

OR 91-52

RECEIVED

CERTIFICATE

NOV 15 1991

3:45 pm
Revisor of Statutes
Bureau

STATE OF WISCONSIN

DEPARTMENT OF REGULATION AND LICENSING

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Marlene A. Cummings, Secretary of the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Department, do hereby certify that the annexed rules were duly approved and adopted by the Department of Regulation and Licensing on the 15th day of November, 1991.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 1400 East Washington Avenue, Madison, Wisconsin this 15th day of November, 1991.



Marlene A. Cummings
Secretary
Department of Regulation
and Licensing

2-1-92

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	DEPARTMENT OF REGULATION AND LICENSING
DEPARTMENT OF REGULATION	:	ADOPTING RULES
AND LICENSING	:	(CLEARINGHOUSE RULE 91-52)

ORDER

An order of the Department of Regulation and Licensing to amend RL 16.03 (2), RL 18.03 (1) (am), RL 18.10 and RL 24.02 (1) and to create RL 16.03 (1) (e) of the administrative code relating to approved forms for use by brokers, real estate trust accounts, and the disclosure of adverse facts.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2) and 452.07, Stats.

Statutes interpreted: ss. 452.05 (1) (b), 452.13 and 452.23, Stats.

In this proposed order the Department of Regulation and Licensing is creating s. RL 16.03 (1) (e) to permit property managers to use a form prepared by them, their attorney or a landlord.

Section RL 18.03 (1) (am) is amended to delete the reference to mortgage bankers since 1987 Wisconsin Act 359 removed the regulation of mortgage bankers from chapter 452 and placed it in chapter 440, subchapter VI, and since chapters RL 40 to 43, effective March 1, 1991, now govern the activities of mortgage bankers.

Section RL 18.10 is amended to allow brokers to place \$300 of their personal funds in their trust account rather than \$100, because many financial institutions are charging extra fees when trust accounts have less than a certain amount which often exceeds the \$100 limitation in this rule.

Section RL 24.02 is amended to exclude urea-formaldehyde foam insulation from the list of adverse facts which must be disclosed in a real estate transaction, because the department has received expert information that urea-formaldehyde foam insulation is no longer a likely source of formaldehyde concentrations in a dwelling. Therefore, by removing "urea-formaldehyde foam insulation" from the rule, the department intends that a licensee does not have to disclose that such insulation is present on the premises when such facts are known.

TEXT OF RULE

SECTION 1. RL 16.03 (1) (e) is created to read:

RL 16.03 (1) (e) Forms to be used for a property management agreement between a broker and a landlord, prepared by the broker entering into the agreement, the broker's attorney, or the landlord, that contain provisions relating to leasing, managing, marketing and overall management of the landlord's property.

SECTION 2. RL 16.03 (2) is amended to read:

RL 16.03 (2) In addition to forms prepared and approved by the department pursuant to s. 452.05 (1) (b); Stats., the department grants approval of the forms in sub. (1) (c), ~~and (d)~~ and (e) for use by salespersons.

SECTION 3. RL 18.03 (1) (am) is amended to read:

RL 18.03 (1) (am) Real estate trust funds may be deposited in an interest-bearing account if the broker obtains from the persons for whom the funds are held written authorization to deposit the funds in an interest-bearing account and if the authorization specifies how and to whom the interest will be disbursed. None of the interest earned on funds deposited into an interest-bearing account by a real estate broker may inure to the benefit of the broker, ~~except that a mortgage banker which requires an escrow to assure the payment of taxes or insurance shall pay interest on the outstanding principal balance of the escrow of not less than 5.25% per year and may retain for its own account any additional interest earned, unless the escrow funds are held by a third party in a non-interest-bearing account.~~

SECTION 4. RL 18.10 is amended to read:

RL 18.10 COMMINGLING PROHIBITED. A broker shall deposit only real estate trust funds in the broker's real estate trust account and shall not commingle the broker's personal funds or other funds in the trust account, except that a broker may deposit and keep a sum not to exceed ~~\$100.00~~ \$300.00 from the broker's personal funds in any real estate trust account, which sum shall be specifically identified and deposited to cover service charges relating to the trust account.

SECTION 5. RL 24.02 (1) is amended to read:

RL 24.02 (1) DEFINITIONS. (1) "Adverse facts" includes, but is not limited to: ~~urea-formaldehyde-foam-insulation~~, radon, exposed asbestos, underground storage tanks, disposal of toxic chemicals on the property, leaking basement, structural defects, location in a flood plain or wetland, and planned or commenced public improvements which may result in special assessment or otherwise materially affect the property.

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

Dated 11/15/91

Agency Marlene A. Cummings
Marlene A. Cummings, Secretary
Department of Regulation
and Licensing

CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

DATE: November 15, 1991

TO: Gary Poulson
Assistant Revisor of Statutes

FROM: Pamela Haack, Administrative Assistant
Department of Regulation and Licensing

SUBJECT: Final Rulemaking Order

RECEIVED
NOV 15 1991
Revisor of Statutes
Bureau

Agency: DEPARTMENT OF REGULATION AND LICENSING

Clearinghouse Rule: 91-52

Attached is a copy and a certified copy of a final order adopting rules.

Would you please publish these rules in the code.

Thank you.