

82.63 LICENSING; OTHER REQUIREMENTS.

Subdivision 1. **Generally.** (a) The commissioner shall issue a license as a real estate broker or real estate salesperson to any person who qualifies for the license under the terms of this chapter.

(b) The commissioner is authorized to establish by rule a special license for real estate brokers and real estate salespeople engaged solely in the rental or management of an interest or estate in real estate, to prescribe qualifications for the license, and to issue the license consistent with the terms of this chapter. This clause shall not be construed to require those owners or managers or their agents or employees who are excluded by section 82.56, clause (d), from the definition of real estate broker, to obtain the special license.

Subd. 2. **Additional broker's license.** An individual who holds a broker's license in the broker's own name or for or on behalf of a business entity must be issued an additional broker's license only upon demonstrating:

- (1) that the additional license is necessary in order to serve a legitimate business purpose;
- (2) that the broker will be capable of supervising all salespersons over whom the broker will have supervisory responsibility or, in the alternative, that the broker will have no supervisory responsibilities under the additional license; and

(3) that the broker:

(i) has at least 51 percent ownership interest in each business entity for or on whose behalf the broker holds or will hold a broker's license; or

(ii) is an elected or appointed officer, signing partner, or managing member of both the business entity for which or on whose behalf the broker already holds a license, and an affiliated business entity for which or on whose behalf the broker is applying for an additional license.

For the purpose of this section and sections 82.58, subdivisions 1 to 4; 82.62, subdivisions 1 to 4; 82.65; and 82.82, subdivision 2, "affiliated business entity" means a business entity that is majority-owned by the same persons as the business entity for which or on whose behalf the broker is already licensed to act.

For the purposes of this section and sections 82.58, subdivisions 1 to 4; 82.62, subdivisions 1 to 4; 82.65; and 82.82, subdivision 2, a legitimate business purpose includes engaging in a different and specialized area of real estate or maintaining an existing business name.

Subd. 3. **Responsibility.** Each broker shall be responsible for the acts of any and all of the broker's sales people and closing agents while acting as agents on the broker's behalf. Each officer of a corporation or partner in a partnership licensed as a broker shall have the same responsibility under this chapter as a corporate or partnership broker with regard to the acts of the salespeople and closing agents acting on behalf of the corporation or partnership.

Subd. 4. **Issuance of license; salesperson.** A salesperson must be licensed to act on behalf of a licensed broker and may not be licensed to act on behalf of more than one broker in this state during the same period of time.

Subd. 5. **Effective date of license.** A license renewed pursuant to this chapter is valid for a period of 24 months. A new license issued during a 24-month licensing period will expire on June 30 of the expiration year assigned to the license.

Subd. 6. Terminations; transfers. (a) Except as provided in paragraph (b), when a salesperson terminates activity on behalf of a broker, the salesperson's license shall be ineffective. Within ten days of the termination the broker shall notify the commissioner in writing, and shall return to the commissioner the license of the salesperson. The salesperson may apply for transfer of the license to another broker at any time during the remainder of the license period, on forms provided by the commissioner. If the application for transfer qualifies, the commissioner shall grant the application. Upon receipt of a transfer application and payment of the transfer fee, the commissioner may issue a 45-day temporary license. If an application for transfer is not made within the license period, the commissioner shall require that an application for a new license be filed.

(b) When a salesperson terminates activity on behalf of a broker in order to begin association immediately with another broker, the commissioner shall permit the automatic transfer of the salesperson's license. The transfer shall be effective either upon the mailing of the required fee and the executed documents by certified mail or upon personal delivery of the fee and documents to the commissioner's office. The commissioner may adopt rules and prescribe forms as necessary to implement this paragraph.

Subd. 7. Automatic transfer of salesperson's license. A salesperson may utilize the automatic license transfer provisions of subdivision 6, 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 subdivision 6, 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 section 82.65, subdivision 1.

Subd. 8. 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. Cash will not be accepted.

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.

Subd. 9. Effective date of license. (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. The commissioner may accept an application for license transfer made by an electronic agent or an electronic record with an electronic signature if the commissioner has the capability of accepting the application electronically. 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 the salesperson is transferring.

(d) The real estate salesperson automatic transfer must be in the form prescribed by the commissioner.

Subd. 10. Automatic transfer of broker's license. When a broker terminates activity in order to begin association with another broker, the commissioner shall permit the automatic transfer of the broker's license to a salesperson's license. If there are licensed salespeople working for the broker, the broker shall certify that a broker will remain in the company that the broker is leaving prior to issuance of the transfer. The transfer shall be effective either upon the mailing of the required fee and the executed documents by certified mail or upon personal delivery of the fee and documents to the commissioner's office.

Subd. 11. Nonresidents. A nonresident of Minnesota may be licensed as a real estate broker, real estate salesperson, or a real estate closing agent upon compliance with all provisions of this chapter.

Subd. 12. 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.

Subd. 13. Limited broker's license. The commissioner shall have the authority to issue a limited real estate broker's license authorizing the following limited activities:

- (1) the licensee to engage in transactions as principal only; or
- (2) the licensee to engage in negotiations of mortgage loans, other than residential mortgage loans, as described in section 82.55, subdivision 19, clause (b).

The license may be issued only after receipt of the application described in section 82.58, subdivision 2, and payment of the fee prescribed by section 82.57, subdivision 1. A salesperson may not be licensed to act on behalf of an individual holding a limited broker's license. A responsible person of a business entity licensed as a limited broker may act on behalf of that business entity without being subject to the licensing requirements.

Subd. 14. **Licenses; extending duration.** Notwithstanding the provisions of subdivision 5 and section 82.62, subdivisions 3 and 4, the commissioner may institute a system by rule pursuant to chapter 14 to provide three-year licenses from the date of issuance for any license prescribed by this section and sections 82.58, subdivisions 1 to 4; 82.62, subdivisions 1 to 4; 82.65; and 82.82, subdivision 2.

Subd. 15. **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 determines by order. 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.

History: 1973 c 410 s 4; 1976 c 197 s 2,3; 1977 c 215 s 1; 1982 c 424 s 130; 1982 c 478 s 1; 1984 c 552 s 8,9; 1985 c 251 s 8; 1986 c 444; 1989 c 347 s 10-16; 1990 c 364 s 1; 1991 c 20 s 1; 1993 c 309 s 10; 1994 c 632 art 4 s 32,33; 1995 c 68 s 4; 1995 c 202 art 1 s 25; 1996 c 439 art 1 s 10; 1997 c 222 s 34; 2002 c 387 s 7; 2004 c 203 art 2 s 23,27,29,30,35,36,61; 2010 c 384 s 63-67