



STATE OF FLORIDA

BILL MCCOLLUM
ATTORNEY GENERAL

November 20, 2008

Mr. Trey Goldman, Legislative Counsel
Florida Association of Realtors Office of Public Policy
200 S. Monroe Street
Tallahassee, FL 32301-1824

Dear Mr. Goldman:

It is my understanding that you have a question about the applicability of FS 501.1377 to real estate licensees engaged in short sale transactions. I further understand that the issue arises under the following circumstances:

A real estate licensee is asked by a client to list a house for sale. The licensee ascertains the fair market value of the house is less than the amount owed on the mortgage and lists it for that fair market amount. If a buyer is obtained who is willing to pay a price less than the amount owed, the real estate licensee would then enter into a dialogue with the lender to see if a short sale would be acceptable, thereby avoiding a possible foreclosure situation. The only remuneration sought by the licensee is the commission on the sale. No additional fee is sought by the real estate licensee for the negotiation or dialogue with the lender.

Under these circumstances, the short sale negotiations appear to be ancillary to services provided by the real estate licensee in the sale of their client's property. As long as there is no upfront or other fee for the negotiating service other than the normal real estate fee charged for the sale of the property, that activity would not appear to fall under the provisions of 501.1377.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill McCollum".

Bill McCollum