

1981 Assembly Bill 15

Date published: December 5, 1981

CHAPTER 94 , Laws of 1981

AN ACT to amend 15.07 (1) (c) and (3) (b), 15.08 (1m) (a), 15.401 (12), 15.405 (11) and 440.03 (1); to repeal and recreate chapter 452; and to create 15.07 (1) (b) 8 and (5) (r) of the statutes, relating to abolishment of the real estate examining board, creation of a real estate board, transfer of functions of the real estate examining board to the real estate board and the department of regulation and licensing, granting rule-making authority and providing penalties.

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

SECTION 1. 15.07 (1) (b) 8 and (5) (r) of the statutes are created to read:

15.07 (1) (b) 8. Real estate board.

(5) (r) Members of the real estate board, \$25 per day.

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SECTION 2. 15.07 (1) (c) and (3) (b) of the statutes are amended to read:

15.07 (1) (c) Fixed terms of members of boards, except the personnel board, real estate board and the state employes merit award board where terms shall expire on July 1, and Milwaukee teachers retirement board where terms shall begin after the regular annual meeting on the last Saturday in September, shall expire on May 1 and shall, if the term is for an even number of years, expire in an odd-numbered year. In case of the ethics board, the term of one member shall expire on each May 1.

(3) (b) Each board not covered under par. (a) shall meet annually, and may meet at other times on the call of the chairman or a majority of its members. The real estate board shall also meet on the call of the secretary of the department of regulation and licensing or his or her designee within the department.

SECTION 3. 15.08 (1m) (a) of the statutes is amended to read:

15.08 (1m) (a) Public members appointed under s. 15.405 or 15.407 shall have all the powers and duties of other members except they shall not prepare questions for or grade any licensing examinations. ~~They~~

(am) Public members appointed under s. 15.405 or 15.407 shall not be licensed, certified, registered or engaged in any profession or occupation licensed or otherwise regulated by the board, examining board or examining council to which they are appointed, shall not be married to any person so licensed, certified, registered or engaged, and shall not employ, be employed by or be professionally associated with any person so licensed, certified, registered or engaged.

SECTION 4. 15.401 (12) of the statutes is amended to read:

15.401 (12) (title) REAL ESTATE BOARD. The real estate ~~examining~~ board shall have the program responsibilities specified for the ~~examining~~ board under ch. 452.

SECTION 5. 15.405 (11) of the statutes is amended to read:

15.405 (11) (title) REAL ESTATE BOARD. There is created a real estate ~~examining~~ board in the department of regulation and licensing. The real estate ~~examining~~ board shall consist of 5 ~~7~~ members appointed to staggered ~~6-year~~ 3-year terms. Four of the members shall be real estate brokers or salespersons licensed in this state. ~~One member~~ Three members shall be a public member members. Section 15.08 (1m) (am) applies to the public members of the real estate board. No member may serve more than 2 terms. The real estate board does not have rule-making authority.

SECTION 6. 440.03 (1) of the statutes is amended to read:

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

SECTION 7. Chapter 452 of the statutes is repealed and recreated to read:

CHAPTER 452

REAL ESTATE PRACTICE

452.01 Definitions. In this chapter:

- (1) "Board" means real estate board.
- (2) "Broker" means any person not excluded by sub. (3), who:
 - (a) For another, and for commission, money or other thing of value, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of an interest or estate in real estate;
 - (b) Is engaged wholly or in part in the business of selling real estate to the extent that a pattern of real estate sales is established, whether or not such real estate is owned by such person;

(c) For another, and for commission, money or other thing of value, negotiates or offers or attempts to negotiate a loan, secured or to be secured by mortgage or other transfer of or encumbrance on real estate;

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

(e) Is engaged wholly or in part in the business of selling business opportunities or goodwill of an existing business or is engaged wholly or in part in the business of buying and selling, exchanging or renting of any business, its goodwill, inventory, fixtures or an interest therein.

