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**Representatives Gibbs, McGregor, J., Ujvagi, Evans, C., Kearns, Williams,
Hagan, Reidelbach, Collier, Distel, Miller, Cassell, Schaffer, Barrett, Blessing,
Chandler, Combs, Schneider, Stewart, D., Willamowski**

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A B I L L

To amend sections 4735.01, 4735.16, 4735.18, 4735.51, 1
4735.63, 4735.65, 4737.10, 4737.99, and 4738.16 2
and to enact sections 4735.621 and 4735.75 of the 3
Revised Code to impose new requirements on 4
licensed junk yard owners, to require scrap metal 5
processors to maintain specified records regarding 6
canceled motor vehicle titles, to add definitions 7
to real estate broker law and to expand duties of 8
licensees. 9

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

Section 1. That sections 4735.01, 4735.16, 4735.18, 4735.51, 10
4735.63, 4735.65, 4737.10, 4737.99, and 4738.16 be amended and 11
sections 4735.621 and 4735.75 of the Revised Code be enacted to 12
read as follows: 13

Sec. 4735.01. As used in this chapter: 14

(A) "Real estate broker" includes any person, partnership, 15
association, limited liability company, limited liability 16
partnership, or corporation, foreign or domestic, who for another, 17
whether pursuant to a power of attorney or otherwise, and who for 18

a fee, commission, or other valuable consideration, or with the
intention, or in the expectation, or upon the promise of receiving
or collecting a fee, commission, or other valuable consideration
does any of the following:

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

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

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

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

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

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

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

(8) Is engaged in the business of charging an advance fee or
contracting for collection of a fee in connection with any
contract whereby the broker undertakes primarily to promote the
sale, exchange, purchase, rental, or leasing of real estate
through its listing in a publication issued primarily for such

purpose, or for referral of information concerning such real 49
estate to brokers, or both, except that this division does not 50
apply to a publisher of listings or compilations of sales of real 51
estate by their owners; 52

(9) Collects rental information for purposes of referring 53
prospective tenants to rental units or locations of such units and 54
charges the prospective tenants a fee. 55

(B) "Real estate" includes leaseholds as well as any and 56
every interest or estate in land situated in this state, whether 57
corporeal or incorporeal, whether freehold or nonfreehold, and the 58
improvements on the land, but does not include cemetery interment 59
rights. 60

(C) "Real estate salesperson" means any person associated 61
with a licensed real estate broker to do or to deal in any acts or 62
transactions set out or comprehended by the definition of a real 63
estate broker, for compensation or otherwise. 64

(D) "Institution of higher education" means either of the 65
following: 66

(1) A nonprofit institution as defined in section 1713.01 of 67
the Revised Code that actually awards, rather than intends to 68
award, degrees for fulfilling requirements of academic work beyond 69
high school; 70

(2) An institution operated for profit that otherwise 71
qualifies under the definition of an institution in section 72
1713.01 of the Revised Code and that actually awards, rather than 73
intends to award, degrees for fulfilling requirements of academic 74
work beyond high school. 75

(E) "Foreign real estate" means real estate not situated in 76
this state and any interest in real estate not situated in this 77
state. 78

(F) "Foreign real estate dealer" includes any person, 79
partnership, association, limited liability company, limited 80
liability partnership, or corporation, foreign or domestic, who 81
for another, whether pursuant to a power of attorney or otherwise, 82
and who for a fee, commission, or other valuable consideration, or 83
with the intention, or in the expectation, or upon the promise of 84
receiving or collecting a fee, commission, or other valuable 85
consideration, does or deals in any act or transaction specified 86
or comprehended in division (A) of this section with respect to 87
foreign real estate. 88

(G) "Foreign real estate salesperson" means any person 89
associated with a licensed foreign real estate dealer to do or 90
deal in any act or transaction specified or comprehended in 91
division (A) of this section with respect to foreign real estate, 92
for compensation or otherwise. 93

(H) Any person, partnership, association, limited liability 94
company, limited liability partnership, or corporation, who, for 95
another, in consideration of compensation, by fee, commission, 96
salary, or otherwise, or with the intention, in the expectation, 97
or upon the promise of receiving or collecting a fee, does, or 98
offers, attempts, or agrees to engage in, any single act or 99
transaction contained in the definition of a real estate broker, 100
whether an act is an incidental part of a transaction, or the 101
entire transaction, shall be constituted a real estate broker or 102
real estate salesperson under this chapter. 103

