



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3651/1
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2015 SENATE BILL 375

November 12, 2015 - Introduced by Senators LASEE and COWLES, cosponsored by Representatives ALLEN, BERNIER, R. BROOKS, DOYLE, KRUG, PETRYK, WEATHERSTON and YOUNG. Referred to Committee on Insurance, Housing, and Trade.

1 **AN ACT to repeal** 440.03 (11m) (a) 2., 440.03 (13) (b) 72., 440.08 (2) (a) 69., 452.01
2 (4d), 452.01 (4h), 452.01 (4p), 452.01 (4t), 452.01 (9), 452.025, 452.025 (4),
3 452.09 (1) (c), 452.09 (5), 452.10 (4) (a), 452.12 (6), 452.137 (1) (b), 452.137 (1)
4 (d) and 452.17 (2); **to renumber and amend** 452.03, 452.10 (4) (b) and 452.19;
5 **to consolidate, renumber and amend** 440.03 (11m) (a) (intro.) and 1.; **to**
6 **amend** 73.0301 (1) (a), 108.227 (1) (b), 186.113 (19), 440.03 (11m) (am), 440.03
7 (11m) (b), 440.03 (11m) (c), 440.13 (2) (c), 452.01 (1m), 452.01 (3) (d), 452.01 (3e),
8 452.01 (3m), 452.01 (3s), 452.01 (3w), 452.01 (4), 452.01 (5), 452.01 (5), 452.01
9 (5j), 452.01 (5m) (b), 452.01 (5p), 452.01 (5p), 452.01 (5w), 452.01 (7), 452.01
10 (7r), 452.01 (9), 452.025 (1) (b) 3., 452.025 (3) (a), 452.025 (3) (b) 2. g., 452.05 (1)
11 (a), 452.05 (1) (a), 452.05 (1) (i) (intro.), 452.05 (1) (i) 1., 452.05 (1) (i) 3. b., 452.07
12 (1m), 452.07 (2), 452.07 (2), 452.09 (1) (b), 452.09 (2) (c) (intro.), 452.09 (3) (a),
13 452.09 (4) (a) 1., 452.10 (1), 452.10 (2) (a), 452.11 (1), 452.12 (2) (a), 452.12 (2)
14 (c), 452.12 (3), 452.12 (4), 452.12 (5) (b), 452.12 (5) (c), 452.13 (1) (a), 452.13 (2)

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1 (a), 452.13 (2) (b), 452.13 (2) (bm), 452.13 (2) (c), 452.13 (2) (e) (intro.), 452.13
2 (2) (e) 2., 452.13 (2) (f) 1., 452.13 (3), 452.13 (4), 452.13 (5), 452.132 (2) (c),
3 452.133 (title), 452.133 (1) (intro.), (c), (d), (e), (f) and (g), 452.133 (2) (intro.), (a)
4 1. and 2., (b) and (c), 452.133 (3), 452.133 (4) (a) and (b) 1. and 2., 452.133 (5),
5 452.133 (6) (intro.) and (a), 452.134 (1) (a), 452.134 (1) (b), 452.134 (2), 452.134
6 (3), 452.134 (4), 452.135 (1) and (2), 452.137 (2) (a) 1., 452.137 (2) (a) 2., 452.137
7 (2) (b) 1., 452.137 (2) (b) 2., 452.137 (2) (c), 452.137 (2) (d), 452.137 (2) (e),
8 452.137 (2) (f), 452.137 (2) (g), 452.137 (3) (intro.), 452.137 (3) (c), 452.137 (3)
9 (c), 452.137 (4) (a), 452.137 (4) (b) (intro.), 452.137 (4) (b) 1., 452.137 (4) (b) 3.,
10 452.138, 452.139 (1), (2) and (3), 452.14 (1), 452.14 (2), 452.14 (3) (intro.), 452.14
11 (3) (a), 452.14 (3) (b), 452.14 (3) (c), 452.14 (3) (d), 452.14 (3) (f), 452.14 (3) (g),
12 452.14 (3) (h), 452.14 (3) (i), 452.14 (3) (j), 452.14 (3) (jm), 452.14 (3) (k), 452.14
13 (3) (L), 452.14 (3) (m), 452.14 (3) (p), 452.14 (4), 452.14 (4m) (intro.), 452.14 (4m)
14 (a), 452.14 (4m) (b), 452.14 (4r), 452.15 (1) and (2), 452.17 (4) (a), 452.17 (4) (a)
15 1. and 2., 452.19 (1), 452.20, 452.21, 452.22 (2), 452.23 (1), 452.23 (2) (intro.),
16 452.23 (2) (b), 452.23 (3), 452.23 (4), 452.24 (2), 452.25 (1) (a), 452.25 (1) (b),
17 452.25 (1) (c) 2., 452.25 (1) (d), 452.25 (1) (e), 452.25 (2) (b), 452.30 (7) (b), 707.55
18 (5) and 707.55 (7); **to repeal and recreate** 452.01 (7), 452.14 (3) (intro.) and
19 452.19 (title); and **to create** 452.01 (1o), 452.01 (1p), 452.01 (3) (i), 452.01 (4w),
20 452.01 (4x), 452.01 (4y), 452.01 (5c), 452.03 (2), 452.05 (1) (j), 452.12 (5) (bm),
21 452.132, 452.133 (4m), 452.142, 452.19 (2), 452.30, 452.34, 452.38, 452.40 and
22 452.42 of the statutes; **relating to:** various changes regarding the laws
23 governing real estate practice, employment relationships between real estate
24 licensees and real estate brokerage firms, a statute of limitations for actions
25 against persons engaged in real estate practice, extending the time limit for

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1 emergency rule procedures, providing an exemption from emergency rule
2 procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill: 1) revises the law governing the practice of real estate (real estate practice law) by real estate brokers, real estate salespersons, and time-share salespersons; 2) establishes a statute of limitations for filing an action against a real estate broker or salesperson; and 3) provides that real estate brokers and salespersons may not be considered “employees” for various purposes.

CHANGES REGARDING PRACTICE OF REAL ESTATE

Current law regulates the practice of real estate, which can only be practiced by real estate brokers and real estate salespersons and, to a limited extent, time-share salespersons. Real estate brokers and salespersons (licensees) are licensed by the Real Estate Examining Board (REEB), which is attached to the Department of Safety and Professional Services (DSPS). A real estate broker’s license may be issued to either an individual or a business entity. Time-share salespersons are registered by the REEB. This bill makes various changes to real estate practice law, described in further detail as follows:

Terminology and related changes

Current law, in various contexts, refers to “brokers,” without qualification, and contains various references to the “employment” of licensees. The bill eliminates most references to “employment” in current law and instead refers to licensees as being “associated with a firm.” The bill defines being “associated with a firm” as having been engaged by a firm to provide brokerage services to the firm’s clients and customers on behalf of the firm and under the firm’s supervision, including as an employee of the firm or as an independent contractor. The bill also modifies a number of references to “brokers” so as to refer more specifically either to firms or to firms and licensees associated with the firm, or to refer more generally to licensees. The bill defines “firm” as a licensed individual broker acting as a sole proprietorship or a licensed broker that is a business entity, such as a corporation, limited liability company, or partnership.

Current law defines “agency agreement” as a written agreement between a *broker* and a client in which the client authorizes the *broker* to provide brokerage services to the client and defines “client” as a party to a real estate transaction who has an agency agreement with a *broker* for brokerage services. The bill modifies the definitions of “agency agreement” and “client,” as well as other relevant provisions, to specify that an agency agreement is between a *firm* and a client and that a client is a party to a real estate transaction who has an agency agreement with a *firm*.

Association with firm; independent practice

Current law provides that a licensed salesperson or broker may transfer to the employment of a licensed broker by paying a transfer fee and filing a transfer form with the REEB, and provides that no salesperson, time-share salesperson, or broker

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may be employed by a broker whose license has been suspended or revoked during the period of suspension or revocation.

The bill creates more detailed provisions regarding association with a firm and notification of DSPS. The bill provides that no licensee may provide brokerage services on behalf of a firm unless: 1) the licensee is associated with the firm; and 2) the licensee has notified DSPS that the licensee is associated with the firm. A licensee may notify DSPS when the licensee applies for initial licensure or through the use of a form prescribed by DSPS. The bill requires a licensee that ceases to be associated with a firm to send written notice to DSPS within ten days after the date on which the licensee ceases to be associated with the firm and requires a firm that terminates a licensee to send written notice of that termination to DSPS within ten days after the termination. The bill also modifies current law to provide that no licensee may be associated with a firm if the firm's license has been suspended or revoked during the period of suspension or revocation and that a licensee may become associated with another firm, provided the licensee is not a party to the activities causing the suspension or revocation of the firm's license. The bill further specifies that, if the licensee becomes associated with another firm, the licensee may not provide brokerage services on behalf of that firm until the licensee has notified DSPS. The bill also specifies certain consequences that follow if a firm's license is not renewed, including providing that licensees associated with the firm may not engage in activities covered by the firm's license on behalf of the firm and specifying certain notification and termination requirements with respect to such licensees. The bill provides that a salesperson may be associated with only one firm at a given time.

Finally, the bill creates provisions addressing independent real estate practice by brokers, which is not addressed under current law. The bill provides that a broker who is associated with a firm may also engage in independent real estate practice in his or her own name or under the name of a licensed broker business entity, if the broker obtains written approval from, and avoids conflicts of interest with, each firm with which the broker is associated. The approval must contain certain stipulations, and the broker must notify DSPS of the name under which the broker will be engaging in independent practice. The bill provides that a salesperson or time-share salesperson may not engage in independent real estate practice.

Persons required to be licensed by REEB; registration of time-share salespersons

Current law provides that no person may engage in or follow the business or occupation of, or advertise or hold himself or herself out as, or act temporarily or otherwise as a broker or salesperson without a license issued by the REEB.

The bill clarifies that no such license is required for an individual who, on behalf of and under the direction of a firm or one or more licensees associated with a firm, provides the firm or licensee with services that are limited to those that are purely administrative, clerical, or personal in nature.

Under current law, in addition to licensing brokers and salespersons, the REEB also registers time-share salespersons. Current law defines "time-share salesperson" as a person, other than a person licensed as a broker or salesperson, who

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is employed by a licensed broker to sell or offer or attempt to negotiate an initial sale or purchase of a time share but who may not perform any other acts authorized to be performed by a broker or salesperson.

The bill eliminates registration of time-share salespersons by the REEB at the end of the current biennial registration period and provides that developers engaged in the disposal of interests in a time share are not considered brokers and are therefore not required to be licensed by the REEB.

Duties of REEB licensees

Current law details various duties that are owed by brokers to parties to real estate transactions, including duties that are owed to all parties in a transaction, duties that are owed only to clients, and the duties of a “subagent” firm that is engaged by a principal firm to provide brokerage services in a transaction but that is not associated with the principal firm. Current law also contains prohibitions against licensees engaging in certain conduct.

The bill makes various changes to these duties, including providing that the duties and prohibitions apply to firms, but that: 1) the duties also extend to each licensee associated with that firm; and 2) each licensee associated with a firm owes the same duties owed by a firm. The bill also modifies statutory disclosure statements that are required to be provided to customers and clients of licensees and contain statements of the duties owed by licensees to customers and clients.

Supervision of REEB licensees

Current law requires each broker to supervise, and be responsible for, the brokerage services provided on behalf of the broker by licensees employed by the broker and requires the REEB to promulgate rules that specify the supervisory duties of brokers for the purpose of this provision.

The bill does the following with respect to supervision of and responsibility for the acts of licensees:

1. Instead provides that a firm is responsible for the brokerage services provided on behalf of the firm by a licensee associated with the firm only to the extent that the firm fails to comply with statutory supervision requirements and any additional rules promulgated by the REEB.

2. Creates statutory provisions regarding the supervision of licensees, including requiring review of documents and the receipt and disbursement of client funds and provisions with respect to the designation and responsibilities of supervising brokers for licensees, as well as provisions addressing responsibilities of licensees. The bill provides that a firm is responsible for the custody and safety of all documents and records relating to real estate transactions that are submitted to the firm.

Business representatives for firms

Current law provides that a license may be issued by the REEB to a business entity if the business entity has at least one business representative licensed as a broker and that the license issued to the business entity entitles each business representative of the business entity who is a licensed broker to act as a broker on behalf of the business entity. Current law defines “business representative” to mean a director, manager, member, officer, owner, or partner of a business entity.

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The bill specifically provides that only a *broker's* license may be issued to a business entity. The bill also specifies that a broker may act as a business representative for more than one business entity if the broker obtains the express, written consent of each business entity for which the broker desires to act as a business representative and that a broker may act as a broker on behalf of each business entity for which it is serving as a business representative.

