NOW

State of Wisconsin
2011 - 2012 LEGISLATURE

LRB-1272/P4 e P5 RMNR
MPG:kjf:rs
stays

DOA:.....Dombrowski, BB0298 - Delete current real estate board and create real estate examining board

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

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1 AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

OCCUPATIONAL REGULATION

Under current law, DRL directly administers the regulation of real estate practice in Wisconsin. DRL's duties and powers include issuing licenses to real estate brokers and sales persons; issuing registrations to time-share salespersons; approving forms for use in real estate practice, including an offer to purchase; promulgating rules regulating real estate practice; developing and grading real estate examinations; approving continuing education courses; preparing written materials and conducting clinics to disseminate information to licensees; entering into reciprocity agreements with other states; and, if DRL receives credible evidence that a real estate broker or salesperson or a time-share salesperson has violated real estate law, conducting investigations, holding hearings, and making findings regarding that violation.

There is a real estate board (board) under current law. The board conducts disciplinary proceedings, and the board has the power to apply appropriate discipline. The board also reviews and comments on administrative rules relating to real estate practice that DRL proposes; may participate in public hearings regarding proposed rules; may review proposed legislation regarding real estate practice; and advises the secretary of DRL regarding real estate practice.

This bill eliminates the board, and creates the Real Estate Examining Board. Under the bill, the Real Estate Examining Board consists of five licensed real estate

brokers or salespersons and two public members, each of whom is appointed to a four-year term. The bill transfers most of DRL's duties and powers regulating real estate practice to the Real Estate Examining Board, including rules promulgation and approval of the forms used in real estate practice.

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

1 **SECTION 1.** 15.07 (1) (b) 8. of the statutes is repealed.

2 **SECTION 2.** 15.07 (1) (cm) of the statutes is amended to read:

3 15.07 **(1)** (cm) The term of one member of the government accountability board
4 shall expire on each May 1. ~~The terms of 3 members of the economic policy board~~
5 ~~appointed under s. 15.155 (2) (a) 4. shall expire on May 1 of every even-numbered~~
6 ~~year and the terms of the other 3 members appointed under s. 15.155 (2) (a) 4. shall~~
7 ~~expire on May 1 of every odd-numbered year.~~ The terms of the 3 members of the land
8 and water conservation board appointed under s. 15.135 (4) (b) 2. shall expire on
9 January 1. The term of the member of the land and water conservation board
10 appointed under s. 15.135 (4) (b) 2m. shall expire on May 1 of an even-numbered
11 year. ~~The terms of members of the real estate board shall expire on July 1.~~ The terms
12 of the appraiser members of the real estate appraisers board and the terms of the
13 auctioneer and auction company representative members of the auctioneer board
14 shall expire on May 1 in an even-numbered year. The terms of the members of the
15 cemetery board shall expire on July 1 in an even-numbered year. The term of the
16 student member of the Board of Regents of the University of Wisconsin System who
17 is at least 24 years old shall expire on May 1 of every even-numbered year.

****NOTE: This is reconciled s. 15.07 (1) (cm). This SECTION has been affected by drafts with the following LRB numbers: -1272/P3 and -1465/P3.

18 **SECTION 3.** 15.07 (1) (cs) of the statutes is amended to read:

15.07 **(1)** (cs) No member of the auctioneer board, cemetery board, or real estate appraisers board~~, or real estate board~~ may be an officer, director, or employee of a private organization that promotes or furthers any profession or occupation regulated by that board.

SECTION 4. 15.07 (3) (b) of the statutes is amended to read:

15.07 **(3)** (b) Except as provided in par. (bm), each board not covered under par. (a) shall meet annually, and may meet at other times on the call of the chairperson or a majority of its members. The auctioneer board, the cemetery board, ~~the real estate board,~~ and the real estate appraisers board shall also meet on the call of the secretary of ~~regulation and licensing~~ safety and professional services or his or her designee within the department.

****NOTE: This is reconciled s. 15.07 (3) (b). This SECTION has been affected by drafts with the following LRB numbers: -1272/P3 and -1465/P3.

SECTION 5. 15.07 (5) (r) of the statutes is repealed.

SECTION 6. 15.405 (11) of the statutes is repealed.

SECTION 7. 15.405 (11m) of the statutes is created to read:

15.405 **(11m)** REAL ESTATE EXAMINING BOARD. There is created a real estate examining board in the department of safety and professional services. The real estate examining board shall consist of 7 members appointed to staggered 4-year terms. Five of the members shall be real estate brokers or salespersons licensed in this state. Two members shall be public members. No member may serve more than 2 terms.

****NOTE: This is reconciled s. 15.405 (11m). This SECTION has been affected by drafts with the following LRB numbers: -1272/P3 and -1465/P3.

SECTION 8. 15.407 (5) of the statutes is amended to read:

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1 15.407 **(5)** COUNCIL ON REAL ESTATE CURRICULUM AND EXAMINATIONS. There is
2 created in the department or ~~regulation and licensing~~ safety and professional
3 services a council on real estate curriculum and examinations consisting of 7
4 members appointed for 4-year terms. Five members shall be real estate brokers or
5 salespersons licensed under ch. 452 and 2 members shall be public members. Of the
6 real estate broker or salesperson members, one member shall be a member of the real
7 estate examining board appointed by the real estate examining board, at least 2
8 members shall be licensed real estate brokers with at least 5 years of experience as
9 real estate brokers, and at least one member shall be a licensed real estate
10 salesperson with at least 2 years of experience as a real estate salesperson. Of the
11 2 public members, at least one member shall have at least 2 years of experience in
12 planning or presenting real estate educational programs. No member of the council
13 may serve more than 2 consecutive terms.

****NOTE: This is reconciled s. 15.407 (5). This SECTION has been affected by drafts with the following LRB numbers: -1272/P3 and -1465/P3.

14 **SECTION 9.** 440.03 (1) of the statutes is amended to read:

15 440.03 **(1)** The department may promulgate rules defining uniform procedures
16 to be used by the department, the real estate examining board, the real estate
17 appraisers board, and all examining boards and affiliated credentialing boards
18 attached to the department or an examining board, for receiving, filing and
19 investigating complaints, for commencing disciplinary proceedings and for
20 conducting hearings.

21 **SECTION 10.** 440.03 (11m) (b) of the statutes is amended to read:

22 440.03 **(11m)** (b) The ~~department~~ real estate examining board shall deny an
23 application for an initial credential or deny an application for credential renewal or

for reinstatement of an inactive license under s. 452.12 (6) (e) if any information required under par. (a) is not included in the application form or, in the case of an applicant who is an individual and who does not have a social security number, if the statement required under par. (am) is not included with the application form.

