

As Passed by the Senate

125th General Assembly

Regular Session

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Sub. S. B. No. 106

**Senators Carey, Mumper, Stivers, Harris, Prentiss, Spada, Hottinger, Padgett,
Schuler**

A B I L L

To amend sections 4735.03, 4735.04, 4735.05, 1
4735.051, 4735.06, 4735.09, 4735.13, 4735.14, 2
4735.141, 4735.15, 4735.53, 4735.58, 4735.70, 3
4735.71, and 4735.72, to enact new sections 4
4735.56 and 4735.57 and sections 4735.181 and 5
4735.182, and to repeal sections 4735.56, 4735.57, 6
and 4735.73 of the Revised Code to modify agency 7
relationships between real estate licensees and 8
customers, including disclosures made to 9
customers, to establish a penalty for 10
noncompliance with disclosure requirements, and to 11
make other changes to the Real Estate Broker Law. 12

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

Section 1. That sections 4735.03, 4735.04, 4735.05, 4735.051, 13
4735.06, 4735.09, 4735.13, 4735.14, 4735.141, 4735.15, 4735.53, 14
4735.58, 4735.70, 4735.71, and 4735.72 be amended and new sections 15
4735.56 and 4735.57 and sections 4735.181 and 4735.182 of the 16
Revised Code be enacted to read as follows: 17

Sec. 4735.03. There is hereby created the Ohio real estate 18
commission, consisting of five members who shall be appointed by 19

the governor, with the advice and consent of the senate. Four 20
members shall have been engaged in the real estate business as 21
licensed real estate brokers in the state for a period of ten 22
years immediately preceding the appointment. One member shall 23
represent the public. Terms of office shall be for five years, 24
commencing on the first day of July and ending on the thirtieth 25
day of June. Each member shall hold office from the date of 26
appointment until the end of the term for which appointed. No more 27
than three members shall be members of any one political party and 28
no member of the commission concurrently may be a member of the 29
commission and the real estate appraiser board created pursuant to 30
section 4763.02 of the Revised Code. Each member, before entering 31
upon the duties of office, shall subscribe to and file with the 32
secretary of state the constitutional oath of office. All 33
vacancies which occur shall be filled in the manner prescribed for 34
the regular appointments to the commission. Any member appointed 35
to fill a vacancy occurring prior to the expiration of the term 36
for which the member's predecessor was appointed shall hold office 37
for the remainder of such term. Any member shall continue in 38
office subsequent to the expiration date of the member's term 39
until the member's successor takes office, or until a period of 40
sixty days has elapsed, whichever occurs first. Annually, upon the 41
qualification of the member appointed in such year, the commission 42
shall organize by selecting from its members a president and 43
vice-president, and shall do all things necessary and proper to 44
carry out and enforce this chapter. A majority of the members of 45
the commission shall constitute a quorum, but a lesser number may 46
adjourn from time to time. Each member of the commission shall 47
receive an amount fixed pursuant to section 124.14 of the Revised 48
Code for each day employed in the discharge of official duties, 49
and the member's actual and necessary expenses incurred in the 50
discharge of those duties. 51

The commission or the superintendent of real estate may 52
investigate complaints concerning the violation of section 4735.02 53
or 4735.25 of the Revised Code and may subpoena witnesses in 54
connection with such investigations as provided in section 4735.04 55
of the Revised Code. The commission or the superintendent may make 56
application to the appropriate court for an order enjoining the 57
violation of section 4735.02 or 4735.25 of the Revised Code, and 58
upon a showing by the commission or the superintendent that any 59
person, firm, partnership, association, limited liability company, 60
limited liability partnership, or corporation has violated or is 61
about to violate section 4735.02 or 4735.25 of the Revised Code, 62
an injunction, restraining order, or such other order as may be 63
appropriate shall be granted by such court. 64

The commission shall: 65

(A) Adopt canons of ethics for the real estate industry; 66

(B) Upon appeal by any party affected, or may upon its own 67
motion, review any order or application determination of the 68
superintendent, and may reverse, vacate, or modify any order of 69
the superintendent; 70

(C) Administer the real estate education and research fund 71
and hear appeals from orders of the superintendent regarding 72
claims against that fund or against the real estate recovery fund; 73

(D) Direct the superintendent on the content, scheduling, 74
instruction, and offerings of real estate courses for salesperson 75
and broker educational requirements; 76

(E) Disseminate to licensees and the public, information 77
relative to commission activities and decisions; 78

(F) Notify licensees of changes in state and federal civil 79
rights laws pertaining to discrimination in the purchase or sale 80
of real estate and relevant case law, and inform licensees that 81

they are subject to disciplinary action if they do not comply with 82
the changes; 83

(G) Publish and furnish to public libraries and to brokers 84
booklets on housing and remedies available to dissatisfied clients 85
under this chapter and Chapter 4112. of the Revised Code; 86

(H) Provide training to commission members and employees of 87
the division of real estate and professional licensing on issues 88
relative to the real estate industry, which may include but not be 89
limited to investigative techniques, real estate law, and real 90
estate practices and procedures. 91

Sec. 4735.04. The Ohio real estate commission or the 92
superintendent of real estate may compel, by order or subpoena, 93
the attendance of witnesses to testify in relation to any matter 94
over which the commission or superintendent has jurisdiction and 95
which is the subject of inquiry and investigation by the 96
commission or superintendent, and require the production of any 97
book, paper, or document pertaining to such matter. For such 98
purpose, the commission or superintendent shall have the same 99
power as judges of county courts to administer oaths, compel the 100
attendance of witnesses, and punish them for refusal to testify. 101
~~Sheriffs and constables are required to serve and return such 102~~
~~process and shall receive the same fees for doing so as are 103~~
~~allowed for like services~~ Service of the subpoena may be made by 104
sheriffs or constables, or by certified mail, return receipt 105
requested, and the subpoena shall be deemed served on the date 106
delivery is made or the date the person refused to accept 107
delivery. Witnesses shall receive, after their appearance before 108
the commission or superintendent, the fees and mileage allowed in 109
civil actions in courts of common pleas. If two or more witnesses 110
travel together in the same vehicle, the mileage fee shall be paid 111
to only one of those witnesses, but the witnesses may agree to 112

divide the fee among themselves in any manner. 113

In addition to the powers granted to the commission and 114
superintendent under this section, in case any person fails to 115
file any statement or report, obey any subpoena, give testimony, 116
answer questions, or produce any books, records, or papers as 117
required by the commission or superintendent under this chapter, 118
the court of common pleas of any county in the state, upon 119
application made to it by the commission or superintendent setting 120
forth such failure, may make an order awarding process of subpoena 121
or subpoena duces tecum for the person to appear and testify 122
before the commission or superintendent, and may order any person 123
to give testimony and answer questions, and to produce books, 124
records, or papers, as required by the commission or 125
superintendent. Upon the filing of such order in the office of the 126
clerk of the court of common pleas, the clerk, under the seal of 127
the court, shall issue process of subpoena for the person to 128
appear before the commission or superintendent at a time and place 129
named in the subpoena, and each day thereafter until the 130
examination of such person is completed. The subpoena may contain 131
a direction that the witness bring with ~~him~~ the witness to the 132
examination any books, records, or papers mentioned in the 133
subpoena. The clerk shall also issue, under the seal of the court, 134
such other orders, in reference to the examination, appearance, 135
and production of books, records, or papers, as the court directs. 136
If any person so summoned by subpoena fails to obey the subpoena, 137
to give testimony, to answer questions as required, or to obey an 138
order of the court, the court, on motion supported by proof, may 139
order an attachment for contempt to be issued against the person 140
charged with disobedience of any order or injunction issued by the 141
court under this chapter. If the person is brought before the 142
court by virtue of the attachment, and if upon a hearing the 143
disobedience appears, the court may order the offender to be 144

committed and kept in close custody. 145

Sec. 4735.05. (A) The Ohio real estate commission is a part 146
of the department of commerce for administrative purposes. The 147
director of commerce is ex officio the executive officer of the 148
commission, or the director may designate any employee of the 149
department as superintendent of real estate and professional 150
licensing to act as executive officer of the commission. 151

The commission and the real estate appraiser board created 152
pursuant to section 4763.02 of the Revised Code shall each submit 153
to the director a list of three persons whom the commission and 154
the board consider qualified to be superintendent within sixty 155
days after the office of superintendent becomes vacant. The 156
director shall appoint a superintendent from the lists submitted 157
by the commission and the board, and the superintendent shall 158
serve at the pleasure of the director. 159

(B) The superintendent, except as otherwise provided, shall 160
do all of the following in regard to this chapter: 161

(1) Administer this chapter; 162

(2) Issue all orders necessary to implement this chapter; 163

(3) Investigate complaints concerning the violation of this 164
chapter or the conduct of any licensee; 165

