

Filed March 21, 1972
8:30 am
REB 1-14

STATE OF WISCONSIN

BEFORE THE
WISCONSIN REAL ESTATE EXAMINING BOARD

In the Matter of the Repeal
and Adoption of Administrative
Rules

CERTIFICATE

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Roy E. Hays, Executive Secretary of the Wisconsin Real Estate Examining Board and custodian of the official records of said Board, do hereby certify that the annexed rules and regulations, relating to Section 452, Wisconsin Statutes, were duly approved and adopted by this Board on March 9, 1972.

I further certify that said copy has been compared by me with the original on file in this Board and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Wisconsin Real Estate Examining Board at Milwaukee, Wisconsin this 20th day of March, 1972.



ROY E. HAYS, EXECUTIVE SECRETARY
WISCONSIN REAL ESTATE EXAMINING BOARD

STATE OF WISCONSIN

BEFORE THE
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ORDER
ADOPTING
ADMINISTRATIVE RULES

WHEREAS, at a regular meeting of the Wisconsin Real Estate Examining Board held in Kenosha, Wisconsin on the 9th day of March, 1972, the Board, by motion made by Robert H. Keller and seconded by Richard E. Ellison and unanimously passed that pursuant to the authority invested in the Wisconsin Real Estate Examining Board by Section 15.06 (5), Wisconsin Statutes, the Wisconsin Real Estate Examining Board hereby adopts the attached Administrative Rules.

The Rules attached hereto shall take effect on May 1, 1972 or as soon thereafter as statutory publication is effected, whichever shall be first.

Dated at Milwaukee, Wisconsin this 20th day of March, 1972.

WISCONSIN REAL ESTATE EXAMINING BOARD

BY: ROY E. HAYS
ROY E. HAYS, EXECUTIVE SECRETARY

Mar 21, 1972

I called Roy Hayes, R E Br Bd in Milw, today to inquire whether forms specified in rules are within 227.013, Wis. Stats. He is of the opinion that they are not.

Dart

REVISED ADMINISTRATIVE RULES

OF THE

WISCONSIN REAL ESTATE EXAMINING BOARD

ADOPTED MARCH 9, 1972

Chapter REB 1

AUTHORIZATION AND DEFINITION

REB 1.01 Authorization. The following rules and regulations are adopted by the board pursuant to section 15.08 (5), Wis. Stats., and relating to chapter 452, Wis. Stats.

REB 1.02 Repeal of old rules. The rules and regulations adopted, promulgated, and published by the board prior to September 1, 1971 are hereby repealed.

REB 1.03 Application of rules. These rules shall apply in all proceedings and hearings had before the board in matters within its jurisdiction, except in cases where the statute involved provides a procedure inconsistent with these rules, and in such case the statute shall govern to the extent of such inconsistency.

REB 1.04 Definitions. As used in these "Rules and Regulations" unless the context otherwise specifically requires-(1) The term "board means the Wisconsin Real Estate Examining Board.

(2) The term "license law" means chapter 452, Wis. Stats.

(3) The term "section" refers to a section of the license law.

(4) The term "rules and regulations" refers to the rules and regulations prescribed by the board pursuant to the license law. Unless otherwise specifically stated, the terms used in the rules and regulations shall have the meaning defined in the license law.

(5) The terms "broker" and "salesman" refer to real estate brokers and to real estate salesmen, respectively, unless otherwise specifically designated.

Chapter REB 2

APPLICATIONS

REB 2.01 Location of office. The general offices of the board shall be located at Milwaukee, Wisconsin.

REB 2.02 Applications. (1) General. (a) Forms. Applications for licenses and accompanying documents required by the provisions of chapter 452, Wis. Stats., and the rules of the board shall be made on forms provided by the board and shall be delivered through the mails or otherwise to the board's office.

(b) Employes prohibited. Employes of the board are prohibited from preparing any license application, or any part thereof for any applicant. This rule shall not prohibit the taking of acknowledgments in proper cases.

(c) Complete answers. No application shall be processed until all questions appearing on the application are fully completed and affirmed or verified.

(d) Verification. 1. Individuals or partnerships. All applications for licenses shall be affirmed or verified by the applicant.

2. Corporations. Applications for a license made by a corporation must be verified by the president, except that in the event the president is unable to act and the vice-president has been authorized in his stead, the board may accept the application verified by the vice-president.

(e) Fees prepaid. No action shall be taken on any application until the prescribed fees are paid and deposited at the office of the board.

(f) Previously licensed brokers and salesmen. No action shall be taken on any new application of an applicant who has previously been licensed by the board, until such applicant furnishes sufficient proof to the board that said applicant has not acted as a salesman or broker since the expiration of his license. The board may in its discretion waive this requirement.

(2) New applications. (a) Non-resident brokers and salesmen. 1. General. No application for a real estate broker's or salesman's license from any non-resident will be processed prior to receipt by this office of an irrevocable consent to be sued as specified in section 452.14, Wis. Stats.

2. Real estate. New application for a real estate broker's license from any non-resident of Wisconsin who is a resident of a state which has a real estate license law shall not be acted upon until such applicant presents proof that he is licensed and maintains an active place of business in the state of his residence or maintains an active place of business in the State of Wisconsin. A mailing address shall not constitute a place of business, for the purpose of this section.

(b) Minors. No action shall be taken on any new application for a broker's or salesman's license received from any applicant unless said applicant is a person of the age of 21 years or over.

REB 2.03 Examinations. (1) Written examinations. Each applicant for a broker's or salesman's license shall be required to read and write a comprehensive examination in English, testing his competency to transact the business of a real estate broker or salesman. The examination shall be in conformity with section 452.05, Wis. Stats., as applicable.

(2) Competency. The grade of 75 or above may be evidence of competency and a grade below 75 shall be proof of incompetency. In addition to a grade of 75, the board may, in its discretion, require further supplemental proof of competency. In all cases, the grade below 75 received on the written examination shall be controlling on the question of incompetency and cannot be supplemented by other proof.