SECTION 11. 440.13 (2) (a) of the statutes is amended to read:

440.13 **(2)** (a) With respect to a credential granted by the department, the department shall restrict, limit, or suspend a credential or deny an application for an initial credential ~~or for reinstatement of an inactive license under s. 452.12 (6) (e)~~ if the credential holder or applicant is delinquent in paying support or fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to support or paternity proceedings.

SECTION 12. 440.13 (2) (c) of the statutes is amended to read:

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

SECTION 13. 452.01 (1s) of the statutes is amended to read:

452.01 **(1s)** "Board" means real estate <u>examining</u> board.

SECTION 14. 452.025 (1) (a) of the statutes is amended to read:

452.025 **(1)** (a) A person desiring to act as a time-share salesperson shall submit to the ~~department~~ <u>board</u> an application for a certificate of registration.

SECTION 15. 452.025 (1) (b) (intro.) of the statutes is amended to read:

452.025 **(1)** (b) The application for registration as a time-share salesperson shall be in the form prescribed by the ~~department~~ board and shall include all of the following:

SECTION 16. 452.025 (1) (b) 4. of the statutes is amended to read:

452.025 **(1)** (b) 4. Any other information ~~which~~ that the ~~department~~ board reasonably requires to enable it to determine the competency of the person to transact business as a time-share salesperson in a manner ~~which~~ that safeguards the interests of the public.

SECTION 17. 452.025 (3) (b) 2. (intro.) of the statutes is amended to read:

452.025 **(3)** (b) 2. A time-share salesperson registered under this section may complete a form purchase agreement or offer to purchase, if the form purchase agreement or offer to purchase has been approved by the ~~department~~ board and includes only the following:

SECTION 18. 452.025 (4) of the statutes is amended to read:

452.025 **(4)** A time-share salesperson registered under this section may apply at any time to transfer employment to another licensed broker by submitting to the ~~department~~ board an application in the form prescribed by the ~~department~~ board and the transfer fee specified in s. 440.05 (7).

SECTION 19. 452.025 (5) (a) of the statutes is amended to read:

452.025 **(5)** (a) The renewal date for certificates of registration granted by the ~~department~~ board under this section is specified under s. 440.08 (2) (a).

SECTION 20. 452.03 of the statutes is amended to read:

452.03 Brokers and salespersons licensed. 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. ~~Licenses~~

~~shall be granted~~ The board may grant a license only to ~~persons~~ a person who ~~are~~ is competent to transact such businesses in a manner ~~which~~ that safeguards the interests of the public, and only after satisfactory proof of the person's competence has been presented to the ~~department~~ board.

SECTION 21. 452.04 of the statutes is repealed.

SECTION 22. 452.05 (title) and (1) (intro.) of the statutes are amended to read:

452.05 (title) **Duties and powers of ~~department~~ board.** **(1)** (intro.) In addition to the other duties and responsibilities of the ~~department~~ board under this chapter, the ~~department~~ board shall advise the secretary on matters relating to real estate practice and shall:

SECTION 23. 452.05 (1) (b) of the statutes is amended to read:

452.05 **(1)** (b) Approve forms for use in real estate practice. The board may conduct public hearings on matters relating to the approval of forms used in real estate practice.

SECTION 24. 452.05 (1) (c) of the statutes is amended to read:

452.05 **(1)** (c) After consultation with the council on real estate curriculum and examinations ~~and subject to the procedure under s. 452.07~~, promulgate rules establishing criteria for the approval of educational programs and training sessions under s. 452.09 (2) and approve such programs and sessions in accordance with the established criteria.

SECTION 25. 452.05 (1) (d) of the statutes is amended to read:

452.05 **(1)** (d) After consultation with the council on real estate curriculum and examinations, ~~the board,~~ brokers and salespersons licensed under this chapter, and interested members of the public, establish criteria for the approval of continuing

educational programs and courses in real estate related subjects required for renewal under s. 452.12 (5) (c) 1.

SECTION 26. 452.05 (1m) (b) of the statutes is amended to read:

452.05 **(1m)** (b) In preparing the form for the offer to purchase commercial real property under sub. (1) (b), the ~~department~~ board shall include a statement that the seller represents to the buyer that the seller has no notice or knowledge that the commercial real property is a historic building.

SECTION 27. 452.05 (2) of the statutes is amended to read:

452.05 **(2)** The ~~department~~ board may prepare letters and bulletins and conduct clinics disseminating information to its licensees.

SECTION 28. 452.05 (3) of the statutes is amended to read:

452.05 **(3)** The ~~department~~ board may~~, after consultation with the board,~~ enter into reciprocal agreements with officials of other states or territories of the United States for licensing brokers and salespersons and grant licenses to applicants who are licensed as brokers or salespersons in those states or territories according to the terms of the reciprocal agreements.

SECTION 29. 452.06 (2) (intro.) and (b) of the statutes are consolidated, renumbered 452.06 (2) and amended to read:

452.06 **(2)** The council on real estate curriculum and examinations shall ~~do all of the following: (b) Periodically, but~~ not less than annually~~,~~ review subjects covered on examinations for licensure under this chapter and the qualifications for instructors of and performance evaluations for educational and continuing educational programs, training sessions, and courses approved under this chapter.

SECTION 30. 452.06 (2) (a) of the statutes is repealed.

SECTION 31. 452.07 (title) of the statutes is amended to read:

452.07 (title) **Rules~~; review of rules~~.**

SECTION 32. 452.07 (1) of the statutes is amended to read:

452.07 **(1)** The ~~department~~ board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice.

SECTION 33. 452.07 (1m) of the statutes is amended to read:

452.07 **(1m)** The ~~department~~ board shall promulgate rules that specify the supervisory duties of brokers under s. 452.12 (3).

SECTION 34. 452.07 (2) to (7) of the statutes are repealed.

SECTION 35. 452.09 (1) (intro.) of the statutes is amended to read:

452.09 **(1)** FORM OF APPLICATION. (intro.) Any person desiring to act as a broker or salesperson shall submit to the ~~department~~ board an application for a license. The application shall be in such form as the ~~department~~ board prescribes and shall include the following:

SECTION 36. 452.09 (1) (e) of the statutes is amended to read:

452.09 **(1)** (e) Any other information ~~which~~ that the ~~department~~ board may reasonably require to enable it to determine the competency of each applicant, including each business representative of the business entity, to transact the business of a broker or salesperson in a manner ~~which~~ that safeguards the interests of the public.

