

# State of Wisconsin



2015 Assembly Bill 456

Date of enactment: **March 2, 2016**  
Date of publication\*: **March 3, 2016**

## 2015 WISCONSIN ACT 258

AN ACT *to repeal* 106.03, 440.03 (11m) (a) 2., 440.03 (13) (b) 72., 440.08 (2) (a) 69., 452.01 (4d), 452.01 (4h), 452.01 (4p), 452.01 (4t), 452.01 (9), 452.025, 452.025 (4), 452.09 (1) (c), 452.09 (5), 452.10 (4) (a), 452.12 (6), 452.137 (1) (b), 452.137 (1) (d) and 452.17 (2); *to renumber and amend* 452.03, 452.10 (4) (b) and 452.19; *to consolidate, renumber and amend* 440.03 (11m) (a) (intro.) and 1.; *to amend* 71.63 (2), 73.0301 (1) (a), 102.07 (8) (a), 103.001 (5), 103.10 (1) (b), 106.01 (1), 108.227 (1) (b), 109.01 (1r), 111.32 (5), 186.113 (19), 440.03 (11m) (am), 440.03 (11m) (b), 440.03 (11m) (c), 440.13 (2) (c), 452.01 (1m), 452.01 (3) (d), 452.01 (3e), 452.01 (3m), 452.01 (3s), 452.01 (3w), 452.01 (4), 452.01 (5), 452.01 (5j), 452.01 (5m) (b), 452.01 (5p), 452.01 (5p), 452.01 (5w), 452.01 (7), 452.01 (7r), 452.01 (9), 452.025 (1) (b) 3., 452.025 (3) (a), 452.025 (3) (b) 2. g., 452.05 (1) (a), 452.05 (1) (a), 452.05 (1) (i) (intro.), 452.05 (1) (i) 1., 452.05 (1) (i) 3. b., 452.07 (1m), 452.07 (2), 452.07 (2), 452.09 (1) (b), 452.09 (2) (c) (intro.), 452.09 (3) (a), 452.09 (4) (a) 1., 452.10 (1), 452.10 (2) (a), 452.11 (1), 452.12 (2) (a), 452.12 (2) (c), 452.12 (3), 452.12 (4), 452.12 (5) (b), 452.12 (5) (c), 452.13 (1) (a), 452.13 (2) (a), 452.13 (2) (b), 452.13 (2) (bm), 452.13 (2) (c), 452.13 (2) (e) (intro.), 452.13 (2) (e) 2., 452.13 (2) (f) 1., 452.13 (3), 452.13 (4), 452.13 (5), 452.132 (2) (c), 452.133 (title), 452.133 (1) (intro.), (c), (d), (e), (f) and (g), 452.133 (2) (intro.), (a) 1. and 2., (b) and (c), 452.133 (3), 452.133 (4) (a) and (b) 1. and 2., 452.133 (5), 452.133 (6) (intro.) and (a), 452.134 (1) (a), 452.134 (1) (b), 452.134 (2), 452.134 (3), 452.134 (4), 452.135 (1) and (2), 452.137 (2) (a) 1., 452.137 (2) (a) 2., 452.137 (2) (b) 1., 452.137 (2) (b) 2., 452.137 (2) (c), 452.137 (2) (d), 452.137 (2) (e), 452.137 (2) (f), 452.137 (2) (g), 452.137 (3) (intro.), 452.137 (3) (c), 452.137 (3) (c), 452.137 (4) (a), 452.137 (4) (b) (intro.), 452.137 (4) (b) 1., 452.137 (4) (b) 3., 452.138, 452.139 (1), (2) and (3), 452.14 (1), 452.14 (2), 452.14 (3) (intro.), 452.14 (3) (a), 452.14 (3) (b), 452.14 (3) (c), 452.14 (3) (d), 452.14 (3) (f), 452.14 (3) (g), 452.14 (3) (h), 452.14 (3) (i), 452.14 (3) (j), 452.14 (3) (jm), 452.14 (3) (k), 452.14 (3) (L), 452.14 (3) (m), 452.14 (3) (p), 452.14 (4), 452.14 (4m) (intro.), 452.14 (4m) (a), 452.14 (4m) (b), 452.14 (4r), 452.15 (1) and (2), 452.17 (4) (a), 452.17 (4) (a) 1. and 2., 452.19 (1), 452.20, 452.21, 452.22 (2), 452.23 (1), 452.23 (2) (intro.), 452.23 (2) (b), 452.23 (3), 452.23 (4), 452.24 (2), 452.25 (1) (a), 452.25 (1) (b), 452.25 (1) (c) 2., 452.25 (1) (d), 452.25 (1) (e), 452.25 (2) (b), 452.30 (7) (b), 707.55 (5) and 707.55 (7); *to repeal and recreate* 104.01 (2) (b) 2., 108.02 (15) (k) 7., 452.01 (7), 452.14 (3) (intro.) and 452.19 (title); and *to create* 102.07 (8) (bm), 102.078, 452.01 (1o), 452.01 (1p), 452.01 (3) (i), 452.01 (4w), 452.01 (4x), 452.01 (4y), 452.01 (5c), 452.03 (2), 452.05 (1) (j), 452.12 (5) (bm), 452.132, 452.133 (4m), 452.142, 452.19 (2), 452.30, 452.34, 452.38, 452.40 and 452.42 of the statutes; **relating to**: various changes regarding the laws governing real estate practice, employment relationships between real estate licensees and real estate brokerage firms, a statute of limitations for actions against persons engaged in real estate practice, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority.

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

**SECTION 1b.** 71.63 (2) of the statutes is amended to read:

71.63 (2) "Employee" means a resident individual who performs or performed services for an employer anywhere or a nonresident individual who performs or performed such services within this state, and includes an officer, employee or elected official of the United States, a state, territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of these entities. The term includes an officer of a corporation, an entertainer and an entertainment corporation, but does not include a ~~qualified real estate agent or a~~ direct seller who is not treated as an employee under section 3508 of the Internal Revenue Code or a real estate broker or salesperson who is excluded under s. 452.38.

**SECTION 1c.** 73.0301 (1) (a) of the statutes is amended to read:

73.0301 (1) (a) "Credential" has the meaning given in s. 440.01 (2) (a), ~~but does not include a registration as an inactive licensee under s. 452.12 (6) (b).~~

**SECTION 1d.** 102.07 (8) (a) of the statutes is amended to read:

102.07 (8) (a) Except as provided in ~~par. pars. (b) and (bm)~~, every independent contractor is, for the purpose of this chapter, an employee of any employer under this chapter for whom he or she is performing service in the course of the trade, business, profession or occupation of such employer at the time of the injury.

**SECTION 1e.** 102.07 (8) (bm) of the statutes is created to read:

102.07 (8) (bm) A real estate broker or salesperson who is excluded under s. 452.38 is not an employee of a firm, as defined in s. 452.01 (4w), for whom the real estate broker or salesperson performs services unless the firm elects under s. 102.078 to name the real estate broker or salesperson as its employee.

