

CHAPTER 82

REAL ESTATE BROKERS AND SALESMEN

Sec.		Sec.	
82.01	Definitions	82.09	New licenses, when issued
82.02	Exceptions	82.10	Brokers or salesmen now in business, certificate of registration
82.03	Licenses	82.11	Down payment put in trust account
82.04	Licenses; issuance, refusal to issue, revocations; grounds	82.12	Duties of commissioner of securities
82.05	Written charges upon refusal to issue license; notice, hearing	82.13	Nonresidents
82.06	Hearing upon charges	82.14	Fees used to defray expenses of administration
82.07	Appeal to district court	82.15	Real estate license revolving fund
82.08	Examination of brokers' records	82.16	Violations, penalties

**82.01 DEFINITIONS.** Subdivision 1. **Terms.** For the purposes of this chapter the terms defined in this section have the meanings ascribed to them.

Subd. 2. **Person.** "Person includes a firm, a partnership, an association, a corporation.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of securities.

59 C335 21 Subd. 4. **Real estate broker.** "Real estate broker" means any person who, for a consideration, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of an estate or interest in real estate, or collects or offers or attempts to collect rent for the use of real estate, or negotiates, or offers or attempts to negotiate, a loan secured or to be secured by an incumbrance upon or transfer of real estate; and includes any person employed by or on behalf of the owner of lots or other parcels of real estate to sell that real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

59 C335 22 Subd. 5. **Real estate salesman.** "Real estate salesman" means a person employed by a licensed real estate broker to list for sale, sell or offer for sale, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to lease or rent or offer to lease, rent or place for rent any real estate, or collects or offers or attempts to collect rent for the use of real estate for or on behalf of the real estate broker.

Subd. 6. **Business opportunity broker.** "Business opportunity broker" means any person, who for another, and for a commission, money or other thing of value, sells, exchanges, buys or rents or offers or attempts to negotiate a sale, exchange, purchase or rental of any business, its good will, inventory, fixtures or an interest therein; any reference to real estate broker contained herein shall apply, so far as is applicable, to a business opportunity broker.

[1955 c 489 s 1]

59 C335 23 82.02 **EXCEPTIONS.** Subdivision 1. **Persons.** This chapter does not apply to a person who performs any of the following acts:

- (a) Acts only in an isolated real estate transaction.
- (b) Acts as an attorney at law, attorney in fact, receiver, trustee in bankruptcy, administrator, executor, or under an order of court, a trust, or a will.
- (c) Any person owning and operating a cemetery and selling lots therein solely for use as burial plots, or any officer or employee thereof who sells such lots solely for use as burial plots;
- (d) Any person who, as owner, lessor, or prospective purchaser, performs any act with reference to property owned, leased, or to be acquired by him, or to his regular employees, where such acts are performed in the regular course of, or as incident to, the management of such property and the investment therein;
- (e) Acts as an auctioneer bonded in conformance with Minnesota Statutes, Section 330.02.

Subd. 2. **Institutions otherwise supervised.** This chapter does not apply to any financial or other institution whose real estate operations are subject to supervision by a regulatory board, body or official of the United States or of any state or territory.

[1955 c 489 s 2]

**82.03 LICENSES.** Subdivision 1. **Requirement.** A person may not act as a real estate broker or a real estate salesman unless he first obtains a license from the commissioner.

C 335 24 Subd. 2. **Application, contents.** Every applicant for a license as a real estate broker or real estate salesman, as the case may be, shall make his application in writing upon blanks prepared and furnished by the commissioner. Each application shall be signed and sworn to by the applicant and shall be accompanied by the license fee herein prescribed. In the event that the commissioner does not issue the license, the fee shall be returned to the applicant.

The application for a real estate broker's license shall give the applicant's name and residence address and all business names and addresses used, or proposed to be used, by him as a real estate broker. Such application shall also give the name and address of each real estate salesman he employs, and other information as the commissioner requires.

The application for a real estate salesman's license shall give the applicant's name and address and the name and place of business of each real estate broker by whom said salesman is employed, and such other information as the commissioner requires.