Use of unlicensed personal assistants

The bill creates provisions addressing the use of “unlicensed personal assistants” by a licensee associated with a firm, which is not addressed under current law. The bill requires a licensee associated with a firm, prior to engaging an individual to serve as an unlicensed personal assistant, to enter into a written agreement with the licensee’s firm, setting forth the duties of the unlicensed personal assistant, the manner in which the unlicensed personal assistant will be compensated for his or her services, and the responsibilities of the licensee and the firm with respect to supervision of the unlicensed personal assistant’s activities. The bill, however, prohibits an unlicensed personal assistant from assisting a licensee at an open house for the sale of real estate or a business without the direct, on-premises supervision and presence of a licensee, and from providing any services at an open house for which a license from the REEB is required. The bill defines “unlicensed personal assistant” as an individual who is employed only to provide services for which a license is not required under this chapter, including an individual who in fact possesses a license issued by the REEB.

Other changes regarding practice of real estate

1. Current law contains provisions allowing brokers and salespersons to register as inactive licensees prior to November 1, 1995. This bill repeals these provisions.

2. Current law provides that any person who is a resident of this state and 18 years of age or over may apply to be indentured to a licensed resident broker in accordance with rules promulgated by the REEB (apprenticeship). The bill repeals this provision concerning apprenticeship.

3. Current law allows the REEB to promulgate rules establishing a procedure that allows an individual who is not licensed by the REEB to apply to the REEB for a binding determination of whether the individual would be disqualified from obtaining a license due to his or her criminal record. The bill allows the REEB to require a fee to be paid to DSPS for such a determination in an amount necessary to cover the cost of making the determination.

4. The bill requires a licensee to retain documents or records related to a transaction, as determined by the REEB, in accordance with any rules promulgated by the REEB. The bill provides that records described in this section may be retained in an electronic file format.

5. The bill requires that, if a licensee is associated with a firm, all fees or commission and all compensation for a referral or as a finder’s fee be paid to the firm.

6. In *State ex rel. Reynolds v. Dinger*, 14 Wis. 2d 193 (1961), the supreme court sanctioned a rule of the Real Estate Brokers’ Board (the predecessor to the REEB) that permitted the use of standardized forms by brokers in transferring the titles of

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the real estate of their clients, holding that although the rule permitted, to a limited extent, the practice of law by nonlawyers, the court would not hold the rule to be invalid under its constitutional authority to regulate the practice of law. The bill codifies the court's holding, providing that licensees may use forms approved by the REEB. The bill provides that a licensee may not provide advice or opinions concerning the legal rights or obligations of parties to a transaction, the legal effect of a specific contract or conveyance, or the state of title to real estate, but that a licensee may provide a general explanation of the provisions in a form approved by the REEB to the parties to a transaction at the time of completing the form or when delivering an approved form for the seller's or buyer's acceptance.

OTHER CHANGES***Limitation on actions***

Current law provides for limitations on when various types of actions may be brought, including that an action upon any contract, obligation, or liability or an action to recover damages for an injury to real or personal property must be commenced within six years after the cause of action accrues or be barred.

The bill provides that, notwithstanding these other periods of limitation, an action concerning any act or omission of a licensee relating to the provision of brokerage services by the licensee shall be commenced within two years after whichever of the following that applies occurs first: 1) a transaction is completed or closed; 2) an agency agreement is terminated; or 3) an unconsummated transaction is terminated or expires.

Definition of "employee"

Certain employment laws, including the family and medical leave law, the unemployment insurance law, the worker's compensation law, and the fair employment law, as well as the tax withholding law, apply only with respect to "employers" and "employees."

The bill provides that, notwithstanding the applicable definitions or meanings of employee under any law, and in any action or proceeding under the common law, a licensee may not be considered an employee of a firm if: 1) a written agreement has been entered into with the firm that provides that the licensee may not be treated as an employee for federal and state tax purposes; and 2) 75 percent or more of the annual compensation related to sales or output paid by the firm to the licensee pursuant to the agreement is directly related to the brokerage services performed by the licensee on behalf of the firm.

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

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

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1 73.0301 (1) (a) "Credential" has the meaning given in s. 440.01 (2) (a), but does
2 not include a registration as an inactive licensee under s. 452.12 (6) (b).

3 **SECTION 2.** 108.227 (1) (b) of the statutes is amended to read:

4 108.227 (1) (b) "Credential" has the meaning given in s. 440.01 (2) (a), but does
5 not include a registration as an inactive licensee under s. 452.12 (6) (b).

6 **SECTION 3.** 186.113 (19) of the statutes is amended to read:

7 186.113 (19) CLIENT FUND ACCOUNTS. Maintain real estate broker trust accounts
8 under s. 452.13 for ~~brokers who~~ firms, as defined in s. 452.01 (4w), that are eligible
9 for membership in the credit union, attorney trust accounts under s. 757.293 for
10 attorneys who are eligible for membership in the credit union, and collection agency
11 trust accounts under s. 218.04 (9g) for persons who are eligible for membership in
12 the credit union.

13 **SECTION 4.** 440.03 (11m) (a) (intro.) and 1. of the statutes are consolidated,
14 renumbered 440.03 (11m) (a) and amended to read:

15 440.03 (11m) (a) Each application form for a credential issued or renewed
16 under chs. 440 to 480 shall provide a space for the department to require each of the
17 following an applicant for the initial credential or credential renewal, other than an
18 individual who does not have a social security number and who submits a statement
19 made or subscribed under oath or affirmation as required under par. (am), to provide
20 his or her social security number: ~~1. An applicant for an initial credential or~~
21 ~~credential renewal.~~ If the applicant is not an individual, the department shall
22 require the applicant to provide its federal employer identification number.

23 **SECTION 5.** 440.03 (11m) (a) 2. of the statutes is repealed.

24 **SECTION 6.** 440.03 (11m) (am) of the statutes is amended to read:

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1 440.03 **(11m)** (am) If an applicant specified in par. (a) ~~1. or 2.~~ is an individual
2 who does not have a social security number, the applicant shall submit a statement
3 made or subscribed under oath that the applicant does not have a social security
4 number. The form of the statement shall be prescribed by the department of children
5 and families. A credential or license issued in reliance upon a false statement
6 submitted under this paragraph is invalid.

7 **SECTION 7.** 440.03 (11m) (b) of the statutes is amended to read:

8 440.03 **(11m)** (b) The real estate examining board shall deny an application for
9 an initial credential or deny an application for credential renewal ~~or for~~
10 ~~reinstatement of an inactive license under s. 452.12 (6) (e)~~ if any information
11 required under par. (a) is not included in the application form or, in the case of an
12 applicant who is an individual and who does not have a social security number, if the
13 statement required under par. (am) is not included with the application form.

14 **SECTION 8.** 440.03 (11m) (c) of the statutes is amended to read:

15 440.03 **(11m)** (c) The department of safety and professional services may not
16 disclose a social security number obtained under par. (a) to any person except the
17 coordinated licensure information system under s. 441.50 (7); the department of
18 children and families for purposes of administering s. 49.22; and, for a social security
19 number obtained under par. (a) ~~1.~~, the department of revenue for the purpose of
20 requesting certifications under s. 73.0301 and administering state taxes and the
21 department of workforce development for the purpose of requesting certifications
22 under s. 108.227.

23 **SECTION 9.** 440.03 (13) (b) 72. of the statutes is repealed.

24 **SECTION 10.** 440.08 (2) (a) 69. of the statutes is repealed.

25 **SECTION 11.** 440.13 (2) (c) of the statutes is amended to read:

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1 440.13 (2) (c) With respect to a credential granted by a credentialing board, a
2 credentialing board shall restrict, limit, or suspend a credential held by a person or
3 deny an application for an initial credential ~~or for reinstatement of an inactive~~
4 ~~license under s. 452.12 (6) (e)~~ when directed to do so by the department.

5 **SECTION 12.** 452.01 (1m) of the statutes is amended to read:

6 452.01 (1m) “Agency agreement” means a written agreement between a ~~broker~~
7 firm and a client in which the client authorizes the ~~broker~~ firm to provide brokerage
8 services to the client.

9 **SECTION 13.** 452.01 (1o) of the statutes is created to read:

10 452.01 (1o) “Associated with a firm” means to have been engaged by a firm to
11 provide brokerage services to the firm’s clients and customers on behalf of the firm
12 and under the firm’s supervision, including as an employee of the firm or as an
13 independent contractor.

14 **SECTION 14.** 452.01 (1p) of the statutes is created to read:

15 452.01 (1p) “Associated with a subagent” means to be associated with a firm
16 that is engaged as a subagent.

17 **SECTION 15.** 452.01 (3) (d) of the statutes is amended to read:

18 452.01 (3) (d) Employees of persons enumerated in pars. (a) to (c) ~~and, (f), and~~
19 (i) when engaged in the specific performance of their duties as such employees.

20 **SECTION 16.** 452.01 (3) (i) of the statutes is created to read:

21 452.01 (3) (i) A developer, as defined in s. 707.02 (11), negotiating a transaction
22 involving a time share.

23 **SECTION 17.** 452.01 (3e) of the statutes is amended to read:

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1 452.01 (3e) “Brokerage service” means any service described under sub. (2)
2 provided ~~to a person~~ by a ~~broker to another person~~ firm and any licensees associated
3 with the firm.

4 **SECTION 18.** 452.01 (3m) of the statutes is amended to read:

5 452.01 (3m) “Client” means a party to a transaction who has an agency
6 agreement with a ~~broker~~ firm for brokerage services.

7 **SECTION 19.** 452.01 (3s) of the statutes is amended to read:

8 452.01 (3s) “Customer” means a party to a transaction who is provided
9 brokerage services by a ~~broker~~ firm and any licensees associated with the firm but
10 who is not a client.

11 **SECTION 20.** 452.01 (3w) of the statutes is amended to read:

12 452.01 (3w) “Designated agency” means a multiple representation
13 relationship in which each client of the ~~broker~~ firm in the multiple representation
14 relationship receives negotiation services from the ~~broker~~ firm only from ~~employees~~
15 of licensees associated with the broker firm who are not providing negotiation
16 services to any other client of the ~~broker~~ firm in the transaction.

17 **SECTION 21.** 452.01 (4) of the statutes is amended to read:

18 452.01 (4) “Disciplinary proceeding” means a proceeding against one or more
19 licensees ~~or registrants~~ in which the board may revoke, suspend, or limit a license
20 or registration, reprimand a licensee ~~or registrant~~, or assess a forfeiture or require
21 education or training under s. 452.14 (4m) or (4r).

22 **SECTION 22.** 452.01 (4d) of the statutes is repealed.

23 **SECTION 23.** 452.01 (4h) of the statutes is repealed.

24 **SECTION 24.** 452.01 (4p) of the statutes is repealed.

25 **SECTION 25.** 452.01 (4t) of the statutes is repealed.

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1 **SECTION 26.** 452.01 (4w) of the statutes is created to read:

2 452.01 (4w) “Firm” means a licensed individual broker acting as a sole
3 proprietorship or a licensed broker business entity.

4 **SECTION 27.** 452.01 (4x) of the statutes is created to read:

5 452.01 (4x) “Licensed broker business entity” means a broker licensed under
6 s. 452.12 that is a business entity.

7 **SECTION 28.** 452.01 (4y) of the statutes is created to read:

8 452.01 (4y) “Licensed individual broker” means a broker licensed under s.
9 452.12 who is an individual.

10 **SECTION 29.** 452.01 (5) of the statutes is amended to read:

11 452.01 (5) “Licensee” means any person licensed or registered under this
12 chapter, ~~other than an inactive licensee registered under s. 452.12 (6).~~

13 **SECTION 30.** 452.01 (5) of the statutes, as affected by 2015 Wisconsin Act ...
14 (this act), is amended to read:

15 452.01 (5) “Licensee” means any person licensed ~~or registered~~ under this
16 chapter.

17 **SECTION 31.** 452.01 (5c) of the statutes is created to read:

18 452.01 (5c) “License number” means a number assigned to a person under s.
19 452.05 (1) (j).

20 **SECTION 32.** 452.01 (5j) of the statutes is amended to read:

21 452.01 (5j) “Multiple representation relationship” means a relationship
22 between a broker firm and 2 or more of the broker’s firm’s clients in which the clients
23 are parties in the same transaction.

24 **SECTION 33.** 452.01 (5m) (b) of the statutes is amended to read:

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1 452.01 (5m) (b) Completing, when requested by a party, appropriate
2 department-approved board-approved forms or other writings to document the
3 party's proposal consistent with the party's intent.

4 **SECTION 34.** 452.01 (5p) of the statutes is amended to read:

5 452.01 (5p) "Out-of-state salesperson" means a person who is not licensed
6 under this chapter and who is employed or engaged as an independent contractor by
7 an out-of-state broker. "Out-of-state salesperson" includes a time-share
8 salesperson employed by an out-of-state broker.

9 **SECTION 35.** 452.01 (5p) of the statutes, as affected by 2015 Wisconsin Act ...
10 (this act), is amended to read:

11 452.01 (5p) "Out-of-state salesperson" means a person who is not licensed
12 under this chapter and who is employed or engaged as an independent contractor by
13 an out-of-state broker. "~~Out-of-state salesperson" includes a time-share~~
14 ~~salesperson employed by an out-of-state broker.~~

15 **SECTION 36.** 452.01 (5w) of the statutes is amended to read:

16 452.01 (5w) "Principal broker firm" means a ~~broker who~~ firm that engages a
17 subagent to provide brokerage services in a transaction.

