

- 53 Wisconsin Statute section 452.133(1) states that in providing brokerage services to a party to a transaction (including both  
54 clients and customers), a broker shall do all of the following:
- 55 (a) Provide brokerage services to all parties to the transaction honestly, fairly and in good faith.
  - 56 (b) Diligently exercise reasonable skill and care in providing brokerage services to all parties.
  - 57 (c) Disclose to each party all material adverse facts that the broker knows and that the party does not know or cannot discover  
58 through reasonably vigilant observation, unless the disclosure of a material adverse fact is prohibited by law.
  - 59 (d) Keep confidential any information given to the broker in confidence, or any information obtained by the broker that he or she  
60 knows a reasonable party would want to be kept confidential, unless the information must be disclosed under (c) or Wis.  
61 Stats. sec. 452.23 (information contradicting third party inspection or investigation reports) or is otherwise required by law to  
62 be disclosed or the party whose interests may be adversely affected by the disclosure specifically authorizes the disclosure  
63 of particular confidential information (see lines 26 to 31, page 1). A broker shall continue to keep the information confidential  
64 after the transaction is complete and after the broker is no longer providing brokerage services to the party.
  - 65 (e) Provide accurate information about market conditions that affect a transaction, to any party who requests the information,  
66 within a reasonable time of the party's request, unless disclosure of the information is prohibited by law.
  - 67 (f) Account for all property coming into the possession of a broker that belongs to any party within a reasonable time of  
68 receiving the property.
  - 69 (g) When negotiating on behalf of a party, present contract proposals in an objective and unbiased manner and disclose the  
70 advantages and disadvantages of the proposals.

**DUTIES TO A CLIENT**

- 72 Wisconsin Statute section 452.133(2) states that in addition to his or her duties under lines 52 to 70, a broker providing  
73 brokerage services to his or her client shall do all of the following:
- 74 (a) Loyal represent the client's interests by placing the client's interests ahead of the interests of any other party, unless loyalty  
75 to a client violates the broker's duties under lines 52 to 70 or Wis. Stats. sec. 452.137(2) (duties to all clients in multiple  
76 representation situations).
  - 77 (b) Disclose to the client all information known by the broker that is material to the transaction and that is not known by the client  
78 or discoverable by the client through reasonably vigilant observation, except for confidential information (see lines 59 to 64)  
79 and other information, the disclosure of which is prohibited by law.
  - 80 (c) Fulfill any obligation required by the agency agreement, and any order of the client that is within the scope of the agency  
81 agreement, that are not inconsistent with another duty that the broker has under this chapter or any other law.

## Wisconsin Statutes

452.01 (1e) "Adverse fact" means any of the following:

- (a) A condition or occurrence that is generally recognized by a competent licensee as doing any of the following:
  1. Significantly and adversely affecting the value of the property.
  2. Significantly reducing the structural integrity of improvements to real estate.
  3. Presenting a significant health risk to occupants of the property.
- (b) Information that indicates that a party to a transaction is not able to or does not intend to meet his or her obligations under a contract or agreement made concerning the transaction.

452.01(5g) "Material adverse fact" means an adverse fact that a party indicates is of such significance, or that is generally recognized by a competent licensee as being of such significance to a reasonable party, that it affects or would affect the party's decision to enter into a contract or agreement concerning a transaction or affects or would affect the party's decision about the terms of such a contract or agreement.

452.01 REAL ESTATE PRACTICE

**(3k)** “Business representative” means a director, manager, member, officer, owner or partner of a business entity.

**(3m)** “Client” means a party to a transaction who has an agency agreement with a broker for brokerage services.

**(3s)** “Customer” means a party to a transaction who is provided brokerage services by a broker but who is not a client.

**(4)** “Disciplinary proceeding” means a proceeding against one or more licensees or registrants in which the board may revoke, suspend or limit a license or registration, reprimand a licensee or registrant, issue a private letter of warning to a licensee or registrant, or assess a forfeiture or require education or training under s. 452.14 (4m).