SECTION 37. 452.09 (2) (a) of the statutes is amended to read:

452.09 **(2)** (a) Except as provided in a reciprocal agreement under s. 452.05 (3), each applicant for a salesperson's license shall submit to the ~~department~~ board evidence satisfactory to the ~~department~~ board of successful completion of educational programs approved for this purpose under s. 452.05 (1) (c). The ~~department~~ board may waive the requirement under this paragraph upon proof that

the applicant has received 10 academic credits in real estate or real estate related law courses from an accredited institution of higher education.

SECTION 38. 452.09 (2) (c) 2. of the statutes is amended to read:

452.09 **(2)** (c) 2. Submit to the ~~department~~ board evidence satisfactory to the ~~department~~ board of successful completion of educational programs in business management approved for this purpose under s. 452.05 (1) (c). No educational programs applied to satisfy the requirement under subd. 1. may be applied to satisfy the requirement under this subdivision.

SECTION 39. 452.09 (2) (d) of the statutes is amended to read:

452.09 **(2)** (d) The ~~department~~ board may waive the requirements under par. (c) upon proof that the applicant has received 20 academic credits in real estate or real estate related law courses from an accredited institution of higher education or that the applicant is licensed to practice law in this state.

SECTION 40. 452.09 (3) (a) of the statutes is amended to read:

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

SECTION 41. 452.09 (3) (b) of the statutes is amended to read:

452.09 **(3)** (b) The ~~department~~ board shall determine competency under par. (a) by means of only an oral examination for any applicant who is unable to write because of a physical handicap.

SECTION 42. 452.09 (3) (d) of the statutes is amended to read:

452.09 **(3)** (d) Except as provided in a reciprocal agreement under s. 452.05 (3), the ~~department~~ board may not grant a broker's license to an applicant who does not hold a salesperson's license unless the applicant passes the salesperson's examination and the broker's examination.

SECTION 43. 452.09 (5) of the statutes is amended to read:

452.09 **(5)** APPRENTICESHIPS. Any person who is a resident of this state and 18 years of age or over may, upon application filed in accordance with sub. (1), be indentured to a licensed resident broker in accordance with rules promulgated by the ~~department~~ board. These rules shall be promulgated so as to protect the public and may limit the real estate sales and brokerage activity of the apprentice. The ~~department~~ board may require an apprentice to take a preliminary examination covering general knowledge and may prescribe the character and extent of his or her work during apprenticeship. The ~~department~~ board may issue a temporary salesperson's permit to the individual for a period not to exceed one year upon payment of the fee under s. 440.05 (6). The temporary permit is not renewable.

SECTION 44. 452.10 (2) (b) of the statutes is amended to read:

452.10 **(2)** (b) Unless an application is withdrawn in writing before the ~~department~~ board has made any investigation, no part of the fee shall be returned.

SECTION 45. 452.10 (4) (a) of the statutes is amended to read:

452.10 **(4)** (a) Any licensed salesperson or broker may transfer to the employment of a licensed broker by first paying the transfer fee specified in s. 440.05 (7) and filing a transfer form with the ~~department~~ board.

SECTION 46. 452.10 (6) of the statutes is amended to read:

452.10 **(6)** In the case of applications for renewals of licenses the ~~department~~ board may dispense with such matters contained in s. 452.09 (1) as it deems unnecessary in view of prior applications.

SECTION 47. 452.11 (3) of the statutes is amended to read:

452.11 **(3)** Every nonresident applicant, and every resident licensee who becomes a nonresident, shall file with the ~~department~~ board an irrevocable consent that actions may be commenced against the applicant or licensee in the proper court of any county of the state in which a cause of action arises or in which the plaintiff resides, by the service of any process or pleading authorized by the laws of this state on the ~~department~~ board or any duly authorized employee. The consent shall stipulate and agree that such service is valid and binding as due service upon the applicant or licensee in all courts in this state. The consent shall be duly acknowledged and, if made by a corporation, shall be authenticated by the corporate seal.

SECTION 48. 452.11 (4) of the statutes is amended to read:

452.11 **(4)** Any process or pleading under this section shall be served in duplicate upon the ~~department~~ board or its duly authorized employee. One copy shall be filed with the ~~department~~ board and the other immediately forwarded by certified mail to the nonresident licensee against whom the process or pleading is directed at the last address provided to the ~~department~~ board by the nonresident licensee. No default in any such proceeding or action may be taken unless it appears

by affidavit of the ~~secretary~~ chairperson of the board or any duly authorized employee that a copy of the process or pleading was mailed to the nonresident licensee as required in this subsection. No judgment by default may be taken in any action or proceeding within 20 days after the date of mailing the process or pleading to the nonresident licensee.

SECTION 49. 452.12 (1) of the statutes is amended to read:

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

SECTION 50. 452.12 (2) (c) of the statutes is amended to read:

452.12 **(2)** (c) Application for a business entity license shall be made on forms prescribed by the ~~department~~ board, listing the names and addresses of all business representatives, and shall be accompanied by the initial credential fee determined by the department under s. 440.03 (9) (a). If there is a change in any of the business representatives, the change shall be reported to the ~~department~~ board, on the same form, within 30 days after the effective date of the change.

SECTION 51. 452.12 (4) of the statutes is amended to read:

452.12 **(4)** REGISTER OF BROKERS AND SALESPERSONS. ~~The department shall maintain the register required by s. 440.035 (4).~~ The board shall include in the register the board maintains under s. 440.035 (4) the names of all brokers and salespersons whose licenses ~~have been~~ were revoked ~~at any time~~ within the past 2 years ~~prior to the issuance thereof shall be included in the register~~. The register shall be available for purchase at cost.

SECTION 52. 452.12 (5) (b) of the statutes is amended to read:

452.12 **(5)** (b) If an application for renewal is not filed with the ~~department~~ board on or before the renewal date, the applicant may not engage in any of the activities covered by the license until the license is renewed or a new license is issued.

SECTION 53. 452.12 (5) (c) 2. of the statutes is amended to read:

452.12 **(5)** (c) 2. Not later than June 30 of each even-numbered year, the ~~department~~ board shall conduct an examination on those subjects required for continuing education under s. 452.05 (1) (d). Any broker or salesperson who passes the examination under this subdivision is not required to comply with subd. 1.

