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**Representatives Widener, McGregor, J., Miller, Yuko, Combs, Setzer,
Strahorn, Faber, DeWine, Collier, Harwood, Sayre, Cassell, Reidelbach,
Carano, Buehrer, Driehaus, Patton, T., Brown, Book, Gibbs, Hagan, Webster,
Coley, Wagoner, Boccieri, White, Blessing, Calvert, Chandler, Daniels,
DeGeeter, Domenick, Evans, C., Evans, D., Flowers, Healy, Hughes, Key,
Koziura, Latta, Martin, McGregor, R., Otterman, Perry, Schaffer, Schlichter,
Smith, G., Stewart, D., Stewart, J., Willamowski, Yates
Senators Mumper, Carey, Clancy, Schuler**

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A B I L L

To amend sections 122.086, 122.0810, 122.0812, 1
122.0814, 122.0817, 122.0819, 4735.01, 4735.16, 2
4735.18, 4735.51, 4735.63, and 4735.65 and to 3
enact sections 4735.621 and 4735.75 of the Revised 4
Code to add definitions to real estate broker law, 5
to expand duties of licensees under that law, and 6
to require that the Job Ready Site Program be 7
administered pursuant to rules adopted under the 8
Administrative Procedure Act. 9

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

Section 1. That sections 122.086, 122.0810, 122.0812, 10
122.0814, 122.0817, 122.0819, 4735.01, 4735.16, 4735.18, 4735.51, 11
4735.63, and 4735.65 be amended and sections 4735.621 and 4735.75 12
of the Revised Code be enacted to read as follows: 13

Sec. 122.086. There is hereby created the job ready site 14
program to provide grants to pay for allowable costs of eligible 15
applicants for eligible projects. The program shall be 16
administered by the department of development pursuant to 17
~~guidelines established~~ rules adopted for it by the director of 18
development in accordance with Chapter 119. of the Revised Code. 19
All grants shall be awarded through one of the following two 20
processes: 21

(A) The annual competitive process under sections 122.087 to 22
122.0811 and 122.0814 of the Revised Code; 23

(B) The discretionary process under sections 122.0812, 24
122.0813, and 122.0814 of the Revised Code. 25

Sec. 122.0810. (A) Each application for a grant pursuant to 26
the annual competitive process received by a district public works 27
integrating committee shall be evaluated by the executive 28
committee of the district committee. In conducting the evaluation, 29
the executive committee shall determine whether the application 30
for the proposed eligible project is complete and whether the 31
project meets the requirements of section 122.0815 of the Revised 32
Code. If the application is complete and the eligible project 33
meets the requirements of section 122.0815 of the Revised Code, 34
the executive committee shall prioritize the eligible project 35
pursuant to section 122.0816 of the Revised Code and pursuant to 36
local priorities, as those priorities are determined by the 37
executive committee, with all other eligible projects with 38
complete applications that meet the requirements of section 39
122.0815 of the Revised Code. If the application is incomplete or 40
the project does not meet the requirements of section 122.0815 of 41
the Revised Code, the executive committee shall notify the 42
applicant of the deficiencies and the period of time the applicant 43

has to correct the deficiencies and submit the corrections to the executive committee. Failure to correct deficiencies within the time designated by the executive committee shall disqualify the project from consideration for a grant during the annual competitive process for that year.

The executive committee, by the affirmative vote of a majority of all its members, shall select up to three eligible projects from the projects it has prioritized each year pursuant to the annual competitive process. The executive committee shall forward the applications and any accompanying information for each of the selected eligible projects to the department of development in the time and manner required by the guidelines rules adopted pursuant to section 122.086 of the Revised Code governing the job ready site program.

(B) For a district public works integrating committee that does not have an executive committee, the full committee shall perform the functions assigned to the executive committee under section 122.0816 of the Revised Code and division (A) of this section.

(C) An executive committee, or a district committee that does not have an executive committee, may appoint a working group of committee members and staff to perform the functions of those committees as provided in this section.

