

CHAPTER 82

REAL ESTATE BROKERS AND SALESPERSONS

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82.17 DEFINITIONS.

[For text of subds 1 to 3, see M.S.1986]

Subd. 4. "Real estate broker" or "broker" means any person who:

(a) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys or rents, manages, or offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest or estate in real estate, or advertises or holds out as engaged in these activities;

(b) for another and for 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;

(c) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys, rents, manages, offers or attempts to negotiate a sale, option, exchange, purchase or rental of any business opportunity or business, or its good will, inventory, or fixtures, or any interest therein;

(d) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly offers, sells or attempts to negotiate the sale of property that is subject to the registration requirements of chapter 83, concerning subdivided land;

(e) engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the person undertakes to promote the sale of real estate through its listing in a publication issued primarily for this purpose;

(f) engages wholly or in part in the business of selling real estate to the extent that a pattern of real estate sales is established, whether or not the real estate is owned by the person. A person shall be presumed to be engaged in the business of selling real estate if the person engages as principal in five or more transactions during any 12-month period, unless the person is represented by a licensed real estate broker or salesperson;

(g) offers or makes more than five loans secured by real estate during any 12-month period and who is not a bank, savings bank, mutual savings bank, building and loan association, or savings and loan association organized under the laws of this state or the United States, trust company, trust company acting as a fiduciary, or other financial institution subject to the supervision of the commissioner of commerce, or mortgagee or lender 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.

[For text of subd 5, see M.S.1986]

Subd. 6. "Trust account" means, for purposes of this chapter, a savings account, negotiable order of withdrawal account, demand deposit or checking account main-

tained for the purpose of segregating trust funds from other funds. A trust account shall not be an interest bearing account except by agreement of the parties and subject to rules of the commissioner, and shall not allow the financial institution a right of set off against money owed it by the licensee.

[For text of subds 7 to 9, see M.S.1986]

History: 1987 c 105 s 3; 1987 c 336 s 20

82.175 MORTGAGEE OR LENDER BROKER IN CERTAIN CASES.

(a) Notwithstanding section 82.17, subdivision 4, clause (g), for purposes of this chapter, the term "real estate broker" includes a mortgagee or lender approved or certified by the secretary of Housing and Urban Development, the administrator of Veterans Affairs, the administrator of the Farmers Home Administration, the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Association if the commissioner finds after a hearing that the mortgagee or lender, or an officer, director, partner, employee, or agent of the mortgagee or lender, or a person directly or indirectly controlling the mortgagee or lender: (1) has engaged in a fraudulent, deceptive, or dishonest practice, or (2) has violated section 47.206.

(b) Prior to the hearing under paragraph (a), the commissioner shall issue an order that requires the mortgagee or lender to show cause why the mortgagee or lender should not be determined to be a real estate broker under this section. The order must be calculated to give reasonable notice of the time and place for the hearing and must state the reasons for the entry of the order to show cause. Hearings must be conducted under chapter 14.

History: 1987 c 336 s 21

82.21 FEES.

Subdivision 1. **Amounts.** The following fees shall be paid to the commissioner:

(a) A fee of \$50 for each initial individual broker's license, and a fee of \$25 for each annual renewal thereof;

(b) A fee of \$25 for each initial salesperson's license, and a fee of \$10 for each annual renewal thereof;

(c) A fee of \$50 for each initial corporate or partnership license, and a fee of \$25 for each annual renewal thereof;

(d) A fee not to exceed \$40 per year for payment to the education, research and recovery fund in accordance with section 82.34;

(e) A fee of \$10 for each transfer;

(f) A fee of \$25 for a corporation or partnership name change;

(g) A fee of \$5 for an agent name change;

(h) A fee of \$10 for a license history;

(i) A fee of \$5 for a duplicate license; and

(j) A fee of \$5 for each hour or fraction of one hour of course approval sought.

[For text of subds 2 and 3, see M.S.1986]

History: 1987 c 336 s 22

82.22 EXAMINATIONS.

[For text of subds 1 to 5, see M.S.1986]

Subd. 6. **Instruction; new licenses.** (a) After January 1, 1987, every applicant for a salesperson's license shall be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. After January 1, 1987, every applicant for a salesperson's license shall be required to successfully complete an

additional course of study in the real estate field consisting of 60 hours of instruction approved by the commissioner before filing an application for the license. Every salesperson licensed after January 1, 1987, shall, within one year of licensure, be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner.