(3) "Broker" does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court;

(b) Public officers while performing their official duties;

(c) Any bank, trust company, savings and loan association, insurance company, or any land mortgage or farm loan association organized under the laws of this state or of the United States, when engaged in the transaction of business within the scope of its corporate powers as provided by law;

(d) Employes of persons enumerated in pars. (a) to (c) and (f) when engaged in the specific performance of their duties as such employes;

(e) Any custodian, janitor, employe or agent of the owner or manager of a residential building who exhibits a residential unit therein to prospective tenants, accepts applications for leases and furnishes such prospective tenants with information relative to the rental of such unit, terms and conditions of leases required by the owner or manager, and similar information; or

(f) Any credit union which negotiates loans secured by real estate mortgages or any licensee under ch. 138 which negotiates loans secured by real estate mortgages or any licensed attorney who, incidental to the general practice of law, negotiates or offers or attempts to negotiate a loan, secured or to be secured by mortgage or other transfer of or encumbrance on real estate.

(4) "Disciplinary proceeding" means a proceeding against one or more licensees or registrants in which the board may determine to revoke, suspend or limit a license or registration, or to reprimand a licensee or registrant.

(5) "Licensee" means any person licensed or registered under this chapter.

(6) "Real estate practice" means engaging in conduct which requires a license under this chapter.

(7) "Salesperson" means any person who is employed by a broker to perform any act authorized by this chapter to be performed by a broker.

452.02 Cemeteries, cemetery brokers and salesperson. (1) Any cemetery association or corporation which pays any commission or other compensation to any person, including its officers, members or stockholders, for soliciting the sale of its lots or grave spaces on a commercially operated basis shall register under this chapter. The cemetery association or corporation shall register biennially and pay the fee specified in s. 440.05 (8). The registration shall be in writing and shall include the names of the officers of the cemetery association or corporation. Any cemetery association or corporation required to register under this subsection which knowingly fails to register shall be fined not more than \$100.

(2) Every registered cemetery association or corporation shall designate a resident broker licensed under this chapter as its broker and any resident licensed broker may be so designated. A broker designated as a cemetery broker under this section who engages in no real estate brokerage activity except as a cemetery broker shall not be subject to the

requirements of ss. 452.09 (2) and 452.12 (5) (c) for the issuance or renewal of the brokerage license.

(3) Every person engaging in or following the business or occupation of a cemetery salesperson shall be registered upon the written request of any broker designated under sub. (2) and the payment of the fee specified in s. 440.05 (1). The broker shall certify in writing to the department that the salesperson is trustworthy and competent to act as a cemetery salesperson. The person shall be registered by the department as a salesperson and agent of the broker and of the cemetery association or corporation designating the broker.

(4) Within 10 days after the certification of any cemetery salesperson under sub. (3) the salesperson shall verify and furnish to the department, in such form as the department prescribes, all of the following information:

(a) Name and address.

(b) Educational qualifications.

(c) Prior occupations.

(d) Any other information which the department may reasonably require to enable it to determine the trustworthiness and competency of the salesperson to transact the business of a cemetery salesperson in a manner which safeguards the interest of the public.

(5) Every broker requesting the registration of any cemetery salesperson shall be responsible for the acts of that salesperson while acting as a cemetery salesperson. The cemetery association or corporation designating the broker shall be equally responsible for the acts of the broker's salespersons while they act as salespersons for the cemetery association or corporation.

(6) A person who is not registered shall not 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 cemetery salesperson.

(7) No cemetery organized, maintained and operated by a town, village, city, church, fraternal or benevolent society, or by an incorporated college of a religious order may be required to register under or be subject to this chapter.

(8) No cemetery salesperson's license may be required of any person soliciting the sale of lots or grave spaces in a cemetery organized, maintained and operated by towns, villages, cities, churches, fraternal and benevolent societies, or incorporated colleges of religious orders.

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 only to persons who are trustworthy and competent to transact such businesses in a manner which safeguards the interests of the public, and only after satisfactory proof of the person's trustworthiness and competence has been presented to the department. If a cemetery salesperson engages in the sale of real estate other than cemetery lots or grave spaces, the cemetery salesperson shall first obtain a salesperson's license.