(4) Establish and maintain an investigation and audit section 166
to investigate complaints and conduct inspections, audits, and 167
other inquiries as in the judgment of the superintendent are 168
appropriate to enforce this chapter. The investigators or auditors 169
have the right to review and audit the business records of 170
licensees and continuing education course providers during normal 171
business hours. 172

(5) Appoint a hearing examiner for any proceeding involving 173
disciplinary action under section 3123.47 or 4735.18 of the 174

Revised Code;	175
(6) Administer the real estate recovery fund.	176
(C) The superintendent may do all of the following:	177
(1) In connection with investigations and audits under	178
division (B) of this section, subpoena witnesses as provided in	179
section 4735.04 of the Revised Code;	180
(2) Apply to the appropriate court to enjoin any violation of	181
this chapter. Upon a showing by the superintendent that any person	182
has violated or is about to violate any provision of this chapter,	183
the court shall grant an injunction, restraining order, or other	184
appropriate order.	185
(3) Upon the death of a licensed broker or the revocation or	186
suspension of the broker's license, if there is no other licensed	187
broker within the business entity of the broker, appoint upon	188
application by any interested party, or, in the case of a deceased	189
broker, subject to the approval by the appropriate probate court,	190
recommend the appointment of, an ancillary trustee who is	191
qualified as determined by the superintendent to conclude the	192
business transactions of the deceased, revoked, or suspended	193
broker;	194
<u>(4) In conjunction with the enforcement of this chapter, when</u>	195
<u>the superintendent of real estate has reasonable cause to believe</u>	196
<u>that an applicant or licensee has committed a criminal offense,</u>	197
<u>the superintendent of real estate may request the superintendent</u>	198
<u>of the bureau of criminal identification and investigation to</u>	199
<u>conduct a criminal records check of the applicant or licensee. The</u>	200
<u>superintendent of the bureau of criminal identification and</u>	201
<u>investigation shall obtain information from the federal bureau of</u>	202
<u>investigation as part of the criminal records check of the</u>	203
<u>applicant or licensee. The superintendent of real estate may</u>	204
<u>assess the applicant or licensee a fee equal to the fee assessed</u>	205

for the criminal records check. 206

(D) All information that is obtained by investigators and 207
auditors performing investigations or conducting inspections, 208
audits, and other inquiries pursuant to division (B)(4) of this 209
section, from licensees, complainants, or other persons, and all 210
reports, documents, and other work products that arise from that 211
information and that are prepared by the investigators, auditors, 212
or other personnel of the department, shall be held in confidence 213
by the superintendent, the investigators and auditors, and other 214
personnel of the department. Notwithstanding division (D) of 215
section 2317.023 of the Revised Code, all information obtained by 216
investigators or auditors from an informal mediation meeting held 217
pursuant to section 4735.051 of the Revised Code, including but 218
not limited to the agreement to mediate and the accommodation 219
agreement, shall be held in confidence by the superintendent, 220
investigators, auditors, and other personnel of the department. 221

Sec. 4735.051. (A) Within five business days after a person 222
files a signed written complaint against a licensed real estate 223
broker or licensed real estate salesperson with the division of 224
real estate, the superintendent of real estate shall acknowledge 225
receipt of the complaint and send a notice to the licensee 226
describing the acts complained of. The acknowledgment to the 227
complainant and the notice to the licensee shall state that an 228
informal mediation meeting will be held with the complainant, the 229
licensee, and an investigator from the investigation and audit 230
section of the division if the complainant and licensee both file 231
a request for such a meeting within ten business days thereafter 232
on a form provided by the superintendent. 233

(B) If the complainant and licensee both file with the 234
division requests for an informal mediation meeting, the 235
superintendent shall notify the complainant and licensee of the 236

date of the meeting, which shall be within twenty business days 237
thereafter, except that any party may request an extension of up 238
to fifteen business days for good cause shown. If the complainant 239
and licensee reach an accommodation at an informal mediation 240
meeting, the investigator shall so report to the superintendent, 241
the complainant, and licensee and the complaint file shall be 242
~~closed, unless, based upon the investigator's report, the~~ 243
~~superintendent finds evidence that the licensee has violated~~ 244
~~section 4735.18 of the Revised Code.~~ 245

(C) If the complainant and licensee fail to agree to an 246
informal mediation meeting or fail to reach an accommodation, ~~or~~ 247
~~if the superintendent finds evidence of a violation of section~~ 248
~~4735.18 of the Revised Code,~~ the superintendent shall, within five 249
business days of such determination, so notify the complainant and 250
licensee and shall investigate the conduct of the licensee against 251
whom the complaint is filed. 252

(D) Within sixty business days after receipt of the 253
complaint, or, if an informal meeting is held, within sixty days 254
of such meeting, the investigator shall file a written report of 255
the results of the investigator's investigation with the 256
superintendent. Within fourteen business days thereafter, the 257
superintendent shall review the report and determine whether there 258
exists reasonable and substantial evidence of a violation of 259
section 4735.18 of the Revised Code by the licensee. If the 260
superintendent finds such evidence exists, within seven business 261
days of the determination, the superintendent shall notify the 262
complainant and licensee of the date of a hearing to be held by a 263
hearing examiner pursuant to Chapter 119. of the Revised Code 264
within fifteen days but not prior to seven days thereafter, except 265
that either the superintendent or the licensee may request an 266
extension of up to thirty business days for good cause shown. If 267
the superintendent finds that such evidence does not exist, within 268

five business days thereafter, the superintendent shall so notify 269
the complainant and licensee of the superintendent's determination 270
and the basis for the determination. Within fifteen business days 271
after the superintendent notifies the complainant and licensee 272
that such evidence does not exist, the complainant may file with 273
the division a request that the commissioners review the 274
determination. If the complainant files such request, the 275
commissioners shall review the determination at the next regularly 276
scheduled meeting held at least fifteen business days after the 277
request is filed. The commission shall hear the testimony of 278
either the complainant or the licensee at the meeting upon the 279
request of the complainant or licensee. If the commissioners 280
affirm the determination of the superintendent, the superintendent 281
shall so notify the complainant and the licensee within five 282
business days thereafter. If the commissioners reverse the 283
determination of the superintendent, a hearing shall be held and 284
the complainant and licensee notified as provided in this 285
division. 286

After the date of a hearing to be held by a hearing examiner 287
has been scheduled pursuant to division (D) of this section, but 288
before the issuance of the report of findings of fact and 289
conclusions of law pursuant to division (E) of this section, the 290
superintendent upon receipt of additional evidence, may withdraw 291
the notice of hearing. Withdrawal by the superintendent does not 292
constitute evidence that the original notice of hearing was not 293
substantially justified. Upon withdrawal of the notice of hearing, 294
the superintendent shall notify the complainant and licensee of 295
the superintendent's determination and basis for the 296
determination. Within fifteen business days after the 297
superintendent notifies the complainant and licensee, the 298
complainant may file with the superintendent a request that the 299
Ohio real estate commission review the determination. The 300
commission shall review the request as provided in division (D) of 301

this section. 302

(E) Within twenty-five business days after the conclusion of 303
formal hearings, the hearing examiner shall file a report of 304
findings of fact and conclusions of law with the superintendent, 305
the commission, and the complainant and licensee. 306

(F) The commissioners shall review the hearing examiner's 307
report at the next regularly scheduled commission meeting held at 308
least fifteen business days after receipt of the hearing 309
examiner's report. The commission shall hear the testimony of the 310
complainant or the licensee upon request. If the complainant is 311
the Ohio civil rights commission, the complaint shall be reviewed 312
by the commissioners directly upon request. 313

(G) The commission shall decide whether to impose 314
disciplinary sanctions upon a licensee for a violation of section 315
4735.18 of the Revised Code. The commission shall decide within 316
sixty days of the filing of the hearing examiner's report or 317
within sixty days of the filing of an Ohio civil rights commission 318
complaint. The commission shall maintain a transcript of the 319
proceedings and issue a written opinion to the complainant and 320
licensee, citing its findings and grounds for any action taken. 321
The commission shall notify the complainant and any other person 322
who may have suffered financial loss because of the licensee's 323
violations, that the complainant or other person may sue for 324
recovery under section 4735.12 of the Revised Code. 325

(H) An investigation under this section is subject to section 326
4735.32 of the Revised Code. 327

(I) The commission may impose the following sanctions upon a 328
licensee for a violation of section 4735.18 of the Revised Code: 329

