

Department of Commerce

Emergency Rule Relating to Rental Unit Energy Efficiency

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that adoption of the rule included in this order is necessary for the immediate preservation of public health, safety, and welfare.

The facts constituting the emergency are as follows. Under section 101.122, Wisconsin Statutes, the Department protects public health, safety, and welfare by promulgating energy efficiency requirements for rental units. 1997 Wisconsin Act 288 amends s. 101.122, Stats., to change the scope of the rules that the Department develops under that law. Those portions of the Act were effective the day after publication, and the rules adopted by the Department under the authority of that law are hereby amended to be consistent with Wisconsin Act 288.

This emergency rule excludes the following buildings from the rental unit energy efficiency program:

- Buildings of one or two rental units that were constructed after December 1, 1978.
- Buildings of three or more rental units that were constructed after April 15, 1976.
- Condominium buildings of three or more dwelling units.

This rule also limits the application of rental unit energy efficiency requirements to the following items:

- Attics
- Furnaces and boilers
- Storm windows and doors, with an option to meet an air infiltration performance standard for the thermal envelope of the building
- Sill boxes
- Heating and plumbing supply in unheated crawlspaces
- Shower heads

This rule also eliminates the expiration of the certificate of code compliance after 5 years.

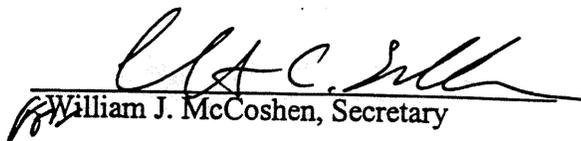
Pursuant to section 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes.

RULE EFFECTIVE

JUN 30 1998

SAFETY & BUILDINGS

Dated at Madison, Wisconsin, this
25th day of June, A.D. 1998,
By the Department of Commerce


William J. McCoshen, Secretary

SECTION 1. Comm 67.03 (2) (intro.) to (f) are amended to read:

Comm 67.03 (2) RENTAL UNITS EXCLUDED. (intro.) ~~The~~ All of the following buildings and rental units are excluded from the provisions of this chapter:

- (a) Any dwelling unit not rented at any time from November 1 to March 31;
- (b) Any building which contains up to 4 rental units and one of the dwelling units will be owner-occupied;
- (c) Any building constructed after December 1, 1978, which contains up to 2 dwelling units ~~and which is less than 10 years old;~~
- (d) Any building constructed after April 15, 1976, which contains more than 2 dwelling units ~~and which is less than 10 years old;~~
- (e) Mobile homes;
- (f) Hotels and motels used primarily for transient residency; ~~and.~~

SECTION 2. Comm 67.03 (2) (h) is created to read:

Comm 67.03 (2) (h) Condominium buildings of three or more dwelling units.

SECTION 3. Comm 67.04 (28m) and (32t) are created to read:

Comm 67.04 (28m) "Thermal envelope" means the collective assemblies of a building that enclose the heated, unvented spaces. The components that make up the thermal envelope form a continuous, unbroken surface.

(32t) "Unvented space" means a space that is not vented.

SECTION 4. Comm 67.04 (34) is amended to read:

Comm 67.04 (34) "Vented" means provided with outside air by natural or mechanical means via permanent openings. This venting may be for purposes of removing moisture, or exhausting fumes ~~or for providing combustion air.~~

SECTION 5. Comm 67.05 (1) (a) to (c) are renumbered 67.05 (1) (b) to (d).

SECTION 6. Comm 67.05 (1) (a) is created to read:

Comm 67.05 (1) (a) R-value. For the purpose of this section, "R-value" applies only to the amount of insulation. It does not refer to the total overall R-values of all components of an assembly such as framing, finish materials or air films.

SECTION 7. Comm 67.05 (1) (c) (title) and (d) are amended to read:

Comm 67.05 (1) (c) (title) Insulation of box sills.

(d) Insulation of ducts and pipes. Insulation shall be provided in all accessible ~~areas~~ vented crawl spaces as specified in Table 67.05-C.