**(4d)** “Employ””, when used in reference to a broker employing another broker, a salesperson or a time–share salesperson, includes engaging the services of another broker, a salesperson or a time–share salesperson who provides services to the broker as an independent contractor.

**(4h)** “Employee”, when used in reference to an employee of a broker, includes another broker, a salesperson or a time–share salesperson who provides services to the broker as an independent contractor.

**(4p)** “Employer”, when used in reference to a broker who is the employer of another broker, a salesperson or a time–share salesperson, includes a broker who engages the services of another broker, a salesperson or a time–share salesperson who provides services to the broker as an independent contractor.

**(4t)** “Employment”, when used in reference to a broker’s employment of another broker, a salesperson or a time–share salesperson, includes the state of providing services to the broker by the other broker, the salesperson or the time–share salesperson as an independent contractor.

**(5)** “Licensee” means any person licensed or registered under this chapter, other than an inactive licensee registered under s. 452.12 (6).

**(5g)** “Material adverse fact” means an adverse fact that a party indicates is of such significance, or that is generally recognized by a competent licensee as being of such significance to a reasonable party, that it affects or would affect the party’s decision to enter into a contract or agreement concerning a transaction or affects or would affect the party’s decision about the terms of such a contract or agreement.

**(5m)** “Negotiate” means to act as an intermediary between the parties to a transaction, including doing any of the following:

(a) Facilitating or participating in the parties’ discussion of the terms of a contract or agreement concerning a transaction.

(b) Completing, when requested by a party, appropriate department–approved forms or other writings to document the party’s proposal consistent with the party’s intent.

(c) Presenting to a party the proposals of other parties to the transaction and informing the party receiving a proposal of the advantages and disadvantages of the proposal.

(d) Providing advice to the client regarding those matters within the scope of the knowledge, skills and training required for licensing as a broker or salesperson under this chapter.

**(5r)** “Party” means a person seeking to sell, exchange, buy or rent an interest in real estate, a business or a business opportunity. “Party” includes a person who seeks to grant or accept an option to buy, sell or rent an interest in real estate, a business or a business opportunity.

**(6)** “Real estate practice” means engaging in conduct which requires a license under this chapter.

**(7)** “Salesperson” means any person other than a broker who is employed by a broker to perform any act authorized by this chapter to be performed by a broker.

**(8)** “Time share” has the meaning given in s. 707.02 (24).

**(9)** “Time–share salesperson” means a person, other than a person licensed under s. 452.09, who is employed by a licensed

broker to sell or offer or attempt to negotiate an initial sale or purchase of a time share but who may not perform any other acts authorized by this chapter to be performed by a broker or salesperson.

**(10)** “Transaction” means the sale, exchange, purchase or rental of, or the granting or acceptance of an option to sell, exchange, purchase or rent, an interest in real estate, a business or a business opportunity.

**History:** 1981 c. 94; 1983 a. 27; 1985 a. 305; 1987 a. 359, 399; 1987 a. 403 s. 256; 1989 a. 341; 1991 a. 221; 1993 a. 127; 1995 a. 27, 400; 1997 a. 263.

A foreign corporation that entered into a brokerage contract to sell a radio station without being licensed in this state could not sue for its commission. The licensing requirement is not an unlawful burden on interstate commerce. *Chapman Company, Inc. v. Service Broadcasting Corporation*, 52 Wis. 2d 32, 187 N.W.2d 794 (1971).

Units of interest in a limited partnership are personalty and not real estate, and no real estate broker’s license is required for their sale. 60 Atty. Gen. 254.

**452.025 Time–share salespersons. (1)** (a) A person desiring to act as a time–share salesperson shall submit to the department an application for a certificate of registration.

(b) The application for registration as a time–share salesperson shall be in the form prescribed by the department and shall include all of the following:

1. The name and address of the applicant.

2. The prior occupations of the applicant.

3. Certification from the licensed broker employing the applicant that the applicant is competent to act as a time–share salesperson.

4. Any other information which the department reasonably requires to enable it to determine the competency of the person to transact business as a time–share salesperson in a manner which safeguards the interests of the public.

