

SLIDE 1 – COVER PAGE

SLIDE 2 – TOPICS

In this section you will study the following topics:

- I. Regulation by Department of Business and Professional Regulation (DBPR)
- II. Division of Real Estate
- III. The Florida Real Estate Commission; Rules Governing Internal Organization and Operation; 61J2-20

SLIDE 3 – LEARNING OBJECTIVES

Upon completion of this lesson, you should be able to:

- Describe the composition, appointment and member qualifications of the Florida Real Estate Commission
- Define the powers and duties of the Commission
- Explain the different licensure statuses
- Distinguish between active and inactive license status
- Describe the regulations regarding involuntarily inactive status
- Distinguish between multiple and group licenses

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Here are some key terms we'll encounter in this lesson:

- **Active** – The licensee is allowed to operate under the associated license.
- **Inactive** – The licensee has met the department's requirements for licensure but is not allowed to work under this license.
- **Canceled** – A Real Estate license not renewed after a two (2) year inactive state is canceled.

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- **Cease to be in force** – Circumstances not necessarily inherent to the licensee that would make their license to be not in force or a change in status not reported to the FREC.
- **Current** – The licensee is up to date with respect to the department's requirements for licensure.
- **Group license** – A owner-employer submitting proof that he owns or substantially owns more than one development or property and he needs the sales associate associates to work in various locations, should register as a group employer.

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- **Involuntarily inactive** – A licensee who fails to meet a requirement of licensing: fees paid, taking required education, fails to renew or works for a broker whose license is no longer valid.
- **License authority voided** - The licensee has not been timely in meeting their obligations to the department.
- **Multiple licenses** - A broker can have multiple brokers' licenses if he manages more than one brokerage firm.
- **Null & Void** - The licensee has failed to renew several times. To operate under the terms of this license again, the licensee would have to reapply for licensure.

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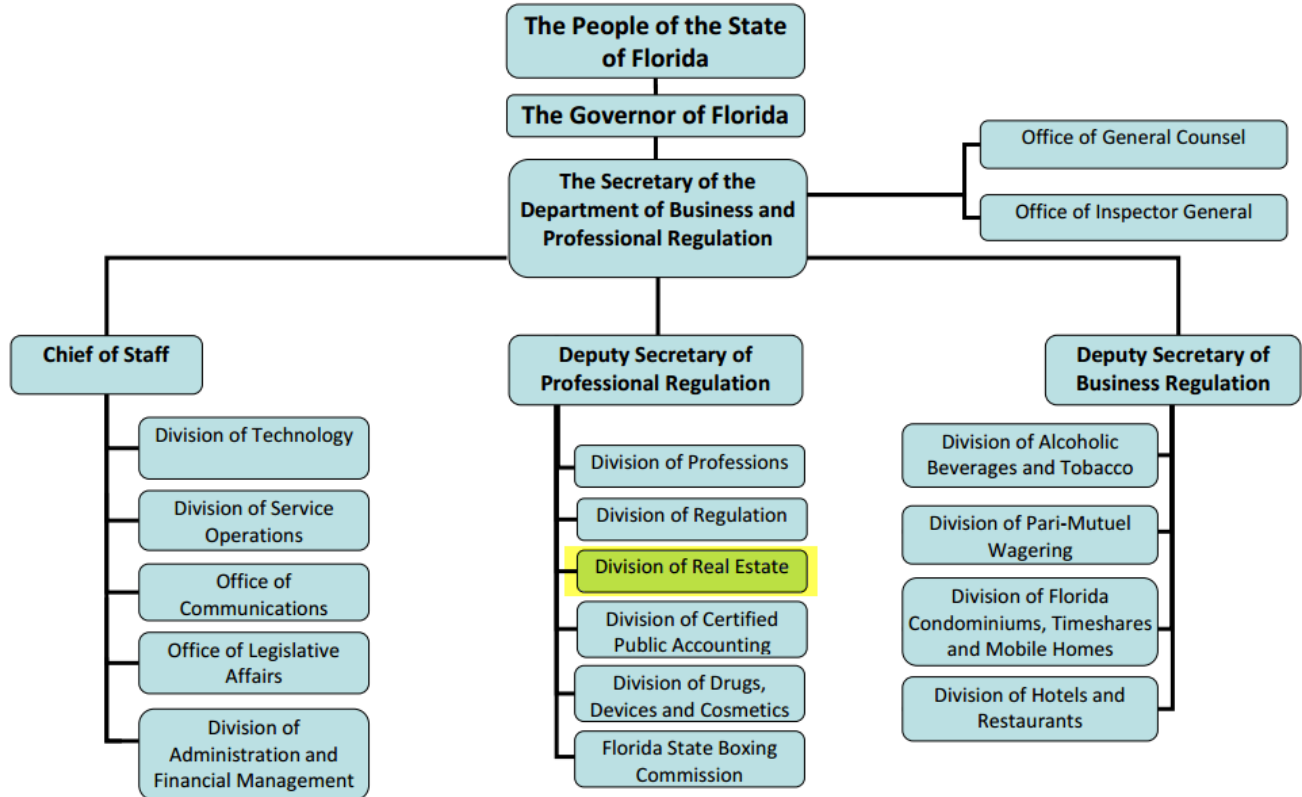
- **Involuntary inactive** - The licensee has not completed a timely renewal of their license.