18 **SECTION 37.** 452.01 (7) of the statutes is repealed and recreated to read:

19 452.01 (7) "Salesperson" means any individual who is associated with a firm,
20 other than a broker, a time-share salesperson, or an individual who is not required
21 to hold a license under this chapter as provided under s. 452.03 (2).

22 **SECTION 38.** 452.01 (7) of the statutes, as affected by 2015 Wisconsin Act ...
23 (this act), is amended to read:

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1 452.01 (7) "Salesperson" means any individual who is associated with a firm,
2 other than a broker, ~~a time-share salesperson~~, or an individual who is not required
3 to hold a license under this chapter as provided under s. 452.03 (2).

4 **SECTION 39.** 452.01 (7r) of the statutes is amended to read:

5 452.01 (7r) "Subagent" means a ~~broker who~~ firm that is engaged by another
6 ~~broker~~ a principal firm to provide brokerage services in a transaction, but ~~who~~ that
7 is not ~~the other broker's employee~~ associated with the principal firm.

8 **SECTION 40.** 452.01 (9) of the statutes is amended to read:

9 452.01 (9) "Time-share salesperson" means a person, other than a person
10 licensed under s. 452.09, who is ~~employed by a licensed broker to sell or offer or~~
11 ~~attempt~~ associated with a firm for the purpose of selling or offering or attempting to
12 negotiate an initial sale or purchase of a time share but who may not perform any
13 other acts authorized by this chapter to be performed by a broker or salesperson.

14 **SECTION 41.** 452.01 (9) of the statutes, as affected by 2015 Wisconsin Act ...
15 (this act), is repealed.

16 **SECTION 42.** 452.025 of the statutes, as affected by 2015 Wisconsin Act ... (this
17 act), is repealed.

18 **SECTION 43.** 452.025 (1) (b) 3. of the statutes is amended to read:

19 452.025 (1) (b) 3. Certification from the ~~licensed broker employing~~ firm with
20 which the applicant is associated that the applicant is competent to act as a
21 time-share salesperson.

22 **SECTION 44.** 452.025 (3) (a) of the statutes is amended to read:

23 452.025 (3) (a) A time-share salesperson registered under this section may act
24 as a time-share salesperson only when employed by a licensed broker associated
25 with a firm.

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1 **SECTION 45.** 452.025 (3) (b) 2. g. of the statutes is amended to read:

2 452.025 (3) (b) 2. g. The signature of the time-share salesperson and the name
3 of the ~~employing broker~~ firm with which the time-share salesperson is associated.

4 **SECTION 46.** 452.025 (4) of the statutes is repealed.

5 **SECTION 47.** 452.03 of the statutes is renumbered 452.03 (1) and amended to
6 read:

7 452.03 (1) ~~No~~ Except as provided in s. 452.137, no person may engage in or
8 follow the business or occupation of, or advertise or hold himself or herself out as, or
9 act temporarily or otherwise as a broker or salesperson without a license issued
10 under this chapter. The board may grant a license only to a person who is competent
11 to transact ~~such businesses~~ that business or occupation in a manner that safeguards
12 the interests of the public, and only after satisfactory proof of the person's
13 competence has been presented to the board.

14 **SECTION 48.** 452.03 (2) of the statutes is created to read:

15 452.03 (2) No license under this chapter is required for an individual who, on
16 behalf of and under the direction of a firm or one or more licensees associated with
17 a firm, provides the firm or licensee with services that are limited to those that are
18 purely administrative, clerical, or personal in nature.

19 **SECTION 49.** 452.05 (1) (a) of the statutes is amended to read:

20 452.05 (1) (a) Grant and issue licenses to individuals and business entities to
21 act as brokers and to individuals to act salespersons and grant and issue
22 registrations to time-share salespersons.

23 **SECTION 50.** 452.05 (1) (a) of the statutes, as affected by 2015 Wisconsin Act
24 (this act), is amended to read:

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1 452.05 (1) (a) Grant and issue licenses to individuals and business entities to
2 act as brokers and to individuals to act salespersons ~~and grant and issue~~
3 ~~registrations to time-share salespersons.~~

4 **SECTION 51.** 452.05 (1) (i) (intro.) of the statutes is amended to read:

5 452.05 (1) (i) (intro.) Create a form on which an individual applying to renew
6 a broker's or salesperson's license ~~or a time-share salesperson's certificate of~~
7 ~~registration~~ may do all of the following:

8 **SECTION 52.** 452.05 (1) (i) 1. of the statutes is amended to read:

9 452.05 (1) (i) 1. State whether he or she has been convicted of a crime since he
10 or she last applied to renew the license ~~or certificate~~ or, for an initial renewal, since
11 he or she initially applied for the license ~~or certificate.~~

12 **SECTION 53.** 452.05 (1) (i) 3. b. of the statutes is amended to read:

13 452.05 (1) (i) 3. b. The board's authority to revoke the license ~~or certificate~~
14 under s. 452.14 (3) (o).

15 **SECTION 54.** 452.05 (1) (j) of the statutes is created to read:

16 452.05 (1) (j) Assign a unique license number to each person licensed under this
17 chapter.

18 **SECTION 55.** 452.07 (1m) of the statutes is amended to read:

19 452.07 (1m) The board shall may promulgate rules ~~that specify regarding~~ the
20 supervisory duties responsibilities of brokers under s. 452.12 (3) ~~452.132.~~

21 **SECTION 56.** 452.07 (2) of the statutes is amended to read:

22 452.07 (2) The board may promulgate rules establishing a procedure that
23 allows an individual who does not possess a broker's or salesperson's license or a
24 time-share salesperson's certificate of registration to, without submitting a full
25 application and without paying the fees applicable to applicants, apply to the board

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1 for a determination of whether the individual would be disqualified from obtaining
2 a license or certificate due to his or her criminal record. A determination made under
3 this subsection, with respect to criminal convictions reviewed by the board as part
4 of the determination, is binding upon the board and the department if the individual
5 subsequently applies for a license or certificate, unless there is information relevant
6 to the determination that was not available to the board at the time of the
7 determination. The board may require a fee to be paid to the department for a
8 determination issued under this subsection of an amount necessary to cover the cost
9 of making the determination.

10 **SECTION 57.** 452.07 (2) of the statutes, as affected by 2015 Wisconsin Act ...
11 (this act), is amended to read:

12 452.07 (2) The board may promulgate rules establishing a procedure that
13 allows an individual who does not possess a broker's or salesperson's license ~~or a~~
14 ~~time-share salesperson's certificate of registration~~ to, without submitting a full
15 application and without paying the fees applicable to applicants, apply to the board
16 for a determination of whether the individual would be disqualified from obtaining
17 a license ~~or certificate~~ due to his or her criminal record. A determination made under
18 this subsection, with respect to criminal convictions reviewed by the board as part
19 of the determination, is binding upon the board and the department if the individual
20 subsequently applies for a license ~~or certificate~~, unless there is information relevant
21 to the determination that was not available to the board at the time of the
22 determination. The board may require a fee to be paid to the department for a
23 determination issued under this subsection of an amount necessary to cover the cost
24 of making the determination.

25 **SECTION 58.** 452.09 (1) (b) of the statutes is amended to read:

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1 452.09 (1) (b) The name and address of the applicant; ~~if.~~ If the applicant is a
2 business entity, the application shall also include the name and address of each
3 business representative and the license number of each business representative
4 licensed as a broker under this chapter.

5 **SECTION 59.** 452.09 (1) (c) of the statutes is repealed.

6 **SECTION 60.** 452.09 (2) (c) (intro.) of the statutes is amended to read:

7 452.09 (2) (c) (intro.) Except as provided in par. (d) or a reciprocal agreement
8 under s. 452.05 (3), each applicant for a broker's license to be issued to an individual
9 shall do all of the following:

10 **SECTION 61.** 452.09 (3) (a) of the statutes is amended to read:

11 452.09 (3) (a) In determining competency, the board shall require proof that the
12 applicant for a broker's or salesperson's license has a fair knowledge of the English
13 language; a fair understanding of the general purposes and general legal effect of
14 deeds, mortgages, land contracts of sale, leases, bills of sale, ~~chattel mortgages,~~ and
15 conditional sales contracts; and a general and fair understanding of the obligations
16 between principal and agent, as well as of this chapter. The board shall deny a license
17 to an applicant receiving a failing grade, as established by rules of the board, on any
18 examination given under this section, but any applicant may review his or her
19 examination results in a manner established by rules of the board.

20 **SECTION 62.** 452.09 (4) (a) 1. of the statutes is amended to read:

21 452.09 (4) (a) 1. An applicant for a broker's license who is an individual shall
22 submit to the board evidence satisfactory to the board that the applicant has
23 practiced as a licensed salesperson under the direct supervision of a licensed broker
24 for at least 2 years within the last 4 years preceding the date of the applicant's

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1 application for a broker's license, ~~excluding any time the applicant spent in an~~
2 apprenticeship under sub. (5).

3 **SECTION 63.** 452.09 (5) of the statutes is repealed.

4 **SECTION 64.** 452.10 (1) of the statutes is amended to read:

5 452.10 (1) An application shall be verified by the applicant. If made by a
6 business entity it shall be verified by a business representative that is a licensed
7 individual broker or a licensed broker business entity and that is acting as a business
8 representative for the business entity.

9 **SECTION 65.** 452.10 (2) (a) of the statutes is amended to read:

10 452.10 (2) (a) Each new application for a ~~broker's or salesperson's~~ license under
11 this chapter shall be for the remainder of the biennial license period.

12 **SECTION 66.** 452.10 (4) (a) of the statutes is repealed.

13 **SECTION 67.** 452.10 (4) (b) of the statutes is renumbered 452.30 (5) and
14 amended to read:

15 452.30 (5) No salesperson, ~~time-share salesperson or broker~~ may be employed
16 ~~by a broker whose~~ licensee may be associated with a firm if the firm's license has been
17 suspended or revoked during the period of suspension or revocation. The
18 ~~salesperson, time-share salesperson or broker~~ licensee may apply for transfer to
19 ~~some other licensed broker by complying with this chapter~~ become associated with
20 another firm, provided the salesperson, ~~time-share salesperson or broker~~ licensee
21 is not a party to the activities causing the suspension or revocation of the firm's
22 license of the broker. If the licensee becomes associated with another firm, the
23 licensee may not provide brokerage services on behalf of that firm until sub. (1) (b)
24 has been satisfied.

25 **SECTION 68.** 452.11 (1) of the statutes is amended to read:

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1 452.11 (1) A nonresident may become a broker, ~~or salesperson or time-share~~
2 ~~salesperson~~ by conforming to all the provisions of this chapter.

3 **SECTION 69.** 452.12 (2) (a) of the statutes is amended to read:

4 452.12 (2) (a) A broker's license may be issued to a business entity if the
5 business entity has at least one business representative licensed as a broker. The
6 license issued to the business entity entitles each business representative of the
7 business entity ~~who is a~~ licensed as a broker to act as a broker on behalf of the
8 business entity. A broker may act as a business representative for more than one
9 business entity if the broker obtains the express, written consent of each business
10 entity for which the broker desires to act as a business representative. A broker may
11 act as a broker on behalf each business entity for which it is serving as a business
12 representative.

13 **SECTION 70.** 452.12 (2) (c) of the statutes is amended to read:

14 452.12 (2) (c) Application for a ~~business entity~~ broker's license to be issued to
15 a business entity shall be made on forms prescribed by the board, listing the names
16 and addresses of all business representatives and the license numbers of all business
17 representatives that are licensed brokers, and shall be accompanied by the initial
18 credential fee determined by the department under s. 440.03 (9) (a). If there is a
19 change in any of the business representatives, the change shall be reported to the
20 board, on the same form, within 30 days after the effective date of the change.

21 **SECTION 71.** 452.12 (3) of the statutes is amended to read:

22 452.12 (3) ~~BROKER'S LIABILITY~~ FIRM'S RESPONSIBILITY FOR ACTS OF EMPLOYEES
23 LICENSEES. Subject to s. 452.139 (3), ~~each broker shall supervise, and a firm is~~
24 responsible for; the brokerage services provided on behalf of the ~~broker~~ firm by any
25 ~~broker, salesperson, or time-share salesperson who is an employee of the broker a~~

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1 licensee associated with the firm only to the extent that the firm fails to comply with
2 s. 452.132 and any rules promulgated under s. 452.07 (1m) with respect to that
3 licensee.

4 **SECTION 72.** 452.12 (4) of the statutes is amended to read:

5 452.12 (4) REGISTER OF ~~BROKERS AND SALESPERSONS~~ LICENSEES. The board shall
6 include in the register the board maintains under s. 440.035 (4) the names of all
7 ~~brokers and salespersons~~ persons whose licenses issued under this chapter were
8 revoked within the past 2 years. The register shall be available for purchase at cost.