(3) Trustworthiness. In addition to the written examination, applicants for brokers' or salesmen's licenses may be required to answer oral interrogatories relating to their general background and experience, insofar as they bear on the applicant's trustworthiness.

(4) Failure to pass. (a) General. No applicant previously denied a broker's or a salesman's license by reason of a determination by the board of incompetency in accordance with section (2) above shall be permitted to apply for or rewrite a similar examination until the expiration of 90 days from the date of the order of denial of said board. Except that if on the first examination taken the applicant is a salesman and the applicant received a grade of 50 or above or if the applicant is a broker and the applicant received a grade of 60 or above and a written request is made for a waiver of the 90 day waiting period the 90 day waiting period may be waived. However, under no circumstances will more than one waiver be given to any applicant.

(b) Broker. Nothing herein shall prevent a broker applicant from applying for and writing an examination for the position of salesman.

(c) Salesman. An applicant who has been denied a salesman's license by reason of incompetency shall not be permitted to write examination for a broker's license until after the expiration of 90 days from the date of the order of denial of said board of his salesman's license.

(5) Written examinations waived. (a) Change of salesman's status. Any salesman who wishes to transfer his employment from one licensed broker to another must, prior thereto, submit in addition to his present salesman's license card, a transfer application accompanied by the usual fee and in addition, thereto, at the discretion of the board, attach a written recommendation from his former employer, asserting trustworthiness and competency of such employe. Such transfer application does not require a written examination prior to transfer.

(b) Change of broker's status. Individuals already licensed as brokers under this board, either individually, as corporation officers, or as members

of a co-partnership or co-partnerships, making application to this board to be licensed as brokers under another title or firm name or another form of organization, must make application in anticipation of a change in their form of organization or name under which they conduct business and the application shall be granted under the new name upon payment of the usual fee, without examination, provided said title or trade name does not conflict with any other title or trade name already registered with the board.

(c) Armed forces. Individuals previously licensed as salesmen or brokers under this board, but who have not been the holder thereof during the calendar year immediately preceding the date of such application, because of service in the armed forces of the United State of America, must make application to the board to be licensed in their previous capacity, to wit: as a salesman or broker, respectively, within 6 months from the date of discharge or separation of such applicant from active military service and such application shall be granted to such individual upon payment of the usual fee, without written examination, subject to proof of trustworthiness.

REB 2.04 Renewal of license. (1) Real estate. Applications for renewal of the license of real estate salesmen or real estate brokers shall be filed with the board on or before August 31 of the current license year. Only applications properly completed, executed and the correct fee prepaid, that are filed or postmarked prior to 12:00 P.M. on August 31, shall be accepted as timely filed. In the event an application for renewal of a real estate salesman's or broker's license for the ensuing calendar year is not timely filed with the board on or before the 31st day of August of each year, but is filed or postmarked before 12:00 P.M. on December 31 of the ensuing calendar year, it shall be accompanied by a late filing fee of \$10.00 in addition to the required renewal fee.

(2) Unlicensed activity. If an application for renewal is not filed with the board on or before December 31 of the current license year, the applicant shall be prohibited from engaging in any of the activities covered by such license until his license is renewed or a new license issued.

(3) Late renewal. The board shall accept renewal applications at any time during the year after the license expired upon payment of the renewal fee and the \$10.00 penalty.

(4) Written examination. The board shall not issue a license to any applicant who has not held a license for a period longer than one year after his last license expired until the applicant passes the required written examination and such applicant shall be considered a new applicant.

(5) Notice. The board may immediately after August 31, of any license year, send a notice by certified mail to the last known address of each individual advising said licensee that he has failed to renew his license.

(6) New licensees. Real estate salesmen and brokers, who receive their first new license after August 31 of any year shall be allowed to file a renewal application up to December 31 of the year in which they received said first new license without being required to pay a late filing fee. If said applicant files a renewal application after December 31 of said

year, the late filing fee of \$10.00, plus the regular license fee must accompany said application.

REB 2.05 License fees. (1) New applicants. New applicants for a real estate broker's license shall pay an application fee of \$25.00 for a license for the current year or the remaining portion thereof. New applicants for a real estate salesman's license shall pay an application fee of \$20.00 for a license for the current year or the remaining portion thereof.

(2) Renewal applicants. Renewal applicants for a real estate broker's license for the year 1973 only shall pay a license fee of \$15.00. For 1974 and subsequent years said fee shall be \$20.00 per year. Renewal applicants for a real estate salesman's license for the year 1973 only shall pay a license fee of \$10.00. For 1974 and subsequent years said fee shall be \$15.00 per year.

Chapter REB 3

PLEADING AND PRACTICE

REB 3.01 Proceedings. (1) General. (a) Place. All hearings shall be held in the county wherein the applicant for a license, or the broker complained of, or whose salesman is complained of, has his place of business. The applicant, broker, or salesman may by written waiver consent to change of place for hearing and in that event the board may in its discretion designate another place for hearing. All hearings other than those pursuant to section 452.11, Wis. Stats., shall be held at the office of the board, Milwaukee, Wisconsin, unless otherwise ordered by the board.

(b) Public hearing. All hearings conducted by the board or its duly authorized employes shall be open to the public, unless otherwise ordered by the presiding officer at the hearing, as provided by law.

(c) Record. All proceedings at hearing in contested case or in any other hearings where the board shall so determine (or any party so request) shall be taken down by a reporter, and the transcript thereof, together with all exhibits, shall be a part of the official records of such hearing.

(d) Hearing. Any party to the proceedings shall have the right to appear at such hearing in person, by counsel or otherwise, to call, examine, and cross-examine witnesses and to introduce into the records, documentary or other evidence.

(2) Institution. (a) By individual. Proceedings going to the revocation or suspension of licenses shall be initiated on complaint verified by an individual or his representative. Where complaint is instituted by an individual said matter shall be tried by the individual or his attorney.