**SECTION 1f.** 102.078 of the statutes is created to read:

**102.078 Election by real estate firm. (1)** A firm, as defined in s. 452.01 (4w), may elect to name as its employee for purposes of this chapter a real estate broker or salesperson who is excluded under s. 452.38 by an endorsement on its policy of worker's compensation insurance or, if the firm is self-insured under s. 102.28 (2) (b), by filing a declaration with the department in the manner provided in s. 102.31 (2) (a) naming the real estate broker or salesperson as an employee of the firm for purposes of this chapter. A declaration under this subsection shall state all of the following:

(a) The name of the real estate broker or salesperson to be covered under this chapter.

(b) That a written agreement has been entered into that provides that the real estate broker or salesperson

shall not be treated as an employee for federal and state tax purposes.

(c) That 75 percent or more of the compensation related to sales or other output, as measured on a calendar year basis, paid to the real estate broker or salesperson under the written agreement specified in par. (b) is directly related to the brokerage services performed by the real estate broker or salesperson on behalf of the firm.

(2) A firm, as defined in s. 452.01 (4w), may revoke a declaration under sub. (1) by providing written notice to the department in the manner provided in s. 102.31 (2) (a) and to the real estate broker or salesperson named in the declaration. A revocation under this subsection is effective 30 days after the department receives notice of that revocation.

**SECTION 1g.** 103.001 (5) of the statutes is amended to read:

103.001 (5) "Employee" means, except as provided in s. 452.38, any person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go or work or be at any time in any place of employment.

**SECTION 1h.** 103.10 (1) (b) of the statutes is amended to read:

103.10 (1) (b) Except as provided in sub. (1m) (b) 2. and s. 452.38, "employee" means an individual employed in this state by an employer, except the employer's parent, spouse, domestic partner, or child.

**SECTION 1k.** 104.01 (2) (b) 2. of the statutes is repealed and recreated to read:

104.01 (2) (b) 2. An individual excluded under s. 452.38.

**SECTION 1m.** 106.01 (1) of the statutes is amended to read:

106.01 (1) FORMATION OF APPRENTICE CONTRACT. Any person 16 years of age or over may enter into an apprentice contract binding himself or herself to serve as an apprentice as provided in this section. Except as provided in ss. 106.02, and 106.025, ~~and 106.03~~, the term of service of an apprenticeship shall be for not less than one year. Every apprentice contract shall be in writing and shall be signed by the apprentice, the department, and the sponsor or an apprenticeship committee acting as the agent of the sponsor. If the apprentice has not reached 18 years of age, the apprentice contract shall also be signed by one of the apprentice's parents or, if both parents are deceased or legally incapable of giving consent, by the guardian of the apprentice or, if there is no guardian, by a deputy of the department. The department shall specify the provisions that are required to be included in an apprentice contract by rule promulgated under sub. (11).

**SECTION 1n.** 106.03 of the statutes is repealed.

**SECTION 1p.** 108.02 (15) (k) 7. of the statutes is repealed and recreated to read:

108.02 (15) (k) 7. By an individual to whom all of the following apply:

a. The individual is a real estate licensee, as defined in s. 452.01 (5).

b. Seventy-five percent or more of the remuneration, whether or not paid in cash, for the services performed by the individual as a real estate licensee is directly related to sales or other output, including the performance of services, rather than to the number of hours worked.

c. The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed and the contract provides that the individual will not be treated as an employee with respect to the services for federal tax purposes;

**SECTION 2.** 108.227 (1) (b) of the statutes is amended to read:

108.227 (1) (b) "Credential" has the meaning given in s. 440.01 (2) (a), ~~but does not include a registration as an inactive licensee under s. 452.12 (6) (b).~~

**SECTION 2d.** 109.01 (1r) of the statutes is amended to read:

109.01 (1r) "Employee" means any person employed by an employer, except that "employee" does not include an officer or director of a corporation, a member or manager of a limited liability company, a partner of a partnership or a joint venture, the owner of a sole proprietorship, an independent contractor or person otherwise excluded under s. 452.38, or a person employed in a managerial, executive, or commissioned sales capacity or in a capacity in which the person is privy to confidential matters involving the employer-employee relationship.

**SECTION 2f.** 111.32 (5) of the statutes is amended to read:

111.32 (5) "Employee" does not include any individual employed by his or her parents, spouse, or child or any individual excluded under s. 452.38.

**SECTION 3.** 186.113 (19) of the statutes is amended to read:

186.113 (19) CLIENT FUND ACCOUNTS. Maintain real estate broker trust accounts under s. 452.13 for ~~brokers who firms, as defined in s. 452.01 (4w), that~~ are eligible for membership in the credit union, attorney trust accounts under s. 757.293 for attorneys who are eligible for membership in the credit union, and collection agency trust accounts under s. 218.04 (9g) for persons who are eligible for membership in the credit union.

**SECTION 4.** 440.03 (11m) (a) (intro.) and 1. of the statutes are consolidated, renumbered 440.03 (11m) (a) and amended to read:

440.03 (11m) (a) Each application form for a credential issued or renewed under chs. 440 to 480 shall provide a space for the department to require ~~each of the following~~ an applicant for the initial credential or credential renewal, other than an individual who does not have a social security number and who submits a statement made or subscribed under oath or affirmation as required

under par. (am), to provide his or her social security number: ~~1. An applicant for an initial credential or credential renewal.~~ If the applicant is not an individual, the department shall require the applicant to provide its federal employer identification number.

**SECTION 5.** 440.03 (11m) (a) 2. of the statutes is repealed.

**SECTION 6.** 440.03 (11m) (am) of the statutes is amended to read:

440.03 (11m) (am) If an applicant specified in par. (a) ~~1. or 2.~~ is an individual who does not have a social security number, the applicant shall submit a statement made or subscribed under oath that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A credential or license issued in reliance upon a false statement submitted under this paragraph is invalid.

**SECTION 7.** 440.03 (11m) (b) of the statutes is amended to read:

440.03 (11m) (b) The real estate examining board shall deny an application for an initial credential or deny an application for credential renewal ~~or for reinstatement of an inactive license under s. 452.12 (6) (e)~~ if any information required under par. (a) is not included in the application form or, in the case of an applicant who is an individual and who does not have a social security number, if the statement required under par. (am) is not included with the application form.

**SECTION 8.** 440.03 (11m) (c) of the statutes is amended to read:

440.03 (11m) (c) The department of safety and professional services may not disclose a social security number obtained under par. (a) to any person except the coordinated licensure information system under s. 441.50 (7); the department of children and families for purposes of administering s. 49.22; and, for a social security number obtained under par. (a) ~~+~~, the department of revenue for the purpose of requesting certifications under s. 73.0301 and administering state taxes and the department of workforce development for the purpose of requesting certifications under s. 108.227.

**SECTION 9.** 440.03 (13) (b) 72. of the statutes is repealed.

**SECTION 10.** 440.08 (2) (a) 69. of the statutes is repealed.

**SECTION 11.** 440.13 (2) (c) of the statutes is amended to read:

440.13 (2) (c) With respect to a credential granted by a credentialing board, a credentialing board shall restrict, limit, or suspend a credential held by a person or deny an application for an initial credential ~~or for reinstatement of an inactive license under s. 452.12 (6) (e)~~ when directed to do so by the department.

**SECTION 12.** 452.01 (1m) of the statutes is amended to read:

452.01 (1m) “Agency agreement” means a written agreement between a ~~broker~~ firm and a client in which the client authorizes the ~~broker~~ firm to provide brokerage services to the client.