Sec. 122.0812. The director of development shall establish a discretionary process that permits the director to make grants described in section 122.086 of the Revised Code in situations that include those in which the timing of a proposed eligible project is such that the annual competitive process is not suitable. The director, ~~as part of the guidelines established for the job ready site program,~~ shall establish all the procedures and

requirements governing application for the discretionary grants in 74
rules the director adopts pursuant to section 122.086 of the 75
Revised Code for the job ready site program. 76

Sec. 122.0814. If the controlling board approves a grant for 77
an eligible project pursuant to the annual competitive process or 78
the discretionary process, the director of development shall enter 79
into an agreement with the eligible applicant to provide the grant 80
for the project. The agreement shall be executed prior to the 81
payment or disbursement of any funds under the grant and shall 82
contain the following provisions: 83

(A) A designation of a single officer or employee of the 84
eligible applicant who will serve as the manager of the eligible 85
project; 86

(B) A detailed description of the scope of the work required 87
under the eligible project, including anticipated sources and uses 88
of funds; 89

(C) A designation of the percentage of the estimated total 90
cost of the project for which the grant will provide funding, 91
which shall not exceed seventy-five per cent of the cost; 92

(D) Provisions for the recovery by the department of grant 93
funds for failure to meet the terms of the agreement; 94

(E) A requirement that annual reports be made by the eligible 95
applicant on the progress of the eligible project and any other 96
information about the status of the project as required by the 97
~~guidelines established~~ rules adopted pursuant to section 122.086 98
of the Revised Code for the job ready site program; 99

(F) Any other provisions the director determines necessary. 100

Sec. 122.0817. In accordance with the ~~guidelines established~~ 101
rules adopted pursuant to section 122.086 of the Revised Code to 102

govern the job ready site program, the director of development 103
shall publish an annual report that includes the following: 104

(A) Details on each grant awarded pursuant to the program; 105

(B) The status of projects funded in previous years; 106

(C) The amount of grants awarded for projects in economically 107
distressed areas and, to the extent possible, the impact of those 108
grants in those areas. 109

Sec. 122.0819. The ~~guidelines established~~ rules adopted 110
pursuant to section 122.086 of the Revised Code to govern the job 111
ready site program may provide for recovery of the costs, or a 112
portion thereof, incurred by district public works integrating 113
committees and executive committees in conducting their duties 114
under the program. 115

Sec. 4735.01. As used in this chapter: 116

(A) "Real estate broker" includes any person, partnership, 117
association, limited liability company, limited liability 118
partnership, or corporation, foreign or domestic, who for another, 119
whether pursuant to a power of attorney or otherwise, and who for 120
a fee, commission, or other valuable consideration, or with the 121
intention, or in the expectation, or upon the promise of receiving 122
or collecting a fee, commission, or other valuable consideration 123
does any of the following: 124

(1) Sells, exchanges, purchases, rents, or leases, or 125
negotiates the sale, exchange, purchase, rental, or leasing of any 126
real estate; 127

(2) Offers, attempts, or agrees to negotiate the sale, 128
exchange, purchase, rental, or leasing of any real estate; 129

(3) Lists, or offers, attempts, or agrees to list, or 130

auctions, or offers, attempts, or agrees to auction, any real	131
estate;	132
(4) Buys or offers to buy, sells or offers to sell, or	133
otherwise deals in options on real estate;	134
(5) Operates, manages, or rents, or offers or attempts to	135
operate, manage, or rent, other than as custodian, caretaker, or	136
janitor, any building or portions of buildings to the public as	137
tenants;	138
(6) Advertises or holds self out as engaged in the business	139
of selling, exchanging, purchasing, renting, or leasing real	140
estate;	141
(7) Directs or assists in the procuring of prospects or the	142
negotiation of any transaction, other than mortgage financing,	143
which does or is calculated to result in the sale, exchange,	144
leasing, or renting of any real estate;	145
(8) Is engaged in the business of charging an advance fee or	146
contracting for collection of a fee in connection with any	147
contract whereby the broker undertakes primarily to promote the	148
sale, exchange, purchase, rental, or leasing of real estate	149
through its listing in a publication issued primarily for such	150
purpose, or for referral of information concerning such real	151
estate to brokers, or both, except that this division does not	152
apply to a publisher of listings or compilations of sales of real	153
estate by their owners;	154
(9) Collects rental information for purposes of referring	155
prospective tenants to rental units or locations of such units and	156
charges the prospective tenants a fee.	157
(B) "Real estate" includes leaseholds as well as any and	158
every interest or estate in land situated in this state, whether	159
corporeal or incorporeal, whether freehold or nonfreehold, and the	160

