



**HYBRID (IN-PERSON/VIRTUAL)
REAL ESTATE EXAMINING BOARD
Room N208, 4822 Madison Yards Way, 2nd Floor North, Madison
Adam Barr (608) 266-2112
June 16, 2022**

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board. Be advised that board members may attend meetings designated as "Hybrid" in-person or virtually.

AGENDA

10:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-4)

B. Approval of Minutes of April 14, 2022 (5-8)

C. Reminders: Conflicts of Interest, Scheduling Concerns

D. Introductions, Announcements and Recognition

E. Administrative Matters

- 1) Department, Staff and Board Updates
- 2) Board Members – Term Expiration Dates
 - a. Berry, Jeffery K. – 7/1/2022
 - b. Kaleka, Gurmit S. – 7/1/2025
 - c. Lacy, Cathy J – 7/1/2025
 - d. Lauer, Elizabeth A. – 7/1/2022
 - e. Mays, Sonya G. – 7/1/2024
 - f. Pierce, Dennis M. – 7/1/2013
 - g. Richie, Thomas J. – 7/1/2022

F. Legislative and Policy Matters – Discussion and Consideration

G. Administrative Rules Matters – Discussion and Consideration (9)

- 1) Pending or Possible Rulemaking Projects
 - a. Rule Project Request Regarding License Renewal and Continuing Education
(10-36)

H. Report and Possible Action from the Real Estate Contractual Forms Advisory Council – Discussion and Consideration

- I. Report and Possible Action from the Council on Real Estate Curriculum and Examinations – Discussion and Consideration
- J. Broker Supervision of Real Estate Salespersons – Discussion and Consideration**
- K. Newsletter Matters – Discussion and Consideration**
- L. Credentialing Matters – Discussion and Consideration**
 - 1) Credentials Issued Between Meetings
- M. COVID-19 – Discussion and Consideration**
- N. Discussion and Consideration of Items Added After Preparation of Agenda:
 - 1) Introductions, Announcements and Recognition
 - 2) Administrative Matters
 - 3) Election of Officers
 - 4) Appointment of Liaisons and Alternates
 - 5) Delegation of Authorities
 - 6) Education and Examination Matters
 - 7) Credentialing Matters
 - 8) Practice Matters
 - 9) Legislative and Policy Matters
 - 10) Administrative Rule Matters
 - 11) Liaison Reports
 - 12) Board Liaison Training and Appointment of Mentors
 - 13) Informational Items
 - 14) Division of Legal Services and Compliance (DLSC) Matters
 - 15) Presentations of Petitions for Summary Suspension
 - 16) Petitions for Designation of Hearing Examiner
 - 17) Presentation of Stipulations, Final Decisions and Orders
 - 18) Presentation of Proposed Final Decisions and Orders
 - 19) Presentation of Interim Orders
 - 20) Petitions for Re-Hearing
 - 21) Petitions for Assessments
 - 22) Petitions to Vacate Orders
 - 23) Requests for Disciplinary Proceeding Presentations
 - 24) Motions
 - 25) Petitions
 - 26) Appearances from Requests Received or Renewed
 - 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

O. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

- P. Deliberation on Department of Legal Services and Compliance (DLSC) Matters**
 - 1) Recusal of Board from 21 REB 035 (37)**
 - 2) Proposed Stipulations, Final Decisions and Orders**

- a. 18 REB 059 – Laura Trimble, Golden Rule Real Estate, LLC **(38-48)**
 - b. 19 REB 091 & 19 REB 133 – Ronald T. Welnetz, Absolute Realtors, Inc **(49-55)**
 - c. 20 REB 060 – Carol A. Toner **(56-62)**
 - d. 20 REB 060 – Michael C. Olson **(63-70)**
 - e. 21 REB 042 – Ronald T. Welnetz **(71-77)**
 - f. 21 REB 062 – Dawn R. Stone **(78-84)**
- 3) Administrative Warnings**
- a. 19 REB 057 – D.Y., A.D.C.D. **(85-87)**
 - b. 19 REB 057 – J.S. **(88-90)**
 - c. 22 REB 014 – R.R. **(91-93)**
- 4) Case Closings**
- a. 20 REB 021 – L.D., C.M., M.S.R. **(94-98)**
 - b. 20 REB 024 – M.R., A.R. **(99-103)**
 - c. 20 REB 056 – M.T., K.K., 3.R.E. **(104-109)**
 - d. 20 REB 060 – B.B., B.R. **(110-116)**
 - e. 21 REB 062 – T.P., E.R. **(117-123)**
 - f. 21 REB 063 – K.D., E.S., J.E.K.P.M. **(124-129)**
 - g. 21 REB 073 – C.B., D.C., E.R. **(130-136)**
 - h. 21 REB 111 – R.S., B.S.R.E.G. **(137-142)**
- 5) Monitoring Matters (143-144)**
- a. Juan Alcantara, Real Estate Salesperson – Requesting Full Licensure **(145-160)**
 - b. Austen Forbeck, Real Estate Salesperson – Requesting Full Licensure **(161-174)**
 - c. Jamie Scholl, Real Estate Salesperson – Requesting Full Licensure **(175-188)**
 - d. Pedro Llontop-Arraya, Real Estate Broker – Requesting Full Licensure **(189-200)**

Q. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders

- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

R. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

S. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

T. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING: AUGUST 18, 2022

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer at 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
REAL ESTATE EXAMINING BOARD
MEETING MINUTES
APRIL 14, 2022**

PRESENT: Jeffery Berry (*arrived at 10:17 a.m.*), Gurmit Kaleka, Cathy Lacy (*arrived at 10:01 a.m.*), Elizabeth Lauer, Sonya Mays, Dennis Pierce, Thomas Richie

STAFF: Adam Barr, Executive Director; Joseph Ricker, Legal Counsel; Jon Derenne, Legal Counsel; Dana Denny, Administrative Rule Coordinator; Kimberly Wood, Program Assistant Supervisor-Adv.; and Other Department Staff

CALL TO ORDER

Thomas Richie, Chairperson, called the meeting to order at 10:00 a.m. A quorum was confirmed with five (5) members present.

(*Cathy Lacy arrived at 10:01 a.m.*)

ADOPTION OF AGENDA

MOTION: Dennis Pierce moved, seconded by Elizabeth Lauer, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF FEBRUARY 3, 2022

MOTION: Dennis Pierce moved, seconded by Elizabeth Lauer, to approve the Minutes of February 3, 2022 as published. Motion carried unanimously.

**BOARD CHAIR MEETING AND OPTIONS TO ADDRESS
DEPARTMENT RESOURCES**

MOTION: Cathy Lacy moved, seconded by Elizabeth Lauer, to call on the Legislature to allow DSPS to use its fee revenue to add more staff. Motion carried unanimously.

(*Jeffery Berry arrived at 10:17 a.m.*)

**REPORT AND POSSIBLE ACTION FROM THE
REAL ESTATE CONTRACTUAL FORMS ADVISORY COUNCIL**

WB-24 – Option to Purchase

MOTION: Elizabeth Lauer moved, seconded by Cathy Lacy, to approve form WB-24 – Option to Purchase as presented in the April 14, 2022 agenda materials on pages 18-26, and to designate the Chairperson to approve the final version of this form. Motion carried unanimously.

CLOSED SESSION

MOTION: Cathy Lacy moved, seconded by Elizabeth Lauer, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Thomas Richie, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Jeffery Berry-yes; Gurmit Kaleka-yes; Cathy Lacy-yes; Elizabeth Lauer-yes; Sonya Mays-yes; Dennis Pierce-yes; and Thomas Richie-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:57 a.m.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Stipulations, Final Decisions and Orders

MOTION: Elizabeth Lauer moved, seconded by Cathy Lacy, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings of the following cases:

1. 21 REB 046 – Danyelle M. Dalbec
2. 21 REB 113 – Jeffrey T. Pedriana

Motion carried unanimously.

20 REB 113 – Christopher Meneghini

MOTION: Dennis Pierce moved, seconded by Thomas Richie, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Christopher Meneghini, DLSC Case Number 20 REB 113. Motion carried unanimously.

21 REB 088 – Steven Thao

MOTION: Cathy Lacy moved, seconded by Elizabeth Lauer, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Steven Thao, DLSC Case Number 21 REB 088. Motion carried unanimously.

Administrative Warnings

21 REB 118 – I.J.

MOTION: Elizabeth Lauer moved, seconded by Cathy Lacy, to issue an Administrative Warning in the matter of I.J., DLSC Case Number 21 REB 118. Motion carried unanimously.

Case Closings

MOTION: Elizabeth Lauer moved, seconded by Jeffery Berry, to close the following DLSC Cases for the reasons outlined below:

1. 19 REB 097 – K.J., F.A., A.J.R.E. – Insufficient Evidence
2. 20 REB 025 – P.B. – No Violation
3. 20 REB 043 – R.G., J.H., S.R. – Insufficient Evidence
4. 20 REB 097 – J.P., W.W., M.L., E.R. – Prosecutorial Discretion (P2)
5. 21 REB 064 – J.S. – No Violation
6. 21 REB 103 – B.W., C.R.E.W. – No Violation

Motion carried unanimously.

Monitoring Matters

Chase C. Erickson, Real Estate Broker & Wild Rivers Realty & Associates Inc., Real Estate Business Entity – Requesting Full Licensure

MOTION: Cathy Lacy moved, seconded by Elizabeth Lauer, to grant the request of Chase C. Erickson, Real Estate Broker, and Wild Rivers Realty & Associates Inc., Real Estate Business Entity, for full licensure. Motion carried unanimously.

Rodney Reinke, Real Estate Broker – Requesting Full Licensure

MOTION: Thomas Richie moved, seconded by Cathy Lacy, to grant the request of Rodney Reinke, Real Estate Broker, for full licensure. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Cathy Lacy moved, seconded by Elizabeth Lauer, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 11:29 a.m.

**VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION,
IF VOTING IS APPROPRIATE**

MOTION: Thomas Richie moved, seconded by Dennis Pierce, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

ADJOURNMENT

MOTION: Thomas Richie moved, seconded by Cathy Lacy, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:31 a.m.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Dana Denny Administrative Rules Coordinator		2) Date when request submitted: 06/06/22 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Real Estate Examining Board			
4) Meeting Date: 06/16/22	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Pending or Possible Rulemaking Projects a. Rule project request regarding license renewal and continuing education	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Board review and possible action on request from Chair Richie Attachments: <ul style="list-style-type: none"> • Wis Admin Code Chapter REEB 12 Summary • Wis Admin Code Chapter REEB 12 • Wis. Admin Code Chapter REEB 25 • Wis. Stat. s. 452 <p>Copies of current Board Rule Projects Can be Viewed Here: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx</p>			
11) Authorization			
<i>Dana Denny</i>		06/06/22	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

REEB 12 TOPIC SUMMARY

REEB 12.04 Renewal and reinstatement.

(2m) RENEWAL OF LICENSE MORE THAN 5 YEARS AFTER LICENSE EXPIRATION.

(b) Salesperson license. A licensee who renews a salesperson license more than 5 years after the license expiration shall submit evidence of all of the following:

1. 'Education.' Completion of any of the following:

a. Real estate salesperson education under s. [REEB 25.033](#) within 5 years of renewal of license.

b. Ten semester hour credits in real estate or real estate law courses from an accredited institution of higher education.

c. Real estate salesperson education under s. [REEB 25.038](#). This option only applies to a licensee who held an active license in another jurisdiction within 2 years of renewal of Wisconsin license.

...

3. 'Continuing education.' Completion of the continuing education required by s. [452.12](#), Stats., for the biennium preceding the date of renewal of the license. A licensee completing education under subds. [1. a.](#) and [c.](#) meets the continuing education requirement.

REEB 12.04(2m)(b)(3) appears to require completing both the education under REEB 25.033 and REEB 25.038 in order for an applicant to be deemed to satisfy the continuing education requirement because of the use of the word "and" between "subds. 1. a." and "1. c.". However, this appears to produce an absurd result, since subsection 1. a concerns applicants who are not licensed in another state, while subsection 1. c concerns applicants who are licensed in another state. Since an applicant obviously cannot be both, the "and" was probably intended to be an "or," and completing the requirements under either 1.a or 1.c should be adequate.

In order to resolve this confusion, the Board may wish to initiate a rule project to change this language.

It should be noted that the education required of applicants for reinstatement who have active licenses in other states is 13 hours (see [REEB 25.038](#)), while the normal CE requirement is 18. Reinstatement applicants who do not have active licenses in other states need to take 72 hours of education (see [REEB 25.033](#)). Either provision requires either current practice along with some supplemental education, or substantially more education than the normal CE requirement.

Chapter REEB 12

APPLICATIONS

REEB 12.005 Authority.
REEB 12.01 Applications.
REEB 12.011 Criminal conviction predetermination.
REEB 12.012 Application procedure for service members, former service members, and their spouses.

REEB 12.013 Salesperson application requirements.
REEB 12.017 Broker application requirements.
REEB 12.025 Examinations.
REEB 12.04 Renewal and reinstatement.

Note: Chapter REB 2 as it existed on April 30, 1972 was repealed and a new chapter REB 2 was created, *Register*, April, 1972, No. 196, effective May 1, 1972. Renumbered to be chapter RL 12, effective March 1, 1983. Chapter RL 12 was renumbered chapter REEB 12 under s. 13.92 (4) (b) 1., Stats., *Register* November 2011 No. 671.

REEB 12.005 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 440.05, 440.06, 440.07, 440.08, 452.07, 452.09, 452.10, 452.11 and 452.12, Stats.

History: Cr. *Register*, July, 1998, No. 511, eff. 8-1-98.

REEB 12.01 Applications. (1) FORMS. Applications for licenses and accompanying documents required by the provisions of ch. 452, Stats., and the rules of the board shall be made on forms provided by the department.

(2) ACTION ON COMPLETED APPLICATIONS. The board shall review and make a determination on an original application for a license within 60 business days after a completed application is received by the department. An application is completed when all materials necessary to make a determination on the application and all materials requested by the board have been received.

(3) VERIFICATION. (a) Individuals. All applications for a license as an individual shall be affirmed or verified by the applicant.

(b) Business entities. Applications for a license made by a business entity must be verified by a business representative of the business entity.

Note: Applications are available upon request to the department offices located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935; phone (608) 266-1212 or available for download on the department webpage: <http://dsps.wi.gov/Licenses-Permits/Credentialing/Business-Professions/>.

(4) FEES PREPAID. No action shall be taken on any application until the prescribed fees are paid and deposited at the office of the department.

(5) PREVIOUSLY LICENSED BROKERS AND SALESPERSONS. No action shall be taken on any new application of an applicant who has previously been licensed by the board until the applicant furnishes sufficient proof to the board that the applicant has not acted as a salesperson or broker since the expiration of his or her license. The board may in its discretion waive this requirement.

(6) NEW APPLICATIONS; NON-RESIDENT BROKERS AND SALESPERSONS. No application for a real estate broker's or salesperson's license from any person not a resident of the state of Wisconsin may be processed prior to receipt by the department of an irrevocable consent to be sued as specified in s. 452.11, Stats.

(7) NEW APPLICATIONS; MINORS. No action shall be taken on any new application for a broker's or salesperson's license received from any applicant unless said applicant is a person of the age of 18 years or over.

History: Cr. *Register*, April, 1972, No. 196, eff. 5-1-72; am. (2) (b), *Register*, July, 1972, No. 199, eff. 8-1-72; renum. from REB 2.01, r. (1) (b), renum. (1) (c) and (d) to be (1) (b) and (c), *Register*, February, 1981, No. 302, eff. 3-1-81; renum. from REB 2.02 and am. (1) (a), (c) 2., (e) and (f) and (2), *Register*, February, 1983, No. 326, eff. 3-1-83; am. (1) (a), (c) and (2) (a), r. and recr. (1) (b), *Register*, July, 1998, No. 511, eff. 8-1-98; correction in (1) (a), (b), (f) made under s. 13.92 (4) (b) 6., Stats., *Register* November 2011 No. 671; CR 15-010; renum. (1) (a), (b), (c), (e), (f) to (1) to (5), renum. (2) (a), (b) to (1) (6) to (7), *Register* September 2015 No. 717, eff. 10-1-15; correction in (1) (title), (6) (title), (7) (title) under s. 13.92 (4) (b) 2., Stats., *Register* September 2015 No. 717.

REEB 12.011 Criminal conviction predetermination. (1) An individual who does not possess a broker's or salesperson's license may apply to the board, without submitting a full application for a determination of whether the individual would be disqualified from obtaining a license or certificate based upon a criminal conviction by submitting all of the following:

- (a) An application for predetermination.
- (am) A fee in the amount of \$68.00.
- (b) Police report.
- (c) Criminal complaint.
- (d) Judgment of conviction and sentencing.
- (e) Verification of compliance or completion with the terms of the sentencing.
- (f) Personal statement describing the facts that led to each offense and any rehabilitation completed.

(1m) The fee under sub. (1) (am) may be applied to the application fee under s. REEB 12.01 (4) if the individual applies for a real estate broker or salesperson license within 1 year of the determination decision.

(2) An individual who has been convicted of a felony shall meet the requirements of s. 452.25 (1) (b), Stats., prior to submitting a request for predetermination.

(3) The board shall review the information related to the conviction and consider all of the following factors in making a determination:

- (a) The severity and nature of the conviction.
- (b) The amount of time that has elapsed.
- (c) The number or pattern of convictions or other similar incidents that gave rise to the conviction.
- (d) The circumstances surrounding the conviction that may have a bearing on whether the individual might repeat the behavior that was the subject of the conviction.
- (e) The relationship of the conviction to real estate practice.
- (f) The individual's activities since the conviction, including employment, education, participation in treatment, payment of restitution, and any other factor that may be evidence of rehabilitation.

(4) The individual shall receive notification of the board's determination whether the criminal convictions would disqualify the individual from obtaining a license or certificate due to the individual's criminal record.

(5) The determination is binding upon the board and the department if the individual subsequently applies for license or certificate, unless there is information relevant to the determination that was not available to the board at the time of the determination.

History: CR 15-010; cr. *Register* September 2015 No. 717, eff. 10-1-15; EmR1620; emerg. am. (1), cr. (1) (am), eff. 7-1-16; CR 16-042; am. (1), cr. (1) (am), (1m) *Register* February 2017 No. 734, eff. 3-1-17.

REEB 12.012 Application procedure for service members, former service members, and their spouses.

(1) In this section:

(a) “Former service member” has the meaning in s. 440.09 (1) (a), Stats.

(b) “Service member” has the meaning in s. 440.09 (1) (b), Stats.

(c) “Spouse” has the meaning in s. 440.09 (1) (c), Stats.

(2) Each applicant for reciprocal licensure as a real estate salesperson or real estate broker shall submit all of the following, notwithstanding the materials required under ss. REEB 12.013 and 12.017:

(a) A completed application form with the signature of the applicant.

(b) A fee as determined by the department under s. 440.05 (2), Stats.

(c) A statement that the applicant resides in this state.

(d) Documentation that the applicant is a service member, a former service member, or the spouse of a service member. If an applicant is unable to provide the documentation, the applicant may submit an affidavit to the board stating that the individual is a service member, a former service member, or the spouse of a service member or former service member.

(e) Evidence of holding a license, in good standing, that was granted by a governmental authority in a jurisdiction outside of Wisconsin that qualifies the individual to perform acts authorized under a real estate salesperson or real estate broker license granted by the board.

Note: Application forms are available from the Department of Safety and Professional Services’ website at <http://dsps.wi.gov>.