(I) The terms "real estate broker," "real estate 104
salesperson," "foreign real estate dealer," and "foreign real 105
estate salesperson" do not include a person, partnership, 106
association, limited liability company, limited liability 107
partnership, or corporation, or the regular employees thereof, who 108
perform any of the acts or transactions specified or comprehended 109
in division (A) of this section, whether or not for, or with the 110

intention, in expectation, or upon the promise of receiving or	111
collecting a fee, commission, or other valuable consideration:	112
(1) With reference to real estate situated in this state or	113
any interest in it owned by such person, partnership, association,	114
limited liability company, limited liability partnership, or	115
corporation, or acquired on its own account in the regular course	116
of, or as an incident to the management of the property and the	117
investment in it;	118
(2) As receiver or trustee in bankruptcy, as guardian,	119
executor, administrator, trustee, assignee, commissioner, or any	120
person doing the things mentioned in this section, under authority	121
or appointment of, or incident to a proceeding in, any court, or	122
as a public officer, or as executor, trustee, or other bona fide	123
fiduciary under any trust agreement, deed of trust, will, or other	124
instrument creating a like bona fide fiduciary obligation;	125
(3) As a public officer while performing the officer's	126
official duties;	127
(4) As an attorney at law in the performance of the	128
attorney's duties;	129
(5) As a person who engages in the brokering of the sale of	130
business assets, not including the negotiation of the sale, lease,	131
exchange, or assignment of any interest in real estate;	132
(6) As a person who engages in the sale of manufactured homes	133
as defined in division (C)(4) of section 3781.06 of the Revised	134
Code, or of mobile homes as defined in division (O) of section	135
4501.01 of the Revised Code, provided the sale does not include	136
the negotiation, sale, lease, exchange, or assignment of any	137
interest in real estate;	138
(7) As a person who engages in the sale of commercial real	139
estate pursuant to the requirements of section 4735.022 of the	140

Revised Code.	141
(J) "Physically handicapped licensee" means a person licensed pursuant to this chapter who is under a severe physical disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration.	142 143 144 145 146
(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."	147 148 149
(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.	150 151 152 153 154 155 156
(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker.	157 158 159 160
(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.	161 162 163 164
(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a license under this chapter for a specified interval of time.	165 166 167
(P) "Reactivate" means the process prescribed by the superintendent of real estate and professional licensing to remove a license from an inactive, suspended, or broker's license on	168 169 170

deposit status to allow a licensee to provide services that 171
require a license under this chapter. 172

(Q) "Revoked" means the license status in which the license 173
is void and not eligible for reactivation. 174

(R) "Commercial real estate" means any parcel of real estate 175
in this state other than real estate containing one to four 176
residential units. "Commercial real estate" does not include 177
single-family residential units such as condominiums, townhouses, 178
manufactured homes, or homes in a subdivision when sold, leased, 179
or otherwise conveyed on a unit-by-unit basis, even when those 180
units are a part of a larger building or parcel of real estate 181
containing more than four residential units. 182

(S) "Out-of-state commercial broker" includes any person, 183
partnership, association, limited liability company, limited 184
liability partnership, or corporation that is licensed to do 185
business as a real estate broker in a jurisdiction other than 186
Ohio. 187

(T) "Out-of-state commercial salesperson" includes any person 188
affiliated with an out_of_state commercial broker who is not 189
licensed as a real estate salesperson in Ohio. 190

(U) "Exclusive right to sell or lease listing agreement" 191
means an agency agreement between a seller and broker that meets 192
the requirements of section 4735.55 of the Revised Code and does 193
both of the following: 194

(1) Grants the broker the exclusive right to represent the 195
seller in the sale or lease of the seller's property; 196

(2) Provides the broker will be compensated if the broker, 197
the seller, or any other person or entity produces a purchaser or 198
tenant in accordance with the terms specified in the listing 199
agreement or if the property is sold or leased during the term of 200

the listing agreement to anyone other than to specifically 201
exempted persons or entities. 202

(V) "Exclusive agency agreement" means an agency agreement 203
between a seller and broker that meets the requirements of section 204
4735.55 of the Revised Code and does both of the following: 205

(1) Grants the broker the exclusive right to represent the 206
seller in the sale or lease of the seller's property; 207

(2) Provides the broker will be compensated if the broker or 208
any other person or entity produces a purchaser or tenant in 209
accordance with the terms specified in the listing agreement or if 210
the property is sold or leased during the term of the listing 211
agreement, unless the property is sold or leased solely through 212
the efforts of the seller or to the specifically exempted persons 213
or entities. 214

(W) "Exclusive purchaser agency agreement" means an agency 215
agreement between a purchaser and broker that meets the 216
requirements of section 4735.55 of the Revised Code and does both 217
of the following: 218

(1) Grants the broker the exclusive right to represent the 219
purchaser in the purchase or lease of property; 220

(2) Provides the broker will be compensated in accordance 221
with the terms specified in the exclusive agency agreement or if a 222
property is purchased or leased by the purchaser during the term 223
of the agency agreement unless the property is specifically 224
exempted in the agency agreement. 225

The agreement may authorize the broker to receive 226
compensation from the seller or the seller's agent and may provide 227
that the purchaser is not obligated to compensate the broker if 228
the property is purchased or leased solely through the efforts of 229
the purchaser. 230

(X) "Seller" means a party in a real estate transaction who 231
is the potential transferor of property. "Seller" includes an 232
owner of property who is seeking to sell the property and a 233
landlord who is seeking to rent or lease property to another 234
person. 235

Sec. 4735.16. (A) Every real estate broker licensed under 236
this chapter shall have and maintain a definite place of business 237
in this state and shall erect or maintain a sign on the premises 238
plainly stating that the licensee is a real estate broker. If the 239
real estate broker maintains one or more branch offices, the real 240
estate broker shall erect or maintain a sign at each branch office 241
plainly stating that the licensee is a real estate broker. 242