(1) Revoke a license issued under Chapter 4735. of the 330
Revised Code; 331

(2) Suspend a license for a term set by the commission;	332
(3) Impose a fine, not exceeding two thousand five hundred dollars per violation;	333 334
(4) Issue a public reprimand;	335
(5) Require the completion of additional continuing education course work. Any continuing education course work imposed pursuant to this section shall not count toward the continuing education requirements set forth in section 4735.14 of the Revised Code.	336 337 338 339
All fines imposed pursuant to division (I)(3) of this section shall be credited to the real estate recovery fund, which is created in the state treasury under section 4735.12 of the Revised Code.	340 341 342 343
<u>(J) All notices, written reports, and determinations issued pursuant to this section shall be mailed via certified mail, return receipt requested. If the certified notice is returned because of failure of delivery, or was refused or unclaimed, the notice, written reports, or determinations are deemed served if the superintendent sends the notice, written report, or determination via regular mail and obtains a certificate of mailing of the notice, written reports, or determination.</u>	344 345 346 347 348 349 350 351
Sec. 4735.06. (A) Application for a license as a real estate broker shall be made to the superintendent of real estate on forms furnished by the superintendent and filed with the superintendent and shall be signed by the applicant or its members or officers. Each application shall state the name of the person applying and the location of the place of business for which the license is desired, and give such other information as the superintendent requires in the form of application prescribed by the superintendent.	352 353 354 355 356 357 358 359 360
If the applicant is a partnership, limited liability company,	361

limited liability partnership, or association, the names of all 362
the members also shall be stated, and, if the applicant is a 363
corporation, the names of its president and of each of its 364
officers also shall be stated. The superintendent has the right to 365
reject the application of any partnership, association, limited 366
liability company, limited liability partnership, or corporation 367
if the name proposed to be used by such partnership, association, 368
limited liability company, limited liability partnership, or 369
corporation is likely to mislead the public or if the name is not 370
such as to distinguish it from the name of any existing 371
partnership, association, limited liability company, limited 372
liability partnership, or corporation licensed under this chapter, 373
unless there is filed with the application the written consent of 374
such existing partnership, association, limited liability company, 375
limited liability partnership, or corporation, executed by a duly 376
authorized representative of it, permitting the use of the name of 377
such existing partnership, association, limited liability company, 378
limited liability partnership, or corporation. 379

(B) A fee of sixty-nine dollars shall accompany the 380
application for a real estate broker's license, which fee includes 381
the fee for the initial year of the licensing period, if a license 382
is issued. The application fee shall be retained by the 383
superintendent if the applicant is admitted to the examination for 384
the license or the examination requirement is waived, but, if an 385
applicant is not so admitted and a waiver is not involved, 386
one-half of the fee shall be retained by the superintendent to 387
cover the expenses of processing the application and the other 388
one-half shall be returned to the applicant. A fee of sixty-nine 389
dollars shall be charged by the superintendent for each successive 390
application made by an applicant. In the case of issuance of a 391
three-year license, upon passing the examination, or upon waiver 392
of the examination requirement, if the superintendent determines 393
it is necessary, the applicant shall submit an additional fee of 394

~~ninety eight dollars, which fee includes the fee for the second~~ 395
~~and third year of the licensing period, except that the~~ 396
~~superintendent shall prorate that additional fee~~ 397
~~determined by the~~ 398
superintendent based upon the number of years remaining in a real 399
estate salesperson's licensing period.

(C) Four dollars of each application fee for a real estate 400
broker's license shall be credited to the real estate education 401
and research fund, which is hereby created in the state treasury. 402
The Ohio real estate commission may use the fund in discharging 403
the duties prescribed in divisions (E), (F), ~~and~~ (G), and (H) of 404
section 4735.03 of the Revised Code and shall use it in the 405
advancement of education and research in real estate at any 406
institution of higher education in the state, or in contracting 407
with any such institution or a trade organization for a particular 408
research or educational project in the field of real estate, or in 409
advancing loans, not exceeding eight hundred dollars, to 410
applicants for salesperson licenses, to defray the costs of 411
satisfying the educational requirements of division (F) of section 412
4735.09 of the Revised Code. Such loans shall be made according to 413
rules established by the commission under the procedures of 414
Chapter 119. of the Revised Code, and they shall be repaid to the 415
fund within three years of the time they are made. No more than 416
ten thousand dollars shall be lent from the fund in any one year. 417

The governor may appoint a representative from the executive 418
branch to be a member ex officio of the commission for the purpose 419
of advising on research requests or educational projects. The 420
commission shall report to the general assembly on the third 421
Tuesday after the third Monday in January of each year setting 422
forth the total amount contained in the fund and the amount of 423
each research grant that it has authorized and the amount of each 424
research grant requested. A copy of all research reports shall be 425
submitted to the state library of Ohio and the library of the 426

legislative service commission. 427

(D) If the superintendent, with the consent of the 428
commission, enters into an agreement with a national testing 429
service to administer the real estate broker's examination, 430
pursuant to division (A) of section 4735.07 of the Revised Code, 431
the superintendent may require an applicant to pay the testing 432
service's examination fee directly to the testing service. If the 433
superintendent requires the payment of the examination fee 434
directly to the testing service, each applicant shall submit to 435
the superintendent a processing fee in an amount determined by the 436
Ohio real estate commission pursuant to division (A)(2) of section 437
4735.10 of the Revised Code. 438

Sec. 4735.09. (A) Application for a license as a real estate 439
salesperson shall be made to the superintendent of real estate on 440
forms furnished by the superintendent and signed by the applicant. 441
The application shall be in the form prescribed by the 442
superintendent and shall contain such information as is required 443
by this chapter and the rules of the Ohio real estate commission. 444
The application shall be accompanied by the recommendation of the 445
real estate broker with whom the applicant is associated or with 446
whom the applicant intends to be associated, certifying that the 447
applicant is honest, truthful, and of good reputation, has not 448
been convicted of a felony or a crime involving moral turpitude, 449
and has not been finally adjudged by a court to have violated any 450
municipal, state, or federal civil rights laws relevant to the 451
protection of purchasers or sellers of real estate, which 452
conviction or adjudication the applicant has not disclosed to the 453
superintendent, and recommending that the applicant be admitted to 454
the real estate salesperson examination. 455

(B) A fee of forty-nine dollars shall accompany the 456
application, which fee includes the fee for the initial year of 457

the licensing period, if a license is issued. The application fee 458
shall be retained by the superintendent if the applicant is 459
admitted to the examination for the license or the examination 460
requirement is waived, but, if an applicant is not so admitted and 461
a waiver is not involved, one-half of the fee shall be retained by 462
the superintendent to cover the expenses of processing the 463
application and the other one-half shall be returned to the 464
applicant. A fee of forty-nine dollars shall be charged by the 465
superintendent for each successive application made by the 466
applicant. ~~In the case of issuance of a three year license, upon~~ 467
~~passing the examination, or upon waiver of the examination~~ 468
~~requirement, the applicant shall submit an additional fee of~~ 469
~~seventy eight dollars, which fee includes the fee for the second~~ 470
~~and third year of the licensing period.~~ Four dollars of each 471
application fee shall be credited to the real estate education and 472
research fund. 473

(C) There shall be no limit placed on the number of times an 474
applicant may retake the examination. 475

(D) The superintendent, with the consent of the commission, 476
may enter into an agreement with a recognized national testing 477
service to administer the real estate salesperson's examination 478
under the superintendent's supervision and control, consistent 479
with the requirements of this chapter as to the contents of the 480
examination. 481

If the superintendent, with the consent of the commission, 482
enters into an agreement with a national testing service to 483
administer the real estate salesperson's examination, the 484
superintendent may require an applicant to pay the testing 485
service's examination fee directly to the testing service. If the 486
superintendent requires the payment of the examination fee 487
directly to the testing service, each applicant shall submit to 488
the superintendent a processing fee in an amount determined by the 489

Ohio real estate commission pursuant to division (A)(1) of section 490
4735.10 of the Revised Code. 491

(E) The superintendent shall issue a real estate 492
salesperson's license when satisfied that the applicant has 493
received a passing score on each portion of the salesperson's 494
examination as determined by rule by the real estate commission, 495
except that the superintendent may waive one or more of the 496
requirements of this section in the case of an applicant who is a 497
licensed real estate salesperson in another state pursuant to a 498
reciprocity agreement with the licensing authority of the state 499
from which the applicant holds a valid real estate salesperson's 500
license. 501

(F) No applicant for a salesperson's license shall take the 502
salesperson's examination who has not established to the 503
satisfaction of the superintendent that the applicant: 504

(1) Is honest, truthful, and of good reputation; 505

(2)(a) Has not been convicted of a felony or crime of moral 506
turpitude or, if the applicant has been so convicted, the 507
superintendent has disregarded the conviction because the 508
applicant has proven to the superintendent, by a preponderance of 509
the evidence, that the applicant's activities and employment 510
record since the conviction show that the applicant is honest, 511
truthful, and of good reputation, and there is no basis in fact 512
for believing that the applicant again will violate the laws 513
involved; 514