(3) A license granted under this subsection expires on the applicable renewal date specified in s. 440.08 (2) (a), Stats., except that if the first renewal date specified in s. 440.08 (2) (a), Stats., after the date on which the license is granted is within 180 days of the date on which the license is granted, the license expires on the 2nd renewal date specified in s. 440.08 (2) (a), Stats., after the date on which the license is granted.

History: CR 21-055: cr. Register March 2022 No. 795, eff. 4-1-22; correction in (2) (d), (3) made under s. 35.17, Stats., Register March 2022 No. 795.

REEB 12.013 Salesperson application requirements. (1) EDUCATION REQUIREMENTS. Except as provided in sub. (3) and s. REEB 12.012, each applicant for a real estate salesperson’s license shall submit satisfactory evidence of any of the following:

(a) Completion, within 4 years of licensure, of real estate salesperson’s education under s. REEB 25.033 through an education program that has been approved by the board or nonresident salesperson education equivalency under s. REEB 25.038.

(b) Completion of 10 semester hour credits in real estate or real estate law courses at an accredited institution of higher education. A quarter hour credit equals 2/3 of a semester hour credit.

(2) EXAMINATION REQUIREMENTS. Except as provided in sub. (3) and s. REEB 12.012, each applicant shall read and write a comprehensive examination in English, testing the applicant’s competency to transact the business of a real estate salesperson. The examination shall be in conformity with s. 452.09 (3), Stats.

(3) RECIPROCITY. An applicant who is licensed as a salesperson in a state or territory that has entered into a reciprocal agreement with this state shall be licensed according to the terms of the reciprocal agreement.

History: CR 15-010: cr. Register September 2015 No. 717, eff. 10-1-15; CR 21-055: am. (1) (intro.), (2) Register March 2022 No. 795, eff. 4-1-22.

REEB 12.017 Broker application requirements.

(1) EDUCATION REQUIREMENTS. Except as provided in sub. (4) and s. REEB 12.012, each applicant for a real estate broker’s license shall submit satisfactory evidence of any of the following:

(a) Completion, within 4 years of broker’s licensure, of a real estate broker’s education program in business management under s. REEB 25.023 through an education program that has been approved by the board and evidence of any of the following:

1. Licensure as a real estate salesperson.

2. Completion of a real estate salesperson’s education program under s. REEB 25.033 or completion of 10 semester hour credits in real estate or real estate related law courses from an accredited institution of higher education.

(b) Completion of nonresident broker equivalency under s. REEB 25.028.

(c) Completion of 20 semester hour credits in real estate or real estate law courses at an accredited institution of higher education. A quarter hour credit equals 2/3 of a semester hour credit.

(d) The applicant is licensed to practice law in this state.

(2) EXAMINATION REQUIREMENTS. Except as provided in sub. (4) and s. REEB 12.012, each applicant for a real estate broker’s license shall read and write a comprehensive examination in English, testing the applicant’s competency to transact the business of a real estate broker. The examination shall be in conformity with s. 452.09 (3), Stats.

(3) EXPERIENCE REQUIREMENTS. Except as provided in sub. (4) and s. REEB 12.012:

(a) Each applicant for a real estate broker’s license shall submit evidence satisfactory to the board that the applicant has practiced as a licensed salesperson under the direct supervision of a licensed broker for at least 2 years within the last 4 years preceding the date of application, excluding any time the applicant spent in an apprenticeship. Except as provided in pars. (b) to (d), the evidence shall demonstrate that the applicant’s experience as a licensed salesperson qualifies the applicant for a total of at least 40 points based on the following point system:

1. Each completed or closed residential transaction is worth 5 points.

2. Each completed or closed commercial transaction is worth 10 points.

3. Each property management contract is worth 0.5 points per month.

4. Each completed or closed time share is worth one point.

(b) An applicant who is licensed to practice law in this state may satisfy the requirement under par. (a) by submitting to the board any of the following:

1. Evidence satisfactory to the board that the applicant has experience related to real estate.

2. Evidence that the applicant has at least one year experience as a licensed salesperson under the direct supervision of a licensed broker that qualifies the applicant for a total of at least 20 points based upon the point system in par. (a) 1 to 4.

(c) An applicant who holds a current certificate of financial responsibility under s. 101.654, Stats., may satisfy the requirement under par. (a) by submitting to the board any of the following:

1. Evidence satisfactory to the board that the applicant has experience related to real estate sales.

2. Evidence that the applicant has at least one year experience as a licensed salesperson under the direct supervision of a licensed broker that qualifies the applicant for a total of at least 20 points based upon the point system in par. (a) 1 to 4.

(d) A nonresident applicant may satisfy the requirement under par. (a) by submitting to the board evidence satisfactory to the board that the applicant has been a licensed broker under the laws of another state for at least 2 years within the last 4 years preceding the date of the applicant’s application.

(4) RECIPROCITY. An applicant who is licensed as a broker in a state or territory that has entered into a reciprocal agreement with this state shall be licensed according to the terms of the reciprocal agreement.

History: CR 15-010: cr. Register September 2015 No. 717, eff. 10-1-15; correction in (3) (intro.) made under s. 35.17, Stats., Register September 2015 No. 717; CR 21-055: am. (1) (intro.), (2), (3) (intro.) Register March 2022 No. 795, eff. 4-1-22.

REEB 12.025 Examinations. (1m) PASSING SCORE.

The board shall determine the level of examination performance required for minimum acceptable competence after consultation with subject matter experts who have received a representative sample of the examination questions and available candidate performance statistics. The board shall set the passing score at the point that represents minimum acceptable competence in the profession.

(2) **REVIEW.** All applicants who obtain a failing grade shall receive a report detailing the results of the applicant's examination in the major content areas of the examination.

(3) **CHEATING ON EXAMINATION.** An applicant may not give or receive unauthorized assistance during an examination, violate the rules of conduct of the examination, or otherwise act dishonestly. The action taken by the board for a violation of this section shall be related to the seriousness of the offense. An action may include withholding the score of the applicant, entering a failing grade for the applicant, and suspending the ability of the applicant to sit for the next scheduled examination after the examination at which the conduct occurred.

Note: This section interprets or implements s. 452.09 (3), Stats.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; r. and recr. Register, December, 1978, No. 276, eff. 1-1-79; renun. from REB 2.035, Register, February, 1981, No. 302, eff. 3-1-81; renun. from REB 2.025, Register, February, 1983, No. 326, eff. 3-1-83; r. (3), Register, July, 1998, No. 511, eff. 8-1-98; CR 15-010: am. (title), r. (1), cr. (1m), am. (2), renun. (3) from REEB 12.026 Register September 2015 No. 717, eff. 10-1-15.

REEB 12.04 Renewal and reinstatement.

(1) **RENEWAL LESS THAN 5 YEARS AFTER LICENSE EXPIRATION.** (a) If a licensee renews his or her real estate license less than 5 years after the renewal date, as defined in s. 440.01 (1) (dm), Stats., the licensee shall pay the applicable renewal fee and late renewal fee specified in s. 440.08, Stats., and provide evidence of having satisfied the continuing education required by s. 452.12 (5), Stats., during the biennium preceding the date of renewal of the license.

(c) The licensee shall before the next renewal date satisfy the continuing education required of all licensees during the biennium in which the licensee renews the license.

(2m) **RENEWAL OF LICENSE MORE THAN 5 YEARS AFTER LICENSE EXPIRATION.** (a) *General.* A licensee with an expired license may not reapply for the license using the initial application process.

(b) *Salesperson license.* A licensee who renews a salesperson license more than 5 years after the license expiration shall submit evidence of all of the following:

1. 'Education.' Completion of any of the following:

a. Real estate salesperson education under s. REEB 25.033 within 5 years of renewal of license.

b. Ten semester hour credits in real estate or real estate law courses from an accredited institution of higher education.

c. Real estate salesperson education under s. REEB 25.038. This option only applies to a licensee who held an active license in another jurisdiction within 2 years of renewal of Wisconsin license.

2. 'Examination.' Passage of the examination required under s. REEB 12.013 (2).

3. 'Continuing education.' Completion of the continuing education required by s. 452.12, Stats., for the biennium preceding the date of renewal of the license. A licensee completing education under subs. 1. a. and c. meets the continuing education requirement.

(c) *Broker license.* A licensee who renews a broker license more than 5 years after the license expiration shall submit evidence of all of the following:

1. 'Education.' Completion of any of the following:

a. Real estate business management education under s. REEB 25.023 and real estate salesperson's education under s. REEB 25.033 within 5 years of renewal of license. The real estate salesperson education is not required if the license is currently licensed in this state as a real estate salesperson.

b. Completion of 20 semester hours credits in real estate or real estate law at an accredited institution of higher education.

c. Education under s. REEB 25.028. This option only applies to a licensee who held an active license in another jurisdiction within 2 years of renewal of Wisconsin license.

d. A licensee who is also licensed to practice law in this state meets the education requirement.

2. 'Examination.' Passing the broker and salesperson examinations required under ss. REEB 12.013 (2) and 12.017 (2).

3. 'Experience.' Practicing as a licensed salesperson under the direct supervision of a licensed broker for at least 2 years within the last 4 years preceding the date of renewal or has experience related to real estate by any of the following:

a. Accumulation of a total of at least 40 points based on the point system under s. REEB 12.017 (3) (a).

b. Meeting the requirement under s. REEB 12.017 (3) (b).

c. Meeting the requirement under s. REEB 12.017 (3) (c).

d. A licensee who held an active broker license in another jurisdiction within 2 years of renewal of a Wisconsin license meets the experience requirement.

4. 'Continuing education.' Completion of the continuing education required by s. 452.12, Stats., for the biennium preceding the date of renewal of the license. A licensee completing education under subs. 1. a. and c. meets the continuing education requirement.

(d) *Continuing Education Requirement.* All licensees renewing under pars. (b) and (c) shall before the next renewal date satisfy the continuing education required during the biennium in which the license is renewed.

(3) **LICENSE REINSTATEMENT.** (a) A licensee who has a license with unmet disciplinary requirements that has not been renewed within 5 years of the renewal date or whose license has been surrendered or revoked may submit an application for reinstatement with all the following:

1. Evidence of completion of requirements in sub. (2m) (b) or (c) if the licensee has not held an active Wisconsin license within the last 5 years.

2. Evidence of completion of disciplinary requirements, if applicable.

3. Evidence of rehabilitation or change in circumstances warranting reinstatement of license.

(b) A licensee may not reapply for a license through the initial application process if the licensee has unmet disciplinary requirements and failed to renew the license within 5 years of the renewal date or whose credential has been surrendered or revoked. A licensee may not practice real estate prior to being granted reinstatement of the license.

History: Emerg. cr. 6-16-87; cr. Register, December, 1987, No. 384, eff. 1-1-88; r. and recr. Register, March, 1990, No. 411, eff. 4-1-90; r. and recr., Register, September, 1993, No. 453, eff. 10-1-93; am. (2) (intro.), cr. (2) (a) 4., Register, July, 1998, No. 511, eff. 8-1-98; am. (1) (a), r. (1) (b), Register, August, 1999, No. 524, eff. 9-1-99; correction in (1) (a), (2) (a) 1., 2., (b) 1., 2. made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671; CR 13-100: am. (1), (2) Register September 2014 No. 705, eff. 10-1-14; CR 15-010: am. (title), cons. and renun. (1) (intro) and (a) to (1) (a) and am., am. (1) (c), r. (2), cr. (2m), (3) Register September 2015 No. 717, eff. 10-1-15.

Chapter REEB 25

EDUCATION

REEB 25.005 Authority.

REEB 25.01 Definitions.

REEB 25.023 Real estate broker's pre-license business management program.

REEB 25.028 Nonresident broker education equivalency.

REEB 25.033 Salesperson's pre-license program.

REEB 25.038 Nonresident salesperson education equivalency.

REEB 25.055 Approval for pre-licensure education programs or courses.

REEB 25.065 Continuing education requirements for brokers and salespersons.

REEB 25.068 Approval for continuing education programs or courses.

REEB 25.09 Denial or withdrawal of approval.

Note: Chapter REB 16 as it existed on October 31, 1979, was repealed and a new Chapter REB 16 was created effective November 1, 1979. Renumbered chapter RL 25, effective March 1, 1983. Chapter RL 25 was renumbered chapter REEB 25 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

REEB 25.005 Authority. The following rules are adopted pursuant to ss. 227.11 (2), 452.05, 452.07, 452.09 (2) and (3) and 452.12 (5) (c), Stats.

History: Cr. Register, October 1979, No. 286, eff. 11-1-79; renum. from REB 16.005 and am. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, January, 1992, No. 433, eff. 2-1-92.

REEB 25.01 Definitions. As used in this chapter, unless the context otherwise specifically requires:

(1) "Accredited institution of higher education" means a law school accredited by the American bar association or other schools accredited by one of the regional institutional accrediting commissions or associations which have been recognized by the U.S. department of education.

(2) "Board" means the real estate examining board.

(3) "Continuing education course" means an approved segment of a continuing education program required by the board pursuant to s. 452.05 (1) (d), Stats.

(4) "Continuing education program" means the total number of continuing education hours or subjects required by the board pursuant to s. 452.05 (1) (d), Stats.

(6) "Evidence of completion" means an official transcript, student grade report, or board-approved certificate showing satisfactory completion of education programs or courses.

(7) "Hour" means a period of 50 minutes of actual instruction and shall not include time spent in writing tests or examinations given by the school.

History: Cr. Register, October, 1979, No. 286, eff. 11-1-79; renum. from REB 16.01 and am. (1) and (6), Register, February, 1983, No. 326, eff. 3-1-83; renum. (1) to (5) to be (2), (7), (5), (8), (1) and am. (8), cr. (3) and (4), am. (6), Register, January, 1992, No. 433, eff. 2-1-92; am. (1), Register, July, 1998, No. 511, eff. 8-1-98; cr. (2m), (5m), am. (3), (4) and (7), Register, August, 1999, No. 524, eff. 9-1-99; correction in (2) to (4), (6) made under s. 13.92 (4) (b) 6., Stats., Register November 2011 No. 671; CR 15-010: r. (2m), (5), (5m), am. (6), r. (8) Register September 2015 No. 717, eff. 10-1-15.

REEB 25.023 Real estate broker's pre-license business management program. An education program in business management for applicants for a real estate broker's license shall consist of 72 hours. The education program in business management shall contain all of the following topics:

(1) **CONTRACTS.** Instruction relating to real estate contracts shall include all of the following:

(a) The definition of a contract, including the difference between a contract and an agreement.

(b) Elements of a contract, including all of the following:

1. Offer.
2. Acceptance.
3. Consideration.
4. Competent parties.

(c) Parties to a contract, including all of the following:

1. Parties to an agency agreement.

2. Parties to a sales contract, option, or lease.

3. Multiple parties.

(d) Creating binding contracts, including all of the following:

1. Signatures.
2. Acceptance and binding acceptance.
3. Delivery.
4. Deadlines.
5. Time is of the essence.

(e) Validity of contracts.

(f) Drafting contracts and contingencies, including all of the following:

1. Properly drafting.
2. Pre-printed.
3. Customized.

(g) Ending the contractual relationship, including all of the following:

1. Rescission.
2. Termination.
3. Modification.
4. Death of a party.
5. Default and breach.

(h) Acceptance and counteroffers, including the difference between acceptance and counteroffers.

(i) The law of conveyances, including all of the following:

1. Conveyance defined.
2. Requirements for a valid conveyance.

(j) Agreement to arbitrate real estate transaction disputes under s. 788.015, Stats.

(k) Commercial real estate commission lien under s. 779.32, Stats.

(2) **APPROVED FORMS.** Instruction relating to real estate approved forms shall include all of the following:

(a) The forms approval process, including all of the following:

1. Forms committee.
2. Real estate examining board.
3. Department of safety and professional services.

(b) The authorized practice of law, including all of the following:

1. Reynolds v. Dinger, 14 Wis. 2d 193.
2. Chapter REEB 16.

(c) Review of forms, including all of the following:

1. Listing contract for sale.
2. Offer.
3. Counteroffer.
4. Amendment.
5. Buyer agency agreement.
6. Listing contract for lease.
7. Option.
8. Bill of sale.

9. Exchange.
10. Cancellation agreement and mutual release.
11. State bar forms under s. REEB 16.03 (1).
12. Uniform commercial code forms.
13. Forms used in other states.
- (d) Developing a form and contingency manual
- (e) Supervising salesperson's use of approved forms.
- (3) TRUST ACCOUNTS, ESCROW, CLOSING STATEMENT.** Instruction relating to real estate trust accounts, escrow and closing statement shall include all of the following:
 - (a) Trust accounts under ch. REEB 18, including all of the following:
 1. Trust account definition.
 2. Trust funds definition.
 3. When is a trust account required.
 4. Registering a trust account.
 5. Procedure to open a trust account.
 6. Authorization to sign trust account checks.
 7. Depositing of trust funds.
 8. Disbursement of trust funds.
 9. Bookkeeping system.
 10. Closing a trust account.
 - (b) Escrow agreement procedures, including all of the following:
 1. Escrows requiring separate escrow agreements.
 2. Pre-closing earnest money escrows.
 3. Post closing escrows.
 4. Escrows not requiring separate escrow agreements.
 5. Drafting escrow agreements.
 - (c) Closing procedures, including all of the following:
 1. Licensees are not required by license law to perform closings.
 2. Choosing a closing statement.
 3. Closing preparation procedures.
 4. Setting a closing date.
 5. Preparing closing documentation.
 6. Closing procedures.
 7. Post closing procedures.
- (4) BROKER MANAGEMENT AND MARKETING.** Instruction relating to real estate broker management and marketing shall include all of the following:
 - (a) The legal environment, including all of the following:
 1. Requirements for licensure.
 2. Liability concerns and risk reduction.
 - (b) The business plan, including all of the following:
 1. Form of ownership.
 2. Start up.
 3. Capital budget.
 4. Operation budget.
 5. Marketing strategies.
 - (c) Professional services, including all of the following:
 1. Attorneys.
 2. Accountants.
 - (d) Operational policies, including all of the following:
 1. Policy and procedures manual.
 2. Independent contractors agreement.
- (5) FINANCIAL AND OFFICE MANAGEMENT.** Instruction relating to financial and office management shall include all of the following:
 - (a) Financial management, including all of the following:
 1. System of income and expense accounting.
 2. Accounts used for handling funds.
 3. Bank reconciliations.
 4. Financial reports.
 - (b) Budgeting, including all of the following:
 1. Definition of a budget.
 2. Purpose of the budget.
 3. Comparison of budget income and expenses.
 4. Preparing the budget.
 - (c) Office management under ch. REEB 15 including retention of records.
 - (6) PERSONNEL.** Instruction relating to personnel shall include all of the following:
 - (a) Hiring, including all of the following:
 1. Agents.
 2. Personal assistants.
 3. The difference between employee and independent contractor.
 4. Equal opportunity.
 5. Workers' compensation.
 - (b) Policy manual, including all of the following:
 1. Purpose.
 2. Recommended content.
 3. Maintenance.
 4. Access.
 - (c) Training.
 - (d) Licensure and supervision of employees under ch. REEB 17.
 - (7) BUSINESS ETHICS.** Instruction relating to real estate business ethics shall include all of the following:
 - (a) Dealing with the public, including all of the following:
 1. Avoiding discrimination as required under s. REEB 24.03 (1).
 2. Competence in the area of service under s. REEB 24.03 (2).
 3. Legal counsel are not to be discouraged under s. REEB 24.06.
 4. Tie-in arrangements under s. REEB 24.075.
 5. Agreements in writing under s. REEB 24.08.
 6. Misleading market values under s. REEB 24.09.
 7. No net listings under s. REEB 24.10.
 - (b) Advertising, including all of the following:
 1. False advertisements.
 2. Disclosure to the public.
 3. Obtain permission.
 4. Advertised price.
 - (c) Offers under ss. REEB 24.12 and 24.13, including all of the following:
 1. Confidentiality.
 2. Drafting and submitting all offers.
 3. Submitting promptly.
 4. Presenting fairly.
 5. Prompt notification.
 - (d) Disclosure of compensation and interest under s. REEB 24.05, including all of the following:
 1. Disclosure of profits.
 2. Disclosure of intent.
 3. Property owned by licensee.
 4. Referral of service.
 5. Compensation from more than one party.
 - (e) Disclosure under s. REEB 24.07, including all of the following:
 1. Material facts.

