

in going to and returning from the county-seat of the county to attend any meeting of the assessors of the county which may be legally called by the county auditor, and also for each mile necessarily traveled in making his return of assessment to the proper county officer. At the annual town meeting, after reading and disposing of the annual report, the electors may fix the compensation of the assessor on an annual basis, but such compensation in any town having an assessed valuation of more than \$200,000 and less than \$1,000,000 when so fixed shall not exceed \$1,000 and shall not be less than \$100 in any one year. In any town having an assessed valuation, including money and credits, of less than \$200,000 the maximum compensation for assessor in any year shall not exceed \$800 and shall not be less than \$75. *In any town having an assessed valuation of \$1,000,000 or more, the maximum compensation shall not exceed \$1,500 and shall not be less than \$300.* In addition to the per diem or compensation fixed on an annual basis the electors, at the annual town meeting, may allow the assessor mileage at the rate of *seven and one-half cents* for each mile necessarily traveled in his assessment work. This subdivision does not apply to any county having not less than 450,000 inhabitants and an assessed valuation, including money and credits, of more than \$450,000,000.

Approved April 18, 1959.

CHAPTER 335—H. F. No. 250

[Coded in Part]

An act relating to the licensing and regulation of real estate brokers and salesmen; amending Minnesota Statutes 1957, Section 82.01, Subdivision 4; Section 82.01, Subdivision 5; Section 82.02, Subdivision 1, and adding a Subdivision thereto; Section 82.03, Subdivision 2; Section 82.03, Subdivision 3; Section 82.03, Subdivision 4; Section 82.04; Section 82.05; Section 82.06; Section 82.09; Section 82.10; Section 82.12, Subdivision 1; Section 82.13; Section 82.15, Subdivision 2; Section 82.15, Subdivision 4; Section 82.16.

Be it enacted by the Legislature of the State of Minnesota :

Section 1. Minnesota Statutes 1957, Section 82.01, Subdivision 4, is amended to read :

Subd. 4. **Real estate broker.** "Real estate broker" means any person, including "business opportunity broker" as defined in subdivision 6, who, for a fee, commission or other

valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases any real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate any such activity; or who advertises or holds himself or itself out as engaged in such activities; or shall negotiate or attempt to negotiate a loan secured or to be secured by mortgage or other encumbrance, upon a transfer of real estate; and shall include any person employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a fee, commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell, exchange or lease, or offer or attempt or agree to negotiate the sale, exchange or lease of any such lot or parcel of real estate; and shall include also any person, who for another, and for a fee, commission or other valuable consideration, sells, exchanges, buys or rents or offers, or attempts to negotiate a sale, exchange, purchase or rental of any business, its goodwill, inventory, fixtures, or an interest therein and also includes any person who engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby he undertakes to promote the sale of real estate through its listing in a publication issued primarily for such purpose.

Sec. 2. Minnesota Statutes 1957, Section 82.01, Subdivision 5, is amended to read:

Subd. 5. **Real estate salesman.** "Real estate salesman" means *one who is employed by a real estate broker to perform any act authorized by Minnesota Statutes sections 82.01 to 82.16 to be performed by a real estate broker.*

Sec. 3. Minnesota Statutes 1957, Section 82.02, Subdivision 1, is amended to read:

82.02, Subdivision 1. **Persons.** *Minnesota Statutes 82.01 to 82.16 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 *and such auctioneer may engage in the sale of real estate incidental to his work as an auctioneer, as defined and regulated by Minnesota Statutes 1957, Chapter 82, without any additional license or bond.*

Sec. 4. Minnesota Statutes 1957, Section 82.03, Subdivision 2, is amended to read :

Subd. 2. **Associations, qualifications; applications; qualifications of applicants.** *No real estate broker's license shall be issued to a partnership, association or corporation, unless all the members or officers thereof who will actively engage in the real estate-business or business opportunity business satisfy the same requirements in every respect provided for in Minnesota Statutes sections 82.01 to 82.16 for an individual broker.*

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. *Every applicant for a real estate broker's license shall be at least 21 years of age and a citizen of the United States, but a person not a citizen of the United States may be granted a license after due proof is made to the commissioner that he has applied for his first papers to become such a citizen.* 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, *age* 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 *such* other information as the commissioner requires.

