

State of Wisconsin



2013 Senate Bill 457

Date of enactment: April 8, 2014
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2013 WISCONSIN ACT 259

AN ACT to create 452.01 (5n), 452.01 (5p) and 452.137 of the statutes; relating to: cooperation of Wisconsin licensed real estate brokers with out-of-state real estate brokers, salespersons, and time-share salespersons, powers of out-of-state brokers, requiring the exercise of rule-making authority, and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 452.01 (5n) of the statutes is created to read:

452.01 (5n) "Out-of-state broker" means a person who is not licensed under this chapter and who is regularly and lawfully engaged in the real estate brokerage business in another state, a territory or possession of the United States, or a foreign country.

SECTION 2. 452.01 (5p) of the statutes is created to read:

452.01 (5p) "Out-of-state salesperson" means a person who is not licensed under this chapter and who is employed by an out-of-state broker. "Out-of-state salesperson" includes a time-share salesperson employed by an out-of-state broker.

SECTION 3. 452.137 of the statutes is created to read:

452.137 Cooperation with out-of-state brokers and salespersons. (1) DEFINITIONS. In this section:

(a) "Cooperative agreement" means the agreement established by the board under sub. (4).

(b) "Licensed broker" means a broker who is licensed under this chapter.

(c) "Licensed salesperson" means a salesperson who is licensed under this chapter.

(d) "Licensed time-share salesperson" means a time-share salesperson who is licensed under this chapter.

(2) OUT-OF-STATE BROKERS. (a) Except as provided in par. (b), an out-of-state broker may act as a broker in this state only if the out-of-state broker does all of the following:

1. Enters into a cooperative agreement with a licensed broker and cooperates with the licensed broker on the listing agreement that is subject to the cooperative agreement. Each cooperative agreement may cover only one listing agreement.

2. Submits to the licensed broker evidence that the out-of-state broker is licensed in good standing to engage in real estate brokerage in a jurisdiction other than this state.

(b) An out-of-state broker, including an out-of-state broker who is a party to a cooperative agreement, may not do any of the following:

1. Enter into a listing agreement concerning real estate located in this state.

2. For commission, money, or other thing of value, promote in this state the sale, exchange, purchase, option, rental, or leasing of real estate located in this state, including by posting signs on the property.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(c) An out-of-state broker who is a party to a cooperative agreement with a licensed broker, and any out-of-state salesperson of the out-of-state broker, shall comply with the laws of this state, and the out-of-state broker shall file with the board an irrevocable consent that actions may be commenced against the out-of-state broker in the proper court of any county in this state in which a cause of action arises or the plaintiff resides, by the service of any process or pleading authorized by the laws of this state on the board or any duly authorized employee. The consent shall stipulate and agree that such service is valid and binding as due service upon the out-of-state broker in all courts in this state. The consent shall be duly acknowledged and, if made by a corporation, shall be authenticated by the corporate seal.

(d) A licensed broker who is a party to a cooperative agreement with an out-of-state broker, and any licensed salesperson or licensed time-share salesperson of the licensed broker, may not act under the cooperative agreement on behalf of a broker who is not a party to the cooperative agreement.

(e) 1. An out-of-state broker who is a party to a cooperative agreement with a licensed broker shall maintain the originals or copies of all documents the out-of-state broker receives, maintains, or generates in connection with any transaction subject to the cooperative agreement, for at least 3 years after the date of closing or completion of the transaction, or, if no closing or completion occurs, 3 years after the date on which the parties execute the cooperative agreement.

2. An out-of-state broker who is a party to a cooperative agreement with a licensed broker shall deposit with the licensed broker copies of all documents the out-of-state broker is required to maintain under subd. 1., unless the out-of-state broker and licensed broker agree in writing that the out-of-state broker is not required to do so.

(f) No person may pay an out-of-state broker a commission, money, or other thing of value for brokerage services unless the out-of-state broker is a party to a cooperative agreement with a licensed broker.

(g) Notwithstanding s. 452.01 (2) (bm), no out-of-state broker may, for commission, money, or other thing of value, show a property in this state that is offered exclusively for rent unless that showing is authorized under a cooperative agreement between the out-of-state broker and a licensed broker.

(3) OUT-OF-STATE SALESPERSONS. An out-of-state salesperson may act as a salesperson or time-share sales-

person in this state only if all of the following conditions are met:

(a) The out-of-state broker who employs the out-of-state salesperson satisfies all of the applicable requirements under sub. (2).

(b) The out-of-state salesperson works under the direct supervision of the out-of-state broker.

(c) The out-of-state salesperson submits evidence to the licensed broker that the out-of-state salesperson is licensed in good standing or is otherwise authorized to act as a salesperson or time-share salesperson in a jurisdiction other than this state.

(d) In any transaction subject to the cooperative agreement, the out-of-state salesperson represents only the out-of-state broker who is a party to the cooperative agreement and with whom the out-of-state salesperson is employed.

(4) COOPERATIVE AGREEMENT. (a) The board shall, by rule, establish the form and terms of the cooperative agreement.

(b) The cooperative agreement shall do at least all of the following:

1. Establish the terms of cooperation between the out-of-state broker, any out-of-state salesperson, and the licensed broker.

2. Establish the terms of the out-of-state broker's compensation.

3. Provide that all client funds, as defined in s. 452.13 (1) (a), that the out-of-state broker and licensed broker receive in connection with a transaction subject to the cooperative agreement shall be deposited in a trust account maintained by the licensed broker.

(5) PENALTY. (a) Subject to the rules promulgated under s. 440.03 (1), the board may conduct investigations and hold hearings to determine whether a person has violated this section or a rule promulgated under this section.

(b) Notwithstanding s. 452.17 (3), any person who violates this section or a rule promulgated under this section may be fined, for each violation, not more than the greater of the following:

1. Five thousand dollars.

2. For a sales transaction, 1 percent of the purchase price of the property subject to the cooperative agreement.

3. For a lease or rental transaction, 1 percent of the total lease or rental value of the property subject to the cooperative agreement.

SECTION 4. Effective date.

(1) This act takes effect on January 1, 2015.