(b) Has not been finally adjudged by a court to have violated 515
any municipal, state, or federal civil rights laws relevant to the 516
protection of purchasers or sellers of real estate or, if the 517
applicant has been so adjudged, at least two years have passed 518
since the court decision and the superintendent has disregarded 519
the adjudication because the applicant has proven, by a 520

preponderance of the evidence, that the applicant is honest, 521
truthful, and of good reputation, and there is no basis in fact 522
for believing that the applicant again will violate the laws 523
involved. 524

(3) Has not, during any period in which the applicant was 525
licensed under this chapter, violated any provision of, or any 526
rule adopted pursuant to this chapter, or, if the applicant has 527
violated such provision or rule, has established to the 528
satisfaction of the superintendent that the applicant will not 529
again violate such provision or rule; 530

(4) Is at least eighteen years of age; 531

(5) If born after the year 1950, has a high school diploma or 532
its equivalent as recognized by the state department of education; 533

(6)(a) If beginning instruction prior to August 1, 2001, has 534
successfully completed at an institution of higher education all 535
of the following: 536

(i) Thirty hours of classroom instruction in real estate 537
practice; 538

(ii) Thirty hours of classroom instruction that includes the 539
subjects of Ohio real estate law, municipal, state, and federal 540
civil rights law, new case law on housing discrimination, 541
desegregation issues, and methods of eliminating the effects of 542
prior discrimination. If feasible, the classroom instruction in 543
Ohio real estate law shall be taught by a member of the faculty of 544
an accredited law school. If feasible, the classroom instruction 545
in municipal, state, and federal civil rights law, new case law on 546
housing discrimination, desegregation issues, and methods of 547
eliminating the effects of prior discrimination shall be taught by 548
a staff member of the Ohio civil rights commission who is 549
knowledgeable with respect to those subjects. The requirements of 550
this division do not apply to an applicant who is admitted to 551

practice before the supreme court. 552

(iii) Thirty hours of classroom instruction in real estate 553
appraisal; 554

(iv) Thirty hours of classroom instruction in real estate 555
finance. 556

(b) Any person who has not been licensed as a real estate 557
salesperson or broker within a four-year period immediately 558
preceding the person's current application for the salesperson's 559
examination shall have successfully completed the classroom 560
instruction required by division (F)(6)(a) of this section within 561
a ten-year period immediately preceding the person's current 562
application for the salesperson's examination. 563

(7) If beginning instruction, as determined by the 564
superintendent, on or after August 1, 2001, has successfully 565
completed at an institution of higher education all of the 566
following: 567

(a) Forty hours of classroom instruction in real estate 568
practice; 569

(b) Forty hours of classroom instruction that includes the 570
subjects of Ohio real estate law, municipal, state, and federal 571
civil rights law, new case law on housing discrimination, 572
desegregation issues, and methods of eliminating the effects of 573
prior discrimination. If feasible, the classroom instruction in 574
Ohio real estate law shall be taught by a member of the faculty of 575
an accredited law school. If feasible, the classroom instruction 576
in municipal, state, and federal civil rights law, new case law on 577
housing discrimination, desegregation issues, and methods of 578
eliminating the effects of prior discrimination shall be taught by 579
a staff member of the Ohio civil rights commission who is 580
knowledgeable with respect to those subjects. The requirements of 581
this division do not apply to an applicant who is admitted to 582

practice before the supreme court. 583

(c) Twenty hours of classroom instruction in real estate 584
appraisal; 585

(d) Twenty hours of classroom instruction in real estate 586
finance. 587

(G) No later than twelve months after the date of issue of a 588
real estate salesperson license to a licensee, the licensee shall 589
submit proof satisfactory to the superintendent, on forms made 590
available by the superintendent, of completion, at an institution 591
of higher education or any other institution approved by the 592
commission, of ten hours of classroom instruction in real estate 593
courses that cover current issues regarding consumers, real estate 594
practice, ethics, and real estate law. 595

If proof of completion of the required instruction is not 596
submitted within twelve months of the date a license is issued 597
under this section, the licensee's license is suspended 598
automatically without the taking of any action by the 599
superintendent. The superintendent immediately shall notify the 600
broker with whom such salesperson is associated of the suspension 601
of the salesperson's license. A salesperson whose license has been 602
suspended under this division shall have twelve months after the 603
date of the suspension of the salesperson's license to submit 604
proof of successful completion of the instruction required under 605
this division. No such license shall be reactivated by the 606
superintendent until it is established, to the satisfaction of the 607
superintendent, that the requirements of this division have been 608
met and that the licensee is in compliance with this chapter. A 609
licensee's license is revoked automatically without the taking of 610
any action by the superintendent when the licensee fails to submit 611
the required proof of completion of the education requirements 612
under division (G) of this section within twelve months of the 613
date the license is suspended. 614

(H) Examinations shall be administered with reasonable 615
accommodations in accordance with the requirements of the 616
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 617
U.S.C. 12101. The contents of an examination shall be consistent 618
with the classroom instructional requirements of division (F)(6) 619
or (7) of this section. An applicant who has completed the 620
classroom instructional requirements of division (F)(6) or (7) of 621
this section at the time of application shall be examined no later 622
than twelve months after the applicant is notified of the 623
applicant's admission to the examination. 624

Sec. 4735.13. (A) The license of a real estate broker shall 625
be prominently displayed in the office or place of business of the 626
broker, and no license shall authorize the licensee to do business 627
except from the location specified in it. If the broker maintains 628
more than one place of business within the state, the broker shall 629
apply for and procure a duplicate license for each branch office 630
maintained by the broker. Each branch office shall be in the 631
charge of a licensed broker or salesperson. The branch office 632
license shall be prominently displayed at the branch office 633
location. 634

(B) The license of each real estate salesperson shall be 635
mailed to and remain in the possession of the licensed broker with 636
whom the salesperson is or is to be associated until the licensee 637
places the license on inactive status or until the salesperson 638
leaves the brokerage or is terminated. The broker shall keep each 639
salesperson's license in a way that it can, and shall on request, 640
be made immediately available for public inspection at the office 641
or place of business of the broker. Except as provided in ~~division~~ 642
divisions (G) and (H) of this section, immediately upon the 643
salesperson's leaving the association or termination of the 644
association of a real estate salesperson with the broker, the 645

broker shall return the salesperson's license to the 646
superintendent of real estate. 647

The failure of a broker to return the license of a real 648
estate salesperson or broker who leaves or who is terminated, via 649
certified mail return receipt requested, within three business 650
days of the receipt of a written request from the ~~salesperson~~ 651
superintendent for the return of the license, ~~when a copy of the~~ 652
~~request also is forwarded to the superintendent~~, is prima-facie 653
evidence of misconduct under division (A)(6) of section 4735.18 of 654
the Revised Code. 655

(C) Any licensee who is convicted of a felony or a crime 656
involving moral turpitude or of violating any federal, state, or 657
municipal civil rights law pertaining to discrimination in 658
housing, or any court that issues a finding of an unlawful 659
discriminatory practice pertaining to housing accommodations 660
described in division (H) of section 4112.02 of the Revised Code 661
or that convicts a licensee of a violation of any municipal civil 662
rights law pertaining to housing discrimination, shall notify the 663
superintendent of the conviction or finding within fifteen days. 664
If a licensee fails to notify the superintendent within the 665
required time, the superintendent immediately may revoke the 666
license of the licensee. 667

Any court that convicts a licensee of a violation of any 668
municipal civil rights law pertaining to housing discrimination 669
also shall notify the Ohio civil rights commission within fifteen 670
days of the conviction. 671

(D) In case of any change of business location, a broker 672
shall give notice in writing to the superintendent, whereupon the 673
superintendent shall issue new licenses for the unexpired period 674
without charge. If a broker changes a business location without 675
giving the required notice and without receiving new licenses that 676
action is prima-facie evidence of misconduct under division (A)(6) 677

of section 4735.18 of the Revised Code. 678

(E) If a real estate broker desires to associate with another 679
real estate broker in the capacity of a real estate salesperson, 680
the broker shall apply to the superintendent to deposit the 681
broker's real estate broker's license with the superintendent and 682
for the issuance of a real estate salesperson's license. The 683
application shall be made on a form prescribed by the 684
superintendent and shall be accompanied by the recommendation of 685
the real estate broker with whom the applicant intends to become 686
associated and a fee of twenty-five dollars for the real estate 687
salesperson's license. Four dollars of the fee shall be credited 688
to the real estate education and research fund. If the 689
superintendent is satisfied that the applicant is honest, 690
truthful, and of good reputation, has not been convicted of a 691
felony or a crime involving moral turpitude, and has not been 692
finally adjudged by a court to have violated any municipal, state, 693
or federal civil rights laws relevant to the protection of 694
purchasers or sellers of real estate, and that the association of 695
the real estate broker and the applicant will be in the public 696
interest, the superintendent shall grant the application and issue 697
a real estate salesperson's license to the applicant. Any license 698
so deposited with the superintendent shall be subject to this 699
chapter. A broker who intends to deposit the broker's license with 700
the superintendent, as provided in this section, shall give 701
written notice of this fact in a format prescribed by the 702
superintendent to all salespersons associated with the broker when 703
applying to place the broker's license on deposit. 704

