

**Sec. 4735.01.** As used in this chapter:

(A) "Real estate broker" 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 any of the following:

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

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

(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;

(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;

(6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;

(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;

(8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;

(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(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.

(D) "Institution of higher education" means either of the following:

(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;

(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.

(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(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.

(G) "Foreign real estate salesperson" means any person associated with a licensed foreign real estate dealer to do or deal in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate, for compensation or otherwise.

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

(I)(1) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

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

(b) As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a bona fide public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, will, or other instrument that has been executed in good faith creating a like bona fide fiduciary obligation;

(c) As a public officer while performing the officer's official duties;

(d) As an attorney at law in the performance of the attorney's duties;

(e) As a person who engages in the brokering of the sale of business assets, not including the sale, lease, exchange, or assignment of any interest in real estate;

(f) As a person who engages in the sale of manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code, or of mobile homes as defined in division (O) of section 4501.01 of the Revised Code, provided the sale does not include the negotiation, sale, lease, exchange, or assignment of any interest in real estate;

(g) As a person who engages in the sale of commercial real estate pursuant to the requirements of section 4735.022 of the Revised Code.

(2) A person, partnership, association, limited liability company, limited liability partnership, or corporation exempt under division (I)(1)(a) of this section shall be limited by the legal interest in the real estate held by that person or entity to performing any of the acts or transactions specified in or comprehended by division (A) of this section.

(J) "Disabled licensee" means a person licensed pursuant to this chapter who is under a severe disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration.

(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Provides the broker will be compensated if the broker or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement, unless the property is sold or leased solely through the efforts of the seller or to the specifically exempted persons or entities.

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

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

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

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

(X) "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.

(Y) "Voluntary hold" means the license status in which a license is in the possession of the division of real estate and professional licensing for a period of not more than twelve months pursuant to section 4735.142 of the Revised Code, is not renewed in accordance with the

requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

(Z) "Resigned" means the license status in which a license has been voluntarily surrendered to or is otherwise in the possession of the division of real estate and professional licensing, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

(AA) "Bona fide" means made in good faith or without purpose of circumventing license law.

**Sec. 4735.02.** (A) Except as provided in section 4735.022 of the Revised Code, no person, partnership, association, limited liability company, limited liability partnership, or corporation shall act as a real estate broker or real estate salesperson, or advertise or assume to act as such, without first being licensed as provided in this chapter. No person, partnership, association, limited liability company, limited liability partnership, or corporation shall provide services that require a license under this chapter if the licensee's license is inactive, suspended, placed on voluntary hold, resigned, or a broker's license on deposit, or if the license has been revoked. Nothing contained in this chapter shall be construed as authorizing a real estate broker or salesperson to perform any service constituting the practice of law.

(B) No partnership, association, limited liability company, limited liability partnership, or corporation holding a real estate license shall employ as an officer, director, manager, or principal employee any person previously holding a license as a real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, whose license has been placed in inactive, voluntary hold, or resigned status, or is suspended, or revoked and who has not thereafter reactivated the license or received a new license.

**Sec. 4735.021** (A) Every licensee who is engaged in the business of referring prospective tenants to possible rental units or locations and who charges the prospective tenants a fee shall enter into a written contract with any prospective tenant and shall give him a copy of the contract. The licensee shall disclose in the contract the manner in which the listings of units have been obtained. All contracts entered into pursuant to this section shall stipulate that any fee charged in excess of ten dollars shall be repaid or refunded to the prospective tenant, upon demand, but no sooner than thirty days after the contract has been entered into and no later than sixty days after the contract has been entered into, if he does not obtain a rental conforming to his specifications through the listing furnished by the licensee. If the information concerning rentals furnished by the licensee is not current or accurate, the full fee shall be repaid or refunded to the prospective tenant upon demand.

(B) No licensee shall refer a prospective tenant to any property without the consent of the owner or to any nonexistent address.

**Sec. 4735.022** (A) An out-of-state commercial broker, for a fee, commission, or other valuable consideration, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, may perform those acts that require a license under this chapter, with respect to commercial real estate, provided that the out-of-state commercial broker does all of the following:

(1) Works in cooperation with an Ohio real estate broker who holds a valid, active license issued under this chapter;

(2) Enters into a written agreement with the Ohio broker described in division (A)(1) of this section that includes the terms of cooperation and compensation and a statement that the out-of-state commercial broker and its agents will agree to adhere to the laws of Ohio;

(3) Furnishes the Ohio broker described in division (A)(1) of this section with a copy of the out-of-state commercial broker's current certificate of good standing from any jurisdiction where the out-of-state commercial broker maintains an active real estate license;

(4) Files an irrevocable written consent with the Ohio broker described in division (A)(1) of this section that legal actions arising out of the conduct of the out-of-state commercial broker or its agents may be commenced against the out-of-state commercial broker in the court of proper jurisdiction of any county in Ohio where the cause of action arises or where the plaintiff resides;

(5) Includes the name of the Ohio broker described in division (A)(1) of this section on all advertising in accordance with section [4735.16](#) of the Revised Code;

(6) Deposits all escrow funds, security deposits, and other money received by either the out-of-state commercial broker or Ohio broker described in division (A)(1) of this section in trust or special accounts maintained by the Ohio broker;

(7) Deposits all documentation required by this section and records and documents related to the transaction with the Ohio broker described in division (A)(1) of this section. The Ohio broker described in division (A)(1) of this section shall retain the documentation that is provided by the out-of-state commercial broker as required under division (A)(7) of this section, and the records and documents related to a transaction, for a period of three years after the date the documentation is provided, or the transaction occurred, as appropriate.

(B) An out-of-state commercial salesperson may perform those acts that require a real estate salesperson license under this chapter with respect to commercial real estate, provided that the out-of-state commercial salesperson meets all of the following requirements:

(1) Is licensed with and works under the direct supervision of the out-of-state commercial broker;

(2) The out-of-state commercial broker with whom the salesperson is associated meets all of the requirements of division (A) of this section;

(3) Provides the Ohio broker who is working in cooperation with the out-of-state broker with whom the salesperson is associated, with a copy of the commercial salesperson's current certificate of good standing from the jurisdiction where the out-of-state commercial salesperson maintains an active real estate license in connection with the out-of-state commercial broker;

(4) Collects money, including commissions, deposits, payments, rentals, or otherwise, only in the name of and with the consent of the out-of-state commercial broker under whom the out-of-state commercial salesperson is licensed.

(C) By filing a consent-to-jurisdiction document as described under division (A)(4) of this section, the person giving the consent makes and constitutes the secretary of state as an agent for service of process in this state including service of summonses and subpoenas. Service of process upon any person may be initiated by leaving with the secretary of state or an assistant

secretary of state four copies of the process, an affidavit stating the address of the person given on the consent-to-jurisdiction document, and a fee of five dollars. Upon receipt of the process, affidavit, and fee, the secretary of state immediately shall give notice of the process to the person, at the address given in the affidavit and forward to that address by certified mail, return receipt requested, a copy of the process. Service is considered to be complete upon the mailing of the notice and copy of process in accordance with this division.

(D) A person, partnership, association, limited liability company, limited liability partnership, or corporation licensed in a jurisdiction where there is no legal distinction between a real estate broker license and a real estate salesperson license must meet the requirements of division (A) of this section before engaging in any activity described in this section that requires a real estate broker license in this state.

**Sec. 4735.03.** There is hereby created the Ohio real estate commission, consisting of five members who shall be appointed by the governor, with the advice and consent of the senate. Four members shall have been engaged in the real estate business as licensed real estate brokers in the state for a period of ten years immediately preceding the appointment. One member shall represent the public. Terms of office shall be for five years, commencing on the first day of July and ending on the thirtieth day of June. Each member shall hold office from the date of appointment until the end of the term for which appointed. No more than three members shall be members of any one political party and no member of the commission concurrently may be a member of the commission and the real estate appraiser board created pursuant to section 4763.02 of the Revised Code. Each member, before entering upon the duties of office, shall subscribe to and file with the secretary of state the constitutional oath of office. All vacancies which occur shall be filled in the manner prescribed for the regular appointments to the commission. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No member shall hold office for more than two consecutive full terms. Annually, upon the qualification of the member appointed in such year, the commission shall organize by selecting from its members a president and vice-president, and shall do all things necessary and proper to carry out and enforce this chapter. A majority of the members of the commission shall constitute a quorum, but a lesser number may adjourn from time to time. Each member of the commission shall receive an amount fixed pursuant to section 124.14 of the Revised Code for each day employed in the discharge of official duties, and the member's actual and necessary expenses incurred in the discharge of those duties.

The commission or the superintendent of real estate may investigate complaints concerning the violation of section 4735.02 or 4735.25 of the Revised Code and may subpoena witnesses in connection with such investigations as provided in section 4735.04 of the Revised Code. The commission or the superintendent may make application to the appropriate court for an order enjoining the violation of section 4735.02 or 4735.25 of the Revised Code, and upon a showing by the commission or the superintendent that any person, firm, partnership, association, limited liability company, limited liability partnership, or corporation has violated or is about to violate section 4735.02 or 4735.25 of the Revised Code, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court.

The commission shall:

- (A) Adopt canons of ethics for the real estate industry;
- (B) Upon appeal by any party affected, or may upon its own motion, review any order or application determination of the superintendent, and may reverse, vacate, or modify any order of the superintendent;
- (C) Administer the real estate education and research fund and hear appeals from orders of the superintendent regarding claims against that fund or against the real estate recovery fund;
- (D) Direct the superintendent on the content, scheduling, instruction, and offerings of real estate courses for salesperson and broker educational requirements;
- (E) Disseminate to licensees and the public, information relative to commission activities and decisions;
- (F) Notify licensees of changes in state and federal civil rights laws pertaining to discrimination in the purchase or sale of real estate and relevant case law, and inform licensees that they are subject to disciplinary action if they do not comply with the changes;
- (G) Publish and furnish to public libraries and to brokers booklets on housing and remedies available to dissatisfied clients under this chapter and Chapter 4112. of the Revised Code;
- (H) Provide training to commission members and employees of the division of real estate and professional licensing on issues relative to the real estate industry, which may include but not be limited to investigative techniques, real estate law, and real estate practices and procedures.

**Sec. 4735.04.** The Ohio real estate commission or the superintendent of real estate may compel, by order or subpoena, the attendance of witnesses to testify in relation to any matter over which the commission or superintendent has jurisdiction and which is the subject of inquiry and investigation by the commission or superintendent, and require the production of any book, paper, or document pertaining to such matter. For such purpose, the commission or superintendent shall have the same power as judges of county courts to administer oaths, compel the attendance of witnesses, and punish them for refusal to testify. Service of the subpoena may be made by sheriffs or constables, or by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refused to accept delivery. Witnesses shall receive, after their appearance before the commission or superintendent, the fees and mileage provided for under section [119.094](#) of the Revised Code. If two or more witnesses travel together in the same vehicle, the mileage fee shall be paid to only one of those witnesses, but the witnesses may agree to divide the fee among themselves in any manner. In addition to the powers granted to the commission and superintendent under this section, in case any person fails to file any statement or report, obey any subpoena, give testimony, answer questions, or produce any books, records, or papers as required by the commission or superintendent under this chapter, the court of common pleas of any county in the state, upon application made to it by the commission or superintendent setting forth such failure, may make an order awarding process of subpoena or subpoena duces tecum for the person to appear and testify before the commission or superintendent, and may order any person to give testimony and answer questions, and to produce books, records, or papers, as required by the

commission or superintendent. Upon the filing of such order in the office of the clerk of the court of common pleas, the clerk, under the seal of the court, shall issue process of subpoena for the person to appear before the commission or superintendent at a time and place named in the subpoena, and each day thereafter until the examination of such person is completed. The subpoena may contain a direction that the witness bring with the witness to the examination any books, records, or papers mentioned in the subpoena. The clerk shall also issue, under the seal of the court, such other orders, in reference to the examination, appearance, and production of books, records, or papers, as the court directs. If any person so summoned by subpoena fails to obey the subpoena, to give testimony, to answer questions as required, or to obey an order of the court, the court, on motion supported by proof, may order an attachment for contempt to be issued against the person charged with disobedience of any order or injunction issued by the court under this chapter. If the person is brought before the court by virtue of the attachment, and if upon a hearing the disobedience appears, the court may order the offender to be committed and kept in close custody.

**Sec. 4735.05.** (A) The Ohio real estate commission is a part of the department of commerce for administrative purposes. The director of commerce is ex officio the executive officer of the commission, or the director may designate any employee of the department as superintendent of real estate and professional licensing to act as executive officer of the commission.

The commission and the real estate appraiser board created pursuant to section 4763.02 of the Revised Code shall each submit to the director a list of three persons whom the commission and the board consider qualified to be superintendent within sixty days after the office of superintendent becomes vacant. The director shall appoint a superintendent from the lists submitted by the commission and the board, and the superintendent shall serve at the pleasure of the director.

(B) The superintendent, except as otherwise provided, shall do all of the following in regard to this chapter:

- (1) Administer this chapter;
  - (2) Issue all orders necessary to implement this chapter;
  - (3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee;
  - (4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators or auditors have the right to review and audit the business records of licensees and continuing education course providers during normal business hours.
  - (5) Appoint a hearing examiner for any proceeding involving disciplinary action under section 3123.47, 4735.052, or 4735.18 of the Revised Code;
  - (6) Administer the real estate recovery fund.
- (C) The superintendent may do all of the following:

(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.

(3) Upon the death of a licensed broker or the revocation or suspension of the broker's license, if there is no other licensed broker within the business entity of the broker, appoint upon application by any interested party, or, in the case of a deceased broker, subject to the approval by the appropriate probate court, recommend the appointment of, an ancillary trustee who is qualified as determined by the superintendent to conclude the business transactions of the deceased, revoked, or suspended broker;

(4) In conjunction with the enforcement of this chapter, when the superintendent of real estate has reasonable cause to believe that an applicant or licensee has committed a criminal offense, the superintendent of real estate may request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant or licensee. The superintendent of the bureau of criminal identification and investigation shall obtain information from the federal bureau of investigation as part of the criminal records check of the applicant or licensee. The superintendent of real estate may assess the applicant or licensee a fee equal to the fee assessed for the criminal records check.