SECTION 8. Comm 67.05 (2) to (7) are repealed and recreated as Comm 67.05 (2) to (5) to read:

Comm 67.05 (2) STORM WINDOWS AND DOORS. (a) General. Except as provided in sub. (3), storm windows and doors shall be provided and weatherized in accordance with this subsection.

(b) Storm windows. All windows shall be double glazed or shall be provided with exterior or interior storm windows except that windows of store fronts are exempt from the requirements of this subsection. Where exterior storms are installed over operable windows required for natural ventilation, a portion of the storm shall be operable from the inside. Windows located in boiler or furnace rooms do not need to be double glazed or equipped with storms. Windows located in basement areas which are not habitable rooms may be permanently sealed and insulated in lieu of double glazing or installing exterior or interior storm windows.

(c) Storm doors. Patio doors shall be insulated, double glazed or equipped with a storm door. Where no vestibule exists, inward swinging exterior doors shall be insulated, double glazed or equipped with a storm door. Door lites need not be double glazed if they are part of the door. All storm doors shall be equipped with a self-closing device.

(d) Openings or cracks. All accessible openings or cracks in storm windows or doors shall be caulked, gasketed or otherwise sealed.

(3) BLOWER DOOR TESTING. (a) Storm window and door requirements of sub. (2) are not required to be met when blower door testing shows that the air infiltration limits of this subsection are met.

(b) The blower door testing shall be conducted in accordance with ASTM E 779, "Standard Practice For Measuring Air Leakage By The Fan Pressurization Method," as adopted by reference in s. ILHR 20.24.

(c) The blower door test results and documentation shall show one of the following:

1. The natural air change rate of the thermal envelope is 1.0 air change per hour or less.

2. Work has been done to reduce the natural air change rate of the thermal envelope by at least 10%.

(d) Testing done on any date prior to certification shall be acceptable, provided no change has occurred to the building that would impact the test results in a negative or indeterminate way.

(4) **MOISTURE CONTROL.** (a) Ceilings. Minimum ventilation shall be provided above the ceiling or attic insulation in vented spaces. The free area of ventilation shall be at least 1/300 of the horizontal area. Where overhangs with soffits are provided, one-half of the free area shall be near the eaves and one-half in the upper one-third of the roof or gable. Where it is impractical to install gravity venting, power vent systems may be used to provide equivalent ventilation. Power vents shall be connected to a humidistat.

(b) Crawl spaces. Minimum ventilation shall be provided in vented crawl spaces. The area of ventilation shall be at least 1/300 of the floor space. The area of ventilation shall be distributed equally to at least 2 openings in the foundation wall. The openings shall be located to provide cross ventilation. Where accessible, a vapor barrier shall be applied to cover the exposed earth.

TABLE 67.05-B

INSULATION OF BOX SILLS

	If insulation of an R-Value less than or equal to R-2.5 is present	If insulation of an R-Value greater than R-2.5, but less than or equal to R-10 is present	If insulation of an R-Value greater than R-10 is present
Box Sills ¹	Insulation shall be added to bring the total insulation level to R-19	R-11 insulation shall be added to the existing insulation	No additional insulation is required

¹Box sills that separate the rental unit from a garage which is unvented or is vented with outside air shall be insulated, if accessible.

(5) **EQUIPMENT.** Combustion air openings shall be unobstructed. All showers shall be equipped with flow restricters rated at three gallons per minute or less.

TABLE 67.05-C

INSULATION OF DUCTS AND PIPES

BUILDING ELEMENT	TOTAL AMOUNT OF INSULATION REQUIRED
Heating Supply Ducts Located in Vented Crawl Spaces	R-5
Steam Heating Supply Pipes Located in Vented Crawl Spaces	R-4
Hydronic Heating Supply Pipes Located in Vented Crawl Spaces	R-2
Domestic Hot Water Pipes:	
Circulating, Along Entire Accessible Length in Vented Crawl Spaces	R-2
Noncirculating Hot and Cold Water Pipes Within 5 Feet of Water Heater in Vented Crawl Spaces	R-2

SECTION 9. Comm 67.09 is amended to read:

Comm 67.09 PROOF OF CERTIFICATION. The certificate shall be proof that the rental unit complies with the energy measures specified in this chapter. ~~The certificate shall be valid for a period of 5 years from the date specified on the certificate.~~ The certified inspector shall retain a copy of the inspection report and certification for at least 5 years. The certificate shall include the results of the inspection of the rental unit.