improvements on the land, but does not include cemetery interment rights. 161
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(C) "Real estate salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise. 163
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(D) "Institution of higher education" means either of the following: 167
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(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school; 169
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(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school. 173
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(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state. 178
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(F) "Foreign real estate dealer" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate. 181
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(G) "Foreign real estate salesperson" means any person 191
associated with a licensed foreign real estate dealer to do or 192
deal in any act or transaction specified or comprehended in 193
division (A) of this section with respect to foreign real estate, 194
for compensation or otherwise. 195

(H) Any person, partnership, association, limited liability 196
company, limited liability partnership, or corporation, who, for 197
another, in consideration of compensation, by fee, commission, 198
salary, or otherwise, or with the intention, in the expectation, 199
or upon the promise of receiving or collecting a fee, does, or 200
offers, attempts, or agrees to engage in, any single act or 201
transaction contained in the definition of a real estate broker, 202
whether an act is an incidental part of a transaction, or the 203
entire transaction, shall be constituted a real estate broker or 204
real estate salesperson under this chapter. 205

(I) The terms "real estate broker," "real estate 206
salesperson," "foreign real estate dealer," and "foreign real 207
estate salesperson" do not include a person, partnership, 208
association, limited liability company, limited liability 209
partnership, or corporation, or the regular employees thereof, who 210
perform any of the acts or transactions specified or comprehended 211
in division (A) of this section, whether or not for, or with the 212
intention, in expectation, or upon the promise of receiving or 213
collecting a fee, commission, or other valuable consideration: 214

(1) With reference to real estate situated in this state or 215
any interest in it owned by such person, partnership, association, 216
limited liability company, limited liability partnership, or 217
corporation, or acquired on its own account in the regular course 218
of, or as an incident to the management of the property and the 219
investment in it; 220

(2) As receiver or trustee in bankruptcy, as guardian, 221

executor, administrator, trustee, assignee, commissioner, or any	222
person doing the things mentioned in this section, under authority	223
or appointment of, or incident to a proceeding in, any court, or	224
as a public officer, or as executor, trustee, or other bona fide	225
fiduciary under any trust agreement, deed of trust, will, or other	226
instrument creating a like bona fide fiduciary obligation;	227
(3) As a public officer while performing the officer's	228
official duties;	229
(4) As an attorney at law in the performance of the	230
attorney's duties;	231
(5) As a person who engages in the brokering of the sale of	232
business assets, not including the negotiation of the sale, lease,	233
exchange, or assignment of any interest in real estate;	234
(6) As a person who engages in the sale of manufactured homes	235
as defined in division (C)(4) of section 3781.06 of the Revised	236
Code, or of mobile homes as defined in division (O) of section	237
4501.01 of the Revised Code, provided the sale does not include	238
the negotiation, sale, lease, exchange, or assignment of any	239
interest in real estate;	240
(7) As a person who engages in the sale of commercial real	241
estate pursuant to the requirements of section 4735.022 of the	242
Revised Code.	243
(J) "Physically handicapped licensee" means a person licensed	244
pursuant to this chapter who is under a severe physical disability	245
which is of such a nature as to prevent the person from being able	246
to attend any instruction lasting at least three hours in	247
duration.	248
(K) "Division of real estate" may be used interchangeably	249
with, and for all purposes has the same meaning as, "division of	250
real estate and professional licensing."	251

(L) "Superintendent" or "superintendent of real estate" means 252
the superintendent of the division of real estate and professional 253
licensing of this state. Whenever the division or superintendent 254
of real estate is referred to or designated in any statute, rule, 255
contract, or other document, the reference or designation shall be 256
deemed to refer to the division or superintendent of real estate 257
and professional licensing, as the case may be. 258

