

SENATE BILL NO. 259

BY SENATOR WHITE

1 AN ACT

2 To amend and reenact R.S. 37:1433, 1435(C)(1) and (2), (D), (E), (F), and (H), 1436, 1437,
3 1437.1(A), (B), (C), (D), (F), and (G), 1437.2, 1437.3, 1438, 1439, 1441, 1443(1)(f)
4 and (4), 1446, 1449, 1451, 1465, 1466(F), and to repeal R.S. 37:1435(C)(3) and
5 1443(3)(g), relative to the licensing of real estate brokers, timeshare interest
6 salespersons, real estate schools and vendors, and real estate instructors; to provide
7 for commission power to grant certain licenses, registrations, and certifications; to
8 provide prohibitions for individual licenses, registrations, and certificates; to provide
9 for the activities of partnerships, limited liability companies, associations,
10 corporations, and other legal entities with regard to the transactions of real estate; to
11 prohibit certain real estate activities without the proper license, registration, or
12 certification; to provide for active and inactive licenses; to provide with regard to
13 timeshare interest salespersons; to provide regarding the dissolution of any legal
14 entity engaged in the activities of real estate; to provide specific guidelines for
15 unlicensed entities not bound by the real estate licensing law; to provide relative to
16 timeshare salespersons registrants and timeshare developers; to provide for a fee
17 schedule, including active and inactive licenses; to provide certain terms, conditions
18 and procedures; to provide for responsibilities of the commission in the instance of
19 the death of a sponsoring broker; and to provide for related matters.

20 Be it enacted by the Legislature of Louisiana:

21 Section 1. R.S. 37:1433, 1435(C)(1) and (2), (D), (E), (F), and (H), 1436, 1437,
22 1437.1(A), (B), (C), (D), (F), and (G), 1437.2, 1437.3, 1438, 1439, 1441, 1443(1)(f) and (4),
23 1446, 1449, 1451, 1465, and 1466(F) are hereby amended and reenacted to read as follows:

24 §1433. Officers; quorum; meetings; **compensation**

25 A. The commission shall elect from its members a chairman and a secretary
26 and shall select a ~~vice-chairman~~ **vice chairman** to serve in the absence of the
27 chairman.

1 B.(1) ~~Five~~ **Six** members of the commission shall constitute a quorum for all
2 business. The commission shall meet quarterly or more often if necessary.

3 (2) ~~Said~~ **The** commission shall be limited to two regularly scheduled
4 meetings per month. Additional meetings may be called upon application of three
5 members.

6 C. Members of the ~~Louisiana Real Estate Commission~~ **commission** shall be
7 compensated at a rate of not more than fifty dollars a day for each meeting or for
8 attending to commission business, however, a member attending two meetings on
9 the same day shall not be compensated for more than one meeting on that day.
10 Members shall also be reimbursed for their actual expenses covering travel, meals,
11 lodging and other incidental expenses incurred while attending commission meetings
12 or attending to commission business.

13 * * *

14 §1435. Powers of the commission

15 * * *

16 C. The commission may:

17 (1) Adopt all necessary rules and bylaws for the **administration and**
18 enforcement of this Chapter;

19 (2) Require any satisfactory proof it may desire ~~in reference~~ **as** to the honesty,
20 truthfulness, reputation, and knowledge of any applicant ~~for a real estate broker, or~~
21 ~~salesperson's license or registration as a timeshare interest salesperson or of any of~~
22 the officers or members of ~~any~~ such applicant, **if applicable, to any of the**
23 **following:** ~~prior to the issuance of any license, or registration; and~~

24 **(a) Real estate broker license.**

25 **(b) Real estate salesperson license.**

26 **(c) Real estate school or vendor certification.**

27 **(d) Timeshare interest salesperson registration.**

28 **(e) Real estate instructor approval or certification.**

29 * * *

30 D. In addition to its general powers, ~~as above~~ provided by way of extension

1 and not of limitation, the commission is ~~expressly granted the right to~~ may require
 2 ~~any real estate broker or timeshare developer registrant~~ all licensees, registrants,
 3 and certificate holders to keep records, as specified in this Chapter of ~~all real estate~~
 4 ~~or timeshare transactions~~. The commission is authorized to inspect such records at
 5 the offices of those ~~the~~ licensees, registrants, and certificate holders, ~~or registrants~~
 6 by its duly authorized representatives between the hours of 9:00 A.M. and 4:00 P.M.,
 7 with Saturdays, Sundays, and legal holidays excluded, and to subpoena any of the
 8 ~~said~~ records.

9 E. The commission shall have the right to subpoena any licensee, registrant,
 10 certificate holder, or witness for the purpose of holding any hearing or in
 11 furtherance of an authorized investigation. Failure by a licensee or registrant to
 12 comply with a subpoena or subpoena duces tecum shall be punishable by the
 13 commission as ~~provided under the provisions of~~ pursuant to R.S. 37:1455.

14 F. The commission ~~may also~~ shall have the right to require that all real
 15 estate ~~brokers~~ licensees and registered timeshare developers ~~registrants shall to~~
 16 deposit all monies or things of value received on behalf of clients in a separate
 17 banking account or accounts in a legally chartered financial institution. ~~Said~~ The
 18 monies so received are not to be commingled with the personal funds of such
 19 licensees or registrants.

20 * * *

21 H. The commission ~~may shall establish, through the adoption and~~
 22 ~~promulgation of rules~~ adopt rules, and regulations, and procedures in accordance
 23 with the Administrative Procedure Act, ~~procedures~~ by which a determination may
 24 be made as to whom a disputed escrow deposit ~~should~~ shall be released.