(b) By board. The board may in its discretion initiate proceedings to revoke, or suspend a license whenever an investigation by the board or its employes, discloses probable grounds therefor or in the event a complainant fails to proceed to initiate proceedings pursuant to chapter 452, Wis. Stats.,

by a formal complaint provided that no hearing shall be initiated on the board's own motion until a resolution duly authorizing the same has been adopted by the board.

(3) Conduct of hearing. (a) Presiding officer. The hearing shall be conducted and presided over by a member of the board, or such subordinate as may be designated to hear the matter by the chairman or majority of the board.

(b) Pre-hearing conference. In any matter pending before it, the board may direct any party or attorney for any party to appear before the member of the board or subordinate who has the matter in charge, to consider simplification of the issues; necessity or desirability of amendments to the pleadings; obtaining admission of fact or documents which will avoid unnecessary proof; and such other matters as may aid in the disposition of the matter.

(c) Evidence. The board shall not be bound by common law or statutory rules of evidence. All testimony having reasonable probative value shall be admitted, but immaterial, irrelevant, or unduly repetitious testimony shall be excluded. The rules of privilege recognized by law shall be given effect. Basic principles of relevancy, materiality and probative forces, as recognized in equitable proceedings, shall govern the proof of all questions of fact. The provisions of section 227.10, Wis. Stats., shall be applicable to evidence presented at board hearings.

(d) Oral statements and arguments. Parties may make opening statements after appearances have been entered, and any party to the proceeding may make closing argument at the close of the hearing, which shall not be included in the stenographic report of the hearing, unless the presiding officer so directs. The board may, in its discretion, limit the amount of time for such opening statement or closing arguments.

(e) Briefs. The presiding officer at the hearing shall indicate whether or not the board desires briefs filed, and if so, the date on or before which such briefs shall be submitted.

(f) Closing of hearing. A hearing is closed when briefs have been submitted and closing arguments, if any, completed. If no briefs are to be submitted, nor closing arguments made, the hearing is closed when testimony is closed and no further evidence shall be received provided that the board may, in its discretion, upon reasonable notice to all parties and their consent thereto, reopen the hearing.

(g) Contempt. Contemptuous conduct at a hearing shall be grounds for exclusion from the hearing.

(4) Motions. (a) General. All motions made previous to or subsequent to a hearing shall be filed in writing with the board and shall state briefly the grounds for such motion and the relief applied for. The original shall be signed and a copy thereof served upon each of the other parties. Motions made at a hearing may be stated orally and shall be included in the stenographic report of the hearing.

(b) Objection. Any objection with respect to the conduct of the hearing including any objection to the introduction of evidence shall be stated orally together with a short statement of the grounds of such objection and shall be included in the stenographic report of the hearing. No such objection shall be deemed waived by further participation in the proceedings. Any objection with respect to the jurisdiction of the board shall be in writing and in conformity with the general rules pertaining to the motions.

(c) Continuations. The presiding officer with the consent of the board's members present may grant continuances and extension of adjournment and postponements.

(d) Stipulations. In any proceedings, the board may in its discretion accept oral stipulations of fact and the same may be introduced as evidence with respect to any issue. The board may accept written stipulations of fact and the same may be introduced as evidence in respect to any issue.

REB 3.02 Pleadings. (1) Preparation. All papers filed in connection with any hearing shall be either printed or typewritten and as far as practicable, shall be on paper 8½ inches wide, 13 inches long. Pleadings shall bear the name and mailing address of the party in said proceeding or his representative representing the same. All pleadings, notices, and other papers, shall be captioned: BEFORE THE WISCONSIN REAL ESTATE EXAMINING BOARD. In all pleadings, as far as practicable, each paragraph shall be separately numbered consecutively.

(2) Contents. (a) Complaint. The complaint shall be verified and shall include: The full name and address of the person making the complaint; hereinafter referred to as the complainant; the full name and address of the person against whom the complaint is made, hereinafter referred to as the respondent; an allegation that respondent is either a licensed broker or salesman, and if the respondent is a salesman, then the full name and address of the broker employer; and a clear and concise statement of the facts constituting the alleged complaint including the time and place of occurrence of particular acts and the names of persons involved.

(b) Answer. The answer to a complaint shall be verified by the respondent or his representative and shall include a specific denial of each material allegation of the charges which are controverted by the respondent or a statement of any new material constituting a defense or mitigating the offense or matter charged, which the respondent wishes to have considered.

(3) Admissions. Every material allegation of the charges not controverted in the answer shall be taken as true, but new matter in the answer shall be deemed controverted without any reply.

(4) Default. The default of a party in answering a complaint filed pursuant to REB 3.01 (2) (a) shall constitute an admission of all the allegations of said complaint and the default of a party in appearing shall constitute an admission of all the allegations of said complaint or if said hearing is on the board's own motion REB 3.01 (2) (b) shall be an admission of all the allegations of the notice of hearing in said case. Neither event shall preclude

the board from hearing said material and taking such evidence as they shall determine necessary and proper in disposing of the matter.

REB 3.03 Service of process. (1) General. Complaint, notice, order or other process of the board may be served as prescribed by section 885.03, Wis. Stats., for service of summons and subpoena, by any member or duly authorized employe of the board or may be served by registered mail addressed to any party at his last known address, or to his attorney of record, or to an address furnished by the person or concern to either the board or the secretary of state. Service may be proved by affidavit. Service by registered mail may be proved by the post office return receipt, in which case the time of service is the date borne by the receipt. Papers required to be filed with the board shall be mailed to the office of the board.

(2) Non-resident. Service of process and pleadings under section 452.14, Wis. Stats., may be made upon the board, any member thereof, the executive secretary or in the absence of the executive secretary from his office in Milwaukee then upon the secretarial stenographer in charge of the Milwaukee office.