SECTION 54. 452.12 (6) (b) of the statutes is amended to read:

452.12 **(6)** (b) Unless an applicant's license has been revoked or suspended under s. 452.14 (3), the ~~department~~ board may register the applicant under par. (a) as an inactive licensee upon payment of a $15 fee.

SECTION 55. 452.12 (6) (d) of the statutes is amended to read:

452.12 **(6)** (d) If an inactive licensee files an application for reinstatement before January 1, 1996, the ~~department~~ board shall reinstate the inactive licensee's original license in accordance with the requirements for late renewal under s. 440.08 (3).

SECTION 56. 452.12 (6) (e) (intro.) of the statutes is amended to read:

452.12 **(6)** (e) (intro.) Except as provided in ss. 440.03 (11m) (b), 440.12 and 440.13 (2) ~~(a)~~ (c), the ~~department~~ board shall reinstate an inactive licensee's original license as follows:

SECTION 57. 452.12 (6) (e) 1. of the statutes is amended to read:

452.12 **(6)** (e) 1. If a person has registered as an inactive licensee before November 1, 1990, the ~~department~~ board shall reinstate the person's original license if that person applies to the ~~department~~ board for reinstatement of his or her original

license, pays the fee specified under s. 440.05 (1), passes an examination under s. 452.09 (3), and completes the education requirements established by the ~~department~~ board under par. (f).

SECTION 58. 452.12 (6) (e) 2. of the statutes is amended to read:

452.12 **(6)** (e) 2. If a person has registered as an inactive licensee on or after November 1, 1990, the ~~department~~ board shall reinstate the person's original license if that person applies to the ~~department~~ board for reinstatement of his or her original license, pays the renewal fee determined by the department under s. 440.03 (9) (a) for the original license and completes 12 hours of continuing education as established by the ~~department~~ board under par. (f). A person who is eligible for reinstatement of his or her original license under this subdivision shall complete the requirements for reinstatement under this subdivision before January 1, 1996, or within 5 years after the date on which the person registered as an inactive licensee, whichever is later.

SECTION 59. 452.12 (6) (e) 3. of the statutes is amended to read:

452.12 **(6)** (e) 3. If a person who is eligible for reinstatement of his or her original license under subd. 2. does not complete the requirements for reinstatement within the time specified under subd. 2., the ~~department~~ board shall reinstate the original license of that person if he or she meets the requirements specified under subd. 1.

SECTION 60. 452.12 (6) (f) of the statutes is amended to read:

452.12 **(6)** (f) The ~~department~~ board shall promulgate rules establishing the education requirements that applicants for reinstatement of original licenses under par. (e) must satisfy.

SECTION 61. 452.14 (1) of the statutes is amended to read:

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

SECTION 62. 452.14 (2) of the statutes is amended to read:

452.14 **(2)** ~~The department shall present the findings of any investigation of a licensee or registrant to the board for its consideration.~~ The ~~department shall upon motion of the board, and~~ board may~~, upon its own determination,~~ commence disciplinary proceedings on any matter under investigation concerning a licensee or registrant. ~~No investigation of a licensee or registrant may be closed without motion of the board.~~

SECTION 63. 452.14 (3) (L) of the statutes is amended to read:

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

SECTION 64. 452.17 (2) of the statutes is amended to read:

452.17 **(2)** Any person who engages in or follows the business or occupation of, or advertises or holds himself or herself out as or acts temporarily or otherwise as, a time-share salesperson in this state without being registered with the ~~department~~ board shall be prosecuted by the district attorney in the county where the violation occurs and may be fined not less than $25 nor more than $200 or imprisoned not less than 10 days nor more than 6 months or both.

SECTION 65. 452.22 (2) of the statutes is amended to read:

452.22 **(2)** The certificate of the ~~secretary~~ chairperson of the board or his or her designee to the effect that a specified individual or business entity is not or was not

on a specified date the holder of a broker's, salesperson's, or time-share salesperson's license or registration, or that a specified license or registration was not in effect on a date specified, or as to the issuance, limitation, suspension, or revocation of any license or registration or the reprimand of any license or registration holder ~~thereof~~, the filing or withdrawal of any application or its existence or nonexistence, is prima facie evidence of the facts ~~therein~~ stated in the certificate for all purposes in any action or proceedings.

SECTION 9140. Nonstatutory provisions; Regulation and Licensing.

(1) RULES AND ORDERS. All rules promulgated by the department of regulation and licensing that relate to the licensure of real estate brokers and salespersons or the registration of time-share salespersons that are in effect on the effective date of this subsection remain in effect until their specified expiration dates or until amended or repealed by the real estate examining board. All orders issued by the department of regulation and licensing relating to such licensure or registration that are in effect on the effective date of this subsection remain in effect until their specified expiration dates or until modified or rescinded by the real estate examining board.

(2) PENDING MATTERS. Any matter pending with the department of regulation and licensing on the effective date of this subsection that is primarily related to the licensure of real estate brokers and salespersons or the registration of time-share salespersons, as determined by the secretary of regulation and licensing, is transferred to the real estate examining board, and all materials submitted to or actions taken by the department of regulation and licensing with respect to the pending matters are considered as having been submitted to or taken by the real estate examining board.

1 (3) CONTRACTS. All contracts entered into by the department of regulation and
2 licensing in effect on the effective date of this subsection that are primarily related
3 to licensure of real estate brokers and salespersons or the registration of time-share
4 salespersons, as determined by the secretary of regulation and licensing, remain in
5 effect and are transferred to the real estate examining board. The real estate
6 examining board shall carry out any obligations under such a contract until the
7 contract is modified or rescinded by the real estate examining board to the extent
8 allowed under the contract.

9 (4) INITIAL APPOINTMENTS. Notwithstanding the lengths of terms specified in
10 section 15.405 (11m) of the statutes, as created by this act, the initial members of the
11 real estate examining board shall be appointed for the following terms:

12 (a) One real estate broker or salesperson licensed under chapter 452 of the
13 statutes and one public member, for terms expiring on July 1, 2012.

14 (b) One licensed real estate broker or salesperson licensed under chapter 452
15 of the statutes and one public member, for terms expiring on July 1, 2013.

16 (c) Three licensed real estate brokers or salespersons licensed under chapter
17 452 of the statutes, for terms expiring on July 1, 2014.

18 (END)

d-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1272/P4dn
MPG:kwt:rs

February 18, 2011

Cindy Dombrowski:

This draft reconciles LRB-1272/P3 and LRB-1465/P3. Both LRB-1272 and LRB-1465 should continue to appear in the compiled bill.