(5) In conjunction with the enforcement of this chapter, issue advisory letters in lieu of initiating disciplinary action under section 4735.051 or 4735.052 of the Revised Code or issuing a citation under section 4735.16 or 4735.181 of the Revised Code.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(4) of this section, from licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department. Notwithstanding division (D) of section 2317.023 of the Revised Code, all information obtained by investigators or auditors from an informal mediation meeting held pursuant to section 4735.051 of the Revised Code, including but not limited to the agreement to mediate and the accommodation agreement, shall be held in confidence by the superintendent, investigators, auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to licensees to the superintendent of financial institutions for purposes relating to the administration of sections 1322.01 to 1322.12 of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to local law enforcement agencies and local prosecutors. Information released by the division pursuant to this section remains confidential.

**Sec. 4735.051.** (A) Within five business days after a person files a signed written complaint against a licensed real estate broker or licensed real estate salesperson with the division of real estate, the superintendent of real estate shall acknowledge receipt of the complaint and send a notice to the licensee describing the acts complained of. The

acknowledgment to the complainant and the notice to the licensee shall state that an informal mediation meeting will be held with the complainant, the licensee, and an investigator from the investigation and audit section of the division if the complainant and licensee both file a request for such a meeting within ten business days thereafter on a form provided by the superintendent.

(B) If the complainant and licensee both file with the division requests for an informal mediation meeting, the superintendent shall notify the complainant and licensee of the date of the meeting, which shall be within twenty business days thereafter, except that any party may request an extension of up to fifteen business days for good cause shown. If the complainant and licensee reach an accommodation at an informal mediation meeting, the investigator shall so report to the superintendent, the complainant, and licensee and the complaint file shall be closed.

(C) If the complainant and licensee fail to agree to an informal mediation meeting or fail to reach an accommodation the superintendent shall, within five business days of such determination, so notify the complainant and licensee and shall investigate the conduct of the licensee against whom the complaint is filed.

(D) Within sixty business days after receipt of the complaint, or, if an informal meeting is held, within sixty days of such meeting, the investigator shall file a written report of the results of the investigator's investigation with the superintendent. Within fourteen business days thereafter, the superintendent shall review the report and determine whether there exists reasonable and substantial evidence of a violation of section [4735.18](#) of the Revised Code by the licensee. If the superintendent finds such evidence exists, within seven business days of the determination, the superintendent shall notify the complainant and licensee of the date of a hearing to be held by a hearing examiner pursuant to Chapter 119. of the Revised Code within fifteen days but not prior to seven days thereafter, except that either the superintendent or the licensee may request an extension of up to thirty business days for good cause shown. If the superintendent finds that such evidence does not exist, within five business days thereafter, the superintendent shall so notify the complainant and licensee of the superintendent's determination and the basis for the determination. Within fifteen business days after the superintendent notifies the complainant and licensee that such evidence does not exist, the complainant may file with the division a request that the commissioners review the determination. If the complainant files such request, the commissioners shall review the determination at the next regularly scheduled meeting held at least fifteen business days after the request is filed. The commission shall hear the testimony of either the complainant or the licensee at the meeting upon the request of the complainant or licensee. If the commissioners affirm the determination of the superintendent, the superintendent shall so notify the complainant and the licensee within five business days thereafter. If the commissioners reverse the determination of the superintendent, a hearing shall be held and the complainant and licensee notified as provided in this division. After the date of a hearing to be held by a hearing examiner has been scheduled pursuant to division (D) of this section, but before the issuance of the report of findings of fact and conclusions of law pursuant to division (E) of this section, the superintendent upon receipt of additional evidence, may withdraw the notice of hearing. Withdrawal by the superintendent does not constitute evidence that the original notice of hearing was not substantially justified. Upon withdrawal of the notice of hearing, the superintendent shall notify the complainant and licensee of the superintendent's determination and basis for the determination. Within fifteen business days after the superintendent notifies the complainant and licensee, the complainant may file with the

superintendent a request that the Ohio real estate commission review the determination. The commission shall review the request as provided in division (D) of this section.

(E) Within twenty-five business days after the conclusion of formal hearings, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the commission, and the complainant and licensee.

(F) The commissioners shall review the hearing examiner's report at the next regularly scheduled commission meeting held at least fifteen business days after receipt of the hearing examiner's report. The commission shall hear the testimony of the complainant or the licensee upon request. If the complainant is the Ohio civil rights commission, the complaint shall be reviewed by the commissioners directly upon request.

(G) The commission shall decide whether to impose disciplinary sanctions upon a licensee for a violation of section [4735.18](#) of the Revised Code. The commission shall decide within sixty days of the filing of the hearing examiner's report or within sixty days of the filing of an Ohio civil rights commission complaint. The commission shall maintain a transcript of the proceedings and issue a written opinion to the complainant and licensee, citing its findings and grounds for any action taken. The commission shall notify the complainant and any other person who may have suffered financial loss because of the licensee's violations, that the complainant or other person may sue for recovery under section [4735.12](#) of the Revised Code.

(H) An investigation under this section is subject to section [4735.32](#) of the Revised Code.

(I) The commission may impose the following sanctions upon a licensee for a violation of section [4735.18](#) of the Revised Code:

- (1) Revoke a license issued under Chapter 4735. of the Revised Code;
- (2) Suspend a license for a term set by the commission;
- (3) Impose a fine, not exceeding two thousand five hundred dollars per violation;
- (4) Issue a public reprimand;

(5) Require the completion of additional continuing education course work. Any continuing education course work imposed pursuant to this section shall not count toward the continuing education requirements set forth in section [4735.14](#) of the Revised Code. All fines imposed pursuant to division (I)(3) of this section shall be credited to the real estate recovery fund, which is created in the state treasury under section [4735.12](#) of the Revised Code.

(J) All notices, written reports, and determinations issued pursuant to this section shall be mailed via certified mail, return receipt requested. If the certified notice is returned because of failure of delivery, or was refused or unclaimed, the notice, written reports, or determinations are deemed served if the superintendent sends the notice, written report, or determination via regular mail and obtains a certificate of mailing of the notice, written reports, or determination.

**Sec. 4735.052.** (A) Upon receipt of a written complaint or upon the superintendent's own motion, the superintendent may investigate any person that has allegedly violated section 4735.02 or 4735.25 of the Revised Code, except that the superintendent shall not initiate an investigation, pursuant to this section, of any person who held a license on voluntary hold or a suspended or inactive license under this chapter on the date of the alleged violation.

(B) If, after investigation, the superintendent determines there exists reasonable evidence of a violation of section 4735.02 or 4735.25 of the Revised Code, within fourteen business days after that determination, the superintendent shall send the party who is the subject of the investigation, a written notice, by regular mail, that includes all of the following information:

(1) A description of the activity in which the party allegedly is engaging or has engaged that is a violation of section 4735.02 or 4735.25 of the Revised Code;

(2) The applicable law allegedly violated;

(3) A statement informing the party that a hearing concerning the alleged violation will be held, upon the party's request, before a hearing examiner pursuant to Chapter 119. of the Revised Code.

(C) (1) If a hearing is requested, the hearing examiner shall hear the testimony of all parties present at the hearing and consider any written testimony submitted pursuant to this section, and determine if there has been a violation of section 4735.02 or 4735.25 of the Revised Code.

(2) After the conclusion of formal hearings, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the commission, the complainant, and the parties. Within twenty days of receipt of such copy of the written report of findings of fact and conclusions of law, the parties and the division may file with the commission written objections to the report, which shall be considered by the commission before approving, modifying, or disapproving the report.

(3) The commission shall review the hearing examiner's report at the next regularly scheduled commission meeting held at least twenty business days after receipt of the hearing examiner's report. The commission shall hear the testimony of the complainant or the parties.

(4) The commission shall decide whether to impose disciplinary sanctions upon a party for a violation of section 4735.02 of the Revised Code. If the commission finds that a violation has occurred, the commission may assess a civil penalty, in an amount it determines, not to exceed one thousand dollars per violation. Each day a violation occurs or continues is a separate violation. The commission shall determine the terms of payment. The commission shall maintain a record of the proceedings of the hearing and issue a written opinion to all parties, citing its findings and grounds for any action taken.

(D) Civil penalties collected under this section shall be deposited in the real estate operating fund, which is created in the state treasury under section 4735.211 of the Revised Code.

(E) If a party fails to pay a civil penalty assessed pursuant to this section within the time prescribed by the commission, the superintendent shall forward to the attorney general the name of the party and the amount of the civil penalty, for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the party also shall pay any fee assessed by the attorney general for collection of the civil penalty.

(F) The superintendent may reserve the right to bring a civil action against a party that fails to pay a civil penalty for breach of contract in a court of competent jurisdiction.

**Sec. 4735.06.** (A) Application for a license as a real estate broker shall be made to the superintendent of real estate on forms furnished by the superintendent and filed with the

superintendent and shall be signed by the applicant or its members or officers. Each application shall state the name of the person applying and the location of the place of business for which the license is desired, and give such other information as the superintendent requires in the form of application prescribed by the superintendent.

If the applicant is a partnership, limited liability company, limited liability partnership, or association, the names of all the members also shall be stated, and, if the applicant is a corporation, the names of its president and of each of its officers also shall be stated. The superintendent has the right to reject the application of any partnership, association, limited liability company, limited liability partnership, or corporation if the name proposed to be used by such partnership, association, limited liability company, limited liability partnership, or corporation is likely to mislead the public or if the name is not such as to distinguish it from the name of any existing partnership, association, limited liability company, limited liability partnership, or corporation licensed under this chapter, unless there is filed with the application the written consent of such existing partnership, association, limited liability company, limited liability partnership, or corporation, executed by a duly authorized representative of it, permitting the use of the name of such existing partnership, association, limited liability company, limited liability partnership, or corporation.

(B) A fee of one hundred dollars shall accompany the application for a real estate broker's license. The initial licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. However, if the applicant was an inactive or active salesperson immediately preceding application for a broker's license, then the initial licensing period shall commence at the time the broker's license is issued and ends on the date the licensee's continuing education is due as set when the applicant was a salesperson. The application fee shall be nonrefundable. A fee of one hundred dollars shall be charged by the superintendent for each successive application made by an applicant. In the case of issuance of a three-year license, upon passing the examination, or upon waiver of the examination requirement, if the superintendent determines it is necessary, the applicant shall submit an additional fee determined by the superintendent based upon the number of years remaining in a real estate salesperson's licensing period.

(C) One dollar of each application fee for a real estate broker's license shall be credited to the real estate education and research fund, which is hereby created in the state treasury. The Ohio real estate commission may use the fund in discharging the duties prescribed in divisions (E), (F), (G), and (H) of section 4735.03 of the Revised Code and shall use it in the advancement of education and research in real estate at any institution of higher education in the state, or in contracting with any such institution or a trade organization for a particular research or educational project in the field of real estate, or in advancing loans, not exceeding two thousand dollars, to applicants for salesperson licenses, to defray the costs of satisfying the educational requirements of division (F) of section 4735.09 of the Revised Code. Such loans shall be made according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and they shall be repaid to the fund within three years of the time they are made. No more than ten thousand dollars shall be lent from the fund in any one year.

The governor may appoint a representative from the executive branch to be a member ex officio of the commission for the purpose of advising on research requests or educational projects. The commission shall report to the general assembly on the third Tuesday after the third Monday in January of each year setting forth the total amount contained in the fund and the

amount of each research grant that it has authorized and the amount of each research grant requested. A copy of all research reports shall be submitted to the state library of Ohio and the library of the legislative service commission.

(D) If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate broker's examination, pursuant to division (A) of section 4735.07 of the Revised Code, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(2) of section 4735.10 of the Revised Code.

**Sec. 4735.07.** (A) The superintendent of real estate, with the consent of the Ohio real estate commission, may enter into agreements with recognized national testing services to administer the real estate broker's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of such examination.

(B) No applicant for a real estate broker's license shall take the broker's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude, or if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant's activities and employment record since the adjudication show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will again violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to, this chapter, or, if the applicant has violated any such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) Has been a licensed real estate broker or salesperson for at least two years; during at least two of the five years preceding the person's application, has worked as a licensed real estate broker or salesperson for an average of at least thirty hours per week; and has completed one of the following:

(a) At least twenty real estate transactions, in which property was sold for another by the applicant while acting in the capacity of a real estate broker or salesperson;

(b) Such equivalent experience as is defined by rules adopted by the commission.

(6)(a) If licensed as a real estate salesperson prior to August 1, 2001, successfully has completed at an institution of higher education all of the following:

(i) Thirty hours of classroom instruction in real estate practice;

(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Thirty hours of classroom instruction in real estate appraisal;

(iv) Thirty hours of classroom instruction in real estate finance;

(v) Three quarter hours, or its equivalent in semester hours, in financial management;

(vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;

(vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;

(viii) Three quarter hours, or its equivalent in semester hours, in business law.

(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:

(i) Forty hours of classroom instruction in real estate practice;

(ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Twenty hours of classroom instruction in real estate appraisal;

(iv) Twenty hours of classroom instruction in real estate finance;

(v) The training in the amount of hours specified under divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section.

(c) Division (B)(6)(a) or (b) of this section does not apply to any applicant who holds a valid real estate salesperson's license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), (vi), (vii), and (viii) or division (B)(6)(b)(v) of this section do not apply to any applicant who holds a valid real estate salesperson's license issued prior to January 3, 1984.

(7) If licensed as a real estate salesperson on or after January 3, 1984, satisfactorily has completed a minimum of two years of post-secondary education, or its equivalent in semester or quarter hours, at an institution of higher education, and has fulfilled the requirements of division (B)(6)(a) or (b) of this section. The requirements of division (B)(6)(a) or (b) of this section may be included in the two years of post-secondary education, or its equivalent in semester or quarter hours, that is required by this division.

(C) Each applicant for a broker's license shall be examined in the principles of real estate practice, Ohio real estate law, and financing and appraisal, and as to the duties of real estate brokers and real estate salespersons, the applicant's knowledge of real estate transactions and instruments relating to them, and the canons of business ethics pertaining to them. The commission from time to time shall promulgate such canons and cause them to be published in printed form.