(End)

6-98 erule 3

FISCAL ESTIMATE
DOA-2048 (R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Comm 67
Amendment No. if Applicable

Subject Changing rental unit energy efficiency requirements.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation

or affects a sum sufficient appropriation

Increase Existing Appropriation

Decrease Existing Appropriation

Create New Appropriation

Increase Existing Revenues

Decrease Existing Revenues

Increase Costs - May be Possible to Absorb
Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

1. Increase Costs

Permissive Mandatory

2. Decrease Costs

Permissive Mandatory

3. Increase Revenues

Permissive Mandatory

4. Decrease Revenues

Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

Counties Others _____

School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

143(3)j

Assumptions Used in Arriving at Fiscal Estimate

The proposed rule changes would remove one and two unit buildings built after 1978, larger buildings built after 1976, and condominiums of over two units, from coverage under the rental unit energy efficiency requirements. This proposal would also eliminate the requirement to obtain certifications more than once during the life of a building. Rental unit energy efficiency requirements are narrowed to focus on attics, furnaces, boilers, storm windows and doors (with an option to meet an air infiltration standard), sill boxes, heating and plumbing supply in unheated crawlspaces, and shower heads.

Annual revenues from the rental unit energy efficiency program have averaged \$428,600 over the past five years. Revenues are from credentialling of inspectors, applications for exemptions, applications for waivers, inspections, certification stamps and applications for stipulations.

If this proposal is adopted, it is expected that revenues and expenditures would not change significantly. Although fewer buildings would be covered under the rental unit energy efficiency requirements, the narrower focus of the requirements is expected to result in a higher rate of compliance.

This higher rate of compliance and the corresponding certification fees are expected to offset any decrease in revenues that would result from having fewer buildings covered by the rental unit energy efficiency requirements.

Local government costs may increase if the department pursues unpaid penalties or fees through the court system. Local government revenues could increase due to the payment of court fees.

Long-Range Fiscal Implications

NONE.

Agency/Prepared by: (Name & Phone No.)

Commerce
Robert DuPont (266-8984)

Authorized Signature/Telephone No.

[Signature] 6-8976

Date

6/26/98

FISCAL ESTIMATE WORKSHEET

1997 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R.10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Comm 67

Amendment No.

Subject
Changing rental unit energy efficiency requirements.

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

None

II. Annualized Costs:

A. State Costs by Category	Annualized Fiscal Impact on State funds from:	
	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$ 0	\$ - 0
(FTE Position Changes)	(0 FTE)	(- 0 FTE)
State Operations - Other Costs	0	- 0
Local Assistance	0	- 0
Aids to Individuals or Organizations	0	- 0
TOTAL State Costs by Category	0	\$ - 0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ 0	\$ - 0
FED	0	- 0
PRO/PRS	0	- 0
SEG/SEG-S	0	- 0
III. State Revenues -	Increased Rev.	Decreased Rev.
Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$ 0	\$ - 0
GPR Earned	0	- 0
FED	0	- 0
PRO/PRS	0	- 0
SEG/SEG-S	0	- 0
TOTAL State Revenues	\$ 0	\$ - 0

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0 _____	\$ 0 _____
NET CHANGE IN REVENUES	\$ 0 _____	\$ 0 _____

Agency/Prepared by: (Name & Phone No.)

Dept. of Commerce
Robert DuPont (608) 266-8984

Authorized Signature/Telephone No.

