

82.34 LICENSING; OTHER REQUIREMENTS.

Subdivision 1. MS 2002 [Renumbered 82.43, subdivision 1]

Subdivision 1. **Generally.** (a) The commissioner shall issue a license as a real estate broker, real estate salesperson, or closing agent to any person who qualifies for such 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 82.23, clause (d), from the definition of real estate broker, to obtain the special license.

Subd. 2. MS 2002 [Renumbered 82.43, subd 2]

Subd. 2. **Additional broker's license.** An individual who holds a broker's license in his or her own name or for or on behalf of a corporation or partnership must be issued an additional broker's license only upon demonstrating that the additional license is necessary in order to serve a legitimate business purpose; that the broker will be capable of supervising all salespersons over whom he or she will have supervisory responsibility or, in the alternative, that the broker will have no supervisory responsibilities under the additional license; and that the broker has a substantial ownership interest in each corporation or partnership for or on whose behalf he or she holds or will hold a broker's license.

The requirement of a substantial ownership interest does not apply where the broker seeking the additional license or licenses is an officer of a corporation for or on whose behalf the broker already holds a license and the broker is applying for the additional license or licenses for or on behalf of an affiliated corporation or corporations of which he or she is also an officer. For the purpose of this section and sections 82.31, subdivisions 1 to 4; 82.33, subdivisions 1 to 3; 82.35, subdivision 2; and 82.39, "affiliated corporation" means a corporation which is directly or indirectly controlled by the same persons as the corporation for or on whose behalf the broker is already licensed to act.

For the purposes of this section and sections 82.31, subdivisions 1 to 4; 82.33, subdivisions 1 to 3; 82.35, subdivision 2; and 82.39, a legitimate business purpose includes engaging in a different and specialized area of real estate or maintaining an existing business name.

Subd. 3. MS 2002 [Renumbered 82.43, subd 3]

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. MS 2002 [Renumbered 82.43, subd 4]

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. The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until canceled or until such licensee leaves such broker.

Subd. 5. MS 2002 [Renumbered 82.43, subd 5]

Subd. 5. **Effective date of license.** Licenses renewed pursuant to this chapter are valid for a period of 24 months. New licenses issued during a 24-month licensing period will expire on June 30 of the expiration year assigned to the license. Implementation of the 24-month licensing program must be staggered so that approximately one-half of the licenses will expire on June 30 of each even-numbered year and the other one-half on June 30 of each odd-numbered year. Those licensees who will receive a 12-month license on July 1, 1995, because of the staggered implementation schedule will pay for the license a fee reduced by an amount equal to one-half the fee for renewal of the license.

Subd. 6. MS 2002 [Renumbered 82.43, subd 6]

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. MS 2002 [Renumbered 82.43, subd 7]

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 sales person 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 82.39, subdivision 1.

Subd. 7a. [Renumbered 82.43, subd 8]

Subd. 8. MS 2002 [Renumbered 82.43, subd 9]

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. MS 2002 [Renumbered 82.43, subd 10]

Subd. 9. **Effective date.** (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. MS 2002 [Renumbered 82.43, subd 11]

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. MS 2002 [Renumbered 82.43, subd 12]

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. MS 1988 [Repealed, 1989 c 347 s 43]

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. MS 2002 [Renumbered 82.43, subd 13]

Subd. 13. **Limited broker's license.** (a) The commissioner shall have the authority to issue a limited real estate broker's license authorizing the licensee to engage in transactions as principal only. Such license shall be issued only after receipt of the application described in section 82.31, subdivision 2, and payment of the fee prescribed by section 82.24, subdivision 1. No salesperson may be licensed to act on behalf of an individual holding a limited broker's license. An officer of a corporation or partner of a partnership licensed as a limited broker may act on behalf of that corporation or partnership without being subject to the licensing requirements.

(b) A limited broker's license shall also authorize the licensee to engage in negotiation of mortgage loans, other than residential mortgage loans, as described in section 82.17, subdivision 18, clause (b).

Subd. 14. MS 2002 [Renumbered 82.43, subd 14]

Subd. 14. **Licenses; extending duration.** Notwithstanding the provisions of subdivision 5 and section 82.33, subdivisions 2 and 3, 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 82.31, subdivisions 1 to 4; 82.33, subdivisions 1 to 3; 82.35, subdivision 2; and 82.39.

Subd. 15. MS 2002 [Renumbered 82.43, subd 15]

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.

Subd. 16. MS 2002 [Renumbered 82.43, subd 16]

Subd. 16. **Exemption.** The following persons, when acting as closing agents, are exempt from the requirements of sections 82.41 and 82.50 unless otherwise required in this 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.

Subd. 17. [Renumbered 82.43, subd 17]

Subd. 18. [Renumbered 82.43, subd 18]

Subd. 19. [Renumbered 82.43, subd 19]

Subd. 20. [Repealed, 1992 c 555 art 1 s 13]

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