9 **SECTION 73.** 452.12 (5) (b) of the statutes is amended to read:

10 452.12 (5) (b) If an application for renewal of a license issued to an individual
11 is not filed with the board on or before the renewal date with the proof required under
12 par. (c) or if the renewal is not granted, the applicant may not engage in any of the
13 activities covered by the license until the license is renewed or a new license is issued.

14 **SECTION 74.** 452.12 (5) (bm) of the statutes is created to read:

15 452.12 (5) (bm) If an application for renewal of a license issued to a firm is not
16 filed with the board on or before the renewal date or if the renewal is not granted,
17 all of the following apply:

18 1. The firm may not engage in any of the activities covered by the license until
19 the license is renewed or a new license is issued.

20 2. Any licensees associated with the firm may not engage in any of the activities
21 covered by the firm's license on behalf of the firm until the firm's license is renewed
22 or a new license is issued.

23 3. A licensed individual broker or licensed broker business entity who is serving
24 as a business representative for the firm shall notify each licensee associated with
25 the firm that the firm's license was not renewed and, within 10 days after notifying

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1 a licensee, file with the department a notice of termination for each such licensee on
2 a form prescribed by the department.

3 **SECTION 75.** 452.12 (5) (c) of the statutes is amended to read:

4 452.12 (5) (c) At the time of renewal, each broker or salesperson who is an
5 individual shall submit proof of attendance at and successful completion of
6 continuing education programs or courses approved under s. 452.05 (1) (g).

7 **SECTION 76.** 452.12 (6) of the statutes is repealed.

8 **SECTION 77.** 452.13 (1) (a) of the statutes is amended to read:

9 452.13 (1) (a) "Client funds" means all downpayments, earnest money deposits,
10 or other money related to a conveyance of real estate that is received by a ~~broker,~~
11 ~~salesperson or time-share salesperson~~ licensee on behalf of the ~~broker's,~~
12 ~~salesperson's or time-share salesperson's~~ principal a firm or any other person.
13 "Client funds" does not include promissory notes.

14 **SECTION 78.** 452.13 (2) (a) of the statutes is amended to read:

15 452.13 (2) (a) A ~~broker who~~ firm that holds client funds shall establish an
16 interest-bearing common trust account in a depository institution. The
17 interest-bearing common trust account shall earn interest at a rate not less than
18 that applicable to individual accounts of the same type, size, and duration and for
19 which withdrawals or transfers can be made without delay, subject to any notice
20 period that the depository institution is required to observe by law or regulation.

21 **SECTION 79.** 452.13 (2) (b) of the statutes is amended to read:

22 452.13 (2) (b) Any ~~broker who~~ firm that maintains an interest-bearing common
23 trust account shall do all of the following:

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1 1. Register with the department of ~~safety and professional services~~ the name
2 and address of the depository institution and the number of the interest-bearing
3 common trust account.

4 2. Notify the department of ~~safety and professional services~~ when any of the
5 information required under subd. 1. is changed.

6 3. Furnish the department of ~~safety and professional services~~ with a letter
7 authorizing the department of ~~safety and professional services~~ and the department
8 of administration to examine and audit the interest-bearing common trust account
9 whenever the either department of ~~safety and professional services~~ or the
10 ~~department of administration~~ considers it necessary.

11 **SECTION 80.** 452.13 (2) (bm) of the statutes is amended to read:

12 452.13 (2) (bm) The department of ~~safety and professional services~~ shall
13 forward to the department of administration the information and documents
14 furnished under par. (b).

15 **SECTION 81.** 452.13 (2) (c) of the statutes is amended to read:

16 452.13 (2) (c) A ~~broker~~ firm shall deposit all client funds in the interest-bearing
17 common trust account.

18 **SECTION 82.** 452.13 (2) (e) (intro.) of the statutes is amended to read:

19 452.13 (2) (e) (intro.) For each interest-bearing common trust account, the
20 ~~broker~~ firm shall direct the depository institution to do all of the following:

21 **SECTION 83.** 452.13 (2) (e) 2. of the statutes is amended to read:

22 452.13 (2) (e) 2. When the interest remittance is sent, furnish to the
23 department of administration and to the ~~broker~~ firm maintaining the
24 interest-bearing common trust account a statement that includes the name of the
25 ~~broker~~ firm for whose account the remittance is made, the rate of interest applied,

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1 the amount of service charges or fees deducted, if any, and the account balance for
2 the period that the statement covers.

3 **SECTION 84.** 452.13 (2) (f) 1. of the statutes is amended to read:

4 452.13 (2) (f) 1. May not assess a service charge or fee that is due on an
5 interest-bearing common trust account against any ~~broker~~ firm or, except as
6 provided in subd. 3., against any other account, regardless of whether the same
7 ~~broker~~ firm maintains the other account.

8 **SECTION 85.** 452.13 (3) of the statutes is amended to read:

9 452.13 (3) DEPOSIT PROVISIONS. A ~~broker who~~ firm that deposits client funds in
10 an interest-bearing common trust account in compliance with this section may not
11 be held liable to the owner or beneficial owner of the client funds for damages due
12 to compliance with this section. A ~~broker, salesperson or time-share salesperson~~
13 ~~who~~ licensee that deposits client funds in an interest-bearing common trust account
14 in compliance with this section on behalf of a firm is not required to disclose
15 alternative depository arrangements that could be made by the parties or to disclose
16 that a deposit will be made under this section.

17 **SECTION 86.** 452.13 (4) of the statutes is amended to read:

18 452.13 (4) TRUST ACCOUNT OPTIONAL. This section does not require a ~~broker~~ firm
19 to hold client funds or require a person to transfer client funds to a ~~broker~~ firm.

20 **SECTION 87.** 452.13 (5) of the statutes is amended to read:

21 452.13 (5) RULES. In consultation with the department of ~~safety and~~
22 ~~professional services~~, the department of administration shall promulgate rules
23 necessary to administer this section.

24 **SECTION 88.** 452.132 of the statutes is created to read:

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1 **452.132 Responsibilities of firms and licensees. (1)** A firm shall supervise
2 the brokerage service activities of each licensee associated with the firm, including
3 by doing all of the following:

4 (a) Ensuring that a supervising broker for the firm complies with sub. (4).

5 (b) Providing a licensee with reasonable access to a supervising broker for the
6 purpose of consultation regarding real estate practice issues.

7 **(2)** A firm shall do all of the following:

8 (a) Provide each licensee associated with the firm with a written statement of
9 the procedures under which the firm and licensees associated with the firm must
10 operate with respect to handling leases, agency agreements, offers to purchase, and
11 other documents and records relating to transactions.

12 (b) Notify each licensee associated with the firm where a copy of the rules
13 promulgated by the board related to the conduct, ethical practices, and
14 responsibilities of licensees may be obtained.

15 (c) Before a licensee becomes associated with the firm and at the beginning of
16 each biennial licensure period, ensure that the licensee holds a valid license or
17 registration.

18 **(3)** A firm shall be responsible for the custody and safety of all documents and
19 records relating to transactions submitted to the firm as required under sub. (6) (b).

20 **(4)** (a) A supervising broker for a firm, as determined under sub. (5), shall
21 review all of the following prior to the closing of a transaction in accordance with par.

22 (b):

23 1. All agency agreements, offers to purchase, leases, and other documents that
24 are executed by the parties and records relating to the transaction that are used by

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1 a licensee associated with the firm and submitted to the firm as required under sub.
2 (6) (b).

3 2. All trust account records relating to the transaction.

4 (b) The review under par. (a) shall be limited to confirming that a written
5 disclosure statement to a customer or client has been provided by a licensee
6 associated with the firm in accordance with s. 452.135, confirming that any
7 applicable form approved by the board has been used and the forms have been
8 completed by filling in the blanks in a manner consistent with the structure of the
9 form, and communicating to the licensee any errors in how the forms were completed
10 that are apparent on the face of the document and known to the person reviewing the
11 document.

12 (5) (a) A firm that is a licensed broker business entity shall delegate the
13 performance of the duty to supervise licensees associated with the firm to a
14 supervising broker who is a licensed individual broker.

15 (b) A firm that is not a licensed broker business entity may delegate the duty
16 to supervise licensees associated with the firm to a supervising broker who is a
17 licensed individual broker, but in the absence of a specific supervising broker
18 delegation, the firm itself is deemed to be the supervising broker for that firm.

19 (c) A delegation under par. (a) or (b) shall be written and signed by or on behalf
20 of the delegating firm, identify the duty delegated, and be signed by the broker to
21 whom the delegation is made.

22 (d) A firm may delegate the duty to supervise licensees to more than one
23 supervising broker.

24 (6) (a) A licensee associated with a firm shall be responsible for discussing with
25 the party with whom the licensee is working with or representing any error

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1 communicated to the licensee as provided in sub. (4) (b), and the party shall
2 determine whether to request any changes to address the error.

3 (b) A licensee associated with a firm shall submit to the firm in a timely manner
4 all agency agreements, offers to purchase, leases, and other documents that are
5 executed by the parties and records related to the brokerage services provided on
6 behalf of the firm and transactions that are used or received by the licensee.

7 **SECTION 89.** 452.132 (2) (c) of the statutes, as created by 2015 Wisconsin Act
8 (this act), is amended to read:

9 452.132 (2) (c) Before a licensee becomes associated with the firm and at the
10 beginning of each biennial licensure period, ensure that the licensee holds a valid
11 license ~~or registration~~.

12 **SECTION 90.** 452.133 (title) of the statutes is amended to read:

13 **452.133 (title) Duties of ~~brokers~~ licensees.**

14 **SECTION 91.** 452.133 (1) (intro.), (c), (d), (e), (f) and (g) of the statutes are
15 amended to read:

16 452.133 (1) ~~BROKER'S DUTIES~~ DUTIES TO ALL PERSONS IN PARTIES TO A TRANSACTION.
17 (intro.) A ~~broker who is~~ firm providing brokerage services to a ~~person in party to a~~
18 transaction owes all of the following duties to the ~~person~~ party:

19 (c) The duty to timely disclose in writing all material adverse facts that the
20 ~~broker~~ firm knows and that the ~~person~~ party does not know or cannot discover
21 through reasonably vigilant observation, unless the disclosure of a material adverse
22 fact is prohibited by law.

23 (d) The duty to keep confidential any information given to the ~~broker~~ firm in
24 confidence, or any information obtained by the ~~broker~~ firm that he ~~or she~~ the firm
25 knows a reasonable person would want to be kept confidential, unless the

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1 information must be disclosed by law or the person whose interests may be adversely
2 affected by the disclosure specifically authorizes the disclosure of particular
3 information. ~~A broker~~ The firm shall continue to keep the information confidential
4 after the transaction is complete and after the ~~broker~~ firm is no longer providing
5 brokerage services to the ~~person~~ party.

6 (e) The duty to provide accurate information about market conditions that
7 affect the ~~person's~~ transaction, within a reasonable time after ~~the person's~~ a request
8 for such information by the party, unless disclosure of the information is prohibited
9 by law.

10 (f) The duty to safeguard trust funds and other property held ~~by the broker~~ as
11 required by rules promulgated ~~by the department~~ under s. 452.13 (5).

12 (g) When the ~~broker~~ firm is negotiating on behalf of a party, the duty to present
13 contract proposals in an objective and unbiased manner and disclose the advantages
14 and disadvantages of the proposals.

15 **SECTION 92.** 452.133 (2) (intro.), (a) 1. and 2., (b) and (c) of the statutes are
16 amended to read:

17 452.133 (2) ~~BROKER'S DUTIES TO A CLIENT~~ DUTIES TO CLIENTS. (intro.) A ~~broker~~
18 firm providing brokerage services to ~~his or her~~ a client owes the client the duties that
19 the ~~broker~~ firm owes to a ~~person~~ party under sub. (1) and all of the following
20 additional duties:

21 (a) 1. Placing the client's interests ahead of the ~~broker's~~ interests of the firm.

22 2. Placing the client's interests ahead of the interests of persons in the
23 transaction who are not the ~~broker's~~ firm's clients by not disclosing to persons in the
24 transaction other than the ~~broker's~~ firm's clients information or advice the disclosure

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1 of which is contrary to the interests of a client of the ~~broker~~ firm, unless the disclosure
2 is required by law.

3 (b) The duty to disclose to the client all information known by the ~~broker~~ firm
4 that is material to the transaction and that is not known by the client or discoverable
5 by the client through reasonably vigilant observation, except for confidential
6 information under sub. (1) (d) and other information the disclosure of which is
7 prohibited by law.

8 (c) The duty to fulfill any obligation required by the agency agreement, and any
9 order of the client that is within the scope of the agency agreement, that is not
10 inconsistent with another duty that the ~~broker~~ firm has under this chapter or any
11 other law.

12 **SECTION 93.** 452.133 (3) of the statutes is amended to read:

13 452.133 (3) PROHIBITED CONDUCT. In providing brokerage services, a ~~broker~~
14 licensee may not do any of the following:

15 (a) Accept any fee or compensation related to the transaction from any person
16 other than the ~~broker's~~ licensee's client, ~~unless the broker has~~ principal firm, or firm,
17 without the prior written consent of all parties to the transaction.

