

## SLIDE 23 – Types of Business Entities

One decision a broker will face immediately on forming his or her brokerage is how they intend to set their business up. In this section we'll look at the various types of businesses that can and cannot be registered as a broker and other rules that may apply to business types.

## SLIDE 24

### **Business types that may register as a brokerage**

- Sole proprietorship
- General partnership
- Limited partnership
- Corporation
- Limited liability company
- Limited liability partnership

## SLIDE 25

### **Sole proprietor**

The sole proprietorship (*a business entity owned by one person*) is the least expensive and easiest business entity to form.

Termination of the entity may occur due to license expiration, inactive status, or death of a licensee.

The sole proprietorship has a variety of advantages, including:

- Ease of formation
- A centralized management regime
- No corporate tax

A sole proprietor is not required to register with the Secretary of State unless a trade name is used.

## SLIDE 26

### **Sole proprietor**

The sole proprietorship also brings a variety of significant disadvantages as well, including:

- Unlimited liability
- Limited business life
- Difficulty of raising capital

A sole proprietor must file Schedule C, Profit (or Loss) from a business or profession, with Form 1040 to the IRS. Estimated quarterly tax payments must be paid, as appropriate.

## SLIDE 27

### **General partnership**

In a general partnership, all partners can participate in the daily management of the organization. Ownership may not be equal.

There are a variety of disadvantages with a general partnership:

- Transferability is difficult.
- The partnership is dissolved in the event of death, bankruptcy, or withdrawal of any partner.
- All partners are jointly liable for all debts, obligations and actions of the brokerage.

## SLIDE 28

### **General partnership**

Each partner actively involved in real estate transactions must be currently licensed as a broker.

One of the broker partners must be registered with the commission as the active broker.

Changes in the partnership must be immediately reported to the FREC.

Should the primary broker leave the partnership for any reason a new primary broker must be named within 14 business days.

If this does not occur within the allowable time-frame the partnership registration is cancelled, and all the licensees associated with the partnership become involuntarily inactive.

## SLIDE 29

### **Limited partnership**

A limited partnership consists of general partners and limited partners.

General partners are wholly responsible for business operations, while limited partners are investors who participate only in business profits.

The general partners are typically compensated for their management responsibilities.

## SLIDE 30

### **Limited partnership**

General partners bear sole liability for debts and obligations.

Limited partner(s) must make an investment, which subsequently comprises the extent of the partner's liability.

Limited partners are not required to be licensed or registered with the FREC.

Sales or broker associates may be limited partners but not general partners.

The same rule of 14 days for primary broker replacement applies.

## SLIDE 31

### **Limited partnership**

It's possible for two or more parties to give the public impression they are partners by their actions, when in the legal sense of the word they are not.

This is an **ostensible partnership** and is prohibited in all forms. All broker licenses involved in the relationship are subject to discipline by the department.

In practice ostensible partnerships have little value and much risk. Ostensible partners may be liable for each other's debts and torts. Sometimes brokers may share the same office space but conduct their businesses separately. In these cases, the brokers may not advertise under a single trade name.

## SLIDE 32

### **Corporation – For Profit**

A corporation is a legal entity owned by stockholders. A corporation for profit consists of one or more persons authorized to conduct business for profit.

A board of directors elected by stockholders oversees the business. Officers (president, vice president, secretary, treasurer) and managers conduct day-to-day affairs.

## SLIDE 33

### **Corporation – For Profit**

To be registered as a brokerage at least one of the officers must currently be licensed as a broker and registered as the primary broker with the FREC.

All other officers or directors of the corporation are not subject to a license requirement unless they actively conduct real estate transactions with the public.

## SLIDE 34

### **Corporation – Non-Profit**

A non-profit corporation is a corporate entity which is not legally entitled to generate profit.

A board of directors and officers manage operations.

Non-profit organizations are not subject to taxation.

## SLIDE 35

### **Limited Liability Company (LLC)**

An LLC is not a corporation; it is a legal form of a company that provides limited liability to its owners.

LLCs are not a separate taxable entity. Owners report business profits or losses on their personal income tax returns.

## SLIDE 36

### **Limited Liability Company (LLC)**

Like their corporate counterparts, LLC owners are shielded from personal liability for debts incurred by the business and other claims. This is the “limited liability” feature of this type of business entity.

Creditors usually can't reach the personal assets of LLC owners, such as their residence, vehicles or other personal property.

Licensees who register with the FREC as an LLC in their name will receive the license with the LLC designation. *Example: John B Roberts, LLC*

## SLIDE 37

### **Limited Liability Partnership (LLP)**

A Limited Liability Partnership (LLP) is structured much like a limited partnership. The key difference is in how liability is assigned.

Partners are only liable for their own actions when representing the partnership.

LLPs must be registered with the Secretary of state.

## SLIDE 38

### **Entities that may not register as a brokerage:**

1. Corporation sole
2. Joint venture
3. Business trust
4. Cooperative association
5. Unincorporated associations

## SLIDE 39

F.S. 475.161

Broker associates or sales associates may not be registered or be licensed as a general partner, member, manager, officer, or director of a brokerage firm under F.S. 475.15.

## SLIDE 40

F.S. 475.161

A license shall be issued in the licensee's legal name only and, when appropriate, shall include the entity designation.

Trade names may not be used by broker and sales associates. 61J2-10.034