

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend House Bill No. 476, Page 3, Section 324.009, Line 80,

2 by inserting after all of said line the following:

3 "339.100. 1. The commission may, upon its own motion,
4 and shall upon receipt of a written complaint filed by any
5 person, investigate any real estate-related activity of a
6 licensee licensed under sections 339.010 to 339.180 and
7 sections 339.710 to 339.860 or an individual or entity
8 acting as or representing themselves as a real estate
9 licensee. In conducting such investigation, if the
10 questioned activity or written complaint involves an
11 affiliated licensee, the commission may forward a copy of
12 the information received to the affiliated licensee's
13 designated broker. The commission shall have the power to
14 hold an investigatory hearing to determine whether there is
15 a probability of a violation of sections 339.010 to 339.180
16 and sections 339.710 to 339.860. The commission shall have
17 the power to issue a subpoena to compel the production of
18 records and papers bearing on the complaint. The commission
19 shall have the power to issue a subpoena and to compel any
20 person in this state to come before the commission to offer
21 testimony or any material specified in the subpoena.
22 Subpoenas and subpoenas duces tecum issued pursuant to this
23 section shall be served in the same manner as subpoenas in a
24 criminal case. The fees and mileage of witnesses shall be
25 the same as that allowed in the circuit court in civil cases.

26 2. The commission may cause a complaint to be filed
27 with the administrative hearing commission as provided by
28 the provisions of chapter 621 against any person or entity
29 licensed under this chapter or any licensee who has failed
30 to renew or has surrendered his or her individual or entity
31 license for any one or any combination of the following acts:

32 (1) Failure to maintain and deposit in a special
33 account, separate and apart from his or her personal or
34 other business accounts, all moneys belonging to others
35 entrusted to him or her while acting as a real estate broker
36 or as the temporary custodian of the funds of others, until
37 the transaction involved is consummated or terminated,
38 unless all parties having an interest in the funds have
39 agreed otherwise in writing;

40 (2) Making substantial misrepresentations or false
41 promises or suppression, concealment or omission of material
42 facts in the conduct of his or her business or pursuing a
43 flagrant and continued course of misrepresentation through
44 agents, salespersons, advertising or otherwise in any
45 transaction;

46 (3) Failing within a reasonable time to account for or
47 to remit any moneys, valuable documents or other property,
48 coming into his or her possession, which belongs to others;

49 (4) Representing to any lender, guaranteeing agency,
50 or any other interested party, either verbally or through
51 the preparation of false documents, an amount in excess of
52 the true and actual sale price of the real estate or terms
53 differing from those actually agreed upon;

54 (5) Failure to timely deliver a duplicate original of
55 any and all instruments to any party or parties executing
56 the same where the instruments have been prepared by the
57 licensee or under his or her supervision or are within his
58 or her control, including, but not limited to, the

59 instruments relating to the employment of the licensee or to
60 any matter pertaining to the consummation of a lease,
61 listing agreement or the purchase, sale, exchange or lease
62 of property, or any type of real estate transaction in which
63 he or she may participate as a licensee;

64 (6) Acting for more than one party in a transaction
65 without the knowledge of all parties for whom he or she
66 acts, or accepting a commission or valuable consideration
67 for services from more than one party in a real estate
68 transaction without the knowledge of all parties to the
69 transaction;

70 (7) Paying a commission or valuable consideration to
71 any person for acts or services performed in violation of
72 sections 339.010 to 339.180 and sections 339.710 to 339.860;

73 (8) Guaranteeing or having authorized or permitted any
74 licensee to guarantee future profits which may result from
75 the resale of real property;

76 (9) Having been finally adjudicated and been found
77 guilty of the violation of any state or federal statute
78 which governs the sale or rental of real property or the
79 conduct of the real estate business as defined in subsection
80 1 of section 339.010;

81 (10) Obtaining a certificate or registration of
82 authority, permit or license for himself or herself or
83 anyone else by false or fraudulent representation, fraud or
84 deceit;

85 (11) Representing a real estate broker other than the
86 broker with whom associated without the express written
87 consent of the broker with whom associated;

88 (12) Accepting a commission or valuable consideration
89 for the performance of any of the acts referred to in
90 section 339.010 from any person except the broker with whom

91 associated at the time the commission or valuable
92 consideration was earned;

93 (13) Using prizes, money, gifts or other valuable
94 consideration as inducement to secure customers or clients
95 to purchase, lease, sell or list property when the awarding
96 of such prizes, money, gifts or other valuable consideration
97 is conditioned upon the purchase, lease, sale or listing; or
98 soliciting, selling or offering for sale real property by
99 offering free lots, or conducting lotteries or contests, or
100 offering prizes for the purpose of influencing a purchaser
101 or prospective purchaser of real property;

102 (14) Placing a sign on or advertising any property
103 offering it for sale or rent without the written consent of
104 the owner or his or her duly authorized agent;

105 (15) Violation of, or attempting to violate, directly
106 or indirectly, or assisting or enabling any person to
107 violate, any provision of sections 339.010 to 339.180 and
108 sections 339.710 to 339.860, or of any lawful rule adopted
109 pursuant to sections 339.010 to 339.180 and sections 339.710
110 to 339.860;

111 (16) Committing any act which would otherwise be
112 grounds for the commission to refuse to issue a license
113 under section 339.040;

114 (17) Failure to timely inform seller of all written
115 offers unless otherwise instructed in writing by the seller;

116 (18) Been finally adjudicated and found guilty, or
117 entered a plea of guilty or nolo contendere, in a criminal
118 prosecution under the laws of this state or any other state
119 or of the United States, for any offense reasonably related
120 to the qualifications, functions or duties of any profession
121 licensed or regulated under this chapter, or for any offense
122 an essential element of which is fraud, dishonesty or an act
123 of violence, whether or not sentence is imposed;