(3) Notice of hearing. A copy of the complaint shall be served in the manner prescribed for the service of process upon the broker or salesman complained against by personal service or by mailing same to his last known business address, and in case the complaint is against a salesman, a copy of the complaint shall also be served upon the broker for whom he is acting. The board shall not, in the absence of consent by the parties concerned, set a date for a hearing going to the revocation of a license until the person complained against has filed his answer with the board or until the 10 days allowed for the filing of such answer has expired. Matters shall be set for hearing as promptly as possible and within 30 days after the filing of the complaint. At least 10 days prior to the date of hearing, the board shall send written notice of the time and place of such hearing to the complainant and the persons complained against and to their respective attorneys or agents of record by mailing same to the last known address of such persons.

(4) Adjournments of hearing. The licensee complained against or the complainant has the right to be represented by an attorney at the hearing.

Petition for requests for adjournment or postponement of a hearing shall be for good cause, made by the attorney for the licensee (person) complained against; by the licensee or by the complainant or his attorney. Said notice must be made in writing and shall be personally served on the board at least seven (7) days prior to the date of hearing. In event adjournment is granted, the board may consider suspension of the licensee's real estate license pending hearing pursuant to section 452.10 (2), Wis. Stats., during the period of the adjournment. Only one adjournment or postponement will be granted. Failure to timely contact attorney shall not be valid grounds for adjournment.

(5) Subpoenas. Any member or duly authorized employe of the board may issue subpoenas for the attendance of any party or witness at a hearing. Subpoenas shall be in the form and contents pursuant to chapter 885, Wis. Stats. Respondents shall be provided with subpoenas on demand addressed to

the board. Subpoenas shall be served in the manner prescribed by law or as enumerated herein for service of process.

(6) Order of denial. The order of denial shall include the broker's or salesman's name, the license applied for, a statement or finding giving the reason for denial; and the order made by the board. It shall be served in the manner prescribed herein for service of process by the board.

(7) Extension of time. The board in its discretion, may grant an extension of time for the service of process.

REB 3.04 Fees. (1) Witnesses. No witness subpoenaed at the instance of parties other than the board shall be entitled to compensation from the state for attendance or travel.

(2) Depositions. Depositions taken by any party to the proceedings other than the board shall be paid for by said party. The board upon receiving such deposition as evidence may in its discretion apportion the cost of such deposition between the party and the board and pay such proportionate cost. Any deposition taken by or on behalf of the board shall be paid by the board and any party desiring a copy thereof shall pay the proper cost for such copy.

REB 3.05 Appeal. (1) Petition for rehearing. The board shall not grant a rehearing except upon formal application being filed with the board and favorable recommendation thereon by the investigator or executive secretary or board member who was present at the original hearing. Application for rehearing shall be made within 20 days after any determination or order of the board is made. Only one rehearing shall be granted. The application for rehearing shall set forth specifically and in adequate detail the particular and specific respects in which it is deemed that the determination made by the board is unlawful, unreasonable, improper, or unfair. Mere conclusions of law or general allegations without specific reference to the record in the proceeding will be rejected.

(2) Court review. The respondent's right to appeal the decision of the board shall be governed by section 452.17, Wis. Stats.

Chapter REB 4

DECLARATORY RULES

REB 4.01 Declaratory rules. (1) Petition. Any person interested may petition the board pursuant to section 227.06, Wis. Stats., for a declaratory ruling with respect to the applicability to any person, property or state of facts in which such person has an interest, of any rule or statute enforced by the board. Every such petition shall be addressed to the board and served upon the board or its executive secretary, in duplicate, either by personal service or by registered mail. Petitioner shall furnish additional copies as may be required by the board for serving on such other persons as the board may designate as proper parties to the proceedings so instituted. Such petition shall contain, in substance, the following:

- (a) The full name of petitioner and his post office address.
- (b) The number of the rule or statute on which a declaratory ruling is sought.
- (c) A plain and precise statement of ultimate facts showing the applicability of any such rule or statute to the petitioner, his interest and the situation as to which a declaratory ruling is desired.
- (d) The nature of the interest of the petitioner in the proceeding and the reason or reasons upon which is predicated the request for declaratory ruling.
- (e) The petition shall conclude with a prayer for the declaratory ruling to which petitioner supposes himself entitled.

(2) Action. Upon receipt of such petition, the board may make such investigation of the facts set forth in the petition as it deems desirable and may hold such hearings upon notice to such petitioners or any other interested party as it may deem necessary or desirable. The board, however, shall not be required to issue any such declaratory ruling and such action shall be discretionary except upon reference of a case in accordance with the provision of section 227.05, Wis. Stats. In no case will such petition be set for hearing, unless the petitioner states facts showing that petitioner is affected by the rule or statute with respect to which a declaratory ruling is requested, or a showing that the application of such rule or statute to him will affect him adversely. If the board determines that there is no issue of fact, the board shall state in the notice of hearing that issues of law only will be considered.

Chapter REB 5

OUT OF STATE SUBDIVISIONS

REB 5.01 Operations in out of state subdivisions. (1) Applicability. The rules herein shall apply when a broker is selling lots or acreage encumbered with a mortgage, trust agreement, custodial trust agreement or other lien, whether recorded or unrecorded where said lots or acreage is located outside the State of Wisconsin or where the seller himself holds the land on land contract, option, trust agreement, custodial trust agreement or other lien, whether recorded or unrecorded where said lots or acreage is located outside the State of Wisconsin.