2. Material adverse facts.
 3. Property inspection.
 4. Agency.
 5. “As-is” sales.
 6. Optional disclosure
- (f) Dealings with fellow licensees, including all of the following:
1. Negotiations through a listing broker under s. REEB 24.13 (5).
 2. Obtaining a seller’s permission for subagent under s. REEB 24.07 (8) (b) 2.
 3. Confidentiality of offer under s. REEB 24.12.
 4. Disclosing material adverse facts under s. REEB 24.07 (2).
 5. False information under s. REEB 24.07 (3).
 6. Disclosing buyer agent and seller subagent under s. REEB 24.07 (8).
- (g) Dealings with licensee and salespeople, including all of the following:
1. Licensee supervision under s. REEB 17.08.
- Note:** Section REEB 17.08 was repealed by CR 16-042. Corrections will be made in future rulemaking.
2. Office supervision under s. REEB 17.08.
- Note:** Section REEB 17.08 was repealed by CR 16-042. Corrections will be made in future rulemaking.
- (h) Commercial real estate broker’s commission under s. 779.32, Stats.
- (i) Agency relationships, including all of the following:
 1. Multiple representation with designated agency.
 2. Multiple representation without designated agency.
 3. Single agency.
- (8) CONSUMER PROTECTION.** Instruction relating to real estate consumer protection shall include all of the following:
- (a) Disclosure, including all of the following:
 1. Property inspections under s. REEB 24.07 (1) (a).
 2. Investigation of other facts under s. REEB 24.07 (1) (b).
 3. Use of third party inspectors under s. REEB 24.07 (5).
 4. Property condition under s. 452.23, Stats.
 5. Civil liability for misrepresentation.
 6. Seller’s disclosure duties under ch. 709, Stats.
 7. Buyer’s inspection obligation.
 - (b) Fair housing, including all of the following:
 1. Federal law.
 2. State of Wisconsin law.
 3. Local fair housing law.
 4. Sanctions for violations.
 5. Testers and fair housing organizations.
 6. Conduct prohibited by fair housing law.
 7. Responding to fair housing questions.
 8. Instituting equal professional service procedures.
 - (c) Antitrust: conspiracy and group boycotts, including all of the following:
 1. Section 1 of the Sherman Act.
 2. “Conspiracy” requirement.
 3. “Restraint of trade” requirement.
 4. Compensation and “prices” that have been fixed.
 5. Situations creating inferences of price fixing.
 6. How to respond to antitrust situations.
 7. Elements same as price fixing, including conspiracy and restraint of trade.
 8. Situations creating inference of boycott.
 - (d) Complaint handling procedures, including all of the following:
 1. Consumer satisfaction.
 2. Liability avoidance.
 3. Feedback on fair housing or other law violations.
 4. Preventing complaint through education.
 5. Documenting the compliant handling program in policy and procedures manual.
 6. Informing the parties of the complaint handling program.
 7. Dispute resolution systems.
 - (e) Environmental factors, including all of the following:
 1. Underground storage tanks, including registration and closure.
 2. Asbestos.
 3. Radon.
 4. Lead-based paint.
 5. Procedures for high risk properties.
 6. Wetlands and floodplain.
 - (f) Education buyers and sellers, including all of the following:
 1. Property inspection and disclosing of defects.
 2. Earnest money procedures.
 3. Licensees’ responsibilities and expertise.
 4. Utilizing third party experts.
- (9) SPECIALTY AREAS.** Instruction relating to real estate specialty areas shall include all of the following:
- (a) Property management, including all of the following:
 1. Management contracts.
 2. Insurance liability.
 3. Security deposits.
 4. Breach of lease.
 5. Property inspections.
 6. Tenant and landlord rights and obligations under ch. ATCP 134.
 7. Rules regarding negotiating leases.
 - (b) Business opportunities, including all of the following:
 1. Special expertise and licensing requirements under s. REEB 24.03.
 2. Approved forms.
 - (c) Selling specialized properties as a brokerage activity.
 - (d) Alternative marketing methods, including all of the following:
 1. Exchanges.
 2. Installment sales.
 3. Cooperatives.
 - (e) Mortgage banking, including all of the following:
 1. Definitions of mortgage banker, loan originator and loan solicitor.
 2. When separate registration is needed.
 3. Real Estate Settlement Procedures Act.
 - (f) Real estate appraisal.
 - (g) Farms.
 - (h) Auctions.
 - (i) Mobile homes.
 - (j) Time-Share, including familiarity with ch. 707, Stats., when selling time-shares.
- (10) NOTIFYING THE DEPARTMENT.** Instruction relating to notifying the department shall include all of the following:
- (a) Change of name, address or trade name under ch. REEB 23
 - (b) Criminal conviction under s. 440.03 (13) (am), Stats.
- History:** CR 15-010: cr. Register September 2015 No. 717, eff. 10-1-15; CR 17-100: r. (4) (a) 3. Register July 2018 No. 751, eff. 8-1-18.

REEB 25.028 Nonresident broker education equivalency. An applicant who has held an active real estate broker’s license in another licensing jurisdiction within the 2

year period prior to filing an application for a real estate broker's license in this state is deemed to have met the equivalency to the business management and salesperson program education based upon his or her education required to obtain a license in the other licensing jurisdiction and the completion of Wisconsin specific education consisting of all of the following:

(1) Business management education consisting of 6 hours, including all of the following:

(a) Broker—only contracts and contract issues, including all of the following:

1. Reynolds v. Dinger, 14 Wis. 2d 193.
2. State bar forms under s. REEB 16.03 (1).
3. Uniform commercial code forms under s. REEB 16.03 (1).
4. Forms used in other states.
5. Developing forms and contingency manual.
6. Supervising salesperson's use of approved forms.
7. Commercial real estate broker's commission under s. 779.32, Stats.

(b) Agency relationships, including all of the following:

1. Multiple representation with designated agency.
2. Multiple representation without designated agency.
3. Single agency.

(c) Disclosure, including all of the following:

1. Property inspections.
2. "As-is" sales.
3. Optional disclosure.

(d) Trust accounts under ch. REEB 18, including all of the following:

1. When is a trust account required.
2. Registering a trust account.
3. Procedure to open a trust account.
4. Authorization to sign trust account checks.
5. Deposit of trust funds.
6. Disbursement of trust funds.
7. Bookkeeping system.
8. Closing a trust account.

(e) Notifying the department, including all of the following:

1. Change of name, address or trade name under ch. REEB 23.
2. Criminal conviction under s. 440.03 (13) (am), Stats.

(f) Wisconsin fair housing law under s. REEB 24.03 (1), and ss. 66.1011 and 106.50, Stats.

(g) Licensees associated with a firm under ch. REEB 17.

(2) Salesperson education consisting of 13 hours, including all of the following:

(a) Contracts, including all of the following:

1. Law of conveyances, including all of the following:
 - a. Conveyance defined under s. 706.01, Stats.
 - b. Requirements for a valid conveyance under ss. 706.02, and 706.03, Stats.
2. Chapter REEB 16.

3. Review of forms approved by the board, including all of the following:

- a. Listing contracts.
- b. Offers to purchase.
- c. Addenda.
- d. Buyer agency agreements.
- e. Counter offers.
- f. Multiple counter proposals.
- g. Amendment.
- h. Notices.
- i. Option.

j. Bill of sale.

k. Exchange.

L. Cancellation agreement and mutual release.

(b) Agency, including all of the following:

1. Duties owed to parties and clients under s. 452.133, Stats.
2. The requirement for an agency agreement and disclosure of agency under s. 452.135, Stats.

3. Revisions to common law duties and responsibilities under s. 452.139, Stats.

(c) Agency relationship, including all of the following:

1. Multiple representation with designated agency.
2. Multiple representation without designated agency.
3. Single agency.

(d) Business conduct, including all of the following:

1. Direct contact with the public, including all of the following:

- a. Competence in area of service under s. REEB 24.03.
- b. Tie-in arrangements under s. REEB 24.075.
- c. Agreements in writing under s. REEB 24.08.
- d. Misleading market values under s. REEB 24.09.
- e. Net listings under s. REEB 24.10.
2. Advertising under s. REEB 24.04.
3. Completing and presenting written proposals under ss. REEB 24.12 and 24.13., including all of the following:

- a. Confidentiality.
- b. Drafting and submitting offers.
- c. Prompt delivery to buyer.
- d. Fair presentation of offers.
- e. Prompt notification.

4. Disclosure of compensation and interest under s. REEB 24.05, including all of the following:

- a. Disclosure of interest.
- b. Referral services.
- c. Disclosure of profits.
- d. Disclosure of licensure.

(e) Consumer protection, including all of the following:

1. Property inspections under s. REEB 24.07 (1) (a).
2. Inquiry by listing broker under s. REEB 24.07 (1) (b).
3. Disclosure of material adverse facts under s. REEB 24.07 (2).
4. Disclosure of material suggesting adverse material facts under s. REEB 24.07 (3).

5. Disclosure of side agreements under s. REEB 24.07 (4).

6. Reliance upon third parties under s. REEB 24.07 (5).

7. Investigations and inspections under s. 452.23, Stats.

8. Civil liability for misrepresentation.

9. Seller's disclosure duties under ch. 709, Stats.

(f) Wisconsin fair housing law under s. REEB 24.03 (1), and ss. 66.1011 and 106.50, Stats.

(g) Environmental factors, including all of the following:

1. Underground storage tanks under ch. ATPC 93.
2. Floodplains under s. 87.30, Stats., and ss. NR 116.01 and 116.06.
3. Wetlands under s. 23.32, Stats.
4. Farmland preservation under ss. 91.60 to 91.70, Stats.

(h) Trust accounts and escrows, including all of the following:

1. Trust accounts under s. 452.13, Stats., and ch. REEB 18, including all of the following:
 - a. Definition of trust account.
 - b. Interest-bearing and non-interest bearing accounts.
 - c. Definition of trust funds.

- d. When a trust account is required.
- e. Depositing of trust funds.
- 2. Escrow agreement procedures, including all of the following:
 - a. Escrows requiring separate escrow agreements.
 - b. Pre-closing earnest money escrows.
 - c. Post-closing escrows.
 - d. Escrows not requiring separate escrow agreement.
 - e. Drafting escrow agreements.
- (i) Miscellaneous issues, including all of the following:
 - 1. Condominiums under ss. 703.08, 703.21 and 703.33, Stats.
 - 2. Homestead under ss. 706.01 (7) and 766.605, Stats.
 - 3. Taxes under ss. 74.15, and 74.47 (1) and (2), Stats.
 - 4. Taxation and transfer fees under ss. 77.22 and 77.27, Stats.
 - 5. Residential rental practices under ss. ATCP 134.02, 134.06, and 134.09.
 - 6. Documents and records under ch. REEB 15.
 - 7. Licensure and supervision of employees under ch. REEB 17.
 - 8. Property rights of married persons under ss. 766.31, 766.51, 766.60, and 766.63, Stats.
 - 9. Mortgage banking under s. 224.71, Stats.

History: CR 15-010: cr. Register September 2015 No. 717, eff. 10-1-15; CR 17-100: renum. (1) (g) (intro.) to (1) (g) and am., r. (1) (g) 1. to 3. Register July 2018 No. 751, eff. 8-1-18; CR 19-128: r. (2) (g) 5. Register January 2021 No. 781, eff. 2-1-21.

REEB 25.033 Salesperson's pre-license program.

An education program for applicants for a real estate salesperson's license shall consist of 72 hours. The education program shall contain all of the following topics:

- (1) REAL PROPERTY. Instruction relating to real property shall include all of the following:
 - (a) Land, real estate and real property.
 - (b) The difference between real property and personal property.
 - (c) Classification of fixtures.
 - (d) Characteristics of real estate.
 - (e) Types of home ownership.
 - (f) Mobile homes under s. 70.043, Stats.
 - (g) Ownership expenses.
 - (h) Property features.
 - (i) Investment considerations.
 - (j) Tax benefits for home ownership.
 - (k) Homeowner's insurance.
- (2) THE REAL ESTATE BUSINESS. Instruction relating to the real estate business shall include all of the following:
 - (a) Real estate specialties.
 - (b) The real estate market.
 - (c) Factors affecting supply and demand.
 - (d) Business cycles.
 - (e) Real estate practice under ch. 452, Stats.
- (3) REAL ESTATE BROKERAGE. Instruction relating to real estate brokerage shall include all of the following:
 - (a) Law of agency.
 - (b) Creating and terminating of agency.
 - (c) Fiduciary duties.
 - (d) Responsibilities to third parties.
 - (e) Broker's and salesperson's compensation.
 - (f) Antitrust laws.
 - (g) The difference between independent contractor and employee.

- (h) Broker-to-broker relationships.
- (i) Sales associate-to-sales associate relationships.
- (j) Agency, including all of the following:
 - 1. Duties owed to parties and clients under s. 452.133, Stats.
 - 2. The requirement for an agency agreement and disclosure of agency under s. 452.135, Stats.
 - 3. Revisions to common law duties and responsibilities under s. 452.139, Stats.
- (k) Agency relationship, including all of the following:
 - 1. Multiple representation with designated agency.
 - 2. Multiple representation without designated agency.
 - 3. Single agency.
- (4) LISTING AGREEMENTS. Instruction relating to real estate listing agreements shall include all of the following:
 - (a) Listing property.
 - (b) Listing agreements under ch. REEB 16.
 - (c) Special listing provisions.
 - (d) Terminating listings.
 - (e) Obtaining listings.
 - (f) Pricing the property.
 - (g) Disclosures.
 - (h) Home warranties.
- (5) INTERESTS IN REAL ESTATE. Instruction relating to interests in real estate shall include all of the following:
 - (a) Government powers.
 - (b) Estates in land.
 - (c) Encumbrances.
 - (d) Water rights.
 - (e) Forms of ownership.
 - (f) Trusts.
 - (g) Ownership by business organizations.
 - (h) Cooperatives.
 - (i) Time-shares under ss. 70.095, 707.02, 707.05, 707.40, 707.47, and 707.49, Stats.
 - (j) Condominiums under ss. 703.08, 703.21 and 703.33, Stats.
 - (k) Homestead under ss. 706.01 (7) and 766.605, Stats.
- (6) LEGAL DESCRIPTIONS. Instruction relating to real estate legal descriptions shall include all of the following:
 - (a) Methods of describing real estate.
 - (b) Land units and measurements.
- (7) TAXES AND OTHER LIENS. Instruction relating to taxes and other liens shall include all of the following:
 - (a) Liens.
 - (b) Tax liens.
 - (c) General tax assessment, equalization, and tax bills.
 - (d) Mortgage liens.
 - (e) Construction liens.
 - (f) Judgments.
 - (g) Estate and inheritance tax liens.
 - (h) Other liens.
 - (i) Taxes under ss. 74.15 and 74.47 (1) and (2), Stats.
 - (j) Taxation and transfer fees under ss. 77.22 and 77.27, Stats.
- (8) REAL ESTATE CONTRACTS. Instruction relating to real estate contracts shall include all of the following:
 - (a) Contract law.
 - (b) Elements of a valid contract.
 - (c) Performance of contract.
 - (d) Discharging of contract.
 - (e) Default or breach of contract.
 - (f) Forms used in real estate under ch. REEB 16, including all of the following:

1. Listing agreements under s. 240.10, Stats.
 2. Offers to purchase.
 3. Addenda.
 4. Buyer agency agreements.
 5. Counteroffers.
 6. Multiple counter proposals.
 7. Amendments.
 8. Notices.
 9. Understanding closing statements.
 10. Disclosure forms, including all of the following:
 - a. Seller condition report.
 - b. Agency.
 - c. Buyer and seller disclosure.
 11. Cancellation agreement and mutual release agreements.
 12. Option.
 13. Bill of sale.
 14. Exchange.
- (g) Agreement to arbitrate real estate transaction disputes under s. 788.015, Stats.
- (9) TITLE RECORDS AND TRANSFERS OF TITLE.** Instruction relating to real estate title records and transfers of title shall include all of the following:
- (a) Requirements of a valid conveyance under ss. 240.10, 706.02 and 706.03, Stats.
 - (b) Types of deeds.
 - (c) Involuntary alienation.
 - (d) Probate.
 - (e) Transferring of a title by will.
 - (f) Public records and recording.
 - (g) Evidence of title.
 - (h) Conveyance defined under s. 706.01, Stats.
- (10) REAL ESTATE FINANCE AND BASIC MATH.** Instruction relating to real estate finance and basic math shall include all of the following:
- (a) Buyer qualification.
 - (b) Mortgage instruments.
 - (c) Payment plans.
 - (d) Provisions for default; assignment; release and subject to.
 - (e) Land contracts.
 - (f) Secondary mortgage market.
- (11) APPRAISAL AND MARKET ANALYSIS.** Instruction relating to real estate appraisal and market analysis shall include all of the following:
- (a) Basic principles of value.
 - (b) Direct market comparison approach.
 - (c) Cost approach.
 - (d) Income approach.
 - (e) Appraisal process.
- (12) FAIR HOUSING LAWS.** Instruction relating to real estate fair housing laws shall include all of the following:
- (a) Equal opportunity in housing.
 - (b) Federal fair housing law.
 - (c) Blockbusting, steering and redlining.
 - (d) Equal rights under s. 106.50, Stats.
 - (e) Organizations.
- (13) ETHICAL REAL ESTATE PRACTICES.** Instruction relating to ethical real estate practices shall include all of the following:
- (a) Chapter REEB 24.
 - (b) Ethical business conduct, including all of the following:
 1. Direct contact with the public, including all of the following:
 - a. Competence in area of service under s. REEB 24.03.
 - b. Tie-in arrangements under s. REEB 24.075.
 - c. Agreements in writing under s. REEB 24.08.
 - d. Misleading market values under s. REEB 24.09.
 - e. Net listings under s. REEB 24.10.
 2. Advertising under s. REEB 24.04.
 3. Completing and presenting written proposals under ss. REEB 24.12 and 24.13., including all of the following:
 - a. Confidentiality.
 - b. Drafting and submitting offers.
 - c. Prompt delivery to buyer.
 - d. Fair presentation of offers.
 - e. Prompt notification.
 4. Disclosure of compensation and interest under s. REEB 24.05, including all of the following:
 - a. Disclosing of interest.
 - b. Referral services.
 - c. Disclosing of profits.
 - d. Disclosing of licensure.
- (14) CONSUMER PROTECTION.** Instruction relating to consumer protection shall include all of the following:
- (a) Property inspections under s. REEB 24.07 (1) (a).
 - (b) Inquiry by listing firm under s. REEB 24.07 (1) (b).
 - (c) Disclosure of material adverse facts under s. REEB 24.07 (2).
 - (d) Disclosure of material suggesting adverse material facts under s. REEB 24.07 (3).
 - (e) Disclosure of side agreements under s. REEB 24.07 (4).
 - (f) Reliance upon third parties under s. REEB 24.07 (5).
 - (g) Investigations and inspections under s. 452.23, Stats.
 - (h) Civil liability for misrepresentation.
 - (i) Seller's disclosure duties under ch. 709, Stats.
- (15) LEASES.** Instruction relating to real estate leases shall include all of the following:
- (a) Leasehold estates.
 - (b) Standard lease provisions.
 - (c) Lease documents.
 - (d) Legal principles of leases.
 - (e) Improvements.
 - (f) Maintenance.
 - (g) Breach.
 - (h) Residential rental practices under ss. ATCP 134.02, 134.06, and 134.09.
- (16) PROPERTY MANAGEMENT.** Instruction relating to property management shall include all of the following:
- (a) Functions of property manager.
 - (b) Management agreement.
 - (c) Management considerations.
 - (d) Renting and maintaining the property.
 - (e) Risk management.
- (17) LAND USE CONTROL AND DEVELOPMENT.** Instruction relating to land use control and development shall include all of the following:
- (a) Public controls.
 - (b) The master plan.
 - (c) Zoning.
 - (d) Subdivision regulations.
 - (e) Private land-use controls.
 - (f) Building codes.
 - (g) Land development.
 - (h) Subdividing.
- (18) ENVIRONMENTAL CONCERNS.** Instruction relating to real estate environmental concerns shall include all of the following:

- (a) Radon.
- (b) Asbestos.
- (c) Lead-based paint.
- (d) Toxic waste.
- (e) Underground storage tanks under ch. [ATCP 93](#).
- (f) Floodplains under s. [87.30](#), Stats., and ss. [NR 116.01](#) and [116.06](#).
- (g) Flood insurance.
- (h) Wetlands under s. [23.32](#), Stats.
- (i) Farmland preservation under ss. [91.01](#), and [91.60](#) to [91.70](#), Stats.
- (k) Disclosure documents under s. [452.23](#) and ch. [709](#), Stats., and s. [REEB 24.07](#).

