

CHAPTER 2800
DEPARTMENT OF COMMERCE
REAL ESTATE BROKER LICENSING

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2800.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subp. 3. **Licensee.** "Licensee" means a person duly licensed under Minnesota Statutes, chapter 82.

Subp. 4. **Loan broker.** "Loan broker" means a licensed real estate broker or salesperson who, for another and for a commission, fee, or other valuable consideration or with the intention or expectation of receiving the same, directly or indirectly negotiates or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance on real estate, or represents himself or herself or otherwise holds himself or herself out as a licensed real estate broker or salesperson, either in connection with any transaction in which he or she directly or indirectly negotiates or offers or attempts to negotiate a loan, or in connection with the conduct of his or her ordinary business activities as a loan broker.

"Loan broker" does not include a licensed real estate broker or salesperson who, in the course of representing a purchaser or seller of real estate, incidentally assists the purchaser or seller in obtaining financing for the real property in question if the licensee does not receive a separate commission, fee, or other valuable consideration for this service.

Subp. 5. **Overpayment.** "Overpayment" means any payment of moneys in excess of a statutory fee or for a license for which a person does not qualify.

Subp. 6. **Override clause.** "Override clause" means a provision in a listing agreement or similar instrument allowing the broker to receive a commission when, after the listing agreement has expired, the property is sold to persons with whom a broker or salesperson had negotiated or exhibited the property prior to the expiration of the listing agreement.

Subp. 7. **Person.** "Person" means a natural person, firm, institution, partnership, corporation, or association.

Subp. 8. **Primary broker.** "Primary broker" means the broker on whose behalf salespersons are licensed to act pursuant to Minnesota Statutes, section 82.20, subdivision 6. In the case of a corporation licensed as a broker, "primary broker" means each officer of the corporation who is individually licensed to act as a broker for the corporation. In the case of a partnership, "primary broker" means each partner licensed to act as a broker for the partnership.

Subp. 9. **Property.** "Property" means real property or other property within the scope of Minnesota Statutes, chapter 82, unless the context clearly indicates otherwise.

Subp. 10. **Protective list.** "Protective list" means the written list of names and addresses of prospective purchasers with whom a licensee has negotiated the sale or rental of the property or to whom a licensee has exhibited the property prior to the expiration of the listing agreement. For the purposes of this subpart, "property" means the property that is the subject of the listing agreement in question.

Subp. 11. **Real estate broker; broker.** "Real estate broker" or "broker" as set forth in Minnesota Statutes, section 82.17, subdivision 4, clause (b) shall not apply to the originating, making, processing, selling, or servicing of a loan in connection with his or her ordinary business activities by a mortgagee, lender, or servicer approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association.

Subp. 12. **Rental service.** "Rental service" means a person who gathers and catalogs information concerning apartments or other units of real estate available for rent, and who, for a fee, provides information intended to meet the individual needs of specifically identified lessors or prospective lessees. This term shall not apply to newspapers or other periodicals with a general circulation or individual listing contracts between an owner or lessor of property and a licensee.

Subp. 13. **Sponsor.** "Sponsor" means a person offering or providing real estate education.

Subp. 14. **Business of financial planning.** "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. A person who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that he or she is a "financial planner," "financial counselor," "financial adviser," "investment counselor," "estate planner," "investment adviser," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

Statutory Authority: *MS s 45.023; 60A.17; 61A.03; 80A.25; 82.28*

History: *10 SR 274; 11 SR 394*

2800.0200 SCOPE OF APPLICATION.

Prior rules exclusively govern all suits, actions, prosecutions, or proceedings that are pending or may be initiated on the basis of facts or circumstances occurring before October 18, 1982. Judicial review of all administrative orders issued prior to October 18, 1982, as to which review proceedings have not been instituted by October 18, 1982, is governed by prior rules.

Statutory Authority: *MS s 82.28*

2800.0300 COMPUTATION OF TIME.

Subpart 1. **Days.** Where the performance or doing of any act, duty, matter, payment, or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law, rule or order, such time, except as otherwise provided in subpart 2, shall be computed so as to exclude the first and include the last day of any such prescribed or fixed period or duration of time. When the last day of such period falls on Sunday or on any day made a legal holiday, by the laws of this state or of the United States, such day shall be omitted from the computation.