(b) After December 31, 1983, and before January 1, 1987, every applicant for a salesperson's license shall be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. After December 31, 1983, and before January 1, 1987, every applicant for a salesperson's license shall be required to successfully complete an additional course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before filing an application for the license. Every salesperson licensed after December 31, 1983, and before January 1, 1987, shall, within one year of the date a license was first issued, be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner.

(c) The commissioner may approve courses of study in the real estate field offered in educational institutions of higher learning in this state or courses of study in the real estate field developed by and offered under the auspices of the national association of realtors, its affiliates, or private real estate schools. The commissioner shall not approve any course offered by, sponsored by, or affiliated with any person or company licensed to engage in the real estate business. The commissioner may by rule prescribe the curriculum and qualification of those employed as instructors.

(d) After January 1, 1988, an applicant for a broker's license must successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner. The course must have been completed within six months prior to the date of application for the broker's license.

[For text of subs 7 to 13, see M.S.1986]

History: 1987 c 336 s 23

82.24 TRUST ACCOUNT REQUIREMENTS.

Subdivision 1. **Generally.** All trust funds received by a broker or the broker's salespeople shall be deposited forthwith upon receipt in a trust account, maintained by the broker for such purpose in a bank, savings and loan association, credit union, or an industrial loan and thrift company with deposit liabilities designated by the broker, except as such money may be paid to one of the parties pursuant to express written agreement between the parties to a transaction. The depository bank shall be a Minnesota bank or trust company or any foreign bank and shall authorize the commissioner to examine its records of such deposits upon demand by the commissioner. The industrial loan and thrift company shall be organized under chapter 53. The savings and loan association or credit union shall be organized under the laws of any state or the United States.

Subd. 2. **Licensee acting as principal.** A real estate licensee acting in the capacity of principal in a real estate transaction where the seller retains any liability, contingent or otherwise, for the payment of an obligation on the property shall deposit in a Minnesota bank or trust company, any foreign bank which authorizes the commissioner to examine its records of the deposits, a savings and loan association, credit union, or an industrial loan and thrift company organized under chapter 53 with deposit liabilities, in a trust account, those parts of all payments received on contracts that are necessary to meet any amounts concurrently due and payable on any existing mortgages, contracts for deed or other conveyancing instruments, and reserve for taxes and insurance or any other encumbrance on the receipts. The deposits must be maintained until disbursement is made under the terms of the encumbrance and proper accounting on the property made to the parties entitled to an accounting. The provisions of this subdivision relating to rental of interests in real estate apply only to single-family residential property.

[For text of subds 3 to 5, see M.S.1986]

Subd. 6. **Notice of trust account status.** The names of the banks, savings and loan associations, credit unions, and industrial loan and thrift companies and the trust account numbers used by a broker shall be provided to the commissioner at the time of application for the broker's license. The broker shall immediately report to the commissioner any change of trust account status including changes in banks, savings and loan associations, credit unions, and industrial loan and thrift companies, account numbers, or additional accounts in the same or other banks, savings and loan associations, credit unions, and industrial loan and thrift companies. A broker shall not close an existing trust account without giving ten days written notice to the commissioner.

[For text of subd 7, see M.S.1986]

History: 1987 c 105 s 4-6; 1987 c 336 s 24

82.25 [Repealed, 1987 c 336 s 47]

82.26 [Repealed, 1987 c 336 s 47]

82.34 REAL ESTATE EDUCATION, RESEARCH AND RECOVERY FUND.

[For text of subds 1 to 18, see M.S.1986]

Subd. 19. The commissioner shall, on or before October 1 in each even-numbered year, prepare and file in the office of the governor for the preceding two fiscal years ending June 30 a report on the activities of the real estate education, research and recovery fund; noting the amount of money received by the fund, the amount of money expended and the purposes therefor.

[For text of subd 20, see M.S.1986]

History: 1987 c 336 s 25