Michael P. Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1272/P5dn
MPG:cjs:jf

March 1, 2011

Cindy Dombrowski:

This draft reconciles LRB-1272/P3 and LRB-1465/P3. Both LRB-1272 and LRB-1465 should continue to appear in the compiled bill.

Michael P. Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

State of Wisconsin
2011 - 2012 LEGISLATURE

LRB-1272/P5
MPG:kjf:rs

DOA:.....Dombrowski, BB0298 - Delete current real estate board and create real estate examining board

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

OCCUPATIONAL REGULATION

Under current law, DRL directly administers the regulation of real estate practice in Wisconsin. DRL's duties and powers include issuing licenses to real estate brokers and sales persons; issuing registrations to time-share salespersons; approving forms for use in real estate practice, including an offer to purchase; promulgating rules regulating real estate practice; developing and grading real estate examinations; approving continuing education courses; preparing written materials and conducting clinics to disseminate information to licensees; entering into reciprocity agreements with other states; and, if DRL receives credible evidence that a real estate broker or salesperson or a time-share salesperson has violated real estate law, conducting investigations, holding hearings, and making findings regarding that violation.

There is a real estate board (board) under current law. The board conducts disciplinary proceedings, and the board has the power to apply appropriate discipline. The board also reviews and comments on administrative rules relating to real estate practice that DRL proposes; may participate in public hearings regarding proposed rules; may review proposed legislation regarding real estate practice; and advises the secretary of DRL regarding real estate practice.

This bill eliminates the board, and creates the Real Estate Examining Board. Under the bill, the Real Estate Examining Board consists of five licensed real estate

brokers or salespersons and two public members, each of whom is appointed to a four-year term. The bill transfers most of DRL's duties and powers regulating real estate practice to the Real Estate Examining Board, including rules promulgation and approval of the forms used in real estate practice.

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

1 **SECTION 1.** 15.07 (1) (b) 8. of the statutes is repealed.

2 **SECTION 2.** 15.07 (1) (cm) of the statutes is amended to read:

3 15.07 **(1)** (cm) The term of one member of the government accountability board
4 shall expire on each May 1. ~~The terms of 3 members of the economic policy board~~
5 ~~appointed under s. 15.155 (2) (a) 4. shall expire on May 1 of every even-numbered~~
6 ~~year and the terms of the other 3 members appointed under s. 15.155 (2) (a) 4. shall~~
7 ~~expire on May 1 of every odd-numbered year.~~ The terms of the 3 members of the land
8 and water conservation board appointed under s. 15.135 (4) (b) 2. shall expire on
9 January 1. The term of the member of the land and water conservation board
10 appointed under s. 15.135 (4) (b) 2m. shall expire on May 1 of an even-numbered
11 year. ~~The terms of members of the real estate board shall expire on July 1.~~ The terms
12 of the appraiser members of the real estate appraisers board and the terms of the
13 auctioneer and auction company representative members of the auctioneer board
14 shall expire on May 1 in an even-numbered year. The terms of the members of the
15 cemetery board shall expire on July 1 in an even-numbered year. The term of the
16 student member of the Board of Regents of the University of Wisconsin System who
17 is at least 24 years old shall expire on May 1 of every even-numbered year.

****NOTE: This is reconciled s. 15.07 (1) (cm). This SECTION has been affected by drafts with the following LRB numbers: -1272/P3 and -1465/P3.

18 **SECTION 3.** 15.07 (1) (cs) of the statutes is amended to read:

15.07 **(1)** (cs) No member of the auctioneer board, cemetery board, or real estate appraisers board~~, or real estate board~~ may be an officer, director, or employee of a private organization that promotes or furthers any profession or occupation regulated by that board.

SECTION 4. 15.07 (3) (b) of the statutes is amended to read:

15.07 **(3)** (b) Except as provided in par. (bm), each board not covered under par. (a) shall meet annually, and may meet at other times on the call of the chairperson or a majority of its members. The auctioneer board, the cemetery board, ~~the real estate board,~~ and the real estate appraisers board shall also meet on the call of the secretary of ~~regulation and licensing~~ safety and professional services or his or her designee within the department.

****NOTE: This is reconciled s. 15.07 (3) (b). This SECTION has been affected by drafts with the following LRB numbers: -1272/P3 and -1465/P3.

SECTION 5. 15.07 (5) (r) of the statutes is repealed.

SECTION 6. 15.405 (11) of the statutes is repealed.

SECTION 7. 15.405 (11m) of the statutes is created to read:

15.405 **(11m)** REAL ESTATE EXAMINING BOARD. There is created a real estate examining board in the department of safety and professional services. The real estate examining board shall consist of 7 members appointed to staggered 4-year terms. Five of the members shall be real estate brokers or salespersons licensed in this state. Two members shall be public members. No member may serve more than 2 terms.

****NOTE: This is reconciled s. 15.405 (11m). This SECTION has been affected by drafts with the following LRB numbers: -1272/P3 and -1465/P3.

SECTION 8. 15.407 (5) of the statutes is amended to read:

15.407 **(5)** COUNCIL ON REAL ESTATE CURRICULUM AND EXAMINATIONS. There is created in the department of ~~regulation and licensing~~ safety and professional services a council on real estate curriculum and examinations consisting of 7 members appointed for 4-year terms. Five members shall be real estate brokers or salespersons licensed under ch. 452 and 2 members shall be public members. Of the real estate broker or salesperson members, one member shall be a member of the real estate examining board appointed by the real estate examining board, at least 2 members shall be licensed real estate brokers with at least 5 years of experience as real estate brokers, and at least one member shall be a licensed real estate salesperson with at least 2 years of experience as a real estate salesperson. Of the 2 public members, at least one member shall have at least 2 years of experience in planning or presenting real estate educational programs. No member of the council may serve more than 2 consecutive terms.

****NOTE: This is reconciled s. 15.407 (5). This SECTION has been affected by drafts with the following LRB numbers: -1272/P3 and -1465/P3.

SECTION 9. 440.03 (1) of the statutes is amended to read:

440.03 **(1)** The department may promulgate rules defining uniform procedures to be used by the department, the real estate examining board, the real estate appraisers board, and all examining boards and affiliated credentialing boards attached to the department or an examining board, for receiving, filing and investigating complaints, for commencing disciplinary proceedings and for conducting hearings.

