

American Fidelity Title's Insider's Edition



Get the Commercial Lien Advantage



If you intend to take advantage of the Florida Commercial Real Estate Sales Commission Lien Law, which took effect October 1, 2005, take a closer look at this complex law and what your doing to comply. The law applies only if there's a proper written agreement between a real estate broker and a property owner that obligates the owner to pay commission to the broker for the performance of licensed services. The law does not apply to the buyer's broker. The following are five steps to take:

- 1). Determine if the law applies to the kind of property being sold. The lien law applies to all property except single family residential; multifamily property, property with one to four units; condominiums; townhouses, timeshares; and mobile homes.
- 2). Include the following disclosure, required by the new law, in your brokerage agreement: *The Florida Commercial Real Estate Sales Commission Lien Law provides that when a broker has earned a commission by performing licensed services under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the brokers commission. The broker's lien rights under the law cannot be waived before the commission is earned.* Lease agreements require a similar disclosure, and an "owner" can be either a landlord or a tenant. Check Chapter 475, parts 3 and 5 , Florida Statutes, for specific languages.
- 3). With the proper agreement in place, earn your commission by performing the services that lead to a sales contract or lease.
- 4). You have now reached a critical juncture: You may elect to provide a commission notice to the owner and closing agent. (Similar to steps apply in lease transactions; check the statute for details). If you forgo this step it's unlikely you'll have another chance to invoke this law. The commission notice language is contained in the law, so be sure to use the form specified. It includes a notice to the owner on how to proceed if he or she disputes the commission. The notice must be notarized and a copy delivered to the owner and the closing agent no later than 30 days after the commission is earned and at least one day prior to closing. The law sets forth delivery requirements (certified or registered mail, ways to deliver the documents electronically, etc.)
- 5). If, after all the aforementioned steps have been taken, the seller – the person obligated to pay you a commission under your brokerage agreement — refuses to pay the commission, the closing agent will set aside the commission from the seller's net proceeds. If your at odds with the seller five days after closing, the closing agent will turn the monies over to the court (less the closing agent's fees). Trey Goldman from the Florida Association of Realtors says, "This lien laws greatest asset is that if you apply the law to your business practices directly from the get-go, either you will be paid at the closing table or the closing agent will set aside the amount in dispute from the rest of the owner's net proceeds. Brokers won't be forced to choose between renegotiating their commissions at the closing table and chasing it after the closing. If you have any questions, call FAR's legal hotline, (407) 438 -1409 or "seek council from your own attorney until you are comfortable with the law's requirements," says Goldman. The 54-page act is now a complex law that commercial practitioners should read through and refer to for required disclosures and notices. To read the law, go online at <http://www.leg.state.fl.us> and in Search Statutes 2005, search the phrase *Commercial Real Estate Sales Commission Lien Act* .

Source: Florida Realtor Magazine October 2005 p. 12

Green Bean Casserole — A Classic Tradition for Thanksgiving Day

Makes 8 -10 servings

Ingredients:

- 1 cup chopped onion
- 2 tablespoons all-purpose flour
- 1 cup milk
- 1/2 to 3/4 cup shredded sharp Cheddar cheese
- 1/2 cup sour cream
- 1 tablespoon white sugar
- 1/2 teaspoon salt
- 1 pound frozen cut green beans, thawed
- 2 cups stuffing mix



Directions:

1. Place thawed green beans in a 13X9 inch glass pan.
2. Sauté onions in a large frying pan. Add flour, stir. Gradually add milk, bring to a boil. Add cheese, sour cream, sugar, and salt. Cook till thickened and cheese is melted. Pour mixture over green beans. Top with stuffing mix.
3. Bake at 350 degrees F (175 degrees C) for 25 to 30 minutes.



Scott H. Sweigart, Esq.
President



Amy .E. Stark
Vice President

To All of Our Clients and Friends,
Wishing you and your family a very
Happy Thanksgiving!

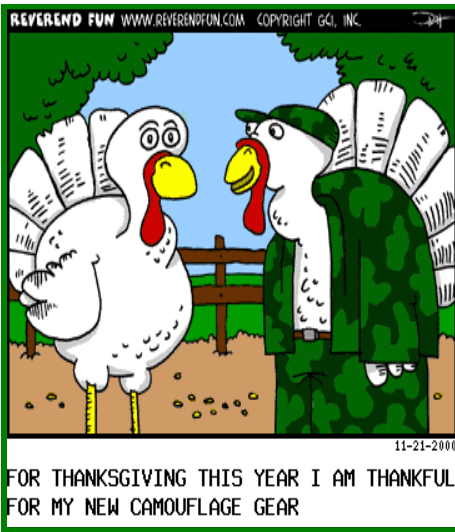
Scott and Amy



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Thanksgiving Jokes

1. What's the key to a great Thanksgiving dinner?
2. Which side of the turkey has the most feathers?
3. Why did they let the turkey join the band?
4. How did the Mayflower show that it liked America?
5. Why did the police arrest the turkey?



American Fidelity Title

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"Let us remember that, as much has been given us, much will be expected from us, and that true homage comes from the heart as well as from the lips, and shows itself in deeds."

- Theodore Roosevelt

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