(M) "Inactive license" means the license status in which a 259
salesperson's license is in the possession of the division, 260
renewed as required under this chapter or rules adopted under this 261
chapter, and not associated with a real estate broker. 262

(N) "Broker's license on deposit" means the license status in 263
which a broker's license is in the possession of the division of 264
real estate and professional licensing and renewed as required 265
under this chapter or rules adopted under this chapter. 266

(O) "Suspended license" means the license status that 267
prohibits a licensee from providing services that require a 268
license under this chapter for a specified interval of time. 269

(P) "Reactivate" means the process prescribed by the 270
superintendent of real estate and professional licensing to remove 271
a license from an inactive, suspended, or broker's license on 272
deposit status to allow a licensee to provide services that 273
require a license under this chapter. 274

(Q) "Revoked" means the license status in which the license 275
is void and not eligible for reactivation. 276

(R) "Commercial real estate" means any parcel of real estate 277
in this state other than real estate containing one to four 278
residential units. "Commercial real estate" does not include 279
single-family residential units such as condominiums, townhouses, 280
manufactured homes, or homes in a subdivision when sold, leased, 281
or otherwise conveyed on a unit-by-unit basis, even when those 282

units are a part of a larger building or parcel of real estate 283
containing more than four residential units. 284

(S) "Out-of-state commercial broker" includes any person, 285
partnership, association, limited liability company, limited 286
liability partnership, or corporation that is licensed to do 287
business as a real estate broker in a jurisdiction other than 288
Ohio. 289

(T) "Out-of-state commercial salesperson" includes any person 290
affiliated with an out_of_state commercial broker who is not 291
licensed as a real estate salesperson in Ohio. 292

(U) "Exclusive right to sell or lease listing agreement" 293
means an agency agreement between a seller and broker that meets 294
the requirements of section 4735.55 of the Revised Code and does 295
both of the following: 296

(1) Grants the broker the exclusive right to represent the 297
seller in the sale or lease of the seller's property; 298

(2) Provides the broker will be compensated if the broker, 299
the seller, or any other person or entity produces a purchaser or 300
tenant in accordance with the terms specified in the listing 301
agreement or if the property is sold or leased during the term of 302
the listing agreement to anyone other than to specifically 303
exempted persons or entities. 304

(V) "Exclusive agency agreement" means an agency agreement 305
between a seller and broker that meets the requirements of section 306
4735.55 of the Revised Code and does both of the following: 307

(1) Grants the broker the exclusive right to represent the 308
seller in the sale or lease of the seller's property; 309

(2) Provides the broker will be compensated if the broker or 310
any other person or entity produces a purchaser or tenant in 311
accordance with the terms specified in the listing agreement or if 312

the property is sold or leased during the term of the listing 313
agreement, unless the property is sold or leased solely through 314
the efforts of the seller or to the specifically exempted persons 315
or entities. 316

(W) "Exclusive purchaser agency agreement" means an agency 317
agreement between a purchaser and broker that meets the 318
requirements of section 4735.55 of the Revised Code and does both 319
of the following: 320

(1) Grants the broker the exclusive right to represent the 321
purchaser in the purchase or lease of property; 322

(2) Provides the broker will be compensated in accordance 323
with the terms specified in the exclusive agency agreement or if a 324
property is purchased or leased by the purchaser during the term 325
of the agency agreement unless the property is specifically 326
exempted in the agency agreement. 327

The agreement may authorize the broker to receive 328
compensation from the seller or the seller's agent and may provide 329
that the purchaser is not obligated to compensate the broker if 330
the property is purchased or leased solely through the efforts of 331
the purchaser. 332

(X) "Seller" means a party in a real estate transaction who 333
is the potential transferor of property. "Seller" includes an 334
owner of property who is seeking to sell the property and a 335
landlord who is seeking to rent or lease property to another 336
person. 337

Sec. 4735.16. (A) Every real estate broker licensed under 338
this chapter shall have and maintain a definite place of business 339
in this state and shall erect or maintain a sign on the premises 340
plainly stating that the licensee is a real estate broker. If the 341
real estate broker maintains one or more branch offices, the real 342

estate broker shall erect or maintain a sign at each branch office 343
plainly stating that the licensee is a real estate broker. 344