Robert C. Miller 6-8976

Date

6/29/98



LUTHER S. OLSEN

STATE REPRESENTATIVE · 41ST ASSEMBLY DISTRICT

FEB 6 1998

2-10-98

February 6, 1998

Representative Carol Owens
Chair, Assembly Committee on Housing
105 West, State Capitol
INTER-DEPARTMENTAL

Dear Chairperson Owens:

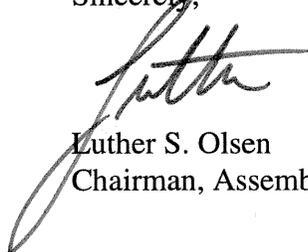
Thank you for supporting passage of Assembly Bill 668.

As you are aware, AB 668 makes some changes to the weatherization law which will make enforcement of the law easier without placing an unnecessary burden on the property owner.

I am pleased that the Assembly will have the opportunity to vote on the bill next week and I hope that the Senate will take up the bill in a timely fashion as well.

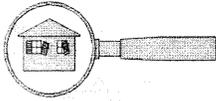
Again, thank you for your support.

Sincerely,


Luther S. Olsen
Chairman, Assembly Committee on Education

LSO/mp

FEB 4 1998



Residential Inspections

7125 Pagharn Drive, Madison, WI., 53719 (608) 274-2747

WRA now teams with landlords to get rid of State Energy Inspectors!

Will you as a representative, punish consumers by endorsing their requests?

There are some representatives and senators which have already endorsed the introduction of AB668 with no apparent consideration for those who will have to pay the unnecessary, high, energy bills!

I "am" a landlord who also happens to be a state energy inspector and a home inspector. As a landlord, I believe renters should be treated with respect. Many landlords do not feel this way. Through greed, they only care about how much money they can extract from a building even if it means neglect of the property. It is because of "these" types of landlords that we have consumer protection laws requiring energy inspections. Energy loss and resulting "high" heat bills paid by "tenants" (not landlords or the WRA) can develop quite rapidly when buildings are neglected, regardless of how old or new a building is.

The only way to protect tenants from unscrupulous landlords is to keep the existing energy laws. The proposed *modification* with AB668 is paramount to *elimination* of these laws. Don't support it. The existing laws are only a small inconvenience on us landlords compared to how much energy is saved as well as the end benefit to the consumer/renter.

The WRA's attacks are now revealing their lack of concern for "renting" consumers (AB668) as much as their lack of concern for home "buying" consumers (AB334). The WRA is already attempting to push through a poorly written home inspectors bill which assaults the inspection industry and the home buyers we protect. Is it any surprise that the WRA does not want inspectors involved in rental property sales either? This new proposal would eliminate "most" energy inspections, hurt the renters we protect, and completely waste energy that they themselves would never want to pay for. Pardon the allegory, but one might compare the WRA's actions toward inspectors with those of someone in the middle east. Both attacks against inspectors are clearly based on *self interest* rather than the best interest and good of the people.

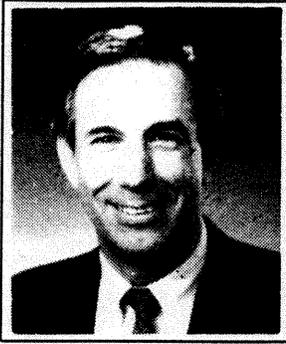
What motive would they have for trying so hard to eliminate inspectors? Hmmm.....

I am open and willing to discuss the affects that these bills will have on both consumers and inspectors.

Sincerely,

Dan Schilling

cc: State Representatives and Senators, Housing Committee Members, Wisconsin Association of Home Inspectors, Members of the South Central Wisconsin Council of Home Inspectors, Tenant Resource Center, Department of Commerce, Mike Theo, Rick Staff, Janet Swandby, Ed Marion.



CHET GERLACH

Capitol Notes

I hope you all had a wonderful holiday.