**SECTION 13.** 452.01 (1o) of the statutes is created to read:

452.01 (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.

**SECTION 14.** 452.01 (1p) of the statutes is created to read:

452.01 (1p) “Associated with a subagent” means to be associated with a firm that is engaged as a subagent.

**SECTION 15.** 452.01 (3) (d) of the statutes is amended to read:

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

**SECTION 16.** 452.01 (3) (i) of the statutes is created to read:

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

**SECTION 17.** 452.01 (3e) of the statutes is amended to read:

452.01 (3e) “Brokerage service” means any service described under sub. (2) provided to a person by a ~~broker to another person~~ firm and any licensees associated with the firm.

**SECTION 18.** 452.01 (3m) of the statutes is amended to read:

452.01 (3m) “Client” means a party to a transaction who has an agency agreement with a ~~broker~~ firm for brokerage services.

**SECTION 19.** 452.01 (3s) of the statutes is amended to read:

452.01 (3s) “Customer” means a party to a transaction who is provided brokerage services by a ~~broker~~ firm and any licensees associated with the firm but who is not a client.

**SECTION 20.** 452.01 (3w) of the statutes is amended to read:

452.01 (3w) “Designated agency” means a multiple representation relationship in which each client of the ~~broker~~ firm in the multiple representation relationship receives negotiation services from the ~~broker~~ firm only from ~~employees of licensees associated with the broker~~ firm who are not providing negotiation services to any other client of the ~~broker~~ firm in the transaction.

**SECTION 21.** 452.01 (4) of the statutes is amended to read:

452.01 (4) “Disciplinary proceeding” means a proceeding against one or more licensees ~~or registrants~~ in which the board may revoke, suspend, or limit a license ~~or registration~~, reprimand a licensee ~~or registrant~~, or

assess a forfeiture or require education or training under s. 452.14 (4m) or (4r).

**SECTION 22.** 452.01 (4d) of the statutes is repealed.

**SECTION 23.** 452.01 (4h) of the statutes is repealed.

**SECTION 24.** 452.01 (4p) of the statutes is repealed.

**SECTION 25.** 452.01 (4t) of the statutes is repealed.

**SECTION 26.** 452.01 (4w) of the statutes is created to read:

452.01 (4w) “Firm” means a licensed individual broker acting as a sole proprietorship or a licensed broker business entity.

**SECTION 27.** 452.01 (4x) of the statutes is created to read:

452.01 (4x) “Licensed broker business entity” means a broker licensed under s. 452.12 that is a business entity.

**SECTION 28.** 452.01 (4y) of the statutes is created to read:

452.01 (4y) “Licensed individual broker” means a broker licensed under s. 452.12 who is an individual.

**SECTION 29.** 452.01 (5) of the statutes is amended to read:

452.01 (5) “Licensee” means any person licensed or registered under this chapter, ~~other than an inactive licensee registered under s. 452.12 (6).~~

**SECTION 30.** 452.01 (5) of the statutes, as affected by 2015 Wisconsin Act ... (this act), is amended to read:

452.01 (5) “Licensee” means any person licensed ~~or registered~~ under this chapter.

**SECTION 31.** 452.01 (5c) of the statutes is created to read:

452.01 (5c) “License number” means a number assigned to a person under s. 452.05 (1) (j).

**SECTION 32.** 452.01 (5j) of the statutes is amended to read:

452.01 (5j) “Multiple representation relationship” means a relationship between a ~~broker~~ firm and 2 or more of the ~~broker’s~~ firm’s clients in which the clients are parties in the same transaction.

**SECTION 33.** 452.01 (5m) (b) of the statutes is amended to read:

452.01 (5m) (b) Completing, when requested by a party, appropriate ~~department-approved~~ board-approved forms or other writings to document the party’s proposal consistent with the party’s ~~intent~~ instruction.

**SECTION 34.** 452.01 (5p) of the statutes is amended to read:

452.01 (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. “Out-of-state salesperson” includes a time-share salesperson employed by an out-of-state broker.

**SECTION 35.** 452.01 (5p) of the statutes, as affected by 2015 Wisconsin Act ... (this act), is amended to read:

452.01 (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. ~~“Out-of-state salesperson” includes a time-share salesperson employed by an out-of-state broker.~~

**SECTION 36.** 452.01 (5w) of the statutes is amended to read:

452.01 (5w) “Principal ~~broker~~ firm” means a ~~broker~~ firm that engages a subagent to provide brokerage services in a transaction.

**SECTION 37.** 452.01 (7) of the statutes is repealed and recreated to read:

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

**SECTION 38.** 452.01 (7) of the statutes, as affected by 2015 Wisconsin Act .... (this act), is amended to read:

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

**SECTION 39.** 452.01 (7r) of the statutes is amended to read:

452.01 (7r) “Subagent” means a ~~broker who~~ firm that is engaged by ~~another broker~~ a principal firm to provide brokerage services in a transaction, but ~~who that~~ is not the other broker’s employee associated with the principal firm.

**SECTION 40.** 452.01 (9) of the statutes is amended to read:

452.01 (9) “Time-share salesperson” means a person, other than a person licensed under s. 452.09, who is ~~employed by a licensed broker to sell or offer or attempt associated with a firm for the purpose of selling or offering or attempting~~ to negotiate an initial sale or purchase of a time share but who may not perform any other acts authorized by this chapter to be performed by a broker or salesperson.

**SECTION 41.** 452.01 (9) of the statutes, as affected by 2015 Wisconsin Act .... (this act), is repealed.

**SECTION 42.** 452.025 of the statutes, as affected by 2015 Wisconsin Act .... (this act), is repealed.

**SECTION 43.** 452.025 (1) (b) 3. of the statutes is amended to read:

452.025 (1) (b) 3. Certification from the ~~licensed broker employing~~ firm with which the applicant is associated that the applicant is competent to act as a time-share salesperson.

**SECTION 44.** 452.025 (3) (a) of the statutes is amended to read:

452.025 (3) (a) A time-share salesperson registered under this section may act as a time-share salesperson only when ~~employed by a licensed broker~~ associated with a firm.

**SECTION 45.** 452.025 (3) (b) 2. g. of the statutes is amended to read:

452.025 (3) (b) 2. g. The signature of the time-share salesperson and the name of the ~~employing broker~~ firm with which the time-share salesperson is associated.

**SECTION 46.** 452.025 (4) of the statutes is repealed.

**SECTION 47.** 452.03 of the statutes is renumbered 452.03 (1) and amended to read:

452.03 (1) ~~No~~ 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 ~~such businesses~~ 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.

**SECTION 48.** 452.03 (2) of the statutes is created to read:

452.03 (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.

**SECTION 49.** 452.05 (1) (a) of the statutes is amended to read:

452.05 (1) (a) Grant and issue licenses to individuals and business entities to act as brokers and to individuals to act salespersons and grant and issue registrations to time-share salespersons.

