

CHAPTER 341, Laws of 1979

AN ACT to amend 452.02 (5) and (6), 452.03, 452.05 (2m) and (3), 452.06 (2) (a) and (4) (b), 452.08 (3) (a) and (5) (a), 452.09, 452.10 (2) (intro.), (a) to (c), (e), (f) and (h), 452.13, 452.14 (1) and (3) and 452.18 (1) and (3) of the statutes, relating to miscellaneous corrections affecting the statutes governing the real estate examining board. (This is remedial legislation suggested by the department of regulation and licensing.)

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

SECTION 1. 452.02 (5) and (6) of the statutes are amended to read:

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

SECTION 2. 452.03 of the statutes is amended to read:

**452.03 (title) Brokers and salespersons licensed.** No person shall ~~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 real estate broker or ~~salesman~~ salesperson without a license. Licenses shall be granted only to persons who are trustworthy and competent to transact such businesses in ~~such a manner as to safeguard~~ which safeguards the interests of the public, and only after satisfactory proof ~~thereof~~ of the person's trustworthiness and competence has been presented to the examining board. If a cemetery ~~salesman~~ salesperson engages in the sale of real estate other than cemetery lots or grave spaces, ~~he~~ the salesperson shall first obtain a real estate ~~salesman's~~ salesperson's license.

SECTION 3. 452.05 (2m) and (3) of the statutes are amended to read:

452.05 (2m) (title) SALESPERSON'S EDUCATIONAL PROGRAMS. Within the 24-month period commencing with the ~~first last~~ day of ~~September~~ December following the granting of the licensee's original real estate ~~salesman's~~ salesperson's license each licensed real estate ~~salesman~~ salesperson shall submit to the examining board proof of attendance at 30 classroom hours of educational programs approved by the examining board. The examining board 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. ~~A person's license shall not be renewed if the licensee does not meet the educational requirement within the 24-month period.~~

(3) APPRENTICESHIPS. Any person who is a resident of this state and ~~a citizen of the United States~~, 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 examining board. These rules shall be drawn so as to protect the public and may limit the real estate sales and brokerage activity of the apprentice. The examining board further may require a preliminary examination covering general knowledge and prescribe

the character and extent of his or her work during apprenticeship. The examining board may issue a temporary ~~salesman's~~ salesperson's permit to the individual for a period not to exceed one year upon payment of the fee under s. 440.05 (6). This temporary permit shall not be renewable.

SECTION 4. 452.06 (2) (a) and (4) (b) of the statutes are amended to read:

452.06 (2) (a) Each new application for a real estate broker's license or for a real estate ~~salesman's~~ 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.

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

SECTION 6. 452.08 (3) (a) and (5) (a) of the statutes are amended to read:

452.08 (3) (a) Each broker shall be responsible for the acts of any ~~and all of his~~ salesmen while salesperson acting as ~~his agents~~ the broker's agent.

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

SECTION 7. 452.09 of the statutes is amended to read:

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

SECTION 8. 452.10 (2) (intro.), (a) to (c), (e), (f) and (h) of the statutes are amended to read:

452.10 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the examining board may also on its own motion, or upon complaint in writing, duly signed and verified by the complainant, and upon not less than 10 days' notice to the broker or ~~salesman~~ salesperson, suspend any broker's or ~~salesman's~~ salesperson's license or registration if it has reason to believe, and may limit or revoke ~~such~~ the license or registration or reprimand the holder ~~thereof of the license or registration~~ as provided hereafter, if it finds that the holder of the license or registration has:

(a) Made a material misstatement in the application for ~~such~~ the license or in any information furnished to the examining board;

(b) Made any substantial misrepresentation with reference to a transaction injurious to a seller or purchaser ~~wherein he~~ 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;

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

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

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

SECTION 9. 452.13 of the statutes is amended to read:

**452.13 Limitation on actions for commissions.** No person engaged in the business or acting in the capacity of a real estate broker or ~~salesman~~ salesperson within this state shall 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 ~~salesman~~ salesperson at the time the alleged cause of action arose.

SECTION 10. 452.14 (1) and (3) of the statutes are amended to read:

452.14 (1) A nonresident ~~of this state~~ may become a real estate broker or ~~salesman~~ salesperson by conforming to all the provisions of this chapter, except that a nonresident real estate broker shall maintain an active place of business in the state in which ~~he~~ the broker holds a license, and ~~said~~ nonresident real estate brokers shall may not employ real estate ~~salesmen~~ salespersons in this state.

(3) Every nonresident applicant shall file an irrevocable consent that actions may be commenced against ~~him~~ 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 examining board, any member thereof or any duly authorized employe. The consent shall stipulate and agree that such service is valid and binding as due service upon ~~said~~ 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.

SECTION 11. 452.18 (1) and (3) of the statutes are amended to read:

452.18 (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 real estate broker or ~~salesman~~ salesperson in this state without a license, 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 more than \$1,000 or imprisoned not more than 6 months or both.

(3) Any person who is not registered 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 ~~salesman~~ salesperson 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 12. **Term changes.** (1) (a) Wherever in the following sections of the statutes the term "salesman" appears, the term "salesperson" is substituted: 108.02 (5) (g) 9, 452.01 (3), 452.02 (3) and (4) (intro.) and (d), 452.05 (1) (intro.) and (e) and (1m), 452.06 (1) and (4) (a), 452.08 (1) (a), (2) and (3) (b), 452.10 (1), (1a) and (2) (i), 452.12, 452.14 (2), 452.19 and 553.26 (5) (a) 4.

(b) Wherever in the following sections of the statutes the term "salesman's" appears, the term "salesperson's" is substituted: 452.05 (2) (a), 452.07 and 452.20 (2).

(2) Wherever in the following sections of the statutes the term "salesmen" appears, the term "salespersons" is substituted: 218.04 (1) (f), 426.201 (4) (b), 452.02 (title), 452.04 (1), 452.06 (5), 452.08 (4) and 452.10 (2) (d).