SLIDE 8 – Regulation by the DBPR Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation is the state agency charged with licensing and regulating businesses and professionals in the State of Florida, such as cosmetologists, veterinarians, real estate agents, pari-mutuel wagering facilities and many others.

In this section we will take a look at how the DBPR is structured and administered, how persons are licensed through examination, the powers and duties of the agency, and other topics related to licensing.

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The DBPR is a department of the executive branch of State Government. The Secretary of the department is appointed by and reports directly to the Governor. The day to day operation of the DBPR falls to the Chief of Staff.

The DBPR is in every facet a consumer protection agency. It is setup primarily to regulate industries with significant social impact such as housing, pari-mutual gambling, the division of alcoholic beverages and tobacco and the hospitality businesses – hotels and restaurants.

The Division of Real estate is the department solely responsible for licensing real estate agents and brokers.

The Division of Professions which includes: architects and interior designers, asbestos consultants, athlete agents, auctioneers, barbers, building code administrators and inspectors, community association managers, construction contractors, cosmetology, electrical contractors, employee leasing companies, geologists, home inspectors, landscape architects, mold assessors and remediators, pilot commissioners and veterinarians.

The Division of Regulation is the enforcement authority for the professional boards and programs.

From Florida Real Estate Commission section - The duly authorized agents and employees of the department shall have the power to inspect and audit in a lawful way any broker or brokerage office for the purpose of determining if the provisions of rules or laws of real estate have been upheld.

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Definitions used with the DBPR

- **Board** – Any board or commission, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the department, including the Florida Real Estate Commission... F.S. 455.01(1)
- **Consumer member** – A person appointed to serve on a specific board or who has served on a specific board, who is not, and never has been, a member or practitioner of the profession, or of any closely related profession, regulated by such board. F.S. 455.01(2)
- **Department** – The Department of Business and Professional Regulation F.S. 455.01(3)

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Definitions used with the DBPR

- **License** – Any permit, registration, certificate, or license issued by the department. F.S. 455.01(4)
- **Licensee** – Any person issued a permit, registration, certificate, or license by the department. F.S. 455.01(5)
- **Profession** – Any activity, occupation, profession, or vocation regulated by the department in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation. F.S. 455.01(6)

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Legislative intent F.S. 455.201

It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the department shall be entitled to do so as a matter of right if otherwise qualified. (1)

- a) Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.

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It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the department shall be entitled to do so as a matter of right if otherwise qualified.(1)

- b) The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.
- c) Less restrictive means of regulation are not available.

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Neither the department nor any board may create unreasonably restrictive and extraordinary standards that deter qualified persons from entering the various professions.

Neither the department nor any board may take any action that tends to create or maintain an economic condition that unreasonably restricts competition, except as specifically provided by law. (4)(a)

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Department powers and duties F.S. 455.203

The Department and its divisions are legislatively mandated to:

- 1) Oversee biennial renewal of licenses
- 2) Appoint directors of each board
- 3) Submit an annual budget
- 4) Develop training for board members
- 5) Implement provisions of this chapter
- 6) Establish governing procedures
- 7) Ensure all proceedings are electronically recorded for an accurate archive

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Department powers and duties F.S. 455.203

The Department and its divisions are legislatively mandated to:

- 8) Select qualified investigators and consultants
- 9) Coordinate with the Department of Revenue
- 10) Have authority over:
 - a. Terminating deficient license applications
 - b. Approve qualifying applications for licensing

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Licensing examinations F.S. 455.217

The Bureau of Education and Testing is housed within the Division of Professions.

The bureau administers numerous examinations, including DBPR-developed and national exams, and monitors contracts with private testing companies for the Department.

The bureau also monitors continuing education and compliance of the licensees as well as approving providers and their courses.

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Licenses, fees, statuses, and renewal F.S. 475.181

The commission shall certify for licensure any applicant who satisfies the requirements of:

- F.S. 475.17 - Qualifications for Practice
Which says that the applicant must be at least 18 years of age. Must hold a High School Diploma or equivalent and be honest, truthful, trustworthy, and of good character; and have a good reputation for fair dealing. The statute also includes things that would eliminate the applicant from qualification for licensure, such as previous license revocation and others.
- F.S. 475.175 - Examinations
- F.S. 475.180 – Nonresident licenses

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Licenses, fees, statuses, and renewal

The commission may refuse to certify any applicant who has violated any of the provisions of:

- F.S. 475.42 – Violations and Penalties
There are a number of specific violations highlighted under F.S. 455.227 that would preclude an applicant from being licensed. Many of these include matters of fraud, civil litigation or acting beyond the scope of the agent's role that is permitted by law. As a real estate sales agent you will be held accountable for your actions. It's in your best interest to have a thorough understanding of the violations and penalties that could end your career before it ever gets started.

Or who is subject to discipline under:

- F.S. 475.25 – Discipline. This section highlights the penalties you are subject to for the violations highlighted in 455.42 and 455.227.