(D) Examinations shall be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101. The contents of an examination shall be consistent with the requirements of division (B)(6) of this section and with the other specific requirements of this section. An applicant who has completed the requirements of division (B)(6) of this section at the time of application shall be examined no later than twelve months after the applicant is notified of admission to the examination.

(E) The superintendent may waive one or more of the requirements of this section in the case of an application from a nonresident real estate broker pursuant to a reciprocity agreement with the licensing authority of the state from which the nonresident applicant holds a valid real estate broker license.

(F) There shall be no limit placed on the number of times an applicant may retake the examination.

(G)(1) Not earlier than the date of issue of a real estate broker's license to a licensee, but not later than twelve months after the date of issue of a real estate broker's license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion of ten hours of classroom instruction that shall be completed in schools, seminars, and educational institutions that are approved by the commission. Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code.

If the required proof of completion is not submitted to the superintendent within twelve months of the date a license is issued under this section, the license of the real estate broker is suspended automatically without the taking of any action by the superintendent. The broker's license shall not be reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent if the licensee fails to submit proof of completion of the education requirements specified under division (G)(1) of this section within twelve months of the date the license is suspended.

(2) If the license of a real estate broker is suspended pursuant to division (G)(1) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. However, the

suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if all of the following occur:

(a) That broker subsequently submits satisfactory proof to the superintendent that the broker has complied with the requirements of division (G)(1) of this section and requests that the broker's license as a real estate broker be reactivated;

(b) The superintendent then reactivates the broker's license as a real estate broker;

(c) The associated real estate salesperson intends to continue to be associated with that broker and otherwise is in compliance with this chapter.

**Sec. 4735.08.** The superintendent of real estate shall issue a real estate broker's license when the superintendent is satisfied that:

(A) An applicant who is not a partnership, association, limited liability company, limited liability partnership, or corporation satisfies one of the following:

(1) Has received a passing score on each portion of the real estate broker's examination as determined by rule by the real estate commission;

(2) Is qualified to be licensed without examination as a nonresident real estate broker, under division (E) of section [4735.07](#) of the Revised Code.

(B) All the members or officers who are authorized to perform the functions of a real estate broker as the agents of an applicant that is a partnership, association, limited liability company, limited liability partnership, or corporation, are licensed themselves as real estate brokers under this chapter.

**Sec. 4735.09.** (A) Application for a license as a real estate salesperson shall be made to the superintendent of real estate on forms furnished by the superintendent and signed by the applicant. The application shall be in the form prescribed by the superintendent and shall contain such information as is required by this chapter and the rules of the Ohio real estate commission. The application shall be accompanied by the recommendation of the real estate broker with whom the applicant is associated or with whom the applicant intends to be associated, certifying that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, which conviction or adjudication the applicant has not disclosed to the superintendent, and recommending that the applicant be admitted to the real estate salesperson examination.

(B) A fee of sixty dollars shall accompany the application, which fee includes the fee for the initial year of the licensing period, if a license is issued. The initial year of the licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. The application fee shall be nonrefundable. A fee of sixty dollars shall be charged by the superintendent for each successive application made by the applicant. One dollar of each application fee shall be credited to the real estate education and research fund.

(C) There shall be no limit placed on the number of times an applicant may retake the examination.

(D) The superintendent, with the consent of the commission, may enter into an agreement with a recognized national testing service to administer the real estate salesperson's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of the examination.

If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate salesperson's examination, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(1) of section 4735.10 of the Revised Code.

(E) The superintendent shall issue a real estate salesperson's license when satisfied that the applicant has received a passing score on each portion of the salesperson's examination as determined by rule by the real estate commission, except that the superintendent may waive one or more of the requirements of this section in the case of an applicant who is a licensed real estate salesperson in another state pursuant to a reciprocity agreement with the licensing authority of the state from which the applicant holds a valid real estate salesperson's license.

(F) No applicant for a salesperson's license shall take the salesperson's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude or, if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to this chapter, or, if the applicant has violated such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) If born after the year 1950, has a high school diploma or its equivalent as recognized by the state department of education;

(6) Has successfully completed at an institution of higher education all of the following:

(a) Forty hours of classroom instruction in real estate practice;

(b) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(c) Twenty hours of classroom instruction in real estate appraisal;

(d) Twenty hours of classroom instruction in real estate finance.

(G) Any person who has not been licensed as a real estate salesperson or broker within a four-year period immediately preceding the person's current application for the salesperson's examination shall have successfully completed the prelicensure classroom instruction required by division (F)(6) of this section within a ten-year period immediately preceding the person's current application for the salesperson's examination.

(H) Not earlier than the date of issue of a real estate salesperson's license to a licensee, but not later than twelve months after the date of issue of a real estate salesperson license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion of ten hours of classroom instruction that shall be completed in schools, seminars, and educational institutions approved by the commission. Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code.

If proof of completion of the required instruction is not submitted within twelve months of the date a license is issued under this section, the licensee's license is suspended automatically without the taking of any action by the superintendent. The superintendent immediately shall notify the broker with whom such salesperson is associated of the suspension of the salesperson's license. A salesperson whose license has been suspended under this division shall have twelve months after the date of the suspension of the salesperson's license to submit proof of successful completion of the instruction required under this division. No such license shall be reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent when the licensee fails to submit the required proof of completion of the education requirements under division (H) of this section within twelve months of the date the license is suspended.

(I) Examinations shall be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12189. The contents of an examination shall be consistent with the classroom instructional requirements of division (F)(6) of this section. An applicant who has completed the classroom instructional requirements of division (F)(6) of this section at the time of application shall be examined no later than twelve months after the applicant is notified of the applicant's admission to the examination.

**Sec. 4735.10.** (A)(1) The Ohio real estate commission may adopt reasonable rules in accordance with Chapter 119. of the Revised Code, necessary for implementing the provisions of this chapter relating, but not limited to, the following:

- (a) The form and manner of filing applications for licensure;
- (b) Times and form of examination for license;
- (c) Placing an existing broker's license on deposit or a salesperson's license on an inactive status for an indefinite period;
- (d) Specifying the process by which a licensee may place the licensee's license on voluntary hold or resigned status;
- (e) Defining any additional license status that the commission determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts;
- (f) Clarification of the activities that require a license under this chapter.

(2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following:

(a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license;

(b) A three-year license and a three-year license renewal system;

(c) Standards for the approval of the ten hour postlicensure courses as required by division (H) of section 4735.07 and division (H) of section 4735.09 of the Revised Code, courses of study required for licenses, courses offered in preparation for license examinations, or courses required as continuing education for licenses.

(d) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class.

(e) Requirements for trust accounts and property management accounts. The rules shall specify that:

(i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of section 4735.18 of the Revised Code.

(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable to the property owner unless otherwise specified in a written contract.

(f) Notice of renewal forms and filing deadlines;

(g) Special assessments under division (A) of section 4735.12 of the Revised Code.

(B) The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers:

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;

(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (A) of section 4735.06 of the Revised Code;

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code;

(4) Approval of applications of brokers to place their licenses in an inactive status and to become salespersons under section 4735.13 of the Revised Code;

(5) Appointment of hearing examiners under section 119.09 of the Revised Code;

(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of examination, under sections 4735.27 and 4735.28 of the Revised Code;

(7) Qualification of foreign real estate under section 4735.25 of the Revised Code.

If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose.

(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or superintendent may require other proof of the honesty, truthfulness, and good reputation of any person named in an application for a real estate broker's or real estate salesperson's license before admitting the applicant to the examination or issuing a license.

**Sec. 4735.11.** The form and size of licenses issued under this chapter shall be prescribed by the Ohio real estate commission. Each broker's or foreign real estate dealer's license shall show the name and address of the licensee, and in the case of partnership, association, limited liability company, limited liability partnership, and corporation licenses, the name and address of each of the members or officers of the partnership, association, limited liability company, limited liability partnership, or corporation. A real estate salesperson's license or a foreign real estate salesperson's license shall show the name of the real estate broker or foreign real estate dealer with whom the salesperson is or is to be associated. Each license shall be issued under the seal prescribed in section [121.20](#) of the Revised Code and be signed by the president of the commission.

**Sec. 4735.12.** (A) The real estate recovery fund is hereby created in the state treasury, to be administered by the superintendent of real estate. Amounts collected by the superintendent as prescribed in this section and interest earned on the assets of the fund shall be credited by the

treasurer of state to the fund. The amount of money in the fund shall be ascertained by the superintendent as of the first day of July of each year.

The commission, in accordance with rules adopted under division (A)(2)(g) of section [4735.10](#) of the Revised Code, shall impose a special assessment not to exceed ten dollars per year for each year of a licensing period on each licensee filing a notice of renewal under section [4735.14](#) of the Revised Code if the amount available in the fund is less than five hundred thousand dollars on the first day of July preceding that filing. The commission may impose a special assessment not to exceed five dollars per year for each year of a licensing period if the amount available in the fund is greater than one million dollars, but less than two million dollars on the first day of July preceding that filing. The commission shall not impose a special assessment if the amount available in the fund exceeds two million dollars on the first day of July preceding that filing.

(B)(1) Any person who obtains a final judgment in any court of competent jurisdiction against any broker or salesperson licensed under this chapter, on the grounds of conduct that is in violation of this chapter or the rules adopted under it, and that is associated with an act or transaction that only a licensed real estate broker or licensed real estate salesperson is authorized to perform as specified in division (A) or (C) of section [4735.01](#) of the Revised Code, may file a verified application, as described in division (B)(3) of this section, in the court of common pleas of Franklin county for an order directing payment out of the real estate recovery fund of the portion of the judgment that remains unpaid and that represents the actual and direct loss sustained by the applicant.

(2) Punitive damages, attorney's fees, and interest on a judgment are not recoverable from the fund. In the discretion of the superintendent of real estate, court costs may be recovered from the fund, and, if the superintendent authorizes the recovery of court costs, the order of the court of common pleas then may direct their payment from the fund.

(3) The application shall specify the nature of the act or transaction upon which the underlying judgment was based, the activities of the applicant in pursuit of remedies available under law for the collection of judgments, and the actual and direct losses, attorney's fees, and the court costs sustained or incurred by the applicant. The applicant shall attach to the application a copy of each pleading and order in the underlying court action.

(4) The court shall order the superintendent to make such payments out of the fund when the person seeking the order has shown all of the following:

- (a) The person has obtained a judgment, as provided in this division;
- (b) All appeals from the judgment have been exhausted and the person has given notice to the superintendent, as required by division (C) of this section;
- (c) The person is not a spouse of the judgment debtor, or the personal representative of such spouse;
- (d) The person has diligently pursued the person's remedies against all the judgment debtors and all other persons liable to the person in the transaction for which the person seeks recovery from the fund;
- (e) The person is making the person's application not more than one year after termination of all proceedings, including appeals, in connection with the judgment.

(5) Divisions (B)(1) to (4) of this section do not apply to any of the following:

(a) Actions arising from property management accounts maintained in the name of the property owner;

(b) A bonding company when it is not a principal in a real estate transaction;

(c) A person in an action for the payment of a commission or fee for the performance of an act or transaction specified or comprehended in division (A) or (C) of section [4735.01](#) of the Revised Code;

(d) Losses incurred by investors in real estate if the applicant and the licensee are principals in the investment.

(C) A person who applies to a court of common pleas for an order directing payment out of the fund shall file notice of the application with the superintendent. The superintendent may defend any such action on behalf of the fund and shall have recourse to all appropriate means of defense and review, including examination of witnesses, verification of actual and direct losses, and challenges to the underlying judgment required in division (B)(4)(a) of this section to determine whether the underlying judgment is based on activity only a licensed broker or licensed salesperson is permitted to perform. The superintendent may move the court at any time to dismiss the application when it appears there are no triable issues and the application is without merit. The motion may be supported by affidavit of any person having knowledge of the facts and may be made on the basis that the application, including the judgment referred to in it, does not form the basis for a meritorious recovery claim; provided, that the superintendent shall give written notice to the applicant at least ten days before such motion. The superintendent may, subject to court approval, compromise a claim based upon the application of an aggrieved party. The superintendent shall not be bound by any prior compromise or stipulation of the judgment debtor.

(D) Notwithstanding any other provision of this section, the liability of the fund shall not exceed forty thousand dollars for any one licensee. If a licensee's license is reactivated as provided in division (E) of this section, the liability of the fund for the licensee under this section shall again be forty thousand dollars, but only for transactions that occur subsequent to the time of reactivation.

If the forty-thousand-dollar liability of the fund is insufficient to pay in full the valid claims of all aggrieved persons by whom claims have been filed against any one licensee, the forty thousand dollars shall be distributed among them in the ratio that their respective claims bear to the aggregate of valid claims or in such other manner as the court finds equitable. Distribution of moneys shall be among the persons entitled to share in it, without regard to the order of priority in which their respective judgments may have been obtained or their claims have been filed. Upon petition of the superintendent, the court may require all claimants and prospective claimants against one licensee to be joined in one action, to the end that the respective rights of all such claimants to the fund may be equitably adjudicated and settled.

(E) If the superintendent pays from the fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed broker or salesperson, the license of the broker or salesperson shall be automatically suspended upon the date of payment from the fund. The superintendent shall not reactivate the suspended license of that broker or salesperson until the broker or salesperson has repaid in full, plus interest per annum at the rate specified in division (A) of section [1343.03](#) of the Revised Code, the amount paid from the fund on the

broker's or salesperson's account. A discharge in bankruptcy does not relieve a person from the suspension and requirements for reactivation provided in this section unless the underlying judgment has been included in the discharge and has not been reaffirmed by the debtor.

(F) If, at any time, the money deposited in the fund is insufficient to satisfy any duly authorized claim or portion of a claim, the superintendent shall, when sufficient money has been deposited in the fund, satisfy such unpaid claims or portions, in the order that such claims or portions were originally filed, plus accumulated interest per annum at the rate specified in division (A) of section [1343.03](#) of the Revised Code.

(G) When, upon the order of the court, the superintendent has paid from the fund any sum to the judgment creditor, the superintendent shall be subrogated to all of the rights of the judgment creditor to the extent of the amount so paid, and the judgment creditor shall assign all the judgment creditor's right, title, and interest in the judgment to the superintendent to the extent of the amount so paid. Any amount and interest so recovered by the superintendent on the judgment shall be deposited in the fund.