(F) If a real estate broker desires to become a member or 705
officer of a partnership, association, limited liability company, 706
limited liability partnership, or corporation that is or intends 707
to become a licensed real estate broker, the broker shall notify 708
the superintendent of the broker's intentions. The notice of 709

intention shall be on a form prescribed by the superintendent and 710
shall be accompanied by a fee of twenty-five dollars. Four dollars 711
of the fee shall be credited to the real estate education and 712
research fund. 713

No real estate broker who is a member or officer of a 714
partnership, association, limited liability company, limited 715
liability partnership, or corporation that is a licensed real 716
estate broker shall perform any acts as a real estate broker other 717
than as the agent of the partnership, association, limited 718
liability company, limited liability partnership, or corporation, 719
and such broker shall not have any real estate salespersons 720
associated with the broker. 721

(G) If a real estate broker or salesperson enters the armed 722
forces, the broker or salesperson may place the broker's or 723
salesperson's license on deposit with the Ohio real estate 724
commission. The licensee shall not be required to renew the 725
license until the renewal date that follows the date of discharge 726
from the armed forces. Any license deposited with the commission 727
shall be subject to this chapter. Any licensee whose license is on 728
deposit under this division and who fails to meet the continuing 729
education requirements of section 4735.141 of the Revised Code 730
because the licensee is in the armed forces shall satisfy the 731
commission that the licensee has complied with the continuing 732
education requirements within twelve months of the licensee's 733
discharge. The commission shall notify the licensee of the 734
licensee's obligations under section 4735.141 of the Revised Code 735
at the time the licensee applies for reactivation of the 736
licensee's license. 737

(H) If a licensed real estate salesperson submits an 738
application to the superintendent to leave the association of one 739
broker to associate with a different broker, the broker possessing 740
the licensee's license need not return the salesperson's license 741

to the superintendent. The superintendent may process the 742
application regardless of whether the licensee's license is 743
returned to the superintendent. 744

Sec. 4735.14. (A) Each license issued under this chapter, 745
shall be valid without further recommendation or examination until 746
placed in an inactive status, revoked, suspended, or such license 747
expires by operation of law. 748

(B) Each licensed broker, brokerage, or salesperson shall 749
file, on or before the date the Ohio real estate commission has 750
adopted by rule for that licensee in accordance with division 751
(A)(2)(f) of section 4735.10 of the Revised Code, a notice of 752
renewal on a form prescribed by the superintendent of real estate. 753
~~The licensee shall indicate on the form whether the licensee~~ 754
~~wishes to maintain the licensee's license in an active or inactive~~ 755
~~status.~~ The notice of renewal shall be mailed by the 756
superintendent to the most current personal residence address of 757
each broker or salesperson as filed with the superintendent by the 758
licensee and the place of business address of the brokerage two 759
months prior to the filing deadline. 760

(C) The license of any real estate broker, brokerage, or 761
salesperson that fails to file a notice of renewal on or before 762
the filing deadline of each ensuing year shall be suspended 763
automatically without the taking of any action by the 764
superintendent. A suspended license may be reactivated within 765
twelve months of the date of suspension, provided that the renewal 766
fee plus a penalty fee of fifty per cent of the renewal fee is 767
paid to the superintendent. Failure to reactivate the license as 768
provided in this division shall result in automatic revocation of 769
the license without the taking of any action by the 770
superintendent. No person, partnership, association, corporation, 771
limited liability company, or limited partnership shall engage in 772

any act or acts for which a real estate license is required while 773
that entity's license is placed in an inactive status, suspended, 774
or revoked. The commission shall adopt rules in accordance with 775
Chapter 119. of the Revised Code to provide to licensees notice of 776
suspension or revocation or both. 777

(D) Each licensee shall notify the commission of a change in 778
personal residence address. A licensee's failure to notify the 779
commission of a change in personal residence address does not 780
negate the requirement to file the license renewal by the required 781
deadline established by the commission by rule under division 782
(A)(2)(f) of section 4735.10 of the Revised Code. 783

(E) The superintendent shall not renew a license if the 784
licensee is not in compliance with this chapter. 785

Sec. 4735.141. (A) Except as otherwise provided in this 786
division, each person licensed under section 4735.07 or 4735.09 of 787
the Revised Code shall submit proof satisfactory to the 788
superintendent of real estate that the licensee has satisfactorily 789
completed thirty hours of continuing education, as prescribed by 790
the Ohio real estate commission pursuant to section 4735.10 of the 791
Revised Code, on or before the licensee's birthday occurring three 792
years after the licensee's date of initial licensure, and on or 793
before the licensee's birthday every three years thereafter. 794

Persons licensed as real estate salespersons who subsequently 795
become licensed real estate brokers shall continue to submit proof 796
of continuing education in accordance with the time period 797
established in this section. 798

The requirements of this section shall not apply to any 799
physically handicapped licensee as provided in division (E) of 800
this section. 801

Each licensee who is seventy years of age or older ~~on June~~ 802

~~14, 1999, within a continuing education reporting period, shall~~ 803
~~submit, on or before the licensee's birthday occurring three years~~ 804
~~after June 30, 1999, and on or before the licensee's birthday~~ 805
~~every three years thereafter, proof satisfactory to the~~ 806
superintendent of real estate that the licensee has satisfactorily 807
completed a total of nine classroom hours of continuing education, 808
including instruction in Ohio real estate law; recently enacted 809
state and federal laws affecting the real estate industry; 810
municipal, state, and federal civil rights law; and canons of 811
ethics for the real estate industry as adopted by the commission. 812
The required proof of completion shall be submitted on or before 813
the licensee's birthday that falls in the third year of that 814
continuing education reporting period. A licensee who is seventy 815
years of age or older whose license is in an inactive status is 816
exempt from the continuing education requirements specified in 817
this section. The commission shall adopt reasonable rules in 818
accordance with Chapter 119. of the Revised Code to carry out the 819
purposes of this paragraph. 820

A person providing any course of continuing education may 821
administer examinations to licensees for the purpose of evaluating 822
the effectiveness of the course, but passage of an examination by 823
a licensee shall not be a condition for successful completion of 824
the continuing education requirements of this section. 825

(B) The continuing education requirements of this section 826
shall be completed in schools, seminars, and educational 827
institutions approved by the commission. Such approval shall be 828
given according to rules established by the commission under the 829
procedures of Chapter 119. of the Revised Code, and shall not be 830
limited to institutions providing two-year or four-year degrees. 831
Each school, seminar, or educational institution approved under 832
this division shall be open to all licensees on an equal basis. 833

(C) If the requirements of this section are not met by a 834

licensee within the period specified, the licensee's license shall 835
be suspended automatically without the taking of any action by the 836
superintendent. The superintendent shall notify the licensee of 837
the license suspension. Any license so suspended shall remain 838
suspended until it is reactivated by the superintendent. No such 839
license shall be reactivated until it is established, to the 840
satisfaction of the superintendent, that the requirements of this 841
section have been met. If the requirements of this section are not 842
met within twelve months from the date the license was suspended, 843
the license shall be revoked automatically without the taking of 844
any action by the superintendent. 845

(D) If the license of a real estate broker is suspended 846
pursuant to division (C) of this section, the license of a real 847
estate salesperson associated with that broker correspondingly is 848
suspended pursuant to division (H) of section 4735.20 of the 849
Revised Code. However, the suspended license of the associated 850
real estate salesperson shall be reactivated and no fee shall be 851
charged or collected for that reactivation if all of the following 852
occur: 853

(1) That broker subsequently submits proof to the 854
superintendent that the broker has complied with the requirements 855
of this section and requests that the broker's license as a real 856
estate broker be reactivated. 857

(2) The superintendent then reactivates the broker's license 858
as a real estate broker. 859

(3) The associated real estate salesperson intends to 860
continue to be associated with that broker, has complied with the 861
requirements of this section, and otherwise is in compliance with 862
this chapter. 863

Any person whose license is reactivated pursuant to this 864
division shall submit proof satisfactory to the superintendent 865

that the person has completed thirty hours of continuing 866
education, as prescribed by the Ohio real estate commission, on or 867
before the third year following the licensee's birthday occurring 868
immediately after reactivation. 869