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Licenses, fees, statuses, and renewal

The commission by rule may establish fees to be paid for application, examination, reexamination, licensing and renewal, certification and recertification, reinstatement, and record making and recordkeeping.

The fee for initial application and examination may not exceed \$100. The initial license fee and the license renewal fee may not exceed \$50 for each year of the duration of the license. F.S. 475.125 – Fees

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Licenses, fees, statuses, and renewal

The department shall renew a license upon receipt of the renewal application and fee.

If it is the first time the licensee has renewed he/she must have completed the post-licensing educational requirements.

Any subsequent licensing the applicant must meet the continuing education requirements.

For further clarification on timing and specific requirements of license renewals for sales agents and brokers, refer to the FREC Educational Requirements PDF downloaded in the previous lesson.

F.S. 475.182(1)(a) – Renewal of license

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Licenses, fees, statuses, and renewal

A license is **active** if it was issued to an applicant by the FREC under F.S. 475.161, the licensee is operating under the sponsorship of an actively licensed real estate broker and the licensee is in good standing with the commission.

F.S. 475.181–Licensure

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Licenses, fees, statuses, and renewal

An **inactive** license is valid but has been placed in a state that doesn't allow the licensee to legally perform real estate transactions. F.S. 475.183–Inactive status

There are two ways a license could be placed inactive:

1. Voluntary
2. Involuntary

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A licensee can **voluntarily** have his license placed inactive by simple request.

The salesperson may not want to actively work in real estate sales at that time but wishes to keep his license valid so in the future he could reinstate the license and return to real estate sales.

Under penalty of law an agent may not receive any referrals or commissions while the license is in the inactive state. F.S. 475.183–Inactive status

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Licenses, fees, statuses, and renewal

For a voluntarily inactive license to remain valid they must be renewed just like any active license, subject to the same fee.

The licensee must also complete the continuing education required for the license to remain active.

The license can be inactive for an indefinite period of time as long as the licensee maintains the fees and education requirements. F.S. 475.183–Inactive status

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Licenses, fees, statuses, and renewal

Sales associates and broker sales associates wishing to reinstate the voluntarily inactive license the licensee must complete DBPR Form RE11.

There is no additional fee to reactivate the license.

The Form is available for download at the DBPR website.

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Licenses, fees, statuses, and renewal

There are circumstances where the license could be **involuntarily** be placed inactive by the FREC: F.S. 475.183–Inactive status

- Failure to renew license
- Licensee fails to pay the renewal fee
- Doesn't complete education requirement
- Sponsoring broker license no longer valid
It's important to understand if a broker license goes inactive, all sales associates and/or broker associate licenses under that sponsorship also go inactive.

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Licenses, fees, statuses, and renewal

An involuntarily inactive license may reinstate the license to either active or voluntarily inactive by correcting the condition that lead to the inactivation.

He pays for and renews the license, or he satisfies the education requirement, or he signs on with another sponsoring broker who would then file the DBPR Form 11 to reinstate the license.

Should the licensee fail to reinstate the license for a period of two years, the license will be canceled. F.S. 475.183–Inactive status

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Licenses, fees, statuses, and renewal

A license shall **cease to be in force** whenever a broker changes her or his business address, a real estate school operating under a permit issued pursuant to F.S. 475.451 changes its business address, or a sales associate working for a broker or an instructor working for a real estate school changes employer.

The commission must be notified of the change no more than 10 days after the change occurs. F.S. 455.23–License to expire...

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Licenses, fees, statuses, and renewal

Exemption for military personnel. F.S. 455.02–Armed Forces...

Any military personnel actively licensed and in good standing with the licensing board prior to entering the military, that license shall be kept in good standing without registering, paying dues or fees, as long as he or she is on active duty and continuing for six (6) months after discharge from active duty.

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Licenses, fees, statuses, and renewal

Exemption for military personnel. F.S. 455.02–Armed Forces...

The department may issue a temporary professional license to the spouse of an active duty member of the Armed Forces of the United States if the spouse makes application in the format required by the department.

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Licenses, fees, statuses, and renewal

Exemption for military personnel. F.S. 455.02–Armed Forces...

The spouse application must include proof of the following:

1. The applicant is married to an active-duty service member.
2. The applicant holds a valid license from another jurisdiction.
3. The applicant's spouse is assigned, by valid military orders, to a duty station in this state.

A temporary license is valid for no more than six (6) months and is not renewable.

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Types of real estate license

Licensing of broker associates and sales associates. F.S. 475.161

The commission shall license a broker associate or sales associate as an individual.

Or, as a corporation, if the individual can show proper articles of incorporation from the Secretary of State.

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Types of real estate license

Multiple Licenses F.S. 475.215

A licensed broker may be issued additional licenses as a broker, but not as a sales associate or as a broker associate.

It must be clearly shown that the requested additional licenses are necessary to the conduct of real estate brokerage business and their use will not be prejudicial or harmful to any person, including a licensee under this chapter.

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Types of real estate license

Multiple Licenses F.S. 475.215

A group license can be issued to an owner/developer who owns multiple locations with common management where real estate sales associates or broker associates are required to perform their duties.