452.04 Duties of board. In addition to the other duties and responsibilities of the board under this chapter, the board shall:

(1) Advise the secretary on matters relating to real estate practice. The board may conduct public hearings on matters relating to the approval of forms used in real estate practice.

(2) Advise the secretary on rule making relating to licensees and relating to the board as provided by s. 452.07.

452.05 Duties and powers of department. (1) In addition to the other duties and responsibilities of the department under this chapter, the department shall:

(a) Grant and issue licenses to brokers, salespersons, cemetery brokers and cemetery salespersons.

(b) Approve forms for use in real estate practice.

(c) Subject to the procedure under s. 452.07, promulgate rules establishing criteria for the approval of educational programs and training sessions under ss. 452.09 (2) and (4) and 452.12 (5) (c) and approve such programs and sessions in accordance with the established criteria. To be eligible for approval, educational programs and training sessions shall deal with the real estate aspects of appraising, finance and marketing, real property management, real estate counseling, real property law or other real estate related subjects.

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

452.06 Advisory committees. (1) The secretary shall create a permanent advisory committee on forms under s. 15.04 (1) (c) which shall meet on a regular basis, be chaired by a member of the board and report to the board and the secretary. Any proposed change in a form relating to real estate practice shall be referred to the committee for review before the form is approved.

(2) If the secretary creates an advisory committee on examinations under s. 15.04 (1) (c), the committee shall be chaired by an examination specialist if one is employed by the department and shall report to the board and the secretary.

(3) If the secretary creates any advisory committees under s. 15.04 (1) (c) to provide advice to the department on matters relating to real estate practice other than the committees under sub. (1) or (2), such committees shall be chaired by a member of the board, if available, and shall report to the board and the secretary.

452.07 Rules; review of rules. (1) The department shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice.

(2) Before submitting any proposed rules relating to real estate practice to the legislative council staff under s. 227.029, the department shall submit the proposed rules to the board for comment. The board shall have 30 days to submit comments on the proposed rules to the secretary.

(3) When promulgating emergency rules under s. 227.027, the department shall provide a copy of the rules to the board prior to publication of the rules in the official state newspaper.

(4) The chairperson of the board, or his or her designee from the board, may cochair with the secretary, or the secretary's designee, any public hearing held by the department on proposed rules relating to licensees or the board.

(5) The department shall submit to the board a copy of the report required under s. 227.018 (2) on any proposed final rules relating to licensees or the board. The board may prepare a dissenting report stating its recommendations on the proposed final rules. Any dissenting report shall be prepared within 10 days from the date of receipt of the department's report, be attached to the department's report and be sent to the presiding officer of each house of the legislature and distributed under s. 227.018 (2). The department shall cause a statement to appear in the Wisconsin administrative register to the effect that a dissenting report of the board has been submitted to the presiding officer of each house of the legislature.

(6) The department shall provide staff to assist the board in the review of administrative rules and preparation of comments or dissenting reports.

(7) The board may petition the department under s. 227.015 for the adoption, amendment or repeal of rules relating to licensees or the board. This subsection does not limit the rights of other persons to petition the department under s. 227.015.

452.08 Board receipt of proposed legislation. The secretary shall submit to the board in writing any legislation proposed by the department relating to licensees or the board prior to introduction in the legislature.

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

- (a) The kind of license desired.
- (b) The name and address of the applicant; if the applicant is a partnership, the name and address of each member; and if the applicant is a corporation, the name and address of each of its officers.
- (c) The place or places, including the town, village or city, street number and county, where the business is to be conducted, and the manner in which the place of business is designated.
- (d) The business or occupation engaged in by the applicant, or if a partnership, by each member, or if a corporation, by each officer, for a period of at least 2 years immediately preceding the date of the application.
- (e) Any other information which the department may reasonably require to enable it to determine the trustworthiness and competency of each applicant, including each member of the partnership, or each officer of the corporation, to transact the business of a broker or salesperson in a manner which safeguards the interests of the public.

(2) **ADDITIONAL REQUIREMENTS FOR BROKER'S LICENSE.** Each applicant for an original broker's license shall submit to the department proof of attendance at 60 classroom hours of educational programs approved by the board. The department shall waive the educational requirement upon proof that the applicant has received 20 academic credits in real estate or real estate related law courses at an accredited institution of higher education or upon proof that the applicant is licensed to practice law in this state.