The application for a real estate salesman's license shall give the applicant's name, *age* and address and the name and place of business of *the* real estate broker by whom said sales-

man is *or is to be* employed, and such other information as the commissioner requires.

Sec. 5. Minnesota Statutes 1957, Section 82.03, Subdivision 3, is amended to read:

Subd. 3. **Bond.** The applicant, broker or salesman, shall file with the application a surety bond issued by an insurer authorized to transact 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 *State of Minnesota* as obligee, conditioned for the prompt payment to *any person* entitled thereto, *other than a salesman, partner or associate of licensee*, of any amounts received by the real estate broker or salesman or to protect any person, *other than a salesman, partner or associate of licensee*, from loss resulting from fraud, dishonesty, forgery, or theft in connection with any real estate transaction by the *real estate broker* 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.

Sec. 6. [82.035] **Examination.** *Each applicant for a license shall be required to pass an examination conducted by the commissioner or his authorized representative. This examination shall be of a true or false or multiple choice type of examination and shall be of such scope and wording as to be sufficient, in the judgment of the commissioner, to establish the competency of the applicant to act as a real estate broker or as a real estate salesman. The examination for a real estate broker's license shall be more exacting than that for a real estate salesman, and will require a higher standard of knowledge as to the fundamentals of real estate practices and general knowledge of the real estate licensing law. An applicant for a real estate broker's license shall satisfactorily show to the commissioner that he understands and has the general knowledge of the legal effect of earnest money contracts, deeds, mortgages, contracts for deed, and leases, and understands generally the liability of the agent to his principal. No examination shall be required for the renewal of any license, unless such license had theretofore been revoked or suspended. Provided, however, any licensee having been licensed as a broker or salesman in the state of Minnesota and who shall fail to renew his license may be required by the commissioner to again take an examination.*

No applicant shall be eligible to take the examination if his license as a real estate broker or salesman has been revoked in this or any other state within two years of the date of the application.

The commissioner or his duly authorized representative shall hold examinations at such times and places as he may determine, except that the commissioner or his duly authorized representative shall hold said examinations at least every 90 days. The examination shall be predicated upon material contained in a manual to be prepared and made available by the commissioner.

The commissioner or his duly authorized representative may issue a temporary permit to a licensed Real Estate broker for the employment of an unlicensed Real Estate Salesman for a term not to exceed 10 days after the next scheduled examination following the date of such issuance. Said temporary permits shall be subject to all the provisions of Minnesota Statutes sections 82.01 to 82.16 except as modified by the provisions of this paragraph.

An examination fee of \$10 shall be paid by each applicant, in addition to the license fee, which examination fee shall be retained by the commissioner whether or not the applicant passes the examination.

Sec. 7. Minnesota Statutes 1957, Section 82.03, Subdivision 4, is amended to read:

Subd. 4. Fees. The following fees shall be paid to the commissioner:

(a) For each real estate broker's initial license, \$15, and for each annual renewal of such a license, \$10; for each initial license as real estate broker issued to an additional designated member of a partnership or association, or officer of a corporation, a fee of \$5; and for each annual renewal of such license, \$5.

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

Sec. 8. Minnesota Statutes 1957, Section 82.04, is amended to read:

Issuance or refusal to issue; revocation or suspension.

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 *Minnesota Statutes sections 82.01 to 82.16*. The commissioner may refuse to issue a license to any person or may *suspend or 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 *any provision of Minnesota Statutes sections 82.01 to 82.16*.

This section shall not be construed to relieve any person from civil liability or from criminal prosecution under Minnesota Statutes sections 82.01 to 82.16 or under law of this state.

Sec. 9. Minnesota Statutes 1957, Section 82.05, is amended to read:

Statement of charges; notice of hearing. The commissioner may not refuse to issue a license or *suspend or revoke 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.

Sec. 10. Minnesota Statutes 1957, Section 82.06, is amended to read:

Hearing. 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, *suspending*, or revoking the license.

Sec. 11. Minnesota Statutes 1957, Section 82.09, is amended to read:

Change of name, address, etc. 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 *suspension or revocation* of the license theretofore issued.

