

CHAPTER 82

REAL ESTATE BROKERS AND SALESPERSONS

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82.19 PROHIBITIONS.

[For text of subs 1 and 2, see M.S.1996]

Subd. 3. No real estate broker, salesperson, or closing agents shall offer, pay, or give, and no person shall accept, any compensation or other thing of value from any real estate broker, salesperson, or closing agents by way of commission—splitting, rebate, finder's fees, or otherwise, in connection with any real estate or business opportunity transaction. This subdivision does not apply to transactions (1) between a licensed real estate broker or salesperson and the person by whom the broker or salesperson is engaged to purchase or sell real estate or business opportunity, (2) among persons licensed as provided herein, (3) between a licensed real estate broker or salesperson and persons from other jurisdictions similarly licensed in that jurisdiction, (4) involving timeshare or other recreational lands where the amount offered or paid does not exceed \$150, and payment is not conditioned upon any sale but is made merely for providing the referral and the person paying the fee is bound by any representations the person receiving the fee makes, and (5) involving a person who receives a referral fee from a person or an agent of a person licensed under this section, provided that in any 12-month period, no recipient may earn more than the value of one month's rent, that the recipient is a resident of the property or has lived there within 60 days of the payment of the fee, and that the person paying the fee is bound by any representations made by the recipient of the fee. A licensed real estate broker or salesperson may assign or direct that commissions or other compensation earned in connection with any real estate or business opportunity transaction be paid to a corporation of which the licensed real estate broker or salesperson is the sole owner.

[For text of subs 4 to 8, see M.S.1996]

Subd. 9. **Exclusive agency agreements.** (a) Except as provided in paragraph (b), a licensee shall not negotiate the sale, exchange, lease, or listing of any real property directly with the owner or lessor knowing that the owner or lessor has executed a written exclusive listing contract or exclusive contract for nonagency services in connection with the property with another real estate broker, buyer, or lessee, nor shall a licensee negotiate the purchase, lease, or exchange of real property knowing that the buyer or lessee has executed a written exclusive buyer representation contract or exclusive contract for nonagency services for the purchase, lease, or exchange of the real property with another real estate broker.

(b) A licensee may discuss the terms upon which a listing or buyer representation contract or a contract for nonagency services may be entered into after expiration of any existing exclusive contract when the inquiry or discussion is initiated by the owner, lessor, buyer, or lessee. The licensee must inquire of the owner, lessor, buyer, or lessee whether such an exclusive contract exists.

History: 1997 c 73 s 1; 1997 c 222 s 33

82.20 LICENSING REQUIREMENTS.

[For text of subs 1 to 14, see M.S.1996]

Subd. 15. **Exemption.** The following persons, when acting as closing agents, are exempt from the requirements of sections 82.19 and 82.24 unless otherwise required in this section or chapter:

(1) a direct employee of a title insurance company authorized to do business in this state, or a direct employee of a title company, or a person who has an agency agreement with a title

insurance company or a title company in which the agent agrees to perform closing services on the title insurance company's or title company's behalf and the title insurance company or title company assumes responsibility for the actions of the agent as if the agent were a direct employee of the title insurance company or title company;

(2) a licensed attorney or a direct employee of a licensed attorney;

(3) a licensed real estate broker or salesperson;

(4) a direct employee of a licensed real estate broker if the broker maintains all funds received in connection with the closing services in the broker's trust account;

(5) any bank, trust company, savings association, credit union, 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 businesses within the scope of its corporate powers as provided by law;

(6) a title insurance company authorized to do business in this state; and

(7) a title company that has a contractual agency relationship with a title insurance company authorized to do business in this state, where the title insurance company assumes responsibility for the actions of the title company and its employees or agents as if they were the employees or agents of the title insurance company.

History: 1997 c 222 s 34

82.21 FEES.

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

(a) A fee of \$150 for each initial individual broker's license, and a fee of \$100 for each renewal thereof;

(b) A fee of \$70 for each initial salesperson's license, and a fee of \$40 for each renewal thereof;

(c) A fee of \$85 for each initial real estate closing agent license, and a fee of \$60 for each renewal thereof;

(d) A fee of \$150 for each initial corporate, limited liability company, or partnership license, and a fee of \$100 for each renewal thereof;

(e) A fee for payment to the education, research and recovery fund in accordance with section 82.34;

(f) A fee of \$20 for each transfer;

(g) A fee of \$50 for license reinstatement; and

(h) A fee of \$20 for reactivating a corporate, limited liability company, or partnership license without land.

[For text of subs 2 to 4, see M.S.1996]

History: 1997 c 200 art 1 s 48

82.22 EXAMINATIONS.

[For text of subs 1 to 12, see M.S.1996]

Subd. 13. **Continuing education.** (a) After their first renewal date, all real estate salespersons and all real estate brokers shall be required to successfully complete 30 hours of real estate continuing education, either as a student or a lecturer, in courses of study approved by the commissioner, during each 24-month license period. At least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period. Salespersons and brokers whose initial license period extends more than 12 months are required to complete 15 hours of real estate continuing education during the initial license period. Those licensees who will receive a 12-month license on July 1, 1995, because of the staggered implementation schedule must complete 15 hours of real estate continuing education as a requirement for renewal on July 1, 1996. Licensees may not claim credit for continuing education not actually completed as of the date their report of continuing education compliance is filed.

(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. The commissioner may not approve a course which can be completed by the student at home or outside the classroom without the supervision of an instructor approved by the department of commerce. The commissioner has discretion to establish a pilot program to explore delivery of accredited courses using new delivery technology, including interactive technology. This pilot program expires on August 1, 2000.

(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 commissioner shall require that all real estate brokers and salespersons receive:

(1) at least two hours of training during each license period in courses in laws or regulations on agency representation and disclosure; and

(2) at least two hours of training during each license period in courses in state and federal fair housing laws, regulations, and rules, or other antidiscrimination laws.

Clause (1) does not apply to real estate salespersons and real estate brokers engaged solely in the commercial real estate business who file with the commissioner a verification of this status along with the continuing education report required under paragraph (a).

(e) The commissioner is authorized to establish a procedure for renewal of course accreditation.

History: 1997 c 222 s 35

82.24 TRUST ACCOUNT REQUIREMENTS.

[For text of subs 1 to 4, see M.S.1996]

Subd. 5. **Trust accounts.** (a) Each broker or closing agent shall maintain and retain records of all trust funds and trust accounts. The commissioner may prescribe information to be included in the records by appropriate rules.

(b) A check received from a potential buyer shall be deposited into the listing broker's trust account not later than the third business day after delivery of the check to the broker, except that the check may be held by the listing broker until acceptance or rejection of the offer if:

(1) the check by its terms is not negotiable by the broker or if the potential buyer has given written instructions that the check shall not be deposited nor cashed until acceptance or shall be immediately returned if the offer is rejected; and

(2) the potential seller is informed that the check is being so held before or at the time the offer is presented to that person for acceptance.

If the offer is accepted, the check shall be deposited in a neutral escrow depository or the trust fund account of the listing broker not later than the third business day following acceptance of the offer unless the broker has received written authorization from all parties to the transaction to continue to hold the check. If the offer is rejected, the check shall be returned to the potential buyer not later than the next business day after rejection.

[For text of subs 6 to 8, see M.S.1996]

History: 1997 c 222 s 36