124 (19) Any other conduct which constitutes
125 untrustworthy, improper or fraudulent business dealings,
126 demonstrates bad faith or incompetence, misconduct, or gross
127 negligence;

128 (20) Disciplinary action against the holder of a
129 license or other right to practice any profession regulated
130 under sections 339.010 to 339.180 and sections 339.710 to
131 339.860 granted by another state, territory, federal agency,
132 or country upon grounds for which revocation, suspension, or
133 probation is authorized in this state;

134 (21) Been found by a court of competent jurisdiction
135 of having used any controlled substance, as defined in
136 chapter 195, to the extent that such use impairs a person's
137 ability to perform the work of any profession licensed or
138 regulated by sections 339.010 to 339.180 and sections
139 339.710 to 339.860;

140 (22) Been finally adjudged insane or incompetent by a
141 court of competent jurisdiction;

142 (23) Assisting or enabling any person to practice or
143 offer to practice any profession licensed or regulated under
144 sections 339.010 to 339.180 and sections 339.710 to 339.860
145 who is not registered and currently eligible to practice
146 under sections 339.010 to 339.180 and sections 339.710 to
147 339.860;

148 (24) Use of any advertisement or solicitation which:

149 (a) Is knowingly false, misleading or deceptive to the
150 general public or persons to whom the advertisement or
151 solicitation is primarily directed; or

152 (b) Includes a name or team name that uses the terms
153 "realty", "brokerage", "company", or any other terms that
154 can be construed to advertise a real estate company other
155 than the licensee or a business entity licensed under this
156 chapter with whom the licensee is associated. The context

157 of the advertisement or solicitation may be considered by
158 the commission when determining whether a licensee has
159 committed a violation of this paragraph;

160 (25) Making any material misstatement,
161 misrepresentation, or omission with regard to any
162 application for licensure or license renewal. As used in
163 this section, "material" means important information about
164 which the commission should be informed and which may
165 influence a licensing decision;

166 (26) Engaging in, committing, or assisting any person
167 in engaging in or committing mortgage fraud, as defined in
168 section 443.930.

169 3. After the filing of such complaint, the proceedings
170 will be conducted in accordance with the provisions of law
171 relating to the administrative hearing commission. A
172 finding of the administrative hearing commissioner that the
173 licensee has performed or attempted to perform one or more
174 of the foregoing acts shall be grounds for the suspension or
175 revocation of his license by the commission, or the placing
176 of the licensee on probation on such terms and conditions as
177 the real estate commission shall deem appropriate, or the
178 imposition of a civil penalty by the commission not to
179 exceed two thousand five hundred dollars for each offense.
180 Each day of a continued violation shall constitute a
181 separate offense.

182 4. The commission may prepare a digest of the
183 decisions of the administrative hearing commission which
184 concern complaints against licensed brokers or salespersons
185 and cause such digests to be mailed to all licensees
186 periodically. Such digests may also contain reports as to
187 new or changed rules adopted by the commission and other
188 information of significance to licensees.

189 5. Notwithstanding other provisions of this section, a
190 broker or salesperson's license shall be revoked, or in the
191 case of an applicant, shall not be issued, if the licensee
192 or applicant has pleaded guilty to, entered a plea of nolo
193 contendere to, or been found guilty of any of the following
194 offenses or offenses of a similar nature established under
195 the laws of this, any other state, the United States, or any
196 other country, notwithstanding whether sentence is imposed:

197 (1) Any dangerous felony as defined under section
198 556.061 or murder in the first degree;

199 (2) Any of the following sexual offenses: rape in the
200 first degree, forcible rape, rape, statutory rape in the
201 first degree, statutory rape in the second degree, rape in
202 the second degree, sexual assault, sodomy in the first
203 degree, forcible sodomy, statutory sodomy in the first
204 degree, statutory sodomy in the second degree, child
205 molestation in the first degree, child molestation in the
206 second degree, sodomy in the second degree, deviate sexual
207 assault, sexual misconduct involving a child, sexual
208 misconduct in the first degree under section 566.090 as it
209 existed prior to August 28, 2013, sexual abuse under section
210 566.100 as it existed prior to August 28, 2013, sexual abuse
211 in the first or second degree, enticement of a child, or
212 attempting to entice a child;

213 (3) Any of the following offenses against the family
214 and related offenses: incest, abandonment of a child in the
215 first degree, abandonment of a child in the second degree,
216 endangering the welfare of a child in the first degree,
217 abuse of a child, using a child in a sexual performance,
218 promoting sexual performance by a child, or trafficking in
219 children;

220 (4) Any of the following offenses involving child
221 pornography and related offenses: promoting obscenity in

222 the first degree, promoting obscenity in the second degree
223 when the penalty is enhanced to a class E felony, promoting
224 child pornography in the first degree, promoting child
225 pornography in the second degree, possession of child
226 pornography in the first degree, possession of child
227 pornography in the second degree, furnishing child
228 pornography to a minor, furnishing pornographic materials to
229 minors, or coercing acceptance of obscene material; and

230 (5) Mortgage fraud as defined in section 570.310.

231 6. A person whose license was revoked under subsection
232 5 of this section may appeal such revocation to the
233 administrative hearing commission. Notice of such appeal
234 must be received by the administrative hearing commission
235 within ninety days of mailing, by certified mail, the notice
236 of revocation. Failure of a person whose license was
237 revoked to notify the administrative hearing commission of
238 his or her intent to appeal waives all rights to appeal the
239 revocation. Upon notice of such person's intent to appeal,
240 a hearing shall be held before the administrative hearing
241 commission."; and

242 Further amend the title and enacting clause accordingly.