



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2130/1
KP:kjf&wlj

2017 SENATE BILL 520

November 8, 2017 - Introduced by Senator HANSEN, cosponsored by Representatives BERCEAU and SARGENT. Referred to Committee on Public Benefits, Licensing and State-Federal Relations.

1 **AN ACT to renumber and amend** 452.30 (7) (b); **to amend** 15.405 (11m), 15.407
2 (5), 452.03 (1), 452.05 (1) (a), 452.05 (1) (c), 452.05 (1) (d), 452.05 (1) (g), 452.05
3 (1) (i) (intro.), 452.05 (3), 452.07 (2), 452.09 (1) (intro.), 452.09 (1) (e), 452.11 (1),
4 452.12 (1), 452.12 (5) (c), 452.12 (5) (d), 452.14 (1), 452.14 (3) (i), 452.20, 452.22
5 (2), 452.25 (1) (a), 452.25 (1) (c) 2., 452.25 (1) (e) and 452.25 (2) (b); and **to create**
6 440.03 (13) (b) 60m., 440.08 (2) (a) 63wm., 452.01 (5x), 452.01 (5y), 452.035,
7 452.09 (2) (e), 452.09 (3) (e) and 452.30 (7) (b) 2. of the statutes; **relating to:**
8 licensure of professional leasing and renting agents and granting rule-making
9 authority.

Analysis by the Legislative Reference Bureau

This bill establishes a licensure program for professional leasing and renting agents administered by the Real Estate Examining Board. The bill defines “professional leasing and renting” as, for compensation 1) renting or leasing real estate to a tenant; 2) making representations about the condition of real estate available for lease or rent; 3) showing real estate that is offered exclusively for lease or rent; 4) directing potential tenants about how to complete and sign lease agreements or rental agreements for real estate; and 5) screening applicants for real estate available for lease or rent.

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Under the bill, and subject to certain exceptions, a person may engage in professional leasing and renting in Wisconsin only if the person is licensed by the examining board as a professional leasing and renting agent. The examining board may grant a license to engage in professional leasing and renting to an applicant who, among other things, is at least 18 years old, completes an educational program approved by the examining board, passes an examination approved by the examining board, and does not have a prior conviction for certain felonies or an offense related to the practice of real estate. The bill requires a licensed professional leasing and renting agent to complete continuing education requirements, as determined by the board, every two years in order to renew the license.

The bill adds a person who is licensed as a professional leasing and renting agent to the examining board. Under the bill, the examining board investigates, holds hearings, and makes findings pertaining to violations of the bill, therefore, certain violations by professional leasing and renting agents are punishable by a civil forfeiture of up to \$1,000 and other violations of the professional leasing and renting provisions are punishable by a criminal fine of up to \$1,000 or up to six months of jail or both. The penalties under the bill are the same that apply under current law to real estate brokers and salespersons. The bill also adds a person who is licensed as a professional leasing and renting agent and who has at least two years of work experience with that license to the Council on Real Estate Curriculum and Examinations. Under current law, the examining board is required to consult with the council before the examining board promulgates rules that establish criteria for educational programs required for licensure in real estate professions and for continuing education programs required for licensure in a real estate profession, and the council also has certain other duties.

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:

1 **SECTION 1.** 15.405 (11m) of the statutes is amended to read:
2 15.405 (**11m**) REAL ESTATE EXAMINING BOARD. There is created a real estate
3 examining board in the department of safety and professional services. The real
4 estate examining board shall consist of ~~7~~ 8 members appointed to staggered 4-year
5 terms. Five of the members shall be real estate brokers or salespersons licensed in
6 this state. One of the members shall be a professional leasing and renting agent

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1 licensed in this state. Two members shall be public members. No member may serve
2 more than 2 terms.

3 **SECTION 2.** 15.407 (5) of the statutes is amended to read:

4 15.407 (5) COUNCIL ON REAL ESTATE CURRICULUM AND EXAMINATIONS. There is
5 created in the department of safety and professional services a council on real estate
6 curriculum and examinations consisting of ~~7~~ 8 members appointed for 4-year terms.
7 ~~Five~~ Six members shall be real estate brokers ~~or~~, salespersons, or professional
8 leasing and renting agents licensed under ch. 452 and 2 members shall be public
9 members. Of the real estate broker or salesperson members, one member shall be
10 a member of the real estate examining board appointed by the real estate examining
11 board, at least 2 members shall be licensed real estate brokers with at least 5 years
12 of experience as real estate brokers, and at least one member shall be a licensed real
13 estate salesperson with at least 2 years of experience as a real estate salesperson,
14 and at least one member shall be a licensed professional leasing and renting agent
15 with at least 2 years of experience as a professional leasing and renting agent. Of
16 the 2 public members, at least one member shall have at least 2 years of experience
17 in planning or presenting real estate educational programs. No member of the
18 council may serve more than 2 consecutive terms.