(B)(1) Any licensed real estate broker or salesperson who 243
advertises to buy, sell, exchange, or lease real estate, or to 244
engage in any act regulated by this chapter, including, but not 245
limited to, any licensed real estate broker or salesperson who 246
advertises to sell, exchange, or lease real estate that the 247
licensee owns, shall be identified in the advertisement by name 248
and by indicating that the licensee is a real estate broker or 249
real estate salesperson. Except a real estate salesperson who 250
advertises the sale, exchange, or lease of real estate that the 251
salesperson owns and that is not listed for sale, exchange, or 252
lease with a real estate broker, any real estate salesperson who 253
advertises, as provided in this section, also shall indicate in 254
the advertisement the name of the broker under whom the 255
salesperson is licensed and the fact that the salesperson's broker 256
is a real estate broker. The name of the broker shall be displayed 257
in equal prominence with the name of the salesperson in the 258
advertisement. 259

(2) A real estate broker who is representing a seller under 260
an exclusive right to sell or lease listing agreement shall not 261

advertise such property to the public as "for sale by owner" or 262
otherwise mislead the public to believe that the seller is not 263
represented by a real estate broker. 264

(3) If any real estate broker or real estate salesperson 265
advertises in a manner other than as provided in this section or 266
the rules adopted under this section, that advertisement is prima_ 267
facie evidence of a violation under division (A)(21) of section 268
4735.18 of the Revised Code. 269

When the superintendent determines that prima_facie evidence 270
of a violation of division (A)(21) of section 4735.18 of the 271
Revised Code or any of the rules adopted thereunder exists, the 272
superintendent may do either of the following: 273

(a) Initiate disciplinary action under section 4735.051 of 274
the Revised Code for a violation of division (A)(21) of section 275
4735.18 of the Revised Code, in accordance with Chapter 119. of 276
the Revised Code; 277

(b) Personally, or by certified mail, serve a citation upon 278
the licensee. 279

(C)(1) Every citation served under this section shall give 280
notice to the licensee of the alleged violation or violations 281
charged and inform the licensee of the opportunity to request a 282
hearing in accordance with Chapter 119. of the Revised Code. The 283
citation also shall contain a statement of a fine of two hundred 284
dollars per violation, not to exceed two thousand five hundred 285
dollars per citation. All fines collected pursuant to this section 286
shall be credited to the real estate recovery fund, created in the 287
state treasury under section 4735.12 of the Revised Code. 288

(2) If any licensee is cited three times within twelve 289
consecutive months, the superintendent shall initiate disciplinary 290
action pursuant to section 4735.051 of the Revised Code for any 291
subsequent violation that occurs within the same twelve-month 292

period. 293

(3) If a licensee fails to request a hearing within thirty 294
days of the date of service of the citation, or the licensee and 295
the superintendent fail to reach an alternative agreement, the 296
citation shall become final. 297

(4) Unless otherwise indicated, the licensee named in a final 298
citation must meet all requirements contained in the final 299
citation within thirty days of the effective date of that 300
citation. 301

(5) The superintendent shall suspend automatically a 302
licensee's license if the licensee fails to comply with division 303
(C)(4) of this section. 304

(D) A real estate broker or salesperson obtaining the 305
signature of a party to a listing or other agreement involved in a 306
real estate transaction shall furnish a copy of the listing or 307
other agreement to the party immediately after obtaining the 308
party's signature. Every broker's office shall prominently display 309
in the same immediate area as licenses are displayed a statement 310
that it is illegal to discriminate against any person because of 311
race, color, religion, sex, familial status as defined in section 312
4112.01 of the Revised Code, national origin, disability as 313
defined in that section, or ancestry in the sale or rental of 314
housing or residential lots, in advertising the sale or rental of 315
housing, in the financing of housing, or in the provision of real 316
estate brokerage services and that blockbusting also is illegal. 317
The statement shall bear the United States department of housing 318
and urban development equal housing logo, shall contain the 319
information that the broker and the broker's salespersons are 320
licensed by the division of real estate and that the division can 321
assist with any consumer complaints or inquiries, and shall 322
explain the provisions of section 4735.12 of the Revised Code. The 323

statement shall provide the division's address and telephone 324
number. The Ohio real estate commission shall provide by rule for 325
the wording and size of the statement. The pamphlet required under 326
section 4735.03 of the Revised Code shall contain the same 327
statement that is required on the statement displayed as provided 328
in this section and shall be made available by real estate brokers 329
and salespersons to their clients. The commission shall provide 330
the wording and size of the pamphlet. 331

Sec. 4735.18. (A) Subject to section 4735.32 of the Revised 332
Code, the superintendent of real estate, upon the superintendent's 333
own motion, may investigate the conduct of any licensee. Subject 334
to section 4735.32 of the Revised Code, the Ohio real estate 335
commission shall, pursuant to section 4735.051 of the Revised 336
Code, impose disciplinary sanctions upon any licensee who, whether 337
or not acting in the licensee's capacity as a real estate broker 338
or salesperson, or in handling the licensee's own property, is 339
found to have been convicted of a felony or a crime of moral 340
turpitude, and shall, pursuant to section 4735.051 of the Revised 341
Code, impose disciplinary sanctions upon any licensee who, in the 342
licensee's capacity as a real estate broker or salesperson, or in 343
handling the licensee's own property, is found guilty of: 344