18 (b) Act in a transaction on the ~~broker's~~ licensee's own behalf, on behalf of the
19 ~~broker's~~ licensee's immediate family if the firm is an individual, on behalf of the
20 licensee's firm, or on behalf of any organization or business entity in which the ~~broker~~
21 licensee has an interest, ~~unless~~ without the ~~broker has the~~ prior written consent of
22 all parties to the transaction. For the purpose of complying with this paragraph, a
23 licensee shall obtain the written consent in the offer to purchase, option, lease, or
24 other transaction contract.

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1 (c) Except as provided in s. 452.19 (1), refer, recommend, or suggest to a party
2 to the transaction the services of an individual or entity from which the broker
3 licensee may receive compensation for a referral or in which the broker licensee has
4 an interest, unless the broker licensee has disclosed in writing the fact that he or she
5 the licensee may receive compensation or has disclosed his or her in writing an
6 interest in the individual or entity providing the services.

7 **SECTION 94.** 452.133 (4) (a) and (b) 1. and 2. of the statutes are amended to read:

8 452.133 (4) (a) A subagent owes all persons parties to whom ~~a broker~~ the
9 subagent is providing brokerage services in a transaction the duties specified in sub.
10 (1) but does not owe the clients of the principal ~~broker~~ firm the duties under sub. (2).

11 (b) 1. Place the subagent's interests ahead of the interests of the clients of the
12 principal ~~broker~~ firm in the transaction in which the subagent has been engaged by
13 the principal ~~broker~~ firm.

14 2. Provide advice or opinions to parties in the transaction if providing the
15 advice or opinions is contrary to the interests of the clients of the principal ~~broker~~
16 firm in the transaction in which the subagent has been engaged by the principal
17 ~~broker~~ firm, unless required by law.

18 **SECTION 95.** 452.133 (4m) of the statutes is created to read:

19 452.133 (4m) DUTIES AND PROHIBITIONS; APPLICATION TO LICENSEES. (a) A firm's
20 duties under sub. (1) extend to each licensee associated with that firm, and each
21 licensee associated with a firm owes the same duties to a party that the firm owes
22 to that party under sub. (1).

23 (b) Except as provided in s. 452.134 (3) (b), a firm's duties under sub. (2) extend
24 to each licensee associated with that firm, and each licensee associated with a firm

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1 owes the same duties to a client of the firm that the firm owes to that client under
2 sub. (2).

3 (c) 1. A subagent's duties under sub. (4) (a) extend to each licensee associated
4 with that subagent, and each licensee associated with a subagent owes the same
5 duties to a party that the subagent owes to that party under sub. (4) (a).

6 2. The prohibitions that apply to a subagent under sub. (4) (b) extend to each
7 licensee associated with that subagent, and no licensee associated with a subagent
8 may take any action that the subagent is prohibited from taking under sub. (4) (b).

9 **SECTION 96.** 452.133 (5) of the statutes is amended to read:

10 452.133 (5) DUTIES WITHOUT AGENCY OR SUBAGENCY RELATIONSHIP. If a ~~broker~~
11 firm is providing brokerage services to a person who is a party or a prospective party
12 to a current or prospective transaction, and the ~~broker~~ firm does not have an agency
13 agreement with the person and is not a subagent of another ~~broker~~ firm in the
14 transaction, then the ~~broker~~ owes firm and any licensees associated with the firm
15 owe the person the duties under sub. (1) and may not, unless required by law, provide
16 advice or opinions relating to the transaction in which the person is receiving
17 brokerage services if providing the advice or opinions is contrary to the interests of
18 a party to a current or prospective transaction with the person receiving the
19 brokerage services.

20 **SECTION 97.** 452.133 (6) (intro.) and (a) of the statutes are amended to read:

21 452.133 (6) WAIVER OF DUTIES. (intro.) The duties imposed by subs. (1), (2) (a),
22 (am), (b), and (c), (4), and (5) may not be waived. A client may waive, in part or in
23 full, the ~~broker's~~ duty under sub. (2) (d), except that a waiver under this subsection
24 is not effective unless the ~~broker~~ firm or a licensee associated with the firm provides
25 to the client a written disclosure containing all of the following:

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1 (a) A copy of the text of sub. (2) (d) and s. 452.01 (5m), and a statement that,
2 as a consequence of the client's waiver, the ~~broker~~ firm and any licensees associated
3 with the firm will have no legal duty to perform the duty imposed by sub. (2) (d).

4 **SECTION 98.** 452.134 (1) (a) of the statutes is amended to read:

5 452.134 (1) (a) Subject to par. (b), a ~~broker~~ firm and any licensees associated
6 with the firm may provide brokerage services to any ~~person in~~ party to a transaction,
7 whether or not the ~~broker~~ firm has entered into an agency agreement with a party
8 to the transaction or the ~~broker~~ firm has been engaged to provide brokerage services
9 in the transaction as a subagent.

10 **SECTION 99.** 452.134 (1) (b) of the statutes is amended to read:

11 452.134 (1) (b) A ~~broker~~ firm and any licensees associated with the firm may
12 not negotiate on behalf of a party to a transaction unless a party to the transaction
13 is one of the following:

14 1. The ~~broker's~~ firm's client.

15 2. A client of a principal ~~broker~~ firm who has engaged the ~~broker~~ firm as a
16 subagent.

17 **SECTION 100.** 452.134 (2) of the statutes is amended to read:

18 452.134 (2) ~~MULTIPLE REPRESENTATION RELATIONSHIPS; CONSENT REQUIRED.~~ A
19 ~~broker~~ firm and any licensees associated with the firm may not provide brokerage
20 services in a multiple representation relationship unless all of the ~~broker's~~ firm's
21 clients in the multiple representation relationship have consented to a multiple
22 representation relationship in writing.

23 **SECTION 101.** 452.134 (3) of the statutes is amended to read:

24 452.134 (3) ~~DESIGNATED AGENCY; CONSENT REQUIRED.~~ (a) A ~~broker~~ firm in a
25 multiple representation relationship may not engage in designated agency unless all

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1 of the ~~broker's~~ firm's clients in the relationship have consented to designated agency
2 in writing. A client may withdraw consent to designated agency by written notice
3 to the ~~broker~~ firm at any time.

4 (b) If a ~~broker~~ firm is engaged in designated agency, the ~~broker's~~ employee who
5 licensee associated with the firm that is negotiating on behalf of a client of the ~~broker~~
6 firm in the transaction may provide to the client on whose behalf the ~~employee~~
7 licensee is negotiating information, opinions, and advice to assist the client in the
8 negotiations, whether or not the information, opinions, and advice place the interests
9 of one of the ~~broker's~~ firm's clients ahead of the interests of another client of the
10 ~~broker~~ firm.

11 **SECTION 102.** 452.134 (4) of the statutes is amended to read:

12 452.134 (4) ~~MULTIPLE REPRESENTATIONS—RELATIONSHIP~~ REPRESENTATION
13 RELATIONSHIPS WITHOUT DESIGNATED AGENCY. If a ~~broker's~~ firm's client in a multiple
14 representation relationship does not consent to designated agency or withdraws
15 consent to designated agency, the ~~broker~~ firm and the ~~broker's~~ employees any
16 licensees associated with the firm may not place the interests of any client ahead of
17 the interests of any other in the negotiations.

18 **SECTION 103.** 452.135 (1) and (2) of the statutes are amended to read:

19 452.135 (1) (a) ~~A broker~~ No firm, and no licensee associated with a firm, may
20 ~~not~~ negotiate on behalf of a party who is not the ~~broker's~~ firm's client unless the
21 ~~broker~~ firm, or a licensee associated with the firm, provides to the party a copy of the
22 following written disclosure statement:

23 **BROKER DISCLOSURE TO CUSTOMERS**

24 You are a customer of the ~~broker~~ brokerage firm (hereinafter firm). The ~~broker~~
25 firm is either an agent of another party in the transaction or a subagent of another

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1 ~~broker who~~ firm that is the agent of another party in the transaction. The A broker,
2 or a salesperson acting on behalf of the ~~broker,~~ firm may provide brokerage services
3 to you. Whenever the ~~broker~~ firm is providing brokerage services to you, the ~~broker~~
4 owes firm and its brokers and salespersons (hereinafter agents) owes you, the
5 customer, the following duties:

6 The duty to provide brokerage services to you fairly and honestly.

7 The duty to exercise reasonable skill and care in providing brokerage services
8 to you.

9 The duty to provide you with accurate information about market conditions
10 within a reasonable time if you request it, unless disclosure of the information is
11 prohibited by law.

12 The duty to disclose to you in writing certain material adverse facts about a
13 property, unless disclosure of the information is prohibited by law.

14 The duty to protect your confidentiality. Unless the law requires it, the ~~broker~~
15 firm and its agents will not disclose your confidential information or the confidential
16 information of other parties.

17 The duty to safeguard trust funds and other property ~~the broker holds~~ held by
18 the firm or its agents.

19 The duty, when negotiating, to present contract proposals in an objective and
20 unbiased manner and disclose the advantages and disadvantages of the proposals.

21 Please review this information carefully. ~~A broker or salesperson~~ An agent of
22 the firm can answer your questions about brokerage services, but if you need legal
23 advice, tax advice, or a professional home inspection, contact an attorney, tax advisor,
24 or home inspector.

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1 This disclosure is required by section 452.135 of the Wisconsin statutes and is
2 for information only. It is a plain-language summary of ~~a broker's~~ the duties to a
3 customer under section 452.133 (1) of the Wisconsin statutes.

4 (b) If a ~~broker~~ firm is providing brokerage services as a subagent to a principal
5 ~~broker firm~~, the ~~broker~~ subagent, or a licensee associated with the subagent, shall
6 provide a copy of the written disclosure statement under par. (a) to any person who
7 is not the principal ~~broker's~~ firm's client and who receives brokerage services from
8 the ~~broker~~ subagent within the scope of the agreement between the ~~broker~~ subagent
9 and the principal ~~broker~~ firm.

10 (2) (a) Except as provided in par. (b), a ~~broker~~ firm shall provide to a client a
11 copy of the following written disclosure statement not later than the time the ~~broker~~
12 firm enters into an agency agreement with the client:

13 **BROKER DISCLOSURE TO CLIENTS**

14 Under Wisconsin law, a ~~broker~~ owes brokerage firm (hereinafter firm) and its
15 brokers and salespersons (hereinafter agents) owe certain duties to all parties to a
16 transaction:

17 The duty to provide brokerage services to you fairly and honestly.

18 The duty to exercise reasonable skill and care in providing brokerage services
19 to you.

20 The duty to provide you with accurate information about market conditions
21 within a reasonable time if you request it, unless disclosure of the information is
22 prohibited by law.

23 The duty to disclose to you in writing certain material adverse facts about a
24 property, unless disclosure of the information is prohibited by law.

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1 The duty to protect your confidentiality. Unless the law requires it, the ~~broker~~
2 firm and its agents will not disclose your confidential information or the confidential
3 information of other parties.

4 The duty to safeguard trust funds and other property the ~~broker~~ firm or its
5 agents holds.

6 The duty, when negotiating, to present contract proposals in an objective and
7 unbiased manner and disclose the advantages and disadvantages of the proposals.

8 Because you have entered into an agency agreement with a ~~broker~~ firm, you are
9 the ~~broker's~~ firm's client. A ~~broker~~ firm owes additional duties to you as a client. of
10 the firm:

11 The ~~broker~~ firm or one of its agents will provide, at your request, information
12 and advice on real estate matters that affect your transaction, unless you release the
13 ~~broker~~ firm from this duty. The ~~broker~~ firm or one of its agents must provide you with
14 all material facts affecting the transaction, not just adverse facts.

15 The ~~broker~~ firm and its agents will fulfill the ~~broker's~~ firm's obligations under
16 the agency agreement and fulfill your lawful requests that are within the scope of the
17 agency agreement.

18 The ~~broker~~ firm and its agents will negotiate for you, unless you release the
19 ~~broker~~ them from this duty.

20 The ~~broker~~ firm and its agents will not place the ~~broker's~~ their interests ahead
21 of your interests. The ~~broker~~ firm and its agents will not, unless required by law, give
22 information or advice to other parties who are not the ~~broker's~~ firm's clients, if giving
23 the information or advice is contrary to your interests.

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1 If you become involved in a transaction in which another party is also the
2 broker's firm's client (a "multiple representation relationship"), different duties may
3 apply.

MULTIPLE REPRESENTATION RELATIONSHIPS

AND DESIGNATED AGENCY

4
5
6 A multiple representation relationship exists if a broker firm has an agency
7 agreement with more than one client who is a party in the same transaction. ~~In a~~
8 ~~multiple representation relationship, if all of the broker's~~ If you and the firm's other
9 ~~clients in the transaction consent, the broker firm may provide services to the clients~~
10 ~~through designated agency, which is one type of multiple representation~~
11 ~~relationship.~~

12 Designated agency means that different salespersons employed by the broker
13 agents with the firm will negotiate on behalf of you and the other client or clients in
14 the transaction, and the ~~broker's firm's~~ duties to you as a client will remain the same.
15 Each salesperson agent will provide information, opinions, and advice to the client
16 for whom the salesperson agent is negotiating, to assist the client in the negotiations.
17 Each client will be able to receive information, opinions, and advice that will assist
18 the client, even if the information, opinions, or advice gives the client advantages in
19 the negotiations over the ~~broker's firm's~~ other clients. ~~A salesperson~~ An agent will
20 not reveal any of your confidential information to another party unless required to
21 do so by law.

