



CAROL OWENS
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TO: Assembly Committee on Housing Members
FROM: Representative Carol Owens, Chairperson
DATE: October 8, 1998
RE: **CLEARINGHOUSE RULES**

Today, the following rule was referred to the Assembly Committee on Housing:

Clearinghouse Rule 98-109, relating to the exemption of accessibility requirements for certain multifamily dwelling units.

Please contact Jacque in my office (267-7990) if you would like a copy of the rule. The deadline for committee action on this rule is **November 9, 1998**. If you are interested in requesting a hearing or submitting comments on the rule, please do so prior to the deadline date.



State of Wisconsin \ Department of Commerce

COPIES TO:
Fote (10/15)

RULES in FINAL DRAFT FORM

Rule No.: ILHR 57, Subchapter II

Relating to: Exemption of accessibility requirements for certain
multilevel multifamily dwelling units

Clearinghouse Rule No.: 98-109

The Wisconsin Department of Commerce proposes an order to repeal Table ILHR 57.81 I., B. line 2. and footnote 7, ILHR 57.77 (6) (c) and ILHR 57.84 (2) (d); and to amend ILHR 57.70, relating to the exemption of accessibility requirements for certain multilevel multifamily dwelling units.

* * * * *

ANALYSIS OF RULES

Statutory Authority: ss. 101.02 (1) and (15) and 101.132.

Statutes Interpreted: ss. 101.02 (1) and (15) and 101.132.

The Wisconsin Administrative Code, chapter ILHR 57, subchapter II, establishes design and construction requirements for accessibility in covered multifamily housing as specified in s. 101.132, Stats., formerly s. 106.04 (2r), Stats. The proposed changes in chapter ILHR 57, subchapter II, are in response to 1997 Wisconsin Act 237 that exempts the accessibility regulations for certain multilevel multifamily housing with separate exterior entrances in buildings without elevators. The change in the state law does not conflict with the federal Fair Housing law since the federal law does not require multilevel multifamily housing with separate exterior entrances in buildings without elevators to comply with the accessibility regulations.

A multilevel dwelling unit means an individual dwelling unit with finished living space located on one floor level and on another floor level immediately above or below it. The proposed rule eliminates only those sections requiring access to and accessible features within multilevel multifamily housing with separate exterior entrances in buildings without elevators. Multilevel multifamily dwelling units must still comply with the building construction and safety requirements in chapters ILHR 57 and 66 except the accessibility requirements specified in chapter ILHR 57, subchapter II will not apply.

If the rules are not revised an inconsistency between the statutes and the administrative rules would result. This inconsistency may cause confusion in application and enforcement within the construction industry and may result in construction delays, which may be costly.

SECTION 1. ILHR 57.70 is amended to read:

ILHR 57.70 SCOPE. (1) COVERED. Except as specified in sub. (2), this subchapter applies to all covered multifamily housing including, ~~but not limited to,~~ apartment buildings, rowhouses, townhouses and condominiums.

(2) NOT COVERED. Multilevel dwelling units with separate exterior entrances in buildings without elevators are exempt from the accessibility requirements specified in this subchapter.

SECTION 2. ILHR 57.77 (6) (c) is repealed.

SECTION 3. Table ILHR 57.81 I., B. line 2. and footnote 7 and ILHR 57.84 (2) (d) are repealed.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro), Stats., this rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

October 5, 1998

Senate Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Assembly Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 98-109

RULE NO.: ILHR 57, Subchapter II

RELATING TO: Exemption of accessibility requirements for certain multilevel multifamily dwelling units

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,



Philip Edw. Albert
Acting Secretary



201 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
Philip Edw. Albert, Acting Secretary

October 5, 1998

Senator Brian Rude
President of the Senate
119 Martin L. King Blvd, Rm 102
Madison, Wisconsin 53702

Representative Scott Jensen
Speaker of the Assembly
211 West, State Capitol
Madison, Wisconsin 53702

Dear Senator Rude and Representative Jensen:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 98-109

RULE NO.: ILHR 57, Subchapter II

RELATING TO: Exemption of accessibility requirements for certain multilevel multifamily dwelling units

Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
 - a) Rule Report.
 - b) Public Hearing Attendance Record.
 - c) Public Hearing Comment and Agency Response Form.
 - d) Legislative Council Rules Clearinghouse Report.
 - e) Response to Legislative Council Rules Clearinghouse Report.
 - f) Fiscal Estimate.
 - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Philip Edw. Albert', written over a horizontal line.

Philip Edw. Albert
Acting Secretary

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 98-109

RULE NO.: ILHR 57, Subchapter II

RELATING TO: Exemption of accessibility requirements for certain multilevel multifamily dwelling units

Final regulatory flexibility analysis not required. (Statement of determination required.)

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.

The rule changes are consistent with the 1997 Wisconsin Act 237 that exempts accessibility regulations for certain multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators. Small housing providers must submit plans and specifications for multilevel multifamily housing to be reviewed for compliance with the construction standards specified in chapter ILHR 66 or chapter ILHR 57, however, the accessibility provisions for this type of housing will not be required.

2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

None known

3. Nature and estimated cost of preparation of any reports by small businesses.

None required

4. Nature and estimated cost of other measures and investments required of small businesses.

None known

5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.