Our Legislative Committee continues to work very hard to make 1998 a good year for apartment owners. We were off to a good year, with a productive Legislative Day. More than fifty dedicated and hearty WAA members braved statewide snowfall to be in Madison on January 21. WAA Analyst Art Luetke, and Legislation Co-Chairs Mike Mokler and Jim Campbell provided a great deal of insight into the process of arriving at acceptable legislation. Lobbyist Gary Goyke and myself provided current information on bills of interest to WAA, as well as an overview of the changes taking place at the Capitol on a daily basis.

WAA members then visited their legislators and their aides at the Capitol, and WAA's issues and visibility were tremendously strengthened through those visits. Many, many thanks for those who were able to get to Legislative Day -- your grassroots support DOES MAKE A DIFFERENCE!

Following is a summary of the major issues that we will be dealing with between now and April when the Legislature is scheduled to adjourn.

Would You Consider Selling Your Apartment Building? Our Clients Are Willing to Pay a Fair Price

REQUIREMENTS:

- **Size:** 8-Family or Larger
- **Location:** Better than Average
- **Age:** New Construction to 20 Years
- **Bedrooms:** One & Two Bedroom(s)
- **Construction:** Better than Average

ROBERT M. MANGEN REAL ESTATE

12545 W. BURLEIGH RD., SUITE #3

BROOKFIELD, WI 53005

PHONE: 414/860-8700 FAX: 414/860-8703

Rental Practices - ATCP 134

WAA members represented the Association at public hearings which were held in Eau Claire, Green Bay, Madison, Milwaukee, and Wausau in January. Because the issue of Rental Practices is the Association's top priority, we have included a detailed explanation of the proposed new rule at the end of this article. **Note that the Ag Rules have not been changed since 1980 -- and they may not be addressed again for some time. This is your opportunity to put your imprint on the code.**

Weatherization - SB 354/AB 668

A public hearing on AB 668 was held on January 8 in Madison with WAA representatives Art Luetke and Mike Mokler testifying in support of the bill. AB 668 would eliminate weatherization inspections for apartments built after the current state energy code was enacted in the 1970's; limit inspections of apartments built prior to adoption of the energy code to a single inspection; and limit the items subject to inspection. In addition, a committee made up of Rich Sommer, Art Luetke and others, continues to meet and discuss the appropriate items that should be subject to inspection.

Disposal of Personal Property - AB 610

Many of you have been forced to hire movers to dispose of personal property left behind by evicted tenants. Unfortunately, the cost of disposal adds insult to injury to apartment owners and responsible tenants. AB 610, authored by Representative Judy Robson (D-Beloit) and Senator Tim Weeden (R-Beloit), would allow apartment owners to dispose of such property without hiring professional movers. AB 610 received a public hearing in the Assembly Housing Committee on January 8 and a substitute amendment to the bill was scheduled to be available by the end of January. **Special thanks to the Beloit Property Managers Association for their strong showing of support for this proposal.**

-PROJECT SEARCH-
LOOKING FOR 100-200 UNIT PROJECTS
IN WISCONSIN
WILL CONSIDER:
. FINE CONDITION
. RE-HAB
NEW CONSTRUCTION
BUYER-PRINCIPAL
STEVEN C. BOYSA
CECO-CREATIVE EQUITIES COMPANY
Please call or Fax
Telephone: (414) 258-1616
Fax: (414) 258-3273

Vote Record

Assembly Committee on Housing

Date: 2/4/98
 Moved by: Young Seconded by: Morris-Tatum
 AB: 6668 Clearinghouse Rule: _____
 AB: _____ Appointment: _____
 AJR: _____ SR: _____
 A: _____ Other: _____

A/S Amdt: LRBa1553/1
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- | | |
|--|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input checked="" type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Carol Owens, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Steven Foti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Daniel Vrakas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Steve Wieckert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Johnnie Morris-Tatum	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. John La Fave	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Leon Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Tammy Baldwin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>9</u>	<u>0</u>	<u>0</u>	<u>0</u>

*Chair asked unanimous consent for introduction of ~~substitute~~ ^{assembly} amendment LRBa1553/1.

