



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 18-102

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.]

2. Form, Style and Placement in Administrative Code

a. Section 458.33 (2), Stats., requires, among other criteria, that an applicant “meets to the satisfaction of the department any other requirements for licensure under” relevant statutes and rules promulgated by the department, and specifies that the department must promulgate rules that require an applicant to demonstrate that the applicant is qualified to competently perform appraisal management services in compliance with all applicable state and federal laws.

In setting forth the requirements for licensure, proposed s. SPS 88.110 incorporates the statutory criteria enumerated in s. 458.33 (2), Stats., including a requirement that an applicant “demonstrate, to the satisfaction of the department, the company is qualified to competently perform appraisal management services in compliance with all applicable state and federal laws”. In other words, the rule text incorporates the statutory licensure requirements without adding any additional detail. Instead, it seems likely that the legislative intent was that the department would promulgate more specific requirements that an applicant would need to meet in order to demonstrate competence to the department. (If not, rulemaking regarding licensure requirements would arguably have been unnecessary.)

The department’s approach may be to incorporate more detailed requirements within the application form for licensure. However, to the extent that it is possible to codify those more detailed requirements in the rule text, doing so would appear to more fully satisfy the legislative intent of the rule promulgation requirement under s. 458.33 (2) (c), Stats., than does s. SPS 88.110 as currently proposed.

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

- a. In s. SPS 88.120 (intro.), it appears that the word “all” should be revised to “any”.
- b. In s. SPS 88.120 (9), (10), and (11), each instance of the word “failure” could be replaced with “failing” for better consistency with the form of other subsections. Also, subs. (9) and (10) could be revised to clarify the persons or entities to whom those provisions apply. Compare, for example, sub. (11), which clearly applies to complaints filed against the real estate appraisal management company whose conduct is being evaluated.
- c. In s. SPS 88.120 (13), consider revising the phrase relating to engaging in or attempting to engage in “any other act determined by the department to demonstrate a lack of good moral character” for better sentence congruence between the act and the person’s character. For example, the phrase could be restructured as “any other act that demonstrates to the department that the person does not have good moral character” or as “one or more actions indicating that the person lacks good moral character, as determined by the department”. That phrasing would also better align with the grounds under s. 458.33 (4) (a), Stats., for denial of a license or renewal if a **person** is determined by the department not to have good moral character.