(c) Each application for registration as a time–share salesperson shall be accompanied by an initial fee specified in s. 440.05 (1) or the applicable renewal fee specified under s. 440.08 (2) (a), whichever is appropriate.

**(2)** A person shall not engage in the business or occupation of, or advertise or hold himself or herself out as, a time–share salesperson unless the person is registered under this section or licensed under s. 452.09.

**(3)** (a) A time–share salesperson registered under this section may act as a time–share salesperson only when employed by a licensed broker.

(b) 1. Except as provided in subd. 2., a time–share salesperson registered under this section shall not draft or complete a purchase agreement, offer to purchase, or other contract or document related to the sale of a time share.

2. A time–share salesperson registered under this section may complete a form purchase agreement or offer to purchase, if the form purchase agreement or offer to purchase has been approved by the department and includes only the following:

a. The name, address and telephone number of the purchaser.

b. The name of the time–share project.

c. Identification and price of the time share being purchased and the amount of the downpayment and where it will be held.

d. Financing alternatives.

e. Disclosures under subch. III of ch. 422 and the federal consumer credit protection act, 15 USC 1601 to 1693r.

f. The date of closing.

g. The signature of the time–share salesperson and the name of the employing broker.

h. The date of execution.

i. Information required under s. 707.46 to be included in a contract for the purchase of a time share.

**(4)** A time–share salesperson registered under this section may apply at any time to transfer employment to another licensed broker by submitting to the department an application in the form prescribed by the department and the transfer fee specified in s. 440.05 (7).

or business entity in which the broker has an interest, unless the broker has the written consent of all parties to the transaction.

(c) Except as provided in s. 452.19, refer, recommend or suggest to a party to the transaction the services of an individual or entity from which the broker may receive compensation for a referral or in which the broker has an interest, unless the broker has disclosed the fact that he or she may receive compensation or has disclosed his or her interest in the individual or entity providing the services.

**History:** 1993 a. 127; 1995 a. 400.

The New Real Estate Agency Law: Redefining the Role of Real Estate Brokers. Smith and Staff. Wis. Law. Oct. 1994.

**452.135 Confirmation and disclosure of relationship.**

(1) No broker may provide brokerage services without an agency agreement that authorizes the broker to provide those brokerage services. The agency agreement shall contain a statement of the terms and conditions of the brokerage services that the broker will provide, including a statement required under s. 452.138, if applicable.

(2) No broker may provide brokerage services to a party to a transaction unless the broker has provided to the party a written agency disclosure form containing all of the following:

(a) A statement of which party is the broker’s client or, if the broker is providing brokerage services to more than one client under s. 452.137, a statement of which parties are the broker’s clients.

(b) A statement of the broker’s duties to his or her client under s. 452.133 (2).

(c) A statement of the broker’s duties to a party under s. 452.133 (1).

(d) A statement regarding confidentiality that shall be in the following form:

**NOTICE TO CLIENTS AND CUSTOMERS**

A BROKER IS REQUIRED TO MAINTAIN THE CONFIDENTIALITY OF ALL INFORMATION GIVEN TO THE BROKER IN CONFIDENCE AND OF ALL INFORMATION OBTAINED BY THE BROKER THAT HE OR SHE KNOWS A REASONABLE PARTY WOULD WANT TO BE KEPT CONFIDENTIAL, UNLESS THE INFORMATION IS REQUIRED TO BE DISCLOSED BY LAW. THE FOLLOWING INFORMATION IS REQUIRED TO BE DISCLOSED BY LAW:

1. MATERIAL ADVERSE FACTS, AS DEFINED IN SECTION 452.01 (5g) OF THE WISCONSIN STATUTES.

2. ANY FACTS KNOWN BY THE BROKER THAT CONTRADICT ANY INFORMATION INCLUDED IN A WRITTEN INSPECTION REPORT ON THE PROPERTY OR REAL ESTATE THAT IS THE SUBJECT OF THE TRANSACTION.