Subp. 2. **Months.** When the lapse of a number of months before or after a certain day is required by law, rule or order, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in the last month so counted having the same numerical order as the day of the month from which the computation is made,

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unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

Statutory Authority: *MS s 82.28*

EXAMINATION AND LICENSING

2800.1100 PAYMENT OF FEES.

Subpart 1. **Cash not accepted.** All fees shall be paid by check, draft, or other negotiable or nonnegotiable instrument or order of withdrawal that is drawn against funds held by a financial institution. Cash will not be accepted.

Subp. 2. **Overpayment of fees.** An overpayment of a fee paid pursuant to Minnesota Statutes, chapter 82 shall be refunded, within a reasonable time after a letter requesting the refund is received by the commissioner and signed by the person making the overpayment.

Refunds shall not be given for other than overpayment of fees. A request for a refund of an overpayment must be received by the commissioner within six months of the date of deposit or it will be forfeited.

Statutory Authority: *MS s 82.28*

2800.1200 PASSING GRADE FOR EXAMINATION.

A passing grade for a salesperson's and broker's examination shall be a score of 75 percent or higher on the uniform portion and a score of 75 percent or higher on the state portion of the examination.

The commissioner shall not accept the scores of a person who has cheated on an examination. Cheating on a real estate examination shall be grounds for denying an application for a broker's or salesperson's license.

Statutory Authority: *MS s 82.28*

2800.1300 LICENSE.

Subpart 1. **Application for broker's license.** After successful completion of the real estate broker's examination, an individual shall have one year from the date of the examination to apply for a broker's license, unless the individual is a salesperson who remains continuously active in the real estate field as a licensee. Failure to apply for the broker's license or to remain continuously active in the real estate field will necessitate a reexamination.

An individual who holds a broker's license in his or her own name or for or on behalf of a corporation or partnership shall be issued an additional broker's license only upon demonstrating that the additional license is necessary in order to serve a legitimate business purpose; that he or she will be capable of supervising all salespersons over whom he or she will have supervisory responsibility or, in the alternative, that he or she will have no supervisory responsibilities under the additional license; and that he or she has a substantial ownership interest in each corporation or partnership for or on whose behalf he or she holds or will hold a broker's license.

The requirement of a substantial ownership interest shall not apply where the broker seeking the additional license or licenses is an officer of a corporation for or on whose behalf he or she already holds a license and he or she is applying for the additional license or licenses for or on behalf of an affiliated corporation or corporations of which he or she is also an officer. For the purpose of this part, "affiliated corporation" means a corporation which is directly or indirectly controlled by the same persons as the corporation for or on whose behalf he or she is already licensed to act.

For the purposes of this part, a legitimate business purpose includes engaging in a different and specialized area of real estate or maintaining an existing business name.

Subp. 2. **Cancellation of salesperson's or broker's license.** A salesperson's or broker's license that has been canceled for failure of a licensee to complete postlicens-

ing education requirements must be returned to the commissioner by the licensee's broker within ten days of receipt of notice of cancellation. The license shall be reinstated without reexamination by completing the required instruction, filing an application, and paying the fee for a salesperson's or broker's license within two years of the cancellation date.

Subp. 3. **Waivers.** The commissioner may waive the real estate licensing experience requirement for the broker's examination.

A. An applicant for a waiver shall provide evidence of:

(1) successful completion of a minimum of 90 quarter credits or 270 classroom hours of real estate-related studies;

(2) a minimum of five consecutive years of practical experience in real estate-related areas; or

(3) successful completion of 30 credits or 90 classroom hours and three consecutive years of practical experience in real estate-related areas.

B. A request for a waiver shall be submitted to the commissioner in writing and be accompanied by documents necessary to evidence qualification as set forth in item A.

C. The waiver will lapse if the applicant fails to successfully complete the broker's examination within one year from the date of the granting of the waiver.