(1) Knowingly making any misrepresentation; 345

(2) Making any false promises with intent to influence, 346
persuade, or induce; 347

(3) A continued course of misrepresentation or the making of 348
false promises through agents, salespersons, advertising, or 349
otherwise; 350

(4) Acting for more than one party in a transaction except as 351
permitted by and in compliance with section 4735.71 of the Revised 352
Code; 353

(5) Failure within a reasonable time to account for or to	354
remit any money coming into the licensee's possession which	355
belongs to others;	356
(6) Dishonest or illegal dealing, gross negligence,	357
incompetency, or misconduct;	358
(7)(a) By final adjudication by a court, a violation of any	359
municipal or federal civil rights law relevant to the protection	360
of purchasers or sellers of real estate or, by final adjudication	361
by a court, any unlawful discriminatory practice pertaining to the	362
purchase or sale of real estate prohibited by Chapter 4112. of the	363
Revised Code, provided that such violation arose out of a	364
situation wherein parties were engaged in bona fide efforts to	365
purchase, sell, or lease real estate, in the licensee's practice	366
as a licensed real estate broker or salesperson;	367
(b) A second or subsequent violation of any unlawful	368
discriminatory practice pertaining to the purchase or sale of real	369
estate prohibited by Chapter 4112. of the Revised Code or any	370
second or subsequent violation of municipal or federal civil	371
rights laws relevant to purchasing or selling real estate whether	372
or not there has been a final adjudication by a court, provided	373
that such violation arose out of a situation wherein parties were	374
engaged in bona fide efforts to purchase, sell, or lease real	375
estate. For any second offense under this division, the commission	376
shall suspend for a minimum of two months or revoke the license of	377
the broker or salesperson. For any subsequent offense, the	378
commission shall revoke the license of the broker or salesperson.	379
(8) Procuring a license under this chapter, for the licensee	380
or any salesperson by fraud, misrepresentation, or deceit;	381
(9) Having violated or failed to comply with any provision of	382
sections 4735.51 to 4735.74 of the Revised Code or having	383
willfully disregarded or violated any other provisions of this	384

chapter;	385
(10) As a real estate broker, having demanded, without reasonable cause, other than from a broker licensed under this chapter, a commission to which the licensee is not entitled, or, as a real estate salesperson, having demanded, without reasonable cause, a commission to which the licensee is not entitled;	386 387 388 389 390
(11) Except as permitted under section 4735.20 of the Revised Code, having paid commissions or fees to, or divided commissions or fees with, anyone not licensed as a real estate broker or salesperson under this chapter or anyone not operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;	391 392 393 394 395 396
(12) Having falsely represented membership in any real estate professional association of which the licensee is not a member;	397 398
(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;	399 400 401
(14) Having offered anything of value other than the consideration recited in the sales contract as an inducement to a person to enter into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;	402 403 404 405 406
(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;	407 408 409
(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;	410 411 412
(17) Having placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's	413 414

authorized agent;

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(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
real property directly with ~~an owner~~ a seller, purchaser, lessor,
or tenant knowing that such ~~owner~~ seller, purchaser, lessor, or
tenant ~~had a written outstanding contract granting exclusive~~
~~agency in connection with such property to another real estate~~
broker is represented by another broker under a written exclusive
agency agreement, exclusive right to sell or lease listing
agreement, or exclusive purchaser agency agreement with respect to
such property except as provided for in section 4735.75 of the
Revised Code;

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

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

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

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

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(24) Having failed to keep complete and accurate records of 445
all transactions for a period of three years from the date of the 446
transaction, such records to include copies of listing forms, 447
earnest money receipts, offers to purchase and acceptances of 448
them, records of receipts and disbursements of all funds received 449
by the licensee as broker and incident to the licensee's 450
transactions as such, and records required pursuant to divisions 451
(C)(4) and (5) of section 4735.20 of the Revised Code, and any 452
other instruments or papers related to the performance of any of 453
the acts set forth in the definition of a real estate broker; 454

(25) Failure of a real estate broker or salesperson to 455
furnish all parties involved in a real estate transaction true 456
copies of all listings and other agreements to which they are a 457
party, at the time each party signs them; 458

(26) Failure to maintain at all times a special or trust bank 459
account in a depository located in this state. The account shall 460
be noninterest-bearing, separate and distinct from any personal or 461
other account of the broker, and, except as provided in division 462
(A)(27) of this section, shall be used for the deposit and 463
maintenance of all escrow funds, security deposits, and other 464
moneys received by the broker in a fiduciary capacity. The name, 465
account number, if any, and location of the depository wherein 466
such special or trust account is maintained shall be submitted in 467
writing to the superintendent. Checks drawn on such special or 468
trust bank accounts are deemed to meet the conditions imposed by 469
section 1349.21 of the Revised Code. 470

