



BILL SUMMARY

AB 566: Real Estate Broker Supervision Rules

Date: February 10, 2000

BACKGROUND

The Department of Regulation and Licensing (DORL) currently promulgates rules addressing the supervisory duties of real estate brokers. Chapter RL 17 of the Wisconsin Administrative Code has provisions relating to branch offices, the transfer and termination of licensed employees, the supervision of employees, the supervision of principal offices and branch offices and the supervision of unlicensed personal assistants. Chapter RL 17 has provided effective supervisory guidelines for DORL, the Real Estate Board and real estate licensees for many years. However, it is time to revise these rules to accurately reflect today's technological environment and to provide more specific guidelines concerning the types of activities that must be supervised and the level of supervision needed, in order to ensure adequate oversight of salesperson activities by real estate brokers.

Revising the appropriate administrative rules to address supervisory issues requires a statutory change. Chapter 452 of the current statutes only provides that employees at branch offices must be under the direct full-time supervision of a broker. Without further explanation, this language creates a statutory impediment for writing clearer administrative rules and raises questions (for example, as to whether a broker can review proposed contract language via e-mail or fax from a remote location).

SUMMARY OF AB 566

Assembly Bill 566 eliminates the requirement regarding direct, full-time supervision of branch office employees and requires instead that a real estate broker must supervise any broker or real estate or real estate time-share salesperson employed by the broker. In addition, the bill requires DORL to promulgate rules that specify the supervisory duties of brokers regarding such employees.

AMENDMENTS

No amendments offered.

FISCAL EFFECT

No fiscal effect.

PROS

1. AB 566 will help the DORL to clarify real estate supervisory rules.

CONS

There are no cons.

SUPPORTERS

Rep. Steve Wieckert, author; Sen. Alice Clausing, lead co-sponsor; Rep. Joan Spillner; Rep. Tom Sykora; Sen. Scott Fitzgerald; Department of Regulation and Licensing; WI Real Estate Board; WI Realtors Assoc.

OPPOSITION

There is no opposition.

HISTORY

Assembly Bill 566 was introduced on October 27, 1999, and referred to the Assembly Committee on Housing. A public hearing was also held on October 27. On February 3, 2000, the Committee voted 6-0-1 to recommend passage of AB 566 as amended. [Rep. Seratti was absent]

CONTACT: Sara Jermstad, Office Rep. Tom Sykora.

Vote Record

Assembly Committee on Housing

Date: 2/3/00
Moved by: Hebl Seconded by: Reynolds
AB: 5/6/6 Clearinghouse Rule: _____
AB: _____ SB: _____ Appointment: _____
AJR: _____ SJR: _____ Other: _____
A: _____ SR: _____

A/S Amdt: _____
A/S Amdt: _____ to A/S Amdt: _____
A/S Sub Amdt: _____
A/S Amdt: _____ to A/S Sub Amdt: _____
A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

Rep. Tom Sykora, Chair
Rep. Steve Wieckert
Rep. Neal Kedzie
Rep. Lorraine Seratti
Rep. Tom Hebl
Rep. Johnnie Morris-Tatum
Rep. Marty Reynolds

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 6 _____ 1 _____

Motion Carried

Motion Failed



**WISCONSIN
REALTORS®
ASSOCIATION**

4801 Forest Run Road, Suite 201
Madison, Wisconsin 53704-7337
608-241-2047 • in WI 1-800-279-1972
Fax 608-241-2901 • E-mail wra@wra.org
Web Site URL <http://www.wra.org>

William Berland, President
E-mail • rocky70@execpc.com

WILLIAM MALKASIAN, CAE, Executive Vice President
E-mail • wem@wra.org

TO: Assembly Housing Committee
FROM: Michael Theo, Vice President for Public Affairs
DATE: October 27, 1999
RE: AB 566 - Real Estate Broker Supervision Rules (*LRB 3708/1*)

Representative Steve Wieckert and Senator Alice Clausing have introduced legislation to improve a real estate brokers' supervision of his/her sales agents. AB 566 will benefit state regulators, brokers, sales agents and ultimately consumers. The Wisconsin REALTORS Association (WRA) supports this bill and encourages your support.

Background

The Real Estate Board and the Department of Regulation and Licensing are currently in the process of revising the administrative rules which define the level of supervision that a broker is required to provide his or her sales agents. These changes are necessary because the current rules do not adequately describe how brokers are expected to fulfill their duty to: a) provide a resource to sales agents regarding practice questions; b) supervise contract language; c) advise on advertising and trust account practices. The Department is proposing to provide specific guidance to brokers in these areas. In addition, the Department intends to address how a broker might utilize third parties or technology resources to assist in performing the broker's duties.

Revising the appropriate administrative rules to address these issues however, requires a statutory change. AB 566 provides this change by deleting narrow, outdated language in Chapter 452 of the statutes and replacing it with a specific reference to the new, more detailed administrative rules.

For example, many brokers use accountants to do their bookkeeping or personally review offers that an agent in the field has faxed or e-mailed to the broker back at the main office. Current law (Wis. Stat. 452.12(3)) only provides that employees at branch offices must be under the direct full-time supervision of a broker. Without further explanation, this language creates a statutory impediment for writing clearer administrative rules and raises questions for example, as to whether a broker can review proposed contract language via e-mail or fax from a remote location. Passage of AB 566 and adoption of new administrative rules delineating a brokers' supervisory duties will not change the duties of a brokers, rather it will clarify them.

Benefits

Department of Regulation and Licensing Secretary Marlene Cummings and the Real Estate Board have requested this legislation. This legislation is necessary for DR&L to realize their goal of insuring real estate brokers have clear and comprehensive supervision duties for which they are held responsible. The WRA supports this effort so that brokers are able to use the most appropriate means to fulfill these supervisory duties. The bill has no fiscal impact.