(B)(1) Any licensed real estate broker or salesperson who 345
advertises to buy, sell, exchange, or lease real estate, or to 346
engage in any act regulated by this chapter, including, but not 347
limited to, any licensed real estate broker or salesperson who 348
advertises to sell, exchange, or lease real estate that the 349
licensee owns, shall be identified in the advertisement by name 350
and by indicating that the licensee is a real estate broker or 351
real estate salesperson. Except a real estate salesperson who 352
advertises the sale, exchange, or lease of real estate that the 353
salesperson owns and that is not listed for sale, exchange, or 354
lease with a real estate broker, any real estate salesperson who 355
advertises, as provided in this section, also shall indicate in 356
the advertisement the name of the broker under whom the 357
salesperson is licensed and the fact that the salesperson's broker 358
is a real estate broker. The name of the broker shall be displayed 359
in equal prominence with the name of the salesperson in the 360
advertisement. 361

(2) A real estate broker who is representing a seller under 362
an exclusive right to sell or lease listing agreement shall not 363
advertise such property to the public as "for sale by owner" or 364
otherwise mislead the public to believe that the seller is not 365
represented by a real estate broker. 366

(3) If any real estate broker or real estate salesperson 367
advertises in a manner other than as provided in this section or 368
the rules adopted under this section, that advertisement is prima- 369
facie evidence of a violation under division (A)(21) of section 370
4735.18 of the Revised Code. 371

When the superintendent determines that prima-facie evidence 372
of a violation of division (A)(21) of section 4735.18 of the 373
Revised Code or any of the rules adopted thereunder exists, the 374

superintendent may do either of the following: 375

(a) Initiate disciplinary action under section 4735.051 of 376
the Revised Code for a violation of division (A)(21) of section 377
4735.18 of the Revised Code, in accordance with Chapter 119. of 378
the Revised Code; 379

(b) Personally, or by certified mail, serve a citation upon 380
the licensee. 381

(C)(1) Every citation served under this section shall give 382
notice to the licensee of the alleged violation or violations 383
charged and inform the licensee of the opportunity to request a 384
hearing in accordance with Chapter 119. of the Revised Code. The 385
citation also shall contain a statement of a fine of two hundred 386
dollars per violation, not to exceed two thousand five hundred 387
dollars per citation. All fines collected pursuant to this section 388
shall be credited to the real estate recovery fund, created in the 389
state treasury under section 4735.12 of the Revised Code. 390

(2) If any licensee is cited three times within twelve 391
consecutive months, the superintendent shall initiate disciplinary 392
action pursuant to section 4735.051 of the Revised Code for any 393
subsequent violation that occurs within the same twelve-month 394
period. 395

(3) If a licensee fails to request a hearing within thirty 396
days of the date of service of the citation, or the licensee and 397
the superintendent fail to reach an alternative agreement, the 398
citation shall become final. 399

(4) Unless otherwise indicated, the licensee named in a final 400
citation must meet all requirements contained in the final 401
citation within thirty days of the effective date of that 402
citation. 403

(5) The superintendent shall suspend automatically a 404
licensee's license if the licensee fails to comply with division 405

(C)(4) of this section.

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

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Sec. 4735.18. (A) Subject to section 4735.32 of the Revised Code, the superintendent of real estate, upon the superintendent's own motion, may investigate the conduct of any licensee. Subject

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to section 4735.32 of the Revised Code, the Ohio real estate 437
commission shall, pursuant to section 4735.051 of the Revised 438
Code, impose disciplinary sanctions upon any licensee who, whether 439
or not acting in the licensee's capacity as a real estate broker 440
or salesperson, or in handling the licensee's own property, is 441
found to have been convicted of a felony or a crime of moral 442
turpitude, and shall, pursuant to section 4735.051 of the Revised 443
Code, impose disciplinary sanctions upon any licensee who, in the 444
licensee's capacity as a real estate broker or salesperson, or in 445
handling the licensee's own property, is found guilty of: 446

(1) Knowingly making any misrepresentation; 447

(2) Making any false promises with intent to influence, 448
persuade, or induce; 449