Statutory Authority: *MS s 45.023; 61A.03; 82.28*

History: *11 SR 394*

2800.1400 TEMPORARY BROKER'S PERMIT.

In the event of death or incapacity of a broker, the commissioner may issue a 45-day temporary permit to an individual who has had a minimum of two years actual experience as a licensed real estate salesperson and who is otherwise reasonably qualified to act as a broker. Upon application prior to its expiration, the 45-day temporary permit shall be renewed once by the commissioner if the applicant demonstrates that he or she has made a good faith effort to obtain a broker's license within the preceding 45 days and an extension of time will not harm the public interest.

Only those salespersons licensed to the deceased or incapacitated broker at the time of death or incapacity may conduct business for or on behalf of the person to whom the temporary broker's license was issued.

Statutory Authority: *MS s 82.28*

2800.1500 COMPLIANCE WITH UNCLAIMED PROPERTY ACT.

Upon the initial application for a real estate broker's license and upon each annual application for renewal, the applicant or broker shall be required to inform the commissioner of compliance with the requirements set forth in Minnesota Statutes, chapter 345 relating to unclaimed property.

Statutory Authority: *MS s 82.28*

History: *17 SR 1279*

2800.1600 NOTICE TO COMMISSIONER.

Subpart 1. [Repealed, 11 SR 394]

Subp. 2. **Change of application information.** The commissioner must be notified in writing of a change of information contained in the license application on file with the commissioner within ten days of the change.

Subp. 3. [Repealed, 11 SR 394]

Subp. 4. [Repealed, 11 SR 394]

Subp. 5. [Repealed, 11 SR 394]

Statutory Authority: *MS s 45.023; 61A.03; 82.28*

History: *11 SR 394*

2800.1700 AUTOMATIC TRANSFER OF SALESPERSON'S LICENSE.

Subpart 1. **Scope.** A salesperson may utilize the automatic license transfer provisions of Minnesota Statutes, section 82.20, subdivision 9, clause (b) if the salesperson commences association with the broker to whom the salesperson is transferring, as evidenced by the dates of the signatures of both brokers on the form prescribed by the commissioner, within five days after terminating the salesperson's association with the broker from whom the salesperson is transferring, provided the salesperson's educational requirements are not past due.

A salesperson may not utilize the automatic license transfer provisions of Minnesota Statutes, section 82.20, subdivision 9, clause (b) if the salesperson has failed to notify the commissioner within ten days of any change of information contained in the salesperson's license application on file with the commissioner or of a civil judgment, disciplinary action, or criminal offense, which notice is required pursuant to part 2800.1600.

Subp. 2. **Procedure.** An application for automatic transfer shall be made only on the form prescribed by the commissioner. The transfer is ineffective if the form is not completed in its entirety.

The form shall be accompanied by a \$10 transfer fee, and the license renewal fee, if applicable, plus an additional \$10 if the salesperson holds a subdivided land license. Cash will not be accepted. If the licensee holds a subdivided land license it must be transferred at the same time as the salesperson's license. In order for the transfer of the subdivided land license to be effective the broker to whom the salesperson is transferring must also hold a subdivided land license.

The signature of the broker from whom the salesperson is transferring must predate the signature of the broker to whom the salesperson is transferring. The salesperson is unlicensed for the period of time between the times and dates of both signatures. The broker from whom the salesperson is transferring shall sign and date the transfer application upon the request of the salesperson and shall destroy the salesperson's license immediately.

Subp. 3. Effective date.

A. The transfer is effective when the broker to whom the salesperson is transferring signs and dates the transfer application form, provided the commissioner receives the form and fee within 72 hours after the date and time of the new broker's signature, either by certified mail or personal delivery to the commissioner's office. In the event of a delay in mail delivery, an application postmarked within 24 hours of the date of the signature of the new broker shall be deemed timely received. The properly executed automatic transfer form serves as a temporary real estate license for no more than 45 days.

B. The transfer is ineffective if the fee is paid by means of a check, draft, or other negotiable or nonnegotiable instrument or order of withdrawal drawn on an account with insufficient funds.

C. The salesperson shall retain the certified mail return receipt, if the transfer application is delivered to the commissioner by mail, retain a photocopy of the executed transfer application, and provide a photocopy of the executed transfer application to the broker from whom he or she is transferring.

Statutory Authority: *MS s 45.023; 61A.03; 82.20 subd 9*

History: *11 SR 394*

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2800.1750 REAL ESTATE SALESPERSON AUTOMATIC TRANSFER.