25 §1436. Licensing and registration required

26 A. Licenses issued by the commission shall be classed as active and inactive.

27 B. It shall be unlawful for any person ~~or entity, directly or indirectly,~~
 28 partnership, limited liability company, association, or corporation, foreign or
 29 domestic, whether pursuant to a power of attorney or otherwise, for a fee,
 30 commission, or other valuable consideration, or with the intention, in the

1 expectation, or upon the promise of receiving or collecting a fee, commission or
 2 other valuable consideration, to engage in or conduct, or to advertise or hold
 3 himself out as engaging in or conducting the business, or acting in the capacity, of
 4 a real estate broker or real estate salesperson within the state without first obtaining
 5 a license as such broker or salesperson, and being classed as an active licensee, as
 6 provided in this Chapter; any real estate activity relating to any portion of a real
 7 estate transaction performed for another, unless he is exempted, from obtaining
 8 a license as specified herein.

9 C. It shall be unlawful for any person individual, partnership, limited
 10 liability company, corporation, or other legal entity, directly or indirectly, or the
 11 successor or assignee thereof, to engage in or conduct, or to advertise to hold
 12 himself or itself out as engaging in or conducting the business, or acting in the
 13 capacity of a timeshare interest salesperson or timeshare developer create a
 14 timeshare plan, or to make sales of timeshare interests, which it owns or
 15 purports to own or for another, without first obtaining a registration as such a
 16 timeshare interest salesperson or timeshare developer, as provided in this Chapter,
 17 unless he is exempted, from obtaining a registration as specified therein.

18 D. Any person, corporation, partnership, limited liability company, or other
 19 legal entity ~~who~~ that, directly or indirectly for another, with the intention or upon
 20 the promise of receiving any valuable consideration, offers, attempts, or agrees to
 21 perform, or performs any single act described herein, whether as a part of a
 22 transaction, or as an entire transaction, shall be deemed a licensee or registrant within
 23 the meaning of this Chapter. The commission of a single act by such a person or
 24 entity required to be licensed or registered under this Chapter and not so licensed or
 25 registered shall constitute a violation of the provisions of this Chapter.

26 §1437. Application for license

27 A. Any person ~~desiring to act as a real estate broker or as a real estate~~
 28 ~~salesperson, or any corporation, partnership, limited liability company,~~ partnership,
 29 limited liability company, association, or corporation, or any other legal entity
 30 desiring to conduct real estate activity in this state, shall file an application for a

1 license with the commission. The application shall be in such form and detail as the
2 commission shall prescribe, setting forth the following:

3 (1) The name and address of the applicant and the name under which the
4 applicant intends to conduct business.

5 (2) The place or places, including the city or village with the street and street
6 number, if any, where the business is to be conducted.

7 (3) Such other information as the commission shall require.

8 B.~~(1)~~ Licenses shall be granted only to persons, **partnerships, limited**
9 **liability companies, associations, corporations, or other legal** entities ~~who~~ **that**
10 bear a good reputation for honesty, trustworthiness, integrity, and competence to
11 transact **the** real estate activities ~~requiring licensing in this state~~ **defined in this**
12 **Chapter,** in such a manner as to safeguard the interest of the public, and only after
13 satisfactory proof of such qualifications has been presented to the commission.

14 ~~(2)~~**(1)** When an applicant has been convicted of forgery, embezzlement,
15 obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or
16 theft, or has been convicted of a felony or a crime involving moral turpitude in any
17 court of competent jurisdiction, such untrustworthiness of the applicant, and the
18 conviction, may in itself be sufficient grounds for refusal of a license.

19 ~~(3)~~**(2)** When an applicant has made a false statement of material fact on his
20 application, such false statement may in itself be sufficient grounds for refusal of a
21 license.

22 ~~(4)~~**(3)** Grounds for suspension or revocation of a real estate license in
23 Louisiana or any other jurisdiction, or the previous suspension or revocation, of a
24 real estate license in Louisiana or any other jurisdiction shall also be grounds for
25 refusal to grant a license.

26 C.~~(1)~~ No individual real estate broker or salesperson's license shall be issued
27 to any person who has not attained the age of eighteen years. No individual real
28 estate broker or salesperson's license shall be issued to any person who is not a high
29 school graduate or the holder of a certificate of high school equivalency.

30 ~~(2)~~~~(a)~~**(1)(a)** All applicants for an initial individual real estate broker's license

1 shall have first ~~served~~ actively been licensed for four years ~~as a real estate~~
2 ~~salesperson~~, with two of the four years occurring immediately preceding
3 submission of a broker license application, and shall show evidence satisfactory
4 to the commission that they have satisfactorily completed at least one hundred fifty
5 hours of instruction, or its equivalent, ~~of instruction~~ in real estate courses approved
6 by the commission ~~prior to licensure~~. Satisfactory completion includes passage of
7 an examination on course contents.

8 (b) At least thirty hours of the broker educational requirement shall be
9 obtained in coursework emphasizing broker responsibilities.

10 (c) Each person obtaining an initial real estate broker's license shall complete
11 forty-five post-license education hours within one hundred eighty days after the
12 initial license date. Such hours shall be in subjects required by the commission
13 including but not limited to laws, rules and regulations changes, finance, and the
14 handling of funds. Post-license education hours may be used in the year completed
15 to satisfy eight hours of the twelve-hour annual continuing education requirement;
16 however, post-license education hours shall not satisfy the ~~four-hour~~ mandatory
17 continuing education topic specified by the commission.