(19) MISCELLANEOUS WISCONSIN LICENSE LAWS. Instruction relating to miscellaneous Wisconsin license laws shall include all of the following:

- (a) Chapter [REEB 15](#).
- (b) Chapter [REEB 16](#).
- (c) Chapter [REEB 17](#).
- (d) Chapter [REEB 18](#), including all of the following:
 1. Definition of trust account.
 2. Interest-bearing and non-interest bearing accounts.
 3. Definition of trust funds.
 4. When a trust account is required.
 5. Deposit of trust funds.
- (e) Chapter [REEB 23](#).
- (f) Property rights of married persons under ss. [766.31](#), [766.51](#), [766.60](#) and [766.63](#), Stats.
- (g) Mortgage banking under s. [224.71](#), Stats.
- (h) Escrow agreement procedures, including all of the following:
 1. Escrows requiring separate escrow agreements.
 2. Pre-closing earnest money escrows.
 3. Post-closing escrows.
 4. Escrows not requiring separate escrow agreement.
 5. Drafting escrow agreements.

History: CR 15-010: cr. Register September 2015 No. 717, eff. 10-1-15; CR 17-100: am. (14) (b) Register July 2018 No. 751, eff. 8-1-18; CR 19-128: r. (18) (j) Register January 2021 No. 781, eff. 2-1-21.

REEB 25.038 Nonresident salesperson education equivalency. An applicant who has held an active real estate salesperson's license in another licensing jurisdiction within the 2 year period prior to filing an application for a real estate salesperson's license in this state is deemed to have met the equivalency to the salesperson program education based upon his or her education required to obtain a license in the other licensing jurisdiction and completion of Wisconsin specific education consisting of 13 hours and containing the following content:

- (1) Contracts**, including all of the following:
 - (a) Law of conveyances, including all of the following:
 1. Conveyance defined under s. [706.01](#), Stats.
 2. Requirements for a valid conveyance under ss. [706.02](#) and [706.03](#), Stats.
 - (b) Chapter [REEB 16](#).
 - (c) Review of forms approved by the board, including all of the following:
 1. Listing contracts.
 2. Offers to purchase.
 3. Addenda.
 4. Buyer agency agreements.
 5. Counter offers.
 6. Multiple counter proposals.
 7. Amendment.

- 8. Notices.
- 9. Option.
- 10. Bill of sale.
- 11. Exchange.
- 12. Cancellation agreement and mutual release.
- (2) Agency**, including all of the following:
 - (a) Duties owed to parties and clients under s. [452.133](#), Stats.
 - (b) Requirement for an agency agreement and disclosure of agency under s. [452.135](#), Stats.
 - (c) Revisions to common law duties and responsibilities under s. [452.139](#), Stats.
- (3) Agency relationship**, including all of the following:
 - (a) Multiple representation with designated agency.
 - (b) Multiple representation without designated agency.
 - (c) Single agency.
- (4) Business conduct**, including all of the following:
 - (a) Direct contact with the public, including all of the following:
 1. Competence in area of service under s. [REEB 24.03](#).
 2. Tie-ins under s. [REEB 24.075](#).
 3. Agreements in writing under s. [REEB 24.08](#).
 4. Misleading market values under s. [REEB 24.09](#).
 5. Net listings under s. [REEB 24.10](#).
 - (b) Advertising under s. [REEB 24.04](#).
 - (c) Completing and presenting written proposals under ss. [REEB 24.12](#) and [24.13](#)., including all of the following:
 1. Confidentiality.
 2. Drafting and submitting offers.
 3. Prompt delivery to buyer.
 4. Fair presentation of offers.
 5. Prompt notification.
 - (d) Disclosure of compensation and interest under s. [REEB 24.05](#), including all of the following:
 1. Disclosure of interest.
 2. Referral services.
 3. Disclosure of profits.
 4. Disclosure of licensure.
- (5) Consumer Protection**, including all of the following:
 - (a) Property inspections under s. [REEB 24.07 \(1\) \(a\)](#).
 - (b) Inquiry by listing firm under s. [REEB 24.07 \(1\) \(b\)](#).
 - (c) Disclosure of material adverse facts under s. [REEB 24.07 \(2\)](#).
 - (d) Disclosure of material suggesting adverse material facts under s. [REEB 24.07 \(3\)](#).
 - (e) Disclosure of side agreements under s. [REEB 24.07 \(4\)](#).
 - (f) Reliance upon third parties under s. [REEB 24.07 \(5\)](#).
 - (g) Investigations and inspections under s. [452.23](#), Stats.
 - (h) Civil liability for misrepresentation.
 - (i) Seller's disclosure duties under ch. [709](#), Stats.
- (6) Wisconsin fair housing law** under s. [REEB 24.03 \(1\)](#), and ss. [66.1011](#) and [106.50](#), Stats.
- (7) Environmental factors**, including all of the following:
 - (a) Underground storage tanks under ch. [ATCP 93](#).
 - (b) Floodplains under s. [87.30](#), Stats., and ss. [NR 116.01](#) and [116.06](#).
 - (c) Wetlands under s. [23.32](#), Stats.
 - (d) Farmland preservation under ss. [91.01](#) and [91.60](#) to [91.70](#), Stats.
- (8) Trust accounts and escrows**, including all of the following:
 - (a) Trust accounts under s. [452.13](#), Stats., and ch. [REEB 18](#), including all of the following:

1. Definition of trust account.
2. Interest-bearing and non-interest bearing accounts.
3. Definition of trust funds.
4. When a trust account is required.
5. Deposit of trust funds.

(b) Escrow agreement procedures, including all of the following:

1. Escrows requiring separate escrow agreements.
2. Pre-closing earnest money escrows.
3. Post-closing escrows.
4. Escrows not requiring separate escrow agreement.
5. Drafting escrow agreements.

(9) Miscellaneous issues, including all of the following:

- (a) Condominiums under ss. 703.08, 703.21, and 703.33, Stats.
- (b) Homestead under ss. 706.01 (7) and 766.605, Stats.
- (c) Taxes under ss. 74.15, and 74.47 (1) and (2), Stats.
- (d) Taxation and transfer fees under ss. 77.22 and 77.27, Stats.
- (e) Residential rental practices under ss. ATPC 134.02, 134.06 and 134.09.
- (f) Documents and records under ch. REEB 15.
- (g) Licensure and supervision of employees under ch. REEB 17.
- (h) Property rights of married persons under ss. 766.31, 766.51, 766.60, and 766.63, Stats.
- (i) Mortgage banking under s. 224.71, Stats.

History: CR 15-010: cr. Register September 2015 No. 717, eff. 10-1-15; (1) (a) 1. and 2. renum. from (1) (a) a. and b. under s. 13.92 (4) (b) 1., Stats., Register September 2015 No. 717; CR 17-100: am. (5) (b) Register July 2018 No. 751, eff. 8-1-18; CR 19-128: r. (7) (e) Register January 2021 No. 781, eff. 2-1-21.

REEB 25.055 Approval for pre-licensure education programs or courses. (1) GENERAL. (a) The board may approve a pre-licensure education program if it covers all of the required content and hours in ss. REEB 25.023, 25.028, 25.033, or 25.038. The board may approve a pre-licensure education course if it alone or in conjunction with one or more other courses covers the content and hours required under ss. REEB 25.023, 25.028, 25.033, or 25.038.

(b) Instructors shall be knowledgeable in the subject that they are teaching. An instructor whose real estate license has been limited, suspended or revoked may not instruct in a program or a course while the disciplinary action is in effect.

(c) A school or organization may not discriminate against anyone on the basis of sex, race, color, sexual orientation as defined in s. 111.32 (13m), Stats., handicap, religion, age, physical disability or national origin in its education program or courses.

(2) APPROVAL. A school or organization seeking approval of a pre-licensure education program or course shall submit to the board at least 30 days prior to offering the program or course all of the following:

- (a) Application provided by the board.
- (b) Organizational structure of the school or organization.
- (c) Registration policies.
- (d) Promotional materials.
- (e) Detailed outline of each program or course with specific allocations of hours to each topic. A school or organization utilizing a curriculum, which has already been approved by the board, may provide verification of utilization of the approved curriculum to meet this requirement.
- (f) Method of instruction.
- (g) Method for ensuring the students who complete the course are the enrolled students.
- (h) Method for evaluating instructors and program.

(i) Names of all instructors.

(j) Evidence that each instructor is one of the following:

1. A person who is or has been engaged in the practice of teaching real estate courses at an accredited institution of higher education.

2. A person who is properly licensed or certified by the board or other governmental agency who, for at least 5 years continuously, has been engaged in the real estate aspects of any of the following:

- a. Appraising.
- b. Financing.
- c. Marketing.
- d. Brokerage management.
- e. Real property management.
- f. Real estate counseling.
- g. Real property law.

3. A member of the Wisconsin state bar who is engaged in the field of real estate related law.

4. A person who, in the judgment of the board, is qualified by experience or education to teach a course of study.

(3) CHANGES TO PROGRAM OR COURSE. A school or organization shall inform the board of any change in instructors and any substantive change in the information submitted in sub. (2) (a) to (j) within 10 days following the date of the change.

(4) EVIDENCE OF COMPLETION. (a) A school or organization shall provide all students with evidence of completion of the education program or course.

(b) A certificate of completion may not be issued unless the student received all the required contents of the education program and course. A certificate of completion shall include all of the following:

1. Name of the school or organization.
2. Name of the student.
3. Name of the program or course
4. Number of hours.
5. Date of completion.
6. Signature of authorized person at the school or organization.

(c) A school or organization shall maintain attendance and completion records for at least 5 years after a program or course has been conducted.

History: CR 15-010: cr. Register September 2015 No. 717, eff. 10-1-15.

REEB 25.065 Continuing education requirements for brokers and salespersons. (1) Each licensed broker and salesperson shall satisfy the continuing education requirement specified in s. 452.12 (5) (c), Stats., during each licensing biennium.

Note: The contents of the continuing education programs and courses are not designated in the Wisconsin administrative code, pursuant to an exemption under s. 227.01 (13) (zj), Stats.

(2) A licensee may only satisfy the continuing education requirement by successfully completing the continuing education program or courses which are approved by the board before the programs or courses are conducted.

(3) A licensee shall submit evidence of completion of the continuing education requirement when applying for renewal of license. The department shall withhold issuance of the renewal license until such evidence is submitted and the licensee may not engage in the practice of real estate until having submitted such evidence and having received the license.

(5) A person who receives an original salesperson's or broker's license is required to satisfy the continuing education requirement during the biennium in which the person receives that license, except a person who receives an original salesperson's license after October 1 in an even year is not required to

satisfy the continuing education requirement during that biennium.

(6) A licensee may attend more than one school in order to complete approved courses which are part of the continuing education program designated by the board under s. 452.05 (1) (d) and (g), Stats.

(8) A licensee who acts as an instructor of an approved continuing education program or course may receive credit toward satisfaction of the licensee's continuing education requirement. The licensee may not receive credit for teaching a specific course more than one time.

(9) The board may grant an extension of time for completion of the continuing education requirement by a licensee and the licensee may obtain a renewal license for the extension period for one of the following reasons:

(a) Health reasons that prevented attendance at continuing education courses.

(b) Active duty in the military service with assignment to a duty station outside Wisconsin.

(c) Other compelling reasons beyond the control of the applicant while engaged in the real estate business.

(10) A licensee shall retain for a minimum period of 5 years and shall make available to the board, or its agent upon request, the evidence of completion issued by the school or organization for all continuing education programs for which the licensee claims credit for purposes of renewal of the license.

History: Cr. Register, January, 1992, No. 433, eff. 2-1-92; am. (6m), r. (4), r. and rec. (5), Register, September, 1993, No. 453, eff. 10-1-93; am. (7), Register, July, 1998, No. 511, eff. 8-1-98; am. (5), Register, August, 1999, No. 524, eff. 9-1-99; correction in (2), (3), (6) to (9) made under s. 13.92 (4) (b) 6., 7., Stats., Register November 2011 No. 671; CR 13-100; am. (1) Register September 2014 No. 705, eff. 10-1-14; CR 15-010; am. (2), (5), r. (6m), (7), am. (8), (9) (a), (b), cr. (10) Register September 2015 No. 717, eff. 10-1-15.

REEB 25.068 Approval for continuing education programs or courses. (1) GENERAL.

(a) A school or organization shall conduct an examination at the end of each continuing education program or course consisting of at least 15 multiple-choice questions for each program or course. The passing score shall be no less than 70%, unless the school or organization provides substantial justification to the board for a lower score and the board approves the lower passing score. A school or organization may not count examination time as part of the number of hours of the program or course.

(b) Instructors of continuing education programs or courses shall be knowledgeable in the subject that they are teaching. An instructor whose real estate license has been limited, suspended or revoked may not instruct in a program or a course while the disciplinary action is in effect.

(c) A school or organization may not discriminate against anyone on the basis of sex, race, color, sexual orientation as defined in s. 111.32 (13m), Stats., handicap, religion, age, physical disability or national origin in its education program or courses.

(2) APPROVAL. A school or organization seeking approval of a continuing education program or course shall submit to the board at least 30 days prior to offering the program or course all of the following:

(a) Application provided by the board.

(b) Organizational structure of the school or organization.

(c) Registration policies.

(d) Promotional materials.

(e) Detailed outline of each program or course with specific allocations of hours to each topic. A school or organization uti-

lizing a curriculum that has already been approved by the board may provide verification of utilization of the approved curriculum to meet this requirement.

(f) Method of instruction.

(g) Method for ensuring the students who complete the course are the enrolled students.

(h) Method for evaluating instructors and program.

(i) Names of all instructors.

(j) Evidence that each instructor is any of the following:

1. A person who is or has been engaged in the practice of teaching real estate courses at an accredited institution of higher education.

2. A person who is properly licensed or certified by the board or other governmental agency who, for at least 5 years continuously, has been engaged in the real estate aspects of any of the following:

a. Appraising.

b. Financing.

c. Marketing.

d. Brokerage management.

e. Real property management.

f. Real estate counseling.

g. Real property law.

3. A member of the Wisconsin state bar who is engaged in the field of real estate related law.

4. A person who, in the judgment of the board, is qualified by experience or education to teach a course of study.

(k) A minimum of 15 multiple-choice questions for each program or course, the answer to each question, the portion of the course outline to which the question relates and the passing score for the examination. The questions shall comply with reasonable standards of test development and relate to the substantive contents of the continuing education program or course.

(3) CHANGES TO PROGRAM OR COURSE. A school or organization shall inform the board of any change in instructors and any substantive change in the information submitted in sub. (2) (a) to (k) within 10 days following the date of the change.

(4) EVIDENCE OF COMPLETION. (a) A school or organization shall provide all students with evidence of completion of the continuing education program or course.

(b) A certification of completion may not be issued unless the student received all the required contents of the education program or course. A certificate of completion shall include all of the following:

1. Name of the school or organization.

2. Name of the student.

3. Name of the program or course

4. Number of hours.

5. Date of completion.

6. Signature of authorized person at the school or organization.

(c) A school or organization shall maintain attendance and completion records for at least 5 years after a program or course has been conducted.

History: CR 15-010; cr. Register September 2015 No. 717, eff. 10-1-15.

REEB 25.09 Denial or withdrawal of approval. The board may deny or withdraw approval of a program or course that had been approved under s. REEB 25.055 or 25.068.

History: CR 15-010; cr. Register September 2015 No. 717, eff. 10-1-15; correction made under s. 13.92 (4) (b) 7., Stats., Register September 2015 No. 717.

CHAPTER 452

REAL ESTATE PRACTICE

452.01	Definitions.	452.14	Investigation and discipline of licensees.
452.03	Brokers and salespersons licensed.	452.142	Actions concerning licensees.
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Cross-reference: See definitions in s. 440.01.

Cross-reference: See also chs. REEB 11, 12, 15, 16, 17, 18, 23, 24, and 25, Wis. adm. code.

452.01 Definitions. In this chapter:

(1e) “Adverse fact” means any of the following:

(a) A condition or occurrence that is generally recognized by a competent licensee as doing any of the following:

1. Significantly and adversely affecting the value of the property.
2. Significantly reducing the structural integrity of improvements to real estate.
3. Presenting a significant health risk to occupants of the property.

(b) Information that indicates that a party to a transaction is not able to or does not intend to meet his or her obligations under a contract or agreement made concerning the transaction.

(1m) “Agency agreement” means a written agreement between a firm and a client in which the client authorizes the firm to provide brokerage services to the client.

(1o) “Associated with a firm” means to have been engaged by a firm to provide brokerage services to the firm’s clients and customers on behalf of the firm and under the firm’s supervision, including as an employee of the firm or as an independent contractor, or both.

(1p) “Associated with a subagent” means to be associated with a firm that is engaged as a subagent.

(1s) “Board” means real estate examining board.

(2) “Broker” means any person not excluded by sub. (3), who does any of the following:

(a) For another person, and for commission, money, or other thing of value, negotiates or offers or attempts to negotiate, whether directly or indirectly, a sale, exchange, purchase, or rental of, or the granting or acceptance of an option to sell, exchange, purchase, or rent, an interest or estate in real estate, a time share, or a business or its goodwill, inventory, or fixtures, whether or not the business includes real property.