(3) A continued course of misrepresentation or the making of 450
false promises through agents, salespersons, advertising, or 451
otherwise; 452

(4) Acting for more than one party in a transaction except as 453
permitted by and in compliance with section 4735.71 of the Revised 454
Code; 455

(5) Failure within a reasonable time to account for or to 456
remit any money coming into the licensee's possession which 457
belongs to others; 458

(6) Dishonest or illegal dealing, gross negligence, 459
incompetency, or misconduct; 460

(7)(a) By final adjudication by a court, a violation of any 461
municipal or federal civil rights law relevant to the protection 462
of purchasers or sellers of real estate or, by final adjudication 463
by a court, any unlawful discriminatory practice pertaining to the 464
purchase or sale of real estate prohibited by Chapter 4112. of the 465
Revised Code, provided that such violation arose out of a 466
situation wherein parties were engaged in bona fide efforts to 467

purchase, sell, or lease real estate, in the licensee's practice 468
as a licensed real estate broker or salesperson; 469

(b) A second or subsequent violation of any unlawful 470
discriminatory practice pertaining to the purchase or sale of real 471
estate prohibited by Chapter 4112. of the Revised Code or any 472
second or subsequent violation of municipal or federal civil 473
rights laws relevant to purchasing or selling real estate whether 474
or not there has been a final adjudication by a court, provided 475
that such violation arose out of a situation wherein parties were 476
engaged in bona fide efforts to purchase, sell, or lease real 477
estate. For any second offense under this division, the commission 478
shall suspend for a minimum of two months or revoke the license of 479
the broker or salesperson. For any subsequent offense, the 480
commission shall revoke the license of the broker or salesperson. 481

(8) Procuring a license under this chapter, for the licensee 482
or any salesperson by fraud, misrepresentation, or deceit; 483

(9) Having violated or failed to comply with any provision of 484
sections 4735.51 to 4735.74 of the Revised Code or having 485
willfully disregarded or violated any other provisions of this 486
chapter; 487

(10) As a real estate broker, having demanded, without 488
reasonable cause, other than from a broker licensed under this 489
chapter, a commission to which the licensee is not entitled, or, 490
as a real estate salesperson, having demanded, without reasonable 491
cause, a commission to which the licensee is not entitled; 492

(11) Except as permitted under section 4735.20 of the Revised 493
Code, having paid commissions or fees to, or divided commissions 494
or fees with, anyone not licensed as a real estate broker or 495
salesperson under this chapter or anyone not operating as an 496
out-of-state commercial real estate broker or salesperson under 497
section 4735.022 of the Revised Code; 498

(12) Having falsely represented membership in any real estate professional association of which the licensee is not a member;	499
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(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;	501
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(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;	504
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(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;	509
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(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;	512
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(17) Having placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's authorized agent;	515
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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;	518
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(19) Having negotiated the sale, exchange, or lease of any real property directly with an owner <u>a seller</u> , purchaser, lessor, or tenant knowing that such owner <u>seller</u> , purchaser, lessor, or tenant had a written outstanding contract granting exclusive agency in connection with such property to another real estate broker <u>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</u>	521
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<u>such property except as provided for in section 4735.75 of the</u>	529
<u>Revised Code;</u>	530
(20) Having offered real property for sale or for lease	531
without the knowledge and consent of the owner or the owner's	532
authorized agent, or on any terms other than those authorized by	533
the owner or the owner's authorized agent;	534
(21) Having published advertising, whether printed, radio,	535
display, or of any other nature, which was misleading or	536
inaccurate in any material particular, or in any way having	537
misrepresented any properties, terms, values, policies, or	538
services of the business conducted;	539
(22) Having knowingly withheld from or inserted in any	540
statement of account or invoice any statement that made it	541
inaccurate in any material particular;	542
(23) Having published or circulated unjustified or	543
unwarranted threats of legal proceedings which tended to or had	544
the effect of harassing competitors or intimidating their	545
customers;	546
(24) Having failed to keep complete and accurate records of	547
all transactions for a period of three years from the date of the	548
transaction, such records to include copies of listing forms,	549
earnest money receipts, offers to purchase and acceptances of	550
them, records of receipts and disbursements of all funds received	551
by the licensee as broker and incident to the licensee's	552
transactions as such, and records required pursuant to divisions	553
(C)(4) and (5) of section 4735.20 of the Revised Code, and any	554
other instruments or papers related to the performance of any of	555
the acts set forth in the definition of a real estate broker;	556
(25) Failure of a real estate broker or salesperson to	557
furnish all parties involved in a real estate transaction true	558
copies of all listings and other agreements to which they are a	559