Motion Carried Motion Failed

Vote Record

Assembly Committee on Housing

Date: 2/4/98
 Moved by: Morris-Tatum Seconded by: Vrakas
 AB: LeLe8 Clearinghouse Rule: _____
 AB: _____ Appointment: _____
 AJR: _____ Other: _____
 A: _____ SR: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- Passage *(as amended)*
 - Introduction
 - Adoption
 - Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

Rep. Carol Owens, Chair
 Rep. Neal Kedzie
 Rep. Steven Foti
 Rep. Daniel Vrakas
 Rep. Steve Wieckert
 Rep. Johnnie Morris-Tatum
 Rep. John La Fave
 Rep. Leon Young
 Rep. Tammy Baldwin

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Totals: 9 0 0 0

Motion Carried

Motion Failed

APB Labs

all testimony from Dept. of Commerce / Chris Bohran
testifying

↳ need to talk to Olsen about an amendment.

~~APB~~ ~~Code~~ ~~emp.~~ ~~agent~~ / ~~working~~ w/ Dept. of Commerce → pass bill
passed in '85, need to be reviewed in 5 years!



LUTHER S. OLSEN

STATE REPRESENTATIVE · 41ST ASSEMBLY DISTRICT

January 7, 1997

Representative Carol Owens
Chair, Assembly Committee on Housing
105 West
Hand-Delivered

Dear Representative Owens and Members:

Thank you for scheduling a public hearing on Assembly Bill 668 (AB 668) before the Assembly Committee on Housing. Unfortunately, I will not be able to attend the hearing due to a prior engagement with the Assembly Committee on Education.

Assembly Bill 668 revises the state's weatherization code for multifamily dwellings. While it is certainly important to retrofit older multifamily dwellings to create greater energy efficiency, I believe that current law has placed an unnecessary burden on some property owners. AB 668 seeks to address this problem.

Under current law, older dwellings that have been upgraded and certified to meet energy efficiency requirements must be re-certified within 5 years of any sale of the property. AB 668 simply requires these buildings be inspected and certified once, not with each subsequent sale.

AB 668 also addresses the problem of enforcement. Under current law, the buyer of rental property may postpone work on their property for up to a year, upon entering a "stipulation of compliance" agreement with the Department of Commerce. If they do not complete the work in a year, the Department of Commerce gives them sixty days to comply and then refers the case to the local District Attorney. Obviously, most District Attorneys are far too busy to prosecute weatherization violations.

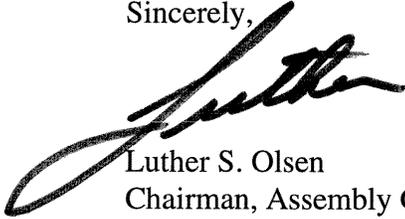
AB 668 changes the enforcement to allow the Department of Commerce or a municipal government that is party to a stipulation to issue a citation to the property owner. This will help relieve the burden on District Attorney's to prosecute and will send the message to delinquent property owners that we are serious about enforcement.

While it is very important that housing units meet energy efficiency requirements, we should not require them to go through unnecessary and unwarranted re-certification.

Furthermore, I believe that the changes in the enforcement procedure will help remove some of the burden that District Attorney's face as well as send a clear message to property owners that enforcement is important to us, and an issue that we will not overlook.

Thank you again for having a public hearing on this bill. I apologize for not being able to be there in person to express my support for this bill. Please feel free to call me if you have any questions or comments regarding Assembly Bill 668.

Sincerely,

A handwritten signature in black ink, appearing to read "Luther S. Olsen". The signature is written in a cursive style with a large, sweeping initial "L".

Luther S. Olsen
Chairman, Assembly Committee on Education

LSO/mp



State Senator
Kevin Shibilski

January 8, 1998

Rep. Carol Owens, Chairperson
Assembly Housing Committee
State Capitol, 105 West
Madison, WI 53708

re: **Assembly Bill 668**

Dear Representative Owens:

I apologize for being unable to testify in person before the Assembly Housing Committee on Assembly Bill 668. However, I would appreciate if you could consider this letter as my testimony in support of the bill.