(27) Failure to maintain at all times a special or trust bank 471
account in a depository in this state, to be used exclusively for 472
the deposit and maintenance of all rents, security deposits, 473
escrow funds, and other moneys received by the broker in a 474
fiduciary capacity in the course of managing real property. This 475
account shall be separate and distinct from any other account 476

maintained by the broker. The name, account number, and location 477
of the depository shall be submitted in writing to the 478
superintendent. This account may earn interest, which shall be 479
paid to the property owners on a pro rata basis. 480

Division (A)(27) of this section does not apply to brokers 481
who are not engaged in the management of real property on behalf 482
of real property owners. 483

(28) Having failed to put definite expiration dates in all 484
written agency agreements to which the broker is a party; 485

(29) Having an unsatisfied final judgment in any court of 486
record against the licensee arising out of the licensee's conduct 487
as a licensed broker or salesperson; 488

(30) Failing to render promptly upon demand a full and 489
complete statement of the expenditures by the broker or 490
salesperson of funds advanced by or on behalf of a party to a real 491
estate transaction to the broker or salesperson for the purpose of 492
performing duties as a licensee under this chapter in conjunction 493
with the real estate transaction; 494

(31) Failure within a reasonable time, after the receipt of 495
the commission by the broker, to render an accounting to and pay a 496
real estate salesperson the salesperson's earned share of it; 497

(32) Performing any service for another constituting the 498
practice of law, as determined by any court of law; 499

(33) Having been adjudicated incompetent for the purpose of 500
holding the license by a court, as provided in section 5122.301 of 501
the Revised Code. A license revoked or suspended under this 502
division shall be reactivated upon proof to the commission of the 503
removal of the disability. 504

(34) Having authorized or permitted a person to act as an 505
agent in the capacity of a real estate broker, or a real estate 506

salesperson, who was not then licensed as a real estate broker or 507
real estate salesperson under this chapter or who was not then 508
operating as an out-of-state commercial real estate broker or 509
salesperson under section 4735.022 of the Revised Code; 510

(35) Having knowingly inserted or participated in inserting 511
any materially inaccurate term in a document, including naming a 512
false consideration; 513

(36) Having failed to inform the licensee's client of the 514
existence of an offer or ~~counter-offer~~ counteroffer or having 515
failed to present an offer or ~~counter-offer~~ counteroffer in a 516
timely manner, unless otherwise instructed by the client, provided 517
the instruction of the client does not conflict with any state or 518
federal law. 519

(B) Whenever the commission, pursuant to section 4735.051 of 520
the Revised Code, imposes disciplinary sanctions for any violation 521
of this section, the commission also may impose such sanctions 522
upon the broker with whom the salesperson is affiliated if the 523
commission finds that the broker had knowledge of the 524
salesperson's actions that violated this section. 525

(C) The commission shall, pursuant to section 4735.051 of the 526
Revised Code, impose disciplinary sanctions upon any foreign real 527
estate dealer or salesperson who, in that capacity or in handling 528
the dealer's or salesperson's own property, is found guilty of any 529
of the acts or omissions specified or comprehended in division (A) 530
of this section insofar as the acts or omissions pertain to 531
foreign real estate. If the commission imposes such sanctions upon 532
a foreign real estate salesperson for a violation of this section, 533
the commission also may suspend or revoke the license of the 534
foreign real estate dealer with whom the salesperson is affiliated 535
if the commission finds that the dealer had knowledge of the 536
salesperson's actions that violated this section. 537

(D) The commission may suspend, in whole or in part, the 538
imposition of the penalty of suspension of a license under this 539
section. 540

(E) The commission immediately shall notify the real estate 541
appraiser board of any disciplinary action taken under this 542
section against a licensee who also is a state-certified real 543
estate appraiser under Chapter 4763. of the Revised Code. 544

Sec. 4735.51. As used in sections 4735.51 to 4735.74 of the 545
Revised Code: 546

(A) "Agency" and "Agency relationship" mean a relationship in 547
which a licensee represents another person in a real estate 548
transaction. 549

(B) "Agency agreement" means a contract between a licensee 550
and a client in which the client promises to pay the broker a 551
valuable consideration, or agrees that the licensee may receive a 552
valuable consideration from another, for performing an act that 553
requires a real estate license under this chapter. 554

(C) "Agent" and "real estate agent" mean a person licensed by 555
this chapter to represent another in a real estate transaction. 556

(D) "Affiliated licensee" means a real estate broker or a 557
real estate salesperson licensed by this chapter who is affiliated 558
with a brokerage. 559

(E) "Brokerage" means a corporation, partnership, limited 560
partnership, association, limited liability company, limited 561
liability partnership, or sole proprietorship issued a broker's 562
license. "Brokerage" includes the affiliated licensees who have 563
been assigned management duties that include supervision of 564
licensees whose duties may conflict with those of other affiliated 565
licensees. 566

(F) "Client" means a person who has entered into an agency 567

relationship with a licensee. 568

(G) "Confidential information" means all information that a 569
client directs to be kept confidential or that if disclosed would 570
have an adverse effect on the client's position in the real estate 571
transaction, except to the extent the agent is required by law to 572
disclose such information, and all information that is required by 573
law to be kept confidential. 574