TO ENSURE THAT THE BROKER IS AWARE OF WHAT SPECIFIC INFORMATION YOU CONSIDER CONFIDENTIAL, YOU MAY LIST THAT INFORMATION IN THE SPACE BELOW THAT IS MARKED “CONFIDENTIAL INFORMATION”. AT A LATER TIME, YOU MAY ALSO PROVIDE THE BROKER WITH OTHER WRITTEN NOTIFICATION OF WHAT INFORMATION YOU CONSIDER TO BE CONFIDENTIAL.

**CONFIDENTIAL INFORMATION:**

.....  
.....

(e) Any additional information that the broker determines is necessary to clarify the broker’s relationship to his or her client or customer.

**History:** 1993 a. 127.

**452.137 Brokers providing services to more than one client in a transaction.**

(1) No broker may provide brokerage services to more than one client in a transaction without an agency agreement under s. 452.135 (1) with each client and a written consent to multiple representation. The consent to multiple representation shall contain a statement of the broker’s duties under s.

452.133 (1) to a party to the transaction who is not a client, a statement of the broker’s duties to the client under s. 452.133 (2), and a statement that the clients understand the broker’s duties and consent to the broker providing brokerage services to more than one client. The consent to multiple representation may contain additional disclosures by the broker or additional agreements between the broker and the clients that do not violate any duty of a broker under this chapter.

(2) A broker who represents more than one client in a transaction owes the duties specified in s. 452.133 (2) to each client but may not place the interests of any client ahead of the interests of another client in the transaction.

(3) If a broker is providing brokerage services to more than one client in a transaction, no client may be considered to know any information that the broker knows unless the broker informs the client of that information or the client has other actual knowledge of that information.

**History:** 1993 a. 127; 1997 a. 263.

**452.138 Brokers providing services in more than one transaction.**

A broker may provide brokerage services simultaneously to more than one party in different transactions unless the broker agrees with a client that the broker is to provide brokerage services only to that client. If the broker and a client agree that the broker is to provide brokerage services only to that client, the agency agreement under s. 452.135 (1) shall contain a statement of that agreement.

**History:** 1993 a. 127.

**452.139 Changes in common law duties and liabilities of brokers and parties.**

(1) FIDUCIARY DUTIES OF BROKER. The duties of a broker specified in this chapter or in rules promulgated under this chapter shall supersede any fiduciary duties of a broker to a party based on common law principles of agency to the extent that those common law fiduciary duties are inconsistent with the duties specified in this chapter or in rules promulgated under this chapter.

(2) MISREPRESENTATION BY BROKER. (a) A client is not liable for a misrepresentation made by a broker in connection with the broker providing brokerage services, unless the client knows or should have known of the misrepresentation or the broker is repeating a misrepresentation made to him or her by the client.

(b) A broker who is providing brokerage services to a client and who retains another broker to provide brokerage services to that client is not liable for a misrepresentation made by the other broker, unless the broker knew or should have known of the other broker’s misrepresentation or the other broker is repeating a misrepresentation made to him or her by the broker.

(c) Nothing in this subsection limits the liability of a broker under s. 452.12 (3) for misrepresentations made by an employee who is a broker. Nothing in this subsection limits the liability of a client for a misrepresentation that the client makes in connection with brokerage services.

**History:** 1993 a. 127; 2001 a. 16.

**452.14 Investigation and discipline of licensees.**

(1) The department shall, upon motion of the board or upon its own determination, conduct investigations and, as appropriate, may hold hearings and make findings, if the department receives credible information that a broker, salesperson or time-share salesperson has violated this chapter or any rule promulgated under this chapter.

(2) The department shall present the findings of any investigation of a licensee or registrant to the board for its consideration. The department shall upon motion of the board, and may, upon its own determination, commence disciplinary proceedings on any matter under investigation concerning a licensee or registrant. No investigation of a licensee or registrant may be closed without motion of the board.

(3) Disciplinary proceedings shall be conducted by the board according to rules adopted under s. 440.03 (1). The board may