18 ~~(3)~~(2) The commission, ~~through its education division~~, may accept ~~real estate~~
19 ~~related~~ real estate-related credit hours from an accredited college or university as
20 partial substitution of the broker licensing educational requirement.

21 ~~(4)~~(3) The commission shall have the authority to accept experience in the
22 real estate business or related fields as credit toward fulfillment of the education
23 requirements set forth herein.

24 ~~(5)~~(a)(4)(a) All applicants for a salesperson's license shall show evidence
25 satisfactory to the commission that they have completed ninety hours or its
26 equivalent of instruction in real estate coursework approved by the commission prior
27 to licensure. Satisfactory completion includes passage of an examination on course
28 contents.

29 (b) Each person obtaining an initial salesperson's license shall complete
30 forty-five post-license education hours within one hundred eighty days after the

1 initial license date. Such hours shall be in subjects required by the commission
 2 including but not limited to laws, rules and regulations changes, finance, and the
 3 handling of funds. Post-license education hours may be used **in the year completed**
 4 to satisfy eight hours of the twelve-hour annual continuing education requirement;
 5 however, post-license education hours shall not satisfy the four-hour mandatory
 6 continuing education topics specified by the commission.

7 ~~(6)(a)(i)~~**(5)(a)** In addition to all other education requirements set forth in this
 8 Chapter, **regardless of initial license date**, the license of an individual real estate
 9 broker or salesperson shall not be renewed unless the broker or salesperson shall
 10 furnish proof of completion of twelve hours per year of continuing education
 11 pertaining to matters, including but not limited to laws, rules, and regulations relative
 12 to licensing, appraisal, finance, taxes, zoning, environmental quality, and the United
 13 States Department of Housing and Urban Development. ~~Four~~ **A minimum of four**
 14 of the required annual continuing education hours shall be in subjects specified by
 15 the commission. Post-license education hours may be used to satisfy eight hours of
 16 the twelve-hour annual continuing education requirement; however, post-license
 17 education hours shall not satisfy the ~~four-hour~~ mandatory continuing education
 18 topics specified by the commission.

19 ~~(ii)~~**(b)** The commission shall promulgate rules and regulations necessary to
 20 implement the continuing education **and post-license education** requirement and
 21 may mandate the completion of courses in specific real estate-related subjects. Such
 22 rules and regulations may require passage of an examination in order to satisfy the
 23 continuing education **and post-license education** requirement.

24 D. Every applicant for a license shall submit a sworn statement attesting that
 25 he has knowledge of and understands the provisions of the Fair Housing Act of 1968
 26 and the Louisiana Equal Housing Opportunity Act, and any amendments thereto or
 27 any successor legislation subsequently following, and that ~~he~~ **the applicant** shall not
 28 induce or attempt to induce any person to sell or rent any dwelling by representations
 29 regarding the entry or prospective entry into an area, subdivision, or neighborhood
 30 of a person or persons of a particular race, color, religion, or national origin.

1 E. A nonresident may obtain a broker's or salesperson's license and engage
2 in the real estate business in this state under conditions prescribed by the
3 commission.

4 §1437.1. Timeshare registration

5 A. Any person or entity desiring to engage directly in the business of selling
6 timeshare interests must register with the commission.

7 B.~~(1)~~~~(a)~~ The application for registration shall be in such form as may be
8 required by the commission and in accordance with R.S. 9:1131.9 so that only
9 persons who have a good reputation for honesty, trustworthiness, and integrity may
10 be so registered.

11 ~~(b)~~~~(1)~~ The commission shall approve or deny such applications for
12 registration within forty-five days from receipt of the application by the commission.

13 (2) When an applicant has been convicted of forgery, embezzlement,
14 obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or
15 theft, or has been convicted of a felony or a crime involving moral turpitude in any
16 court of competent jurisdiction, such untrustworthiness of the applicant, and the
17 conviction, may in itself be sufficient grounds for refusal of a timeshare interest sales
18 registration.

19 (3) When an applicant has made a false statement of material fact on his
20 application, such false statement may in itself be sufficient grounds for refusal of a
21 timeshare interest sales registration.

22 (4) Grounds for suspension or revocation of a registration, or real estate
23 license, or the previous revocation of a real estate license or registration in Louisiana
24 or any other jurisdiction, shall be grounds for refusal to grant a timeshare interest
25 sales registration.

26 (5) ~~No~~ A timeshare registration shall not be issued to any person who has not
27 attained the age of eighteen years. ~~No~~ A timeshare interest sales registration shall not
28 be issued to any person who is not a high school graduate or the holder of a
29 certificate of high school equivalency.

30 C. The provisions of this Section ~~with regard to registering as timeshare~~

1 interest salespersons ~~do~~ **shall** not apply to a licensed real estate broker or salesperson
 2 or to employees of a **timeshare** developer registered under this Section.

3 D. Notwithstanding any other provisions of law, a timeshare developer may
 4 not avoid liability to timeshare purchasers for the acts of timeshare interest
 5 salespersons or **real estate** licensees on the basis that the timeshare interest
 6 salesperson **or real estate licensee** is merely an independent contractor.