(H) Nothing contained in this section shall limit the authority of the superintendent to take disciplinary action against any licensee under other provisions of this chapter; nor shall the repayment in full of all obligations to the fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to this chapter.

(I) The superintendent shall collect from the fund a service fee in an amount equivalent to the interest rate specified in division (A) of section [1343.03](#) of the Revised Code multiplied by the annual interest earned on the assets of the fund, to defray the expenses incurred in the administration of the fund.

**Sec. 4735.13.** (A) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state. A post office box address is not a definite place of business for purposes of this section. The license of a real estate broker shall be prominently displayed in the office or place of business of the broker, and no license shall authorize the licensee to do business except from the location specified in it. If the broker maintains more than one place of business within the state, the broker shall apply for and procure a duplicate license for each branch office maintained by the broker. Each branch office shall be in the charge of a licensed broker or salesperson. The branch office license shall be prominently displayed at the branch office location.

(B) The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until the licensee places the license on inactive, voluntary hold, or resigned status or until the salesperson leaves the brokerage or is terminated. The broker shall keep each salesperson's license in a way that it can, and shall on request, be made immediately available for public inspection at the office or place of business of the broker. Except as provided in divisions (G) and (H) of this section, immediately upon the salesperson's leaving the association or termination of the association of a real estate salesperson with the broker, the broker shall return the salesperson's license to the superintendent of real estate.

The failure of a broker to return the license of a real estate salesperson or broker who leaves or who is terminated, via certified mail return receipt requested, within three business days of the receipt of a written request from the superintendent for the return of the license, is

prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(C) Any licensee shall notify the superintendent in writing within fifteen days of any of the following occurrences:

(1) The licensee is convicted of a felony.

(2) The licensee is convicted of a crime involving moral turpitude.

(3) The licensee is found to have violated any federal, state, or municipal civil rights law pertaining to discrimination in housing.

(4) The licensee is found to have engaged in a discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code.

(5) The licensee is found to have violated any municipal civil rights law pertaining to housing discrimination.

(6) The licensee is the subject of an order by the department of commerce, the department of insurance, or the department of agriculture revoking or permanently surrendering any professional license, certificate, or registration.

(7) The licensee is the subject of an order by any government agency concerning real estate, financial matters, or the performance of fiduciary duties with respect to any license, certificate, or registration.

If a licensee fails to notify the superintendent within the required time, the superintendent immediately may ssuspend the license of the licensee.

Any court that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination also shall notify the Ohio civil rights commission within fifteen days of the conviction.

(D) In case of any change of business location, a broker shall give notice to the superintendent, on a form prescribed by the superintendent, within thirty days after the change of location, whereupon the superintendent shall issue new licenses for the unexpired period without charge. If a broker changes a business location without giving the required notice and without receiving new licenses that action is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(E) If a real estate broker desires to associate with another real estate broker in the capacity of a real estate salesperson, the broker shall apply to the superintendent to deposit the broker's real estate broker's license with the superintendent and for the issuance of a real estate salesperson's license. The application shall be made on a form prescribed by the superintendent and shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated and a fee of twenty-five dollars for the real estate salesperson's license. One dollar of the fee shall be credited to the real estate education and research fund. If the superintendent is satisfied that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, and that the association of the real estate broker and the applicant will be in the public interest, the superintendent shall grant the application and issue a real estate salesperson's license to the applicant. Any license so

deposited with the superintendent shall be subject to this chapter. A broker who intends to deposit the broker's license with the superintendent, as provided in this section, shall give written notice of this fact in a format prescribed by the superintendent to all salespersons associated with the broker when applying to place the broker's license on deposit.

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, the broker shall notify the superintendent of the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of twenty-five dollars. One dollar of the fee shall be credited to the real estate education and research fund.

A licensed real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation shall only act as a real estate broker for such partnership, association, limited liability company, limited liability partnership, or corporation.

(G) If a real estate broker or salesperson enters the armed forces, the broker or salesperson may place the broker's or salesperson's license on deposit with the Ohio real estate commission. The licensee shall not be required to renew the license until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter. Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months of the licensee's first birthday after discharge. The superintendent shall notify the licensee of the licensee's obligations under section 4735.141 of the Revised Code at the time the licensee applies for reactivation of the licensee's license.

(H) If a licensed real estate salesperson submits an application to the superintendent to leave the association of one broker to associate with a different broker, the broker possessing the licensee's license need not return the salesperson's license to the superintendent. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

**Sec. 4735.14.** (A) Each license issued under this chapter, shall be valid without further recommendation or examination until it is placed in an inactive, voluntary hold, or resigned status, is revoked or suspended, or such license expires by operation of law.

(B) Except for a licensee who has placed the licensee's license on voluntary hold or resigned status pursuant to section 4735.142 of the Revised Code, each licensed broker, brokerage, or salesperson shall file, on or before the date the Ohio real estate commission has adopted by rule for that licensee in accordance with division (A)(2)(f) of section 4735.10 of the Revised Code, a notice of renewal on a form prescribed by the superintendent of real estate. The notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the personal residence address of each broker or salesperson that is on file with the division. If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the brokerage's business address on file with the division. A licensee shall not renew the licensee's license any earlier than two months prior to the filing deadline.

(C) Except as otherwise provided in division (B) of this section, the license of any real estate broker, brokerage, or salesperson that fails to file a notice of renewal on or before the filing deadline of each ensuing year shall be suspended automatically without the taking of any action by the superintendent. A suspended license may be reactivated within twelve months of the date of suspension, provided that the renewal fee plus a penalty fee of fifty per cent of the renewal fee is paid to the superintendent. Failure to reactivate the license as provided in this division shall result in automatic revocation of the license without the taking of any action by the superintendent. No person, partnership, association, corporation, limited liability company, or limited partnership shall engage in any act or acts for which a real estate license is required while that entity's license is placed in an inactive, voluntary hold, or resigned status, or is suspended, or revoked. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code to provide to licensees notice of suspension or revocation or both.

(D) Each licensee shall notify the commission of a change in personal residence address. A licensee's failure to notify the commission of a change in personal residence address does not negate the requirement to file the license renewal by the required deadline established by the commission by rule under division (A)(2)(f) of section 4735.10 of the Revised Code.

(E) The superintendent shall not renew a license if the licensee fails to comply with section 4735.141 of the Revised Code or is otherwise not in compliance with this chapter.

(F) The superintendent shall make notice of successful renewal available electronically to licensees as soon as practicable, but not later than thirty days after receipt by the division of a complete application and renewal fee. This notice shall serve as a notice of renewal for purposes of section 4745.02 of the Revised Code.

**Sec. 4735.141.** (A) Except as otherwise provided in this division and except for a licensee who has placed the licensee's license on voluntary hold or resigned status pursuant to section 4735.142 of the Revised Code, each person licensed under section 4735.07 or 4735.09 of the Revised Code shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed thirty hours of continuing education, as prescribed by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code, on or before the licensee's birthday occurring three years after the licensee's date of initial licensure, and on or before the licensee's birthday every three years thereafter.

Persons licensed as real estate salespersons who subsequently become licensed real estate brokers shall continue to submit proof of continuing education in accordance with the time period established in this section.

The requirements of this section shall not apply to any disabled licensee as provided in division (E) of this section.

Each licensee who is seventy years of age or older, within a continuing education reporting period, shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed a total of nine classroom hours of continuing education, including instruction in Ohio real estate law; recently enacted state and federal laws affecting the real estate industry; municipal, state, and federal civil rights law; and canons of ethics for the real estate industry as adopted by the commission. The required proof of completion shall be submitted on or before the licensee's birthday that falls in the third year of that continuing education reporting period. A licensee who is seventy years of age or older whose license is in an inactive status is exempt from the continuing education requirements specified in this section.

The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this paragraph.

(B) The continuing education requirements of this section shall be completed in schools, seminars, and educational institutions approved by the commission. Such approval shall be given according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and shall not be limited to institutions providing two-year or four-year degrees. Each school, seminar, or educational institution approved under this division shall be open to all licensees on an equal basis.

(C) If the requirements of this section are not met by a licensee within the period specified, the licensee's license shall be suspended automatically without the taking of any action by the superintendent. The superintendent shall notify the licensee of the license suspension, and such notification shall be sent by regular mail to the personal residence address of the licensee that is on file with the division. Any license so suspended shall remain suspended until it is reactivated by the superintendent. No such license shall be reactivated until it is established, to the satisfaction of the superintendent, that the requirements of this section have been met. If the requirements of this section are not met within twelve months from the date the license was suspended, the license shall be revoked automatically without the taking of any action by the superintendent.

(D) If the license of a real estate broker is suspended pursuant to division (C) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. A sole broker shall notify affiliated salespersons of the suspension in writing within three days of receiving the notice required by division (C) of this section.

(1) The suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if that broker subsequently submits proof to the superintendent that the broker has complied with the requirements of this section and requests that the broker's license as a real estate broker be reactivated and the superintendent then reactivates the broker's license as a real estate broker.

(2) If the real estate salesperson submits an application to leave the association of the suspended broker in order to associate with a different broker, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Any person whose license is reactivated pursuant to this division shall comply with the requirements of this section and otherwise be in compliance with this chapter.

(E) Any licensee who is a disabled licensee at any time during the last three months of the third year of the licensee's continuing education reporting period may receive an extension of time as deemed appropriate by the superintendent to submit proof to the superintendent that the licensee has satisfactorily completed the required thirty hours of continuing education. To receive an extension of time, the licensee shall submit a request to the division of real estate for the extension and proof satisfactory to the commission that the licensee was a disabled licensee at some time during the last three months of the three-year reporting period. The proof shall include, but is not limited to, a signed statement by the licensee's attending physician describing the disability, certifying that the licensee's disability is of such a nature as to prevent the licensee

from attending any instruction lasting at least three hours in duration, and stating the expected duration of the disability. The licensee shall request the extension and provide the physician's statement to the division no later than one month prior to the end of the licensee's three-year continuing education reporting period, unless the disability did not arise until the last month of the three-year reporting period, in which event the licensee shall request the extension and provide the physician's statement as soon as practical after the occurrence of the disability. A licensee granted an extension pursuant to this division who is no longer a disabled licensee and who submits proof of completion of the continuing education during the extension period, shall submit, for future continuing education reporting periods, proof of completion of the continuing education requirements according to the schedule established in division (A) of this section.

(F) The superintendent shall not renew a license if the licensee fails to comply with this section, and the licensee shall be required to pay the penalty fee provided in section 4735.14 of the Revised Code.

(G) A licensee shall submit proof of completion of the required continuing education with the licensee's notice of renewal. The proof shall be submitted in the manner provided by the superintendent.

**Sec. 4735.142.** (A) Any person licensed under section 4735.07 or 4735.09 of the Revised Code, at any time prior to the date the licensee is required to file a notice of renewal pursuant to division (B) of section 4735.14 of the Revised Code may apply to the superintendent of real estate and professional licensing to place the licensee's license on voluntary hold or a resigned status.

(B) If the superintendent has placed a license on voluntary hold pursuant to a request made under division (A) of this section, the licensee who requested that the licensee's license be placed on voluntary hold may apply to the superintendent to reactivate that license within twelve months after the date the license is placed on voluntary hold. The superintendent shall reactivate that license if the licensee complies with the requirements for such reactivation that are specified in rules adopted by the Ohio real estate commission pursuant to division (A) of section 4735.10 of the Revised Code and satisfies all of the following requirements:

(1) The licensee complies with the postlicensure education requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable;

(2) The licensee complies with the continuing education requirements specified in section 4735.141 of the Revised Code;

(3) The licensee renews the licensee's license in accordance with section 4735.14 of the Revised Code and, if applicable, pays the annual brokerage assessment fee in accordance with the requirements specified in rules adopted by the commission.

(C) If a licensee does not apply to reactivate a license on voluntary hold pursuant to division (B) of this section during the twelve-month time period specified in that division or does not satisfy the requirements specified in that division during that twelve-month period, the superintendent shall consider that license to be in a resigned status. The superintendent shall not reactivate a resigned license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to this division wishes to obtain an active license, the person shall apply for an active license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable.

(D) A licensee, at any time during which a license has been suspended pursuant to division (G) of section 4735.07, division (H) of section 4735.09, division (E) of section 4735.12, division (C) of section 4735.14, division (C) of section 4735.141, or section 4735.182 of the Revised Code, may apply to the superintendent on a form prescribed by the superintendent to voluntarily resign the licensee's license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to a request made under this division wishes to obtain an active or inactive license, the person shall apply for such a license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable, or in the rules adopted by the commission pursuant to division (A) of section 4735.10 of the Revised Code.

(E) If placing a broker's license on voluntary hold or a resigned status will result in the closure of the broker's brokerage, the broker, within three days after applying to the superintendent to place the license on voluntary hold or a resigned status, shall provide to each salesperson associated with that broker a written notice stating that fact.

(F) This section does not apply to any licensee whose license has been suspended pursuant to division (F) of section 4735.181 of the Revised Code or due to disciplinary action ordered by the commission pursuant to section 4735.051 of the Revised Code.

**Sec. 4735.15.** (A) The nonrefundable fees for reactivation or transfer of a license shall be as follows:

(1) Reactivation or transfer of a broker's license into or out of a partnership, association, limited liability company, limited liability partnership, or corporation or from one partnership, association, limited liability company, limited liability partnership, or corporation to another partnership, association, limited liability company, limited liability partnership, or corporation, twenty-five dollars. An application for such transfer shall be made to the superintendent of real estate on forms provided by the superintendent.

(2) Reactivation or transfer of a license by a real estate salesperson, twenty-five dollars.

(B) Except as may otherwise be specified pursuant to division (F) of this section, the nonrefundable fees for a branch office license, license renewal, late filing, and foreign real estate dealer and salesperson license are as follows per year for each year of a licensing period:

(1) Branch office license, fifteen dollars;

(2) Renewal of a real estate broker's license, sixty dollars. If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the full broker's renewal fee shall be required for each member of such partnership, association, limited liability company, limited liability partnership, or corporation that is a real estate broker. If the real estate broker has not less than eleven nor more than twenty real estate salespersons associated with the broker, an additional fee of sixty-four dollars shall be assessed to the brokerage. For every additional ten real estate salespersons or fraction of that number, the brokerage assessment fee shall be increased in the amount of thirty-seven dollars.

