



## 1997 SENATE BILL 371

December 3, 1997 – Introduced by Senators WELCH, WINEKE, DRZEWIECKI, DARLING, COWLES and ROSENZWEIG, cosponsored by Representatives SYKORA, HANSON, GREEN, GOETSCH, KREIBICH, SCHAFER, MEYER, WARD, GUNDERSON, VRAKAS, DUFF, HANDRICK, PORTER, FREESE and JOHNSRUD. Referred to Committee on Economic Development, Housing and Government Operations.

- 1     **AN ACT to amend** 452.01 (2) (intro.), (a), (b) and (d), 452.01 (3e) and 452.137 (2);  
2             **and to create** 452.01 (2) (h), 452.01 (3) (h) and 452.01 (5m) (d) of the statutes;  
3             **relating to:** the role and definition of a real estate broker.

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### *Analysis by the Legislative Reference Bureau*

Current law provides that a real estate broker includes, among others, a person who is engaged wholly or in part in the business of selling real estate to the extent that a pattern of real estate sales is established, whether or not the real estate is owned by the person.

This bill provides that 5 sales in one year or 10 sales in 5 years is presumptive evidence of a pattern of sales. The bill also includes in the definition of real estate broker a person who, for another, and for a commission, money or other thing of value, promotes the sale, exchange, purchase, option, rental or leasing of real estate or business opportunities. The bill excludes from the definition of real estate broker a person who only publishes or disseminates verbatim information provided by another person and a licensed attorney who provides legal advice about real estate incidentally to the practice of law.

Finally, the bill clarifies that the definition of “negotiate” includes advising the client within the scope of the required knowledge, skills and training of a real estate broker and that a real estate broker who represents more than one client in a transaction must not place the interests of any client ahead of the interests of another in the transaction.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 452.01 (2) (intro.), (a), (b) and (d) of the statutes are amended to  
2 read:

3           452.01 (2) (intro.) “Broker” means any person not excluded by sub. (3), who  
4 does any of the following:

5           (a) For another, and for commission, money or other thing of value, negotiates  
6 or offers or attempts to negotiate a sale, exchange, purchase or rental of an interest  
7 or estate in real estate;

8           (b) Is engaged wholly or in part in the business of selling real estate to the  
9 extent that a pattern of real estate sales is established, whether or not such real  
10 estate is owned by such person; Five sales in one year or 10 sales in 5 years is  
11 presumptive evidence of a pattern of sales.

12           (d) For another and for commission, money or other thing of value, negotiates  
13 or offers or attempts to negotiate a sale, exchange, purchase or rental of any business,  
14 its goodwill, inventory, fixtures or an interest therein;

15           **SECTION 2.** 452.01 (2) (h) of the statutes is created to read:

16           452.01 (2) (h) For another, and for a commission, money or other thing of value,  
17 promotes the sale, exchange, purchase, option, rental or leasing of real estate or  
18 business opportunities. This paragraph does not apply to a person who only  
19 publishes or disseminates verbatim information provided by another person.

20           **SECTION 3.** 452.01 (3) (h) of the statutes is created to read:

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1           452.01 **(3)** (h) A licensed attorney who, incidentally to the practice of law,  
2 provides advice, or offers or attempts to offer advice, to a client regarding that client's  
3 legal rights in a sale, exchange, purchase or rental of an interest in real estate; a  
4 business or an interest in a business, including its goodwill, inventory or fixtures; a  
5 business opportunity; or the purchase of a time share.

6           **SECTION 4.** 452.01 (3e) of the statutes is amended to read:

7           452.01 **(3e)** "Brokerage service" means any service described under sub. (2) (a)  
8 to ~~(g)~~ **(h)** provided by a broker to another person.

9           **SECTION 5.** 452.01 (5m) (d) of the statutes is created to read:

10           452.01 **(5m)** (d) Providing advice to the client regarding those matters within  
11 the scope of the knowledge, skills and training required for licensing as a broker or  
12 salesperson under this chapter.

13           **SECTION 6.** 452.137 (2) of the statutes is amended to read:

14           452.137 **(2)** A broker who represents more than one client in a transaction owes  
15 the duties specified in s. 452.133 (2) to each client but may not place the interests of  
16 any client ahead of the interests of another client in the transaction.

17           **SECTION 7. Initial applicability.**

18           (1) The treatment of section 452.01 (2) (b) of the statutes first applies to real  
19 estate sales that close on the effective date of this subsection.

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(END)