**SECTION 50.** 452.05 (1) (a) of the statutes, as affected by 2015 Wisconsin Act .... (this act), is amended to read:

452.05 (1) (a) Grant and issue licenses to individuals and business entities to act as brokers and to individuals to act salespersons ~~and grant and issue registrations to time-share salespersons.~~

**SECTION 51.** 452.05 (1) (i) (intro.) of the statutes is amended to read:

452.05 (1) (i) (intro.) Create a form on which an individual applying to renew a broker’s or salesperson’s license ~~or a time-share salesperson’s certificate of registration~~ may do all of the following:

**SECTION 52.** 452.05 (1) (i) 1. of the statutes is amended to read:

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

**SECTION 53.** 452.05 (1) (i) 3. b. of the statutes is amended to read:

452.05 (1) (i) 3. b. The board’s authority to revoke the license ~~or certificate~~ under s. 452.14 (3) (o).

**SECTION 54.** 452.05 (1) (j) of the statutes is created to read:

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

**SECTION 55.** 452.07 (1m) of the statutes is amended to read:

452.07 (1m) The board shall may promulgate rules that specify regarding the supervisory duties responsibilities of brokers under s. ~~452.12 (3)~~ 452.132.

**SECTION 56.** 452.07 (2) of the statutes is amended to read:

452.07 (2) The board may promulgate rules establishing a procedure that allows an individual who does not possess a broker's or salesperson's license or a time-share salesperson's certificate of registration to, without submitting a full application and without paying the fees applicable to applicants, apply to the board for a determination of whether the individual would be disqualified from obtaining a license or certificate due to his or her criminal record. A determination made under this subsection, with respect to criminal convictions reviewed by the board as part of the determination, is binding upon the board and the department if the individual subsequently applies for a license or certificate, unless there is information relevant to the determination that was not available to the board at the time of the determination. The board may require a fee to be paid to the department for a determination issued under this subsection of an amount necessary to cover the cost of making the determination.

**SECTION 57.** 452.07 (2) of the statutes, as affected by 2015 Wisconsin Act ... (this act), is amended to read:

452.07 (2) The board may promulgate rules establishing a procedure that allows an individual who does not possess a broker's or salesperson's license ~~or a time-share salesperson's certificate of registration~~ to, without submitting a full application and without paying the fees applicable to applicants, apply to the board for a determination of whether the individual would be disqualified from obtaining a license ~~or certificate~~ due to his or her criminal record. A determination made under this subsection, with respect to criminal convictions reviewed by the board as part of the determination, is binding upon the board and the department if the individual subsequently applies for a license ~~or certificate~~, unless there is information relevant to the determination that was not available to the board at the time of the determination. The board may require a fee to be paid to the department for a determination issued under this subsection of an amount necessary to cover the cost of making the determination.

**SECTION 58.** 452.09 (1) (b) of the statutes is amended to read:

452.09 (1) (b) The name and address of the applicant; ~~if.~~ 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.

**SECTION 59.** 452.09 (1) (c) of the statutes is repealed.

**SECTION 60.** 452.09 (2) (c) (intro.) of the statutes is amended to read:

452.09 (2) (c) (intro.) 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:

**SECTION 61.** 452.09 (3) (a) of the statutes is amended to read:

452.09 (3) (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, ~~chattel mortgages~~, 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.

**SECTION 62.** 452.09 (4) (a) 1. of the statutes is amended to read:

452.09 (4) (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, ~~excluding any time the applicant spent in an apprenticeship under sub. (5).~~

**SECTION 63.** 452.09 (5) of the statutes is repealed.

**SECTION 64.** 452.10 (1) of the statutes is amended to read:

452.10 (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.

**SECTION 65.** 452.10 (2) (a) of the statutes is amended to read:

452.10 (2) (a) Each new application for a ~~broker's or salesperson's~~ license under this chapter shall be for the remainder of the biennial license period.

**SECTION 66.** 452.10 (4) (a) of the statutes is repealed.

**SECTION 67.** 452.10 (4) (b) of the statutes is renumbered 452.30 (5) and amended to read:

452.30 (5) ~~No salesperson, time-share salesperson or broker may be employed by a broker whose~~ 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 salesperson, time-share salesperson or broker licensee may apply for transfer to some other licensed broker by complying with this chapter become associated with another firm, provided the salesperson,

~~time-share salesperson or broker licensee~~ is not a party to the activities causing the suspension or revocation of the ~~firm's license of the broker~~. 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.

**SECTION 68.** 452.11 (1) of the statutes is amended to read:

452.11 (1) A nonresident may become a broker, ~~or salesperson or time-share salesperson~~ by conforming to all the provisions of this chapter.

**SECTION 69.** 452.12 (2) (a) of the statutes is amended to read:

452.12 (2) (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 ~~who is a~~ 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.

**SECTION 70.** 452.12 (2) (c) of the statutes is amended to read:

452.12 (2) (c) Application for a ~~business entity 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.

**SECTION 71.** 452.12 (3) of the statutes is amended to read:

452.12 (3) ~~BROKER'S LIABILITY FIRM'S RESPONSIBILITY FOR ACTS OF EMPLOYEES LICENSEES~~. Subject to s. 452.139 (3), ~~each broker shall supervise, and a firm is responsible for, the brokerage services provided on behalf of the broker firm by any broker, salesperson, or time-share salesperson who is an employee of the broker 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.~~

**SECTION 72.** 452.12 (4) of the statutes is amended to read:

452.12 (4) ~~REGISTER OF BROKERS AND SALESPERSONS LICENSEES~~. The board shall include in the register the board maintains under s. 440.035 (4) the names of all ~~brokers and salespersons~~ persons whose licenses issued

under this chapter were revoked within the past 2 years. The register shall be available for purchase at cost.

**SECTION 73.** 452.12 (5) (b) of the statutes is amended to read:

452.12 (5) (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.

**SECTION 74.** 452.12 (5) (bm) of the statutes is created to read:

452.12 (5) (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.

**SECTION 75.** 452.12 (5) (c) of the statutes is amended to read:

452.12 (5) (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).

**SECTION 76.** 452.12 (6) of the statutes is repealed.

**SECTION 77.** 452.13 (1) (a) of the statutes is amended to read:

452.13 (1) (a) "Client funds" means all downpayments, earnest money deposits, or other money related to a conveyance of real estate that is received by a ~~broker, salesperson or time-share salesperson licensee~~ on behalf of the ~~broker's, salesperson's or time-share salesperson's~~ principal a firm or any other person. "Client funds" does not include promissory notes.

**SECTION 78.** 452.13 (2) (a) of the statutes is amended to read:

452.13 (2) (a) A ~~broker who~~ 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.

**SECTION 79.** 452.13 (2) (b) of the statutes is amended to read:

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

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

2. Notify the department of ~~safety and professional services~~ when any of the information required under subd. 1. is changed.

3. Furnish the department of ~~safety and professional services~~ with a letter authorizing the department of ~~safety and professional services~~ and the department of administration to examine and audit the interest-bearing common trust account whenever ~~the either~~ department of ~~safety and professional services or the department of administration~~ considers it necessary.

**SECTION 80.** 452.13 (2) (bm) of the statutes is amended to read:

452.13 (2) (bm) The department of ~~safety and professional services~~ shall forward to the department of administration the information and documents furnished under par. (b).