(b) Is engaged wholly or in part in the business of selling or exchanging interests or estates in real estate or businesses, including businesses’ goodwill, inventory, or fixtures, whether or not the business includes real property, to the extent that a pattern of sales or exchanges is established, whether or not the person owns the real estate or businesses. Five sales or exchanges in one year or 10 sales or exchanges in 5 years is presumptive evidence of a pattern of sales or exchanges.

(bm) For another person, and for commission, money, or other thing of value shows real estate or a business or its inventory or fixtures, whether or not the business includes real property, except that this paragraph does not include showing a property that is offered exclusively for rent.

(c) For another person, and for commission, money, or other thing of value, promotes the sale, exchange, purchase, option, rental, or leasing of real estate, a time share, or a business or its goodwill, inventory, or fixtures, whether or not the business includes real property. This paragraph does not apply to a person who only publishes or disseminates verbatim information provided by another person.

(d) Issues a written report of property value that is prepared for another person and that is not an appraisal, as defined in s. 458.01 (1).

(3) “Broker” does not include any of the following:

(a) Receivers, trustees, personal representatives, guardians, or other persons appointed by or acting under the judgment or order of any court.

(b) Public officers while performing their official duties.

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

(d) Employees of persons enumerated in pars. (a) to (c), (f), and (i) when engaged in the specific performance of their duties as such employees.

(dm) Any employee of an attorney under par. (h) if all of the following are true:

1. The employee’s activities are directly supportive of the attorney’s provision of legal services to the attorney’s client.

2. The employee’s activities are activities that the attorney may perform under par. (h).

3. The employee is under the direction and supervision of the attorney.

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

(f) Any credit union which negotiates loans secured by real estate mortgages or any licensee under ch. 138 which negotiates

loans secured by real estate mortgages or any licensed attorney who, incidental to the general practice of law, negotiates or offers or attempts to negotiate a loan, secured or to be secured by mortgage or other transfer of or encumbrance on real estate.

(g) A person licensed as a mortgage banker under s. 224.72 who does not engage in activities described under sub. (2).

(h) Attorneys licensed to practice in this state while acting within the scope of their attorney's license.

(i) A developer, as defined in s. 707.02 (11), negotiating a transaction involving a time share.

(3e) “Brokerage service” means any service described under sub. (2) provided to a person by a firm and any licensees associated with the firm.

(3j) “Business entity” means any organization or enterprise, other than a sole proprietorship, which is operated for profit or that is nonprofit and nongovernmental, including an association, business trust, corporation, joint venture, limited liability company, limited liability partnership, partnership or syndicate.

(3k) “Business representative” means a director, manager, member, officer, owner or partner of a business entity.

(3m) “Client” means a party to a transaction who has an agency agreement with a firm for brokerage services.

(3p) “Crime” does not include a crime for which the individual has been pardoned; a crime for which the conviction has been reversed, set aside, or vacated; or a crime for which the conviction has been expunged under s. 973.015.

(3s) “Customer” means a party to a transaction who is provided brokerage services by a firm and any licensees associated with the firm but who is not a client.

(3w) “Designated agency” means a multiple representation relationship in which each client of the firm in the multiple representation relationship receives negotiation services from the firm only from licensees associated with the firm who are not providing negotiation services to any other client of the firm in the transaction.

(4) “Disciplinary proceeding” means a proceeding against one or more licensees in which the board may revoke, suspend, or limit a license, reprimand a licensee, or assess a forfeiture or require education or training under s. 452.14 (4m) or (4r).

(4v) “Felony” means a felony under the laws of this state or a crime committed elsewhere that would be a felony if committed in this state. “Felony” does not include a felony for which the applicant has been pardoned; a felony for which the conviction has been reversed, set aside, or vacated; or a felony for which the conviction has been expunged under s. 973.015.

(4w) “Firm” means a licensed individual broker acting as a sole proprietorship or a licensed broker business entity.

(4x) “Licensed broker business entity” means a broker licensed under s. 452.12 that is a business entity.

(4y) “Licensed individual broker” means a broker licensed under s. 452.12 who is an individual.

(5) “Licensee” means any person licensed under this chapter.

(5c) “License number” means a number assigned to a person under s. 452.05 (1) (j).

(5e) “Listing firm” means a firm that has entered into an agency agreement with a seller or landlord pursuant to which the firm lists property for sale or lease.

(5g) “Material adverse fact” means an adverse fact that a party indicates is of such significance, or that is generally recognized by a competent licensee as being of such significance to a reasonable party, that it affects or would affect the party's decision to enter into a contract or agreement concerning a transaction or affects or would affect the party's decision about the terms of such a contract or agreement.

(5j) “Multiple representation relationship” means a relationship between a firm and 2 or more of the firm's clients in which the clients are parties in the same transaction.

(5m) “Negotiate” means to provide to a party assistance within the scope of the knowledge, skills, and training required under this chapter in developing a proposal or agreement relating to a transaction, including doing any of the following:

(a) Acting, whether directly or indirectly, as an intermediary by facilitating or participating in communications between parties related to the parties' interests in a transaction. In this paragraph, providing advice or opinions on matters that are material to a transaction in which a person is engaged or intends to engage or showing a party real estate does not, in and of itself, constitute acting as an intermediary by facilitating or participating in communications between parties.

(b) Completing, when requested by a party, appropriate board-approved forms or other writings to document the party's proposal consistent with the party's instruction.

(c) Presenting to a party the proposals of other parties to the transaction and giving the party a general explanation of the provisions of the proposal.

(5n) “Out-of-state broker” means a person who is not licensed under this chapter and who is regularly and lawfully engaged in the real estate brokerage business in another state, a territory or possession of the United States, or a foreign country.

(5p) “Out-of-state salesperson” means a person who is not licensed under this chapter and who is employed or engaged as an independent contractor by an out-of-state broker.

(5r) “Party” means a person seeking to engage in a transaction.

(5w) “Principal firm” means a firm that engages a subagent to provide brokerage services in a transaction.

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

(7) “Salesperson” means any individual who is associated with a firm, other than a broker or an individual who is not required to hold a license under this chapter as provided under s. 452.03 (2).

(7r) “Subagent” means a firm that is engaged by a principal firm to provide brokerage services in a transaction, but that is not associated with the principal firm.

(8) “Time share” has the meaning given in s. 707.02 (24).

(10) “Transaction” means the sale, exchange, purchase or rental of, or the granting or acceptance of an option to sell, exchange, purchase or rent, an interest in real estate, a business or a business opportunity.

History: 1981 c. 94; 1983 a. 27; 1985 a. 305; 1987 a. 359, 399; 1987 a. 403 s. 256; 1989 a. 341; 1991 a. 221; 1993 a. 127; 1995 a. 27, 400; 1997 a. 263; 2001 a. 102; 2005 a. 87; 2009 a. 2; 2011 a. 32; 2013 a. 124, 259, 288; 2015 a. 195, 258; 2017 a. 110.

A foreign corporation that entered into a brokerage contract to sell a radio station without being licensed in this state could not sue for its commission. The licensing requirement is not an unlawful burden on interstate commerce. *Chapman Company, Inc. v. Service Broadcasting Corporation*, 52 Wis. 2d 32, 187 N.W.2d 794 (1971).

Units of interest in a limited partnership are personalty and not real estate, and no real estate broker's license is required for their sale. 60 Atty. Gen. 254.

That one who owns stock in a corporation owns “an interest” in a business under sub. (2) (a) and that therefore anyone who negotiates a sale of stock requires a license under this section cannot be right. That would require every securities broker in Wisconsin to have a real estate broker's license as well as a securities license. *Schlueter v. Latek*, 683 F.3d 350 (2012).

The “New” Chapter 452: Defining Real Estate Broker Practice. Leibsle. Wis. Law. June 2006.

452.03 Brokers and salespersons licensed. (1) Except as provided in s. 452.137, no person may engage in or follow the business or occupation of, or advertise or hold himself or herself out as, or act temporarily or otherwise as a broker or salesperson without a license issued under this chapter. The board may grant a license only to a person who is competent to transact that business or occupation in a manner that safeguards the interests of the public, and only after satisfactory proof of the person's competence has been presented to the board.

(2) No license under this chapter is required for an individual who, on behalf of and under the direction of a firm or one or more licensees associated with a firm, provides the firm or licensee with

services that are limited to those that are purely administrative, clerical, or personal in nature.

History: 1981 c. 94, 391; 1989 a. 307; 2011 a. 32; 2015 a. 258.

Under s. 452.03 an agreement to pay a real estate brokerage commission to a person not licensed as a broker is void at its inception. Using a licensed broker who provides no actual services as a conduit for a fee to an unlicensed person does not create a co-brokerage arrangement authorized by s. 452.19. *Badger III Ltd. v. Howard, Needles, Tammen & Bergendoff*, 196 Wis. 2d 891, 539 N.W.2d 904 (Ct. App. 1995), 94–2531.

Officers of a corporation or partners of a partnership can act for the corporation or partnership in the rental of real estate owned by the entity without being licensed as real estate brokers. 60 Atty. Gen. 1 (1971).

Actions of a tenants union on behalf of its members may require a real estate broker's license. 60 Atty. Gen. 118 (1971).

The permitted limits of nonlicensed independent contractor agents are discussed. 70 Atty. Gen. 23.

452.05 Duties and powers of board. (1) In addition to the other duties and responsibilities of the board under this chapter, the board shall advise the secretary on matters relating to real estate practice and shall:

(a) Grant and issue licenses to individuals and business entities to act as brokers and to individuals to act as salespersons.

(b) Approve forms for use in real estate practice. The board may conduct public hearings on matters relating to the approval of forms used in real estate practice. The board may also solicit comments relating to forms used in real estate practice from the council on forms created under s. 452.06 (1) (a) or from a professional trade association whose members consist primarily of licensees actively engaged in real estate practice.

(c) After consultation with the council on real estate curriculum and examinations, promulgate rules establishing criteria for the approval of educational programs and training sessions under s. 452.09 (2) and approve such programs and sessions in accordance with the established criteria.

(d) After consultation with the council on real estate curriculum and examinations, brokers and salespersons licensed under this chapter, and interested members of the public, establish criteria for the approval of continuing educational programs and courses in real estate related subjects required for renewal under s. 452.12 (5) (c).

(g) Approve continuing educational programs and courses in accordance with the criteria established under par. (d). In order to be approved, a continuing educational program or course must require brokers and salespersons to pass an examination on the information presented at the program or course in order to successfully complete and receive continuing education credit for the program or course under s. 452.12 (5) (c).

(i) Create a form on which an individual applying to renew a broker's or salesperson's license may do all of the following:

1. State whether he or she has been convicted of a crime since he or she last applied to renew the license or, for an initial renewal, since he or she initially applied for the license.

2. Identify the date of conviction for any crime described under subd. 1. and describe the nature and circumstances of the crime.

3. Sign his or her name to attest to the accuracy and truthfulness of the information under subs. 1. and 2. and to acknowledge all of the following:

a. The department's authority to conduct an investigation under s. 440.03 (13).

b. The board's authority to revoke the license under s. 452.14 (3) (o).

c. The board's authority to assess forfeitures under s. 452.14 (4r).

(j) Assign a unique license number to each person licensed under this chapter.

(1m) (a) In this subsection:

1. "Certified local register of historic property" means a register of historic property that is part of a historic preservation ordi-

nance enacted by a city, village, town or county if the ordinance is certified by the state historical society under s. 44.44.

2. "Commercial real property" means real property that is classified as commercial under s. 70.32 (2) (a) 2.

3. "Historic building" means a building that fulfills at least one of the following requirements:

a. Is listed on a certified local register of historic property, if that fact is specified in a statement recorded in the office of the register of deeds for the county in which the commercial real estate is located.

b. Is included in a district that is listed on a certified local register of historic property, if that fact is specified in a statement recorded in the office of the register of deeds for the county in which the commercial real estate is located, and has been determined by the city, village, town or county to contribute to the historic significance of the district.

(b) In preparing the form for the offer to purchase commercial real property under sub. (1) (b), the board shall include a statement that the seller represents to the buyer that the seller has no notice or knowledge that the commercial real property is a historic building.

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

(3) The board may enter into reciprocal agreements with officials of other states or territories of the United States for licensing brokers and salespersons and grant licenses to applicants who are licensed as brokers or salespersons in those states or territories according to the terms of the reciprocal agreements.

History: 1981 c. 94, 391; 1985 a. 305 ss. 1t, 7; 1987 a. 399; 1989 a. 307, 341; 1991 a. 39; 1993 a. 141; 1995 a. 27; 1997 a. 27; 2003 a. 168; 2011 a. 32; 2013 a. 288; 2015 a. 258; 2017 a. 110, 278; 2017 a. 365 s. 111.

A corporation cannot be licensed as real estate salesperson. 71 Atty. Gen. 38.

452.06 Councils and committees. (1) (a) The board shall create a council on forms that shall meet when directed by the board, be chaired by a member of the board, and report to the board.

(b) Any proposed change in a form relating to real estate practice shall be referred to the council on forms for review before the form is approved.

(c) The board may direct the council on forms to create or modify a form relating to real estate practice and submit that form to the board for approval. If the board directs the council to create or modify a form, the board shall establish a deadline for the council to submit the form to the board.

(2) The council on real estate curriculum and examinations shall do all of the following:

(a) Advise the board on establishing continuing education requirements under s. 452.05 (1) (d).

(b) Not less than annually, review subjects covered on examinations for licensure under this chapter and the qualifications for instructors of and performance evaluations for educational and continuing educational programs, training sessions, and courses approved under this chapter.

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

(4) The secretary shall provide staff and other support required for the operation of councils and committees created under this section or under s. 15.04 (1) (c) to provide advice to the department or board, as appropriate, on matters relating to real estate practice.

History: 1981 c. 94; 1989 a. 341; 1991 a. 39; 2011 a. 32; 2017 a. 110.

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

(1m) The board may promulgate rules regarding the supervisory responsibilities of brokers under s. 452.132.

(3) The board may promulgate rules regarding advertising by brokers or salespersons that do not conflict with s. 452.136.

History: 1981 c. 94; 1985 a. 182 s. 57; 1987 a. 403 s. 256; 2001 a. 16; 2011 a. 32; 2013 a. 288; 2015 a. 258; 2017 a. 110, 278.

Cross-reference: See also chs. REEB 11, 12, 15, 16, 17, 18, 23, 24, and 25, Wis. adm. code.

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

History: 1981 c. 94.

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

(a) The kind of license desired.

(b) The name and address of the applicant. If the applicant is a business entity, the application shall also include the name and address of each business representative and the license number of each business representative licensed as a broker under this chapter.

(d) The business or occupation engaged in by the applicant, or if a business entity, by each business representative, for a period of at least 2 years immediately preceding the date of the application.

(e) Any other information that the board may reasonably require to enable it to determine the competency of each applicant, including each business representative of the business entity, to transact the business of a broker or salesperson in a manner that safeguards the interests of the public.

(2) EDUCATIONAL REQUIREMENTS FOR APPLICANTS FOR LICENSES. (a) Except as provided in a reciprocal agreement under s. 452.05 (3), each applicant for a salesperson's license shall submit to the board evidence satisfactory to the board of successful completion of educational programs approved for this purpose under s. 452.05 (1) (c). The board may waive the requirement under this paragraph upon proof that the applicant has received 10 academic credits in real estate or real estate related law courses from an accredited institution of higher education.

(c) Except as provided in par. (d) or a reciprocal agreement under s. 452.05 (3), each applicant for a broker's license to be issued to an individual shall do all of the following:

1. Satisfy or obtain a waiver of the requirement under par. (a) or submit proof of licensure as a salesperson under this chapter.

2. Submit to the board evidence satisfactory to the board of successful completion of educational programs in business management approved for this purpose under s. 452.05 (1) (c). No educational programs applied to satisfy the requirement under subd. 1. may be applied to satisfy the requirement under this subdivision.

(d) The board may waive the requirements under par. (c) upon proof that the applicant has received 20 academic credits in real estate or real estate related law courses from an accredited institution of higher education or that the applicant is licensed to practice law in this state.

(3) COMPETENCY OF APPLICANT. (a) In determining competency, the board shall require proof that the applicant for a broker's or salesperson's license has a fair knowledge of the English language; a fair understanding of the general purposes and general legal effect of deeds, mortgages, land contracts of sale, leases, bills of sale, and conditional sales contracts; and a general and fair understanding of the obligations between principal and agent, as well as of this chapter. The board shall deny a license to an applicant receiving a failing grade, as established by rules of the board,

on any examination given under this section, but any applicant may review his or her examination results in a manner established by rules of the board.

(b) The board shall determine competency under par. (a) by means of only an oral examination for any applicant who is unable to write because of a physical handicap.

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

(d) Except as provided under s. 452.12 (2) or in a reciprocal agreement under s. 452.05 (3), the board may not grant a broker's license to an applicant unless the applicant passes the salesperson's examination and the broker's examination and meets the requirements under sub. (4).

(4) EXPERIENCE REQUIREMENTS FOR BROKER'S LICENSE APPLICANTS. (a) 1. An applicant for a broker's license who is an individual shall submit to the board evidence satisfactory to the board that the applicant has practiced as a licensed salesperson under the direct supervision of a licensed broker for at least 2 years within the last 4 years preceding the date of the applicant's application for a broker's license.

2. Except as provided under pars. (b) to (e), the board may not accept evidence as satisfactory under subd. 1. unless the evidence demonstrates that the applicant's experience as a licensed salesperson qualifies the applicant for a total of at least 40 points based on the following point system:

a. Each completed or closed residential transaction is worth 5 points.

b. Each completed or closed commercial transaction is worth 10 points.

c. Each property management contract is worth 0.5 points per month.

d. Each completed or closed time share is worth one point.

(b) An applicant who is licensed to practice law in this state may satisfy the requirement under par. (a) by submitting to the board evidence satisfactory to the board that the applicant has experience related to real estate.

(c) An applicant who holds a current certificate of financial responsibility under s. 101.654 may satisfy the requirement under par. (a) by submitting to the board evidence satisfactory to the board that the applicant has experience related to real estate sales.

(d) Except as provided in a reciprocal agreement under s. 452.05 (3), an applicant for a broker's license who is a nonresident may satisfy the requirement under par. (a) by submitting to the board evidence satisfactory to the board that the applicant has been a licensed broker under the laws of another state for at least 2 years within the last 4 years preceding the date of the applicant's application for a broker's license.

(e) The board may waive any requirement under par. (a), (b), (c), or (d) for any applicant based on standards established by the board by rule.

History: 1981 c. 94, 391; 1983 a. 273; 1985 a. 305; 1989 a. 341; 1995 a. 400; 1997 a. 27; 2003 a. 168; 2009 a. 110; 2011 a. 32; 2013 a. 114, 133; 2015 a. 258.

Cross-reference: See also chs. REEB 12, 23, and 25, Wis. adm. code.

452.10 Applications, verification, fees, exceptions.

(1) An application shall be verified by the applicant. If made by a business entity it shall be verified by a business representative that is a licensed individual broker or a licensed broker business entity and that is acting as a business representative for the business entity.

(2) (a) Each new application for a license under this chapter shall be for the remainder of the biennial license period.

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

(3) The fees for examinations and licenses granted under this chapter are specified under s. 440.05, and the renewal fee for such licenses is determined by the department under s. 440.03 (9) (a).

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

History: 1981 c. 94, 314, 391; 1983 a. 27, 273; 1985 a. 305; 1987 a. 264, 399; 1989 a. 307; 1991 a. 39; 1995 a. 400; 2007 a. 20; 2011 a. 32; 2015 a. 258.

Cross-reference: See also ch. REEB 12 and 23, Wis. adm. code.