9 C 335 25 Subd. 3. **Surety bond to accompany application, amount.** The applicant, broker or salesman, shall file with the application a surety bond issued by an insurer authorized to transact such business in this state. The bond shall be in the amount of \$1,000 for each salesman, and \$2,000 for a broker plus \$1,000 for each salesman employed by such broker but not to exceed a maximum bond of \$10,000, with the commissioner as obligee, conditioned for the prompt payment to the person entitled thereto of any amounts received by the real estate broker or salesman or to protect any person from loss resulting from fraud, dishonesty, forgery, or theft in connection with any real estate transaction by the applicant or any real estate salesman he employs; provided, however, that the aggregate liability of the surety to all persons for all losses shall, in no event, exceed the amount of such bond. The bond shall remain operative for a period of time as long as the period for which the license is sought.

9 C 335 27 Subd. 4. **Fees, schedule.** The following fees shall be paid to the commissioner.

(a) For each real estate broker's license, \$15, and for each annual registration of such a license, thereafter \$10;

(b) For each real estate salesman's license, \$5, and for each annual registration of such a license thereafter, \$5.

(c) The license entitles that person to conduct business as a real estate broker or salesman at the place of business designated in the application until July 1 following the date of issuance.

[1955 c 489 s 3]

9 C 335 26 9 C 335 28 **82.04 LICENSES; ISSUANCE, REFUSAL TO ISSUE, REVOCATION; GROUNDS.** The commissioner shall issue a license as a real estate broker or real estate salesman to any person who qualifies for such license under the terms of this chapter. The commissioner may refuse to issue a license to any person or may revoke the license of any real estate broker or real estate salesman when he finds that any of the following conditions exist:

(a) That the real estate broker or real estate salesman has violated any condition of his bond;

(b) That the person, real estate broker, or real estate salesman has been convicted of a fraudulent, deceptive, or dishonest practice;

(c) That the person, real estate broker, or real estate salesman has violated this chapter.

[1955 c 489 s 4]

9 C 335 29 **82.05 WRITTEN CHARGES UPON REFUSAL TO ISSUE LICENSE; NOTICE, HEARING.** The commissioner may not refuse to issue a license under section 82.04 unless he furnishes the person, real estate broker, or real estate salesman with a written statement of the charges against him and affords him an opportunity to be heard upon the charges. He shall be given at least ten days written

notice of the date and time of the hearing. The notice shall be sent by registered mail to the address of the person as shown on his application for license or it may be served in the manner in which a summons is served in civil cases commenced in the district court.

[1955 c 489 s 5]

159 C 335 10/82.06 **HEARING UPON CHARGES.** At the time and place fixed for the hearing the commissioner, or his duly appointed representative, shall hold the hearing and thereafter make his order either dismissing the charges or refusing or revoking the license.

[1955 c 489 s 6]

**82.07 APPEAL TO DISTRICT COURT.** If the commissioner refuses to grant a license, or suspends or revokes a license that has been granted, the applicant shall have the right of appeal with a trial de novo to the district court of the county of the applicant's residence; and in the event the applicant is a nonresident of the state, then to the district court for Ramsey county. Such court shall advance such causes on their calendars for early disposition; and in counties having continuous sessions of court, the same shall be heard within 20 days after such appeal shall have been perfected. Such appeal shall be perfected by the service of a written notice of appeal upon the commissioner within 60 days after notice to the applicant of the commissioner's action.

[1955 c 489 s 7]

**82.08 EXAMINATION OF BROKERS' RECORDS.** The records of each licensed real estate broker, pertaining to his real estate transactions, shall be available for examination by the commissioner, or his duly authorized representative, at any reasonable time when written complaint relating thereto has been received.

[1955 c 489 s 8]

159 C 335 11/82.09 **NEW LICENSES, WHEN ISSUED.** Notice in writing shall be given to the commissioner by each licensee of any change of name, address, employment or business location, whereupon the commissioner shall issue a new license for the unexpired period without charge. Failure to give such notice to the commissioner shall be sufficient cause for cancellation of the license theretofore issued.

[1955 c 489 s 9]

159 C 335 12/82.10 **BROKERS OR SALESMEN NOW IN BUSINESS, CERTIFICATE OF REGISTRATION.** Any person actively engaged as a real estate broker or as a real estate salesman in this state since January 1, 1955, and so engaged on the effective date of this chapter, may secure a certificate of registration as a real estate broker or as a real estate salesman, as the case may be, if he makes written application therefor to the commission within six months after the effective date of this chapter.