SECTION 10. 440.03 (11m) (b) of the statutes is amended to read:

440.03 **(11m)** (b) The ~~department~~ real estate examining board shall deny an application for an initial credential or deny an application for credential renewal or

for reinstatement of an inactive license under s. 452.12 (6) (e) if any information required under par. (a) is not included in the application form or, in the case of an applicant who is an individual and who does not have a social security number, if the statement required under par. (am) is not included with the application form.

SECTION 11. 440.13 (2) (a) of the statutes is amended to read:

440.13 **(2)** (a) With respect to a credential granted by the department, the department shall restrict, limit, or suspend a credential or deny an application for an initial credential ~~or for reinstatement of an inactive license under s. 452.12 (6) (e)~~ if the credential holder or applicant is delinquent in paying support or fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to support or paternity proceedings.

SECTION 12. 440.13 (2) (c) of the statutes is amended to read:

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

SECTION 13. 452.01 (1s) of the statutes is amended to read:

452.01 **(1s)** "Board" means real estate <u>examining</u> board.

SECTION 14. 452.025 (1) (a) of the statutes is amended to read:

452.025 **(1)** (a) A person desiring to act as a time-share salesperson shall submit to the ~~department~~ <u>board</u> an application for a certificate of registration.

SECTION 15. 452.025 (1) (b) (intro.) of the statutes is amended to read:

452.025 **(1)** (b) The application for registration as a time-share salesperson shall be in the form prescribed by the ~~department~~ board and shall include all of the following:

SECTION 16. 452.025 (1) (b) 4. of the statutes is amended to read:

452.025 **(1)** (b) 4. Any other information ~~which~~ that the ~~department~~ board reasonably requires to enable it to determine the competency of the person to transact business as a time-share salesperson in a manner ~~which~~ that safeguards the interests of the public.

SECTION 17. 452.025 (3) (b) 2. (intro.) of the statutes is amended to read:

452.025 **(3)** (b) 2. A time-share salesperson registered under this section may complete a form purchase agreement or offer to purchase, if the form purchase agreement or offer to purchase has been approved by the ~~department~~ board and includes only the following:

SECTION 18. 452.025 (4) of the statutes is amended to read:

452.025 **(4)** A time-share salesperson registered under this section may apply at any time to transfer employment to another licensed broker by submitting to the ~~department~~ board an application in the form prescribed by the ~~department~~ board and the transfer fee specified in s. 440.05 (7).

SECTION 19. 452.025 (5) (a) of the statutes is amended to read:

452.025 **(5)** (a) The renewal date for certificates of registration granted by the ~~department~~ board under this section is specified under s. 440.08 (2) (a).

SECTION 20. 452.03 of the statutes is amended to read:

452.03 Brokers and salespersons licensed. 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. ~~Licenses~~

~~shall be granted~~ The board may grant a license only to ~~persons~~ a person who ~~are~~ is competent to transact such businesses in a manner ~~which~~ that safeguards the interests of the public, and only after satisfactory proof of the person's competence has been presented to the ~~department~~ board.

SECTION 21. 452.04 of the statutes is repealed.

SECTION 22. 452.05 (title) and (1) (intro.) of the statutes are amended to read:

452.05 (title) **Duties and powers of ~~department~~ board. (1)** (intro.) In addition to the other duties and responsibilities of the ~~department~~ board under this chapter, the ~~department~~ board shall advise the secretary on matters relating to real estate practice and shall:

SECTION 23. 452.05 (1) (b) of the statutes is amended to read:

452.05 **(1)** (b) Approve forms for use in real estate practice. The board may conduct public hearings on matters relating to the approval of forms used in real estate practice.

SECTION 24. 452.05 (1) (c) of the statutes is amended to read:

452.05 **(1)** (c) After consultation with the council on real estate curriculum and examinations ~~and subject to the procedure under s. 452.07~~, promulgate rules establishing criteria for the approval of educational programs and training sessions under s. 452.09 (2) and approve such programs and sessions in accordance with the established criteria.

SECTION 25. 452.05 (1) (d) of the statutes is amended to read:

452.05 **(1)** (d) After consultation with the council on real estate curriculum and examinations, ~~the board,~~ brokers and salespersons licensed under this chapter, and interested members of the public, establish criteria for the approval of continuing

educational programs and courses in real estate related subjects required for renewal under s. 452.12 (5) (c) 1.

SECTION 26. 452.05 (1m) (b) of the statutes is amended to read:

452.05 **(1m)** (b) In preparing the form for the offer to purchase commercial real property under sub. (1) (b), the ~~department~~ board shall include a statement that the seller represents to the buyer that the seller has no notice or knowledge that the commercial real property is a historic building.

SECTION 27. 452.05 (2) of the statutes is amended to read:

452.05 **(2)** The ~~department~~ board may prepare letters and bulletins and conduct clinics disseminating information to its licensees.

SECTION 28. 452.05 (3) of the statutes is amended to read:

452.05 **(3)** The ~~department~~ board may~~, after consultation with the board,~~ enter into reciprocal agreements with officials of other states or territories of the United States for licensing brokers and salespersons and grant licenses to applicants who are licensed as brokers or salespersons in those states or territories according to the terms of the reciprocal agreements.

SECTION 29. 452.06 (2) (intro.) and (b) of the statutes are consolidated, renumbered 452.06 (2) and amended to read:

452.06 **(2)** The council on real estate curriculum and examinations shall ~~do all of the following: (b) Periodically, but~~ not less than annually~~,~~ review subjects covered on examinations for licensure under this chapter and the qualifications for instructors of and performance evaluations for educational and continuing educational programs, training sessions, and courses approved under this chapter.

SECTION 30. 452.06 (2) (a) of the statutes is repealed.

SECTION 31. 452.07 (title) of the statutes is amended to read:

452.07 (title) **Rules~~; review of rules~~.**

SECTION 32. 452.07 (1) of the statutes is amended to read:

452.07 **(1)** The ~~department~~ board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice.

SECTION 33. 452.07 (1m) of the statutes is amended to read:

452.07 **(1m)** The ~~department~~ board shall promulgate rules that specify the supervisory duties of brokers under s. 452.12 (3).

SECTION 34. 452.07 (2) to (7) of the statutes are repealed.