(3) **COMPETENCY OF APPLICANT.** (a) In determining competency, the department 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, conditional sales contracts, the provisions of the bulk sales law and a general and fair understanding of the obligations between principal and agent, as well as of this chapter. An applicant receiving a failing grade, as established by rules of the department, 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.

(b) The department 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.

(c) Examinations shall reliably measure an applicant's ability to competently engage in real estate practice.

(4) **SALESPERSON'S EDUCATIONAL PROGRAMS.** Within the 24-month period commencing with the last day of December following the granting of the licensee's original salesperson's license, each licensed salesperson shall submit to the department proof of attendance at 30 classroom hours of educational programs approved by the department. The department may give credit toward the completion of this requirement for approved educational programs attended by the licensee before the commencement of the 24-month period.

(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. 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 may require a preliminary examination covering general knowledge and prescribe the character and extent of his or her work during apprenticeship. The department 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.

452.10 Applications, verification, fees, exceptions. (1) An application shall be verified by the applicant. If made by a partnership it shall be verified by at least 2 members. If made by a corporation it shall be verified by the president and secretary. Application for license as a broker or salesperson shall be accompanied by the affidavit of 2 persons who are residents in the county in which the applicant resides or has a place of business, certifying that the applicant is trustworthy.

(2) (a) Each new application for a broker's or salesperson's license or cemetery registration shall be for the remainder of the biennial license period. Each new applicant for a salesperson's license shall receive a free copy of the current study manual.

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

(3) The fees for examinations and licenses granted or renewed under this chapter are specified in s. 440.05, except that a licensed broker may apply for a license as a salesperson upon payment of a \$5 fee.

(4) (a) Any licensed salesperson may at any time apply upon forms prescribed and provided by the department for transfer to the employment of another licensed broker. The fee for transfer by a salesperson is specified in s. 440.05 (7), payable at the time the application is filed.

(b) Suspension or revocation of a license issued to a broker shall automatically suspend the license of every salesperson employed by the broker at the time of the suspension or revocation of the broker's license. The salesperson may apply for transfer to some other licensed broker by complying with this chapter, provided the salesperson is not a party to the activities causing the suspension or revocation of the license of the broker.

(5) Sections 452.13, 452.14, 452.15, 452.17, 452.18, 452.19, 452.21, and 452.22, as they apply to salespersons, apply with equal effect to cemetery salespersons.

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

452.11 Nonresident brokers. (1) A nonresident may become a broker or salesperson by conforming to all the provisions of this chapter, except that a nonresident broker shall maintain an active place of business in the state in which the broker holds a license. Nonresident brokers may not employ salespersons in this state.

(2) The department may recognize, in lieu of the affidavit required to accompany an application for license, the license issued to a nonresident broker or salesperson in the other state upon payment of a license fee and the filing of a certified copy of the license issued by the other state.

(3) Every nonresident applicant shall file an irrevocable consent that actions may be commenced against the applicant 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 or any duly authorized employe. The consent shall stipulate and agree that such service is valid and binding as due service upon the applicant 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.

(4) Duplicate copies of any process or pleading shall be served upon the department or its duly authorized employe. One copy shall be filed with the department and the other immediately forwarded by registered mail to the main office of the applicant against whom the process or pleading is directed. No default in any such proceeding or action may be taken unless it appears by affidavit of the secretary or any duly authorized employe that a copy of the process or pleading was mailed to the defendant 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 defendant.

452.12 Licenses. (1) **EXPIRATION.** A license granted by the department entitles the holder to act as a broker or salesperson, as the case may be, up to December 31 of even-numbered years following issuance of the license.

(2) **CORPORATIONS; PARTNERSHIPS.** If the licensee is a corporation, the license issued to it entitles the president or other officer as is designated by the corporation to act as a broker. For each other officer who desires to act as a broker on behalf of the corporation, an additional license shall be obtained. The fee for the corporate or partnership license shall be that specified in s. 440.05 (8). No license as a salesperson may be issued to any officer of a corporation or member of a partnership to which a license was issued as a broker. If the licensee is a partnership, the license issued to it entitles one member to act as a broker, and for each other member who desires to act as a broker an additional license shall be obtained.