7 * * *

8 F. Except for the provisions contained in R.S. 9:1131.12, the changes and
 9 additions ~~affected~~ **effected** by Act No. 999 of the 1985 Regular Session of the
 10 Legislature shall not apply to any timeshare project ~~which has filed and been~~
 11 approved to operate ~~as a timeshare project~~ by the Louisiana Real Estate Commission
 12 on or before June 1, 1985, ~~and for which protection~~ **if all of the following**
 13 **conditions have been met:**

14 **(1) Protection** under the federal bankruptcy law has not been filed ~~and~~
 15 ~~whose.~~

16 **(2) The** developer has not been suspended by the Louisiana Real Estate
 17 Commission, ~~and which, if approved prior to July 20, 1984,~~

18 **(3) The project** has been actively and consistently marketed as a timeshare
 19 project, **if approved prior to July 20, 1984.**

20 G. Any timeshare interest salesperson or seller of a timeshare interest shall
 21 comply with the provisions of the Louisiana Real Estate License Law and the rules
 22 adopted pursuant thereto, including licensure, unless otherwise exempt.

23 **(1)** The Louisiana Real Estate License Law shall not apply to a **timeshare**
 24 developer registered under this Section, ~~solely acting for itself~~ as sole owner or sole
 25 lessor ~~with reference to~~ **of** real estate solely owned or solely leased by the developer,
 26 ~~or~~ a registered affiliated entity, or **a** registered wholly-owned subsidiary of the
 27 developer, ~~or an.~~

28 **(2) The Louisiana Real Estate License Law shall not apply to an** existing
 29 timeshare owner who, ~~for compensation,~~ refers prospective purchasers, ~~but only if~~
 30 the existing timeshare owner refers **for compensation, provided that the existing**

1 **timeshare owner adheres to all of the following:**

2 (a) **Refers** no more than twenty prospective purchasers in any calendar year
3 and ~~limits his or her,~~

4 (b) **Limits such** activities to referring prospective purchasers of timeshare
5 interests to the developer or the developer's employees or agents, ~~and does,~~

6 (c) **Does** not show, discuss terms or conditions, or otherwise participate in
7 negotiation with regard to timeshare interests.

8 §1437.2. Corporations; limited liability companies; partnerships; ~~real estate brokers'~~

9 **broker** licenses

10 A. Any corporation, limited liability company, or partnership formed under
11 the laws of this state or any foreign corporation, limited liability company, or
12 partnership ~~which~~ **that** has been granted a certificate of authority to do business in
13 this state may be granted a real estate broker's license by the commission upon
14 application and compliance with the requirements of this Chapter.

15 B. Every application for a ~~corporate~~ **real estate broker license issued to a**
16 **corporation**, limited liability company, or partnership ~~real estate broker's license~~
17 shall be submitted by a licensed individual real estate broker who has been chosen
18 by the corporation, limited liability company, or partnership as its qualifying broker.

19 (1) An individual real estate broker may serve as a qualifying broker for more
20 than one corporation, limited liability company, or partnership.

21 (2) **A corporation, limited liability company, or partnership may**
22 **designate a new qualifying broker at any time, as provided in R.S. 37:1441(C).**

23 C. ~~Upon dissolution, a corporation, limited liability company, or partnership~~
24 ~~shall return the license of the designated qualifying broker, and the license of every~~
25 ~~sponsored licensee to the commission within ten days of the dissolution. A~~
26 **corporation, limited liability company, or partnership shall notify the**
27 **commission within five calendar days of its dissolution, accompanied by notice**
28 **of the termination of the broker license, as provided in R.S. 37:1441, for each**
29 **sponsored licensee, at which time the commission shall cancel the real estate**
30 **broker license of the corporation, limited liability company, or partnership,**

1 thereby prohibiting such entity from performing any act for which a real estate
 2 broker license is required.

3 ~~D. Upon termination of a qualifying broker's affiliation with a corporation,~~
 4 ~~limited liability company, or partnership for any reason, the corporation, limited~~
 5 ~~liability company, or partnership shall notify the commission and designate a new~~
 6 ~~qualifying broker within five working days. A corporation, limited liability company,~~
 7 ~~or partnership may designate a new qualifying broker at any time.~~

8 ~~E. Upon the merger or consolidation with another~~ **A** corporation, limited
 9 liability company, or partnership, ~~the corporation, limited liability company, or~~
 10 ~~partnership~~ shall notify the commission **not later than within five working calendar**
 11 **days** following the effective date of ~~the~~ **a** merger or consolidation **with another**
 12 **corporation, limited liability company, or partnership.**

13 §1437.3. Inactive license

14 A. ~~Effective January 1, 1990, an~~ **An** inactive license status shall be
 15 established.

16 B. Any licensee in good standing with the commission may elect to place his
 17 license in an inactive license status ~~with the commission provided he applies for a~~
 18 ~~transfer to an inactive status and remits~~ **by submitting the appropriate transfer**
 19 **application and remitting** the applicable fees as set forth in this Chapter. ~~Former~~
 20 ~~licensees may, within~~ **Within** the ~~six-month~~ **three-month** delinquency period
 21 **immediately following the expiration of the last active license** and upon payment
 22 of appropriate renewal and inactive license transfer fees, **former licensees may**
 23 transfer their license to **the** inactive status.

24 C. During the period the license is in **the** inactive status, the licensee shall be
 25 prohibited from engaging in any activity requiring a real estate license. The licensee
 26 shall be required to renew the inactive license on a ~~yearly~~ **an annual** basis by filing
 27 the required renewal application and paying the ~~annual~~ inactive renewal fees as
 28 specified in this Chapter.