SECTION 35. 452.09 (1) (intro.) of the statutes is amended to read:

452.09 **(1)** FORM OF APPLICATION. (intro.) Any person desiring to act as a broker or salesperson shall submit to the ~~department~~ board an application for a license. The application shall be in such form as the ~~department~~ board prescribes and shall include the following:

SECTION 36. 452.09 (1) (e) of the statutes is amended to read:

452.09 **(1)** (e) Any other information ~~which~~ that the ~~department~~ board may reasonably require to enable it to determine the competency of each applicant, including each business representative of the business entity, to transact the business of a broker or salesperson in a manner ~~which~~ that safeguards the interests of the public.

SECTION 37. 452.09 (2) (a) of the statutes is amended to read:

452.09 **(2)** (a) Except as provided in a reciprocal agreement under s. 452.05 (3), each applicant for a salesperson's license shall submit to the ~~department~~ board evidence satisfactory to the ~~department~~ board of successful completion of educational programs approved for this purpose under s. 452.05 (1) (c). The ~~department~~ board may waive the requirement under this paragraph upon proof that

the applicant has received 10 academic credits in real estate or real estate related law courses from an accredited institution of higher education.

SECTION 38. 452.09 (2) (c) 2. of the statutes is amended to read:

452.09 **(2)** (c) 2. Submit to the ~~department~~ board evidence satisfactory to the ~~department~~ board of successful completion of educational programs in business management approved for this purpose under s. 452.05 (1) (c). No educational programs applied to satisfy the requirement under subd. 1. may be applied to satisfy the requirement under this subdivision.

SECTION 39. 452.09 (2) (d) of the statutes is amended to read:

452.09 **(2)** (d) The ~~department~~ board may waive the requirements under par. (c) upon proof that the applicant has received 20 academic credits in real estate or real estate related law courses from an accredited institution of higher education or that the applicant is licensed to practice law in this state.

SECTION 40. 452.09 (3) (a) of the statutes is amended to read:

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

SECTION 41. 452.09 (3) (b) of the statutes is amended to read:

452.09 **(3)** (b) The ~~department~~ board shall determine competency under par. (a) by means of only an oral examination for any applicant who is unable to write because of a physical handicap.

SECTION 42. 452.09 (3) (d) of the statutes is amended to read:

452.09 **(3)** (d) Except as provided in a reciprocal agreement under s. 452.05 (3), the ~~department~~ board may not grant a broker's license to an applicant who does not hold a salesperson's license unless the applicant passes the salesperson's examination and the broker's examination.

SECTION 43. 452.09 (5) of the statutes is amended to read:

452.09 **(5)** APPRENTICESHIPS. Any person who is a resident of this state and 18 years of age or over may, upon application filed in accordance with sub. (1), be indentured to a licensed resident broker in accordance with rules promulgated by the ~~department~~ board. These rules shall be promulgated so as to protect the public and may limit the real estate sales and brokerage activity of the apprentice. The ~~department~~ board may require an apprentice to take a preliminary examination covering general knowledge and may prescribe the character and extent of his or her work during apprenticeship. The ~~department~~ board may issue a temporary salesperson's permit to the individual for a period not to exceed one year upon payment of the fee under s. 440.05 (6). The temporary permit is not renewable.

SECTION 44. 452.10 (2) (b) of the statutes is amended to read:

452.10 **(2)** (b) Unless an application is withdrawn in writing before the ~~department~~ board has made any investigation, no part of the fee shall be returned.

SECTION 45. 452.10 (4) (a) of the statutes is amended to read:

452.10 **(4)** (a) Any licensed salesperson or broker may transfer to the employment of a licensed broker by first paying the transfer fee specified in s. 440.05 (7) and filing a transfer form with the ~~department~~ board.

SECTION 46. 452.10 (6) of the statutes is amended to read:

452.10 **(6)** In the case of applications for renewals of licenses the ~~department~~ board may dispense with such matters contained in s. 452.09 (1) as it deems unnecessary in view of prior applications.

SECTION 47. 452.11 (3) of the statutes is amended to read:

452.11 **(3)** Every nonresident applicant, and every resident licensee who becomes a nonresident, shall file with the ~~department~~ board an irrevocable consent that actions may be commenced against the applicant or licensee in the proper court of any county of the state in which a cause of action arises or in which the plaintiff resides, by the service of any process or pleading authorized by the laws of this state on the ~~department~~ board or any duly authorized employee. The consent shall stipulate and agree that such service is valid and binding as due service upon the applicant or licensee in all courts in this state. The consent shall be duly acknowledged and, if made by a corporation, shall be authenticated by the corporate seal.

SECTION 48. 452.11 (4) of the statutes is amended to read:

452.11 **(4)** Any process or pleading under this section shall be served in duplicate upon the ~~department~~ board or its duly authorized employee. One copy shall be filed with the ~~department~~ board and the other immediately forwarded by certified mail to the nonresident licensee against whom the process or pleading is directed at the last address provided to the ~~department~~ board by the nonresident licensee. No default in any such proceeding or action may be taken unless it appears

by affidavit of the ~~secretary~~ chairperson of the board or any duly authorized employee that a copy of the process or pleading was mailed to the nonresident licensee as required in this subsection. No judgment by default may be taken in any action or proceeding within 20 days after the date of mailing the process or pleading to the nonresident licensee.

SECTION 49. 452.12 (1) of the statutes is amended to read:

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

SECTION 50. 452.12 (2) (c) of the statutes is amended to read:

452.12 **(2)** (c) Application for a business entity license shall be made on forms prescribed by the ~~department~~ board, listing the names and addresses of all business representatives, and shall be accompanied by the initial credential fee determined by the department under s. 440.03 (9) (a). If there is a change in any of the business representatives, the change shall be reported to the ~~department~~ board, on the same form, within 30 days after the effective date of the change.

SECTION 51. 452.12 (4) of the statutes is amended to read:

452.12 **(4)** REGISTER OF BROKERS AND SALESPERSONS. ~~The department shall maintain the register required by s. 440.035 (4).~~ The board shall include in the register the board maintains under s. 440.035 (4) the names of all brokers and salespersons whose licenses ~~have been~~ were revoked ~~at any time~~ within the past 2 years ~~prior to the issuance thereof shall be included in the register~~. The register shall be available for purchase at cost.

SECTION 52. 452.12 (5) (b) of the statutes is amended to read:

452.12 **(5)** (b) If an application for renewal is not filed with the ~~department~~ board on or before the renewal date, the applicant may not engage in any of the activities covered by the license until the license is renewed or a new license is issued.

SECTION 53. 452.12 (5) (c) 2. of the statutes is amended to read:

452.12 **(5)** (c) 2. Not later than June 30 of each even-numbered year, the ~~department~~ board shall conduct an examination on those subjects required for continuing education under s. 452.05 (1) (d). Any broker or salesperson who passes the examination under this subdivision is not required to comply with subd. 1.