(H) "Dual agency relationship" means any of the dual agency 575
relationships set forth in section 4735.70 of the Revised Code. 576

(I) "In-company transaction" means a real estate transaction 577
in which the purchaser and seller are both represented by the same 578
brokerage. 579

(J) "Licensee" means any individual licensed as a real estate 580
broker or salesperson by the Ohio real estate commission pursuant 581
to this chapter. 582

(K) "Management level licensee" means a licensee who is 583
employed by or affiliated with a real estate broker and who has 584
supervisory responsibility over other licensees employed by or 585
affiliated with that real estate broker. 586

(L) "Purchaser" means a party in a real estate transaction 587
who is the potential transferee of property. "Purchaser" includes 588
a person seeking to buy property and a person seeking to rent 589
property as a tenant or lessee. 590

(M) "Real estate transaction" means any act that is described 591
in division (A) of section 4735.01 of the Revised Code or that is 592
related to the execution of an act described in that section. 593

(N) ~~"Seller" means a party in a real estate transaction who 594
is the potential transferor of property. "Seller" includes an 595
owner of property who is seeking to sell the property and a 596
landlord who is seeking to rent or lease property to another 597~~

~~person.~~ 598

~~(O)~~ "Subagency" and "subagency relationship" mean an agency 599
relationship in which a licensee acts for another licensee in 600
performing duties for the client of that licensee. 601

~~(P)~~~~(O)~~ "Timely" means as soon as possible under the 602
particular circumstances. 603

Sec. 4735.621. (A) The duties required of a licensee under 604
section 4735.62 of the Revised Code may not be waived by a client. 605

(B) A licensee shall perform the duties required under 606
section 4735.63 or 4735.65 of the Revised Code unless the client 607
agrees to waive these duties, and signs a waiver of duties 608
statement pursuant to division (C) of this section. 609

(C) The superintendent of real estate, with the approval of 610
the Ohio real estate commission, shall establish by rule a waiver 611
of duties statement that shall contain the following: 612

(1) The fiduciary duties required of all licensees under 613
section 4735.62 of the Revised Code; 614

(2) A list of those duties contained in section 4735.63 or 615
4735.65 of the Revised Code, which shall be set forth in a manner 616
that allows for the parties to indicate which of those duties are 617
being waived; 618

(3) A statement that no other licensee is required to perform 619
the waived duty on behalf of the client; 620

(4) A statement that legal counsel or other professionals may 621
be hired by the client; 622

(5) A place for the client and licensee to sign and date the 623
statement. 624

Sec. 4735.63. (A) In representing a seller in an agency 625

relationship, a licensee shall ~~promote the interest of the client~~ 626
by ~~doing all of the following:~~ 627

(1) ~~Seeking~~ Seek a purchase offer at a price and with terms 628
acceptable to the ~~client~~ seller. Unless the ~~client~~ seller so 629
directs, the licensee is not obligated to seek additional offers 630
if the property is subject to a contract of sale, lease, or letter 631
of intent to lease; 632

(2) ~~Presenting~~ Accept delivery of and present any purchase 633
offer to the ~~client~~ seller in a timely manner, even if the 634
property is subject to a contract of sale, lease, or letter of 635
intent to lease; 636

(3) ~~Prior to presenting the seller an offer to purchase,~~ 637
~~providing the seller with a copy of any agency disclosure form~~ 638
~~signed by the purchaser~~ Within the scope of knowledge required for 639
licensure, answer the seller's questions and provide information 640
to the seller regarding any offers or counteroffers; 641

(4) Assist the seller in developing, communicating, and 642
presenting offers or counteroffers; 643

(5) Within the scope of knowledge required for licensure, 644
answer the seller's questions regarding the steps the seller must 645
take to fulfill the terms of any contract. 646

(B) A licensee does not breach any duty or obligation to a 647
seller with whom the licensee has an agency relationship by 648
showing alternative properties to a prospective purchaser or by 649
acting as an agent or subagent for other sellers. 650

(C) Nothing in this section shall be construed as permitting 651
a licensee to perform any act or service that constitutes the 652
practice of law. 653

Sec. 4735.65. (A) In representing a purchaser in an agency 654
relationship, a licensee shall ~~represent the interests of the~~ 655

~~purchaser by doing each of the following:~~ 656

(1) ~~Seeking~~ Seek a property at a price and with purchase or 657
lease terms acceptable to the purchaser. Unless the client so 658
directs, the licensee is not obligated to seek additional purchase 659
or lease possibilities if the purchaser is a party to a contract 660
to purchase property, or has entered into a lease or has extended 661
a letter of intent to lease. 662

(2) ~~Presenting~~ Within the scope of knowledge required for 663
licensure, answer the purchaser's questions and provide 664
information to the purchaser regarding any offers or 665
counteroffers; 666

(3) Assist the purchaser in developing, communicating, and 667
presenting offers or counteroffers; 668

(4) Present any offer to purchase or lease to the seller or 669
the seller's agent in a timely manner, even if the property is 670
subject to a contract of sale, lease, or letter of intent to 671
lease, and accept delivery of and present any counteroffers to the 672
purchaser in a timely manner; 673