29 D. The licensee may request transfer from inactive status to active status at
 30 any time, provided the inactive license ~~has been renewed as provided for in this~~

1 Chapter and is current at the time the request is received at the commission.

2 E. An inactive licensee will not be required to fulfill the continuing education
3 requirement established for active licensees on a ~~yearly~~ **an annual** basis; however,
4 upon application to return to active license status the licensee ~~must~~ **shall** have
5 completed the continuing education specified ~~in the following Paragraphs~~ **as follows**:

6 (1) **Licensees remaining in the active status for less than one year shall**
7 **have completed the twelve-hour continuing education requirement for the**
8 **previous year.**

9 (2) Licensees remaining in the inactive status from one to five years shall
10 complete the number of **continuing education** hours ~~of continuing education~~
11 specified **herein** for the period **following periods** of inactivity indicated below:

12 (a) One to **less than** three years ~~of~~ **in the** inactive status - twenty hours of
13 continuing education.

14 (b) Three to **less than** five years ~~of~~ **in the** inactive status - forty hours of
15 continuing education.

16 (2)(3) If the licensee remains in the inactive status for two to five renewal
17 periods, ~~he must~~ **the licensee shall** complete a four-hour course covering Louisiana
18 real estate license law ~~and or~~ **or** commission rules and regulations as part of the hours
19 specified in Paragraph (1) (2) of this Subsection to be eligible to return to active
20 license status. ~~This~~ **The** required four-hour course ~~must~~ **shall** be completed within
21 one year prior to the date of the **license** transfer ~~of the license~~ to the active status.

22 (3)(4)(a) The licensee may remain in the inactive license status indefinitely,
23 provided ~~he~~ **the licensee** complies with the ~~yearly~~ **annual** inactive renewal
24 procedures. Licensees remaining ~~on~~ **in the** inactive status for ~~longer than a five-year~~
25 ~~period will~~ **five or more years shall** be required to complete a maximum of eighty
26 hours of approved continuing education within the five-year period immediately
27 preceding the request to return to active license status.

28 (b) Such continuing education shall include a four-hour Louisiana real estate
29 license law ~~and or~~ **or** commission rules and regulations course ~~which must~~. **The course**
30 **shall** be completed within one year prior to the date of the **license** transfer ~~of the~~

1 license to the active status.

2 ~~(c) However, any applicant who~~ **Any licensee that** has continued to obtain
 3 **annual** continuing education in the required areas during the period that ~~he~~ **the**
 4 **licensee** is in **the** inactive status may cumulate those hours and be eligible to
 5 reactivate his license **transfer to the active status** at any time.

6 ~~(4)(5)~~ Any request by an inactive licensee to transfer to active status shall be
 7 accompanied by payment of the prescribed fees and proof of completion of the
 8 applicable continuing education hours.

9 §1438. Applicability

10 A. The provisions of this Chapter shall not apply to:

11 (1) Any **unlicensed** person, partnership, limited liability company,
 12 association, or corporation, foreign or domestic, ~~which has not been granted a real~~
 13 ~~estate license in Louisiana and which, as owner or lessor, either individually or~~
 14 ~~through an employee or representative and performs acts of ownership with~~
 15 ~~reference to property owned by him, except persons in the business of selling or~~
 16 ~~managing timeshare interests.~~ **provided that the following requirements are met:**

17 **(a) The unlicensed person, partnership, limited liability company,**
 18 **association, or corporation, foreign or domestic, is the owner or lessor of the**
 19 **property.**

20 **(b) The unlicensed person, partnership, limited liability company,**
 21 **association, or corporation, foreign or domestic, performs acts of ownership**
 22 **regarding the property, either individually or through an employee or**
 23 **representative.**

24 **(c) The provisions of this Section shall not include any unlicensed person,**
 25 **partnership, limited liability company, association, corporation, foreign or**
 26 **domestic, in the business of selling or managing timeshare interests.**

27 (2) The service rendered by an attorney at law on behalf of a client ~~which~~
 28 **that** may be required in the normal course of other legal representation.

29 (3) A receiver, trustee in bankruptcy, administrator, executor, tutor, or civil
 30 sheriff for any parish of this state.

1 (4) A trustee selling under a deed of trust or a mortgage.

2 (5) Any individual, corporation, partnership, trust, limited liability company,
3 joint venture, or other entity ~~which~~ **that** sells, exchanges, leases, or manages its own
4 property, except persons, corporations, partnerships, trusts, limited liability
5 companies, joint ventures, and other entities ~~who~~ **that** are in the business of selling
6 timeshare interests.

7 (6) Any salaried person employed by a licensed real estate broker for and on
8 behalf of the owner of any real estate ~~which~~ **that** the licensed broker has contracted
9 to manage for the owner, if the salaried employee is limited in his employment to **the**
10 **following**:

11 (a) Delivering a lease application, a lease, or any amendment thereof to any
12 person.

13 (b) Receiving a lease application, lease, or amendment thereof, a security
14 deposit, rental payment, or any related payment for delivery to and made payable to
15 a property manager or owner.

16 (c) Showing a rental unit to any person, as long as the employee is acting
17 under the direct instructions of the broker, including the execution of leases or rental
18 agreements, provided the broker is responsible for the actions of his employees.

19 (d) Providing information about a rental unit, a lease, an application for lease,
20 or the status of a security deposit or the payment of rent to any person.

21 (e) Assisting in the performance of property management functions by
22 carrying out administrative, clerical, or maintenance tasks.

23 (7) Any person employed by a housing authority to manage its property or
24 otherwise managing property of the Department of Housing and Urban
25 Development, but only with respect to the management of such property.

26 (8) Any person managing agricultural property.