(E) Any licensee who is a physically handicapped licensee at 870
any time during the last three months of the third year of the 871
licensee's continuing education reporting period may receive an 872
extension of time to submit proof to the superintendent that the 873
licensee has satisfactorily completed the required thirty hours of 874
continuing education. To receive an extension of time, the 875
licensee shall submit a request to the division of real estate for 876
the extension and proof satisfactory to the commission that the 877
licensee was a physically handicapped licensee at some time during 878
the last three months of the three-year reporting period. The 879
proof shall include, but is not limited to, a signed statement by 880
the licensee's attending physician describing the physical 881
disability, certifying that the licensee's disability is of such a 882
nature as to prevent the licensee from attending any instruction 883
lasting at least three hours in duration, and stating the expected 884
duration of the physical disability. The licensee shall request 885
the extension and provide the physician's statement to the 886
division no later than one month prior to the end of the 887
licensee's three-year continuing education reporting period, 888
unless the physical disability did not arise until the last month 889
of the three-year reporting period, in which event the licensee 890
shall request the extension and provide the physician's statement 891
as soon as practical after the occurrence of the physical 892
disability. A licensee granted an extension pursuant to this 893
division who is no longer a physically handicapped licensee and 894
who submits proof of completion of the continuing education during 895
the extension period, shall submit, for future continuing 896
education reporting periods, proof of completion of the continuing 897
education requirements according to the schedule established in 898

division (A) of this section. 899

Sec. 4735.15. (A) The fees for reactivation or transfer of a 900
license shall be as follows: 901

(1) Reactivation or transfer of a broker's license into or 902
out of a partnership, association, limited liability company, 903
limited liability partnership, or corporation or from one 904
partnership, association, limited liability company, limited 905
liability partnership, or corporation to another partnership, 906
association, limited liability company, limited liability 907
partnership, or corporation, twenty-five dollars. An application 908
for such transfer shall be made to the superintendent of real 909
estate on forms provided by the superintendent. 910

(2) Reactivation or transfer of a license by a real estate 911
salesperson, twenty dollars. 912

(B) ~~The~~ Except as may otherwise be specified pursuant to 913
division (F) of this section, the fees for a branch office 914
license, license renewal, late filing, and foreign real estate 915
dealer and salesperson license are as follows per year for each 916
year of a licensing period: 917

(1) Branch office license, eight dollars; 918

(2) Renewal of a real estate broker's license, forty-nine 919
dollars. If the licensee is a partnership, association, limited 920
liability company, limited liability partnership, or corporation, 921
the full broker's renewal fee shall be required for each member of 922
such partnership, association, limited liability company, limited 923
liability partnership, or corporation that is a real estate 924
broker. If the real estate broker has not less than eleven nor 925
more than twenty real estate salespersons associated with the 926
broker, an additional fee of sixty-four dollars shall be assessed 927
to the brokerage. For every additional ten real estate 928

salespersons or fraction of that number, the brokerage assessment 929
fee shall be increased in the amount of thirty-seven dollars. 930

(3) Renewal of a real estate salesperson's license, 931
thirty-nine dollars; 932

(4) Renewal of a real estate broker's or salesperson's 933
license filed within twelve months after the licensee's renewal 934
date, an additional late filing penalty of fifty per cent of the 935
required fee; 936

(5) Foreign real estate dealer's license and each renewal of 937
the license, thirty dollars per salesperson employed by the 938
dealer, but not less than one hundred fifty dollars; 939

(6) Foreign real estate salesperson's license and each 940
renewal of the license, fifty dollars. 941

(C) All fees collected under this section shall be paid to 942
the treasurer of state. Four dollars of each such fee shall be 943
credited to the real estate education and research fund, except 944
that for fees that are assessed only once every three years, 945
twelve dollars of each triennial fee shall be credited to the real 946
estate education and research fund. 947

(D) In all cases, the fee and any penalty shall accompany the 948
application for the license, license transfer, or license 949
reactivation or shall accompany the filing of the renewal. 950

(E) The commission may establish by rule reasonable fees for 951
services not otherwise established by this chapter. 952

(F) The commission may adopt rules that provide for a 953
reduction in the fees established in divisions (B)(2) and (3) of 954
this section. 955

Sec. 4735.181. (A) No real estate broker or salesperson 956
licensed pursuant to this chapter shall fail to comply with 957
sections 4735.55, 4735.56, and 4735.58 of the Revised Code or any 958

rules adopted under those sections.

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(B) When the superintendent determines that a licensee has
violated division (A) of this section, the superintendent may do
either of the following:

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(1) Initiate disciplinary action under section 4735.051 of
the Revised Code, in accordance with Chapter 119. of the Revised
Code;

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(2) Personally, or by certified mail, serve a citation and
impose sanctions in accordance with this section upon the
licensee.

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(C) Every citation served under this section shall give
notice to the licensee of the alleged violation or violations
charged and inform the licensee of the opportunity to request a
hearing in accordance with Chapter 119. of the Revised Code. The
citation also shall contain a statement of a fine of up to two
hundred dollars per violation. All fines collected pursuant to
this section shall be credited to the real estate recovery fund,
created in the state treasury under section 4735.12 of the Revised
Code.

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

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

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(E) Unless otherwise indicated, the licensee named in a final
citation under this section must meet all requirements contained

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in the final citation within thirty days after the effective date 989
of that citation. 990

(F) The superintendent shall suspend automatically a 991
licensee's license if the licensee fails to comply with division 992
(E) of this section. 993

Sec. 4735.182. If a check or other draft instrument used to 994
pay any fee required under this chapter is returned to the 995
superintendent for insufficient funds, the superintendent shall 996
notify the licensee that the check or other draft instrument was 997
returned for insufficient funds and that the licensee's license 998
will be suspended unless the licensee, within fifteen days after 999
the mailing of the notice, submits the fee and a 1000
one-hundred-dollar fee to the superintendent. If the licensee does 1001
not submit both fees within that time period, or if any check or 1002
other draft instrument used to pay either of those fees is 1003
returned to the superintendent for insufficient funds, the license 1004
shall be suspended immediately without a hearing and the licensee 1005
shall cease activity as a licensee under this chapter. 1006

Sec. 4735.53. (A) The types of agency relationships a 1007
licensee may establish in a real estate transaction are limited to 1008
the following: 1009

(1) An agency relationship between the licensee and the 1010
seller; 1011

(2) An agency relationship between the licensee and the 1012
purchaser; 1013

(3) A dual agency relationship between the licensee and both 1014
the seller and the purchaser; 1015

(4) A subagency relationship between the licensee and the 1016
client of another licensee. 1017

(B) When an agency relationship is formed between a licensee 1018
and a client, ~~both~~ all of the following ~~apply~~ also are considered 1019
the agent of that client: 1020

(1) The brokerage with whom the licensee is affiliated and, 1021
except as provided in division (C) of section 4735.70 of the 1022
Revised Code, the management level licensees in that brokerage who 1023
have direct supervisory duties over licensees ~~are also agents of~~ 1024
~~that client;~~ 1025

(2) Any licensee employed by, or affiliated with, the 1026
brokerage who receives confidential information from the agent of 1027
the client ~~is also an agent of that client;~~ 1028

(3) Any other licensee in the brokerage who assisted in 1029
establishing the agency relationship; 1030

(4) Any licensee in the brokerage who specifically is 1031
appointed with the client's consent to represent that client. 1032

(C) Except as otherwise provided in divisions (B)(1) ~~and (2)~~ 1033
~~to (4)~~ of this section, another licensee who is affiliated with 1034
the same brokerage as the licensee is not an agent of that client 1035
~~unless that licensee assisted in establishing the agency~~ 1036
~~relationship or is specifically appointed, with the client's~~ 1037
~~consent, to represent the client.~~ 1038

~~(C)(D)~~ A payment or the promise of a payment to a licensee 1039
does not determine whether an agency relationship has been created 1040
between a licensee and a client or between other licensees in the 1041
brokerage with which the licensee is affiliated and that client. 1042

Sec. 4735.56. (A) Each brokerage shall develop a written 1043
brokerage policy on agency to be given to prospective sellers and 1044
purchasers in accordance with divisions (C) and (D) of this 1045
section. 1046

(B) The brokerage policy on agency described in division (A) 1047

of this section shall include all of the following information: 1048

(1) An explanation of the permissible agency relationships 1049
available under section 4735.53 of the Revised Code and the duties 1050
that the agent owes the agent's client; 1051

(2) The brokerage's policy on representation of purchasers or 1052
sellers; 1053

(3) Whether at some time during the agency relationship the 1054
brokerage and its licensee may act as a dual agent, and the 1055
options and consequences for the client if a dual agency situation 1056
arises including the right of the client to terminate the agency 1057
relationship and seek representation from another source; 1058

(4) Whether at some time during the agency relationship, 1059
another licensee affiliated with the same brokerage as the 1060
licensee may become the exclusive agent for the other party in the 1061
transaction and whether each licensee will represent only the 1062
interests of that licensee's client; 1063

(5) The brokerage's policy on cooperation with other 1064
brokerages, including whether the brokerage offers compensation to 1065
other brokerages or will seek compensation from other brokerages; 1066