(5) Within the scope of knowledge required for licensure, 674
answer the purchaser's questions regarding the steps the purchaser 675
must take to fulfill the terms of any contract. 676

(B) A licensee does not breach any duty or obligation to the 677
purchaser by showing the same properties to other purchasers or by 678
acting as an agent or subagent for other purchasers, or as an 679
agent or subagent for sellers, except that any dual agency 680
relationship must be disclosed to a client pursuant to section 681
4735.71 of the Revised Code. 682

(C) Nothing in this section shall be construed as permitting 683
a licensee to perform any act or service that constitutes the 684
practice of law. 685

Sec. 4735.75. (A) A broker who has the exclusive authority to represent a client under a written exclusive agency agreement, exclusive right to sell agreement, or exclusive purchaser agency agreement may authorize other licensees to negotiate directly with that client. The authorization shall be in writing and the broker shall comply with the requirements of section 4735.621 of the Revised Code. 686
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(B) A licensee who negotiates directly with a seller, purchaser, lessor, or tenant pursuant to a written authorization as described in division (A) of this section does not violate division (A)(19) of section 4735.18 of the Revised Code and negotiations conducted by a licensee pursuant to the authorization shall not create or imply an agency relationship between that licensee and the client of that exclusive broker. 693
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(C) As used in this section and division (A)(19) of section 4735.18 of the Revised Code, "negotiate" means any the following: 700
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(1) Delivering or communicating an offer, counteroffer, or proposal; 702
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(2) Discussing or reviewing the terms of any offer, counteroffer, or proposal; 704
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(3) Facilitating communication regarding an offer, counteroffer, or proposal and preparing any response as directed. 706
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Sec. 4737.10. (A) Before a license is granted or renewed under sections 4737.05 to 4737.12 of the Revised Code, the sheriff of each county, or, if the sheriff so designates, a township policeman ~~police officer~~ or constable, and the chief of police of each municipal corporation shall inspect the junk yard within ~~his~~ the sheriff's, police officer's, constable's, or chief's respective jurisdiction to determine if it complies with sections 4737.05 to 4737.12 of the Revised Code. The sheriff, or a township 708
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~~police~~man police officer or constable, or chief of police shall 716
submit a written report of such examination to the county auditor 717
of the county or the village solicitor or city director of law of 718
the municipal corporation wherein such junk yard is located. 719

(B) In addition, twice annually the sheriff of each county, 720
or, if the sheriff so designates, a township ~~police~~man police 721
officer or constable, and the chief of police of each municipal 722
corporation shall inspect every junk yard that is located within 723
~~his~~ the sheriff's, police officer's, constable's, or chief's 724
jurisdiction and for which a license has been issued under 725
sections 4737.05 to 4737.12 of the Revised Code, to obtain 726
information with regard to whether the licensee's activity has 727
been and is being conducted in accordance with sections 4737.01 to 728
4737.12 of the Revised Code. The sheriff, township ~~police~~man 729
police officer or constable, or the chief of police shall submit a 730
written report of each such examination to the county auditor of 731
the county or the village solicitor or city director of law of the 732
municipal corporation wherein such junk yard is located. 733

The sheriff, township ~~police~~man police officer or constable, 734
or the chief of police shall, for the purpose of these 735
examinations, have free access to the grounds and buildings used 736
or proposed for use in the conduct of the junk yard activity by 737
the applicant or the licensee. 738

Such inspections may be made at any time, at the option of 739
the sheriff, township ~~police~~man police officer or constable, or 740
the chief of police during the regular work hours of the licensee 741
or within the hours of eight a.m. and five p.m. Monday through 742
Friday. 743

The director of transportation may also inspect junk yards 744
adjacent to state highways to obtain information with regard to 745
whether the licensee's activity is being conducted in accordance 746
with sections 4737.01 to 4737.12 of the Revised Code. If such 747

inspection indicates that there is a violation of any of the
provisions of such sections the director shall advise the attorney
general of such alleged violations and request ~~him~~ the attorney
general to take proper legal action.

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(C) Whenever it is determined upon any semiannual inspection
made under this section that a junk yard is not being conducted in
accordance with the requirements of sections 4737.01 to 4737.12 of
the Revised Code, the sheriff of the county, township ~~policeman~~
police officer or constable, or the chief of police of the
municipal corporation within whose jurisdiction the junk yard is
located, shall immediately notify the owner of the junk yard of
such fact. The notice shall be sent to the owner by registered
mail, and shall detail the areas which are not in conformity with
the requirements of sections 4737.01 to 4737.12 of the Revised
Code. A copy of the notice shall also be sent to the auditor of
the county, or the village solicitor or city director of law of
the municipal corporation within which the junk yard is located.