The real estate salesperson automatic transfer shall be in the form prescribed by the commissioner.

Statutory Authority: MS s 45.023; 61A.03; 82.20 subd 9

History: 11 SR 394

2800.1751 INDIVIDUAL APPOINTMENT OF ATTORNEY FOR SERVICE OF PROCESS.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
LICENSING UNIT
5th Floor, Metro Square Building
Seventh and Robert Streets
Saint Paul, Minnesota 55101

INDIVIDUAL APPOINTMENT OF ATTORNEY FOR SERVICE OF PROCESS
KNOW ALL PERSONS BY THESE PRESENTS:

That in compliance with the Laws of the State of Minnesota,
a
nonresident, does hereby appoint the Commissioner of Commerce of the State of
Minnesota, his/her successor or successors as his/her true and lawful attorney upon
whom may be served all legal process in any action or proceeding in which he/she may
be a party and which relates to or involves any transaction covered by Chapter 82,
Minnesota Statutes, and does hereby expressly consent and agree that service upon
such attorney shall be as valid and binding as if due and personal service had been
made upon him/her and that such appointment shall be irrevocable.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day
of _____, _____.

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, _____, personally
appeared before me, a notary public in and for said County and State,
_____, to me known to be the person described
in and who executed the foregoing instrument and who, being by me first sworn,
acknowledged that he/she executed the same as his/her free act and deed.

Notary Public, _____ County _____

(NOTARIAL SEAL) My Commission expires _____

Statutory Authority: MS s 45.023; 61A.03; 82.28

History: 11 SR 394; L 1998 c 254 art 1 s 107

2800.1800 WITHDRAWAL OF LICENSE OR APPLICATION.

A licensee or license applicant may at any time file with the commissioner a request to withdraw from the status of licensee or to withdraw a pending license application. Withdrawal from the status of licensee or withdrawal of the license application becomes effective 30 days after receipt of a request to withdraw or within a shorter period the commissioner determines unless a revocation, suspension, or denial proceeding is pending when the request to withdraw is filed or a proceeding to revoke, suspend, deny, or to impose conditions upon the withdrawal is instituted within 30 days after the request to withdraw is filed. If a proceeding is pending or instituted, withdrawal becomes effective at the time and upon the conditions the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may institute a revocation or suspension proceeding within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which the license was in effect.

Statutory Authority: *MS s 82.28*

2800.1900 FAILURE TO RENEW LICENSE.

If a license lapses or becomes ineffective due to the licensee's failure to file a timely renewal application or otherwise, the commissioner may institute a revocation or suspension proceeding within two years after the license was last effective and enter a revocation or suspension order as of the last date on which the license was in effect.

Statutory Authority: *MS s 45.023; 61A.03; 82.28*

History: *11 SR 394*

2800.2000 REVOCATIONS.

If the commissioner finds that any licensee or applicant is no longer in existence or has ceased to do business as a broker or salesperson or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the commissioner may by order revoke the license or deny the application.

Statutory Authority: *MS s 82.28*

2800.2100 COURSE COMPLETION CERTIFICATES FOR SALESPERSON'S LICENSE.

Applicants for a salesperson's license shall submit to the commissioner, along with their application for licensure, a copy of the course completion certificate for courses I, II, and III.

Students are responsible for maintaining copies of course completion certificates.

Statutory Authority: *MS s 45.023; 61A.03; 82.22 subd 13; 82.28*

History: *11 SR 394*

2800.2150 COURSE COMPLETION CERTIFICATE.

The real estate education course completion certificate shall be in the form set forth by the commissioner.

Statutory Authority: *MS s 45.023; 61A.03; 82.28*

History: *11 SR 394*

2800.2175 [Repealed, 11 SR 394]

2800.3100 [Renumbered 2805.0500]

2800.3200 [Renumbered 2805.0600]

2800.3300 [Renumbered 2805.0700]

2800.3400 [Renumbered 2805.0800]