27 §1439. Issuance of license, certificate, or registration

28 A. Upon compliance with the provisions of this Chapter and with the rules
29 and regulations of the commission, the commission shall issue the appropriate
30 license, certificate, or registration and shall prescribe the form of such license,

1 certificate, or registration.

2 B. Each individual real estate broker's license and each corporation, limited
 3 liability company, or partnership real estate broker's license shall show the name and
 4 street address of the business and shall also show the mailing address of the business
 5 if it is different from the street address **A broker license issued to an individual,**
 6 **partnership, limited liability company, association, corporation, or other legal**
 7 **entity, shall include the business name, the street address of the business, and**
 8 **the mailing address of the business, if it is different from the street address.**

9 C. Each sales or associate broker license shall ~~show the~~ **include the**
 10 **following information:**

11 **(1) The** name of the licensee.

12 **(2) The** license shall also show the name of the sponsoring individual real
 13 estate broker, or the name of the corporation, partnership, or limited liability
 14 company or other entity **partnership, limited liability company, association,**
 15 **corporation, or other legal entity,** under which the license is issued.

16 **(3) The** license of each associate broker or salesperson shall be delivered or
 17 mailed to and kept in the custody and control of **to** the individual real estate broker
 18 or designated qualifying broker by whom the associate broker or salesperson is
 19 sponsored **the partnership, limited liability company, association, corporation,**
 20 **or other legal entity, under which the license is issued in the manner and mode**
 21 **determined by the commission.**

22 D. Each timeshare developer registration shall ~~show~~ **include** the name and
 23 street address of the developer and, ~~shall also show his~~ **the** mailing address **of the**
 24 **developer,** if it is different from the street address.

25 E. Each timeshare sales registration shall ~~show the name and~~ **include all of**
 26 **the following information:**

27 **(1) The name of the sales registrant.**

28 **(2) The** residential address of the **sales** registrant, and ~~shall also show his~~ **the**
 29 mailing address **of the sales registrant,** if it is different from the residential address.

30 **(3) Each individual timeshare sales registration shall show the** **The** name of

1 the developer by whom the registrant is employed who employs the sales
 2 registrant.

3 **F.** The **timeshare sales** registration shall be delivered ~~or mailed~~ to the
 4 developer **in the manner and mode determined by the commission** and shall be
 5 kept in the custody and control of that developer.

6 **F. G.(1)** Associate brokers, salespersons, and timeshare interest salespersons
 7 shall not conduct any activities requiring ~~licensing or registering~~ **a license or**
 8 **registration** until ~~their~~ **such** license or registration has been issued and is in the
 9 custody of ~~their~~ **the** sponsoring broker or employing timeshare developer, ~~or.~~

10 **(2) This provision shall not apply if** the sponsoring broker or employing
 11 timeshare developer has received written authorization from the commission
 12 authorizing such activity pending the issuance of the license or timeshare registration
 13 by the commission.

14 * * *

15 §1441. Return of license or registration upon transfer or termination

16 A. When the ~~association~~ **sponsorship** of an associate broker or salesperson
 17 ~~with his sponsoring broker~~ is terminated by ~~either party~~ for any reason, the
 18 ~~sponsoring broker~~ **terminating party** shall ~~send the associate broker's or~~
 19 ~~salesperson's license, by hand delivery or by certified or registered mail,~~ **submit a**
 20 **form attesting to the termination** to the commission, within five **calendar** days of
 21 such termination.

22 ~~(1) No associate broker or salesperson shall act as such, either directly or~~
 23 ~~indirectly, under authority of such license after the date the license has been~~
 24 ~~dispatched to the commission.~~ **Upon submission of a form indicating the**
 25 **termination of sponsorship, the license of an associate broker or salesperson**
 26 **shall no longer be in force or effect, and the associate broker or salesperson**
 27 **shall be prohibited from conducting real estate activities, as defined in this**
 28 **Chapter, until such time as the associate broker or salesperson obtains a new**
 29 **sponsoring broker.**

30 **(2) Such An associate broker or salesperson, upon sponsorship by another**

1 licensed broker; whose sponsorship has been terminated, shall be entitled to a
 2 license transfer the license upon written request submission of a form indicating
 3 the transfer to a new broker to the commission and payment of the required fee;
 4 however, not more than one license shall be issued to any associate broker or
 5 salesperson for the same period of time.

6 B.(1) When the association affiliation of a timeshare sales registrant with his
 7 a registered developer is terminated by either party for any reason, the developer
 8 shall send the sales registration certificate, by hand delivery or certified or registered
 9 mail, to notify the commission in writing within five days of such termination.

10 (2) Any timeshare sales registrant, who wishes to begin a new business
 11 relationship with another developer whose affiliation with a registered developer
 12 has been terminated, shall notify the commission, in writing and by certified or
 13 registered mail, prior to beginning that business relationship an affiliation with
 14 another registered developer.

15 (3) No timeshare sales registrant shall act as such, either directly or
 16 indirectly, under authority of such registration after the certificate has been
 17 dispatched to the commission. Such timeshare registrant shall, upon acceptance by
 18 a new developer, be allowed to transfer his registration to that developer upon receipt
 19 of all appropriate fees and paperwork. When an affiliate timeshare sales registrant
 20 is terminated by a registered timeshare developer, such sales registration shall
 21 no longer be in force or effect, until such time that the commission receives a
 22 written notice that the timeshare sales registrant is affiliated with a new
 23 developer and the prescribed fees have been remitted.

