

No. 765, A.]

[Published February 16, 1962.

### CHAPTER 675

AN ACT to amend 136.06 (5), as amended by chapter 593, laws of 1961, 136.08 (1), (2) (i) and (4), 136.09 (1) and (2), 136.10, 136.14 and 136.18 (2); to repeal and recreate 136.011 (6), as repealed and recreated by chapter 593, laws of 1961; and to create 136.16 (3) of the statutes, relating to the registration of cemetery salesmen, and providing a penalty.

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

SECTION 1. 136.011 (6) of the statutes, as repealed and recreated by chapter 593, laws of 1961, is repealed and recreated to read:

136.011 (6) A person who is not registered shall not engage in or follow the business or occupation of, or advertise or hold himself out as or act temporarily or otherwise as a cemetery salesman.

SECTION 2. 136.06 (5) of the statutes, as amended by chapter 593, laws of 1961, is amended to read:

136.06 (5) Sections 136.075, 136.08, 136.09, 136.10, \* \* \* 136.13, 136.14, 136.15, 136.16, 136.17 and 136.18, as they apply to real estate salesmen, shall apply with equal effect to cemetery salesmen.

SECTION 3. 136.08 (1), (2) (i) and (4) of the statutes are amended to read:

136.08 INVESTIGATIONS, REVOCATION OF LICENSE OR REGISTRATION. (1) The board may on its own motion make investigations and conduct hearings in regard to the action of any real estate or business opportunity broker \* \* \*, salesman or cemetery salesman, or any person who it has reason to believe is acting or has acted in \* \* \* such capacity within this state, and may make findings, after a hearing held on 10 days' notice, whether such person has acted as a broker \* \* \*, salesman or cemetery salesman. The findings shall be subject to review \* \* \* under s. 136.15. In such review any additional material evidence presented may be considered.

(2) (i) Demonstrated untrustworthiness or incompetency to act as a broker \* \* \*, salesman or cemetery salesman in such manner as to safeguard the interests of the public;

(4) A copy of the complaint, together with notice of suspension of the license or registration, if ordered by the board, shall forthwith be served upon the broker \* \* \*, salesman or cemetery salesman complained against by personal service or by mailing same to his last known business address. If the complaint is against a salesman or a cemetery salesman a copy of the complaint and notice shall also be served upon the broker for whom he is acting. The person so served shall file his answer with the board within 10 days after such service and serve a copy of his answer on the complainant. The board shall thereupon set the matter for hearing as promptly as possible and within 30 days after the date of filing the complaint. Either party may appear at the hearing in person or by attorney or agent.

SECTION 4. 136.09 (1) and (2) of the statutes are amended to read:

136.09 DENIAL OR REVOCATION OF LICENSE OR REGISTRATION, PROCEDURE. (1) No order denying or revoking a license or registration shall be made until after a public hearing held before the board, or before any member thereof, or before any duly authorized em-

ploye whose report the board has adopted. The hearing shall be held in the county wherein the applicant for a license *or registration* or the broker complained of or whose salesman is complained of has his place of business. If the broker \* \* \*, salesman *or cemetery salesman* is a nonresident the hearing shall be held at such place as the board designates.

(2) At least 10 days prior to the date of hearing the board shall send written notice of the time and place of the hearing to the applicant for a license *or registration* or to the complainant and to the party complained against and to their respective attorneys or agents of record by mailing same to the last known address of such persons. The testimony presented and proceedings had at the hearing shall be taken in shorthand and preserved as the records of the board. The board shall as soon thereafter as possible, and within 90 days after the date of filing of a complaint, make its findings and determination thereon and shall send a copy to each interested party.

SECTION 5. 136.10 of the statutes is amended to read:

136.10 No licensed broker *or registered cemetery salesman* shall 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 or business opportunity brokerage *or cemetery sales* business in another state.

SECTION 6. 136.14 of the statutes is amended to read:

136.14 No license *or registration* shall 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.

SECTION 7. 136.16 (3) of the statutes is created to read:

136.16 (3) Any person who is not registered who engages in or follows the business or occupation of, or advertises or holds himself out as or acts temporarily or otherwise as a cemetery salesman in this state or who otherwise violates any provision of this chapter, shall be prosecuted by the district attorney in the county where the violation occurs and may be fined not less than \$25 nor more than \$200 or imprisoned not less than 10 days nor more than 6 months or both.

SECTION 8. 136.18 (2) of the statutes is amended to read:

136.18 (2) The certificate of the secretary or assistant secretary of the board to the effect that a specified individual, partnership or corporation is not or was not on a specified date the holder of a real estate broker's or salesman's license or a business opportunity broker's or salesman's license *or registration*, or that a specified license *or registration* was not in effect on a date specified, or as to the issuance, suspension or revocation of any license *or registration*, 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 proceeding.

Approved February 12, 1962.