(2) Broker's duty. The broker shall: (a) Make arrangements that upon the payment of a specified sum individual lots can be released from any encumbrance or title obtained from the owner where only a land contract, option, trust agreement, custodial trust agreement or other agreement exists;

(b) Make arrangements that the final payment on any contract for the sale of a lot of such subdivision shall become due and payable before any encumbrance shall become due and payable or before the expiration of the seller's land contract, option, trust agreement, custodial trust agreement

or other agreement unless the first payments made by the purchaser shall immediately be used for the purpose of releasing the lot sold from any encumbrance or used for the purpose of obtaining title;

(c) Make arrangements where a purchaser has paid to the vendor or seller on a land contract, or any other type of installment contract, up to an amount where the balance due on said contract equals the amount required to release the mortgage, trust agreement, custodial trust agreement or other lien on the lot or real estate included in said land contract, or other type of installment contract, or to obtain title, that the remaining payments either shall be paid directly to the mortgagee, lien claimant, or trustee, or owner of the fee, or shall be set up in a trust fund located in a bank in the State of Wisconsin in conformity with section 452.09, Wis. Stats., to release such encumbrance or obtain title by satisfying the terms of the land contract, installment contract or option and such trust fund shall be maintained in such form that it is liquid at all times;

(d) Make arrangements that at the time of sale the purchaser shall be fully and completely advised of the seller's interest in the land, of the existence of any encumbrance on the property in question and that the contract with the purchaser of the lot or other real estate shall state the amount of the encumbrance, the name of the holder of the encumbrance, and the terms upon which it can be released or title obtained;

(e) Make arrangements to furnish such further information as the examining board may reasonably require to enable it to determine whether the land and or developers meet the requirements of section 452.10 (2), Wis. Stats., REB 5.01 and Ch.7 and further to determine the background and experience of each member of the development, of the partnership or corporation, to transact the business in such manner as to safeguard the interests of the public.

(3) Furnishing information: (a) The Wisconsin broker representative shall submit all of the above information for board's consideration.

(b) No action shall be taken by the board on any application submitted under this rule unless said application is submitted by a duly licensed Wisconsin broker. Said broker shall not sell any of said lands until authorized in writing by the board.

Chapter REB 6

BROKER'S OBLIGATION TO FURNISH COPIES

REB 6.01 Delivery of the agreements. (1) Listing contract. The broker or salesman shall leave with the person who executed listing contract an exact and complete copy of any listing contract the sellers have signed and the broker or his agent have signed at the time of signature.

(2) Offer to purchase. (a) Buyer's offer. The broker or salesman shall leave with a person executing offer to buy such property, an exact and complete copy of the offer to purchase which he had signed at the time of signature.

(b) Seller's acceptance. The broker or salesman shall leave with a person accepting an offer to purchase, an exact and complete copy of the offer to purchase which he has accepted at the time of acceptance.

(c) Executed offer. When an offer to purchase has been signed by both buyers and sellers, a duplicate copy thereof, containing signature of both parties shall be promptly delivered to the buyers.

(3) Delivery of closing statements. The broker or salesman shall deliver to the seller and purchaser at the time of the closing of a transaction, wherein he acts as broker, a complete and detailed closing statement showing all the financial transaction relating to the sale and purchase of the property as their interest may appear. In cases where transactions are handled through escrow and the escrow holder renders a closing statement, it shall be the responsibility of the broker to see to it that the closing statement is complete and that copies thereof are delivered to buyer and seller. The broker shall retain true copies of such statements in his files for a period of at least 3 years after the date of the closing.

Chapter REB 7

LEGAL ADVICE OR SERVICES: COMPLETION OF APPROVED FORMS

REB 7.01 Legal advice. (1) What constitutes. No licensee of this board shall give advice or opinions as to the legal rights or obligations of parties to a transaction, or as to the legal effect of contracts or conveyances, or as to the state of title to real estate.

(2) Forms. A licensee or registrant of this board may prepare and use only forms which have been approved by this board and only under the following conditions:

(a) Licensee or registrant shall use such approved forms only in those transactions in which he is acting as a broker or agent, or in which he is a principal, and in either case the use of such approved form is incidental to his trade or business.

(b) A salesman shall not use or prepare any approved form other than a listing contract, an offer to purchase, and a residential lease.

(c) No licensee or registrant shall make a separate charge for completing any form used in connection with a transaction.

(3) Definition. An "approved form" as used herein shall include only such forms as are prepared or approved by this board, or such forms as shall be prepared or approved by the State Bar of Wisconsin, for deeds, land contracts, mortgages, mortgage releases, and partial releases. Forms previously approved, including those described in section 235.16 of the Wis. Stats., now repealed, are deemed to be approved forms until such approval shall be revoked.

(4) Violation. Any licensee or registrant who violates this rule may be deemed to be in violation of section 452.10 (2) (i) of the Wis. Stats.

Chapter REB 8

BROKER'S INVESTIGATION OF SALESMEN APPLICANTS

REB 8.01 Investigation. (1) Requirements. A broker prior to the start of each calendar year and prior to employing a new salesman shall determine that each salesman employed by him is properly licensed before said salesman shall engage in any real estate business pursuant to section 452.03, Wis. Stats. Each broker shall before executing the affidavit to sponsor a new salesman at least make the following minimum investigation:

- (a) Personal interview with applicant.
- (b) Require the applicant to fill out an application listing in detail at least five-years prior employment history if applicable and three or more personal references.
- (c) The broker is to conduct adequate investigative activity regarding applicant's credit, character, and reputation.
- (d) The applicant must sign a statement under oath as to whether or not he has ever had any formal or to the best of his knowledge an informal complaint filed against him with the board. If the answer is "yes", the broker shall personally contact the board.
- (e) All personal references and former employers within the past 5 years shall be contacted.
- (f) The broker shall personally contact the former or present broker employer of said salesman applicant.
- (g) The broker shall make such further investigation as he deems necessary in order to insure protection of the public and maintaining high standards in the real estate profession.
- (h) Said investigation shall be made to insure compliance with section 452.03 and section 452.08 (3), Wis. Stats.

Chapter REB 9

TRUST ACCOUNTS

REB 9.01 Trust accounts. (1) Requirements. Each broker shall maintain a demand deposit common trust account or accounts in a bank for the deposit of all down payments, earnest money deposit, or trust funds received by the broker or his salesman on behalf of his principal or any other person while acting and performing duties as a licensed real estate broker or salesman as set forth in section 452.01 of the Wis. Stats.

