

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF SAFETY
DEPARTMENT OF SAFETY : AND PROFESSIONAL SERVICES
AND PROFESSIONAL SERVICES : ADOPTING RULES
(CLEARINGHOUSE RULE 11-029)

PROPOSED ORDER

An order of the Department of Safety and Professional Services to amend RL 128.03(1)(b); and to create RL 128.04(6)(c) relating to continuing education for auctioneers.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

§480.08(6)

Statutory authority:

§§ 227.11(2) and 480.08(6), Wis. Stats.

Explanation of agency authority:

The Department of Safety and Professional Services has the authority under §480.08(6) to promulgate rules relating to auctioneer continuing education.

Related statute or rule:

There are no other statutes or rules other than those listed.

Plain language analysis:

Section 1 amends RL 128.03(1)(b) to allow the 7 hour national Uniform Standards of Professional Appraisal Practice (USPAP) update course be approved as continuing education for those individuals licensed as both auctioneers and real estate appraisers.

Section 2 creates RL 128.04(6)(c) which adds appraisers, who are approved by the Appraiser Qualifications Board of the Appraisal Foundation, to the list of those who are approved to be continuing education instructors.

Summary of, and comparison with, existing or proposed federal regulation:

No existing or proposed federal regulation.

Comparison with rules in adjacent states:

Illinois:

Courses must be provided by a school approved and licensed in accordance with the Auction License Act and the rules for the Administration of the Auction License Act. Courses must be developed and presented by persons with education or experience in the subject of the continuing education courses. "Real Estate School Approved under Article 30 of the Real Estate License Act of 2000" is one type of approved school. Section 1440.310, Rules for Administration of the Auction Act.

Iowa:

Does not require a license for auctioneers.

Michigan:

Registered auctioneer license is available but voluntary. No CE requirement.

Minnesota:

Requires a license in the county of residence. No CE requirement.

Summary of factual data and analytical methodologies:

Many auctioneers are dually-licensed as real estate appraisers. Licensed and certified real estate appraisers are required to take a 7-hour national Uniform Standards of Professional Appraisal Practice (USPAP) update course every biennium to maintain their license status. Auctioneers who are also dually licensed as real estate appraisers would like to be able claim credit for the USPAP course to assist in meeting their biennial continuing education credits as auctioneers. This is business-friendly as independent practitioners and businesses will be able to reduce the costs of complying with continuing education requirements. It also benefits dually-licensed auctioneers as it provides a greater variety of continuing education courses that they may take to meet their biennial requirements.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Safety and Professional Services is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that the proposed rule will have no significant fiscal impact.

Effect on small business:

These proposed rules were reviewed by the Small Business Review Advisory Committee and it was determined that the rules will not have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at john.murray@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2377; email at sharon.henes@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to sharon.henes@wisconsin.gov. Comments must be received at or before the public hearing to be held on July 19, 2011 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. RL 128.03(1)(b) is amended to read:

(b) Nine hours in topics pertinent to the practice of auctioneering that shall be approved by the department biennially, which may include a 7 hour national Uniform Standards of Professional Appraisal Practice (USPAP) update course approved by the Appraiser

Qualifications Board (AQB) of the Appraisal Foundation for a person who holds credentials under both ch. 480 and ch. 458, Stats.

SECTION 2. RL 128.04(6)(c) is created to read:

(c) Be an appraiser who is approved by the AQB of the Appraisal Foundation to provide a 7 hour national USPAP update course.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Dave Ross, Secretary
Department of Safety and Professional Services