**SECTION 81.** 452.13 (2) (c) of the statutes is amended to read:

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

**SECTION 82.** 452.13 (2) (e) (intro.) of the statutes is amended to read:

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

**SECTION 83.** 452.13 (2) (e) 2. of the statutes is amended to read:

452.13 (2) (e) 2. When the interest remittance is sent, furnish to the department of administration and to the ~~broker~~ firm maintaining the interest-bearing common trust account a statement that includes the name of the ~~broker~~ 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.

**SECTION 84.** 452.13 (2) (f) 1. of the statutes is amended to read:

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

**SECTION 85.** 452.13 (3) of the statutes is amended to read:

452.13 (3) DEPOSIT PROVISIONS. A ~~broker who~~ 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 ~~broker, salesperson or time-share salesperson who 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.

**SECTION 86.** 452.13 (4) of the statutes is amended to read:

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

**SECTION 87.** 452.13 (5) of the statutes is amended to read:

452.13 (5) RULES. In consultation with the department of ~~safety and professional services~~, the department of administration shall promulgate rules necessary to administer this section.

**SECTION 88.** 452.132 of the statutes is created to read:

**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 or registration.

(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.

**SECTION 89.** 452.132 (2) (c) of the statutes, as created by 2015 Wisconsin Act .... (this act), is amended to read:

452.132 (2) (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 or registration.

**SECTION 90.** 452.133 (title) of the statutes is amended to read:

**452.133 (title) Duties of brokers licensees.**

**SECTION 91.** 452.133 (1) (intro.), (c), (d), (e), (f) and (g) of the statutes are amended to read:

452.133 (1) ~~BROKER'S DUTIES~~ DUTIES TO ALL PERSONS IN PARTIES TO A TRANSACTION. (intro.) A ~~broker who is~~ broker firm providing brokerage services to a ~~person in party to~~ a transaction owes all of the following duties to the ~~person~~ party:

(c) The duty to timely disclose in writing all material adverse facts that the ~~broker~~ firm knows and that the ~~person~~ 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 ~~broker~~ firm in confidence, or any information obtained by the ~~broker~~ firm that ~~he or she~~ 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. ~~A broker~~ The firm shall continue to keep the information confidential after the transaction is complete and after the ~~broker~~ firm is no longer providing brokerage services to the ~~person~~ party.

(e) The duty to provide accurate information about market conditions that affect the ~~person's~~ transaction, within a reasonable time after ~~the person's~~ 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 ~~by the broker~~ as required by rules promulgated ~~by the department~~ under s. 452.13 (5).

(g) When the ~~broker~~ 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.

**SECTION 92.** 452.133 (2) (intro.), (a) 1. and 2., (b) and (c) of the statutes are amended to read:

452.133 (2) ~~BROKER'S DUTIES TO A CLIENT~~ DUTIES TO CLIENTS. (intro.) A ~~broker~~ firm providing brokerage services to ~~his or her~~ a client owes the client the duties that the ~~broker~~ firm owes to a ~~person~~ party under sub. (1) and all of the following additional duties:

(a) 1. Placing the client's interests ahead of the ~~broker's~~ interests of the firm.

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

(b) The duty to disclose to the client all information known by the ~~broker~~ 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 broker firm has under this chapter or any other law.

**SECTION 93.** 452.133 (3) of the statutes is amended to read:

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

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

(b) Act in a transaction on the broker's licensee's own behalf, on behalf of the broker's 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 broker licensee has an interest, ~~unless without the broker has 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 broker licensee may receive compensation for a referral or in which the broker licensee has an interest, unless the broker licensee has disclosed in writing the fact that ~~he or she~~ the licensee may receive compensation or has disclosed ~~his or her~~ in writing an interest in the individual or entity providing the services.

**SECTION 94.** 452.133 (4) (a) and (b) 1. and 2. of the statutes are amended to read:

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

(b) 1. Place the subagent's interests ahead of the interests of the clients of the principal broker firm in the transaction in which the subagent has been engaged by the principal broker 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 broker firm in the transaction in which the subagent has been engaged by the principal broker firm, unless required by law.

**SECTION 95.** 452.133 (4m) of the statutes is created to read:

452.133 (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.

**SECTION 96.** 452.133 (5) of the statutes is amended to read:

452.133 (5) **DUTIES WITHOUT AGENCY OR SUBAGENCY RELATIONSHIP.** If a broker firm is providing brokerage services to a person who is a party or a prospective party to a current or prospective transaction, and the broker firm does not have an agency agreement with the person and is not a subagent of another broker firm in the transaction, then the ~~broker owes~~ 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.

**SECTION 97.** 452.133 (6) (intro.) and (a) of the statutes are amended to read:

452.133 (6) **WAIVER OF DUTIES.** (intro.) 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 broker's duty under sub. (2) (d), except that a waiver under this subsection is not effective unless the broker 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 broker firm and any licensees associated with the firm will have no legal duty to perform the duty imposed by sub. (2) (d).

**SECTION 98.** 452.134 (1) (a) of the statutes is amended to read:

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

**SECTION 99.** 452.134 (1) (b) of the statutes is amended to read:

452.134 (1) (b) A ~~broker 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 ~~broker's firm's~~ client.
2. A client of a principal ~~broker firm~~ who has engaged the ~~broker firm~~ as a subagent.

**SECTION 100.** 452.134 (2) of the statutes is amended to read:

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

**SECTION 101.** 452.134 (3) of the statutes is amended to read:

452.134 (3) ~~DESIGNATED AGENCY; CONSENT REQUIRED.~~ (a) A ~~broker firm~~ in a multiple representation relationship may not engage in designated agency unless all of the ~~broker's 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 ~~broker firm~~ at any time.

(b) If a ~~broker firm~~ is engaged in designated agency, the ~~broker's employee who licensee associated with the firm that~~ is negotiating on behalf of a client of the ~~broker firm~~ in the transaction may provide to the client on whose behalf the ~~employee 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 ~~broker's firm's~~ clients ahead of the interests of another client of the ~~broker firm~~.

**SECTION 102.** 452.134 (4) of the statutes is amended to read:

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

**SECTION 103.** 452.135 (1) and (2) of the statutes are amended to read:

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

#### **BROKER DISCLOSURE TO CUSTOMERS**

You are a customer of the ~~broker brokerage firm (hereinafter firm).~~ The ~~broker firm~~ is either an agent of another party in the transaction or a subagent of another ~~broker who firm that~~ is the agent of another party in the transaction. ~~The A~~ broker, or a salesperson acting on behalf of the ~~broker, firm~~ may provide brokerage services to you. Whenever the ~~broker firm~~ is providing brokerage services to you, the ~~broker owes firm and its brokers and salespersons (hereinafter agents)~~ owes 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 ~~broker 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 ~~broker holds 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. ~~A broker or salesperson 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 ~~a broker's the~~ duties to a customer under section 452.133 (1) of the Wisconsin statutes.

(b) If a ~~broker firm~~ is providing brokerage services as a subagent to a principal ~~broker firm~~, the ~~broker 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 ~~broker's firm's~~ client and who receives brokerage services from

the ~~broker subagent~~ within the scope of the agreement between the ~~broker subagent~~ and the principal ~~broker firm~~.

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

#### ~~BROKER DISCLOSURE TO CLIENTS~~

Under Wisconsin law, a ~~broker owes 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 ~~broker 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 ~~broker 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 ~~broker firm~~, you are the ~~broker's firm's~~ client. A ~~broker firm~~ owes additional duties to you as a client of the firm:

The ~~broker 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 ~~broker firm~~ from this duty. The ~~broker firm or one of its agents~~ must provide you with all material facts affecting the transaction, not just adverse facts.