(2) Authorized signature. In order to provide for emergencies and the necessities of modern real estate practice, the board in recognition of the need for brokers to have others authorized to sign trust account checks will

not take action with respect to a broker's license as a violation of chapter REB 9 or section 452.09, Wis. Stats., where a person other than the licensed broker signs form 5 trust account checks provided:

(a) Said person has filed an application for said authority with the board on form 50 and said application has been approved in writing by the board.

(b) Said person is a regular employe of the broker licensee and working in the office of said licensee.

(c) Permission on form 50 shall only be given to 3 persons in any broker's office or 1 person in a branch office except that: 1. If there are more than 3 brokers in an office there shall be allowed one additional signator for each additional 3 brokers who are company officers or partners.

2. This permission on form 50 shall not be given to an inactive partner or to an unlicensed officer of a corporation unless said partner owns less than a controlling interest in said partnership or said officer is a minority stockholder.

3. Permission on form 50 may be given to a licensed Wisconsin attorney or a certified public accountant who is employed by said broker, provided said attorney or certified public accountant have their place of business no further than 100 miles from said broker's office.

(d) Failure of a broker to fully comply with this rule shall be a basis for disciplinary action pursuant to section 452.10, Wis. Stats.

(e) In no case shall any permission on form 50 be granted to any person who is not a resident of the State of Wisconsin and presently residing in the State of Wisconsin.

(f) No permission shall be given to an individual under 21 years of age.

(g) With the exception of item (e), the board may upon written request and evidence of extenuating circumstances waive portions of this rule.

(3) Notification. Each broker shall notify the board of the name of the bank or banks in which said trust account or accounts are maintained and also the name of the accounts on forms provided therefore. Said form or forms shall be designated form number 5, consent to examine and audit trust account and shall be filed with the board by each new applicant for a real estate broker's license. A new form 5 shall be filed with the board each time a broker changes said real estate trust account in any manner whatsoever including but not limited to change of banks, change of account number, change of business address, change of name, change of method of doing business. Said new forms shall be filed with the board within 10 days after the aforementioned change takes place. Failure to file said form within said time limit shall be deemed to constitute a violation of the

Wis. Stats., within the meaning of section 452.10 (2) (a) and also shall be deemed to constitute a violation of section 452.10 (2) (i) requiring safeguards of the interests of the public.

(4) Authorization. Each broker shall authorize the board to examine said trust account and shall obtain the certification of the bank attesting to said trust account and consenting to the examination and audit of said account by a duly authorized representative of the board, and each broker shall starting with renewal application filed for the year 1973, authorize the board to examine said trust account and shall obtain the certification of the bank attesting to said trust account and consenting to the examination and audit of said account by duly authorized representative of the board. A new authorization shall be filed with the board every two years thereafter, unless required under (2) of this rule. Said certification and consent shall be furnished on forms prescribed by the board.

(5) Commingling prohibited. Each broker shall only deposit trust funds received on real estate or business opportunity transactions as defined in section 452.01, Wis. Stats., in said common trust account and shall not commingle his personal funds or other funds in said trust account with the exception that a broker may deposit and keep a sum not to exceed \$100.00 in said account from his personal funds which sum shall be specifically identified and deposited to cover bank service charges relating to said trust account.

(6) Number of trust accounts. A broker may maintain more than one trust account provided the board is advised of said account as specified in section REB 9.01 (4) and (5) above.

(7) Time of deposit. Each broker shall deposit all real estate trust money received by him or his salesmen in the broker's trust account registered with the board within 24 hours of receipt of said money by said broker or said salesman. In the event said trust money is received on a day prior to a holiday or other day said bank is closed, said money shall then be deposited on the next business day of said bank.

(8) Bookkeeping system. Each broker shall maintain a bookkeeping system in his office consisting of a least the following:

(a) A permanently bound record book called a journal which shows the chronological sequence in which funds are received and disbursed: 1. For funds received the journal must include the date, the name of the party who is giving the money, the name of the principal, and the amount.

2. For disbursements, the journal must include the date, the payee, the check number and the amount.

3. A running balance must be shown after each entry (receipt or disbursement).

(b) A ledger - a record book which shows the receipt and the disbursements as they affect a single, particular transaction - as between buyer and

seller or landlord and tenant, etc. The ledger must include the names of both parties to a transaction, the dates and the amounts received. When disbursing funds the date, payee, check number and amount must be shown. The ledger must segregate one transaction from another transaction. There must be a separate ledger or separate section of the ledger for each of the various kinds of real estate transactions (i.e. sales, or rental collections, or mortgage and land contract collections).

(c) The trust account must be reconciled monthly except in the case where there had been no activity during that month. The reconciliation must include a written work sheet comparing the bank statement with the journal and the ledger to insure agreement (chapter 16 of the Wisconsin real estate manual shows a typical reconciliation).

(d) Real estate trust funds received in his capacity as a broker would include but not be limited to monies received in connection with the following:

1. Offers to purchase.
2. Options.
3. Land contracts.
4. Rent contracts.
5. Mortgages.
6. Mortgage payments.
7. Real estate taxes and insurance payments.
8. Finders fees.
9. Advance fees.
10. Any other receipts pertaining to the sale, exchange, purchase, rental of real estate or business opportunities or mortgage financing.

(e) Said journal and ledgers shall include but not be limited to information on:

1. Finders fees, dates, names of parties and amount.
2. Advance fees, dates, names of parties and amount.
3. Earnest money receipts, dates, names of parties, amount of down payment.
4. Any other receipts pertaining to the sale, exchange, purchase, rental of real estate or business opportunities, dates, names of parties, amount of payment.

(9) Deposits in lieu of cash. Any instrument or equity or thing of value taken in lieu of cash as down payment shall be held by an authorized escrow agent except as otherwise agreed.

