Chapter 6 Summary
Violations of License Law, Penalties and Procedures

There is a formal procedure in Real Estate for handling complaints, investigations, and hearings.

Anyone can file a complaint with the Department against a licensee. A complaint is filed with the Department of Business and Professional Regulation (DBPR).

- If the complaint is in writing and signed by the complainant, the DBPR is charged with the responsibility of investigation (if unsigned, the Department can investigate the complaint if it wishes, but is not required to).
- When the investigation is complete, it is the responsibility of the FREC to determine probable cause. The complaint and investigation is considered confidential until 10 days after probable cause is found to exist.
- A summary suspension is an emergency suspension order. It is issued by the Secretary of the DBPR when the public is in immediate danger from the actions of the licensee. The suspension must be followed by action by the FREC.

An investigator is appointed if the DBPR feels that the complaint is legally sufficient. A copy of the complaint is sent to the licensee or the licensee’s attorney and the licensee will have an opportunity to answer the complaint against him. The answer is given to a Probable Cause Panel, investigating the case.

Two members of the FREC are appointed by the Chairperson to review the investigator’s report and receive the investigation of the DBPR. These two members act as a grand jury: they determine if they believe there is a law violation - not guilt or innocence - within 30 days. If probable cause is found to exist, they direct the Department to file a formal complaint against the subject of the investigation.

The formal complaint clearly defines all of the charges against the licensee. The licensee has the choice of a formal or informal hearing. The Division of Administrative Hearings provides independent Administrative Law Judges to conduct hearings pursuant to Florida Statutes, pursuant to other law, and under contract with governmental entities.

- An informal hearing is held at a meeting of the FREC. When there is an agreement of the facts, or a stipulation or the issue is resolved between the FREC and the licensee, the findings are put in writing and are recorded. When there is a dispute or disagreement on the facts, the case will be sent to an administrative law judge for a formal hearing to hear the case.
- A formal hearing is similar to an adversarial hearing and the hearing officer may issue subpoenas for the attendance of witnesses. The administrative law judge prepares a Recommended Order, with the original delivered to the Division of Administrative Hearing and copies served to the parties. The order is based on findings of fact and rulings of law. Each party is allowed 15 days to file exceptions to the hearing officer's order.

The Final Order Panel receives the Recommended Order from the administrative law judge order along with exceptions. The FREC has the power to accept, reject, reduce, or modify the Recommended Order, with the final order being submitted within 90 days of receiving the Recommended Order.

The licensee may appeal to the courts for Judicial Review if the FREC did not rule in his favor. The licensee must appeal within 30 days to the District Court of Appeals.
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As far as violations and penalties are concerned, The Florida Real Estate Commission is authorized to do a number of tasks, administering and enforcing the real estate license law Chapter 475, part I, FL Statutes.

- **Denial of License**
- **Suspension of License** - considered a short term, temporary penalty that can last up to 10 yrs.
- **Revocation of License** - is permanent and as such it is a very serious punishment.
- **Issue Citations** - A Citation is issued for minor violations of the law when public welfare is not threatened.
- **Administrative Fines** - The money is collected and given to the Real Estate Recovery Fund.
- **Probation** - Probation as a penalty, unless otherwise stated, is for a period of 90 days.
- **Noncompliance Notices**
- **Penalties Issued by a Court of Law**
- **Civil Penalties**

The **Real Estate Recovery Fund** was designed to serve as consumer protection for those consumers who were harmed in a real estate transaction and who seek compensatory (compensation) damages. The fund is financed through money received from administrative fines and a surcharge on each new and renewing license.

The maximum that can be claimed is $50,000 per single transaction. Once a payment has been made from the Real Estate Recovery Fund, the licensee's license is automatically suspended until full repayment to the fund has been made.