(6) That a brokerage that has a purchaser as a client 1067
represents the purchaser's interests even though the seller's 1068
agent or the seller may compensate that purchaser's brokerage; 1069

(7) That the signature of the purchaser or the seller 1070
indicates acknowledgement of receipt of the brokerage policy on 1071
agency. 1072

(C) A licensee acting as a seller's agent shall provide the 1073
seller with the brokerage policy on agency described in this 1074
section prior to marketing or showing the seller's real estate and 1075
shall obtain a signature from the seller acknowledging receipt 1076
unless the seller refuses to provide a signature. If the seller 1077

refuses to provide a signature, the licensee shall note this on 1078
the policy. 1079

(D) A licensee working directly with a purchaser in a real 1080
estate transaction, whether as the purchaser's agent, the seller's 1081
agent, or the seller's subagent, shall provide the purchaser with 1082
the brokerage policy on agency described in this section and 1083
obtain a signature from the purchaser acknowledging receipt of the 1084
policy unless the purchaser refuses to provide a signature. If the 1085
purchaser refuses to provide a signature, the licensee shall note 1086
this on the policy. Except as provided in division (E) of this 1087
section, the licensee shall provide the brokerage policy on agency 1088
to a purchaser prior to the earliest of the following actions of 1089
the licensee: 1090

(1) Initiating a prequalification evaluation to determine 1091
whether the purchaser has the financial ability to purchase or 1092
lease a particular real estate property; 1093

(2) Requesting specific financial information from the 1094
purchaser to determine the purchaser's ability to purchase or 1095
finance real estate in a particular price range; 1096

(3) Showing the real estate to the purchaser other than at an 1097
open house; 1098

(4) Discussing, with the purchaser, the making of an offer to 1099
purchase or lease real estate; 1100

(5) Submitting an offer to purchase or lease real estate on 1101
behalf of the purchaser. 1102

(E) If the earliest event described in division (D) of this 1103
section is by telephone or electronic mail, the licensee shall 1104
disclose by that same medium the nature of the agency relationship 1105
that the licensee has with both the seller and the purchaser. The 1106
licensee shall provide the purchaser with the brokerage policy on 1107
agency described in this section at the first meeting with the 1108

purchaser following this disclosure of the agency relationship. 1109

(F) A licensee acting as a seller's agent is not required to 1110
provide a purchaser with the brokerage policy on agency described 1111
in this section except in the case of an event described in 1112
division (D) of this section. 1113

(G) The requirements of this section regarding provision of a 1114
brokerage policy on agency do not apply in any of the following 1115
situations: 1116

(1) The rental or leasing of residential premises as defined 1117
in section 5321.01 of the Revised Code, if the rental or lease 1118
agreement can be performed in eighteen months or less; 1119

(2) The referral of a prospective purchaser or seller to 1120
another licensee; 1121

(3) Transactions involving the sale, lease, or exchange of 1122
foreign real estate as defined in division (E) of section 4735.01 1123
of the Revised Code; 1124

(4) Transactions involving the sale of a cemetery lot or a 1125
cemetery interment right. 1126

Sec. 4735.57. (A) The superintendent of real estate, with the 1128
approval of the Ohio real estate commission, shall establish by 1129
rule an agency disclosure statement. The agency disclosure 1130
statement shall contain a place for the licensee and the parties 1131
to the transaction to sign and date the statement and shall 1132
contain sections for the disclosure or explanation of all of the 1133
following: 1134

(1) Unless confidential, the names of all the parties in the 1135
transaction; 1136

(2) The address of the real estate being sold or leased; 1137

(3) The name of the licensee or licensees and the brokerage 1138

with which each licensee is affiliated; 1139

(4) The party that each licensee in the named brokerage 1140
represents in the transaction; 1141

(5) If a licensee representing a purchaser of real estate and 1142
a licensee representing the seller of that real estate are 1143
affiliated with the same brokerage, whether the two licensees are 1144
acting as dual agents or are individually representing the 1145
purchaser and seller separately; 1146

(6) If only one licensee is involved in the transaction, 1147
whether that licensee is a dual agent or represents only one party 1148
to the transaction; 1149

(7) If both the purchaser and the seller are represented by 1150
licensees affiliated with the same brokerage, that the brokerage 1151
is a dual agent; 1152

(8) That the signature of the client indicates the client's 1153
informed consent to the agency relationship and that if the client 1154
does not understand the agency disclosure statement, the client 1155
should consult an attorney. 1156

(B) The agency disclosure statement shall specify the duties 1157
of a licensee acting as a dual agent and shall contain sections 1158
disclosing all of the following: 1159

(1) An explanation of the nature of a dual agency 1160
relationship, including a statement that in serving as a dual 1161
agent, licensees in the brokerage represent two clients whose 1162
interests are, or at times could be, different or adverse; 1163

(2) That as a result of the dual agency relationship, the 1164
dual agent may not be able to advocate on behalf of the client to 1165
the same extent the agent may have if the agent represented only 1166
one client; 1167

(3) A description of the duties the brokerage and its 1168

affiliated licensees and employees owe to each client, including 1169
the duty of confidentiality; 1170

(4) That neither the brokerage nor its affiliated licensees 1171
have any material relationship with either client other than 1172
incidental to the transaction, or if the brokerage or its 1173
affiliated licensees have a material relationship, a disclosure of 1174
the nature of the relationship. For purposes of this division, 1175
"material relationship" means any actually known personal, 1176
familial, or business relationship between the brokerage or an 1177
affiliated licensee and a client that could impair the ability of 1178
the brokerage or affiliated licensee to exercise lawful and 1179
independent judgment relative to another client. 1180

(5) That as a dual agent, the brokerage cannot engage in 1181
conduct that is contrary to the interests or instructions of one 1182
party or act in a biased manner on behalf of one party; 1183

(6) A section specifying the source of compensation to the 1184
real estate broker; 1185

(7) That the client does not have to consent to the dual 1186
agency relationship, and the options available to the client for 1187
representation in the transaction if the client does not consent, 1188
including the right of the client to terminate the agency 1189
relationship and seek representation from another source; 1190

(8) That the consent to the dual agency relationship by the 1191
client has been given voluntarily, that the signature indicates 1192
informed consent, and that the duties of a licensee acting as a 1193
dual agent disclosed to the client pursuant to division (B) of 1194
this section have been read and understood. 1195

Sec. 4735.58. ~~(A) A licensee acting as a seller's agent shall~~ 1196
~~provide the seller an agency disclosure statement described in~~ 1197
~~section 4735.57 of the Revised Code prior to marketing or showing~~ 1198

~~the seller's property.~~ 1199

~~(B)(1) A licensee working directly with a purchaser in a real estate transaction, whether as the purchaser's agent, the seller's agent, or the seller's subagent, shall provide the purchaser with an agency disclosure statement described in section 4735.57 of the Revised Code prior to the earliest of the following events:~~ 1200

~~(a) Initiating a prequalification evaluation to determine whether the purchaser has the financial ability to purchase or lease the particular property;~~ 1201

~~(b) Requesting specific financial information from the purchaser to determine the purchaser's ability to purchase or finance real estate in a particular price range;~~ 1202

~~(c) Showing the property to the purchaser other than at an open house;~~ 1203

~~(d) Discussing, with the purchaser, the making of an offer to purchase real property;~~ 1204

~~(e) Submitting an offer to purchase or lease real property on behalf of the purchaser.~~ 1205

~~(2) If the earliest event described in division (B)(1) of this section is by telephone, the licensee shall make a verbal disclosure of the nature of the agency relationship that the licensee has with both the seller and the purchaser. The licensee shall obtain the purchaser's signature and the date on an agency disclosure statement at the first meeting with the purchaser following verbal disclosure of the agency relationship.~~ 1206

~~(3) A licensee acting as a seller's agent is not required to provide a purchaser with an agency disclosure statement except in the case of an event described in division (B)(1) of this section.~~ 1207

~~(C) A licensee who is a purchaser's agent or a seller's subagent working with a purchaser shall present the agency~~ 1208

disclosure statement described in section 4735.57 of the Revised 1229
Code to the purchaser and request the purchaser to sign and date 1230
the statement ~~pursuant to division (B) of this section~~ no later 1231
than the preparation of an offer to purchase or lease, or a 1232
written request for a proposal to lease. The licensee shall 1233
deliver the statement signed by the purchaser to the seller's 1234
agent, or to the seller if the seller is not represented by an 1235
agent, ~~prior.~~ Prior to presenting the seller with either a written 1236
offer to purchase or lease, or a written request for a proposal to 1237
lease, the seller's agent, or the purchaser's agent if the seller 1238
is not represented by an agent, shall present the agency 1239
disclosure statement to the seller and request the seller to sign 1240
and date the statement. 1241

