

TO: Joint House Committees on Real Estate/Probate and Business Regulation/Consumer Affairs

CC: DBPR, FREC, FAR, NAEBA and FREEA

FROM: Robert Delmar, REALTOR, CEBA, ABR, e-Pro 500

DATE: August 3, 1999

RE: Proposals for 2001 "Real Estate Simplification Act"

Preliminary proposals for "major surgery" (not another "Band-aid") to Chapter 475 F.S. have been posted on the internet at <http://delmars.com/source>. Simply click the "Links" button in the left frame of the web site, read proposed additions and deletions to current statute, then click "Back" to read related news articles.

If adopted in the 2001 legislative session, the proposed revisions to existing statute are intended to:

- 1) Make "presumption" of a Transaction Broker (non-agent) relationship viable by requiring up-front disclosure --*simple enough to be printed on the back of business cards*-- describing basic differences between Transaction Broker and Agent relationships and requiring that Agent representation be under written agreement. (Unlike most states, Florida does not yet require written Agent agreements).
- 2) Provide (for the first time) a simple and specific definition of "Agent" in s. 475.01, together with definitions of more specialized forms of Agent relationships being used in contemporary practices of real estate.
- 3) Correct misuse and abuse by licensees who work as Transaction Brokers (non-agent) but who habitually call themselves "Agent" when working with buyers and sellers; i.e., implied dual agency.
- 4) Correct misuse and abuse by licensees who work as Agents but who use disclosures and agreements (authorized by current statute) with automatic, built-in "reneege" clauses to "transition" into Transaction Brokers. (Note: Proposed revisions would allow an Agent to transition into a Transaction Broker, or a Transaction Broker to transition into an Agent, but with "informed" consent --not "implied" or "pre" consent at the time of actual transition and with agreement signed by buyer or seller, or both).
- 5) Revoke "designated salesperson;" i.e., "designated agent" (which actually makes the managing broker a "dual agent") and delete other provisions of s. 475.2755 to simplify statute. Thereby, only two relationships in all real estate transactions would be authorized: Agent OR Transaction Broker. ("Which do you prefer, Mr. and Mrs. Consumer, Chocolate or Vanilla?")
- 6) Increase education requirements of licensees above "minimal," as presently described in s. 475.01, by requiring that all licensees become Brokers by October 1, 2003. Suggested education requirements copy Colorado's successful "single licensure" statute and provide a two year phase-in period for licensees who are "salespersons" prior to October 1, 2002.
- 7) Similar to Colorado, establish three levels of Broker licenses: Associate Brokers who must be supervised and are required to be supervised by Managing Brokers; Independent Brokers with a minimum of 2 years experience who operate as an independent Brokerage Firm with no Associate Brokers; Managing Brokers with a minimum of 2 years experience who have satisfied additional education requirements (24 hours in classroom) to supervise Associate Brokers.
- 8) Simplify existing Chapter 475 by deleting and replacing most of the "Band-aid" legislation adopted during the last decade; e.g., s. 475.2755 and s. 475.278.

Once again, all interested parties are invited to review specific proposals and read related news articles posted as "Links" at <http://delmars.com/source>.

Robert Delmar, REALTOR, CEBA, ABR, e-Pro 500
Buyer Agent Services, Inc.
314 Security Square
Winter Haven, FL 33880
Phone:863/299-3177
Fax: 863/299-0396
<http://buyeragentservices.com>
<mailto:BuyerAgent@Realtor.com>