party, at the time each party signs them; 560

(26) Failure to maintain at all times a special or trust bank 561
account in a depository located in this state. The account shall 562
be noninterest-bearing, separate and distinct from any personal or 563
other account of the broker, and, except as provided in division 564
(A)(27) of this section, shall be used for the deposit and 565
maintenance of all escrow funds, security deposits, and other 566
moneys received by the broker in a fiduciary capacity. The name, 567
account number, if any, and location of the depository wherein 568
such special or trust account is maintained shall be submitted in 569
writing to the superintendent. Checks drawn on such special or 570
trust bank accounts are deemed to meet the conditions imposed by 571
section 1349.21 of the Revised Code. 572

(27) Failure to maintain at all times a special or trust bank 573
account in a depository in this state, to be used exclusively for 574
the deposit and maintenance of all rents, security deposits, 575
escrow funds, and other moneys received by the broker in a 576
fiduciary capacity in the course of managing real property. This 577
account shall be separate and distinct from any other account 578
maintained by the broker. The name, account number, and location 579
of the depository shall be submitted in writing to the 580
superintendent. This account may earn interest, which shall be 581
paid to the property owners on a pro rata basis. 582

Division (A)(27) of this section does not apply to brokers 583
who are not engaged in the management of real property on behalf 584
of real property owners. 585

(28) Having failed to put definite expiration dates in all 586
written agency agreements to which the broker is a party; 587

(29) Having an unsatisfied final judgment in any court of 588
record against the licensee arising out of the licensee's conduct 589
as a licensed broker or salesperson; 590

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

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

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

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

(34) Having authorized or permitted a person to act as an agent in the capacity of a real estate broker, or a real estate salesperson, who was not then licensed as a real estate broker or real estate salesperson under this chapter or who was not then operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

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

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

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

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

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

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

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

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

(B) "Agency agreement" means a contract between a licensee 652
and a client in which the client promises to pay the broker a 653
valuable consideration, or agrees that the licensee may receive a 654
valuable consideration from another, for performing an act that 655
requires a real estate license under this chapter. 656

(C) "Agent" and "real estate agent" mean a person licensed by 657
this chapter to represent another in a real estate transaction. 658

(D) "Affiliated licensee" means a real estate broker or a 659
real estate salesperson licensed by this chapter who is affiliated 660
with a brokerage. 661

(E) "Brokerage" means a corporation, partnership, limited 662
partnership, association, limited liability company, limited 663
liability partnership, or sole proprietorship issued a broker's 664
license. "Brokerage" includes the affiliated licensees who have 665
been assigned management duties that include supervision of 666
licensees whose duties may conflict with those of other affiliated 667
licensees. 668

(F) "Client" means a person who has entered into an agency 669
relationship with a licensee. 670

(G) "Confidential information" means all information that a 671
client directs to be kept confidential or that if disclosed would 672
have an adverse effect on the client's position in the real estate 673
transaction, except to the extent the agent is required by law to 674
disclose such information, and all information that is required by 675
law to be kept confidential. 676

(H) "Dual agency relationship" means any of the dual agency 677
relationships set forth in section 4735.70 of the Revised Code. 678

(I) "In-company transaction" means a real estate transaction 679
in which the purchaser and seller are both represented by the same 680
brokerage. 681