None known

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

None known

RULE REPORT

Department of Commerce

Rule No.: ILHR 57, Subchapter II

Relating to: Exemption of accessibility requirements for certain multilevel multifamily dwelling units

Agency contact person for substantive questions:

Name Jim Quast

Title Program Manager

Telephone Number 266-9292

Agency contact person for internal processing:

Name Diane Meredith

Title Code Consultant

Telephone Number 266-8982

1. Agency statutory authority under which the agency intends to promulgate the rule(s).
ss. 101.02 (15) and 101.132, Stats.
2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).
Code of Federal Regulations 24 (CFR) § 100.205
3. Citation of court decisions which are applicable to the proposed rule(s).
None known

4. Description of the proposed rule(s).

The proposed changes in chapter ILHR 57, subchapter II, exempts the accessibility requirements in certain multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators. A multilevel dwelling unit means an individual dwelling unit with finished living space located on one floor level and a floor level immediately above or below it. The proposed rule eliminates only those sections requiring access to and accessible features within multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators. These type units must still comply with the building construction and safety requirements specified in chapters ILHR 57 or 66.

5. Reason for the proposed rule(s).

The proposed changes in chapter ILHR 57, subchapter II, are in response to the 1997 Wisconsin Act 237 that exempts the accessibility requirements in multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators. The reason for the proposed rule change is to make the emergency rule issued on June 17, 1998 a permanent rule. If the rules are not revised an inconsistency may cause confusion in application and enforcement within the construction industry and may result in construction delays, which may be costly. This state law change does not conflict with the federal Fair Housing law since the federal law does not cover multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators.

FISCAL ESTIMATE
DOA-2048 (R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
ILHR 57, Subch. II
Amendment No. if Applicable

Subject Exemption of multilevel multifamily housing with separate exterior entrances in buildings without elevators from the accessibility laws

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 Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

- 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

None

Assumptions Used in Arriving at Fiscal Estimate

The Department currently enforces requirements for accessibility in multifamily housing. This change will only exempt the plan review and inspection staff from enforcing the accessibility requirements in multilevel multifamily housing with separate exterior entrances in buildings without elevators. Since all other building design and construction requirements must be complied with and enforced by this Department, there will be no fiscal impact.

Long-Range Fiscal Implications

None known

Agency/Prepared by: (Name & Phone No.)
Diane Meredith 266-8982

Authorized Signature/Telephone No.

[Signature] 6-8976

Date

8-10-92

FISCAL ESTIMATE WORKSHEET
Detailed Estimate of Annual Fiscal Effect
DOA-2047(R02/97)

ORIGINAL
 CORRECTED
 UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.
ILHR 57, Subch. II

Subject: Exemption of accessibility requirements for certain multilevel multifamily dwelling units.

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

None known

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category	\$	\$ -
State Operations - Salaries and Fringes		
(FTE Position Changes)	(0 FTE)	(- 0 FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs By Category	\$ 0	\$ -0
B. State Costs By Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
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.)
Diane Meredith 266-8982

Authorized Signature/Telephone No.

[Signature] 5-8976

Date

8-10-98

**PUBLIC HEARING COMMENT AND AGENCY RESPONSE
DEPARTMENT OF COMMERCE**

DIVISION OF SAFETY AND BUILDINGS

Rule Number: ILHR 57, Subchapter II
 Relating To: Exemption of accessibility requirements for certain multilevel multifamily dwelling units

Hearing Location: Madison
 Hearing Date: September 14, 1998

Commenting In Sup.	For Info. Opp.	Exh. No.	Presenter, Group Represented, City, State	Comments/Recommendations	Agency Response
				(No oral or written comments were received on the proposed rule changes)	

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 98-109

RULE NO.: ILHR 57, Subchapter II

RELATING TO: Exemption of accessibility requirements for certain multilevel multifamily dwelling units

Agency contact person for substantive questions.

Name: Jim Quast

Title: Program Manager

Telephone No. 266-9292

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority (s.227.15(2)(a))

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

2. Review of rules for form, style and placement in administrative code (s.227.15(2)(c))

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

(Continued on reverse side)

3. Review rules for conflict with or duplication of existing rules (s.227.15(2)(d))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
4. Review rules for adequate references to related statutes, rules and forms (s.227.15(2)(e))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness (s.227.15(2)(f))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations (s.227.15(2)(g))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
7. Review rules for permit action deadline (s.227.15(2)(h))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached

WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

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One E. Main St., Ste. 401
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Madison, WI 53701-2536
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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-109

AN ORDER to repeal Table ILHR 57.81 I., B. line 2. and ILHR 57.84 (2) (d), relating to the exemption of accessibility requirements for certain multifamily dwelling units.

Submitted by **DEPARTMENT OF COMMERCE**

08-11-98 RECEIVED BY LEGISLATIVE COUNCIL.

09-04-98 REPORT SENT TO AGENCY.

RS:RW:jal;kjf

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

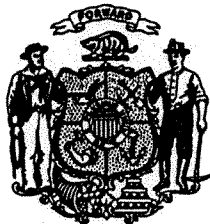
Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 98-109

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

The agency should inform the Revisor of Statutes that footnote 7 in Table 57.81 should be deleted as it only applies to repealed provisions.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The agency should consider clarifying, in the analysis, the new construction requirements for accessibility that will apply after repeal of the specific sections relating to multilevel dwelling units.

b. The agency may wish to include an "initial applicability" section in the first rule to specify which building projects and plan reviews will be subject to the new rule provisions.