(3) Renewal of a real estate salesperson's license, forty-five dollars;

(4) Renewal of a real estate broker's or salesperson's license filed within twelve months after the licensee's renewal date, an additional late filing penalty of fifty per cent of the required fee;

(5) Foreign real estate dealer's license and each renewal of the license, thirty dollars per salesperson employed by the dealer, but not less than one hundred fifty dollars;

(6) Foreign real estate salesperson's license and each renewal of the license, fifty dollars.

(C) All fees collected under this section shall be paid to the treasurer of state. One dollar of each such fee shall be credited to the real estate education and research fund, except that for fees that are assessed only once every three years, three dollars of each triennial fee shall be credited to the real estate education and research fund.

(D) In all cases, the fee and any penalty shall accompany the application for the license, license transfer, or license reactivation or shall accompany the filing of the renewal.

(E) The commission may establish by rule reasonable fees for services not otherwise established by this chapter.

(F) The commission may adopt rules that provide for a reduction in the fees established in divisions (B)(2) and (3) of this section.

**Sec. 4735.16.** (A) Every real estate broker licensed under this chapter shall erect or maintain a sign on the business premises plainly stating that the licensee is a real estate broker. If the real estate broker maintains one or more branch offices, the real estate broker shall erect or maintain a sign at each branch office plainly stating that the licensee is a real estate broker.

(B)(1) Any licensed real estate broker or salesperson who advertises to buy, sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, with respect to property the licensee does not own, shall be identified in the advertisement by name and indicate the name of the brokerage with which the licensee is affiliated.

(2) Any licensed real estate broker or sales person who advertises to sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, with respect to property that the licensee owns, shall be identified in the advertisement by name and indicate that the property is agent owned, and if the property is listed with a real estate brokerage, the advertisement shall also indicate the name of the brokerage with which the property is listed.

(3) The name of the brokerage shall be displayed in equal prominence with the name of the salesperson in the advertisement. For purposes of this section, "brokerage" means the name the real estate company or sole broker is doing business as, or if the real estate company or sole broker does not use such a name, the name of the real estate company or sole broker as licensed.

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

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

When the superintendent determines that prima-facie evidence of a violation of division (A)(21) of section 4735.18 of the Revised Code or any of the rules adopted thereunder exists, the superintendent may do either of the following:

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

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

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

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

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

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

(5) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (C)(4) of this section.

(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, military status as defined in that section, 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 professional licensing 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.

**Sec. 4735.17.** Licenses may be issued under sections 4735.01 to 4735.23 of the Revised Code, to nonresidents of this state and to foreign corporations, subject to the following additional requirements:

(A) The licensee, if a broker, shall maintain an active place of business in this state. A post office box is not an active place of business for purposes of this section.

(B) Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of this state in which a cause of action may arise or in which the plaintiff may reside by the service of any process or pleading authorized by the laws of this state on the superintendent of real estate. The consent shall stipulate that such service shall be taken and held in all courts as valid and binding as if proper service had been made upon the applicant in this state. The instrument containing such consent shall be authenticated by signature or by corporate seal. All applications of firms or corporations shall be accompanied by a certified copy of the resolution of the proper officers or managing board authorizing the proper officer to execute them. A duplicate copy of any process or pleading served on the superintendent shall be immediately forwarded by certified mail to the main office of the licensee against which that process or pleading is directed.

**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 to section 4735.32 of the Revised Code, the Ohio real estate commission shall impose disciplinary sanctions upon any licensee who, whether or not acting in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found to have been convicted of a felony or a crime of moral turpitude, and may impose disciplinary sanctions upon any licensee who, in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found guilty of:

- (1) Knowingly making any misrepresentation;
- (2) Making any false promises with intent to influence, persuade, or induce;
- (3) A continued course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise;
- (4) Acting for more than one party in a transaction except as permitted by and in compliance with section 4735.71 of the Revised Code;
- (5) Failure within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to others;
- (6) Dishonest or illegal dealing, gross negligence, incompetency, or misconduct;
- (7)(a) By final adjudication by a court, a violation of any municipal or federal civil rights law relevant to the protection of purchasers or sellers of real estate or, by final adjudication by a court, any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate, in the licensee's practice as a licensed real estate broker or salesperson;

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

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

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

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

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

(12) Having falsely represented membership in any real estate professional association of which the licensee is not a member;

(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;

(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;

(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;

(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;

(17) Having advertised or 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;

(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;

(19) Having negotiated the sale, exchange, or lease of any real property directly with a seller, purchaser, lessor, or tenant knowing that such seller, purchaser, lessor, or tenant 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 such property except as provided for in section 4735.75 of the Revised Code;

(20) Having offered real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

(21) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any properties, terms, values, policies, or services of the business conducted;

(22) Having knowingly withheld from or inserted in any statement of account or invoice any statement that made it inaccurate in any material particular;

(23) Having published or circulated unjustified or unwarranted threats of legal proceedings which tended to or had the effect of harassing competitors or intimidating their customers;

(24) Having failed to keep complete and accurate records of all transactions for a period of three years from the date of the transaction, such records to include copies of listing forms, earnest money receipts, offers to purchase and acceptances of them, records of receipts and disbursements of all funds received by the licensee as broker and incident to the licensee's transactions as such, and records required pursuant to divisions (C)(4) and (5) of section 4735.20 of the Revised Code, and any other instruments or papers related to the performance of any of the acts set forth in the definition of a real estate broker;

(25) Failure of a real estate broker or salesperson to furnish all parties involved in a real estate transaction true copies of all listings and other agreements to which they are a party, at the time each party signs them;

(26) Failure to maintain at all times a special or trust bank account in a depository located in this state. The account shall be noninterest-bearing, separate and distinct from any personal or other account of the broker, and, except as provided in division (A)(27) of this section, shall be used for the deposit and maintenance of all escrow funds, security deposits, and other moneys received by the broker in a fiduciary capacity. The name, account number, if any, and location of the depository wherein such special or trust account is maintained shall be submitted in writing to the superintendent. Checks drawn on such special or trust bank accounts are deemed to meet the conditions imposed by section 1349.21 of the Revised Code. Funds deposited in the trust or special account in connection with a purchase agreement shall be maintained in accordance with section 4735.24 of the Revised Code.

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

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

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

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

(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 counteroffer or having failed to present an offer or 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;

(37) Having failed to comply with section 4735.24 of the Revised Code.

(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.

**Sec. 4735.181.** (A) No real estate broker or salesperson licensed pursuant to this chapter shall fail to comply with divisions (B) or (D) of section 4735.13, division (D) of section 4735.14, or sections 4735.55, 4735.56, and 4735.58 of the Revised Code or any rules adopted under those divisions or sections.

(B) When the superintendent determines that a licensee has violated division (A) of this section, the superintendent may do either of the following:

(1) Initiate disciplinary action under section 4735.051 of the Revised Code, in accordance with Chapter 119. of the Revised Code;

(2) Personally, or by certified mail, serve a citation and impose sanctions in accordance with this section upon the licensee.

(C) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the licensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of up to two hundred dollars per violation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code.

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

If a licensee fails to request a hearing within thirty days after the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final.

(E) Unless otherwise indicated, the licensee named in a final citation under this section must meet all requirements contained in the final citation within thirty days after the effective date of that citation.

(F) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (E) of this section.

**Sec. 4735.182.** If a check or other draft instrument used to pay any fee required under this chapter is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the superintendent shall notify the entity or person that the check or other draft instrument was returned for insufficient funds.

(A) If the check or draft instrument was submitted by a licensee, the superintendent shall also notify the licensee that the licensee's license will be suspended unless the licensee, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the licensee does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the license shall be suspended immediately without a hearing and the licensee shall cease activity as a licensee under this chapter.

(B) If the check or draft instrument was remitted by a person or entity applying to qualify foreign real estate or renew a property registration, the superintendent shall also notify the applicant that registration will be suspended, unless the applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of the fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the property registration shall be suspended immediately without a hearing and the applicant shall cease activity.

(C) If the check or draft instrument was remitted by an applicant for licensure, that application shall automatically be rejected or approval withdrawn, unless the applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check

or other draft instrument used to pay either of those fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the application shall be denied or approval withdrawn.

(D) If the check or draft instrument was remitted by an education course provider or course provider applicant, that application shall automatically be rejected or approval withdrawn, unless applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the application shall be denied or approval withdrawn.

**Sec. 4735.19.** The Ohio real estate commission shall keep a record of its proceedings and, upon application of an interested party, or upon its own motion and notice to the interested parties, may hold a hearing to consider reversing, vacating, or modifying its own orders. An application shall be filed with the division within fifteen days after the mailing of the notice of the order of the commission to the interested parties. The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing the circumstances in which an interested party may request reconsideration.

Any applicant or respondent dissatisfied with an order of the commission may appeal in accordance with Chapter 119. of the Revised Code.

**Sec. 4735.20.** (A) Except as provided in divisions (B), (C), and (G) of this section, no licensed real estate broker or licensed foreign real estate dealer shall pay a commission, fee, or other compensation for performing any of the acts specified in section 4735.01 of the Revised Code to any person who is not a licensed real estate broker or a licensed real estate salesperson or to any person who is not a licensed foreign real estate dealer or a licensed foreign real estate salesperson.

(B) A licensed real estate broker or licensed foreign real estate dealer may pay a commission to a licensed real estate broker or licensed foreign real estate dealer of another state or country and may receive a commission from a licensed real estate broker or licensed foreign real estate dealer of another state or country, but only when done in accordance with rules adopted by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code.

(C) A licensed real estate broker may pay all or part of a fee, commission, or other compensation earned by an affiliated licensee to a partnership, association, limited liability company, limited liability partnership, or corporation that is not licensed as a real estate broker on the condition that all of the following conditions are satisfied:

(1) At least one of the partners, members, officers, or shareholders of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation holds a valid and active license issued under this chapter.

(2) At least one of the partners, members, officers, or shareholders of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation is the affiliated licensee who earned the fee, commission, or other compensation.

(3) The unlicensed partnership, association, limited liability company, limited liability partnership, or corporation does not engage in any of the acts specified in division (A) of section 4735.01 of the Revised Code.

(4) The broker verifies that the affiliated licensee complies with divisions (C)(1) and (2) of this section and keeps a record of this verification for a period of three years after the date of verification.

(5) The broker keeps a record of all of the following information for each transaction, for a period of three years after the date of the transaction:

(a) The name of the affiliated licensee who earned the fee, commission, or other compensation;

(b) The amount of the fee, commission, or other compensation that was earned;

(c) The name of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation to which the broker paid the affiliated licensee's fee, commission, or other compensation.

(D) Compliance with division (C) of this section does not relieve a broker described in that division of any obligations to supervise an affiliated licensee, or of any other requirements of this chapter or rules adopted pursuant to this chapter.

(E) Compliance with division (C) of this section does not render a broker described in that division or an affiliated licensee exempt from sections 4735.051, 4735.18, ~~or~~ and 4735.32 of the Revised Code, or immune from personal liability in a civil action against the broker or affiliated licensee for a violation of this chapter.

(F) No broker shall pay a fee, commission, or other compensation that is due to an affiliated licensee to a third-party creditor of the affiliated licensee.

(G) Any owner of any interest in foreign real estate may refer a prospective buyer to the person who sold the owner that foreign real estate with the expectation of receiving valuable consideration, if all of the following conditions are satisfied:

(1) The person who sold the owner that foreign real estate is selling qualified foreign real estate pursuant to section 4735.25 of the Revised Code.

(2) Any fee, commission, or other valuable consideration promised or collected during any period consisting of twelve consecutive months does not exceed one thousand dollars.

(3) The owner does not engage in referring prospective buyers of foreign real estate pursuant to this section in the ordinary course of business or as a regular business practice.

(4) The owner does not show the foreign real estate, discuss terms or conditions of purchasing the foreign real estate, or otherwise participate in negotiations with regard to the offering or sale of the foreign real estate.

(5) If a foreign real estate transaction is consummated with a buyer who was referred by the owner to the person who sold the owner that foreign real estate, the occurrence of the referral shall be disclosed by the person who sold the owner that foreign real estate.

(H) The suspension or revocation of a real estate broker's or foreign real estate dealer's license automatically shall suspend every real estate salesperson's or foreign real estate salesperson's license granted to any person by virtue of association with the broker or dealer whose license has been suspended or revoked, pending a change of broker or dealer and the issuance of a new license. Such new license shall be issued without charges, if granted during the same year in which the original license was granted.

(I) A violation of this section is cause for imposing disciplinary sanctions in accordance with the proceedings specified in sections 4735.051, 4735.18, and 4735.32 of the Revised Code.

(J) For purposes of this section, "affiliated licensee" means a person who holds a valid and active license issued under this chapter and who is associated with the broker that is paying a fee, commission, or other compensation at the time that that fee, commission, or other compensation is earned.

**Sec. 4735.21.** No right of action shall accrue to any person, partnership, association, or corporation for the collection of compensation for the performance of the acts mentioned in section 4735.01 of the Revised Code, without alleging and proving that such person, partnership, association, or corporation was licensed as a real estate broker or foreign real estate dealer. Nothing contained in this section shall prevent a right of action from accruing after the expiration of a real estate or foreign real estate license if the act giving rise to the cause of action was performed by a licensee prior to such expiration.

No real estate salesperson or foreign real estate salesperson shall collect any money in connection with any real estate or foreign real estate brokerage transaction, whether as a commission, deposit, payment, rental, or otherwise, except in the name of and with the consent of the licensed real estate broker or licensed foreign real estate dealer under whom the salesperson is licensed at the time the sales person earned the commission. Nor shall any real estate salesperson or foreign real estate salesperson commence or maintain any action for a commission or other compensation in connection with a real estate or foreign real estate brokerage transaction, against any person except a person licensed as a real estate broker or foreign real estate dealer under whom the salesperson is licensed as a salesperson at the time the cause of action arose.