The real estate examining board cannot prescribe the name to be used on an application for a real estate broker's license. 66 Atty. Gen. 21.

452.11 Nonresident applicants and licensees. (1) A nonresident may become a broker or salesperson by conforming to all the provisions of this chapter.

(3) Every nonresident applicant, and every resident licensee who becomes a nonresident, shall file with the board an irrevocable consent that actions may be commenced against the applicant or licensee 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 board or any duly authorized employee. The consent shall stipulate and agree that such service is valid and binding as due service upon the applicant or licensee in all courts in this state. The consent shall be duly acknowledged and, if made by a corporation, shall be authenticated by the corporate seal.

(4) Any process or pleading under this section shall be served in duplicate upon the board or its duly authorized employee. One copy shall be filed with the board and the other immediately forwarded by certified mail to the nonresident licensee against whom the process or pleading is directed at the last address provided to the board by the nonresident licensee. No default in any such proceeding or action may be taken unless it appears by affidavit of the chairperson of the board or any duly authorized employee that a copy of the process or pleading was mailed to the nonresident licensee as required in this subsection. No judgment by default may be taken in any action or proceeding within 20 days after the date of mailing the process or pleading to the nonresident licensee.

History: 1981 c. 94; 1983 a. 27; 1987 a. 399; 1991 a. 207; 2011 a. 32; 2015 a. 258.

Cross-reference: See also ch. REEB 12, Wis. adm. code.

452.12 Licenses. (1) **EXPIRATION.** A license granted by the board entitles the holder to act as a broker or salesperson, as the case may be, until the applicable renewal date specified under s. 440.08 (2) (a).

(2) **BUSINESS ENTITIES.** (a) A broker's license may be issued to a business entity if the business entity has at least one business representative licensed as a broker. The license issued to the business entity entitles each business representative of the business entity licensed as a broker to act as a broker on behalf of the business entity. A broker may act as a business representative for more than one business entity if the broker obtains the express, written consent of each business entity for which the broker desires to act as a business representative. A broker may act as a broker on behalf each business entity for which it is serving as a business representative.

(c) Application for a broker's license to be issued to a business entity shall be made on forms prescribed by the board, listing the names and addresses of all business representatives and the license numbers of all business representatives that are licensed brokers, and shall be accompanied by the initial credential fee determined by the department under s. 440.03 (9) (a). If there is a change in any of the business representatives, the change shall be reported to the board, on the same form, within 30 days after the effective date of the change.

(3) **FIRM'S RESPONSIBILITY FOR ACTS OF LICENSEES.** Subject to s. 452.139 (3), a firm is responsible for the brokerage services provided on behalf of the firm by a licensee associated with the firm only to the extent that the firm fails to comply with s. 452.132 and any rules promulgated under s. 452.07 (1m) with respect to that licensee.

(4) **REGISTER OF LICENSEES.** The board shall include in the register the board maintains under s. 440.035 (1m) (d) the names of all persons whose licenses issued under this chapter were revoked

within the past 2 years. The register shall be available for purchase at cost.

(5) **RENEWAL.** (a) Renewal applications for all licenses shall be submitted with the applicable renewal fee determined by the department under s. 440.03 (9) (a) on or before the applicable renewal date specified under s. 440.08 (2) (a). The department shall pay \$10 of each renewal fee received under this paragraph to the Board of Regents of the University of Wisconsin System for research and educational, public outreach, and grant activities under s. 36.25 (34).

(b) If an application for renewal of a license issued to an individual is not filed with the board on or before the renewal date with the proof required under par. (c) or if the renewal is not granted, the applicant may not engage in any of the activities covered by the license until the license is renewed or a new license is issued.

(bm) If an application for renewal of a license issued to a firm is not filed with the board on or before the renewal date or if the renewal is not granted, all of the following apply:

1. The firm may not engage in any of the activities covered by the license until the license is renewed or a new license is issued.

2. Any licensees associated with the firm may not engage in any of the activities covered by the firm's license on behalf of the firm until the firm's license is renewed or a new license is issued.

3. A licensed individual broker or licensed broker business entity who is serving as a business representative for the firm shall notify each licensee associated with the firm that the firm's license was not renewed and, within 10 days after notifying a licensee, file with the department a notice of termination for each such licensee on a form prescribed by the department.

(c) At the time of renewal, each broker or salesperson who is an individual shall submit proof of attendance at and successful completion of continuing education programs or courses approved under s. 452.05 (1) (g).

(d) At the time of renewal, each broker or salesperson who is an individual shall complete the form under s. 452.05 (1) (i).

History: 1981 c. 94; 1983 a. 27; 1985 a. 305; 1987 a. 264, 399; 1989 a. 307, 341; 1991 a. 39; 1995 a. 27, 400; 1997 a. 27, 191, 237; 2001 a. 16; 2005 a. 87; 2007 a. 20; 2011 a. 32; 2013 a. 288; 2015 a. 258, 269; 2017 a. 365.

Cross-reference: See also chs. REEB 17, 23, and 25, Wis. adm. code.

452.13 Trust accounts. (1) **DEFINITIONS.** In this section:

(a) "Client funds" means all downpayments, earnest money deposits, or other money related to a conveyance of real estate that is received by a licensee on behalf of a firm or any other person. "Client funds" does not include promissory notes.

(b) "Depository institution" means a bank, savings bank, savings and loan association or credit union that is authorized by federal or state law to do business in this state and that is insured by the federal deposit insurance corporation or by the national credit union share insurance fund.

(2) **INTEREST-BEARING COMMON TRUST ACCOUNT.** (a) A firm that holds client funds shall establish an interest-bearing common trust account in a depository institution. The interest-bearing common trust account shall earn interest at a rate not less than that applicable to individual accounts of the same type, size, and duration and for which withdrawals or transfers can be made without delay, subject to any notice period that the depository institution is required to observe by law or regulation.

(b) Any firm that maintains an interest-bearing common trust account shall do all of the following:

1. Register with the department the name and address of the depository institution and the number of the interest-bearing common trust account.

2. Notify the department when any of the information required under subd. 1. is changed.

3. Furnish the department with a letter authorizing the department and the department of administration to examine and audit

the interest-bearing common trust account whenever either department considers it necessary.

(bm) The department shall forward to the department of administration the information and documents furnished under par. (b).

(c) A firm shall deposit all client funds in the interest-bearing common trust account.

(d) The department of administration is the beneficial owner of the interest accruing to the interest-bearing common trust account, minus any service charges or fees.

(e) For each interest-bearing common trust account, the firm shall direct the depository institution to do all of the following:

1. Annually, before February 1, remit to the department of administration the total interest or dividends, minus service charges or fees, earned on the average daily balance in the interest-bearing common trust account during the 12 months ending on the previous December 31. A depository institution is not required to remit any amount if the total interest or dividends for that period is less than \$10 before any deduction for service charges or fees.

2. When the interest remittance is sent, furnish to the department of administration and to the firm maintaining the interest-bearing common trust account a statement that includes the name of the firm for whose account the remittance is made, the rate of interest applied, the amount of service charges or fees deducted, if any, and the account balance for the period that the statement covers.

(f) A depository institution:

1. May not assess a service charge or fee that is due on an interest-bearing common trust account against any firm or, except as provided in subd. 3., against any other account, regardless of whether the same firm maintains the other account.

2. May not assess a service charge or fee for an interest-bearing common trust account against the department of administration.

3. May deduct a service charge or fee from the interest earned by an interest-bearing common trust account, and if a balance remains, may deduct the remaining charge or fee from the interest earned on any other interest-bearing common trust account maintained in that depository institution, before remitting interest to the department of administration.

4. May not deduct a service charge or fee from the principal of an interest-bearing common trust account.

(3) **DEPOSIT PROVISIONS.** A firm that deposits client funds in an interest-bearing common trust account in compliance with this section may not be held liable to the owner or beneficial owner of the client funds for damages due to compliance with this section. A licensee that deposits client funds in an interest-bearing common trust account in compliance with this section on behalf of a firm is not required to disclose alternative depository arrangements that could be made by the parties or to disclose that a deposit will be made under this section.

(4) **TRUST ACCOUNT OPTIONAL.** This section does not require a firm to hold client funds or require a person to transfer client funds to a firm.

(5) **RULES.** In consultation with the department, the department of administration shall promulgate rules necessary to administer this section.

History: 1981 c. 94, 391; 1985 a. 305; 1987 a. 399; 1989 a. 307; 1991 a. 221; 1993 a. 33; 2005 a. 25; 2011 a. 32; 2015 a. 258.

Cross-reference: See also chs. *Adm 91* and *REEB 18*, Wis. adm. code.

Security deposits by a tenant usually create a debtor-creditor relationship. A broker retaining a deposit should deposit it in his or her trust account. 60 Atty. Gen. 1.

The Federal National Mortgage Association is exempt from the requirements of this section, but private mortgage bankers or mortgage brokers licensed as real estate brokers under ch. 452, and servicing mortgages for FNMA must deposit loan, insurance and tax escrow moneys in authorized trust account in a bank located in Wisconsin, subject to audit by the board. 60 Atty. Gen. 514.

452.132 Responsibilities of firms and licensees. (1) A firm shall supervise the brokerage service activities of each

licensee associated with the firm, including by doing all of the following:

(a) Ensuring that a supervising broker for the firm complies with sub. (4).

(b) Providing a licensee with reasonable access to a supervising broker for the purpose of consultation regarding real estate practice issues.

(2) A firm shall do all of the following:

(a) Provide each licensee associated with the firm with a written statement of the procedures under which the firm and licensees associated with the firm must operate with respect to handling leases, agency agreements, offers to purchase, and other documents and records relating to transactions.

(b) Notify each licensee associated with the firm where a copy of the rules promulgated by the board related to the conduct, ethical practices, and responsibilities of licensees may be obtained.

(c) Before a licensee becomes associated with the firm and at the beginning of each biennial licensure period, ensure that the licensee holds a valid license.

(3) A firm shall be responsible for the custody and safety of all documents and records relating to transactions submitted to the firm as required under sub. (6) (b).

(4) (a) A supervising broker for a firm, as determined under sub. (5), shall review all of the following prior to the closing of a transaction in accordance with par. (b):

1. All agency agreements, offers to purchase, leases, and other documents that are executed by the parties and records relating to the transaction that are used by a licensee associated with the firm and submitted to the firm as required under sub. (6) (b).

2. All trust account records relating to the transaction.

(b) The review under par. (a) shall be limited to confirming that a written disclosure statement to a customer or client has been provided by a licensee associated with the firm in accordance with s. 452.135, confirming that any applicable form approved by the board has been used and the forms have been completed by filling in the blanks in a manner consistent with the structure of the form, and communicating to the licensee any errors in how the forms were completed that are apparent on the face of the document and known to the person reviewing the document.

(5) (a) A firm that is a licensed broker business entity shall delegate the performance of the duty to supervise licensees associated with the firm to a supervising broker who is a licensed individual broker.

(b) A firm that is not a licensed broker business entity may delegate the duty to supervise licensees associated with the firm to a supervising broker who is a licensed individual broker, but in the absence of a specific supervising broker delegation, the firm itself is deemed to be the supervising broker for that firm.

(c) A delegation under par. (a) or (b) shall be written and signed by or on behalf of the delegating firm, identify the duty delegated, and be signed by the broker to whom the delegation is made.

(d) A firm may delegate the duty to supervise licensees to more than one supervising broker.

(6) (a) A licensee associated with a firm shall be responsible for discussing with the party with whom the licensee is working with or representing any error communicated to the licensee as provided in sub. (4) (b), and the party shall determine whether to request any changes to address the error.

(b) A licensee associated with a firm shall submit to the firm in a timely manner all agency agreements, offers to purchase, leases, and other documents that are executed by the parties and records related to the brokerage services provided on behalf of the firm and transactions that are used or received by the licensee.

History: 2015 a. 258.

452.133 Duties of licensees; prohibitions. (1) **DUTIES TO ALL PARTIES TO A TRANSACTION.** A firm providing brokerage services to a party to a transaction owes all of the following duties to the party:

- (a) The duty to provide brokerage services honestly and fairly.
- (b) The duty to provide brokerage services with reasonable skill and care.
- (c) The duty to timely disclose in writing all material adverse facts that the firm knows and that the party does not know or cannot discover through reasonably vigilant observation, unless the disclosure of a material adverse fact is prohibited by law.
- (d) The duty to keep confidential any information given to the firm in confidence, or any information obtained by the firm that the firm knows a reasonable person would want to be kept confidential, unless the information must be disclosed by law or the person whose interests may be adversely affected by the disclosure specifically authorizes the disclosure of particular information. The firm shall continue to keep the information confidential after the transaction is complete and after the firm is no longer providing brokerage services to the party.
- (e) The duty to provide accurate information about market conditions that affect the transaction, within a reasonable time after a request for such information by the party, unless disclosure of the information is prohibited by law.

(f) The duty to safeguard trust funds and other property held as required by rules promulgated under s. 452.13 (5).

(g) When the firm is negotiating on behalf of a party, the duty to present contract proposals in an objective and unbiased manner and disclose the advantages and disadvantages of the proposals.

(2) DUTIES TO CLIENTS. A firm providing brokerage services to a client owes the client the duties that the firm owes to a party under sub. (1) and all of the following additional duties:

(a) The duty to loyally represent the client's interests by doing all of the following:

1. Placing the client's interests ahead of the interests of the firm.
2. Placing the client's interests ahead of the interests of persons in the transaction who are not the firm's clients by not disclosing to persons in the transaction other than the firm's clients information or advice the disclosure of which is contrary to the interests of a client of the firm, unless the disclosure is required by law.

(am) The duty to provide, when requested by the client, information and advice to the client on matters that are material to the client's transaction and that are within the scope of the knowledge, skills, and training required under this chapter.

(b) The duty to disclose to the client all information known by the firm that is material to the transaction and that is not known by the client or discoverable by the client through reasonably vigilant observation, except for confidential information under sub. (1) (d) and other information the disclosure of which is prohibited by law.

(c) The duty to fulfill any obligation required by the agency agreement, and any order of the client that is within the scope of the agency agreement, that is not inconsistent with another duty that the firm has under this chapter or any other law.

(d) The duty to negotiate on behalf of the client.

(3) PROHIBITED CONDUCT. In providing brokerage services, a licensee may not do any of the following:

(a) Accept any fee or compensation related to the transaction from any person other than the licensee's client, principal firm, or firm, without the prior written consent of all parties to the transaction.

(b) Act in a transaction on the licensee's own behalf, on behalf of the licensee's immediate family if the firm is an individual, on behalf of the licensee's firm, or on behalf of any organization or business entity in which the licensee has an interest, without the prior written consent of all parties to the transaction. For the purpose of complying with this paragraph, a licensee shall obtain the written consent in the offer to purchase, option, lease, or other transaction contract.

(c) Except as provided in s. 452.19 (1), refer, recommend, or suggest to a party to the transaction the services of an individual

or entity from which the licensee may receive compensation for a referral or in which the licensee has an interest, unless the licensee has disclosed in writing the fact that the licensee may receive compensation or has disclosed in writing an interest in the individual or entity providing the services.

(d) Negotiate the sale, exchange, purchase, or rental of personal property unless related to the transaction. The licensee may use a form approved by the board under s. 452.05 (1) (b) for the conveyance of the seller's interest in the personal property. In this paragraph, "use a form" has the meaning given in s. 452.40 (1) (a).

(4) SUBAGENT'S DUTIES. (a) A subagent owes all parties to whom the subagent is providing brokerage services in a transaction the duties specified in sub. (1) but does not owe the clients of the principal firm the duties under sub. (2).

(b) A subagent may not do any of the following:

1. Place the subagent's interests ahead of the interests of the clients of the principal firm in the transaction in which the subagent has been engaged by the principal firm.

2. Provide advice or opinions to parties in the transaction if providing the advice or opinions is contrary to the interests of the clients of the principal firm in the transaction in which the subagent has been engaged by the principal firm, unless required by law.

(4m) DUTIES AND PROHIBITIONS; APPLICATION TO LICENSEES.

(a) Subject to par. (d), a firm's duties under sub. (1) extend to each licensee associated with that firm, and each licensee associated with a firm owes the same duties to a party that the firm owes to that party under sub. (1).

(b) Except as provided in s. 452.134 (3) (b) and subject to par. (d), a firm's duties under sub. (2) extend to each licensee associated with that firm, and each licensee associated with a firm owes the same duties to a client of the firm that the firm owes to that client under sub. (2).

(c) 1. Subject to par. (d), a subagent's duties under sub. (4) (a) extend to each licensee associated with that subagent, and each licensee associated with a subagent owes the same duties to a party that the subagent owes to that party under sub. (4) (a).

2. Subject to par. (d), the prohibitions that apply to a subagent under sub. (4) (b) extend to each licensee associated with that subagent, and no licensee associated with a subagent may take any action that the subagent is prohibited from taking under sub. (4) (b).

(d) The duties and prohibitions under pars. (a) to (c) extend only to a licensee providing brokerage services to a party to the transaction.

(5) DUTIES WITHOUT AGENCY OR SUBAGENCY RELATIONSHIP. If a firm is providing brokerage services to a person who is a party or a prospective party to a current or prospective transaction, and the firm does not have an agency agreement with the person and is not a subagent of another firm in the transaction, then the firm and any licensees associated with the firm owe the person the duties under sub. (1) and may not, unless required by law, provide advice or opinions relating to the transaction in which the person is receiving brokerage services if providing the advice or opinions is contrary to the interests of a party to a current or prospective transaction with the person receiving the brokerage services.

(6) WAIVER OF DUTIES. The duties imposed by subs. (1), (2) (a), (am), (b), and (c), (4), and (5) may not be waived. A client may waive, in part or in full, the duty under sub. (2) (d), except that a waiver under this subsection is not effective unless the firm or a licensee associated with the firm provides to the client a written disclosure containing all of the following:

(a) A copy of the text of sub. (2) (d) and s. 452.01 (5m), and a statement that, as a consequence of the client's waiver, the firm and any licensees associated with the firm will have no legal duty to perform the duty imposed by sub. (2) (d).

(b) A statement that as a consequence of the client's waiver, the client may require the assistance of an attorney or another ser-

vice provider to fulfill the client's goals and contractual duties in the transaction.

History: 1993 a. 127; 1995 a. 400; 2005 a. 87; 2015 a. 258; 2017 a. 110.

Cross-reference: See also ch. REEB 24, Wis. adm. code.

The New Real Estate Agency Law: Redefining the Role of Real Estate Brokers. Smith and Staff. Wis. Law. Oct. 1994.

The 'New' Chapter 452: Defining Real Estate Broker Practice. Leible. Wis. Law. June 2006.

452.134 Agency relationships; multiple representation relationships. (1) AGENCY RELATIONSHIP NOT REQUIRED.

(a) Subject to par. (b), a firm and any licensees associated with the firm may provide brokerage services to any party, whether or not the firm has entered into an agency agreement with a party or the firm has been engaged to provide brokerage services as a subagent.

(b) A firm and any licensees associated with the firm may not negotiate on behalf of a party to a transaction unless a party to the transaction is one of the following:

1. The firm's client.
2. A client of a principal firm who has engaged the firm as a subagent.

(2) MULTIPLE REPRESENTATION RELATIONSHIPS. A firm and any licensees associated with the firm may not provide brokerage services in a multiple representation relationship unless all of the firm's clients in the multiple representation relationship have consented to a multiple representation relationship in writing.

(3) DESIGNATED AGENCY. (a) A firm in a multiple representation relationship may not engage in designated agency unless all of the firm's clients in the relationship have consented to designated agency in writing. A client may withdraw consent to designated agency by written notice to the firm at any time.