(10) Branch office trust account. In the event a branch office maintains a separate trust account, a separate bookkeeping system shall be maintained in said branch office.

(11) Withdrawal of deposits. Commissions or fees earned by the broker out of moneys deposited in said trust account shall be withdrawn from said trust account within 24 hours after the transaction is consummated, terminated or after the commission or fees are earned in accordance with the contract involved.

(12) Violation of rules. Failure of the broker to follow the rules as set forth in this section shall constitute grounds for revocation or suspension of his license under section 452.10 (2), Wis. Stats.

Chapter REB 10

BRANCH OFFICE

REB 10.01 Branch office. (1) Definition. If a broker maintains more than one office, then one office shall be designated as the main office and each additional office shall constitute a branch office. If a real estate broker uses his home telephone number in advertising he is not required to indicate that it is a home telephone number, nor is he required to have a branch office license for said home. If a real estate broker maintains a regular office, his home shall not be considered a branch office.

(2) What constitutes. If a salesman performs any of the acts as outlined in section 452.01, Wis. Stats., from his home or any place other than the main office, then said home or other place shall constitute a branch office if:

(a) The salesman does not report in person at least 4 times per week and spend at least 95% of his office time at the broker's office; or

(b) The salesman or broker advertises property for sale listing the salesman's home address or telephone number (except if item (a) above is applicable); or

(c) The salesman maintains a sign on the outside of his residence indicating that he is engaged in the real estate business; or

(d) The salesman's residence is located more than 40 miles from the broker's office.

(e) A temporary structure established for the sale of subdivisions which structure is located within 40 miles of the broker's main office shall not constitute a branch office.

(3) Supervision. Each branch office shall be under the direct full time supervision of a licensed real estate broker who is also a licensed salesman of employer licensee.

(4) Residence. The broker-salesman who manages a branch office shall

reside in the county in which the branch office is located.

(5) Employer-broker responsibility. The employer-broker shall be responsible for the acts and conduct of all employes of the branch office including the broker-salesman who is supervisor of the branch office.

(6) Chain of responsibility. The employes of the branch office shall be directly answerable to the supervising broker-salesman, who shall, in turn, be directly answerable to the employing broker.

(7) Notification to board. The employing broker shall at all times notify the board of the location and address of each branch office which he operates and the name of the broker-salesman who supervises said office.

(8) Notification to board of change. It shall be the responsibility of the broker-employer to notify the board in writing of any change of address of a branch office or change of supervisor of said office, within 10 days after said change.

(9) Notification to board of salesmen. The broker-employer shall notify the board in writing of the names of all salesmen who work out of a branch office.

(10) Additional office. Every additional office or place of business other than the principal place of business of a broker, shall be licensed only with the approval of the board and only after the broker has given satisfactory proof that this additional office shall be under the supervision of a duly authorized broker-salesman employe.

(11) Application. The broker desiring to open a branch office shall file with the board an application for branch office license on forms to be furnished by the board.

(12) Posting license. The broker shall post in said branch office, in a conspicuous place available to the public, the aforementioned branch office license.

(13) Branch office rules. The broker shall place in a conspicuous place available to the employes, a statement of the rules under which said branch office and its employes shall operate.

(14) Salesmen. Transfer, termination and replacement of salesmen shall be in the name of and handled by the employing broker.

(15) Signs. The branch office shall display the conspicuous signs within and without the establishment as required by section 100.18 (5), Wis. Stats.

(16) Violations. Failure of the broker to follow the rules set forth in this section shall constitute grounds for revocation or suspension of his license under section 452.10 (2), Wis. Stats.

Chapter REB 11

NONRESIDENT BROKERS

REB 11.01 Nonresident brokers. (1) Real estate broker. A nonresident may become a real estate broker in this state if he maintains an active place of business as a real estate broker in the state of his residence or in this state. However, a mailing address shall not constitute an active place of business under this section.

(2) Salesmen prohibited. Nonresident real estate brokers shall not employ real estate salesmen in this state.

(3) Active place of business. A nonresident real estate broker applicant shall furnish proof of maintaining an active place of business as a real estate broker in his residence state by submitting a photostatic copy of his license and any further information deemed necessary by the board.

(4) Registration. A nonresident real estate broker shall register the location of his Wisconsin place of business with the board and shall furnish any further information deemed necessary by the board.

Chapter REB 12

UNLICENSED ACTIVITY

REB 12.01 Unlicensed activity. (1) Investigation. The board may defer the investigation on anonymous complaints of unlicensed activity until a responsible source of information is disclosed to the board.

(2) District attorney. The board may recommend to the district attorney the prosecution of individuals engaged in unlicensed activity in cases where the investigation of the board indicates prosecution is warranted.

(3) Referral. Each licensed broker or salesman may bring cases involving unlicensed activity to the attention of the district attorney for prosecution.

Chapter REB 13

APPRENTICES

REB 13.01 Apprentices. (1) Requirements. No broker shall employ any person to engage in the real estate business within the meaning of sections 452.01, 452.10 and 452.05 (3), Wis. Stats., unless and until said individual has received an appropriate license from the board.

(a) Only persons who are a resident of this state and a citizen of the United States, 20 years of age or over, may apply for an apprentice license.

(b) Any person desiring to act as an apprentice real estate salesman shall file with the board an application for a license. Said application shall be in such form as the board prescribes and in accordance with sections 452.05 and 452.06, Wis. Stats.

(c) Each applicant for an apprentice salesman's license shall be required to write and pass a preliminary examination covering general knowledge which shall, among other things, include a knowledge and ability to read and write the English language, a knowledge of arithmetic, and general knowledge of the terminology used in the real estate business and a thorough knowledge of the rules governing apprentices.

(d) Any applicant for an apprentice salesman's license who can furnish proof to the board of having graduated from an accredited high school may not be required to write the examination as set forth in paragraph (4) above.