A salesperson licensed under this chapter shall not sell, assign, or otherwise transfer the salesperson's interest in a commission or any portion thereof to an unlicensed person or entity. If a salesperson makes such assignment or transfer, the broker shall not pay the transferee or assignee any portion of the commission. No cause of action shall arise on behalf of any person against a broker for not paying an assignee or transferee any portion of such an assignment or transfer.

**Sec. 4735.211.** All fines imposed under section 4735.051 of the Revised Code, and all fees and charges collected under sections 4735.06, 4735.09, 4735.13, 4735.15, 4735.25, 4735.27, 4735.28, and 4735.29 of the Revised Code, except such fees as are paid to the real estate education and research fund and real estate recovery fund as provided in this chapter, shall be paid into the state treasury to the credit of the division of real estate operating fund, which is hereby created. All operating expenses of the division of real estate shall be paid from the division of real estate operating fund.

The division of real estate operating fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. Such assessments shall be paid from the division of real estate operating fund to the division of administration fund.

If funds in the division of real estate operating fund are determined by the director of commerce to be in excess of those necessary to fund all the expenses of the division in any biennium, the director may pay the excess funds to the real estate education and research fund.

**Sec. 4735.24.** (A) Except as otherwise provided in this section, when earnest money connected to a real estate purchase agreement is deposited in a real estate broker's trust or special account, the broker shall maintain that money in the account in accordance with the terms of the purchase agreement until one of the following occurs:

(1) The transaction closes and the broker disburses the earnest money to the closing or escrow agent or otherwise disburses the money pursuant to the terms of the purchase agreement.

(2) The parties provide the broker with written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts pursuant to those instructions.

(3) The broker receives a copy of a final court order that specifies to whom the earnest money is to be awarded and the broker acts pursuant to the court order.

(4) The earnest money becomes unclaimed funds as defined in division (M)(2) of section [169.02](#) of the Revised Code and, after providing the notice that division (D) of section [169.03](#) of the Revised Code requires, the broker has reported the unclaimed funds to the director of commerce pursuant to section [169.03](#) of the Revised Code and has remitted all of the earnest money to the director.

(B) A purchase agreement may provide that in the event of a dispute regarding the disbursement of the earnest money, the broker will return the money to the purchaser without notice to the parties unless, within two years from the date the earnest money was deposited in the broker's trust or special account, the broker has received one of the following:

(1) Written instructions signed by both parties specifying how the money is to be disbursed;

(2) Written notice that a court action to resolve the dispute has been filed.

(C)(1) If the parties dispute the disbursement of the earnest money and the purchase agreement contains the provision described in division (B) of this section, not later than the first day of September following the two year anniversary date of the deposit of the earnest money in the broker's account, the broker shall return the earnest money to the purchaser unless the parties provided the broker with written instructions or a notice of a court action as described in division (B) of this section.

(2) If the broker cannot locate the purchaser at the time the disbursement is due, after providing the notice that division (D) of section [169.03](#) of the Revised Code requires, the broker shall report the earnest money as unclaimed funds to the director of commerce pursuant to section [169.03](#) of the Revised Code and remit all of the earnest money to the director.

**Sec. 4735.25.** (A)(1) No person, other than an actual bona fide owner selling for the owner's own account in a single transaction and not by way of repeated or successive transactions, or a person excepted from obtaining a license under section [4735.01](#) of the Revised Code, shall sell, lease, or otherwise deal in this state in any foreign real estate unless the person has qualified the foreign real estate pursuant to this section and unless one of the following applies:

(a) The person was licensed under section [1707.15](#) or [1707.16](#) prior to October 14, 1969;

(b) The person was licensed as a foreign real estate dealer or salesperson under former section 1707.331 of the Revised Code prior to the effective date of this section, but only until the expiration date of the license;

(c) The person is licensed under section [4735.27](#) or [4735.28](#) of the Revised Code.

(2) A licensed foreign real estate dealer or licensed foreign real estate salesperson who is acting in a fiduciary capacity for a bona fide owner of foreign real estate in the sale or lease of that real estate, or who is otherwise dealing in foreign real estate in a fiduciary capacity for its bona fide owner, in a single transaction and not by way of repeated or successive transactions for that owner, need not qualify such real estate under this section.

(B) Any person, other than one of the excepted persons under division (A) of this section, desiring to sell, lease, or otherwise deal in any foreign real estate shall file an application with the superintendent of real estate in the form the superintendent prescribes, which application shall set forth the following:

(1) An exact description of the foreign real estate sought to be sold, leased, or dealt in;

(2) A map or plat prepared by a competent surveyor showing the boundaries and dimensions of the foreign real estate and all lots or subdivisions of it;

(3) The names of the owners of the foreign real estate, with a detailed statement showing the financial responsibility of each owner, together with the post office address of each, including street numbers or another pertinent description; and if any such owner is a corporation or association, a copy of its articles or certificate of incorporation or of the agreement by which it was created, unless a copy is already on file in the office of the secretary of state, together with proof that it is qualified to do business in this state, if it is a foreign corporation;

(4) A list and description of all liens and encumbrances on the foreign real estate;

(5) A full description of all improvements or developments of every nature to be made or promised to be made on the foreign real estate, the cost of the improvements or developments, and the security, if any, for their completion;

(6) A copy of any building restrictions or other restrictions upon the use of the foreign real estate;

(7) A copy, description, or plan showing the form of contract, method, and terms of sale, lease, or other dealing to be used in connection with the foreign real estate;

(8) A list or schedule of all sales prices of the foreign real estate;

(9) A list or schedule of all commissions, allowances, or compensations in any form that have been arranged or agreed to be paid to the applicant, and to any dealers or salespersons, by the owner or by any person interested in the foreign real estate;

(10) Other information that the superintendent requires.

(C) All the statements, exhibits, and documents required by the superintendent under this section, except properly certified public documents, shall be verified by the oath of the applicant or of any person having knowledge of the facts, and in such manner and form as required by the superintendent. Failure to comply with the requests of the superintendent in this regard shall be a sufficient reason for a refusal by the superintendent to qualify the foreign real estate.

(D) Upon filing the application, the applicant shall pay to the superintendent a filing fee of five hundred dollars plus an additional one dollar for each lot, unit, parcel, or interest included in the offering, with the aggregate fee not to exceed two thousand five hundred dollars, and shall deposit with the superintendent a sum the superintendent may require for the purpose of defraying the cost of verifying the statements of the applicant, or for the purpose of determining that the provisions of this chapter have been and will be complied with and that the foreign real estate will not be sold, leased, or dealt in within this state on grossly unfair terms, or in a method or on terms that might defraud or deceive purchasers in this state.

(E) The superintendent or the superintendent's designee employed by the department of commerce, may inspect and examine the foreign real estate or investigate the applicant or the persons interested in, dealing in, or selling, the foreign real estate. The actual cost of the inspection or examination, including the proper proportion of the salaries of employees of the division of real estate who conduct it, shall be paid by the applicant and may be retained by the superintendent out of any deposit. An itemized statement of such cost shall be furnished to the applicant.

(F) In order either to prevent fraud in the sale of foreign real estate or to provide security for the performance of agreements to make improvements on it, the superintendent may require all payments for the foreign real estate to be made to a bank in this state, and to be impounded in that bank and held in escrow upon the terms the superintendent reasonably requires.

(G) If the superintendent is of the opinion that the proposed sale, lease, or disposal is not on grossly unfair terms, that the provisions of this chapter have been complied with, and that the foreign real estate will not be sold, leased, or dealt in, in a method or on terms that might defraud or deceive persons in this state, the superintendent shall allow the qualification of the foreign real estate for sale, lease, or other disposition on the terms stated in the application or on other terms, calculated to prevent fraud or deception, the superintendent approves.

**Sec. 4735.26.** (A) If the superintendent of real estate has refused to qualify any foreign real estate under section [4735.25](#) of the Revised Code, or has suspended or revoked the qualification of any foreign real estate, the aggrieved party may appeal in accordance with Chapter 119. of the Revised Code.

(B) An order sustaining the refusal of the superintendent to qualify any foreign real estate, or sustaining the superintendent in suspending or revoking the qualification of any foreign real estate shall not bar, after ten days from the order, a new application by the plaintiff for qualification or for a withdrawal of the revocation or suspension. An order in favor of the plaintiff shall not prevent the superintendent, after proper notice and hearing, from subsequently revoking or suspending the qualification for any proper cause which may accrue or be discovered after the order.

**Sec. 4735.27.** (A) An application to act as a foreign real estate dealer shall be in writing and filed with the superintendent of real estate. It shall be in the form the superintendent prescribes and shall contain the following information:

(1) The name and address of the applicant;

(2) A description of the applicant, including, if the applicant is a partnership, unincorporated association, or any similar form of business organization, the names and the residence and business addresses of all partners, officers, directors, trustees, or managers of the organization, and the limitation of the liability of any partner or member; and if the applicant is a corporation, a list of its officers and directors, and the residence and business addresses of each, and, if it is a foreign corporation, a copy of its articles of incorporation in addition;

(3) The location and addresses of the principal office and all other offices of the applicant;

(4) A general description of the business of the applicant prior to the application, including a list of states in which the applicant is a licensed foreign real estate dealer;

(5) The names and addresses of all salesmen of the applicant at the date of the application;

(6) The nature of the business of the applicant, and its places of business, for the ten-year period preceding the date of application.

(B) Every nonresident applicant shall name a person within this state upon whom process against the applicant may be served and shall give the complete residence and business address of the person designated. Every applicant shall file an irrevocable written consent, executed and acknowledged by an individual duly authorized to give such consent, that actions growing out of a fraud committed by the applicant in connection with the sale in this state of foreign real estate may be commenced against it, in the proper court of any county in this state in which a cause of action for such fraud may arise or in which the plaintiff in such action may reside, by serving on the secretary of state any proper process or pleading authorized by the laws of this state, in the event that the applicant if a resident of this state, or the person designated by the nonresident applicant, cannot be found at the address given. The consent shall stipulate that the service of process on the secretary of state shall be taken in all courts to be as valid and binding as if service had been made upon the foreign real estate dealer. If the applicant is a corporation or an unincorporated association, the consent shall be accompanied by a certified copy of the resolution of the board of directors, trustees, or managers of the corporation or association, authorizing such individual to execute the consent.

(C) The superintendent may investigate any applicant for a dealer's license, and may require any additional information he considers necessary to determine the business repute and qualifications of the applicant to act as a foreign real estate dealer. If the application for a dealer's license involves investigation outside this state, the superintendent may require the applicant to advance sufficient funds to pay any of the actual expenses of the investigation, and an itemized statement of such expense shall be furnished to the applicant.

(D) Every applicant shall take a written examination, prescribed and conducted by the superintendent, which covers his knowledge of the principles of real estate practice, real estate law, financing and appraisal, real estate transactions and instruments relating to them, canons of business ethics relating to real estate transactions, and the duties of foreign real estate dealers and salesmen. The fee for the examination, when administered by the superintendent, is seventy-five dollars. If the applicant does not appear for the examination, the fee shall be forfeited and a new application and fee shall be filed, unless good cause for the failure to appear is shown to the superintendent. The requirement of an examination may be waived in whole or in part by the

superintendent if an applicant is licensed as a real estate broker by any state. Any applicant who fails the examination twice shall wait six months before applying to retake the examination.

(E) No person shall take the foreign real estate dealer's examination who has not established to the satisfaction of the superintendent that he:

(1) Has not been convicted of a felony or a crime of moral turpitude or, if he has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that his activities and employment record since the conviction show that he is honest, truthful, and of good reputation, and there is no basis in fact for believing that he again will violate the laws involved;

(2) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if he has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that his activities and employment record since the adjudication show that he is honest, truthful, and of good reputation, and there is no basis in fact for believing that he again will violate the laws involved;

(3) Has not, during any period for which he was licensed under this chapter or any former section of the Revised Code applicable to licensed foreign real estate dealers or salesmen, violated any provision of, or any rule adopted pursuant to, this chapter or that section, or, if he has violated any such provision or rule, has established to the satisfaction of the superintendent that he will not again violate the provision or rule.

(F) If the superintendent finds that an applicant for a license as a foreign real estate dealer, or each named member, manager, or officer of a partnership, association, or corporate applicant is at least eighteen years of age, is of good business repute, has passed the examination required under this section or has had the requirement of an examination waived, and appears otherwise qualified, the superintendent shall issue a license to the applicant to engage in business in this state as a foreign real estate dealer. Dealers licensed pursuant to this section shall employ as salesmen of foreign real estate only persons licensed pursuant to section [4735.28](#) of the Revised Code. If at any time such salesmen resign or are discharged or new salesmen are added, the dealer forthwith shall notify the superintendent and shall file with the division of real estate the names and addresses of new salesmen.

(G) If the applicant merely is renewing his license for the previous year, the application need contain only the information required by divisions (A)(2), (3), and (6) of this section.

**Sec. 4735.28.** (A) An application to act as a foreign real estate salesman shall be in writing and filed with the superintendent of real estate. It shall be in the form the superintendent prescribes and shall contain the following information:

(1) The name and complete residence and business addresses of the applicant;

(2) The name of the foreign real estate dealer who is employing the applicant or who intends to employ him;

(3) The age and education of the applicant, and his experience in the sale of foreign real estate; whether he has ever been licensed by the superintendent, and if so, when; whether he has

ever been refused a license by the superintendent; and whether he has ever been licensed or refused a license or any similar permit by any division or superintendent of real estate, by whatsoever name known or designated, anywhere;

(4) The nature of the employment, and the names and addresses of the employers, of the applicant for the period of ten years immediately preceding the date of the application.

(B) Every applicant shall take a written examination, prescribed and conducted by the superintendent, which covers his knowledge of the principles of real estate practice, real estate law, financing and appraisal, real estate transactions and instruments relating to them, canons of business ethics relating to real estate transactions, and the duties of foreign real estate salesmen. The fee for the examination, when administered by the superintendent, is fifty dollars. If the applicant does not appear for the examination, the fee shall be forfeited and a new application and fee shall be filed, unless good cause for the failure to appear is shown to the superintendent. The requirement of an examination may be waived in whole or in part by the superintendent if an applicant is licensed as a real estate broker or salesman by any state. Any applicant who fails the examination twice shall wait six months before applying to retake the examination.