SECTION 54. 452.12 (6) (b) of the statutes is amended to read:

452.12 **(6)** (b) Unless an applicant's license has been revoked or suspended under s. 452.14 (3), the ~~department~~ board may register the applicant under par. (a) as an inactive licensee upon payment of a $15 fee.

SECTION 55. 452.12 (6) (d) of the statutes is amended to read:

452.12 **(6)** (d) If an inactive licensee files an application for reinstatement before January 1, 1996, the ~~department~~ board shall reinstate the inactive licensee's original license in accordance with the requirements for late renewal under s. 440.08 (3).

SECTION 56. 452.12 (6) (e) (intro.) of the statutes is amended to read:

452.12 **(6)** (e) (intro.) Except as provided in ss. 440.03 (11m) (b), 440.12 and 440.13 (2) ~~(a)~~ (c), the ~~department~~ board shall reinstate an inactive licensee's original license as follows:

SECTION 57. 452.12 (6) (e) 1. of the statutes is amended to read:

452.12 **(6)** (e) 1. If a person has registered as an inactive licensee before November 1, 1990, the ~~department~~ board shall reinstate the person's original license if that person applies to the ~~department~~ board for reinstatement of his or her original

license, pays the fee specified under s. 440.05 (1), passes an examination under s. 452.09 (3), and completes the education requirements established by the ~~department~~ board under par. (f).

SECTION 58. 452.12 (6) (e) 2. of the statutes is amended to read:

452.12 **(6)** (e) 2. If a person has registered as an inactive licensee on or after November 1, 1990, the ~~department~~ board shall reinstate the person's original license if that person applies to the ~~department~~ board for reinstatement of his or her original license, pays the renewal fee determined by the department under s. 440.03 (9) (a) for the original license and completes 12 hours of continuing education as established by the ~~department~~ board under par. (f). A person who is eligible for reinstatement of his or her original license under this subdivision shall complete the requirements for reinstatement under this subdivision before January 1, 1996, or within 5 years after the date on which the person registered as an inactive licensee, whichever is later.

SECTION 59. 452.12 (6) (e) 3. of the statutes is amended to read:

452.12 **(6)** (e) 3. If a person who is eligible for reinstatement of his or her original license under subd. 2. does not complete the requirements for reinstatement within the time specified under subd. 2., the ~~department~~ board shall reinstate the original license of that person if he or she meets the requirements specified under subd. 1.

SECTION 60. 452.12 (6) (f) of the statutes is amended to read:

452.12 **(6)** (f) The ~~department~~ board shall promulgate rules establishing the education requirements that applicants for reinstatement of original licenses under par. (e) must satisfy.

SECTION 61. 452.14 (1) of the statutes is amended to read:

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

SECTION 62. 452.14 (2) of the statutes is amended to read:

452.14 **(2)** ~~The department shall present the findings of any investigation of a licensee or registrant to the board for its consideration.~~ The ~~department shall upon motion of the board, and~~ board may~~, upon its own determination,~~ commence disciplinary proceedings on any matter under investigation concerning a licensee or registrant. ~~No investigation of a licensee or registrant may be closed without motion of the board.~~

SECTION 63. 452.14 (3) (L) of the statutes is amended to read:

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

SECTION 64. 452.17 (2) of the statutes is amended to read:

452.17 **(2)** Any person who engages in or follows the business or occupation of, or advertises or holds himself or herself out as or acts temporarily or otherwise as, a time-share salesperson in this state without being registered with the ~~department~~ board shall be prosecuted by the district attorney in the county where the violation occurs and may be fined not less than $25 nor more than $200 or imprisoned not less than 10 days nor more than 6 months or both.

SECTION 65. 452.22 (2) of the statutes is amended to read:

452.22 **(2)** The certificate of the ~~secretary~~ chairperson of the board or his or her designee to the effect that a specified individual or business entity is not or was not

on a specified date the holder of a broker's, salesperson's, or time-share salesperson's license or registration, or that a specified license or registration was not in effect on a date specified, or as to the issuance, limitation, suspension, or revocation of any license or registration or the reprimand of any license or registration holder ~~thereof~~, the filing or withdrawal of any application or its existence or nonexistence, is prima facie evidence of the facts ~~therein~~ stated in the certificate for all purposes in any action or proceedings.

SECTION 9140. Nonstatutory provisions; Regulation and Licensing.

(1) RULES AND ORDERS. All rules promulgated by the department of regulation and licensing that relate to the licensure of real estate brokers and salespersons or the registration of time-share salespersons that are in effect on the effective date of this subsection remain in effect until their specified expiration dates or until amended or repealed by the real estate examining board. All orders issued by the department of regulation and licensing relating to such licensure or registration that are in effect on the effective date of this subsection remain in effect until their specified expiration dates or until modified or rescinded by the real estate examining board.

(2) PENDING MATTERS. Any matter pending with the department of regulation and licensing on the effective date of this subsection that is primarily related to the licensure of real estate brokers and salespersons or the registration of time-share salespersons, as determined by the secretary of regulation and licensing, is transferred to the real estate examining board, and all materials submitted to or actions taken by the department of regulation and licensing with respect to the pending matters are considered as having been submitted to or taken by the real estate examining board.

1 (3) CONTRACTS. All contracts entered into by the department of regulation and
2 licensing in effect on the effective date of this subsection that are primarily related
3 to licensure of real estate brokers and salespersons or the registration of time-share
4 salespersons, as determined by the secretary of regulation and licensing, remain in
5 effect and are transferred to the real estate examining board. The real estate
6 examining board shall carry out any obligations under such a contract until the
7 contract is modified or rescinded by the real estate examining board to the extent
8 allowed under the contract.

9 (4) INITIAL APPOINTMENTS. Notwithstanding the lengths of terms specified in
10 section 15.405 (11m) of the statutes, as created by this act, the initial members of the
11 real estate examining board shall be appointed for the following terms:

12 (a) One real estate broker or salesperson licensed under chapter 452 of the
13 statutes and one public member, for terms expiring on July 1, 2012.

14 (b) One licensed real estate broker or salesperson licensed under chapter 452
15 of the statutes and one public member, for terms expiring on July 1, 2013.

16 (c) Three licensed real estate brokers or salespersons licensed under chapter
17 452 of the statutes, for terms expiring on July 1, 2014.

18 **(END)**