19 **SECTION 3.** 440.03 (13) (b) 60m. of the statutes is created to read:

20 440.03 (13) (b) 60m. Professional leasing and renting agent.

21 **SECTION 4.** 440.08 (2) (a) 63wm. of the statutes is created to read:

22 440.08 (2) (a) 63wm. Professional leasing and renting agent: December 15 of
23 each even-numbered year.

24 **SECTION 5.** 452.01 (5x) of the statutes is created to read:

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1 452.01 (5x) “Professional leasing and renting” means, for compensation, any
2 of the following:

3 (a) Renting or leasing real estate to a tenant.

4 (b) Making representations about the condition of real estate available for lease
5 or rent.

6 (c) Showing real estate that is offered exclusively for lease or rent.

7 (d) Directing potential tenants about how to complete and sign lease
8 agreements or rental agreements for real estate.

9 (e) Screening applicants for real estate available for lease or rent.

10 **SECTION 6.** 452.01 (5y) of the statutes is created to read:

11 452.01 (5y) “Professional leasing and renting agent” means a person who
12 engages in professional leasing and renting, including an individual who owns real
13 estate and engages in professional leasing and renting related to that real estate.

14 **SECTION 7.** 452.03 (1) of the statutes is amended to read:

15 452.03 (1) Except as provided in s. 452.137, no person may engage in or follow
16 the business or occupation of, or advertise or hold himself or herself out as, or act
17 temporarily or otherwise as a broker or salesperson without a broker’s or
18 salesperson’s license issued under this chapter. The board may grant a license only
19 to a person who is competent to transact that business or occupation in a manner that
20 safeguards the interests of the public, and only after satisfactory proof of the person’s
21 competence has been presented to the board.

22 **SECTION 8.** 452.035 of the statutes is created to read:

23 **452.035 Professional leasing and renting agent licensed.** (1) Except as
24 provided in sub. (2), no individual may act or advertise or hold himself or herself out

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1 as a professional leasing and renting agent without a license issued under this
2 section.

3 (2) No license under this section is required for any of the following:

4 (a) A person who holds a broker's or salesperson's license issued under this
5 chapter.

6 (b) A person lawfully practicing within the scope of a license, permit,
7 registration, or certification granted by this state or the federal government.

8 (c) A person who engages in professional leasing and renting involving any of
9 the following real estate:

10 1. The person's primary residence.

11 2. A primary residence of the person's immediate family member.

12 (d) A custodian, janitor, or other employee, or the owner or manager, of a
13 residential building for exhibiting a residential unit therein to prospective tenants.

14 **SECTION 9.** 452.05 (1) (a) of the statutes is amended to read:

15 452.05 (1) (a) Grant and issue licenses to individuals and business entities to
16 act as brokers ~~and~~, to individuals to act as salespersons, and to individuals to act as
17 professional leasing and renting agents.

18 **SECTION 10.** 452.05 (1) (c) of the statutes is amended to read:

19 452.05 (1) (c) After consultation with the council on real estate curriculum and
20 examinations, promulgate rules establishing criteria for the approval of educational
21 programs and training sessions under s. 452.09 (2) and approve such programs and
22 sessions in accordance with the established criteria. The rules shall require that
23 educational programs approved for a license in professional leasing and renting shall
24 include instruction on obligations under s. 106.50 and federal fair housing laws,
25 leasing or renting to tenants who use service animals, verifying legal forms of

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1 identification, and other duties and responsibilities related to professional leasing
2 and renting.

3 **SECTION 11.** 452.05 (1) (d) of the statutes is amended to read:

4 452.05 (1) (d) After consultation with the council on real estate curriculum and
5 examinations, brokers and, salespersons, and professional leasing and renting
6 agents licensed under this chapter, and interested members of the public, establish
7 criteria for the approval of continuing educational programs and courses in real
8 estate related subjects required for renewal under s. 452.12 (5) (c).

