requires, the broker has reported the 	1323 1324 1325 1326 1327 1328 1329 1330 1331 1332

(B) A purchase agreement may provide that in the event of 1336

a dispute regarding the disbursement of the earnest money, the1337broker will return the money to the purchaser without notice to1338the parties unless, within two years from the date the earnest1339money was deposited in the broker's trust or special account,1340the broker has received one of the following:1341

(1) Written instructions signed by both parties specifyinghow the money is to be disbursed;1343

(2) Written notice that a court action to resolve the1344dispute has been filed.1345

(C) (1) If the parties dispute the disbursement of the 1346 earnest money and the purchase agreement contains the provision 1347 described in division (B) of this section, not later than the 1348 first day of September following the two year anniversary date 1349 of the deposit of the earnest money in the broker's account, the 1350 broker shall return the earnest money to the purchaser unless 1351 the parties provided the broker with written instructions or a 1352 notice of a court action as described in division (B) of this 1353 section. 1354

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

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        Sec. 4735.51. As used in sections 4735.51 to 4735.74 of
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        the Revised Code:
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(A) "Agency" and "Agencyagency relationship" mean a 1363
relationship in which a licensee represents another person in a 1364
real estate transaction. 1365

(B) "Agency agreement" means a contract between a licensee 1366 and a client in which the client promises to pay the broker a 1367 valuable consideration, or agrees that the licensee may receive 1368 a valuable consideration from another, for performing an act 1369 that requires a real estate license under this chapter. 1370 (C) "Agent" and "real estate agent" mean a person licensed 1371 by this chapter to represent another in a real estate 1372 transaction. 1373 (D) "Affiliated licensee" means a real estate broker or a 1374 real estate salesperson licensed by this chapter who is 1375 affiliated with a brokerage. 1376 (E) "Brokerage" means a corporation, partnership, limited 1377 partnership, association, limited liability company, limited 1378 liability partnership, or sole proprietorship issued a broker's 1379 license. "Brokerage" includes the affiliated licensees who have 1380 been assigned management duties that include supervision of 1381 licensees whose duties may conflict with those of other 1382 affiliated licensees. 1383 (F) "Client" means a person who has entered into an agency 1384 relationship with a licensee. 1385 (G) (F) "Confidential information" means all information 1386 that a client directs to be kept confidential or that if 1387 disclosed would have an adverse effect on the client's position 1388 in the real estate transaction, except to the extent the agent 1389

information that is required by law to be kept confidential.1391(H) (G) "Contemporaneous offers" means offers to purchase1392or lease on behalf of two or more clients represented by the1393

is required by law to disclose such information, and all

same licensee for the same property that the licensee knows, has 1394

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known, or has reason to know will be taken under consideration 1395 by the owner or owner's authorized representative during the 1396 same period of time. 1397 (H) "Dual agency relationship" means any of the dual 1398 agency relationships set forth in section 4735.70 of the Revised 1399 Code. 1400 (I) "In-company transaction" means a real estate 1401 1402 transaction in which the purchaser and seller are both represented by the same brokerage. 1403 (J) "Licensee" means any individual licensed as a real-1404 estate broker or salesperson by the Ohio real estate commission 1405 pursuant to this chapter. 1406 (K) "Management level licensee" means a licensee who is-1407 employed by or affiliated with a real estate broker and who has 1408 supervisory responsibility over other licensees employed by or 1409 affiliated with that real estate broker. 1410 (L)-"Purchaser" means a party in a real estate transaction 1411 who is the potential transferee of property. "Purchaser" 1412 includes a person seeking to buy property and a person seeking 1413 to rent property as a tenant or lessee. 1414 (M) (K) "Real estate transaction" means any act that is 1415 described in division (A) of section 4735.01 of the Revised Code 1416 or that is related to the execution of an act described in that 1417 section. 1418 (N)-(L) "Subagency" and "subagency relationship" mean an 1419 agency relationship in which a licensee acts for another 1420 licensee in performing duties for the client of that licensee. 1421

(O) (M) "Timely" means as soon as possible under the 1422

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particular circumstances. 1423 Sec. 4735.65. (A) In representing a purchaser in an agency 1424 relationship, a licensee shall: 1425 (1) Seek a property at a price and with purchase or lease 1426 terms acceptable to the purchaser. Unless the client so directs, 1427 the licensee is not obligated to seek additional purchase or 1428 lease possibilities if the purchaser is a party to a contract to 1429 purchase property, or has entered into a lease or has extended a 1430 letter of intent to lease. 1431 (2) Within the scope of knowledge required for licensure, 1432 answer the purchaser's questions and provide information to the 1433 purchaser regarding any offers or counteroffers; 1434 (3) Assist the purchaser in developing, communicating, and 1435 presenting offers or counteroffers; 1436 (4) Present any offer to purchase or lease to the seller 1437 or the seller's agent in a timely manner, even if the property 1438 is subject to a contract of sale, lease, or letter of intent to 1439 lease, and accept delivery of and present any counteroffers to 1440 the purchaser in a timely manner; 1441 (5) Within the scope of knowledge required for licensure, 1442 1443 answer the purchaser's questions regarding the steps the purchaser must take to fulfill the terms of any contract. 1444 (B) A licensee does not breach any duty or obligation to 1445 the purchaser by showing the same properties to other purchasers 1446 or by preparing or presenting contemporaneous offers to purchase 1447 or lease the same property. Prior to preparing a contemporaneous 1448 offer, a licensee shall disclose that fact to all clients for 1449 whom the licensee is preparing, presenting, or has prepared or 1450 presented contemporaneous offers to purchase or lease the same 1451

property and shall refer to another licensee any client that	1452
requests such referral.	1453
(1) The disclosure required by this section shall be	1454
(1) The disclosure required by this section shall be	-
provided in writing unless written disclosure cannot be	1455
delivered in a timely manner, in which case the licensee shall	1456
provide the disclosure verbally.	1457
(2) A licensee does not breach a duty of confidentiality	1458
to any client by disclosing the fact of contemporaneous offers,	1459
but shall maintain as confidential between the purchasers the	1460
identity of the purchasers and the terms of the offers.	1461
	1460
(C) A licensee does not breach any duty or obligation to	1462
<u>the purchaser by acting as an agent or subagent for other</u>	1463
purchasers, or as an agent or subagent for sellers, except that	1464
any dual agency relationship must be disclosed to a client	1465
pursuant to section 4735.71 of the Revised Code.	1466
$\frac{(C)}{(D)}$ Nothing in this section shall be construed as	1467
permitting a licensee to perform any act or service that	1468
constitutes the practice of law.	1469
Section 2. That existing sections 4735.01, 4735.06,	1470
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4735.07, 4735.09, 4735.10, 4735.141, 4735.18, 4735.24, 4735.51,	1471
and 4736.65 of the Revised Code are hereby repealed.	1472