(b) If a firm is engaged in designated agency, the licensee associated with the firm that is negotiating on behalf of a client of the firm in the transaction may provide to the client on whose behalf the licensee is negotiating information, opinions, and advice to assist the client in the negotiations, whether or not the information, opinions, and advice place the interests of one of the firm's clients ahead of the interests of another client of the firm.

(4) MULTIPLE REPRESENTATION RELATIONSHIPS WITHOUT DESIGNATED AGENCY. If a firm's client in a multiple representation relationship does not consent to designated agency or withdraws consent to designated agency, the firm and any licensees associated with the firm may not place the interests of any client ahead of the interests of any other in the negotiations.

History: 2005 a. 87; 2015 a. 258; 2017 a. 110.

The 'New' Chapter 452: Defining Real Estate Broker Practice. Leible. Wis. Law. June 2006.

452.135 Disclosure of duties. (1) (a) No firm, and no licensee associated with a firm, may negotiate on behalf of a party who is not the firm's client unless the firm, or a licensee associated with the firm, provides to the party a copy of the following written disclosure statement:

DISCLOSURE TO CUSTOMERS

You are a customer of the brokerage firm (hereinafter firm). The firm is either an agent of another party in the transaction or a subagent of another firm that is the agent of another party in the transaction. A broker or a salesperson acting on behalf of the firm may provide brokerage services to you. Whenever the firm is providing brokerage services to you, the firm and its brokers and salespersons (hereinafter agents) owe you, the customer, the following duties:

The duty to provide brokerage services to you fairly and honestly.

The duty to exercise reasonable skill and care in providing brokerage services to you.

The duty to provide you with accurate information about market conditions within a reasonable time if you request it, unless disclosure of the information is prohibited by law.

The duty to disclose to you in writing certain material adverse facts about a property, unless disclosure of the information is prohibited by law.

The duty to protect your confidentiality. Unless the law requires it, the firm and its agents will not disclose your confidential information or the confidential information of other parties.

The duty to safeguard trust funds and other property held by the firm or its agents.

The duty, when negotiating, to present contract proposals in an objective and unbiased manner and disclose the advantages and disadvantages of the proposals.

Please review this information carefully. An agent of the firm can answer your questions about brokerage services, but if you need legal advice, tax advice, or a professional home inspection, contact an attorney, tax advisor, or home inspector.

This disclosure is required by section 452.135 of the Wisconsin statutes and is for information only. It is a plain-language summary of the duties to a customer under section 452.133 (1) of the Wisconsin statutes.

(b) If a firm is providing brokerage services as a subagent to a principal firm, the subagent, or a licensee associated with the subagent, shall provide a copy of the written disclosure statement under par. (a) to any person who is not the principal firm's client and who receives brokerage services from the subagent within the scope of the agreement between the subagent and the principal firm.

(2) (a) Except as provided in par. (b), a firm shall provide to a client a copy of the following written disclosure statement not later than the time the firm enters into an agency agreement with the client:

DISCLOSURE TO CLIENTS

Under Wisconsin law, a brokerage firm (hereinafter firm) and its brokers and salespersons (hereinafter agents) owe certain duties to all parties to a transaction:

The duty to provide brokerage services to you fairly and honestly.

The duty to exercise reasonable skill and care in providing brokerage services to you.

The duty to provide you with accurate information about market conditions within a reasonable time if you request it, unless disclosure of the information is prohibited by law.

The duty to disclose to you in writing certain material adverse facts about a property, unless disclosure of the information is prohibited by law.

The duty to protect your confidentiality. Unless the law requires it, the firm and its agents will not disclose your confidential information or the confidential information of other parties.

The duty to safeguard trust funds and other property the firm or its agents holds.

The duty, when negotiating, to present contract proposals in an objective and unbiased manner and disclose the advantages and disadvantages of the proposals.

Because you have entered into an agency agreement with a firm, you are the firm's client. A firm owes additional duties to you as a client of the firm:

The firm or one of its agents will provide, at your request, information and advice on real estate matters that affect your transaction, unless you release the firm from this duty. The firm or one of its agents must provide you with all material facts affecting the transaction, not just adverse facts.

The firm and its agents will fulfill the firm's obligations under the agency agreement and fulfill your lawful requests that are within the scope of the agency agreement.

The firm and its agents will negotiate for you, unless you release them from this duty.

The firm and its agents will not place their interests ahead of your interests. The firm and its agents will not, unless required by

law, give information or advice to other parties who are not the firm's clients, if giving the information or advice is contrary to your interests.

If you become involved in a transaction in which another party is also the firm's client (a "multiple representation relationship"), different duties may apply.

MULTIPLE REPRESENTATION RELATIONSHIPS AND DESIGNATED AGENCY

A multiple representation relationship exists if a firm has an agency agreement with more than one client who is a party in the same transaction. If you and the firm's other clients in the transaction consent, the firm may provide services through designated agency, which is one type of multiple representation relationship.

Designated agency means that different agents with the firm will negotiate on behalf of you and the other client or clients in the transaction, and the firm's duties to you as a client will remain the same. Each agent will provide information, opinions, and advice to the client for whom the agent is negotiating, to assist the client in the negotiations. Each client will be able to receive information, opinions, and advice that will assist the client, even if the information, opinions, or advice gives the client advantages in the negotiations over the firm's other clients. An agent will not reveal any of your confidential information to another party unless required to do so by law.

If a designated agency relationship is not authorized by you or other clients in the transaction, you may still authorize or reject a different type of multiple representation relationship in which the firm may provide brokerage services to more than one client in a transaction but neither the firm nor any of its agents may assist any client with information, opinions, and advice which may favor the interests of one client over any other client. Under this neutral approach, the same agent may represent more than one client in a transaction.

If you do not consent to a multiple representation relationship the firm will not be allowed to provide brokerage services to more than one client in the transaction.

CHECK ONLY ONE OF THE THREE BELOW:

_____ The same firm may represent me and the other party as long as the same agent is not representing us both. (multiple representation relationship with designated agency)

_____ The same firm may represent me and the other party, but the firm must remain neutral regardless if one or more different agents are involved. (multiple representation relationship without designated agency)

_____ The same firm cannot represent both me and the other party in the same transaction. (I reject multiple representation relationships)

NOTE: All clients who are parties to this agency agreement consent to the selection checked above. You may modify this selection by written notice to the firm at any time. Your firm is required to disclose to you in your agency agreement the commission or fees that you may owe to your firm. If you have any questions about the commission or fees that you may owe based upon the type of agency relationship you select with your firm, you should ask your firm before signing the agency agreement.

SUBAGENCY

Your firm may, with your authorization in the agency agreement, engage other firms (subagent firms) to assist your firm by providing brokerage services for your benefit. A subagent firm and the agents with the subagent firm will not put their own interests ahead of your interests. A subagent firm will not, unless required by law, provide advice or opinions to other parties if doing so is contrary to your interests.

Please review this information carefully. An agent can answer your questions about brokerage services, but if you need legal advice, tax advice, or a professional home inspection, contact an attorney, tax advisor, or home inspector.

This disclosure is required by section 452.135 of the Wisconsin statutes and is for information only. It is a plain-language summary of the duties owed to you under section 452.133 (2) of the Wisconsin statutes.

(b) If a client enters into an agency agreement with a firm to receive brokerage services related to real estate primarily intended for use as a residential property containing one to 4 dwelling units, and the written disclosure statement under par. (a) is not incorporated into the agency agreement, the firm shall request the client's signed acknowledgment that the client has received a copy of the written disclosure statement.

History: 1993 a. 127; 2005 a. 87; 2007 a. 97; 2015 a. 258; 2017 a. 365 s. 111. The 'New' Chapter 452: Defining Real Estate Broker Practice. Leible. Wis. Law. June 2006.

452.136 Advertising by licensees. (1) FALSE ADVERTISING. A licensee may not advertise in a manner that is false, deceptive, or misleading.

(2) DISCLOSURE OF NAME. (a) Except for advertisements for the rental of real estate owned by the licensee, a licensee shall in all advertising disclose the firm's name exactly as printed on the license of the licensed individual broker or licensed broker business entity or disclose a trade name previously filed by the firm with the department and shall in either case clearly indicate that the firm is a business enterprise and not a private party.

(b) Except for advertisements for the rental of real estate owned by the licensee, a licensee associated with a firm shall advertise under the supervision of and in the name of the firm. The firm's name as used in advertising shall be clear and conspicuous. This paragraph does not apply to a licensee engaged in independent practice as provided in s. 452.30 (6).

(c) Notwithstanding pars. (a) and (b), a licensee may advertise the occasional sale of real estate owned by the licensee or may engage in the occasional solicitation of real estate for purchase by the licensee without complying with pars. (a) and (b), provided that the licensee clearly identifies himself, herself, or itself as a real estate licensee in the advertisement.

(3) ADVERTISING WITHOUT AGENCY AGREEMENT PROHIBITED. A firm and any licensees associated with the firm may not advertise a property unless one of the following applies:

(a) The firm is the listing firm for the property.

(b) The firm or a licensee associated with the firm has obtained consent to advertise the property from the listing firm for the property.

(4) ADVERTISED PRICE. A licensee may not advertise property at a price other than that agreed upon with the owner, except that the price may be stated as a range or in general terms if it reflects the agreed upon price.

History: 2017 a. 110.

452.137 Cooperation with out-of-state brokers and salespersons. (1) DEFINITIONS. In this section:

(am) Notwithstanding s. 452.01 (1m), "agency agreement" includes a written agreement between an out-of-state broker and a client in which the client authorizes the out-of-state broker to provide brokerage services to the client.

(cm) 1. "Commercial transaction" means a transaction concerning any real property, other than real property containing 1 to 4 dwelling units or real property zoned for agricultural use.

2. "Commercial transaction" does not include any transaction concerning a dwelling unit that is a part of real property containing more than 4 dwelling units and that is being sold on a unit-by-unit basis.

(d) "Cooperative agreement" means an agreement entered into between an out-of-state broker and a firm as provided in this section.

(e) "Dwelling unit" has the meaning given in s. 440.97 (3).

(h) "Licensed salesperson" means a salesperson who is licensed under this chapter.

(2) OUT-OF-STATE BROKERS. (a) An out-of-state broker may act as a broker in this state only as provided in par. (ag) or (am).

(ag) An out-of-state broker may, subject to par. (b), act as a broker in this state if the out-of-state broker does all of the following:

1. Enters into a cooperative agreement with a listing firm and cooperates with the listing firm on the listing agreement that is subject to the cooperative agreement. Each cooperative agreement may cover only one listing agreement.

2. Submits to the listing firm evidence that the out-of-state broker is licensed in good standing to engage in real estate brokerage in a jurisdiction other than this state.

(am) An out-of-state broker representing a person who is seeking to buy or rent property located in this state in a commercial transaction may, subject to pars. (b) and (bm), act as a broker in this state if the out-of-state broker does all of the following:

1. Enters into a cooperative agreement with a firm and cooperates with the firm. Each cooperative agreement shall be limited to a type of property, type of function, geographic area, or other criteria specified in the buyer's or tenant's search parameters.

2. Submits to the firm evidence that the out-of-state broker is licensed in good standing to engage in real estate brokerage in a jurisdiction other than this state.

3. Either the out-of-state broker or the firm enters into an agency agreement with the prospective buyer or tenant. The cooperative agreement shall acknowledge whether the out-of-state broker or firm has the agency agreement. If the out-of-state broker has entered into the agency agreement with the prospective buyer or tenant, the out-of-state broker and the prospective buyer or tenant shall, notwithstanding s. 452.01 (3m) and (5w), be considered to be a principal firm and client for purposes of this chapter, and the firm shall be a subagent and shall provide the out-of-state broker with a copy of the disclosure statement under s. 452.135 (2) to be given to the client. The out-of-state broker is not required to request that the client sign the statement.

(b) An out-of-state broker, including an out-of-state broker who is a party to a cooperative agreement, may not do any of the following:

1. Enter into a listing agreement concerning any property located in this state.

2. For commission, money, or other thing of value, promote in this state the sale, exchange, purchase, option, rental, or leasing of any property located in this state, including by posting signs on the property.

3. Enter into a cooperative agreement with a person who is not licensed under this chapter as authority to sell, lease, rent, exchange, or attempt to sell, lease, rent, or exchange property in this state.

(bm) An out-of-state broker acting under par. (am) may not do any of the following:

1. Negotiate with a seller or landlord, unless authorized under the cooperative agreement. If a property is not listed with a listing firm, the firm shall conduct all negotiations with the seller or landlord of that property.

2. View or show commercial property in this state for sale or lease without the firm or a licensee associated with the firm being present, unless authorized under the cooperative agreement. If a property is not listed with a listing firm, the firm shall view or show the property with the out-of-state broker.

3. Have contact with another firm or another firm's seller or landlord, unless otherwise agreed to in the cooperative agreement.

(c) An out-of-state broker who is a party to a cooperative agreement with a firm, and any out-of-state salesperson of the out-of-state broker, are not required to be licensed under this chapter but shall otherwise be treated as licensees for purposes of this chapter and shall comply with the laws of this state as they apply to licensees, and the out-of-state broker shall file with the board an irrevocable consent that actions may be commenced against the out-of-state broker in the proper court of any county

in this state in which a cause of action arises or the plaintiff resides, by the service of any process or pleading authorized by the laws of this state on the board or any duly authorized employee. The consent shall stipulate and agree that such service is valid and binding as due service upon the out-of-state broker 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.

(d) A firm that is a party to a cooperative agreement with an out-of-state broker, and any licensee associated with the firm, may not act under the cooperative agreement on behalf of a broker who is not a party to the cooperative agreement.

(e) 1. An out-of-state broker who is a party to a cooperative agreement with a firm shall maintain the originals or copies of all documents the out-of-state broker receives, maintains, or generates in connection with any transaction subject to the cooperative agreement, for at least 3 years after the date of closing or completion of the transaction, or, if no closing or completion occurs, 3 years after the date on which the parties execute the cooperative agreement.

2. An out-of-state broker who is a party to a cooperative agreement with a firm shall deposit with the firm copies of all documents the out-of-state broker is required to maintain under subd. 1., unless the out-of-state broker and the firm agree in writing that the out-of-state broker is not required to do so.

(f) No person may pay an out-of-state broker a commission, money, or any other thing of value for brokerage services unless the out-of-state broker is a party to a cooperative agreement with a firm.

(g) Notwithstanding s. 452.01 (2) (bm), no out-of-state broker may, for commission, money, or other thing of value, show a property in this state that is offered exclusively for rent unless that showing is authorized under a cooperative agreement between the out-of-state broker and a firm.

(3) OUT-OF-STATE SALESPERSONS. An out-of-state salesperson may act as a salesperson in this state only if all of the following conditions are met:

(a) The out-of-state broker who employs the out-of-state salesperson satisfies all of the applicable requirements under sub. (2).

(b) The out-of-state salesperson works under the direct supervision of the out-of-state broker.

(c) The out-of-state salesperson submits evidence to the firm that the out-of-state salesperson is licensed in good standing or is otherwise authorized to act as a salesperson in a jurisdiction other than this state.

(d) In any transaction subject to the cooperative agreement, the out-of-state salesperson represents only the out-of-state broker who is a party to the cooperative agreement and with whom the out-of-state salesperson is employed.

(4) COOPERATIVE AGREEMENT. (a) The board shall establish one or more forms to be used for cooperative agreements under this section, which shall include any required terms for such an agreement.

(b) A cooperative agreement may be entered into only through the use of a form established by the board under par. (a) and shall do at least all of the following:

1. Establish the terms of cooperation between the out-of-state broker, any out-of-state salesperson, and the firm.

2. Establish the terms of the out-of-state broker's compensation.

3. Provide that all client funds, as defined in s. 452.13 (1) (a), that the out-of-state broker and the firm receive in connection with a transaction subject to the cooperative agreement shall be deposited in a trust account maintained by the firm.

(c) A cooperative agreement under sub. (2) (am) shall describe the type, function, location, approximate size, and functional or geographic limitations of the property being sought. A separate

cooperative agreement shall be entered into for each type of property.

(5) PENALTY. (a) Subject to the rules promulgated under s. 440.03 (1), the board may conduct investigations and hold hearings to determine whether a person has violated this section or a rule promulgated under this section.

(b) Notwithstanding s. 452.17 (3), any person who violates this section or a rule promulgated under this section may be fined, for each violation, not more than the greater of the following:

1. Five thousand dollars.
2. For a sales transaction, 1 percent of the purchase price of the property subject to the cooperative agreement.
3. For a lease or rental transaction, 1 percent of the total lease or rental value of the property subject to the cooperative agreement.

History: 2013 a. 259; 2015 a. 47; 2015 a. 195 s. 83; 2015 a. 258; 2017 a. 110.

452.138 Firms providing services in more than one transaction. A firm may provide brokerage services simultaneously to more than one party in different transactions, unless the firm agrees with a client that the firm is to provide brokerage services only to that client. If the firm and a client agree that the firm is to provide brokerage services only to that client, the agency agreement shall contain a statement of that agreement.

History: 1993 a. 127; 2005 a. 87; 2015 a. 258.

Cross-reference: See also ch. REEB 24, Wis. adm. code.

452.139 Changes in common law duties and liabilities of brokers and parties. (1) COMMON LAW DUTIES OF FIRMS. The duties of a firm specified in this chapter or in rules promulgated under this chapter shall supersede duties or obligations under common law to the extent that those common law duties or obligations are inconsistent with the duties specified in this chapter or in rules promulgated under this chapter.

(2) MISREPRESENTATION. (a) A client is not liable for a misrepresentation made in connection with the provision of brokerage services by a firm or any licensee associated with the firm, unless the client knows or should have known of the misrepresentation or the firm or licensee is repeating a misrepresentation made by the client.

(b) A firm that is providing brokerage services to a client and that retains another firm to provide brokerage services as a subagent is not liable for a misrepresentation made by the subagent or any licensee associated with the subagent, unless the firm knew or should have known of the misrepresentation or the subagent or licensee is repeating a misrepresentation made to by the firm or any licensee associated with the firm.

(c) Nothing in this subsection limits the responsibility of a firm under s. 452.12 (3) for misrepresentations made by a licensee associated with the firm. Nothing in this subsection limits the liability of a client for a misrepresentation that the client makes in connection with brokerage services.

(3) LIABILITY FOR NEGLIGENT HIRING. If a licensee associated with a firm commits a crime under the laws of this state or another wrongful act, the firm may not be held civilly liable for hiring that licensee in a claim brought for negligent hiring if, regardless of whether the firm conducted its own investigation, the firm relied on the investigations conducted by the department under s. 440.03 (13) or on any determination made by the board, including a determination under s. 111.335 (4) (f) or 452.25.

History: 1993 a. 127; 2001 a. 16; 2005 a. 87; 2013 a. 288; 2015 a. 258; 2017 a. 278.

Cross-reference: See also ch. REEB 24, Wis. adm. code.

452.14 Investigation and discipline of licensees.

(1) The board shall, upon motion of the secretary or his or her designee or upon its own determination, conduct investigations and, as appropriate, may hold hearings and make findings, if the board or the department receives credible information that a broker or salesperson has violated this chapter or any rule promulgated under this chapter.

(2) The board may commence disciplinary proceedings on any matter under investigation concerning a licensee.

(2m) The board shall conduct disciplinary proceedings in accordance with the rules adopted under s. 440.03 (1).