(3) **BROKER'S LIABILITY FOR ACTS OF EMPLOYES.** (a) Each broker shall be responsible for the acts of any salesperson acting as the broker's agent.

(b) If a broker maintains any branch offices within this state, each branch office must be under the direct full-time supervision of a licensed broker who is also a licensed salesperson of the employer licensee and who resides in the county in which the branch office is located or within 50 miles of the branch office. The employer broker shall be responsible for the acts and conduct of all licensed employes of the branch office, including the broker who is supervisor of the branch office. The biennial fee for a branch office is specified in s. 440.05 (8).

(4) **ROSTER OF BROKERS.** The department shall prepare and publish in convenient form the register compiled under s. 440.035 (4). The names of all brokers and salespersons whose licenses have been revoked at any time within 2 years prior to the issuance thereof shall also be included in the publication. The publication shall be available for purchase at cost.

(5) **RENEWAL.** (a) Renewal applications for all licenses shall be submitted with the required fee on or before December 31 of the even-numbered years following original licensure.

(b) If an application for renewal is not filed with the department on or before December 31 of the even-numbered years following licensure, the applicant shall be prohibited from engaging in any of the activities covered by the license until the license is renewed or a new license issued. The department shall accept renewal applications at any time during the year after the license expires upon payment of the renewal fee and penalty. The department shall not thereafter grant a license until the applicant passes the required written examination and pays the fee specified in s. 440.05 (1).

(c) Every licensee or a sponsor of an approved program on behalf of the licensee shall submit proof or a record to the department of attendance at a minimum of 10 classroom hours of approved training sessions every 2 years. The 2-year period shall be congruent with the 2-year licensure period. During the time between initial licensure and commencement of a full 2-year licensure period, new licensees are not required to meet the continuing education requirement under this paragraph. A licensee who is also licensed to practice law in this state shall be granted credit for attendance at continuing legal education programs which the department determines to be related to real estate matters.

If upon application for renewal the licensee has not submitted proof of having met this requirement in the preceding 2-year licensure period, the department may withhold issuance of the renewal license until such proof is submitted.

452.13 Trust accounts. All downpayments, earnest money deposits or other trust funds received by a broker or salesperson on behalf of the broker's or salesperson's principal or any other person shall be deposited in a common trust account maintained by the broker for that purpose in a bank designated by the broker pending the consummation or termination of the transaction, except that the money may be paid to one of the parties pursuant to the contract or option. The name of the bank shall at all times be registered with the department, along with a letter authorizing the department to examine and audit the trust account when the department deems it necessary.

452.14 Investigation and discipline of licensees. (1) The department shall, upon motion of the board or upon its own determination, conduct investigations in regard to the action of any broker, salesperson or cemetery salesperson.

(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 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.

(3) Disciplinary proceedings shall be conducted by the board according to rules adopted under s. 440.03 (1). The board may revoke, suspend or limit any broker's or salesperson's license or registration, or reprimand the holder of the license or registration, if it finds that the holder of the license or registration has:

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

(b) Made any substantial misrepresentation with reference to a transaction injurious to a seller or purchaser in which the broker or salesperson acts as agent;

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

(d) Pursued a continued and flagrant course of misrepresentation or made false promises through agents or salespersons or advertising;

(e) Acted for more than one party in a transaction without the knowledge of all parties for whom the broker or salesperson acts;

(f) Accepted a commission or valuable consideration as a salesperson for the performance of any act specified in this chapter from any person except the salesperson's employer;

(g) Represented or attempted to represent a broker other than the employer, without the express knowledge and consent of the employer;

(h) Failed, within a reasonable time, to account for or remit any moneys coming into the broker's or salesperson's possession which belong to another person;

(i) Demonstrated untrustworthiness or incompetency to act as a broker, salesperson or cemetery salesperson in a manner which safeguards the interests of the public;

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

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

(L) Violated any provision of this chapter; or

(m) Failed to use forms approved under s. 452.05 (1) (b).