22 If a designated agency relationship is not ~~in effect~~ authorized by you or other
23 clients in the transaction, you may still authorize or reject a different type of multiple
24 representation relationship. ~~If you authorize a multiple representation relationship~~
25 in which the ~~broker firm~~ may provide brokerage services to more than one client in

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1 a transaction but neither the broker firm nor any of the broker's salespersons its
2 agents may assist any client with information, opinions, and advice which may favor
3 the interests of one client over any other client. ~~If you do not consent to a multiple~~
4 ~~representation relationship the broker will not be allowed to provide brokerage~~
5 ~~services to more than one client in the transaction~~ Under this neutral approach, the
6 same agent may represent more than one client in a transaction.

7 If you do not consent to a multiple representation relationship the firm will not
8 be allowed to provide brokerage services to more than one client in the transaction.

9 INITIAL CHECK ONLY ONE OF THE THREE

10 LINES BELOW:

11 _____ I consent to The same firm may represent me and the other party as
12 long as the same agent is not representing us both. (multiple representation
13 relationship with designated agency.)

14 _____ I consent to The same firm may represent me and the other party, but
15 the firm must remain neutral regardless if one or more different agents are involved.
16 (multiple representation relationships, but I do not consent to relationship without
17 designated agency.)

18 _____ The same firm cannot represent both me and the other party in the
19 same transaction. (I reject multiple representation relationships.)

20 ~~NOTE: YOU MAY WITHDRAW YOUR CONSENT TO DESIGNATED~~
21 ~~AGENCY OR TO MULTIPLE REPRESENTATION RELATIONSHIPS BY~~
22 ~~WRITTEN NOTICE TO THE BROKER AT ANY TIME. YOUR BROKER IS~~
23 ~~REQUIRED TO DISCLOSE TO YOU IN YOUR AGENCY AGREEMENT THE~~
24 ~~COMMISSION OR FEES THAT YOU MAY OWE TO YOUR BROKER. IF YOU~~
25 ~~HAVE ANY QUESTIONS ABOUT THE COMMISSION OR FEES THAT YOU MAY~~

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1 ~~OWE BASED UPON THE TYPE OF AGENCY RELATIONSHIP YOU SELECT~~
2 ~~WITH YOUR BROKER YOU SHOULD ASK YOUR BROKER BEFORE SIGNING~~
3 ~~THE AGENCY AGREEMENT.~~

4 NOTE: All clients who are parties to this agency agreement consent to the
5 selection checked above. You may modify this selection by written notice to the firm
6 at any time. Your firm is required to disclose to you in your agency agreement the
7 commission or fees that you may owe to your firm. If you have any questions about
8 the commission or fees that you may owe based upon the type of agency relationship
9 you select with your firm, you should ask your firm before signing the agency
10 agreement.

SUBAGENCY

11
12 ~~The broker~~ Your firm may, with your authorization in the agency agreement,
13 engage other ~~brokers who~~ firms (subagent firms) to assist your ~~broker~~ firm by
14 providing brokerage services for your benefit. A subagent firm and the agents with
15 the subagent firm will not put the subagent's their own interests ahead of your
16 interests. A subagent firm will not, unless required by law, provide advice or opinions
17 to other parties if doing so is contrary to your interests.

18 Please review this information carefully. ~~A broker or salesperson~~ An agent can
19 answer your questions about brokerage services, but if you need legal advice, tax
20 advice, or a professional home inspection, contact an attorney, tax advisor, or home
21 inspector.

22 This disclosure is required by s. section 452.135 of the Wisconsin statutes and
23 is for information only. It is a plain-language summary of ~~a broker's~~ the duties owed
24 to you under section 452.133 ~~(3)~~ (2) of the Wisconsin statutes.

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1 (b) If a client enters into an agency agreement with a ~~broker~~ firm to receive
2 brokerage services related to real estate primarily intended for use as a residential
3 property containing one to 4 dwelling units, and the written disclosure statement
4 under par. (a) is not incorporated into the agency agreement, the ~~broker~~ firm shall
5 request the client's signed acknowledgment that the client has received a copy of the
6 written disclosure statement.

7 **SECTION 104.** 452.137 (1) (b) of the statutes is repealed.

8 **SECTION 105.** 452.137 (1) (d) of the statutes is repealed.

9 **SECTION 106.** 452.137 (2) (a) 1. of the statutes is amended to read:

10 452.137 (2) (a) 1. Enters into a cooperative agreement with a ~~licensed broker~~
11 firm and cooperates with the ~~licensed broker~~ firm on the listing agreement that is
12 subject to the cooperative agreement. Each cooperative agreement may cover only
13 one listing agreement.

14 **SECTION 107.** 452.137 (2) (a) 2. of the statutes is amended to read:

15 452.137 (2) (a) 2. Submits to the ~~licensed broker~~ firm evidence that the
16 out-of-state broker is licensed in good standing to engage in real estate brokerage
17 in a jurisdiction other than this state.

18 **SECTION 108.** 452.137 (2) (b) 1. of the statutes is amended to read:

19 452.137 (2) (b) 1. Enter into a listing agreement concerning ~~real estate~~ any
20 property located in this state.

21 **SECTION 109.** 452.137 (2) (b) 2. of the statutes is amended to read:

22 452.137 (2) (b) 2. For commission, money, or other thing of value, promote in
23 this state the sale, exchange, purchase, option, rental, or leasing of ~~real estate~~ any
24 property located in this state, including by posting signs on the property.

25 **SECTION 110.** 452.137 (2) (c) of the statutes is amended to read:

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1 452.137 (2) (c) An out-of-state broker who is a party to a cooperative
2 agreement with a ~~licensed broker~~ firm, and any out-of-state salesperson of the
3 out-of-state broker, shall comply with the laws of this state, and the out-of-state
4 broker shall file with the board an irrevocable consent that actions may be
5 commenced against the out-of-state broker in the proper court of any county in this
6 state in which a cause of action arises or the plaintiff resides, by the service of any
7 process or pleading authorized by the laws of this state on the board or any duly
8 authorized employee. The consent shall stipulate and agree that such service is valid
9 and binding as due service upon the out-of-state broker in all courts in this state.
10 The consent shall be duly acknowledged and, if made by a corporation, shall be
11 authenticated by the corporate seal.

12 **SECTION 111.** 452.137 (2) (d) of the statutes is amended to read:

13 452.137 (2) (d) A ~~licensed broker who~~ firm that is a party to a cooperative
14 agreement with an out-of-state broker, and any ~~licensed salesperson or licensed~~
15 ~~time-share salesperson of licensee associated with~~ the licensed broker firm, may not
16 act under the cooperative agreement on behalf of a broker who is not a party to the
17 cooperative agreement.

18 **SECTION 112.** 452.137 (2) (e) of the statutes is amended to read:

19 452.137 (2) (e) 1. An out-of-state broker who is a party to a cooperative
20 agreement with a ~~licensed broker~~ firm shall maintain the originals or copies of all
21 documents the out-of-state broker receives, maintains, or generates in connection
22 with any transaction subject to the cooperative agreement, for at least 3 years after
23 the date of closing or completion of the transaction, or, if no closing or completion
24 occurs, 3 years after the date on which the parties execute the cooperative
25 agreement.

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

6 **SECTION 113.** 452.137 (2) (f) of the statutes is amended to read:

7 452.137 (2) (f) No person may pay an out-of-state broker a commission, money,
8 or any other thing of value for brokerage services unless the out-of-state broker is
9 a party to a cooperative agreement with a licensed ~~broker~~ firm.

10 **SECTION 114.** 452.137 (2) (g) of the statutes is amended to read:

11 452.137 (2) (g) Notwithstanding s. 452.01 (2) (bm), no out-of-state broker may,
12 for commission, money, or other thing of value, show a property in this state that is
13 offered exclusively for rent unless that showing is authorized under a cooperative
14 agreement between the out-of-state broker and a licensed ~~broker~~ firm.

15 **SECTION 115.** 452.137 (3) (intro.) of the statutes is amended to read:

16 452.137 (3) OUT-OF-STATE SALESPERSONS. (intro.) An out-of-state salesperson
17 may act as a salesperson or ~~time-share salesperson~~ in this state only if all of the
18 following conditions are met:

19 **SECTION 116.** 452.137 (3) (c) of the statutes is amended to read:

20 452.137 (3) (c) The out-of-state salesperson submits evidence to the licensed
21 ~~broker~~ firm that the out-of-state salesperson is licensed in good standing or is
22 otherwise authorized to act as a salesperson or time-share salesperson in a
23 jurisdiction other than this state.

24 **SECTION 117.** 452.137 (3) (c) of the statutes, as affected by 2015 Wisconsin Act

25 (this act), is amended to read:

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1 452.137 (3) (c) The out-of-state salesperson submits evidence to the firm that
2 the out-of-state salesperson is licensed in good standing or is otherwise authorized
3 to act as a salesperson ~~or time-share salesperson~~ in a jurisdiction other than this
4 state.

5 **SECTION 118.** 452.137 (4) (a) of the statutes, as affected by 2015 Wisconsin Act
6 47, is amended to read:

7 452.137 (4) (a) The board shall establish the a form and terms of the to be used
8 for a cooperative agreement under this section, which shall include any required
9 terms for such an agreement.

10 **SECTION 119.** 452.137 (4) (b) (intro.) of the statutes is amended to read:

11 452.137 (4) (b) (intro.) The A cooperative agreement may be entered into only
12 through the use of the form established by the board under par. (a) and shall do at
13 least all of the following:

14 **SECTION 120.** 452.137 (4) (b) 1. of the statutes is amended to read:

15 452.137 (4) (b) 1. Establish the terms of cooperation between the out-of state
16 broker, any out-of-state salesperson, and the ~~licensed broker~~ firm.

17 **SECTION 121.** 452.137 (4) (b) 3. of the statutes is amended to read:

18 452.137 (4) (b) 3. Provide that all client funds, as defined in s. 452.13 (1) (a),
19 that the out-of-state broker and ~~licensed broker~~ the firm receive in connection with
20 a transaction subject to the cooperative agreement shall be deposited in a trust
21 account maintained by the ~~licensed broker~~ firm.

22 **SECTION 122.** 452.138 of the statutes is amended to read:

23 **452.138 Brokers Firms providing services in more than one**
24 **transaction.** A ~~broker~~ firm may provide brokerage services simultaneously to more
25 than one party in different transactions, unless the ~~broker~~ firm agrees with a client

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1 that the ~~broker~~ firm is to provide brokerage services only to that client. If the ~~broker~~
2 firm and a client agree that the ~~broker~~ firm is to provide brokerage services only to
3 that client, the agency agreement shall contain a statement of that agreement.

4 **SECTION 123.** 452.139 (1), (2) and (3) of the statutes are amended to read:

5 452.139 (1) COMMON LAW DUTIES OF ~~BROKER~~ FIRMS. The duties of a ~~broker~~ firm
6 specified in this chapter or in rules promulgated under this chapter shall supersede
7 duties or obligations under common law to the extent that those common law duties
8 or obligations are inconsistent with the duties specified in this chapter or in rules
9 promulgated under this chapter.

10 (2) MISREPRESENTATION BY ~~BROKER~~. (a) A client is not liable for a
11 misrepresentation made by a ~~broker~~ in connection with the ~~broker~~ providing
12 provision of brokerage services by a firm or any licensee associated with the firm,
13 unless the client knows or should have known of the misrepresentation or the ~~broker~~
14 firm or licensee is repeating a misrepresentation made to ~~him or her~~ by the client.

15 (b) A ~~broker who~~ firm that is providing brokerage services to a client and who
16 that retains another ~~broker~~ firm to provide brokerage services to ~~that client~~ as a
17 subagent is not liable for a misrepresentation made by the ~~other broker~~ subagent or
18 any licensee associated with the subagent, unless the ~~broker~~ firm knew or should
19 have known of the ~~other broker's~~ misrepresentation or the ~~other broker~~ subagent or
20 licensee is repeating a misrepresentation made to ~~him or her~~ by the ~~broker~~ firm or
21 any licensee associated with the firm.

22 (c) Nothing in this subsection limits the ~~liability~~ responsibility of a ~~broker~~ firm
23 under s. 452.12 (3) for misrepresentations made by an ~~employee who is a broker~~ a
24 licensee associated with the firm. Nothing in this subsection limits the liability of

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1 a client for a misrepresentation that the client makes in connection with brokerage
2 services.

3 **(3)** LIABILITY FOR NEGLIGENT HIRING. ~~An employing broker that hires an~~
4 ~~individual who is licensed or registered under this chapter and who~~ If a licensee
5 associated with a firm commits a crime under the laws of this state or another
6 wrongful act, the firm may not be held civilly liable for hiring that individual licensee
7 in a claim brought for negligent hiring if, regardless of whether the ~~employing broker~~
8 firm conducted its own investigation, the ~~employing broker~~ firm relied on the
9 investigations conducted by the department under s. 440.03 (13) or on any
10 determination made by the board, including a determination under s. 452.07 (2) or
11 452.25.