Sec. 12. Minnesota Statutes 1957, Section 82.10, is amended to read:

Associations; licensing of officers and members. *Each real estate broker's license granted to any firm, partnership, association or corporation shall require such real estate broker to designate which of its members or officers are actively engaged in the real estate business who, upon compliance with the terms of Minnesota Statutes sections 82.01 to 82.16 shall, upon issuance of said real estate broker's license, be entitled to perform all of the acts of a real estate broker contemplated by Minnesota Statutes sections 82.01 to 82.16; provided, that a real estate broker's license granted to any individual, firm, partnership, association or corporation shall not be transferable.*

Each officer and member so designated, however, must make application for an individual real estate broker's license, which application shall accompany the application for the real estate broker's license for the firm, partnership, association or corporation and be filed with the commissioner at the same time as the application of the firm, partnership, association or corporation for a license.

Each designated active member of a firm, partnership, or association or designated active officer of a corporation shall obtain a real estate broker's license as herein specified: Provided that the license of any such member or officer who ceases to be connected with such firm, partnership, association or corporation shall be automatically suspended, and that said license shall be automatically suspended upon the revocation of the real estate broker's license of such firm, partnership, association or corporation.

Provided, further, that in the event any person becomes an active designated member of a partnership or association or an active officer of a corporation after the issuance of a real estate broker's license thereto, he shall, as a prerequisite to becoming an active member or officer, procure an individual real estate broker's license as herein provided.

Sec. 13. Minnesota Statutes 1957, Section 82.12, Subdivision 1, is amended to read:

82.12, Subdivision 1. **Enforcement.** It shall be the duty of the commissioner to administer and provide for the enforcement of all of the provisions of *Minnesota Statutes sections 82.01 to 82.16.*

Sec. 14. *Minnesota Statutes 1957, Section 82.13, is amended to read:*

82.13, **Nonresidents.** Subdivision 1. **Licensing.** A nonresident of this state may become a real estate broker or real estate salesman by conforming to all of the provisions of *Minnesota Statutes sections 82.01 to 82.16.*

Subd. 2. **Service of process.** 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 *Minnesota Statutes sections 82.01 to 82.16*, 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.

The commission of any act which constitutes a violation of Minnesota Statutes sections 82.01 to 82.16 by any nonresident person who has not theretofore appointed the commissioner his attorney in compliance with the first paragraph of this subdivision shall be conclusively deemed an irrevocable appointment by such person of the commissioner and his successor or successors in any action or proceeding against him or in which he may be a party in relation to or involving such violation, and such violation shall be a signification of his agreement that all such legal process which is so served shall be as valid and binding upon him as if due and personal service thereof had been made upon him.

Service of process under this section shall be made by delivering a copy thereof to the commissioner personally or by filing the same in his office, accompanied by one additional copy for each person so served, and by the mailing by the commissioner of a copy thereof by registered mail, not later than the business day following the day of such service, to each person so served, at his address as shown by the records at the office of the commissioner in the case of service made on the commissioner as attorney pursuant to appointment in compliance with the first paragraph of this section and at his

last known address in the case of service on the commissioner as attorney pursuant to appointment by virtue of the second paragraph of this subdivision.

Sec. 15. Minnesota Statutes 1957, Section 82.15, Subdivision 2 is amended to read:

Subd. 2. **Contents of fund.** Such fund shall consist of all receipts derived from the administration and enforcement of *Minnesota Statutes sections 82.01 to 82.16*, which the commissioner of securities is hereby directed to deposit in the state treasury to the credit of such fund.

Sec. 16. Minnesota Statutes 1957, Section 82.15, Subdivision 4, is amended to read:

Subd. 4. **Transfers from 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.

Sec. 17. Minnesota Statutes 1957, Section 82.16, is amended to read:

82.16, Violations; actions to collect compensation. *Subdivision 1. Gross misdemeanor.* Any person who violates the provisions of *Minnesota Statutes sections 82.01 to 82.16*, or any license or lawful order of the commissioner, shall be guilty of a gross misdemeanor.

Subd. 2. Necessity of licensing. No person shall bring or maintain any action in the courts of this state for the collection of compensation for the performance of any of the acts mentioned in *Minnesota Statutes sections 82.01 to 82.16* without alleging and proving that he was a duly licensed real estate broker or salesman at the time the alleged cause of action arose.

Sec. 18. Minnesota Statutes 1957, Section 82.02, is amended by adding a subdivision, as follows:

Subd. 3. Attorneys. This chapter does not apply to any attorney at law duly admitted to practice in the State of Minnesota except that he shall comply with the requirements of *Minnesota Statutes 1957, Chapter 82.11*.

Approved April 18, 1959.