(n) Treated any person unequally solely because of sex, race, color, handicap, national origin, ancestry, marital status or lawful source of income.

(4) If a broker is a company it shall be sufficient cause for reprimand or for the limitation, suspension or revocation of a broker's license that any officer, director or trustee of the company, or any member of a partnership, or anyone who has a financial interest in or is in any way connected with the operation of a brokerage business, has been guilty of any act or omission which would be cause for refusing a broker's license to such person as an individual.

(5) The department may seek judicial review under ch. 227 of any final decision of the board. The department shall be represented in such review proceedings by an attorney within the department. Upon request of the board, the attorney general may represent the board. If the attorney general does not represent the board, the board may retain special counsel which shall be paid for out of the appropriation under s. 20.165 (2) (g).

452.15 Ineligibility. No license or registration may be issued to any person whose license or registration has been revoked until the expiration of a period not to exceed 2 years from the date the revocation became finally effective, the period to be determined in each case by the board.

452.16 Investigation of unlicensed practice. (1) The department may conduct investigations, hold hearings and make findings as to whether a person has acted as a broker, salesperson or cemetery salesperson. The findings shall be subject to review under ch. 227. During such review any additional material evidence presented may be considered. In lieu of holding a hearing, when there is reason to believe that a person is acting as a broker or salesperson without a license and that the continuation of such activity might cause injury to the public interest, the department may petition the circuit court for a temporary restraining order, an injunction or a writ of ne exeat as provided in ch. 813.

(2) The department may close an investigation of a case involving a person who is not a licensee or registrant without approval of the board.

452.17 Penalties. (1) 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 broker or salesperson in this state without a license shall be prosecuted by the district attorney in the county where the violation occurs and may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

(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 cemetery salesperson in this state without being registered with the department 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.

(3) Any person who otherwise violates any provision of this chapter may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

452.18 Court review. Orders of the board and department shall be subject to review as provided in ch. 227.

452.19 Fee-splitting. No licensed broker or registered cemetery salesperson may pay a commission or any part thereof for performing any act specified in this chapter to any person who is not licensed or registered under this chapter or who is not regularly engaged in the real estate brokerage or cemetery sales business in another state.

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

452.21 Compensation presumed. In any prosecution for violation of this chapter, proof that a person acted as a broker or agent or salesperson is prima facie proof that compensation therefor was received or promised.

452.22 Certifications as evidence. (1) Copies of all documents, orders, resolutions and certificates made, executed or granted by the department or board, and of all papers filed with the department when certified by the secretary or his or her designee, under the official seal, shall be received in evidence in all cases the same as the originals.

(2) The certificate of the secretary or his or her designee to the effect that a specified individual, partnership or corporation is not or was not on a specified date the holder of a broker's or 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 holder thereof, the filing or withdrawal of any application or its existence or nonexistence, is prima facie evidence of the facts therein stated for all purposes in any action or proceedings.

SECTION 8. Transitional provisions. (1) **TERMS OF MEMBERS.** The first members of the real estate board, as created by this act, shall be appointed under section 15.07 (1) (b) and (c) of the statutes, as affected by this act, for the following terms: 3 for a term of one year, 2 for a term of 2 years, and 2 for a term of 3 years. Members of the real estate examining board on the day before the effective date of this act shall be appointed to the real estate board in the following sequence: first to fill all one-year terms, and any remaining members to fill 2-year terms.

(2) **RULES AND ORDERS.** All rules and orders of the real estate examining board in effect prior to the effective date of this act shall remain in force until modified or rescinded by the real estate board, as created by this act, or the department of regulation and licensing, as affected by this act.

(3) **PENDING CASES.** Any case filed, heard or pending before the real estate examining board on the effective date of this act shall be transferred to the real estate board, as created by this act, and the department of regulation and licensing, as affected by this act.

SECTION 9. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
15.405 (6)	15.08 (1m)	15.08 (1m) (a)

SECTION 10. Effective date. This act takes effect on the first day of the 4th month commencing after the day of publication.