9 **SECTION 12.** 452.05 (1) (g) of the statutes is amended to read:

10 452.05 (1) (g) Approve continuing educational programs and courses in
11 accordance with the criteria established under par. (d). In order to be approved, a
12 continuing educational program or course must require brokers and, salespersons,
13 and professional leasing and renting agents to pass an examination on the
14 information presented at the program or course in order to successfully complete and
15 receive continuing education credit for the program or course under s. 452.12 (5) (c).

16 **SECTION 13.** 452.05 (1) (i) (intro.) of the statutes is amended to read:

17 452.05 (1) (i) (intro.) Create a form on which an individual applying to renew
18 a broker's or, salesperson's, or professional leasing and renting agent's license may
19 do all of the following:

20 **SECTION 14.** 452.05 (3) of the statutes is amended to read:

21 452.05 (3) The board may enter into reciprocal agreements with officials of
22 other states or territories of the United States for licensing brokers and,
23 salespersons, and professional leasing and renting agents, and grant licenses to
24 applicants who are licensed as brokers or, salespersons, or professional leasing and

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1 renting agents in those states or territories according to the terms of the reciprocal
2 agreements.

3 **SECTION 15.** 452.07 (2) of the statutes is amended to read:

4 452.07 (2) The board may promulgate rules establishing a procedure that
5 allows an individual who does not possess a broker's ~~or~~, salesperson's, or professional
6 leasing and renting agent's license to, without submitting a full application and
7 without paying the fees applicable to applicants, apply to the board for a
8 determination of whether the individual would be disqualified from obtaining a
9 license due to his or her criminal record. A determination made under this
10 subsection, with respect to criminal convictions reviewed by the board as part of the
11 determination, is binding upon the board and the department if the individual
12 subsequently applies for a license, unless there is information relevant to the
13 determination that was not available to the board at the time of the determination.
14 The board may require a fee to be paid to the department for a determination issued
15 under this subsection of an amount necessary to cover the cost of making the
16 determination.

17 **SECTION 16.** 452.09 (1) (intro.) of the statutes is amended to read:

18 452.09 (1) FORM OF APPLICATION. (intro.) Any person desiring to act as a broker
19 ~~or~~, salesperson, or professional leasing and renting agent shall submit to the board
20 an application for a license. The application shall be in such form as the board
21 prescribes and shall include the following:

22 **SECTION 17.** 452.09 (1) (e) of the statutes is amended to read:

23 452.09 (1) (e) Any other information that the board may reasonably require to
24 enable it to determine the competency of each applicant, including each business
25 representative of the business entity, to transact the business of a broker ~~or~~,

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1 salesperson, or professional leasing and renting agent in a manner that safeguards
2 the interests of the public.

3 **SECTION 18.** 452.09 (2) (e) of the statutes is created to read:

4 452.09 (2) (e) Except as provided in a reciprocal agreement under s. 452.05 (3),
5 each applicant for a professional leasing and renting agent's license shall submit to
6 the board evidence satisfactory to the board of all of the following:

7 1. Successful completion of an educational program in professional leasing and
8 renting approved by the board under s. 452.05 (1) (c).

9 2. Proof that the applicant was at least 18 years of age at the time of enrollment
10 in the educational program described in subd. 1.

11 **SECTION 19.** 452.09 (3) (e) of the statutes is created to read:

12 452.09 (3) (e) In determining competency to engage in professional leasing and
13 renting, the board shall require proof that an applicant for a professional leasing and
14 renting agent's license has a fair knowledge of obligations under s. 106.50 and federal
15 fair housing laws, leasing or renting to tenants who use service animals, verifying
16 legal forms of identification, and other duties and responsibilities related to
17 professional leasing and renting. The board shall require an applicant to pass an
18 examination on these subjects approved by the board. The board shall deny a license
19 to an applicant receiving a failing grade, as established by the rules of the board, on
20 any examination given under this paragraph, but any applicant may review his or
21 her examination results in a manner established by rules of the board.

22 **SECTION 20.** 452.11 (1) of the statutes is amended to read:

23 452.11 (1) A nonresident may become a broker ~~or~~, salesperson, or professional
24 leasing and renting agent by conforming to all the provisions of this chapter.

25 **SECTION 21.** 452.12 (1) of the statutes is amended to read:

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1 452.12 (1) EXPIRATION. A license granted by the board entitles the holder to act
2 as a broker ~~or~~, salesperson, or professional leasing and renting agent, as the case may
3 be, until the applicable renewal date specified under s. 440.08 (2) (a).

