

CHAPTER 82

REAL ESTATE BROKERS AND SALESPERSONS

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82.18 EXCEPTIONS.

Unless a person is licensed or otherwise required to be licensed under this chapter, the term real estate broker does not include:

(a) a licensed practicing attorney if the attorney complies in all respects with the trust account provisions of this chapter;

(b) a receiver, trustee, administrator, guardian, executor, or other person appointed by or acting under the judgment or order of any court;

(c) any person owning and operating a cemetery and selling lots therein solely for use as burial plots;

(d) any custodian, janitor, or employee of the owner or manager of a residential building who leases residential units in the building;

(e) any bank, trust company, savings and loan association, industrial loan and thrift company, regulated lender under chapter 56, public utility, or land mortgage or farm loan association organized under the laws of this state or the United States, when engaged in the transaction of business within the scope of its corporate powers as provided by law;

(f) public officers while performing their official duties;

(g) employees of persons enumerated in clauses (b), (e), and (f), when engaged in the specific performance of their duties;

(h) any person who acts as an auctioneer bonded in conformity with section 330.02, when that person is engaged in the specific performance of duties as an auctioneer, and when that person has been employed to auction real estate by a person licensed under this chapter or when the auctioneer has engaged a licensed attorney to supervise the real estate transaction;

(i) any person who acquires real estate for the purpose of engaging in and does engage in, or who is engaged in the business of constructing residential, commercial or industrial buildings for the purpose of resale if no more than 25 such transactions occur in any 12-month period and the person complies with section 82.24;

(j) any person who is licensed as a securities broker-dealer or is licensed as a securities agent representing a broker-dealer pursuant to chapter 80A and who offers to sell or sells an interest or estate in real estate which is a security as defined in section 80A.14, subdivision 18, and is registered or exempt from registration or part of a transaction exempt from registration pursuant to chapter 80A, when acting solely as an incident to the sale of these securities;

(k) any person who offers to sell or sells a business opportunity which is a franchise registered pursuant to chapter 80C, when acting solely to sell the franchise;

(l) any person who contracts with or solicits on behalf of a provider a contract with a resident or prospective resident to provide continuing care in a facility, pursuant to the Continuing Care Facility Disclosure and Rehabilitation Act (chapter 80D), when acting solely as incident to the contract;

(m) any broker-dealer or agent of a broker-dealer when participating in a transaction in which all or part of a business opportunity or business, including any interest therein, is conveyed or acquired pursuant to an asset purchase, merger, exchange of securities, or other business combination, if the agent or broker-dealer is licensed pursuant to chapter 80A;

(n) an accountant acting incident to the practice of the accounting profession if the accountant complies in all respects with the trust account provisions of this chapter.

History: 1991 c 311 s 1

82.20 LICENSING REQUIREMENTS.*[For text of subds 1 to 3, see M.S.1990]*

Subd. 4. Corporate and partnership licenses. (a) A corporation applying for a license shall have at least one officer individually licensed to act as broker for the corporation. The corporation broker's license shall extend no authority to act as broker to any person other than the corporate entity. Each officer who intends to act as a broker shall obtain a license;

(b) A partnership applying for a license shall have at least one partner individually licensed to act as broker for the partnership. Each partner who intends to act as a broker shall obtain a license;

(c) Applications for a license made by a corporation shall be verified by the president and one other officer. Applications made by a partnership shall be verified by at least two partners;

(d) Any partner or officer who ceases to act as broker for a partnership or corporation shall notify the commissioner upon said termination. The individual licenses of all salespersons acting on behalf of a corporation or partnership, are automatically ineffective upon the revocation or suspension of the license of the partnership or corporation. The commissioner may suspend or revoke the license of an officer or partner without suspending or revoking the license of the corporation or partnership;

(e) The application of all officers of a corporation or partners in a partnership who intend to act as a broker on behalf of a corporation or partnership shall accompany the initial license application of the corporation or partnership. Officers or partners intending to act as brokers subsequent to the licensing of the corporation or partnership shall procure an individual real estate broker's license prior to acting in the capacity of a broker. No corporate officer who maintains a salesperson's license may exercise any authority over any trust account administered by the broker nor may they be vested with any supervisory authority over the broker;

(f) The corporation or partnership applicant shall make available upon request, such records and data required by the commissioner for enforcement of this chapter.

*[For text of subds 5 to 15, see M.S.1990]***History:** 1991 c 20 s 1**82.22 EXAMINATIONS.**

Subdivision 1. Generally. Each applicant for a license must pass an examination conducted by the commissioner. The examinations shall be of sufficient scope to establish the competency of the applicant to act as a real estate broker or a real estate salesperson.

[For text of subds 2 to 4, see M.S.1990]

Subd. 5. Period for application. An applicant who obtains an acceptable score on a salesperson's examination must file an application and obtain the license within one year of the date of successful completion of the examination or a second examination must be taken to qualify for the license. If a new examination is required, prelicense education must be completed in accordance with subdivision 6.

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, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules, before filing an application for the license. Every salesperson licensed after January 1, 1987, shall, within one year of licen-

sure, 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, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules. The course must have been completed within six months prior to the date of application for the broker's license.

(e) After August 1, 1989, an applicant for a real estate closing agent's license must successfully complete a course of study relating to closing services consisting of eight hours of instruction approved by the commissioner.

[For text of subds 7 to 9, see M.S.1990]

Subd. 10. Renewal; examination. Except as provided in subdivisions 3 and 7, no examination shall be required for the renewal of any license, provided, however, any licensee having been licensed as a broker or salesperson in the state of Minnesota and who shall fail to renew the license for a period of two years shall be required by the commissioner to again take an examination.

Subd. 11. Examination eligibility; revocation. No applicant shall be eligible to take any examination if a license as a real estate broker or salesperson has been revoked in this or any other state within two years of the date of the application.

[For text of subd 12, see M.S.1990]

Subd. 13. Continuing education. (a) After July 1, 1987, all real estate salespersons and all real estate brokers shall be required to successfully complete 15 hours of real estate education, either as a student or a lecturer, in courses of study approved by the commissioner, each year after their initial annual renewal date or after the expiration of their currently assigned three year continuing education due date. All salespersons and brokers shall report continuing education on an annual basis no later than June 30, 1990. Hours in excess of 15 earned in any one year may be carried forward to the following year.

(b) The commissioner shall adopt rules defining the standards for course and instructor approval, and may adopt rules for the proper administration of this subdivision.

(c) Any program approved by Minnesota continuing legal education shall be approved by the commissioner of commerce for continuing education for real estate brokers and salespeople if the program or any part thereof relates to real estate.

(d) As part of the continuing education requirements of this section, the commis-

sioner shall require that all real estate brokers and salespersons receive at least two hours of training every even-numbered year in courses in state and federal fair housing laws, regulations, and rules.

History: 1991 c 75 s 1,2; 1991 c 233 s 48-51