

See notes to sec. 1, art. I, on exercises of police power, citing *State v. Arnold*, 217 W 340, 258 NW 843.

450.12 History: 1963 c. 314; Stats. 1963 s. 151.16; 1969 c. 336 s. 107; Stats. 1969 s. 450.12.

450.13 History: 1963 c. 314; Stats. 1963 s. 151.17; 1969 c. 336 s. 108; Stats. 1969 s. 450.13.

450.18 History: 1969 c. 252 s. 5; 1969 c. 392 ss. 57g, 84g; Stats. 1969 s. 450.18.

CHAPTER 451.

Pharmacy Internship Board.

451.01 History: 1965 c. 351; Stats. 1965 s. 151.015 (2); 1969 c. 336 s. 96; Stats. 1969 s. 451.01.

451.02 History: 1965 c. 351; Stats. 1965 s. 151.015 (3); 1969 c. 336 s. 96; Stats. 1969 s. 451.02.

CHAPTER 452.

Real Estate Examining Board.

Revisor's Note, 1955: The statutes on licensing real estate brokers (136.01 to 136.18) and those on licensing business opportunity brokers (136.19 to 136.36) are almost identical. This bill eliminates the duplication by consolidating the sections on business opportunity brokers with the parallel sections on real estate brokers. Variances between the 2 parts are preserved and there is no change in substance except in a few very minor ways which are explained in the notes. Absence of a note to any section of the bill means that no change in the law is intended. This revision has been approved by the real estate brokers' board. [Bill 51-S]

Editor's Note: Ch. 231, Laws 1929, created secs. 136.01-136.16, Stats. 1929, and repealed the pre-existing sec. 136.01, which was based on ch. 656, Laws 1919, and amendatory statutes. The sections comprising ch. 136, Stats. 1967, were renumbered by ch. 336, Laws 1969.

452.01 History: 1929 c. 231; Stats. 1929 s. 136.01; 1933 c. 184 s. 2; 1947 c. 411 s. 6; 1947 c. 522; 1947 c. 612 s. 1; Stats. 1947 ss. 136.01, 136.19; 1955 c. 7, 359; Stats. 1955 s. 136.01; 1963 c. 14, 366; 1965 c. 123; 1969 c. 56, 212; 1969 c. 336 s. 47; Stats. 1969 s. 452.01.

See note to sec. 1, art. I, on limitations imposed by the Fourteenth Amendment, citing *Goldsmith v. Walker Mfg. Co., Inc.* 295 F Supp. 1037.

136.01 (2) (b), Stats. 1935, makes immaterial the question of ownership; the test is whether or not the person "is engaged wholly or in part in the business of selling real estate." 25 Atty. Gen. 741.

A company which is not excluded and which is formed for the purpose of loaning its own money, to be secured by mortgage, is a real estate broker under 136.01, Stats. 1939. 29 Atty. Gen. 105.

Persons who purchase unimproved lots and sell the same to the public after making improvements thereon come within the definition of "real estate broker" contained in 136.01 (2) (b), Stats. 1943. 33 Atty. Gen. 1.

452.02 History: 1957 c. 159; Stats. 1957 s. 136.011; 1961 c. 593, 675; 1965 c. 123; 1969 c. 336 ss. 48, 175 (6); Stats. 1969 s. 452.02.

A person selling the right to entomb a human body forever in a fixed burial space designated as a garden crypt, mausoleum crypt, or sarcophagus for a commercial cemetery is selling "grave spaces" and must be licensed under 136.011, Stats. 1957. 47 Atty. Gen. 253.

452.03 History: 1929 c. 231; Stats. 1929 s. 136.02; 1947 c. 522; Stats. 1947 ss. 136.02, 136.20; 1955 c. 7; Stats. 1955 s. 136.02; 1957 c. 159; 1961 c. 593; 1963 c. 366; 1965 c. 123; 1969 c. 336 ss. 48, 175 (6); Stats. 1969 s. 452.03.

A contract by 2 real estate brokers, one licensed and one not licensed, for the sale of a store business and the real estate used therewith to a third party, cannot be the basis for a recovery of fees by either or by both; the contract being void as to one is void as to both. *Payne v. Volkman*, 183 W 412, 198 NW 438.

The sale of a public utility being considered as a sale of personal property, a broker who was employed to sell the utility did not come under the provisions of 136.01, Stats. 1923. *Ireland v. Tomahawk L. T. & I. Co.* 185 W 148, 200 NW 642.

One hired to put on a sales campaign to sell cemetery lots, whose duty was to arrange for advertising and hire salesmen to sell the lots at fixed prices, was not required to have a real estate broker's license, and the fact that the gross sales were made the basis for determining the amount of the compensation does not alter the legal relation of the parties. *Howard v. Heinig*, 191 W 166, 210 NW 414.

One who is not licensed as a real estate broker in this state is not authorized to negotiate a lease for another as broker, and he cannot recover the agreed commission. *Nickoil v. Racine C. & S. Co.* 194 W 298, 216 NW 502.

To recover a broker's commission, a corporation engaged in the real estate business must have a real estate broker's license under 136.01, Stats. 1927, even though it had succeeded to the business of a licensed brokerage partnership which ceased when the corporation began business. *George F. Russell, Inc. v. Hickcox*, 197 W 622, 222 NW 807.

An agreement to pay a commission on a loan from a foreign corporation secured by a real estate mortgage, which loan is negotiated by a nonresident loan agent through a resident insurance agent, neither of whom is licensed in Wisconsin, is invalid and precludes a recovery of the commission. *Livingston v. Linker R. Co.* 202 W 232, 231 NW 626.

Under the provisions of 136.01 (2) (c) and (5), Stats. 1927, one entering into a contract in this state to procure a loan for another, to be secured by a real-estate mortgage, for a commission, is holding himself out as a broker or salesman, and cannot recover the commission unless he has a real estate broker's or real estate salesman's license. *Livingston v. Linker R. Co.* 202 W 232, 231 NW 626.

The licensing board was justified in denying a real estate broker's license to an applicant who was unable to read and write the English language although he operated only in selling real estate owned and platted by himself, since a "real estate broker" is anyone who is