

**STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
FLORIDA REAL ESTATE COMMISSION**

**IN RE:       Petition for Declaratory Statement  
              by Joy P. Ewertz, Esq.**

**DS 2019-040**

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**FINAL ORDER GRANTING PETITION FOR  
DECLARATORY STATEMENT**

Joy P. Ewertz, Esq. (Petitioner) filed a Petition for Declaratory Statement (“Petition”) on June 10, 2019. Notice of the receipt of the Petition was published in the Florida Administrative Register in Vol. 45, No. 122 on June 24, 2019. The Petition is attached hereto and fully incorporated herein as Attachment A. The Florida Real Estate Commission (“Commission”) considered the Petition at its meeting in Orlando, Florida on July 17, 2019.

By her Petition, Ms. Ewertz seeks the Commission’s opinion on two (2) questions, which are summarized as:

1, whether certain courses taken as part of Petitioner’s law school curriculum satisfy the requirements of Rule 61J2-3.012, F.A.C., and would thus enable Petitioner to obtain a Florida Real Estate Broker’s license without completion of the seventy-two (72) hour study course; and

2, if the combination of Petitioner’s law degree and the courses of study taken as part of the law school curriculum do not comply with the Rule’s requirements, does Petitioner’s Florida Bar license and active practice in the area of Real Estate satisfy the requirement of s. 475.17(2), F.S., for twenty-four (24) months of active practice as a Real Estate Sales Associate.

**FINDINGS OF FACT**

1.       The Commission accepts and adopts as the facts the representations contained in

the Petition and attachments thereto.

2. Petitioner has standing to request a Declaratory Statement from the Commission on the questions presented.

**CONCLUSIONS OF LAW**

3. The Commission is authorized to issue this declaratory statement by Section 120.565, Florida Statutes.

4. Petitioner has met the statutory requirements for issuance of the requested Declaratory Statement pursuant to section 120.565, F.S., and Uniform Rule 28-105.002, F.A.C.

5. Under the facts and circumstances outlined by the Petitioner in the Petition and attachments thereto, the Commission answers both questions in the negative. That is, graduation from the Florida State University College of Law, admission to the Florida Bar, and active practice in the area of real estate do not meet the requirements of sections 475.17(2)(a) and (b), F.S. and Rule 61J2-3.008(2)(a) and 3.012, F.A.C. Based upon the foregoing, it is

ORDERED that the Florida Real Estate Commission GRANTS the Petition for Declaratory Statement filed by JOY P. EWERTZ, ESQ., with the opinion expressed in paragraph 5., above.

DONE AND ORDERED this 5<sup>th</sup> day of August, 2019.



Lori Crawford  
Executive Director  
Florida Real Estate Commission

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Joy P. Ewertz, Esq., 236 South Woodland Boulevard, Deland, Florida 32720 and [joy@deowntowntitleservices.com](mailto:joy@deowntowntitleservices.com); and by email to Lawrence D. Harris, Senior Assistant Attorney General, [Lawrence.Harris@myfloridalegal.com](mailto:Lawrence.Harris@myfloridalegal.com), on this 9<sup>th</sup> day of August, 2019.

*Brandon M. Nichols*

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Agency Clerk's Office

**FILED**

Department of Business and Professional Regulation

Senior Deputy Agency Clerk

CLERK Brandon Nichols

Date 6/10/2019

File #

PETITION FOR DECLARATORY STATEMENT  
BEFORE THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATIONS  
DIVISION FLORIDA REAL ESTATE COMMISSION

Petitioner: Joy P. Ewertz, Esq.  
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**DS 2019-040**

**Florida Statutes and Florida Administrative Code on which the Declaratory Statement is sought:**

Florida Administrative Code 61J2-3.008 Pre-licensing Education for Broker and Sale Associate Applicants

Florida Administrative Code 61J2-3.012 Equivalency for Prelicensing Education

Florida Administrative Code 61J2-3.020 Post-Licensing Education for Active and Inactive Broker and Sales Associate Licensees

Florida Statutes Section 475.17(2)(b)1

**Background:**

Joy P. Ewertz, Esq. ("Petitioner") has been a Florida licensed attorney since 2002. Petitioner focuses her practice primarily in the area of real estate and corporate law. As a real estate attorney, Petitioner has represented individuals, developers and lenders, in all areas of real estate including but not limited to: commercial, retail and residential real estate contract negotiations, acquisitions, sales, commercial leases, closings, complex loans, secured transaction and development and construction issues (see attached Resume).

In addition to practicing as a real estate and corporate law attorney, Petitioner was an adjunct Professor at Valencia College where she prepared and presented courses in Real Property, Business Organizations and Business Law. Petitioner was also a Special Magistrate for the Value Adjustment Boards of Orange County, Osceola County and Lake County, where she heard petitions for appeals on property tax classifications.