24 C. When the association of between a designated qualifying broker with and
 25 a corporation, limited liability company, or partnership, limited liability company,
 26 association, corporation, or other legal entity, foreign or domestic, is terminated
 27 by either party for any reason, the following actions shall be taken:

28 (1) The terminating party shall submit a copy of the letter or resignation
 29 or termination to the commission, within five calendar days of such termination.

30 (2) The designated outgoing qualifying broker shall notify all associate

1 brokers and salespersons sponsored by him in writing by certified or registered mail
 2 **sponsored licensees within five calendar days** of the termination, **including** and
 3 the effective date, **by certified or registered mail** of the termination.

4 ~~(2)~~**(3)** Neither the licensed ~~corporation, limited liability company, or~~
 5 partnership, **limited liability company, association, corporation, or other legal**
 6 **entity, foreign or domestic,** nor any associate broker or salesperson **licensee**
 7 sponsored by the terminated ~~designated~~ qualifying broker, shall engage in any real
 8 estate activity requiring ~~licensing~~ **a license** until a new qualifying broker has been
 9 designated by the ~~corporation, limited liability company, or partnership,~~ **limited**
 10 **liability company, association, corporation, or other legal entity, foreign or**
 11 **domestic,** and the designation has been reflected in the files of the commission.

12 **(4) Upon termination of a qualifying broker's association with a**
 13 **partnership, limited liability company, association, corporation, or other legal**
 14 **entity, foreign or domestic, such entity shall designate a new qualifying broker**
 15 **and shall notify the commission by submission of a form indicating the**
 16 **designation of such broker within five calendar days of the termination.**

17 ~~(3)~~**(5)** Upon designation of a new qualifying broker, the outgoing qualifying
 18 broker shall ~~deliver~~ **provide custody of** the licenses of all sponsored licensees to the
 19 new designated qualifying broker.

20 ~~(4)~~**(6)** The new designated qualifying broker shall inform all associate
 21 brokers or salespersons licensed with the ~~corporation, limited liability company, or~~
 22 ~~partnership in writing~~ **All sponsored licensees of the partnership, limited liability**
 23 **company, association, corporation, or other legal entity, foreign or domestic,**
 24 **shall be informed of the change in the designation of a qualifying broker,**
 25 **including the effective date,** by certified or registered mail, ~~of his designation as~~
 26 ~~qualifying broker and of the effective date of the designation not later than five~~
 27 **calendar** days following the effective date of the designation.

28 ~~(5)~~ The outgoing qualifying broker shall return his license as qualifying
 29 broker for the ~~corporation, limited liability company, or partnership to the~~
 30 commission within five days following the effective date of the designation of the

1 new qualifying broker.

2 * * *

3 §1443. Fees

4 The commission may charge:

5 (1) Initial fees for licensing or certification:

6 * * *

7 (f) Instructor **application**/certification \$ 35.00

8 * * *

9 (4) Delinquent fees, in addition to the renewal fee, if not renewed by
10 December thirty-first of the applicable license, registration, or certification period:

11 (a) January 1 - February 15 **Active and inactive Licensees** \$ 50.00

12 (b) February 16 - March 31 **Active Licensees** \$ 200.00

13 **(c) February 16 - March 31 Inactive Licensees** **\$ 50.00**

14 **(d) January 1 - January 31 Real estate schools, vendors, and**
15 **pre-license instructors** **\$ 50.00**

16 * * *

17 §1446. Compensation; independent contractor status of salespersons and associate
18 brokers

19 A. No payment of a commission or compensation shall be made by any
20 licensee or registrant to any person who has not first secured ~~his~~ **a** license or
21 registration under the provisions of this Chapter. This Subsection shall not apply to
22 a **nonresident** broker who is currently licensed in his state of residence.

23 B. No payment of a commission or other compensation shall be made by any
24 broker to any licensee ~~or registrant~~ when the paying broker has knowledge that the
25 receiving licensee ~~or registrant~~ has agreed to pay or intends to pay or otherwise
26 deliver a portion of the commission or compensation to an unlicensed person or
27 entity.

28 C. Associate brokers, salespersons, and timeshare interest salespersons shall
29 not pay or offer to pay any commission or valuable consideration for the
30 performance of any act herein specified.

1 D. Payment of a commission or compensation may be made to and accepted
 2 by former licensees and registrants for transactions negotiated by them while duly
 3 licensed or registered by the commission.

4 E. ~~Current licensees who transfer their licenses from one broker to another~~
 5 ~~broker~~ **An active licensee** may accept compensation ~~from their former broker~~ for
 6 ~~business transactions which~~ **transactions that** were instituted ~~initiated by the~~
 7 ~~licensee~~ while still with that **under sponsorship of a former sponsoring or**
 8 **qualifying** broker, so long as **provided that** the compensation is transmitted through
 9 ~~their~~ **the** current sponsoring **or qualifying** broker.

10 F. ~~Associate brokers and salespersons~~ **An active real estate licensee** shall not
 11 accept a commission or other valuable consideration for the performance of any act
 12 herein specified, or for performing any act relating thereto, from any person, except
 13 their sponsoring or qualifying broker.

14 G. Associate brokers and salespersons may assign or direct that commissions
 15 or other compensation earned in connection with a real estate transaction be paid by
 16 their licensed sponsoring broker to an unlicensed corporation of which the associate
 17 broker or salesperson is the sole officer, director, and shareholder, or an unlicensed
 18 limited liability company of which the associate broker or salesperson is the sole
 19 manager.