12 **SECTION 124.** 452.14 (1) of the statutes is amended to read:

13 452.14 (1) The board shall, upon motion of the secretary or his or her designee
14 or upon its own determination, conduct investigations and, as appropriate, may hold
15 hearings and make findings, if the board or the department receives credible
16 information that a broker, or salesperson, ~~or time-share salesperson~~ has violated
17 this chapter or any rule promulgated under this chapter.

18 **SECTION 125.** 452.14 (2) of the statutes is amended to read:

19 452.14 (2) The board may commence disciplinary proceedings on any matter
20 under investigation concerning a licensee ~~or registrant~~.

21 **SECTION 126.** 452.14 (3) (intro.) of the statutes is repealed and recreated to
22 read:

23 452.14 (3) (intro.) The board may revoke, suspend, or limit the license or
24 registration of any licensee, or reprimand the licensee, if it finds that the licensee has
25 done any of the following:

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1 **SECTION 127.** 452.14 (3) (intro.) of the statutes, as affected by 2015 Wisconsin
2 Act (this act), is amended to read:

3 452.14 (3) (intro.) The board may revoke, suspend, or limit the license or
4 registration of any licensee, or reprimand the licensee, if it finds that the licensee has
5 done any of the following:

6 **SECTION 128.** 452.14 (3) (a) of the statutes is amended to read:

7 452.14 (3) (a) Made a material misstatement in the application for a license or
8 registration, or in any information furnished to the board or department;

9 **SECTION 129.** 452.14 (3) (b) of the statutes is amended to read:

10 452.14 (3) (b) Made any substantial misrepresentation with reference to a
11 transaction injurious to a seller or purchaser party in which the broker, salesperson
12 or time share salesperson licensee acts as agent;

13 **SECTION 130.** 452.14 (3) (c) of the statutes is amended to read:

14 452.14 (3) (c) Made any false promises of a character such as to influence,
15 persuade, or induce the seller or purchaser a party to his or her injury or damage;

16 **SECTION 131.** 452.14 (3) (d) of the statutes is amended to read:

17 452.14 (3) (d) Pursued a continued and flagrant course of misrepresentation
18 or made false promises through agents or salespersons other licensees or through
19 advertising;

20 **SECTION 132.** 452.14 (3) (f) of the statutes is amended to read:

21 452.14 (3) (f) Accepted from any person except the broker's, salesperson's, or
22 time-share salesperson's employer firm with which the licensee is associated, if the
23 broker, salesperson, or time-share salesperson is employed as a salesperson or
24 time-share salesperson by a broker licensee is associated with a firm, a commission
25 or valuable consideration as a salesperson or time-share salesperson for the

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1 performance of any act specified in this chapter or as compensation for referring a
2 person to another ~~broker, salesperson, or time-share salesperson~~ licensee or to any
3 other person in connection with a transaction;.

4 **SECTION 133.** 452.14 (3) (g) of the statutes is amended to read:

5 452.14 (3) (g) Represented or attempted to represent a ~~broker other than the~~
6 ~~employer, firm~~ without the express knowledge and consent of the ~~employer; firm.~~

7 **SECTION 134.** 452.14 (3) (h) of the statutes is amended to read:

8 452.14 (3) (h) Failed, within a reasonable time, to account for or remit any
9 moneys coming into the ~~broker's, salesperson's or time-share salesperson's~~ licensee's
10 possession which belong to another person;.

11 **SECTION 135.** 452.14 (3) (i) of the statutes is amended to read:

12 452.14 (3) (i) Demonstrated incompetency to act as a broker; ~~or salesperson or~~
13 ~~time-share salesperson, whichever is applicable,~~ in a manner which safeguards the
14 interests of the public;.

15 **SECTION 136.** 452.14 (3) (j) of the statutes is amended to read:

16 452.14 (3) (j) Paid or offered to pay a commission or valuable consideration to
17 any person for acts or services in violation of this chapter;.

18 **SECTION 137.** 452.14 (3) (jm) of the statutes is amended to read:

19 452.14 (3) (jm) Intentionally encouraged or discouraged any person from
20 purchasing or renting real estate in a particular area on the basis of race. If the board
21 finds that any ~~broker, salesperson or time-share salesperson~~ licensee has violated
22 this paragraph, the board shall, in addition to any temporary penalty imposed under
23 this subsection, apply the penalty provided in s. 452.17 (4);.

24 **SECTION 138.** 452.14 (3) (k) of the statutes is amended to read:

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1 452.14 (3) (k) Been guilty of any other conduct, whether of the same or a
2 different character from that specified herein, which that constitutes improper,
3 fraudulent, or dishonest dealing;

4 **SECTION 139.** 452.14 (3) (L) of the statutes is amended to read:

5 452.14 (3) (L) Violated any provision of this chapter or any rule promulgated
6 under this chapter;

7 **SECTION 140.** 452.14 (3) (m) of the statutes is amended to read:

8 452.14 (3) (m) Failed to use forms approved under s. 452.05 (1) (b); ~~or,~~

9 **SECTION 141.** 452.14 (3) (p) of the statutes is amended to read:

10 452.14 (3) (p) Been convicted of a felony that is a bar to licensure ~~or registration~~
11 under s. 452.25 (1) (a).

12 **SECTION 142.** 452.14 (4) of the statutes is amended to read:

13 452.14 (4) If a ~~broker~~ firm is a business entity it shall be sufficient cause for
14 reprimand or for the limitation, suspension, or revocation of ~~a broker's~~ the firm's
15 license that any business representative of the ~~business entity~~ firm, or anyone who
16 has a financial interest in or is in any way connected with the operation of ~~a~~ the
17 firm's brokerage business, has been guilty of any act or omission which that would
18 be cause for refusing a broker's license to such person as an individual.

19 **SECTION 143.** 452.14 (4m) (intro.) of the statutes is amended to read:

20 452.14 (4m) (intro.) In addition to or in lieu of a reprimand or a revocation,
21 limitation, or suspension of a license ~~or certificate of registration~~ under sub. (3), the
22 board may do any of the following:

23 **SECTION 144.** 452.14 (4m) (a) of the statutes is amended to read:

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1 452.14 (4m) (a) ~~Assess against a person who is licensed or registered under this~~
2 ~~chapter~~ licensee a forfeiture of not more than \$1,000 for each violation enumerated
3 under sub. (3).

4 **SECTION 145.** 452.14 (4m) (b) of the statutes is amended to read:

5 452.14 (4m) (b) Require a licensee to successfully complete education or
6 training, in addition to any education or training required for licensure ~~or~~
7 ~~registration~~ or for renewal of a license ~~or certificate~~ under this chapter, as a condition
8 of continued licensure ~~or registration~~ or reinstatement of a license ~~or certificate~~.

9 **SECTION 146.** 452.14 (4r) of the statutes is amended to read:

10 452.14 (4r) The board may assess against ~~an individual who is licensed or~~
11 ~~registered under this chapter~~ a licensee who is an individual a forfeiture of \$1,000
12 for a violation under s. 452.25 (2) (a).

13 **SECTION 147.** 452.142 of the statutes is created to read:

14 **452.142 Actions concerning licensees. (1)** Notwithstanding s. 100.18 (11)
15 (b) 3., 893.43, 893.52, or 893.57, an action concerning any act or omission of a licensee
16 relating to the provision of brokerage services by the licensee shall be commenced
17 within 2 years after whichever of the following that applies occurs first:

18 (a) A transaction is completed or closed.

19 (b) An agency agreement is terminated.

20 (c) An unconsummated transaction is terminated or expires.

21 **(2)** The period of limitation under this section may not be reduced by
22 agreement.

23 **SECTION 148.** 452.15 (1) and (2) of the statutes are amended to read:

24 452.15 (1) Except as otherwise provided in sub. (2), no license ~~or certificate of~~
25 ~~registration~~ may be issued under this chapter to any person whose license ~~or~~

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1 certificate under this chapter has been revoked until the expiration of a period
2 determined in each case by the board or, in the case of revocation under s. 452.17 (4)
3 (a) 2., a period determined in each case by the board of not less than 5 years from the
4 date the revocation became finally effective.

5 (2) Issuance of a license ~~or certificate of registration~~ to an individual whose
6 license ~~or certificate~~ is revoked under s. 452.14 (3) (p) is subject to the provisions in
7 s. 452.25 (1).

8 **SECTION 149.** 452.17 (2) of the statutes is repealed.

9 **SECTION 150.** 452.17 (4) (a) of the statutes is amended to read:

10 452.17 (4) (a) (intro.) If the board finds that any ~~broker, salesperson or~~
11 ~~time-share salesperson~~ licensee has violated s. 452.14 (3) (jm), the board:

12 1. Shall, for the first offense, suspend the license or registration of the ~~broker,~~
13 ~~salesperson or time-share salesperson~~ licensee for not less than 90 days.

14 2. Shall, for the 2nd offense, revoke the license or registration of the ~~broker,~~
15 ~~salesperson or time-share salesperson~~ licensee.

16 **SECTION 151.** 452.17 (4) (a) 1. and 2. of the statutes, as affected by 2015
17 Wisconsin Act (this act), are amended to read:

18 452.17 (4) (a) 1. Shall, for the first offense, suspend the license ~~or registration~~
19 of the licensee for not less than 90 days.

20 2. Shall, for the 2nd offense, revoke the license ~~or registration~~ of the licensee.

21 **SECTION 152.** 452.19 (title) of the statutes is repealed and recreated to read:

22 **452.19 (title) Fees and commissions.**

23 **SECTION 153.** 452.19 of the statutes is renumbered 452.19 (1) and amended to
24 read:

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1 452.19 (1) No ~~licensed broker~~ licensee may pay a fee or a commission or any
2 part thereof for performing any act specified in this chapter or as compensation for
3 a referral or as a finder's fee to any person who is not licensed or registered under
4 this chapter or who is not regularly and lawfully engaged in the real estate brokerage
5 business in another state, a territory or possession of the United States, or a foreign
6 country.

7 **SECTION 154.** 452.19 (1) of the statutes, as affected by 2015 Wisconsin Act ...
8 (this act), is amended to read:

9 452.19 (1) No licensee may pay a fee or a commission or any part thereof for
10 performing any act specified in this chapter or as compensation for a referral or as
11 a finder's fee to any person who is not licensed ~~or registered~~ under this chapter or who
12 is not regularly and lawfully engaged in the real estate brokerage business in
13 another state, a territory or possession of the United States, or a foreign country.

14 **SECTION 155.** 452.19 (2) of the statutes is created to read:

15 452.19 (2) If a licensee is associated with a firm, all fees or commission and any
16 part thereof for performing any act specified in this chapter and all compensation for
17 a referral or as a finder's fee shall be paid to the firm.

18 **SECTION 156.** 452.20 of the statutes is amended to read:

19 **452.20 Limitation on actions for commissions.** No person engaged in the
20 business or acting in the capacity of a broker, or salesperson ~~or time-share~~
21 ~~salesperson~~ within this state may bring or maintain an action in the courts of this
22 state for the collection of a commission or compensation for the performance of any
23 act mentioned in this chapter without alleging and proving that he or she was a duly
24 licensed broker, or salesperson ~~or registered time-share salesperson~~ at the time the
25 alleged cause of action arose.

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1 **SECTION 157.** 452.21 of the statutes is amended to read:

2 **452.21 Compensation presumed.** In any prosecution for violation of this
3 chapter, proof that a person acted as a broker, ~~agent, or~~ salesperson ~~or time-share~~
4 ~~salesperson~~ is prima facie proof that compensation therefor was received or
5 promised.

6 **SECTION 158.** 452.22 (2) of the statutes is amended to read:

7 **452.22 (2)** The certificate of the chairperson of the board or his or her designee
8 to the effect that a specified individual or business entity is not or was not on a
9 specified date the holder of a broker's, ~~or~~ salesperson's, ~~or time-share~~ salesperson's
10 license ~~or registration~~, or that a specified license ~~or registration~~ was not in effect on
11 a date specified, or as to the issuance, limitation, suspension, or revocation of any
12 license ~~or registration~~ or the reprimand of any ~~license or registration holder~~ licensee,
13 the filing or withdrawal of any application or its existence or nonexistence, is prima
14 facie evidence of the facts stated in the certificate for all purposes in any action or
15 proceedings.

16 **SECTION 159.** 452.23 (1) of the statutes is amended to read:

17 **452.23 (1)** ~~A broker or salesperson~~ No licensee may not disclose to any person
18 in connection with the sale, exchange, purchase, or rental of real property
19 information, the disclosure of which constitutes unlawful discrimination in housing
20 under s. 106.50 or unlawful discrimination based on handicap under 42 USC 3604,
21 3605, 3606, or 3617.

