WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 18-049

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

The proposed rule meets the standard that is required to submit a petition under s. 227.26 (4), Stats., for expedited repeal of an unauthorized rule. An "unauthorized rule" is a rule that an agency lacks the authority to promulgate due to the repeal or amendment of the law that previously authorized its promulgation. [s. 227.26 (4) (a), Stats.]

In this case, 2017 Wisconsin Act 110 repealed and recreated s. 452.14 (3) (p), Stats. Prior law authorized the Real Estate Examining Board (Board) to revoke, suspend, or limit the license of any licensee who had been convicted of a felony. The Act narrowed the Board's authority to revoke, suspend, or limit a license based on a criminal conviction if the licensee is convicted of any offense for which the circumstances substantially relate to real estate practice.

The proposed rule seeks to repeal s. REEB 24.17 (2m), Wis. Adm. Code, which authorizes the Board to revoke a license on the basis of a felony conviction, similar to that which was authorized under s. 452.14 (3) (p), 2015 Stats.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In the section titled "Explanation of agency authority", the Board should insert "s." in the statutory citations.

b. In the section titled "Plain language analysis", the Board should change the statutory reference from "s. 452.025 (1) (a), Stats." to "s. 452.25 (1) (a), Stats." and add ", Stats." to the statutory citation at the end of the section.