~~(D)~~ (B) A licensee selling property at auction shall, prior to 1242
the auction, verbally disclose to the audience that the licensee 1243
represents the seller in the real estate transaction. The licensee 1244
shall provide the agency disclosure statement described in section 1245
4735.57 of the Revised Code to the successful bidder prior to the 1246
bidder's signing a purchase contract. 1247

~~(E)~~ (C) Evidence that a licensee has failed to comply with 1248
this section constitutes prima-facie evidence of misconduct in 1249
violation of division (A)(6) of section 4735.18 of the Revised 1250
Code. 1251

(D) The disclosure requirements of this section do not apply 1252
in any of the following situations: 1253

(1) The rental or leasing of residential premises as defined 1254
in section 5321.01 of the Revised Code, if the rental or lease 1255
agreement can be performed in eighteen months or less; 1256

(2) The referral of a prospective purchaser or seller to 1257
another licensee; 1258

(3) Transactions involving the sale, lease, or exchange of 1259

foreign real estate as defined in division (E) of section 4735.01 1260
of the Revised Code; 1261

(4) Transactions involving the sale of a cemetery lot or a 1262
cemetery interment right. 1263

(E) The licensee is obligated to perform all duties imposed 1264
on a real estate agent at common law except to the extent the 1265
duties are inconsistent with the duties prescribed in this chapter 1266
or are otherwise modified by agreement. 1267

Sec. 4735.70. The following are dual agents under this 1268
chapter: 1269

(A) A licensee who represents both the purchaser and the 1270
seller as clients in the same real estate transaction; 1271

(B) A brokerage that represents both the purchaser and the 1272
seller as clients in the same real estate transaction; 1273

(C) A management level licensee who represents a client in an 1274
in-company transaction. If there is more than one management level 1275
licensee affiliated with the brokerage and either of the following 1276
applies, the management level licensee is not a dual agent: 1277

(1) The management level licensee personally represents 1278
either the seller or the purchaser in a transaction, in which case 1279
the management level licensee will represent only the interests of 1280
that licensee's client. 1281

(2) The management level licensee is the purchaser or seller 1282
in a transaction and will represent only that licensee's interest. 1283

Sec. 4735.71. (A) ~~Except as provided in division (C) of this~~ 1284
~~section, no~~ No licensee or brokerage shall participate in a dual 1285
agency relationship described in section 4735.70 of the Revised 1286
Code unless both the seller and the purchaser in the transaction 1287
have full knowledge of the dual representation and consent in 1288

writing to the dual representation on the ~~dual~~ agency disclosure 1289
statement described in section ~~4735.73~~ 4735.57 of the Revised 1290
Code. Before a licensee obtains the consent of any party to a dual 1291
agency relationship, the licensee shall disclose to both the 1292
purchaser and the seller all relevant information necessary to 1293
enable each party to make an informed decision as to whether to 1294
consent to the dual agency relationship. If, after consent is 1295
obtained, there is a material change in the information disclosed 1296
to the purchaser and the seller, the licensee shall disclose ~~such~~ 1297
the change of information to the purchaser and the seller and give 1298
them an opportunity to revoke their consent. 1299

(B) ~~The brokerage shall make the dual agency disclosure to~~ 1300
~~both the seller and purchaser as soon as practicable after it is~~ 1301
~~determined that such dual agency may exist. The parties to the~~ 1302
~~real estate transaction shall sign and date the dual agency~~ 1303
~~disclosure statement in a timely manner after it is determined~~ 1304
~~that a dual agency relationship exists. The form must be signed~~ 1305
~~and dated prior to the signing of any offer to purchase or lease~~ 1306
~~the real estate that is the subject of the transaction.~~ 1307

~~(C) A brokerage that is a dual agent is not required to~~ 1308
~~obtain the consent of the seller and the purchaser on the dual~~ 1309
~~agency disclosure statement described in section 4735.73 of the~~ 1310
~~Revised Code if the seller and purchaser are each represented by a~~ 1311
~~different, nonmanagement level licensee who is affiliated with the~~ 1312
~~same brokerage and all of the following conditions are met:~~ 1313

~~(1) The licensees made disclosures as required under sections~~ 1314
~~4735.56 and 4735.58 of the Revised Code;~~ 1315

~~(2) The potential for the formation of the dual agency was~~ 1316
~~disclosed to all parties in the agency disclosure statement~~ 1317
~~pursuant to section 4735.57 of the Revised Code;~~ 1318

~~(3) Each party consents by initialing, in a timely manner~~ 1319

~~after it is determined that a dual agency relationship exists in~~ 1320
~~the transaction, the section in the agency disclosure statement~~ 1321
~~that discloses the potential for a dual agency relationship.~~ 1322

~~(D)~~ No brokerage shall participate in a dual agency 1323
relationship described in division (C) of section 4735.70 of the 1324
Revised Code, unless each of the following conditions is met: 1325

(1) The brokerage has established a procedure under section 1326
4735.54 of the Revised Code under which licensees, including 1327
management level licensees, who represent one client will not have 1328
access to and will not obtain confidential information concerning 1329
another client of the brokerage involved in the dual agency 1330
transaction. 1331

(2) ~~The Each licensee who is an agent for each client in the~~ 1332
~~dual agency relationship~~ fulfills the licensee's duties 1333
exclusively to ~~that~~ the licensee's client. 1334

Sec. 4735.72. (A) The brokerage and management level 1335
licensees in a brokerage in which there is a dual agency 1336
relationship described in ~~divisions (A) and (B)~~ of section 4735.70 1337
of the Revised Code shall do each of the following: 1338

(1) Objectively supervise the affiliated licensees in the 1339
fulfillment of their duties and obligations to their respective 1340
clients; 1341

(2) Refrain from advocating or negotiating on behalf of 1342
either the seller or the purchaser; 1343

(3) Refrain from disclosing to any other employee of the 1344
brokerage or any party or client, any confidential information of 1345
a client of which the brokerage or management level licensee 1346
becomes aware and from utilizing or allowing to be utilized for 1347
the benefit of another client, any confidential information 1348
obtained from a client. 1349

(B) When two ~~nonmanagement level~~ licensees affiliated with 1350
the same brokerage represent separate clients in the same 1351
transaction, each affiliated licensee shall do both of the 1352
following: 1353

(1) Serve as the agent of only the party in the transaction 1354
the licensee agreed to represent; 1355

(2) Fulfill the duties owed to the respective client as set 1356
forth in this chapter and as agreed in the agency agreement. 1357

(C)(1) In all cases, a management level licensee shall keep 1358
information of the client or brokerage confidential. 1359

(2) Nothing in this section prohibits the brokerage or 1360
management level licensees in the brokerage from providing 1361
factual, nonconfidential information that presents or suggests 1362
objective options or solutions, or assisting the parties in an 1363
unbiased manner to negotiate or fulfill the terms of the purchase 1364
contract or lease, provided that confidential information of a 1365
client is not utilized in any manner in formulating such 1366
suggestions or providing ~~such~~ this assistance. 1367

(D) No cause of action shall arise on behalf of any person 1368
against a licensee in a dual agency relationship for making 1369
disclosures to the parties that are permitted or required by this 1370
chapter, or that have been made on the ~~dual~~ agency disclosure 1371
statement. Making permitted disclosures does not terminate any 1372
agency relationship between a licensee and a client. 1373

(E)(1) If a brokerage determines that confidential 1374
information of one client in a dual agency relationship has become 1375
known to any licensee employed by or affiliated with the brokerage 1376
who is representing the other client in the dual agency 1377
relationship, as a result of the failure of the brokerage, its 1378
licensees, or its employees to maintain such confidentiality, the 1379
brokerage shall do both of the following: 1380

(a) Notify both clients of ~~such~~ the fact immediately in 1381
writing; 1382

(b) Offer to resign representation of both clients. 1383

(2) If either client elects to accept ~~such~~ the resignation, 1384
the brokerage shall not be entitled to any compensation from that 1385
client. If either client does not accept ~~such~~ the resignation, the 1386
brokerage may continue to represent that client. 1387

(3) A licensee who obtains confidential information 1388
concerning another client of the brokerage in a dual agency 1389
relationship shall not, under any circumstances, disclose that 1390
information to or use that information for the benefit of the 1391
licensee's client. 1392

(F) A client of a brokerage who is involved in a dual agency 1393
relationship may bring an individual action against a brokerage 1394
and any licensee who has failed to comply with the procedure 1395
described in division ~~(D)(1)~~ (B)(1) of section 4735.71 of the 1396
Revised Code to recover actual damages and to rescind an agency 1397
agreement with the brokerage. 1398

Section 2. That existing sections 4735.03, 4735.04, 4735.05, 1399
4735.051, 4735.06, 4735.09, 4735.13, 4735.14, 4735.141, 4735.15, 1400
4735.53, 4735.58, 4735.70, 4735.71, and 4735.72 and sections 1401
4735.56, 4735.57, and 4735.73 of the Revised Code are hereby 1402
repealed. 1403