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

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

The ~~broker firm and its agents~~ will not place the ~~broker's their~~ interests ahead of your interests. The ~~broker firm and its agents~~ will not, unless required by law, give information or advice to other parties who are not the ~~broker's 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 ~~broker's firm's~~ client (a "multi-

ple representation relationship"), different duties may apply.

#### ~~MULTIPLE REPRESENTATION RELATIONSHIPS~~

##### ~~AND DESIGNATED AGENCY~~

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

Designated agency means that different ~~salespersons employed by the broker agents with the firm~~ will negotiate on behalf of you and the other client or clients in the transaction, and the ~~broker's firm's~~ duties to you as a client will remain the same. Each ~~salesperson agent~~ will provide information, opinions, and advice to the client for whom the ~~salesperson 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 ~~broker's firm's~~ other clients. ~~A salesperson~~ 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 ~~in effect authorized by you or other clients in the transaction~~, you may still authorize or reject a different type of multiple representation relationship. ~~If you authorize a multiple representation relationship in which the broker firm may provide brokerage services to more than one client in a transaction but neither the broker firm nor any of the broker's salespersons its agents may assist any client with information, opinions, and advice which may favor the interests of one client over any other client. If you do not consent to a multiple representation relationship the broker will not be allowed to provide brokerage services to more than one client in the transaction 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.

#### ~~INITIAL CHECK ONLY ONE OF THE THREE LINES BELOW:~~

~~\_\_\_\_\_ I consent to~~ 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.)

~~\_\_\_\_\_ I consent to~~ 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 relationships, but I do not consent to 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: YOU MAY WITHDRAW YOUR CONSENT TO DESIGNATED AGENCY OR TO MULTIPLE REPRESENTATION RELATIONSHIPS BY WRITTEN NOTICE TO THE BROKER AT ANY TIME. YOUR BROKER IS REQUIRED TO DISCLOSE TO YOU IN YOUR AGENCY AGREEMENT THE COMMISSION OR FEES THAT YOU MAY OWE TO YOUR BROKER. 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 BROKER YOU SHOULD ASK YOUR BROKER BEFORE SIGNING THE AGENCY AGREEMENT.~~

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

~~The broker~~ Your firm may, with your authorization in the agency agreement, engage other ~~brokers who~~ firms (subagent firms) to assist your ~~broker~~ firm by providing brokerage services for your benefit. A subagent ~~firm and the agents with the subagent firm~~ will not put the subagent's ~~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. ~~A broker or salesperson~~ 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 ~~s. section~~ section 452.135 of the Wisconsin statutes and is for information only. It is a plain-language summary of ~~a broker's~~ the ~~duties owed~~ to you under section 452.133 (3) (2) of the Wisconsin statutes.

(b) If a client enters into an agency agreement with a ~~broker~~ 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 ~~broker~~ firm shall request the client's signed acknowledgment that the client has received a copy of the written disclosure statement.

**SECTION 104.** 452.137 (1) (b) of the statutes is repealed.

**SECTION 105.** 452.137 (1) (d) of the statutes is repealed.

**SECTION 106.** 452.137 (2) (a) 1. of the statutes is amended to read:

452.137 (2) (a) 1. Enters into a cooperative agreement with a licensed ~~broker~~ firm and cooperates with the licensed ~~broker~~ firm on the listing agreement that is subject to the cooperative agreement. Each cooperative agreement may cover only one listing agreement.

**SECTION 107.** 452.137 (2) (a) 2. of the statutes is amended to read:

452.137 (2) (a) 2. Submits to the licensed ~~broker~~ 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.

**SECTION 108.** 452.137 (2) (b) 1. of the statutes is amended to read:

452.137 (2) (b) 1. Enter into a listing agreement concerning ~~real estate~~ any property located in this state.

**SECTION 109.** 452.137 (2) (b) 2. of the statutes is amended to read:

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

**SECTION 110.** 452.137 (2) (c) of the statutes is amended to read:

452.137 (2) (c) An out-of-state broker who is a party to a cooperative agreement with a licensed ~~broker~~ firm, and any out-of-state salesperson of the out-of-state broker, shall comply with the laws of this state, 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.

**SECTION 111.** 452.137 (2) (d) of the statutes is amended to read:

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

**SECTION 112.** 452.137 (2) (e) of the statutes is amended to read:

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

**SECTION 113.** 452.137 (2) (f) of the statutes is amended to read:

452.137 (2) (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 licensed broker firm.

**SECTION 114.** 452.137 (2) (g) of the statutes is amended to read:

452.137 (2) (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 licensed broker firm.

**SECTION 115.** 452.137 (3) (intro.) of the statutes is amended to read:

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

**SECTION 116.** 452.137 (3) (c) of the statutes is amended to read:

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

**SECTION 117.** 452.137 (3) (c) of the statutes, as affected by 2015 Wisconsin Act ... (this act), is amended to read:

452.137 (3) (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 ~~or time-share salesperson~~ in a jurisdiction other than this state.

**SECTION 118.** 452.137 (4) (a) of the statutes, as affected by 2015 Wisconsin Act 47, is amended to read:

452.137 (4) (a) The board shall establish ~~the a form and terms of the~~ to be used for a cooperative agreement under this section, which shall include any required terms for such an agreement.

**SECTION 119.** 452.137 (4) (b) (intro.) of the statutes is amended to read:

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

**SECTION 120.** 452.137 (4) (b) 1. of the statutes is amended to read:

452.137 (4) (b) 1. Establish the terms of cooperation between the out-of-state broker, any out-of-state salesperson, and the licensed broker firm.

**SECTION 121.** 452.137 (4) (b) 3. of the statutes is amended to read:

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

**SECTION 122.** 452.138 of the statutes is amended to read:

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

**SECTION 123.** 452.139 (1), (2) and (3) of the statutes are amended to read:

452.139 (1) COMMON LAW DUTIES OF BROKER FIRMS. The duties of a broker 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 BY BROKER. (a) A client is not liable for a misrepresentation made ~~by a broker~~ in connection with the ~~broker providing~~ 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 broker firm or licensee is repeating a misrepresentation made ~~to him or her~~ by the client.

(b) A ~~broker who~~ firm that is providing brokerage services to a client and ~~who that~~ retains another broker firm to provide brokerage services ~~to that client as a sub-agent~~ is not liable for a misrepresentation made by the ~~other broker subagent or any licensee associated with the~~

subagent, unless the broker firm knew or should have known of the ~~other broker's~~ misrepresentation or the ~~other broker~~ subagent or licensee is repeating a misrepresentation made to ~~him or her~~ by the broker firm or any licensee associated with the firm.

(c) Nothing in this subsection limits the liability responsibility of a broker firm under s. 452.12 (3) for misrepresentations made by ~~an employee who is a broker 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. ~~An employing broker that hires an individual who is licensed or registered under this chapter and who~~ 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 individual licensee in a claim brought for negligent hiring if, regardless of whether the ~~employing broker firm~~ conducted its own investigation, the ~~employing broker 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. 452.07 (2) or 452.25.