(3) The board may revoke, suspend, or limit the license of any licensee, or reprimand the licensee, if it finds that the licensee has done any of the following:

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

(b) Made any substantial misrepresentation with reference to a transaction injurious to a party in which the licensee acts as agent.

(c) Made any false promises of a character such as to influence, persuade, or induce a party to his or her injury or damage.

(d) Pursued a continued and flagrant course of misrepresentation or made false promises through other licensees or through advertising.

(f) Accepted from any person except the firm with which the licensee is associated, if the licensee is associated with a firm, a commission or valuable consideration for the performance of any act specified in this chapter or as compensation for referring a person to another licensee or to any other person in connection with a transaction.

(g) Represented or attempted to represent a firm without the express knowledge and consent of the firm.

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

(i) Demonstrated incompetency to act as a broker or salesperson, whichever is applicable, in a manner which safeguards the interests of the public.

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

(jm) Intentionally encouraged or discouraged any person from purchasing or renting real estate in a particular area on the basis of race. If the board finds that any licensee has violated this paragraph, the board shall, in addition to any temporary penalty imposed under this subsection, apply the penalty provided in s. 452.17 (4).

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

(L) Violated any provision of this chapter or any rule promulgated under this chapter.

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

(n) Treated any person unequally solely because of sex, race, color, handicap, national origin, ancestry, marital status, lawful source of income, or status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u).

(o) Violated s. 452.25 (2) (a) or failed to pay any forfeiture assessed by the board under sub. (4r) for such a violation.

(p) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an offense the circumstances of which substantially relate to real estate practice.

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

(4m) In addition to or in lieu of a reprimand or a revocation, limitation, or suspension of a license under sub. (3), the board may do any of the following:

(a) Assess against a licensee a forfeiture of not more than \$1,000 for each violation enumerated under sub. (3).

(b) Require a licensee to successfully complete education or training, in addition to any education or training required for licensure or for renewal of a license under this chapter, as a condition of continued licensure or reinstatement of a license.

(4r) The board may assess against a licensee who is an individual a forfeiture of \$1,000 for a violation under s. 452.25 (2) (a).

(5) The department may seek judicial review under ch. 227 of any final decision of the board. The department shall be represented in such review proceedings by an attorney within the department. Upon request of the board, the attorney general may represent the board. If the attorney general does not represent the board, the board may retain special counsel which shall be paid for out of the appropriation under s. 20.165 (1) (g).

History: 1981 c. 94, 391; 1983 a. 27 s. 2202 (44); 1983 a. 354; 1985 a. 305; 1987 a. 399; 1989 a. 307, 341, 359; 1991 a. 32, 163; 1993 a. 127; 1995 a. 400; 2005 a. 87; 2009 a. 95; 2011 a. 32; 2013 a. 124, 288; 2015 a. 258; 2017 a. 110.

Cross-reference: See also chs. REEB 15, 16, and 24, Wis. adm. code.

Real estate brokers may engage in guaranteed sales plans if there is full disclosure and the broker does not engage in fraud, misrepresentation, or improper dealing. 61 Atty. Gen. 3.

Provisions in Executive Order 67 (1973), with respect to duty of real estate brokers to advise prospective purchasers of floodplain zoning status of property, do not constitute a new standard but suggest a course of action that the real estate examining board might take. The action to be taken would depend on the facts in each case. 63 Atty. Gen. 236.

Neither s. 440.20, 452.10 (2), 1977 stats., nor the rules of the department of regulation and licensing require the board to hold a hearing when a citizen files a verified complaint with the board requesting institution of disciplinary proceedings against a licensee. 68 Atty. Gen. 30.

452.142 Actions concerning licensees. (1) Notwithstanding s. 100.18 (11) (b) 3., 893.43, 893.52, or 893.57, an action concerning any act or omission of a firm or any licensee associated with the firm relating to brokerage services shall be commenced within 2 years after whichever of the following that applies occurs first:

- (a) A transaction is completed or closed.
- (b) An agency agreement is terminated.
- (c) An un consummated transaction is terminated or expires.

(2) The period of limitation under this section may not be reduced by agreement.

(3) The period of limitation under this section does not apply to disciplinary actions initiated by the board.

History: 2015 a. 258.

452.15 Ineligibility. (1) Except as otherwise provided in sub. (2), no license may be issued under this chapter to any person whose license under this chapter has been revoked until the expiration of a period determined in each case by the board or, in the case of revocation under s. 452.17 (4) (a) 2., a period determined in each case by the board of not less than 5 years from the date the revocation became finally effective.

(2) Issuance of a license to an individual whose license is revoked under s. 452.14 (3) (p) is subject to the provisions in s. 452.25 (1).

History: 1981 c. 94; 1983 a. 354; 1989 a. 341; 2013 a. 288; 2015 a. 258.

452.17 Penalties. (1) Any person who engages in or follows the business or occupation of, or advertises or holds himself or herself out as or acts temporarily or otherwise as a broker or salesperson in this state without a license under this chapter shall be prosecuted by the district attorney in the county where the violation occurs or by the attorney general and may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

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

(4) (a) If the board finds that any licensee has violated s. 452.14 (3) (jm), the board:

1. Shall, for the first offense, suspend the license of the licensee for not less than 90 days.

2. Shall, for the 2nd offense, revoke the license of the licensee.

(b) This penalty may be imposed in addition to any penalty imposed under this chapter or s. 66.1011 or 106.50.

History: 1981 c. 94; 1983 a. 354; 1987 a. 399; 1989 a. 95, 307, 341; 1995 a. 27; 1999 a. 82; 1999 a. 150 s. 672; 2011 a. 32; 2015 a. 258.

452.18 Court review. Except as provided in ss. 73.0301 (2) (b) 1. a. and 2. and 108.227 (2) (b) 1. a. and (6), orders of the board and department shall be subject to review as provided in ch. 227.

History: 1981 c. 94; 1997 a. 237; 2013 a. 36.

452.19 Fees and commissions. (1) No licensee may pay a fee or a commission or any part thereof for performing any act specified in this chapter or as compensation for a referral or as a finder's fee to any person who is not licensed under this chapter or who is not regularly and lawfully engaged in the real estate brokerage business in another state, a territory or possession of the United States, or a foreign country.

(2) If a licensee is associated with a firm, all fees or commissions and any part thereof for performing any act specified in this chapter and all compensation for a referral or as a finder's fee shall be paid to the firm.

History: 1981 c. 94; 1983 a. 464; 1985 a. 128; 1989 a. 307; 2015 a. 258; 2017 a. 365 s. 111.

Under s. 452.03 an agreement to pay a real estate brokerage commission to a person not licensed as a broker is void at its inception. Using a licensed broker who provides no actual services as a conduit for a fee to an unlicensed person does not create a co-brokerage arrangement authorized by s. 452.19. *Badger III Ltd. v. Howard, Needles, Tammen & Bergendoff*, 196 Wis. 2d 891, 539 N.W.2d 904 (Ct. App. 1995), 94-2531.

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

History: 1981 c. 94; 1987 a. 399; 1989 a. 56; 2015 a. 258.

A foreign corporation that contracts to sell a radio station without being licensed in this state cannot sue for its commission. The licensing requirement is not an unlawful burden on interstate commerce. *Chapman Co. v. Service Broadcasting Corp.* 52 Wis. 2d 32, 187 N.W.2d 794.

The prohibition against paying a commission to an unlicensed person acting as a broker is absolute and not conditioned on the innocence or lack of sophistication of the other contracting parties. Because a contract for a commission with a person not licensed as a broker is void from its inception, estoppel is not available to avoid the effect of the statute. *Greenlee v. Rainbow Auction/Realty Co.* 202 Wis. 2d 653, 553 N.W.2d 257 (Ct. App. 1996), 95-1463.

This section not applicable since broker as owners' agent was not attempting to negotiate the lease when conferring with his alleged principal in Wisconsin and therefore was not acting in the capacity of a broker in Wisconsin. Negotiation of lease occurred when broker met and conferred with prospective lessee either in Illinois or Tennessee. *Paulson v. Shapiro*, 490 F.2d 1.

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

History: 1981 c. 94; 1987 a. 399; 2015 a. 258.

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

(2) The certificate of the chairperson of the board or his or her designee to the effect that a specified individual or business entity is not or was not on a specified date the holder of a broker's or salesperson's license, or that a specified license was not in effect on a date specified, or as to the issuance, limitation, suspension, or revocation of any license or the reprimand of any licensee, the filing or withdrawal of any application or its existence or nonexistence, is prima facie evidence of the facts stated in the certificate for all purposes in any action or proceedings.

History: 1981 c. 94; 1987 a. 399; 1995 a. 400; 2011 a. 32; 2015 a. 258.

452.23 Disclosures, investigations and inspections by brokers and salespersons. (1) No licensee may disclose to any person in connection with the sale, exchange, purchase, or rental of real property information, the disclosure of which constitutes unlawful discrimination in housing under s. 106.50 or unlawful discrimination based on handicap under 42 USC 3604, 3605, 3606, or 3617.

(2) A licensee is not required to disclose any of the following to any person in connection with the sale, exchange, purchase, or rental of real property:

(a) That the property was the site of a specific act or occurrence, if the act or occurrence had no effect on the physical condition of the property or any structures located on the property.

(b) Except as provided in sub. (3), information relating to the physical condition of the property or any other information relating to the real estate transaction, if a written report that discloses the information has been prepared by a qualified 3rd party and provided to the person. In this paragraph, “qualified 3rd party” means a federal, state, or local governmental agency, or any person whom the licensee or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the 3rd party in order to prepare the written report.

(c) The location of any adult family home, as defined in s. 50.01 (1), community-based residential facility, as defined in s. 50.01 (1g), or nursing home, as defined in s. 50.01 (3), in relation to the location of the property.

(d) Except as provided in s. 452.24, any information related to the fact that a particular person is required to register as a sex offender under s. 301.45 or any information about the sex offender registry under s. 301.45.

(3) A licensee shall disclose to the parties to a real estate transaction any facts known by the licensee that contradict any information included in a written report described under sub. (2) (b).

(4) In performing an investigation or inspection and in making a disclosure in connection with a real estate transaction, a licensee shall exercise the degree of care expected to be exercised by a reasonably prudent person who has the knowledge, skills, and training required for licensure under this chapter.

History: 1989 a. 341; 1995 a. 27; 1999 a. 82, 89; 2015 a. 258.

An independent inspection by a qualified third party operates to relieve a broker from liability for disclosures related to the physical condition of the property. *Conell v. Coldwell Banker*, 181 Wis. 2d 894, 512 N.W.2d 239 (Ct. App. 1994).

Sub. (2) (b) relieves a broker from the obligation to disclose information disclosed in a 3rd party report. Sub. (2) (b) does not apply to a separate affirmative act of negligence and does not preclude a broker's liability for a breach of other duties. *Johnson v. Neuville*, 226 Wis. 2d 365, 595 N.W.2d 100 (Ct. App. 1999), 98–1680.

452.24 Disclosure duty; immunity for providing notice about the sex offender registry. (1) If, in connection with the sale, exchange, purchase or rental of real property, a licensee receives a request from a person to whom the licensee is providing brokerage services in connection with the sale, exchange, purchase or rental for information related to whether a particular person is required to register as a sex offender under s. 301.45 or any other information about the sex offender registry under s. 301.45, the licensee has a duty to disclose such information, if the licensee has actual knowledge of the information.

(2) Notwithstanding sub. (1), the licensee is immune from liability for any act or omission related to the disclosure of information under sub. (1) if the licensee in a timely manner provides to the person requesting the information written notice that the person may obtain information about the sex offender registry and persons registered with the registry by contacting the department of corrections. The notice shall include the appropriate telephone number and Internet site of the department of corrections.

History: 1999 a. 89; 2015 a. 258.

452.25 Criminal convictions and disclosures. (1) **FELONY CONVICTIONS.** (a) Notwithstanding ss. 111.321, 111.322, and 111.335, and except as provided in pars. (b) to (e), no applicant

who is an individual may be issued an initial broker's or salesperson's license if the applicant has been convicted of a felony.

(b) If an applicant has been convicted of a felony described under par. (a); the applicant has completed the confinement portion of his or her sentence, if the applicant is serving a bifurcated sentence, or has been released from prison to parole or released upon the completion of his or her sentence; and 3 years have elapsed since the date on which the confinement portion was completed or the applicant was released, the applicant may apply to the board for a determination as to whether the applicant is suitable to be granted a license.

(c) If an applicant applies for a determination under par. (b), the board may require the applicant to provide any information that is necessary for the investigation and shall make a determination by doing all of the following:

1. Reviewing any information relating to the felony.

2. Reviewing any supplemental information provided by the applicant bearing upon his or her suitability for licensure as a broker or salesperson.

3. Considering all of the following factors:

a. The severity and nature of the felony.

b. The amount of time that has elapsed.

c. The number or pattern of felonies or other similar incidents that gave rise to the felony conviction.

d. The circumstances surrounding the felony that may have a bearing on whether the applicant might repeat the behavior that was the subject of the felony.

e. The relationship of the felony to real estate practice.

f. The applicant's activities since the felony, including employment, education, participation in treatment, payment of restitution, and any other factor that may be evidence of rehabilitation.

(d) With respect to a determination under par. (c), the applicant bears the burden of demonstrating his or her suitability for licensure.

(e) If the board makes a determination under par. (c) to allow an applicant to be granted a broker's or salesperson's license, the applicant shall be granted the license if the applicant satisfies all other requirements for granting the license.

(f) This subsection does not apply to the renewal of a license.

(2) FALSE AFFIRMATIONS. (a) No person may intentionally submit any false information on a form created by the board under s. 111.335 (4) (f) 5. or 452.05 (1) (i).

(b) No applicant may be issued an initial broker's or salesperson's license, and no applicant may renew such a license, if the applicant has violated par. (a) and failed to pay any forfeiture assessed by the board under s. 452.14 (4r) for that violation.

History: 2013 a. 288; 2015 a. 258; 2017 a. 110, 278.

452.30 Association with firm; independent practice.

(1) No licensee may provide brokerage services on behalf of a firm unless all of the following apply:

(a) The licensee is associated with the firm.

(b) The licensee has notified the department that the licensee is associated with the firm.

(2) A licensee may notify the department that the licensee is associated with a firm under sub. (1) (b) by doing one of the following:

(a) Providing the notice at the time the licensee first applies for licensure as a broker or salesperson. No separate fee for notifying the department may be required for such a notification under this paragraph.

(b) Notifying the department through the use of a form prescribed by the department and paying the transfer fee specified in s. 440.05 (7).

(3) A licensee who is associated with a firm may notify the department that the licensee has become associated with another firm using the method specified in sub. (2) (b).

(4) (a) A licensee that ceases to be associated with a firm shall, through the use of a form prescribed by the department, send written notice to the department within 10 days after the date on which the licensee ceases to be associated with the firm.

(b) A firm that terminates a licensee from being associated with the firm shall, through the use of a form prescribed by the department, send written notice of that termination to the department within 10 days after the termination.

(5) No licensee may be associated with a firm if the firm's license has been suspended or revoked during the period of suspension or revocation. The licensee may become associated with another firm, provided the licensee is not a party to the activities causing the suspension or revocation of the firm's license. If the licensee becomes associated with another firm, the licensee may not provide brokerage services on behalf of that firm until sub. (1) (b) has been satisfied.

(6) (a) A broker who is associated with a firm may also engage in independent real estate practice in his or her own name or under the name of a licensed broker business entity, if the broker obtains written approval from and avoids conflicts of interest with each firm with which the broker is associated. The written approval shall specify all of the following:

1. Whether the broker engaging in independent practice may engage other licensees to work under the broker.

2. That the broker engaging in independent practice is responsible for the supervision of any licensees associated with the broker.

(b) Before engaging in independent practice as provided in par. (a), a broker shall notify the department of that fact and of the name under which the broker will engage in independent practice. The broker shall notify the department using any form or other method prescribed by the department for that purpose.

(c) A broker that is engaging in independent practice shall not be considered to be associated with a firm that approved the broker engaging in independent practice under par. (a) with respect to the broker's independent practice activities.

(7) (a) A salesperson may be associated with only one firm at a given time.

(b) A salesperson may not engage in independent real estate practice and may engage in real estate practice only when associated with a firm.

History: 2015 a. 258 ss. 67, 171, 172.

452.34 Unlicensed personal assistants. (1) In this subsection, "unlicensed personal assistant" means an individual, including an individual who is licensed under this chapter, who is employed only to provide services for which a license is not required under this chapter as provided in s. 452.03 (2).

(2) A licensee associated with a firm, prior to retaining an individual to serve as an unlicensed personal assistant, shall enter into a written agreement with the licensee's firm, setting forth the duties of the unlicensed personal assistant, the manner in which the unlicensed personal assistant will be compensated for his or her services, and the responsibilities of the licensee and the firm with respect to supervision of the unlicensed personal assistant's activities.

(3) (a) In this subsection, "open house" means a showing of real estate open to the public for viewing without an individual appointment.

(b) An unlicensed personal assistant may not assist a licensee at an open house for the sale of real estate or a business without

the direct, on-premises supervision and presence of a licensee, and may not provide any services at an open house for which a license is required under this chapter.

History: 2015 a. 258.

452.38 Independent contractor relationship.

(1) Except as otherwise provided in s. 102.078, a licensee shall not, under ch. 102, 103, 104, or 109, under subch. X of ch. 71 or subch. II of ch. 111, under any other law or rule other than those specified under sub. (1m), or in any action or proceeding under the common law, be considered an employee of a firm if all of the following are satisfied:

(a) A written agreement has been entered into with the firm that provides that the licensee shall not be treated as an employee for federal and state tax purposes.

(b) Seventy-five percent or more of the compensation related to sales or other output, as measured on a calendar year basis, paid to the licensee pursuant to the written agreement referenced under par. (a) is directly related to the brokerage services performed by the licensee on behalf of the firm.

(1m) This section does not apply with respect to ch. 108 or any rules promulgated thereunder.

(2) (a) Subsection (1) applies notwithstanding the requirements and responsibilities of a firm under s. 452.132 and any rules promulgated by the board.

(b) Subsection (1) applies regardless of the licensee's status as a supervising broker under s. 452.132 and any actions taken by the licensee as a supervising broker under s. 452.132.

(3) In the case of an individual who is engaged as both an independent contractor and an employee for the same firm, sub. (1) applies only with respect to activities covered under the written agreement referenced under sub. (1) (a).

History: 2015 a. 258.

452.40 Use of forms; provision of legal advice. (1) (a)

In this subsection, "use a form" means to complete a form by filling in blanks or modifying printed provisions on the form at the instruction of one or more parties with whom a licensee is working or representing in a specific transaction.

(b) A firm and any licensee associated with the firm may use a form approved by the board under s. 452.05 (1) (b) in real estate practice.

(2) A licensee may not provide advice or opinions concerning the legal rights or obligations of parties to a transaction, the legal effect of a specific contract or conveyance, or the state of title to real estate. A licensee may provide a general explanation of the provisions in a form approved by the board under s. 452.05 (1) (b) to the parties to a transaction at the time of completing the form or when delivering an approved form for the seller's or buyer's acceptance. Reviews conducted by a supervising broker under s. 452.132 (4) shall not be considered to be the provision of legal advice or opinion.

History: 2015 a. 258.

452.42 Records retention. (1) In this section, "electronic" has the meaning given in s. 137.11 (5).

(2) A licensee shall retain documents or records related to a transaction, as determined by the board, in accordance with any rules promulgated by the board. Records described in this section may be retained in an electronic file format.

History: 2015 a. 258.