(e) An applicant for an apprentice license must be indentured to a licensed real estate broker of this board in good standing, which broker has agreed, in writing, to said indenture agreement according to the rules of the board before the application for said apprentice license will be accepted by the board.

(2) Number. Only one apprentice shall be employed for each individual holding a broker's license including corporate officer broker's license unless said broker shall employ full time salesmen in which case an additional apprentice shall be allowed for each five full time salesmen employed but in no case will an individual, partnership or corporate broker be allowed to employ more than 3 apprentice salesmen.

(3) Fee. Each application for apprentice license shall be accompanied by a fee of \$15.00.

(4) Period. An apprentice license or licenses shall not be granted for a period to exceed one year from the date of issuance by the board and shall not be renewable.

(5) Surrender. An apprentice who has qualified for a salesman's or broker's license shall surrender said apprentice license to his sponsoring broker before a salesman's or broker's license shall be issued.

(6) Termination. An apprentice who shall leave the employ of the sponsoring broker for any reason shall surrender said apprentice license to said broker immediately upon the termination of said apprenticeship by the apprentice, the broker or the board.

(7) Scope of employment: (a) An apprentice shall not at any time be allowed to close a real estate sale.

(b) An apprentice shall not be allowed to advertise in the newspaper, telephone, signs or by any other means, nor shall the broker be allowed to advertise the name of the apprentice in any manner.

(c) The apprentice may use business cards, but said cards shall clearly state "Apprentice Salesman" in type as large as the type used for the apprentice's name.

(d) The apprentice, at no time, shall be paid a portion of a commission based upon sales or on listings secured nor shall he be allowed to be paid on a percentage basis for any other services performed.

(e) The apprentice shall be paid on an hourly basis only and said rate of pay shall be included in the apprenticeship contract.

(f) Said apprentice shall spend a minimum of 20 hours work each week; said 20 hours to be spent in no less than 3 days each week, performing apprenticeship duties.

(g) A minimum of 6 hours of said 20 hours shall be spent pursuing a course of study of real estate laws, regulations and procedures.

(h) Enrollment in a real estate course at a school recognized by the board shall meet the requirement of a course of study for a maximum of 4 hours per week.

(i) Further study for the apprentice shall be conducted by the broker or by an instructor hired by the broker and approved in writing by the board.

(j) During the first 6 months of said apprenticeship, the apprentice shall not be allowed to secure listing contracts, offers to purchase or any other contracts except if accompanied by a fully licensed real estate salesman or broker.

(k) During the first month of said apprenticeship, the apprentice shall not be allowed to negotiate with the public, but shall spend the apprenticeship time becoming acquainted with the operation of the real estate office.

(l) After the first month, the apprentice may handle open houses and rentals, but may not draft or negotiate offers to purchase or earnest money receipts.

(m) After 6 months of apprenticeship, the apprentice may secure listing contracts, provided said listing contracts are reviewed and approved by the broker within 24 hours after they are secured and further provided said listing contracts contain the following clause:

"This listing contract has been secured by an apprentice salesman and shall not be binding upon either party until approved by the broker. If the broker does not notify the seller that he is not approving this listing contract within 2 days from the date of this contract, then this contract shall be binding upon both parties.

Approved this day of, 19.....

....."
Broker

(n) The apprentice shall not execute or have executed any rental agreement until the broker shall have approved said rental agreement on the face of said contract.

(8) Brokers' duties: (a) The broker shall at all times be responsible for the acts of said apprentice salesman and shall properly supervise said apprentice.

(b) The broker shall make available suitable instructions and a course of study for said apprentice, including real estate procedures, real estate law, office procedures and sales techniques.

(c) The broker shall pay said apprentice an hourly rate of pay which shall not be less than \$1.00 per hour.

(d) The broker shall prepare and have executed an apprenticeship contract which shall include the rate of pay, the hours to be spent by the apprentice, the instructions or course of study that will be offered to the apprentice and a schedule of commissions paid after apprentice has obtained a salesman's license. A copy of said contract shall be filed with the board.

(e) The broker may include in said apprenticeship contract, reasonable employment requirements after termination of said apprenticeship, but in no case, shall said employment right extend beyond 2 years after the termination of the year's apprenticeship.

(f) The broker will furnish the apprentice with a written copy of the rules of the office.

(9) Apprentices' duties: (a) The apprentice shall punctually attend all courses of instruction offered by the broker or by schools he shall attend unless excused for reasonable cause by the broker.

(b) The apprentice shall obey all office rules of the broker and also special rules set forth in the apprentice contract.

(c) The apprentice shall not engage in any real estate activities outside of the scope of his apprenticeship employment.

(d) The apprentice shall be punctual on all appointments and shall fully inform his broker concerning all of his activities.

(e) The apprentice shall keep and maintain in the broker's office, a log book entering therein the date, activity and hours spent each day while working on said apprenticeship, including time spent at school or attending a course of instruction. The entries on each page of said log shall be thoroughly reviewed and initialed by the broker.

(10) General: (a) An apprenticeship contract may be canceled on the mutual consent of both parties.

(b) Upon informal written complaint filed with the board by either the broker or apprentice, the board may hold a formal or informal hearing to review an apprentice license or apprenticeship program.

(c) The board may suspend or revoke an apprentice license if the apprentice has violated any of the rules of apprenticeship, statutes or rules of the board.

(d) The board may suspend or revoke a broker's license if the broker has violated any of the apprenticeship rules, statutes or rules of the board.

(e) A broker may at any time cancel an apprenticeship contract for just cause provided the broker furnishes the apprentice with a written statement within five days of the cancellation setting forth in detail the reasons for the cancellation of the apprenticeship contract.

Chapter REB 14

CHANGE OF ADDRESS

REB 14.01 Change of address. All licensees who change their place of business shall within 30 days after said change notify the board of said change and of the new address. Failure to comply with this rule may be deemed to be a violation of section 452.10 (2) (i) and (k), Wis. Stats.