**SECTION 124.** 452.14 (1) of the statutes is amended to read:

452.14 (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, or time-share salesperson~~ broker, or salesperson, or time-share salesperson has violated this chapter or any rule promulgated under this chapter.

**SECTION 125.** 452.14 (2) of the statutes is amended to read:

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

**SECTION 126.** 452.14 (3) (intro.) of the statutes is repealed and recreated to read:

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

**SECTION 127.** 452.14 (3) (intro.) of the statutes, as affected by 2015 Wisconsin Act .... (this act), is amended to read:

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

**SECTION 128.** 452.14 (3) (a) of the statutes is amended to read:

452.14 (3) (a) Made a material misstatement in the application for a license ~~or registration~~, or in any information furnished to the board or department;

**SECTION 129.** 452.14 (3) (b) of the statutes is amended to read:

452.14 (3) (b) Made any substantial misrepresentation with reference to a transaction injurious to a ~~seller or purchaser party~~ in which the ~~broker, salesperson or time share salesperson~~ licensee acts as agent;

**SECTION 130.** 452.14 (3) (c) of the statutes is amended to read:

452.14 (3) (c) Made any false promises of a character such as to influence, persuade, or induce ~~the seller or purchaser a party~~ to his or her injury or damage;

**SECTION 131.** 452.14 (3) (d) of the statutes is amended to read:

452.14 (3) (d) Pursued a continued and flagrant course of misrepresentation or made false promises through ~~agents or salespersons~~ other licensees or through advertising;

**SECTION 132.** 452.14 (3) (f) of the statutes is amended to read:

452.14 (3) (f) Accepted from any person except the ~~broker's, salesperson's, or time-share salesperson's employer firm with which the licensee is associated~~, if the ~~broker, salesperson, or time-share salesperson~~ is employed as a ~~salesperson or time-share salesperson~~ by a broker licensee is associated with a firm, a commission or valuable consideration as a ~~salesperson or time-share salesperson~~ for the performance of any act specified in this chapter or as compensation for referring a person to another ~~broker, salesperson, or time-share salesperson~~ licensee or to any other person in connection with a transaction;

**SECTION 133.** 452.14 (3) (g) of the statutes is amended to read:

452.14 (3) (g) Represented or attempted to represent a ~~broker other than the employer, firm~~ without the express knowledge and consent of the ~~employer, firm~~.

**SECTION 134.** 452.14 (3) (h) of the statutes is amended to read:

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

**SECTION 135.** 452.14 (3) (i) of the statutes is amended to read:

452.14 (3) (i) Demonstrated incompetency to act as a ~~broker, or salesperson or time-share salesperson,~~ whichever is applicable, in a manner which safeguards the interests of the public;

**SECTION 136.** 452.14 (3) (j) of the statutes is amended to read:

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

**SECTION 137.** 452.14 (3) (jm) of the statutes is amended to read:

452.14 (3) (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 ~~broker, salesperson or time-share salesperson 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);~~;~~

**SECTION 138.** 452.14 (3) (k) of the statutes is amended to read:

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

**SECTION 139.** 452.14 (3) (L) of the statutes is amended to read:

452.14 (3) (L) Violated any provision of this chapter or any rule promulgated under this chapter;~~;~~

**SECTION 140.** 452.14 (3) (m) of the statutes is amended to read:

452.14 (3) (m) Failed to use forms approved under s. 452.05 (1) (b); ~~or;~~

**SECTION 141.** 452.14 (3) (p) of the statutes is amended to read:

452.14 (3) (p) Been convicted of a felony that is a bar to licensure ~~or registration~~ under s. 452.25 (1) (a).

**SECTION 142.** 452.14 (4) of the statutes is amended to read:

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

**SECTION 143.** 452.14 (4m) (intro.) of the statutes is amended to read:

452.14 (4m) (intro.) In addition to or in lieu of a reprimand or a revocation, limitation, or suspension of a license ~~or certificate of registration~~ under sub. (3), the board may do any of the following:

**SECTION 144.** 452.14 (4m) (a) of the statutes is amended to read:

452.14 (4m) (a) Assess against a ~~person who is licensed or registered under this chapter licensee~~ a forfeiture of not more than \$1,000 for each violation enumerated under sub. (3).

**SECTION 145.** 452.14 (4m) (b) of the statutes is amended to read:

452.14 (4m) (b) Require a licensee to successfully complete education or training, in addition to any education or training required for licensure ~~or registration~~ or for renewal of a license ~~or certificate~~ under this chapter, as a condition of continued licensure ~~or registration~~ or reinstatement of a license ~~or certificate~~.

**SECTION 146.** 452.14 (4r) of the statutes is amended to read:

452.14 (4r) The board may assess against ~~an individual who is licensed or registered under this chapter a licensee who is an individual~~ a forfeiture of \$1,000 for a violation under s. 452.25 (2) (a).

**SECTION 147.** 452.142 of the statutes is created to read:

**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 unconsummated 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.

**SECTION 148.** 452.15 (1) and (2) of the statutes are amended to read:

452.15 (1) Except as otherwise provided in sub. (2), no license ~~or certificate of registration~~ may be issued under this chapter to any person whose license ~~or certificate~~ 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 ~~or certificate of registration~~ to an individual whose license ~~or certificate~~ is revoked under s. 452.14 (3) (p) is subject to the provisions in s. 452.25 (1).

**SECTION 149.** 452.17 (2) of the statutes is repealed.

**SECTION 150.** 452.17 (4) (a) of the statutes is amended to read:

452.17 (4) (a) (intro.) If the board finds that any ~~broker, salesperson or time-share salesperson licensee~~ has violated s. 452.14 (3) (jm), the board:

1. Shall, for the first offense, suspend the license or registration of the ~~broker, salesperson or time-share salesperson licensee~~ for not less than 90 days.
2. Shall, for the 2nd offense, revoke the license or registration of the ~~broker, salesperson or time-share salesperson licensee~~.

**SECTION 151.** 452.17 (4) (a) 1. and 2. of the statutes, as affected by 2015 Wisconsin Act ... (this act), are amended to read:

452.17 (4) (a) 1. Shall, for the first offense, suspend the license ~~or registration~~ of the licensee for not less than 90 days.

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

**SECTION 152.** 452.19 (title) of the statutes is repealed and recreated to read:

**452.19 (title) Fees and commissions.**

**SECTION 153.** 452.19 of the statutes is renumbered 452.19 (1) and amended to read:

452.19 (1) No ~~licensed broker~~ 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 or registered 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.

**SECTION 154.** 452.19 (1) of the statutes, as affected by 2015 Wisconsin Act .... (this act), is amended to read:

452.19 (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 ~~or registered~~ 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.

**SECTION 155.** 452.19 (2) of the statutes is created to read:

452.19 (2) If a licensee is associated with a firm, all fees or commission 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.

**SECTION 156.** 452.20 of the statutes is amended to read:

**452.20 Limitation on actions for commissions.** No person engaged in the business or acting in the capacity of a broker, or salesperson ~~or time-share 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 ~~or registered time-share salesperson~~ at the time the alleged cause of action arose.