20 H. A **sponsored** real estate ~~salesperson or associate~~ **licensee** shall be an
 21 independent contractor of the **sponsoring or qualifying** broker with whom he is
 22 ~~affiliated~~ for all purposes and shall not be an employee of the **sponsoring or**
 23 **qualifying** broker, if all of the following conditions are met:

24 (1) The real estate salesperson or associate broker is a licensee.

25 (2) Substantially all of the ~~real estate salesperson's or associate broker's~~
 26 **sponsored licensee's** remuneration for the services performed is directly related to
 27 sales or other output rather than the number of hours worked.

28 (3) There is a written agreement between the ~~real estate salesperson or~~
 29 ~~associate broker~~ **sponsored licensee** and the **sponsoring or qualifying** broker that
 30 specifies that the ~~real estate salesperson or associate broker~~ **sponsored licensee** will

1 not be treated as an employee.

2 * * *

3 §1449. Broker to insure provision of contract; retention of records

4 A. Licensees acting in the capacity of an agent or subagent, and registrants
 5 shall insure that their respective principal party signing any document in a real estate
 6 transaction is provided a copy of the document immediately after the signing of the
 7 document.

8 B. Licensees and registrants shall insure that persons signing any document
 9 in a real estate transaction ~~which~~ that pertains to more than one party are provided
 10 with a copy of the completed document bearing the signatures of all parties to the
 11 transaction within five days after the final signature is affixed to the document.

12 C. Written agreements for the sale or management of real estate shall specify
 13 a definite expiration date ~~which~~ that shall not be subject to qualifying terms or
 14 conditions.

15 D.(1) Individual real estate brokers shall retain all of the following records,
 16 readily available and properly indexed, for a period of five years, ~~the bank:~~

17 (a) Bank statements, copies of deposit slips, and cancelled checks on all
 18 escrow or trust accounts ~~and copies.~~

19 (b) Copies of all documents ~~which~~ that pertain in any way ~~pertain~~ to real
 20 estate transactions wherein ~~they~~ the individual real estate broker or licensees
 21 sponsored by ~~them~~ the individual real estate broker have appeared in a licensing
 22 capacity.

23 ~~(2) This requirement~~ The requirement regarding copies shall not be altered
 24 by the ~~change of status~~ transfer of a broker to that of an associate broker, ~~or an~~
 25 unlicensed person, or ~~transfer to inactive status~~ an inactive licensee.

26 E.(1) ~~Corporate, limited liability company, and partnership~~ Partnerships,
 27 limited liability companies, associations, corporations, or other legal entities,
 28 foreign or domestic, and real estate brokers shall ~~maintain~~ retain the following
 29 records, readily available and properly indexed, for a period of five years, ~~the bank:~~

30 (a) Bank statements, copies of deposit slips, and cancelled checks on all

1 escrow or trust accounts ~~and copies.~~

2 (b) Copies of all documents which that pertain in any way pertain to real
 3 estate transactions wherein ~~they, their~~ the partnership, limited liability company,
 4 association, corporation, or other legal entity, foreign or domestic, the
 5 designated qualifying broker, or licensees sponsored by ~~them~~ same, have appeared
 6 in a licensing capacity.

7 (2) This requirement, regarding copies, shall not be altered by the ~~failure of~~
 8 ~~the corporate, limited liability company, or partnership,~~ limited liability company,
 9 association, corporation, or other legal entity, foreign or domestic, ~~real estate~~
 10 ~~brokers to renew their license or the transfer of~~ transferring the broker license to
 11 the inactive status or failure to renew such license.

12 * * *

13 §1451. Death or incapacity of a real estate broker

14 A. ~~In the event of the death of a sponsoring broker, any associate broker~~
 15 ~~affiliated with the deceased broker or, in the absence of an associate broker, a~~
 16 ~~salesperson sponsored by the deceased broker, may, after proper notification to and~~
 17 ~~approval in writing by the commission, complete, carry out, and enforce any~~
 18 ~~contracts to which the deceased broker was a party.~~ The commission shall be
 19 notified in writing when a sponsoring broker dies and shall have the authority
 20 to appoint an active licensed associate broker or salesperson to complete, carry
 21 out, and enforce any incomplete real estate business activities of the deceased
 22 sponsoring broker, including real estate contracts left pending at the time of the
 23 death.

24 (1) The associate broker or salesperson shall immediately notify all
 25 sponsored licensees that the sponsoring broker has died. Such notice shall
 26 advise the sponsored licensees that no new contracts shall be instituted.

27 (2) In the absence of any sponsored licensees, the commission shall have
 28 the authority to appoint an active licensed broker to complete, carry out, and
 29 enforce any incomplete real estate activities of the deceased sponsoring broker,
 30 including real estate contracts left pending at the time of the death.

1 act as its representative in this state ~~and registered with the commission in the~~
2 ~~manner the commission requires by regulation.~~

3 §1466. Errors and omissions insurance; mandatory for all licensees

4 * * *

5 F. ~~Each licensee shall be notified of the required terms and conditions of~~
6 ~~coverage for the annual policy at least thirty days prior to the annual renewal date.~~
7 ~~A certificate of coverage, showing compliance with the required terms and~~
8 ~~conditions of coverage, must be filed with the commission by the annual license~~
9 ~~renewal date by each An active licensee who opts not to participate in the group~~
10 ~~insurance program administered by the commission **that elects to obtain**~~
11 ~~**independent errors and omissions insurance shall file a form verifying that they**~~
12 ~~**have independent coverage, as prescribed by the commission, with the annual**~~
13 ~~**license renewal.**~~

14 * * *

15 Section 2. R.S. 37:1435(C)(3) and 1443(3)(g) are hereby repealed in their entirety.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____