Because AB 566 will help the Department enforce the real estate license law and will help real estate brokers fulfill their supervisory duties, this legislation will benefit Wisconsin consumers. For these reasons, we strongly urge your support.



Tommy G. Thompson
Governor

Marlene A. Cummings
Secretary

1400 E. WASHINGTON AVENUE
P.O. BOX 8935
MADISON, WISCONSIN 53708-8935
E-Mail: dori@mail.state.wi.us
(608) 266-2112
FAX#: (608) 267-0644

**TESTIMONY OF THE DEPARTMENT OF REGULATION AND LICENSING
ON LRB 3708**

**Before the Committee on Housing
October 27, 1999**

Good afternoon, Chairperson Sykora and members of the committee.

I am Cletus Hansen, Administrator of the Division of Business Licensure and Regulation in the Department of Regulation and Licensing. I am testifying to inform you that the Department of Regulation and Licensing and the Real Estate Board encouraged the Wisconsin Realtors Association to obtain the introduction of LRB 3708 and that both the Department and the Board support the proposal.

LRB 3708 would require the Department to promulgate rules that specifically address the supervisory duties of real estate brokers. The Department already has the authority to promulgate such rules, and it has, in fact, done so in Chapter RL 17 of the Wisconsin Administrative Code. Chapter RL 17 has provisions relating to branch offices, the transfer and termination of licensed employees, the supervision of employees, the supervision of principal offices and branch offices, and the supervision of unlicensed personal assistants. Chapter RL 17 has provided extremely effective supervisory guidelines for the Department, the Board and licensees for many years. However, it is time to do some fine-tuning. It is time to remove any artificial and costly requirements that are no longer needed in today's technological environment. It is also time to provide more specific guidelines concerning the level of supervision and the types of activities that need one or other type of supervision. That process has already begun and a rule revision proposal should be ready soon.

The primary goal of LRB 3708 is to remove language from Chapter 452 that requires the direct, full-time supervision of a licensed broker. This is precisely the artificial and costly requirement I referred to earlier. Why do two real estate offices within a mile or two of each other need separate branch office managers who must be licensed as real estate brokers and who must each be paid a manager's salary or commission? If a real estate company can demonstrate that it is able to provide meaningful supervision of its licensed employees from a central office, even though the

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors; Professional Geologists, Hydrologists and Soil Scientists; Auctioneer; Barbering and Cosmetology; Chiropractic; Controlled Substances; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Podiatry; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary.

employees are located at several offices, is this not sufficient to adequately protect consumers? We believe that it is and we would like the revised rules to offer sufficient guidance to brokers and their employees, so they will understand what supervision is necessary and appropriate.

We urge you to support LRB 3708. Thank you for this opportunity to address you.



**WISCONSIN
REALTORS®
ASSOCIATION**

4801 Forest Run Road, Suite 201
Madison, Wisconsin 53704-7337
608-241-2047 • in WI 1-800-279-1972
Fax 608-241-2901 • E-mail wra@wra.org
Web Site URL <http://www.wra.org>

William Berland, President
E-mail • rocky70@execpc.com

WILLIAM MALKASIAN, CAE, Executive Vice President
E-mail • wem@wra.org

TO: Assembly Housing Committee
FROM: Michael Theo, Vice President for Public Affairs
DATE: October 27, 1999
RE: AB 566 - Real Estate Broker Supervision Rules (*LRB 3708/1*)

Representative Steve Wieckert and Senator Alice Clausing have introduced legislation to improve a real estate brokers' supervision of his/her sales agents. AB 566 will benefit state regulators, brokers, sales agents and ultimately consumers. The Wisconsin REALTORS Association (WRA) supports this bill and encourages your support.

Background

The Real Estate Board and the Department of Regulation and Licensing are currently in the process of revising the administrative rules which define the level of supervision that a broker is required to provide his or her sales agents. These changes are necessary because the current rules do not adequately describe how brokers are expected to fulfill their duty to: a) provide a resource to sales agents regarding practice questions; b) supervise contract language; c) advise on advertising and trust account practices. The Department is proposing to provide specific guidance to brokers in these areas. In addition, the Department intends to address how a broker might utilize third parties or technology resources to assist in performing the broker's duties.

Revising the appropriate administrative rules to address these issues however, requires a statutory change. AB 566 provides this change by deleting narrow, outdated language in Chapter 452 of the statutes and replacing it with a specific reference to the new, more detailed administrative rules.

For example, many brokers use accountants to do their bookkeeping or personally review offers that an agent in the field has faxed or e-mailed to the broker back at the main office. Current law (Wis. Stat. 452.12(3)) only provides that employees at branch offices must be under the direct full-time supervision of a broker. Without further explanation, this language creates a statutory impediment for writing clearer administrative rules and raises questions for example, as to whether a broker can review proposed contract language via e-mail or fax from a remote location. Passage of AB 566 and adoption of new administrative rules delineating a brokers' supervisory duties will not change the duties of a brokers, rather it will clarify them.

Benefits

Department of Regulation and Licensing Secretary Marlene Cummings and the Real Estate Board have requested this legislation. This legislation is necessary for DR&L to realize their goal of insuring real estate brokers have clear and comprehensive supervision duties for which they are held responsible. The WRA supports this effort so that brokers are able to use the most appropriate means to fulfill these supervisory duties. The bill has no fiscal impact.

Because AB 566 will help the Department enforce the real estate license law and will help real estate brokers fulfill their supervisory duties, this legislation will benefit Wisconsin consumers. For these reasons, we strongly urge your support.