**SECTION 157.** 452.21 of the statutes is amended to read:

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

**SECTION 158.** 452.22 (2) of the statutes is amended to read:

452.22 (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, ~~or~~

~~time-share salesperson's license or registration~~, or that a specified license ~~or registration~~ was not in effect on a date specified, or as to the issuance, limitation, suspension, or revocation of any license ~~or registration~~ or the reprimand of any ~~license or registration holder~~ 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.

**SECTION 159.** 452.23 (1) of the statutes is amended to read:

452.23 (1) ~~A broker or salesperson~~ No licensee may ~~not~~ 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](#).

**SECTION 160.** 452.23 (2) (intro.) of the statutes is amended to read:

452.23 (2) (intro.) A ~~broker or salesperson~~ 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:

**SECTION 161.** 452.23 (2) (b) of the statutes is amended to read:

452.23 (2) (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 ~~broker, salesperson~~ 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.

**SECTION 162.** 452.23 (3) of the statutes is amended to read:

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

**SECTION 163.** 452.23 (4) of the statutes is amended to read:

452.23 (4) In performing an investigation or inspection and in making a disclosure in connection with a real estate transaction, a ~~broker or salesperson~~ 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 ~~as a broker or salesperson~~ under this chapter.

**SECTION 164.** 452.24 (2) of the statutes is amended to read:

452.24 (2) Notwithstanding sub. (1), the ~~broker or salesperson~~ licensee is immune from liability for any act or omission related to the disclosure of information under sub. (1) if the ~~broker or salesperson~~ 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.

**SECTION 165.** 452.25 (1) (a) of the statutes is amended to read:

452.25 (1) (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 a broker's or salesperson's license ~~or a time-share salesperson's certificate of registration~~ if the applicant has been convicted of a felony.

**SECTION 166.** 452.25 (1) (b) of the statutes is amended to read:

452.25 (1) (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 ~~or certificate~~.

**SECTION 167.** 452.25 (1) (c) 2. of the statutes is amended to read:

452.25 (1) (c) 2. Reviewing any supplemental information provided by the applicant bearing upon his or her suitability for licensure as a broker or salesperson ~~or for registration as a time-share salesperson~~.

**SECTION 168.** 452.25 (1) (d) of the statutes is amended to read:

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

**SECTION 169.** 452.25 (1) (e) of the statutes is amended to read:

452.25 (1) (e) If the board makes a determination under par. (c) to allow an applicant to be granted a broker's or salesperson's license ~~or a time-share salesperson's certificate of registration~~, the applicant shall be granted the license ~~or certificate~~ if the applicant satisfies all other requirements for granting the license ~~or certificate of registration~~.

**SECTION 170.** 452.25 (2) (b) of the statutes is amended to read:

452.25 (2) (b) No applicant may be issued an initial broker's or salesperson's license ~~or time-share salesperson's certificate of registration~~, and no applicant may

renew such a license ~~or certificate~~, 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.

**SECTION 171.** 452.30 of the statutes is created to read:

**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.

(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 or time-share salesperson may not engage in independent real estate practice and may engage in real estate practice only when associated with a firm.

**SECTION 172.** 452.30 (7) (b) of the statutes, as created by 2015 Wisconsin Act ... (this act), is amended to read:

452.30 (7) (b) A salesperson ~~or time-share salesperson~~ may not engage in independent real estate practice and may engage in real estate practice only when associated with a firm.

**SECTION 173.** 452.34 of the statutes is created to read:

**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.

**SECTION 174.** 452.38 of the statutes is created to read:

**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).

**SECTION 175.** 452.40 of the statutes is created to read:

**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.

**SECTION 176.** 452.42 of the statutes is created to read:

**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.

**SECTION 177.** 707.55 (5) of the statutes is amended to read:

707.55 (5) SALESPEOPLE. Misrepresenting the identity, function, or authority of a salesperson, ~~including a time-share salesperson, as defined in s. 452.01 (9), or team of salespersons.~~

**SECTION 178.** 707.55 (7) of the statutes is amended to read:

707.55 (7) LENGTH OF SALES PRESENTATION. Misrepresenting the reasonably estimated length of any sales

presentation by a salesperson, ~~including a time-share salesperson, as defined in s. 452.01 (9),~~ or team of salespersons.

**SECTION 179. Nonstatutory provisions.**

(1) EMERGENCY RULE AUTHORITY. Using the procedure under section 227.24 of the statutes, the real estate examining board may promulgate rules under chapter 452 of the statutes that are necessary to implement the changes in this act for the period before the effective date of any corresponding permanent rules, but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(2) ELIMINATION OF TIME-SHARE SALESPERSON REGISTRATIONS. Notwithstanding sections 440.08 and 452.025 (5) of the statutes, the department of safety and professional services and the real estate examining board shall not renew any time-share salesperson's certificate of registration issued under section 452.025 of the statutes. The department of safety and professional services shall, instead of giving a notice of renewal to each holder of a time-share salesperson's certificate of registration under section 440.08 (1) of the statutes, give notice of the elimination of such registration by this act.

**SECTION 180. Initial applicability.**

(1) ACTIONS AGAINST LICENSEES. The treatment of section 452.142 of the statutes first applies to an action that accrues on the effective date of this subsection.

(1m) EMPLOYMENT EXCLUSION; UNEMPLOYMENT INSURANCE. The treatment of section 108.02 (15) (k) 7. of the statutes first applies to services performed on the effective date of this subsection.

**SECTION 181. Effective dates.** This act takes effect on July 1, 2016, or on the day after publication, whichever is later, except as follows:

(1) ELIMINATION OF TIME-SHARE SALESPERSON REGISTRATIONS. The repeal of sections 440.03 (13) (b) 72., 440.08 (2) (a) 69., 452.01 (9), 452.025 (by SECTION 42), 452.137 (1) (d), and 452.17 (2) of the statutes and the amendment of sections 452.01 (4), 452.01 (5) (by SECTION 30), 452.01 (5p) (by SECTION 35), 452.01 (7) (by SECTION 38), 452.05 (1) (a) (by SECTION 50), 452.05 (1) (i) (intro.), 452.05 (1) (i) 1., 452.05 (1) (i) 3. b., 452.07 (2) (by SECTION 57), 452.11 (1), 452.132 (2) (c), 452.137 (3) (intro.), 452.137 (3) (c) (by SECTION 117), 452.14 (1), 452.14 (2), 452.14 (3) (intro.), 452.14 (3) (a), 452.14 (3) (i), 452.14 (3) (p), 452.14 (4m) (intro.), 452.14 (4m) (b), 452.15 (1) and (2), 452.17 (4) (a) 1. and 2. (by SECTION 151), 452.19 (1) (by SECTION 154), 452.20, 452.21, 452.22 (2), 452.25 (1) (a), 452.25 (1) (b), 452.25 (1) (c) 2., 452.25 (1) (d), 452.25 (1) (e), 452.25 (2) (b), 452.30 (7) (b), 707.55 (5), and 707.55 (7) of the statutes take effect on December 14, 2016.

(2) ACTIONS AGAINST LICENSEES. The treatment of section 452.142 of the statutes and SECTION 180 (1) of this act take effect on the day after publication.

(2m) EMPLOYMENT EXCLUSION; UNEMPLOYMENT INSURANCE. The treatment of section 108.02 (15) (k) 7. of the statutes and SECTION 180 (1m) of this act take effect on October 1, 2016.

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