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(D) Any owner of a junk yard who receives a notice as
provided in this section shall, within sixty days after the
mailing of the notice, undertake and complete such changes or
improvements as are necessary to conform the junk yard to the
requirements of sections 4737.01 to 4737.12 of the Revised Code.
At the expiration of the sixty-day period, the sheriff, township
~~policeman~~ police officer or constable, or the chief of police
shall make a further inspection of the junk yard, and if the
required changes or improvements have not been made, the sheriff,
township police officer or constable, or the chief of the police
shall send notice of that noncompliance along with an order to
suspend the owner's license to the chief executive officer of the
municipality or the county auditor of the county in which the
licensee's junk yard is located. After receiving that notice and
order, the chief executive officer or county auditor, as

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appropriate, shall suspend the owner's license for ninety days. 780
While the owner's license is suspended, the owner shall undertake 781
and complete such changes or improvements necessary to conform the 782
junk yard to the requirements of sections 4737.01 to 4737.12 of 783
the Revised Code. 784

(E) An owner whose license is suspended pursuant to division 785
(D) of this section may appeal the suspension in accordance with 786
Chapter 2506. of the Revised Code. 787

At any time during the ninety days in which an owner's 788
license is suspended, the owner may apply to the sheriff, township 789
police officer or constable, or the chief of the police to have 790
the junk yard inspected. If, after the inspection, the sheriff, 791
township police officer or constable, or the chief of the police 792
determines that the junk yard conforms to the requirements of 793
sections 4737.01 to 4737.12 of the Revised Code, the sheriff, 794
township police officer or constable, or the chief of the police, 795
as appropriate, shall send notice of that compliance along with an 796
order to remove the suspension and reinstate the owner's license 797
to the chief executive officer of the municipality or the county 798
auditor of the county in which the licensee's junk yard is 799
located. After receiving that notice and order, the chief 800
executive officer or the county auditor, as appropriate, shall 801
remove the suspension and reinstate the owner's license. 802

(F)(1) An owner may sell junk while the owner's license is 803
suspended. 804

(2) No licensee may accept junk for future resale during the 805
time that the licensee's license is suspended under division (D) 806
of this section. 807

(G) If an owner's license has not been reinstated under 808
division (E) of this section prior to the end of a ninety-day 809
suspension, the sheriff, township police officer or constable, or 810

the chief of police shall make a further inspection of the junk 811
yard. If the owner has not made the required changes or 812
improvements, the sheriff, township police officer or constable, 813
or chief of police shall send notice of that noncompliance along 814
with an order to revoke the owner's license to the chief executive 815
officer of the municipality or the county auditor of the county in 816
which the licensee's junk yard is located. After receiving that 817
notice and order, the chief executive officer or the county 818
auditor shall revoke the owner's license in accordance with the 819
procedures specified in section 4737.07 of the Revised Code. In 820
addition to having the licensee's license revoked, the owner of 821
the junk yard shall be subject to a tax of ~~twenty~~ one hundred 822
dollars for each day after revocation that the violation 823
continues. 824

The sheriff, township ~~policeman~~ police officer or constable, 825
or the chief of police shall certify a return of the imposition of 826
said tax thereon to the county auditor, who shall enter the same 827
as a tax upon the property and against the persons upon which or 828
whom the lien was imposed as and when other taxes are entered. The 829
provisions of the laws relating to the collection of taxes in this 830
state, the delinquency thereof, and sale of property for taxes 831
shall govern in the collection of the tax prescribed in this 832
section insofar as the same are applicable. 833

Sec. 4737.99. (A) ~~Whoever~~ Except as specified in division (B) 834
of this section, whoever violates sections 4737.01 to 4737.11~~7~~ 835
~~inclusive~~⁷, of the Revised Code, shall be fined not less than 836
twenty-five nor more than one thousand dollars and the costs of 837
prosecution. 838

(B) Whoever violates division (F)(2) of section 4737.10 of 839
the Revised Code is guilty of a misdemeanor of the fourth degree. 840

Sec. 4738.16. (A) Chapter 4738. of the Revised Code does not
apply to a scrap metal processor engaged primarily in the
acquisition, processing, and shipment of ferrous and nonferrous
scrap, or who receives dismantled salvage motor vehicles, used
motor vehicles, or motor vehicle parts as scrap metal for the
purpose of recycling the motor vehicles or parts for their
metallic content, the end product of which is the production of
material for recycling and remelting purposes for mills,
foundries, smelters, and refiners.

(B) A scrap metal processor who receives a motor vehicle from
the owner described on the certificate of title shall within ten
days mark the certificate "TO BE CANCELED," keep a record of the
cancellation, and forward the certificate to the clerk of the
court who issued it. The clerk shall notify the registrar of motor
vehicles of such cancellation. The scrap metal processor shall
keep the record of the cancellation for three years after creating
the record. The record shall include a copy of the canceled title,
and if the seller of the motor vehicle is not the titled owner,
the record also shall include all of the following information
about the seller:

(1) The seller's name and address;

(2) An identification number from the seller's driver's
license, military identification, or other state issued license;

(3) A physical description of the seller;

(4) The seller's expenditures for the motor vehicle.

The scrap metal processor shall make a record of a
cancellation available to any requesting law enforcement agency
during the scrap metal processor's normal business hours.

Section 2. That existing sections 4735.01, 4735.16, 4735.18,
4735.51, 4735.63, 4735.65, 4737.10, 4737.99, and 4738.16 of the

Revised Code are hereby repealed.

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