(C) No person shall take the foreign real estate salesman's examination who has not established to the satisfaction of the superintendent that he:

(1) Has not been convicted of a felony or a crime of moral turpitude or, if he has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that his activities and employment record since the conviction show that he is honest, truthful, and of good reputation, and there is no basis in fact for believing that he again will violate the laws involved;

(2) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if he has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that his activities and employment record since the adjudication show that he is honest, truthful, and of good reputation, and there is no basis in fact for believing that he will again violate the laws;

(3) Has not, during any period for which he was licensed under this chapter or any former section of the Revised Code applicable to licensed foreign real estate dealers or salesmen, violated any provision of, or any rule adopted pursuant to, this chapter or that section, or, if he has violated any such provision or rule, has established to the satisfaction of the superintendent that he will not again violate the provision or rule.

(D) Every salesman of foreign real estate shall be licensed by the superintendent of real estate and shall be employed only by the licensed foreign real estate dealer specified on his license.

(E) If the superintendent finds that the applicant is of good business repute, appears to be qualified to act as a foreign real estate salesman, and has fully complied with the provisions of this chapter, and that the dealer in the application is a licensed foreign real estate dealer, the superintendent, upon payment of the fees prescribed by section [4735.15](#) of the Revised Code, shall issue a license to the applicant authorizing him to act as salesman for the dealer named in the application.

**Sec. 4735.29.** The license of every foreign real estate dealer and salesman shall expire on the thirty-first day of December of each year, and may be renewed upon the filing with the superintendent of real estate of an application for renewal, and the payment of the fee prescribed in section [4735.15](#) of the Revised Code, not less than fifteen or more than sixty days before the expiration of the old license. The superintendent may accept an application for renewal less than fifteen days before the expiration of any calendar year. He shall give notice, without unreasonable delay, of his action on any application for renewal of a foreign real estate dealer's or salesman's license. A foreign real estate dealer's license may be issued at any time for the remainder of the calendar year. In such event, the annual fee prescribed in section [4735.15](#) of the Revised Code shall not be reduced.

**Sec. 4735.30.** No person shall knowingly make or cause to be made any false representation concerning a material and relevant fact, in any oral statement or in any description, application, or written statement, for the purpose of securing the qualification of any foreign real estate under section [4735.25](#) of the Revised Code.

**Sec. 4735.32.** (A)(1) The Ohio real estate commission or the superintendent of real estate may commence, at any time within three years from the date on which an alleged violation of a provision of this or another chapter of the Revised Code occurred, any investigation that relates to the conduct of a licensed real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, that is authorized pursuant to section 1349.11, 4735.051, 4735.052, or 4735.18, or any other section of the Revised Code, and that is for purposes of determining whether a licensee, unlicensed person, or unlicensed entity has violated a provision of this or another chapter of the Revised Code and whether, as a consequence, ~~the~~ a licensee's license should be suspended or revoked, or other disciplinary action taken, as provided in this or another chapter of the Revised Code. If such an investigation is not commenced within the three-year period, it shall be barred, and neither the commission nor the superintendent shall suspend or revoke the license of any licensee, or take other disciplinary action against any licensee, unlicensed person, or unlicensed entity because of the alleged violation of a provision of this or another chapter of the Revised Code that could have been the subject of the barred investigation.

(2) For purposes of division (A)(1) of this section, if an investigation that is authorized by section 4735.051 of the Revised Code is involved, it shall be considered to be commenced as of the date on which a person files the complaint with the division of real estate.

(B) This section does not affect any criminal or civil liability that a licensed real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, or any unlicensed person, may have under this or another chapter of the Revised Code or under the common law of this state.

**Sec. 4735.33.** On receipt of a notice pursuant to section [3123.43](#) of the Revised Code, the superintendent of real estate shall comply with sections [3123.41](#) to [3123.50](#) of the Revised Code and any applicable rules adopted under section [3123.63](#) of the Revised Code with respect to a license issued pursuant to this chapter.

**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 and a client in which the client promises to pay the broker a valuable consideration, or agrees that the licensee may receive a valuable consideration from another, for performing an act that requires a real estate license under this chapter.

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

(D) “Affiliated licensee” means a real estate broker or a real estate salesperson licensed by this chapter who is affiliated with a brokerage.

(E) “Brokerage” means a corporation, partnership, limited partnership, association, limited liability company, limited liability partnership, or sole proprietorship issued a broker’s license. “Brokerage” includes the affiliated licensees who have been assigned management duties that include supervision of licensees whose duties may conflict with those of other affiliated licensees.

(F) “Client” means a person who has entered into an agency relationship with a licensee.

(G) “Confidential information” means all information that a client directs to be kept confidential or that if disclosed would have an adverse effect on the client’s position in the real estate transaction, except to the extent the agent is required by law to disclose such information, and all information that is required by law to be kept confidential.

(H) “Dual agency relationship” means any of the dual agency relationships set forth in section [4735.70](#) of the Revised Code.

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

(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) “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.

(O) “Timely” means as soon as possible under the particular circumstances.

**Sec. 4735.52.** The types of agency relationships permitted in a real estate transaction are determined by the provisions of this chapter. Except to the extent the duties of a real estate agent are specifically set forth in this chapter, or are otherwise modified by agreement, the duties of a real estate agent are determined by the common law.

**Sec. 4735.53.** (A) The types of agency relationships a licensee may establish in a real estate transaction are limited to the following:

- (1) An agency relationship between the licensee and the seller;
- (2) An agency relationship between the licensee and the purchaser;
- (3) A dual agency relationship between the licensee and both the seller and the purchaser;
- (4) A subagency relationship between the licensee and the client of another licensee.

(B) When an agency relationship is formed between a licensee and a client, all of the following also are considered the agent of that client:

(1) The brokerage with whom the licensee is affiliated and, except as provided in division (C) of section [4735.70](#) of the Revised Code, the management level licensees in that brokerage who have direct supervisory duties over licensees ;

(2) Any licensee employed by, or affiliated with, the brokerage who receives confidential information from the agent of the client ;

(3) Any other licensee in the brokerage who assisted in establishing the agency relationship;

(4) Any licensee in the brokerage who specifically is appointed with the client's consent to represent that client.

(C) Except as otherwise provided in divisions (B)(1) to (4) of this section, another licensee who is affiliated with the same brokerage as the licensee is not an agent of that client .

(D) A payment or the promise of a payment to a licensee does not determine whether an agency relationship has been created between a licensee and a client or between other licensees in the brokerage with which the licensee is affiliated and that client.

**Sec. 4735.54.** Each brokerage shall develop and maintain a written company policy that sets forth the types of agency relationships that members of that brokerage may establish. The policy shall include provisions on whether any dual agency relationships set forth in section [4735.70](#) of the Revised Code are permitted. The policy shall also set forth procedures to ensure the protection of confidential information, and to ensure that the confidentiality provision extends to affiliated licensees of the brokerage. The policy developed and maintained under this section shall comply with the minimum standards established by rule by the superintendent of real estate with the approval of the Ohio real estate commission. The development and maintenance of a policy under this section shall not relieve a brokerage from liability for the failure of the brokerage, any licensee of the brokerage, or any employee of the brokerage, to maintain the confidentiality of confidential information of a client. The brokerage shall provide a copy of its policy developed and maintained under this section to each client or prospective client upon request.

**Sec. 4735.55.** (A) Each written agency agreement shall contain all of the following:

(1) An expiration date;

(2) A statement that it is illegal, pursuant to the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, as amended, to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, ancestry, military status as defined in that section, disability as defined in that section, or national origin or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services;

(3) A statement defining the practice known as "blockbusting" and stating that it is illegal;

(4) A copy of the United States department of housing and urban development equal housing opportunity logotype, as set forth in 24 C.F.R. 109.30, as amended.

(B) Each written agency agreement shall contain a place for the licensee and the client to sign and date the agreement.

(C) A licensee shall furnish a copy of any written agency agreement to a client in a timely manner after the licensee and the client have signed and dated it.

**Sec. 4735.56.** (A) Each brokerage shall develop a written brokerage policy on agency to be given to prospective sellers and purchasers in accordance with divisions (C) and (D) of this section.

(B) The brokerage policy on agency described in division (A) of this section shall include all of the following information:

(1) An explanation of the permissible agency relationships available under section [4735.53](#) of the Revised Code and the duties that the agent owes the agent's client;

(2) The brokerage's policy on representation of purchasers or sellers;

(3) Whether at some time during the agency relationship the brokerage and its licensee may act as a dual agent, and the options and consequences for the client if a dual agency situation arises including the right of the client to terminate the agency relationship and seek representation from another source;

(4) Whether at some time during the agency relationship, another licensee affiliated with the same brokerage as the licensee may become the exclusive agent for the other party in the transaction and whether each licensee will represent only the interests of that licensee's client;

(5) The brokerage's policy on cooperation with other brokerages, including whether the brokerage offers compensation to other brokerages or will seek compensation from other brokerages;

(6) That a brokerage that has a purchaser as a client represents the purchaser's interests even though the seller's agent or the seller may compensate that purchaser's brokerage;

(7) That the signature of the purchaser or the seller indicates acknowledgement of receipt of the brokerage policy on agency.

(C) A licensee acting as a seller's agent shall provide the seller with the brokerage policy on agency described in this section prior to marketing or showing the seller's real estate and shall obtain a signature from the seller acknowledging receipt unless the seller refuses to provide a signature. If the seller refuses to provide a signature, the licensee shall note this on the policy.

(D) A licensee working directly with a purchaser in a real estate transaction, whether as the purchaser's agent, the seller's agent, or the seller's subagent, shall provide the purchaser with the brokerage policy on agency described in this section and obtain a signature from the purchaser acknowledging receipt of the policy unless the purchaser refuses to provide a signature. If the purchaser refuses to provide a signature, the licensee shall note this on the policy. Except as provided in division (E) of this section, the licensee shall provide the brokerage policy on agency to a purchaser prior to the earliest of the following actions of the licensee:

(1) Initiating a prequalification evaluation to determine whether the purchaser has the financial ability to purchase or lease a particular real estate property;

(2) Requesting specific financial information from the purchaser to determine the purchaser's ability to purchase or finance real estate in a particular price range;

(3) Showing the real estate to the purchaser other than at an open house;

(4) Discussing, with the purchaser, the making of an offer to purchase or lease real estate;

(5) Submitting an offer to purchase or lease real estate on behalf of the purchaser.

(E) If the earliest event described in division (D) of this section is by telephone or electronic mail, the licensee shall disclose by that same medium the nature of the agency relationship that the licensee has with both the seller and the purchaser. The licensee shall provide the purchaser with the brokerage policy on agency described in this section at the first meeting with the purchaser following this disclosure of the agency relationship.

(F) A licensee acting as a seller's agent is not required to provide a purchaser with the brokerage policy on agency described in this section except in the case of an event described in division (D) of this section.

(G) The requirements of this section regarding provision of a brokerage policy on agency do not apply in any of the following situations:

(1) The rental or leasing of residential premises as defined in section [5321.01](#) of the Revised Code, if the rental or lease agreement can be performed in eighteen months or less;

(2) The referral of a prospective purchaser or seller to another licensee;

(3) Transactions involving the sale, lease, or exchange of foreign real estate as defined in division (E) of section [4735.01](#) of the Revised Code;

(4) Transactions involving the sale of a cemetery lot or a cemetery interment right.

**Sec. 4735.57.** (A) The superintendent of real estate, with the approval of the Ohio real estate commission, shall establish by rule an agency disclosure statement. The agency disclosure statement shall contain a place for the licensee and the parties to the transaction to sign and date the statement and shall contain sections for the disclosure or explanation of all of the following:

- (1) Unless confidential, the names of all the parties in the transaction;
  - (2) The address of the real estate being sold or leased;
  - (3) The name of the licensee or licensees and the brokerage with which each licensee is affiliated;
  - (4) The party that each licensee in the named brokerage represents in the transaction;
  - (5) If a licensee representing a purchaser of real estate and a licensee representing the seller of that real estate are affiliated with the same brokerage, whether the two licensees are acting as dual agents or are individually representing the purchaser and seller separately;
  - (6) If only one licensee is involved in the transaction, whether that licensee is a dual agent or represents only one party to the transaction;
  - (7) If both the purchaser and the seller are represented by licensees affiliated with the same brokerage, that the brokerage is a dual agent;
  - (8) That the signature of the client indicates the client's informed consent to the agency relationship and that if the client does not understand the agency disclosure statement, the client should consult an attorney.
- (B) The agency disclosure statement shall specify the duties of a licensee acting as a dual agent and shall contain sections disclosing all of the following:
- (1) An explanation of the nature of a dual agency relationship, including a statement that in serving as a dual agent, licensees in the brokerage represent two clients whose interests are, or at times could be, different or adverse;
  - (2) That as a result of the dual agency relationship, the dual agent may not be able to advocate on behalf of the client to the same extent the agent may have if the agent represented only one client;
  - (3) A description of the duties the brokerage and its affiliated licensees and employees owe to each client, including the duty of confidentiality;
  - (4) That neither the brokerage nor its affiliated licensees have any material relationship with either client other than incidental to the transaction, or if the brokerage or its affiliated licensees have a material relationship, a disclosure of the nature of the relationship. For purposes of this division, "material relationship" means any actually known personal, familial, or business relationship between the brokerage or an affiliated licensee and a client that could impair the ability of the brokerage or affiliated licensee to exercise lawful and independent judgment relative to another client.
  - (5) That as a dual agent, the brokerage cannot engage in conduct that is contrary to the interests or instructions of one party or act in a biased manner on behalf of one party;
  - (6) A section specifying the source of compensation to the real estate broker;
  - (7) That the client does not have to consent to the dual agency relationship, and the options available to the client for representation in the transaction if the client does not consent, including the right of the client to terminate the agency relationship and seek representation from another source;
  - (8) That the consent to the dual agency relationship by the client has been given voluntarily, that the signature indicates informed consent, and that the duties of a licensee acting

as a dual agent disclosed to the client pursuant to division (B) of this section have been read and understood.