4 **SECTION 22.** 452.12 (5) (c) of the statutes is amended to read:

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

9 **SECTION 23.** 452.12 (5) (d) of the statutes is amended to read:

10 452.12 (5) (d) At the time of renewal, each broker ~~or~~, salesperson, or
11 professional leasing and renting agent who is an individual shall complete the form
12 under s. 452.05 (1) (i).

13 **SECTION 24.** 452.14 (1) of the statutes is amended to read:

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

19 **SECTION 25.** 452.14 (3) (i) of the statutes is amended to read:

20 452.14 (3) (i) Demonstrated incompetency to act as a broker ~~or~~, salesperson, or
21 professional leasing and renting agent, whichever is applicable, in a manner which
22 safeguards the interests of the public.

23 **SECTION 26.** 452.20 of the statutes is amended to read:

24 **452.20 Limitation on actions for commissions.** No person engaged in the
25 business or acting in the capacity of a broker ~~or~~, salesperson, or professional leasing

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1 and renting agent within this state may bring or maintain an action in the courts of
2 this state for the collection of a commission or compensation for the performance of
3 any act mentioned in this chapter without alleging and proving that he or she was
4 a duly licensed broker ~~or~~, salesperson, or professional leasing and renting agent at
5 the time the alleged cause of action arose.

6 **SECTION 27.** 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 professional leasing agent's
10 license, or that a specified license was not in effect on a date specified, or as to the
11 issuance, limitation, suspension, or revocation of any license or the reprimand of any
12 licensee, the filing or withdrawal of any application or its existence or nonexistence,
13 is prima facie evidence of the facts stated in the certificate for all purposes in any
14 action or proceedings.

15 **SECTION 28.** 452.25 (1) (a) of the statutes is amended to read:

16 452.25 (1) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, and except
17 as provided in pars. (b) to (e), no applicant who is an individual may be issued a
18 broker's ~~or~~, salesperson's, or professional leasing and renting agent's license if the
19 applicant has been convicted of a felony.

20 **SECTION 29.** 452.25 (1) (c) 2. of the statutes is amended to read:

21 452.25 (1) (c) 2. Reviewing any supplemental information provided by the
22 applicant bearing upon his or her suitability for licensure as a broker ~~or~~, salesperson,
23 or professional leasing and renting agent.

24 **SECTION 30.** 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, or professional leasing and
3 renting agent's license, the applicant shall be granted the license if the applicant
4 satisfies all other requirements for granting the license.

5 **SECTION 31.** 452.25 (2) (b) of the statutes is amended to read:

6 452.25 (2) (b) No applicant may be issued an initial broker's ~~or~~, salesperson's,
7 or professional leasing and renting agent's license, and no applicant may renew such
8 a license, if the applicant has violated par. (a) and failed to pay any forfeiture
9 assessed by the board under s. 452.14 (4r) for that violation.

10 **SECTION 32.** 452.30 (7) (b) of the statutes is renumbered 452.30 (7) (b) 1. and
11 amended to read:

12 452.30 (7) (b) 1. ~~A~~ Except as provided in subd. 2., a salesperson may not engage
13 in independent real estate practice and may engage in real estate practice only when
14 associated with a firm.

15 **SECTION 33.** 452.30 (7) (b) 2. of the statutes is created to read:

16 452.30 (7) (b) 2. A salesperson who holds a professional leasing and renting
17 agent license may engage in professional leasing and renting independent of a real
18 estate firm.

19 **SECTION 34. Nonstatutory provisions.**

20 (1) Notwithstanding section 15.405 (11m) of the statutes, the initial member
21 appointed to fill the seat on the the real estate examining board that is held by a
22 professional leasing and renting agent under s. 15.405 (11m) of the statutes need not
23 be licensed under chapter 452 of the statutes.

24 (2) Notwithstanding section 15.407 (5) of the statutes, the initial member
25 appointed to fill the seat on the council on real estate curriculum and examinations

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1 that is held by a professional leasing and renting agent under s. 15.407 (5) of the
2 statutes need not be licensed under chapter 452 of the statutes and need not have
3 2 years of experience with a license under chapter 452 of the statutes.

4 **SECTION 35. Effective dates.** This act takes effect on the first day of the 13th
5 month beginning after publication, except as follows:

6 (1) The treatment of sections 15.405 (11m) and 15.407 (5) of the statutes takes
7 effect on the day after publication.

8 (END)