AB 668 and its companion, Senate Bill 354, were introduced in response to an unnecessary and expensive provision of the state's housing code. Current law has singled out two separate classifications of housing units for eternal regulation and inspection. First, rental units that have already been certified to meet energy efficiency requirements must be certified again if the property is sold. Secondly, rental units built following enactment of energy codes for new construction are subject to ongoing regulation if they are more than ten years old.

In essence, the state's rental weatherization code has subjected this small class of properties to continuous inspection after energy efficiency standards have already been achieved. This is neither fair nor necessary.

The second part of this bill simply provides the Department of Commerce and municipal governments new powers to enforce energy efficiency codes and require owners of rental units to complete weatherization projects in a timely fashion.

Thank you for your consideration of Assembly Bill 668. If you or the members of the Assembly Housing Committee have any questions or concerns, please don't hesitate to contact me.

Sincerely,

KEVIN W. SHIBILSKI
State Senator
24th Senate District

January 7, 1998

The Honorable Carol Owens, Chairperson
Assembly Committee on Housing
Room 105, West, State Capitol
Madison, WI 53702

Dear Representative Owens:

The Department of Commerce has reviewed Assembly Bill 668 concerning changes to rental unit energy efficiency requirements and creating a procedure for issuing citations for failure to comply with existing stipulations relating to rental unit energy efficiency requirements. We welcome this opportunity to streamline and improve this program.

There appear to be four main aspects of this bill, as follows:

1. The definition of "Rental Unit" would be changed so that buildings built between 1976 and 1987 would be removed from coverage under the rental unit energy efficiency requirements. [s. 101.122 (1) (e) 2 stats]
2. The current requirement to obtain certifications more than once during the life of a building would be eliminated. [s. 101.122 (4) (a) stats]
3. Commerce would be given citation authority to recover forfeitures for violations of stipulations of compliance with the minimum energy efficiency standards. [proposed s. 101.122 (7) (e) stats]
4. Rental unit energy efficiency requirements would be narrowed to focus on attics, furnaces, boilers and storm windows and doors. [s. 101.122 (2) (a) 1 stats]

The department supports aspects 1 through 3 of this bill for the following reasons:

1. Buildings built after 1976 have been constructed to comply with building codes that have adequate energy efficiency requirements.
2. Recertifying a building after five years is rework in most instances. Improvements such as added insulation and furnace upgrades made five years prior should still be in place.
3. Citation authority is expected to be more effective in dealing with violations of stipulations than the present system of going to the district attorneys for enforcement action.

The department suggests amendment of the fourth aspect of this bill.

The Honorable Carol Owens, Chairperson
Assembly Committee on Housing
Page 2
January 7, 1998

The language in 101.22 (2) (a) 1 should remain as it currently stands. We believe that minimum energy efficiency standards for rental units would most appropriately be established through the rule making process.

The department currently has in place a Rental Unit Energy Efficiency Advisory Council reviewing the existing rules. It is the council's goal to review the rules and propose changes to the rules that will make it easier for the rental property owner to comply with the rules. Some of the proposed changes are meant to ease the regulations by incorporating into the code a number of trade-offs that are based on a 5-year payback in lieu of requiring the submission of data and fees for waivers. Another proposal is to change the code to allow the use of alternative performance standards that are promoted now by utilities in voluntary programs. I have attached a copy of the council membership listing for your information.

In addition, the department suggests further amendment of the definition of "Rental Unit" as follows:

The definition of "Rental Unit" in s. 101.122 (1) (e) stats should be further limited so that it excludes any condominium building containing more than 2 dwelling units.

This change would recognize the fact that there are minimal energy savings and undue complications in obtaining compliance in larger condominium buildings due to the common ownership of significant portions of such buildings.

Thank you for your consideration of these issues. If you have any questions, please do not hesitate to contact me.