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- 2800.3500 [Renumbered 2805.0900]
- 2800.3600 [Renumbered 2805.1000]
- 2800.3700 [Renumbered 2805.1100]
- 2800.3800 [Renumbered 2805.1200]
- 2800.3900 [Renumbered 2805.1300]
- 2800.4000 [Renumbered 2805.1400]
- 2800.4100 [Renumbered 2805.1500]
- 2800.4200 [Renumbered 2805.1600]
- 2800.4300 [Renumbered 2805.1700]
- 2800.4400 [Renumbered 2805.1800]
- 2800.4500 [Renumbered 2805.1900]
- 2800.4600 [Renumbered 2805.2000]
- 2800.5100 [Repealed, 21 SR 88]
- 2800.5200 [Repealed, 21 SR 88]
- 2800.5300 [Repealed, 21 SR 88]
- 2800.5400 [Repealed, 21 SR 88]
- 2800.5500 [Repealed, 21 SR 88]
- 2800.5600 [Repealed, 21 SR 88]
- 2800.5700 [Repealed, 21 SR 88]
- 2800.5800 [Repealed, 21 SR 88]
- 2800.5900 [Repealed, 21 SR 88]
- 2800.6000 [Repealed, 21 SR 88]
- 2800.6100 [Repealed, 21 SR 88]
- 2800.6200 [Repealed, 21 SR 88]
- 2800.6300 [Repealed, 21 SR 88]
- 2800.6400 [Repealed, 21 SR 88]
- 2800.6500 [Repealed, 21 SR 88]
- 2800.6600 [Repealed, 21 SR 88]
- 2800.6800 Subpart 1. [Repealed, 21 SR 88]
 - Subp. 2. [Repealed, 11 SR 394]
 - Subp. 3. [Repealed, 11 SR 394]
 - Subp. 4. [Repealed, 21 SR 88]
 - Subp. 5. [Repealed, 21 SR 88]
 - Subp. 6. [Repealed, 21 SR 88]

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- Subp. 7. [Repealed, 21 SR 88]
- Subp. 8. [Repealed, 21 SR 88]
- Subp. 9. [Repealed, 21 SR 88]
- Subp. 10. [Repealed, 21 SR 88]
- 2800.7100** [Repealed, 21 SR 88]
- 2800.7150** [Repealed, 21 SR 88]
- 2800.7175** [Repealed, 21 SR 88]
- 2800.7200** Subpart 1. [Repealed, 21 SR 88]
 - Subp. 2. [Repealed, 21 SR 88]
 - Subp. 3. [Repealed, 11 SR 394]
 - Subp. 4. [Repealed, 21 SR 88]
 - Subp. 5. [Repealed, 11 SR 394]
 - Subp. 6. [Repealed, 21 SR 88]
- 2800.7250** [Repealed, 21 SR 88]
- 2800.7300** [Repealed, 21 SR 88]
- 2800.7400** [Repealed, 21 SR 88]
- 2800.7450** [Repealed, 21 SR 88]
- 2800.7500** [Repealed, 21 SR 88]
- 2800.7550** [Repealed, 21 SR 88]
- 2800.7575** [Repealed, 21 SR 88]
- 2800.7600** [Repealed, 21 SR 88]
- 2800.7700** [Repealed, 21 SR 88]
- 2800.7800** [Repealed, 21 SR 88]
- 2800.7900** [Repealed, 21 SR 88]
- 2800.8000** [Repealed, 21 SR 88]
- 2800.8100** [Repealed, 21 SR 88]
- 2800.8200** [Repealed, 21 SR 88]
- 2800.8300** [Repealed, 21 SR 88]
- 2800.8400** [Repealed, 21 SR 88]
- 2800.8500** [Repealed, 21 SR 88]
- 2800.8600** [Repealed, 21 SR 88]
- 2800.8700** [Repealed, 21 SR 88]
- 2800.8750** [Repealed, 21 SR 88]
- 2800.9905** [Repealed, 21 SR 88]
- 2800.9910** [Repealed, 11 SR 394]
- 2800.9915** [Repealed, 11 SR 394]

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2800.9920 [Repealed, 11 SR 394]

2800.9925 [Repealed, 11 SR 394]

2800.9930 [Repealed, 11 SR 394]

2800.9935 [Repealed, 11 SR 394]

2800.9940 [Repealed, 11 SR 394]

2800.9945 [Repealed, 11 SR 394]

2800.9950 [Repealed, 11 SR 394]

2800.9955 [Repealed, 11 SR 394]