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

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

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

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

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

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

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

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

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

(C) The superintendent of real estate, with the approval of the Ohio real estate commission, shall establish by rule a waiver of duties statement that shall contain the following: 712
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(1) The fiduciary duties required of all licensees under section 4735.62 of the Revised Code; 715
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(2) A list of those duties contained in section 4735.63 or 4735.65 of the Revised Code, which shall be set forth in a manner that allows for the parties to indicate which of those duties are being waived; 717
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(3) A statement that no other licensee is required to perform the waived duty on behalf of the client; 721
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(4) A statement that legal counsel or other professionals may be hired by the client; 723
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(5) A place for the client and licensee to sign and date the statement. 725
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Sec. 4735.63. (A) In representing a seller in an agency relationship, a licensee shall ~~promote the interest of the client by doing all of the following:~~ 727
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(1) ~~Seeking~~ Seek a purchase offer at a price and with terms acceptable to the ~~client~~ seller. Unless the ~~client~~ seller so directs, the licensee is not obligated to seek additional offers if the property is subject to a contract of sale, lease, or letter of intent to lease; 730
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(2) ~~Presenting~~ Accept delivery of and present any purchase offer to the ~~client~~ seller in a timely manner, even if the property is subject to a contract of sale, lease, or letter of intent to lease; 735
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(3) ~~Prior to presenting the seller an offer to purchase, providing the seller with a copy of any agency disclosure form~~ 739
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~~signed by the purchaser~~ Within the scope of knowledge required for 741
licensure, answer the seller's questions and provide information 742
to the seller regarding any offers or counteroffers; 743

(4) Assist the seller in developing, communicating, and 744
presenting offers or counteroffers; 745

(5) Within the scope of knowledge required for licensure, 746
answer the seller's questions regarding the steps the seller must 747
take to fulfill the terms of any contract. 748

(B) A licensee does not breach any duty or obligation to a 749
seller with whom the licensee has an agency relationship by 750
showing alternative properties to a prospective purchaser or by 751
acting as an agent or subagent for other sellers. 752

(C) Nothing in this section shall be construed as permitting 753
a licensee to perform any act or service that constitutes the 754
practice of law. 755

Sec. 4735.65. (A) In representing a purchaser in an agency 756
relationship, a licensee shall ~~represent the interests of the~~ 757
~~purchaser by doing each of the following:~~ 758

(1) ~~Seeking~~ Seek a property at a price and with purchase or 759
lease terms acceptable to the purchaser. Unless the client so 760
directs, the licensee is not obligated to seek additional purchase 761
or lease possibilities if the purchaser is a party to a contract 762
to purchase property, or has entered into a lease or has extended 763
a letter of intent to lease. 764

(2) ~~Presenting~~ Within the scope of knowledge required for 765
licensure, answer the purchaser's questions and provide 766
information to the purchaser regarding any offers or 767
counteroffers; 768

(3) Assist the purchaser in developing, communicating, and 769
presenting offers or counteroffers; 770

(4) Present any offer to purchase or lease to the seller or the seller's agent in a timely manner, even if the property is subject to a contract of sale, lease, or letter of intent to lease, and accept delivery of and present any counteroffers to the purchaser in a timely manner; 771
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(5) Within the scope of knowledge required for licensure, answer the purchaser's questions regarding the steps the purchaser must take to fulfill the terms of any contract. 776
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(B) A licensee does not breach any duty or obligation to the purchaser by showing the same properties to other purchasers or by acting as an agent or subagent for other purchasers, or as an agent or subagent for sellers, except that any dual agency relationship must be disclosed to a client pursuant to section 4735.71 of the Revised Code. 779
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(C) Nothing in this section shall be construed as permitting a licensee to perform any act or service that constitutes the practice of law. 785
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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. 788
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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 795
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licensee and the client of that exclusive broker. 801

(C) As used in this section and division (A)(19) of section 802
4735.18 of the Revised Code, "negotiate" means any the following: 803

(1) Delivering or communicating an offer, counteroffer, or 804
proposal; 805

(2) Discussing or reviewing the terms of any offer, 806
counteroffer, or proposal; 807

(3) Facilitating communication regarding an offer, 808
counteroffer, or proposal and preparing any response as directed. 809

Section 2. That existing sections 122.086, 122.0810, 810
122.0812, 122.0814, 122.0817, 122.0819, 4735.01, 4735.16, 4735.18, 811
4735.51, 4735.63, and 4735.65 of the Revised Code are hereby 812
repealed. 813