Sincerely,



William J. McCoshen
SECRETARY

cc: Members of the Assembly Committee on Housing

Rental Unit Energy Efficiency Code Council

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DAVE STARK, GRI, President

WILLIAM MALKASIAN, CAE, Executive Vice President

TO: All Legislators
FROM: Michael Theo
Vice President for Public Affairs
DATE: January 8, 1998
RE: AB 668 - Regarding Rental Weatherization Code

The Wisconsin REALTORS Association (WRA) urges your support for AB 668, legislation to revise the state's weatherization code for multifamily residential housing. The bill provides for a balance between limiting weatherization costs property owners without sacrificing energy conservation.

The Problem

Current law was designed to ensure that old housing stock be retrofitted to meet basic energy conservation standards. Given the finite number of housing units covered, the law was intended to phase out over time as targeted properties are brought up to code. The law does not apply to new construction since those structures are built to new, more stringent energy requirements.

Current law has two significant problems which AB 668 addresses. First, AB 668 removes an unnecessary and expensive provision of current law which subjects already weatherized buildings to ongoing inspection. New construction is not subject to such endless regulation and costs. Second, it gives the state new powers to enforce stipulations and require property owners to complete the required weatherization work on time.

Endless Regulation

Current law requires rental units that have already been upgraded and certified to meet energy efficiency requirements must be recertified within 5 years of any sale of the property. Also, properties constructed after energy codes for new construction were adopted are exempt unless they are more than 10 years old. These two classifications of property are therefore singled-out for ongoing energy regulation, subjecting owners to endless and unfair expenses for which all other property owners are exempt.

AB 668 restores regulatory fairness by exempting from the code all buildings constructed after stricter energy codes for new construction were adopted. Further, AB 668 eliminates the requirement that properties may not be transferred unless they have been certified energy efficient within the previous 5 years. The effect of change is to limit the program to a one-time inspection and certification requirement. Older housing stock, not yet certified, would continue to be required to go through the program and comply with its requirements.

(OVER)

Stipulation Enforcement

Enforcement of the current law is also problematic, creating an ineffective procedure, which relies on over-burdened district attorneys to work. Currently, a buyer of rental property may enter into a "stipulation of compliance" agreement with the Department of Commerce to postpone required weatherization work for up to one year. If the stipulation is not complied with, Commerce issues a 60-day work order. If the property owners fail to comply with the work order, the case is referred to the county district attorney for prosecution.

Since implementation of the program in 1985, a backlog of over 6,000 outstanding referrals has grown out of a total of 22,000 cases referred to local DA's. District Attorneys simply do not have the time or interest in prosecuting rental weatherization stipulations, thus enforcement of the code is ineffective.

To address this problem, AB 668 grants the Department of Commerce or municipal government that is party to a stipulation, the authority to issue citations, similar to existing authority local governments possess for traffic citations or violations. This approach has been supported by the executive committee of the District Attorneys as a means of easing the prosecutorial workload for DA's and as a means of more effective enforcement.

Conclusion

For over 13 years, the rental weatherization code has served as an effective means of retrofitting older multifamily residential dwellings to create greater energy efficiencies. However, during that time it has become clear the code has considerable flaws - most notably the existing code subjects a narrow class of rental properties to ongoing regulation after weatherization standards have been achieved and the code fails to provide an ineffective enforcement of outstanding stipulations. AB 668 addresses these problems without sacrificing the intent of the law. We encourage your support for AB 668.



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Number of pages including cover 2

NOTE: ^{Abrowski} If all pages are not received, please contact Brad Boycks or Jacque ~~Dicks~~ in Rep. Owens' office: (608) 267-7990 or toll-free at 1-888-534-0053.

Date: Jan. 5, 1998

Please Deliver To: Chet Gerlach

Fax Number: 255-3394

From: *State Representative Carol Owens*

office # 255-9337

COMMENTS: Here's the Housing Committee hearing
notice. For your information, there will be
no one available from Rep. Olsen's office to testify
on behalf of AB 108 - they are to submit written
testimony.

Jacque