Petitioner currently owns and operates a real estate title closing company known as Advocate Title and Services DBA Downtown Title Services.

Petitioner would like to now open a real estate brokerage and is requesting clarification on whether Petitioner's education, along with Petitioner's real estate experience qualifies Petitioner as being

exempt from any additional real estate training classes and tests that may be required to obtain a Florida Real Estate Broker License.

**Florida Administrative Code 61J2-3.012:**

Under Fla. Admin. Code 61J2-3.012(2), a person is exempt from the prelicensing education requirement if the person has, "obtained a 4-degree *or higher* [emphasis added] in real estate from an accredited institution of higher education which substantially covers the Commission prescribed course subject matter..." The Commission prescribed subject matter is set forth in Fla. Admin. Code 61J2-3.008.

**Florida Administrative Code 61J2-3.008:**

Under Fla. Admin Code 61J2-3.008(2)(a) if a licensed sales associate desires to become a Broker, they must complete a course that, "...will consist of 72 hours of 50 minutes each, inclusive of examination, of the fundamentals of real estate appraising, investment, financing and brokerage and management operations."

It further states that an active member in good standing with the Florida Bar, "...is exempt from the Commission-prescribed prerequisite education course for licensure as a real estate sales *associate* [emphasis added]."

**Florida Administrative Code 61J2-3.020:**

There is no exemption for the 45-hour post-licensing course and examination requirements as set forth under Fla. Admin. Code 61J2-3.020(1), which states, "*All* [emphasis added] applicants for licensure who pass a broker or sales associate licensure examination must satisfactorily complete a Commission-prescribed post-licensing course prior to the first renewal following initial licensure."

**Florida Statutes Section 475.17:**

In order to qualify for a Real Estate Broker license, Fla. Stat. Sec. 475.17(2)(b)1 states that an associate must have, "An active real estate sales associate's license for at least 24 months during the preceding 5 years in the office of one or more real estate brokers licensed in this state or any other state, territory, or jurisdiction of the United States or in any foreign national jurisdiction"

**Petitioner's Specific Qualifications:**

Petitioner attended Florida State University College of Law and received a Juris Doctor in 2002. Petitioner passed the Florida Bar Exam in 2002 and received a Florida Bar license in October 2002. Included in the required course of study for law are two full semesters of Real Property and two full semesters of Contract Law. Petitioner also took full semester courses in Environmental Law, Land Use Regulation, Endangered Species Law, Employment Law, Creditors Rights, Gratuitous Transfers, Fundamentals of Financial Concepts and Professional Responsibility.

As previously stated, Petitioner has practiced in all areas of the real estate transactions under her own law firm as well as other law firms within the state of Florida, which has included contract negotiation, acquisitions and closings (see attached Resume). Petitioner has not acted as a real estate associate under any real estate broker, however, Petitioner has completed the required 45-hour post-licensing educational requirement under Fla. Admin. Code 61J2-3.020(1).

**Request for Clarification and Declaratory Statement:**

- 1) Are the specific courses taken by Petitioner as part of the law school curriculum sufficient to satisfy the requirement under Fla. Admin. Code 61J2-3.012, which would allow Petitioner to obtain a Florida Real Estate Broker License without the need to complete the 72 hours of course study as well as the exam?
- 2) If the law degree and specific courses taken by Petitioner are not considered sufficient to satisfy the exemption under Fla. Admin. Code 61J2-3.012(2), then is the requirement under Fla. Stat. Sec. 475.17(2)(b)1, that an associate must have an active license for 24-months, satisfied by Petitioner's law license which was obtained in 2002 and Petitioner's legal representation of clients in real estate transactions even though Petitioner has not practice under a specific brokerage?

**Summary:**

Petitioner respectfully believes that Petitioner is exempt from any Real Estate Broker pre-license education and testing that are required under Fla. Admin Code 61J2-3.008(2)(a), as Petitioner's extensive study of real estate, financial matters, corporate law and ethics at Florida State University College of Law, should sufficiently satisfy the exemption as set forth under Fla. Admin. Code 61J2-3.012(2).

It should be noted that Petitioner's educational background would qualify Petitioner to teach any accredited Real Estate college course that Petitioner may be required to take, in order to be exempt under 61J2-3.012.

In the event Petitioner's education does not satisfy the exemption as set forth under Fla. Admin. Code 61J2-3.012(2), Petitioner believes that Petitioner's legal experience and law practice since 2002, more than satisfies the requirement that Petitioner be actively licensed for 24-months.

Respectfully submitted,



Joy P. Ewertz, Esq.