**Sec. 4735.58.** (A)(1) A licensee who is a purchaser's agent or a seller's subagent working with a purchaser shall present the agency disclosure statement described in section 4735.57 of the Revised Code to the purchaser and request the purchaser to sign and date the statement no later than the preparation of an offer to purchase or lease, or a written request for a proposal to lease. The licensee shall deliver the statement signed by the purchaser to the seller's agent, or to the seller if the seller is not represented by an agent. Prior to presenting the seller with either a written offer to purchase or lease, or a written request for a proposal to lease, the seller's agent, or the purchaser's agent if the seller is not represented by an agent, shall present the agency disclosure statement to the seller and request the seller to sign and date the statement.

(2) A licensee shall indicate the accurate agency relationship on the agency disclosure statement.

(B) A licensee selling property at auction shall, prior to the auction, verbally disclose to the audience that the licensee represents the seller in the real estate transaction. The licensee shall provide the agency disclosure statement described in section 4735.57 of the Revised Code to the successful bidder prior to the bidder's signing a purchase contract.

(C) Evidence that a licensee has failed to comply with this section constitutes prima-facie evidence of misconduct in violation of division (A)(6) of section 4735.18 of the Revised Code.

(D) The disclosure requirements of this section do not apply in any of the following situations:

(1) The rental or leasing of residential premises as defined in section 5321.01 of the Revised Code, if the rental or lease agreement can be performed in eighteen months or less;

(2) The referral of a prospective purchaser or seller to another licensee;

(3) Transactions involving the sale, lease, or exchange of foreign real estate as defined in division (E) of section 4735.01 of the Revised Code;

(4) Transactions involving the sale of a cemetery lot or a cemetery interment right.

(E) The licensee is obligated to perform all duties imposed on a real estate agent at common law except to the extent the duties are inconsistent with the duties prescribed in this chapter or are otherwise modified by agreement.

**Sec. 4735.59.** To change the party a licensee represents in a real estate transaction after an agency disclosure statement has been signed and dated or following verbal disclosure of the agency relationship, the licensee shall obtain written consent from the party originally represented to represent another party in the transaction. The licensee shall promptly notify all persons who had been notified of the original relationship.

The Ohio real estate commission may adopt rules in accordance with Chapter 119. of the Revised Code to provide for required disclosures when a licensee terminates an agency relationship and becomes a principal in the transaction.

**Sec. 4735.60.** A licensee representing a purchaser shall do the following:

(A) Disclose to the licensee representing the seller, or if the seller is not represented, disclose to the seller, that the licensee represents the purchaser in the transaction. This disclosure shall take place during the first contact the licensee has with any employee or licensee of the brokerage with which the seller's agent is affiliated, or if the seller is not represented by a licensee, during the first contact with the seller.

(B) If the seller is not represented by a licensee, verbally disclose during the first contact with the seller, any intention of seeking compensation from the seller.

**Sec. 4735.61.** No licensee shall knowingly give false information to any party in a real estate transaction.

**Sec. 4735.62.** In representing any client in an agency or subagency relationship, the licensee shall be a fiduciary of the client and shall use the licensee's best efforts to further the interest of the client including, but not limited to, doing all of the following:

(A) Exercising reasonable skill and care in representing the client and carrying out the responsibilities of the agency relationship;

(B) Performing the terms of any written agency agreement;

(C) Following any lawful instructions of the client;

(D) Performing all duties specified in this chapter in a manner that is loyal to the interest of the client;

(E) Complying with all requirements of this chapter and other applicable statutes, rules, and regulations, including the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, as amended;

(F) Disclosing to the client any material facts of the transaction of which the licensee is aware or should be aware in the exercise of reasonable skill and care and that are not confidential information pursuant to a current or prior agency or dual agency relationship;

(G) Advising the client to obtain expert advice related to material matters when necessary or appropriate;

(H) Accounting in a timely manner for all moneys and property received in which the client has or may have an interest;

(I) Keeping confidential all confidential information, unless the licensee is permitted to disclose the information pursuant to division (B) of section 4735.74 of the Revised Code. This requirement includes not disclosing confidential information to any licensee who is not an agent of the client.

**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:

(1) The fiduciary duties required of all licensees under section [4735.62](#) of the Revised Code;

(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;

(3) A statement that no other licensee is required to perform the waived duty on behalf of the client;

(4) A statement that legal counsel or other professionals may be hired by the client;

(5) A place for the client and licensee to sign and date the statement.

**Sec. 4735.63.** (A) In representing a seller in an agency relationship, a licensee shall :

(1) Seek a purchase offer at a price and with terms acceptable to the seller. Unless the 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;

(2) Accept delivery of and present any purchase offer to the seller in a timely manner, even if the property is subject to a contract of sale, lease, or letter of intent to lease;

(3) Within the scope of knowledge required for licensure, answer the seller's questions and provide information to the seller regarding any offers or counteroffers;

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

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

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

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

**Sec. 4735.64.** In representing a seller in an agency relationship, no licensee shall do either of the following without the knowledge and consent of the seller:

(A) Extend an offer of subagency to other licensees;

(B) Offer compensation to a broker who represents a purchaser.

**Sec. 4735.65.** (A) In representing a purchaser in an agency relationship, a licensee shall:

(1) Seek a property at a price and with purchase or lease terms acceptable to the purchaser. Unless the client so directs, the licensee is not obligated to seek additional purchase or

lease possibilities if the purchaser is a party to a contract to purchase property, or has entered into a lease or has extended a letter of intent to lease.

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

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

(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;

(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.

(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.

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

**Sec. 4735.66.** In representing a purchaser in an agency relationship, no licensee shall do either of the following without the knowledge and consent of the purchaser:

(A) Extend an offer of subagency to other licensees;

(B) Accept compensation from a broker who represents a seller.

**Sec. 4735.67.** (A) A licensee shall disclose to any purchaser all material facts of which the licensee has actual knowledge pertaining to the physical condition of the property that the purchaser would not discover by a reasonably diligent inspection, including material defects in the property, environmental contamination, and information that any statute or rule requires be disclosed. For purposes of this division, actual knowledge of such material facts shall be inferred to the licensee if the licensee acts with reckless disregard for the truth.

(B) A licensee is not required to discover latent defects in the property or to advise on matters outside of the scope of the knowledge required for real estate licensure, or to verify the accuracy or completeness of statements made by the seller, unless the licensee is aware of information that should reasonably cause the licensee to question the accuracy or completeness of such statements.

(C) Nothing in this section limits any obligation of a seller to disclose to a purchaser all material facts known by the seller pertaining to the physical condition of the property, nor does it limit the obligation of the prospective purchaser to inspect the physical condition of the property.

(D) Nothing in this section limits any obligation of a purchaser to disclose to a seller all material adverse facts known by the purchaser pertaining to the purchaser's financial ability to perform the terms of the transaction.

(E) No cause of action shall arise on behalf of any person against a licensee for disclosing information in compliance with this section, unless the information is materially inaccurate and the disclosure by the licensee was made in bad faith or was made with reckless disregard for the truth.

**Sec. 4735.68.** (A) A licensee is not liable to any party for false information that the licensee's client provided to the licensee and that the licensee in turn provided to another party in the real estate transaction, unless the licensee had actual knowledge that the information was false or acted with reckless disregard for the truth.

(B) No cause of action shall arise on behalf of any person against a client for any misrepresentation a licensee made while representing that client unless the client had actual knowledge of the licensee's misrepresentation.

(C) Knowledge of or information contained in a brokerage or an affiliated or past licensee's transaction records of any current or previous defect, adverse condition, or repair in real property shall not be imputed to that broker or to other licensees affiliated with that broker. No cause of action based on imputed knowledge shall accrue on behalf of any person against a broker or affiliated licensee for failure to disclose such defects, adverse condition, or repair.

**Sec.4735.69.** (A) A licensee may assist a party who is not the licensee's client in a real estate transaction by doing any of the following:

(1) Providing information regarding lenders, inspectors, attorneys, insurance agents, surveyors, draftspersons, architects, schools, shopping facilities, places of worship, and other similar information;

(2) Providing market information or other information obtained from a property listing service or public records.

(B) A licensee who assists a party who is not the licensee's client as permitted in division (A) of this section does not violate the agency relationship with the client, and provision of the services for that party neither forms nor implies any agency relationship with that party.

**Sec. 4735.70.** The following are dual agents under this chapter:

(A) A licensee who represents both the purchaser and the seller as clients in the same real estate transaction;

(B) A brokerage that represents both the purchaser and the seller as clients in the same real estate transaction;

(C) A management level licensee who represents a client in an in-company transaction. If there is more than one management level licensee affiliated with the brokerage and either of the following applies, the management level licensee is not a dual agent:

(1) The management level licensee personally represents either the seller or the purchaser in a transaction, in which case the management level licensee will represent only the interests of that licensee's client.

(2) The management level licensee is the purchaser or seller in a transaction and will represent only that licensee's interest.

**Sec. 4735.71.** (A) No licensee or brokerage shall participate in a dual agency relationship described in section 4735.70 of the Revised Code unless both the seller and the purchaser in the transaction have full knowledge of the dual representation and consent in writing to the dual representation on the agency disclosure statement described in section 4735.57 of the Revised Code. Before a licensee obtains the consent of any party to a dual agency relationship, the licensee shall disclose to both the purchaser and the seller all relevant information necessary to enable each party to make an informed decision as to whether to consent to the dual agency relationship. If, after consent is obtained, there is a material change in the information disclosed to the purchaser and the seller, the licensee shall disclose the change of information to the purchaser and the seller and give them an opportunity to revoke their consent.

(B) No brokerage shall participate in a dual agency relationship described in division (C) of section 4735.70 of the Revised Code, unless each of the following conditions is met:

(1) The brokerage has established a procedure under section 4735.54 of the Revised Code under which licensees, including management level licensees, who represent one client will not have access to and will not obtain confidential information concerning another client of the brokerage involved in the dual agency transaction.

(2) Each licensee fulfills the licensee's duties exclusively to the licensee's client.

(C) No salesperson or broker licensed under this chapter shall participate in a dual agency relationship in which the licensee is a party to the transaction, either personally or as an officer or member of a partnership, association, limited liability company, limited liability partnership, or corporation that has an interest in the real property that is the subject of the transaction or an entity that has an intention of purchasing, leasing, or exchanging the real property.

**Sec. 4735.72.** (A) The brokerage and management level licensees in a brokerage in which there is a dual agency relationship described in section [4735.70](#) of the Revised Code shall do each of the following:

(1) Objectively supervise the affiliated licensees in the fulfillment of their duties and obligations to their respective clients;

(2) Refrain from advocating or negotiating on behalf of either the seller or the purchaser;

(3) Refrain from disclosing to any other employee of the brokerage or any party or client, any confidential information of a client of which the brokerage or management level licensee becomes aware and from utilizing or allowing to be utilized for the benefit of another client, any confidential information obtained from a client.

(B) When two licensees affiliated with the same brokerage represent separate clients in the same transaction, each affiliated licensee shall do both of the following:

(1) Serve as the agent of only the party in the transaction the licensee agreed to represent;

(2) Fulfill the duties owed to the respective client as set forth in this chapter and as agreed in the agency agreement.

(C)(1) In all cases, a management level licensee shall keep information of the client or brokerage confidential.

(2) Nothing in this section prohibits the brokerage or management level licensees in the brokerage from providing factual, nonconfidential information that presents or suggests objective options or solutions, or assisting the parties in an unbiased manner to negotiate or fulfill the terms of the purchase contract or lease, provided that confidential information of a client is not utilized in any manner in formulating such suggestions or providing this assistance.

(D) No cause of action shall arise on behalf of any person against a licensee in a dual agency relationship for making disclosures to the parties that are permitted or required by this chapter or that have been made on the agency disclosure statement. Making permitted disclosures does not terminate any agency relationship between a licensee and a client.

(E)(1) If a brokerage determines that confidential information of one client in a dual agency relationship has become known to any licensee employed by or affiliated with the brokerage who is representing the other client in the dual agency relationship, as a result of the failure of the brokerage, its licensees, or its employees to maintain such confidentiality, the brokerage shall do both of the following:

- (a) Notify both clients of the fact immediately in writing;
- (b) Offer to resign representation of both clients.

(2) If either client elects to accept the resignation, the brokerage shall not be entitled to any compensation from that client. If either client does not accept the resignation, the brokerage may continue to represent that client.

(3) A licensee who obtains confidential information concerning another client of the brokerage in a dual agency relationship shall not, under any circumstances, disclose that information to or use that information for the benefit of the licensee's client.

(F) A client of a brokerage who is involved in a dual agency relationship may bring an individual action against a brokerage and any licensee who has failed to comply with the procedure described in division (B)(1) of section [4735.71](#) of the Revised Code to recover actual damages and to rescind an agency agreement with the brokerage.

**Sec. 4735.74.** Unless otherwise agreed in writing, a licensee owes no further duty to a client after performance of all duties or after any contract has terminated or expired, except for both of the following:

(A) Providing the client with an accounting of all moneys and property relating to the transaction;

(B) Keeping confidential all information received during the course of the transaction unless;

- (1) The client permits disclosure;
- (2) Disclosure is required by law or by court order;
- (3) The information becomes public from a source other than the licensee;
- (4) The information is necessary to prevent a crime the client intends to commit;

(5) Disclosure is necessary to defend the brokerage or its licensees against an accusation of wrongful conduct or to establish or defend a claim that a commission is owed on a transaction.

(6) Disclosure is regarding sales information requested by a registered appraiser assistant or a licensed or certified appraiser for the purposes of performing an appraisal. No cause of action shall arise on behalf of any person against a licensee for releasing information pursuant to this division.

**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.

(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 licensee and the client of that exclusive broker.

(C) As used in this section and division (A)(19) of section [4735.18](#) of the Revised Code, “negotiate” means any the following:

- (1) Delivering or communicating an offer, counteroffer, or proposal;
- (2) Discussing or reviewing the terms of any offer, counteroffer, or proposal;
- (3) Facilitating communication regarding an offer, counteroffer, or proposal and preparing any response as directed.

**Sec. 4735.99.** (A) Whoever violates section [4735.02](#), [4735.021](#), or [4735.22](#) of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates section [4735.25](#) or [4735.30](#) of the Revised Code is guilty of a felony of the fifth degree, and the court may impose upon the offender an additional fine of not more than two thousand five hundred dollars.