22 **SECTION 160.** 452.23 (2) (intro.) of the statutes is amended to read:

23 **452.23 (2)** (intro.) A ~~broker or salesperson~~ licensee is not required to disclose
24 any of the following to any person in connection with the sale, exchange, purchase,
25 or rental of real property:

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1 **SECTION 161.** 452.23 (2) (b) of the statutes is amended to read:

2 452.23 (2) (b) Except as provided in sub. (3), information relating to the
3 physical condition of the property or any other information relating to the real estate
4 transaction, if a written report that discloses the information has been prepared by
5 a qualified 3rd party and provided to the person. In this paragraph, “qualified 3rd
6 party” means a federal, state, or local governmental agency, or any person whom the
7 ~~broker, salesperson~~ licensee or a party to the real estate transaction reasonably
8 believes has the expertise necessary to meet the industry standards of practice for
9 the type of inspection or investigation that has been conducted by the 3rd party in
10 order to prepare the written report.

11 **SECTION 162.** 452.23 (3) of the statutes is amended to read:

12 452.23 (3) A ~~broker or salesperson~~ licensee shall disclose to the parties to a real
13 estate transaction any facts known by the ~~broker or salesperson~~ licensee that
14 contradict any information included in a written report described under sub. (2) (b).

15 **SECTION 163.** 452.23 (4) of the statutes is amended to read:

16 452.23 (4) In performing an investigation or inspection and in making a
17 disclosure in connection with a real estate transaction, a ~~broker or salesperson~~
18 licensee shall exercise the degree of care expected to be exercised by a reasonably
19 prudent person who has the knowledge, skills, and training required for licensure
20 as a ~~broker or salesperson~~ under this chapter.

21 **SECTION 164.** 452.24 (2) of the statutes is amended to read:

22 452.24 (2) Notwithstanding sub. (1), the ~~broker or salesperson~~ licensee is
23 immune from liability for any act or omission related to the disclosure of information
24 under sub. (1) if the ~~broker or salesperson~~ licensee in a timely manner provides to
25 the person requesting the information written notice that the person may obtain

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1 information about the sex offender registry and persons registered with the registry
2 by contacting the department of corrections. The notice shall include the appropriate
3 telephone number and Internet site of the department of corrections.

4 **SECTION 165.** 452.25 (1) (a) of the statutes is amended to read:

5 452.25 (1) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, and except
6 as provided in pars. (b) to (e), no applicant who is an individual may be issued a
7 broker's or salesperson's license ~~or a time-share salesperson's certificate of~~
8 ~~registration~~ if the applicant has been convicted of a felony.

9 **SECTION 166.** 452.25 (1) (b) of the statutes is amended to read:

10 452.25 (1) (b) If an applicant has been convicted of a felony described under par.
11 (a); the applicant has completed the confinement portion of his or her sentence, if the
12 applicant is serving a bifurcated sentence, or has been released from prison to parole
13 or released upon the completion of his or her sentence; and 3 years have elapsed since
14 the date on which the confinement portion was completed or the applicant was
15 released, the applicant may apply to the board for a determination as to whether the
16 applicant is suitable to be granted a license ~~or certificate~~.

17 **SECTION 167.** 452.25 (1) (c) 2. of the statutes is amended to read:

18 452.25 (1) (c) 2. Reviewing any supplemental information provided by the
19 applicant bearing upon his or her suitability for licensure as a broker or salesperson
20 ~~or for registration as a time-share salesperson~~.

21 **SECTION 168.** 452.25 (1) (d) of the statutes is amended to read:

22 452.25 (1) (d) With respect to a determination under par. (c), the applicant
23 bears the burden of demonstrating his or her suitability for licensure ~~or registration~~.

24 **SECTION 169.** 452.25 (1) (e) of the statutes is amended to read:

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1 452.25 (1) (e) If the board makes a determination under par. (c) to allow an
2 applicant to be granted a broker's or salesperson's license ~~or a time-share~~
3 ~~salesperson's certificate of registration~~, the applicant shall be granted the license ~~or~~
4 ~~certificate~~ if the applicant satisfies all other requirements for granting the license
5 ~~or certificate of registration~~.

6 **SECTION 170.** 452.25 (2) (b) of the statutes is amended to read:

7 452.25 (2) (b) No applicant may be issued an initial broker's or salesperson's
8 license ~~or time-share salesperson's certificate of registration~~, and no applicant may
9 renew such a license ~~or certificate~~, if the applicant has violated par. (a) and failed to
10 pay any forfeiture assessed by the board under s. 452.14 (4r) for that violation.

11 **SECTION 171.** 452.30 of the statutes is created to read:

12 **452.30 Association with firm; independent practice. (1)** No licensee may
13 provide brokerage services on behalf of a firm unless all of the following apply:

14 (a) The licensee is associated with the firm.

15 (b) The licensee has notified the department that the licensee is associated with
16 the firm.

17 **(2)** A licensee may notify the department that the licensee is associated with
18 a firm under sub (1) (b) by doing one of the following:

19 (a) Providing the notice at the time the licensee first applies for licensure as a
20 broker or salesperson. No separate fee for notifying the department may be required
21 for such a notification under this paragraph.

22 (b) Notifying the department through the use of a form prescribed by the
23 department and paying the transfer fee specified in s. 440.05 (7).

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1 **(3)** A licensee who is associated with a firm may notify the department that the
2 licensee has become associated with another firm using the method specified in sub.
3 (2) (b).

4 **(4)** (a) A licensee that ceases to be associated with a firm shall, through the use
5 of a form prescribed by the department, send written notice to the department within
6 10 days after the date on which the licensee ceases to be associated with the firm.

7 (b) A firm that terminates a licensee from being associated with the firm shall,
8 through the use of a form prescribed by the department, send written notice of that
9 termination to the department within 10 days after the termination.

10 **(6)** (a) A broker who is associated with a firm may also engage in independent
11 real estate practice in his or her own name or under the name of a licensed broker
12 business entity, if the broker obtains written approval from and avoids conflicts of
13 interest with each firm with which the broker is associated. The written approval
14 shall specify all of the following:

15 1. Whether the broker engaging in independent practice may engage other
16 licensees to work under the broker.

17 2. That the broker engaging in independent practice is responsible for the
18 supervision of any licensees associated with the broker.

19 (b) Before engaging in independent practice as provided in par. (a), a broker
20 shall notify the department of that fact and of the name under which the broker will
21 engage in independent practice. The broker shall notify the department using any
22 form or other method prescribed by the department for that purpose.

23 (c) A broker that is engaging in independent practice shall not be considered
24 to be associated with a firm that approved the broker engaging in independent
25 practice under par. (a) with respect to the broker's independent practice activities.

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1 **(7)** (a) A salesperson may be associated with only one firm at a given time.

2 (b) A salesperson or time-share salesperson may not engage in independent
3 real estate practice and may engage in real estate practice only when associated with
4 a firm.

5 **SECTION 172.** 452.30 (7) (b) of the statutes, as created by 2015 Wisconsin Act
6 (this act), is amended to read:

7 452.30 **(7)** (b) A salesperson ~~or time-share salesperson~~ may not engage in
8 independent real estate practice and may engage in real estate practice only when
9 associated with a firm.

10 **SECTION 173.** 452.34 of the statutes is created to read:

11 **452.34 Unlicensed personal assistants. (1)** In this subsection, “unlicensed
12 personal assistant” means an individual, including an individual who is licensed
13 under this chapter, who is employed only to provide services for which a license is not
14 required under this chapter as provided in s. 452.03 (2).

15 **(2)** A licensee associated with a firm, prior to retaining an individual to serve
16 as an unlicensed personal assistant, shall enter into a written agreement with the
17 licensee’s firm, setting forth the duties of the unlicensed personal assistant, the
18 manner in which the unlicensed personal assistant will be compensated for his or her
19 services, and the responsibilities of the licensee and the firm with respect to
20 supervision of the unlicensed personal assistant’s activities.

21 **(3)** (a) In this subsection, “open house” means a showing of real estate open to
22 the public for viewing without an individual appointment.

23 (b) An unlicensed personal assistant may not assist a licensee at an open house
24 for the sale of real estate or a business without the direct, on-premises supervision

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1 and presence of a licensee, and may not provide any services at an open house for
2 which a license is required under this chapter.

3 **SECTION 174.** 452.38 of the statutes is created to read:

4 **452.38 Independent contractor relationship. (1)** Notwithstanding the
5 applicable definitions or meanings of employee under chs. 102, 103, 104, 108, and
6 109, under subch. X of ch. 71 and subch. II of ch. 111, under any rule, and under any
7 other law, and in any action or proceeding under the common law, a licensee shall not,
8 under ch. 102, 103, 104, 108, or 109, under subch. X of ch. 71 or subch. II of ch. 111,
9 under any rule, or under any other law, or in any action or proceeding under the
10 common law, be considered an employee of a firm if all of the following are satisfied:

11 (a) A written agreement has been entered into with the firm that provides that
12 the licensee shall not be treated as an employee for federal and state tax purposes.

13 (b) Seventy-five percent or more of the compensation related to sales or other
14 output, as measured on a calendar year basis, paid to the licensee pursuant to the
15 written agreement referenced under par. (a) is directly related to the brokerage
16 services performed by the licensee on behalf of the firm.

17 (2) (a) Subsection (1) applies notwithstanding the requirements and
18 responsibilities of a firm under s. 452.132 and any rules promulgated by the board.

19 (b) Subsection (1) applies regardless of the licensee's status as a supervising
20 broker under s. 452.132 and any actions taken by the licensee as a supervising broker
21 under s. 452.132.

22 (3) In the case of an individual who is engaged as both an independent
23 contractor and an employee for the same firm, sub. (1) applies only with respect to
24 activities covered under the written agreement referenced under sub. (1) (a).

25 **SECTION 175.** 452.40 of the statutes is created to read:

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1 **452.40 Use of forms; provision of legal advice. (1)** (a) In this subsection,
2 “use a form” means to complete a form by filling in blanks or modifying printed
3 provisions on the form at the instruction of one or more parties with whom a licensee
4 is working or representing in a specific transaction.

5 (b) A firm and any licensee associated with the firm may use a form approved
6 by the board under s. 452.05 (1) (b) in real estate practice.

7 **(2)** A licensee may not provide advice or opinions concerning the legal rights
8 or obligations of parties to a transaction, the legal effect of a specific contract or
9 conveyance, or the state of title to real estate. A licensee may provide a general
10 explanation of the provisions in a form approved by the board under s. 452.05 (1) (b)
11 to the parties to a transaction at the time of completing the form or when delivering
12 an approved form for the seller’s or buyer’s acceptance. Reviews conducted by a
13 supervising broker under s. 452.132 (4) shall not be considered to be the provision
14 of legal advice or opinion.

15 **SECTION 176.** 452.42 of the statutes is created to read:

16 **452.42 Records retention. (1)** In this section, “electronic” has the meaning
17 given in s. 137.11 (5).

18 **(2)** A licensee shall retain documents or records related to a transaction, as
19 determined by the board, in accordance with any rules promulgated by the board.
20 Records described in this section may be retained in an electronic file format.

21 **SECTION 177.** 707.55 (5) of the statutes is amended to read:

22 **707.55 (5) SALESPERSONS.** Misrepresenting the identity, function, or authority
23 of a salesperson, ~~including a time-share salesperson,~~ as defined in s. 452.01 (9), or
24 team of salespersons.

25 **SECTION 178.** 707.55 (7) of the statutes is amended to read:

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1 707.55 (7) LENGTH OF SALES PRESENTATION. Misrepresenting the reasonably
2 estimated length of any sales presentation by a salesperson, ~~including a time-share~~
3 ~~salesperson, as defined in s. 452.01 (9),~~ or team of salespersons.

SECTION 179. Nonstatutory provisions.

4 (1) EMERGENCY RULE AUTHORITY. Using the procedure under section 227.24 of
5 the statutes, the real estate examining board may promulgate rules under chapter
6 452 of the statutes that are necessary to implement the changes in this act for the
7 period before the effective date of any corresponding permanent rules, but not to
8 exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to
9 extension under section 227.24 (2) of the statutes. Notwithstanding section 227.24
10 (1) (a), (2) (b), and (3) of the statutes, the board is not required to provide evidence
11 that promulgating a rule under this subsection as an emergency rule is necessary for
12 the preservation of the public peace, health, safety, or welfare and is not required to
13 provide a finding of emergency for a rule promulgated under this subsection.

14 (2) ELIMINATION OF TIME-SHARE SALESPERSON REGISTRATIONS. Notwithstanding
15 sections 440.08 and 452.025 (5) of the statutes, the department of safety and
16 professional services and the real estate examining board shall not renew any
17 time-share salesperson's certificate of registration issued under section 452.025 of
18 the statutes. The department of safety and professional services shall, instead of
19 giving a notice of renewal to each holder of a time-share salesperson's certificate of
20 registration under section 440.08 (1) of the statutes, give notice of the elimination of
21 such registration by this act.

SECTION 180. Initial applicability.

22 (1) ACTIONS AGAINST LICENSEES. The treatment of section 452.142 of the statutes
23 first applies to an action that accrues on the effective date of this subsection.
24
25