[1955 c 489 s 10]

**82.11 DOWN PAYMENT PUT IN TRUST ACCOUNT.** Any licensed real estate broker procuring the execution of an earnest money contract or option or other contract for the sale or purchase of real estate who shall take or receive any cash or down payment shall forthwith deposit said sum or sums so received in a bank or trust company, in a trust account, pending the consummation or termination of the transaction, except as such moneys may be paid to one of the parties pursuant to such contract or option.

[1955 c 489 s 11]

159 C 335 13/82.12 **DUTIES OF COMMISSIONER OF SECURITIES.** Subdivision 1. **Enforcement.** It shall be the duty of the commissioner to administer and provide for the enforcement of all of the provisions of this chapter.

Subd. 2. **Employees, supplies.** The commissioner shall employ such persons and obtain such office space, furniture, stationery and supplies as shall be reasonably necessary for carrying out the provisions of this chapter.

Subd. 3. **Seal.** The commissioner shall adopt a seal, with such design as the commissioner may prescribe engraved thereon, by which he shall authenticate his proceedings.

Subd. 4. **Copies of records as evidence.** Copies of all records and papers in the office of the commissioner, duly certified and authenticated by the seal of said commissioner, shall be received in evidence in all courts equally and with like effect as the original.

Subd. 5. **Records open to public inspection.** All records kept in the office of the commissioner under authority of this chapter shall be open to public inspection under such rules and regulations as shall be prescribed by the commissioner.

[1955 c 489 s 12]

9 C 335 214 **82.13 NONRESIDENTS.** Subdivision 1. **Conformance with act.** A nonresident of this state may become a real estate broker or real estate salesman by conforming to all of the provisions of this chapter.

Subd. 2. **Legal process, service on commissioner.** Every nonresident person, before being licensed as a real estate broker or real estate salesman, shall appoint the commissioner and his successor or successors in office as true and lawful attorney, upon whom may be served all legal process in any action or proceedings against such person, or in which such person may be a party, in relation to or involving any transaction covered by this chapter, which appointment shall be irrevocable. Service upon such attorney shall be as valid and binding as if due and personal service had been made upon such person. Any such appointment shall be effective upon the issuance of the license in connection with which the appointment was filed.

[1955 c 489 s 13]

**82.14 FEES USED TO DEFRAY EXPENSES OF ADMINISTRATION.** All fees collected under this chapter shall be deposited in the state treasury to the credit of the commissioner and used to defray the expenses of administering this chapter.

[1955 c 489 s 14]

**82.15 REAL ESTATE LICENSE REVOLVING FUND.** Subdivision 1. **Creation.** There is hereby created the real estate license revolving fund and all moneys therein are hereby appropriated to the commissioner of securities for the administration and enforcement of this chapter.

C 335 215 Subd. 2. **Appropriation.** Such fund shall consist of the \$8,000 which is hereby appropriated from the general revenue fund in the state treasury and all receipts derived from the administration and enforcement of this chapter, which the commissioner of securities is hereby directed to deposit in the state treasury to the credit of such fund, said appropriation to be available immediately upon passage of this chapter.

Subd. 3. **Payments from fund.** Such fund shall be in the state treasury and the moneys therein shall be paid out in the manner prescribed by law for moneys in the state treasury.

1 C 335 216 Subd. 4. **Transfer of unencumbered balance of fund.** At the end of each fiscal year on June 30 there shall be transferred to the general revenue fund from said revolving fund an amount equal to the amount of the unencumbered balance of said revolving fund at midnight of the preceding April 30.

On September 1, 1955, there shall be transferred from said revolving fund to the general revenue fund \$8,000 and the state auditor and state treasurer are authorized and directed to make the necessary entries upon their books.

[1955 c 489 s 15]

C 335 217 **82.16 VIOLATIONS, PENALTIES.** Any person who violates the provisions of this chapter, or any license or lawful order of the commissioner, shall be guilty of a gross misdemeanor.

[1955 c 489 s 16]