

WISCONSIN LEGISLATIVE COUNCIL STAFF

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FORM 2

MAR 26 1999

RULES CLEARINGHOUSE

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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 99-036

AN ORDER to repeal RL 12.04 (1) (b), 25.05 (6) and Note, 25.066 (6) (b) and (i), 25.075 (4) and 25.076; to amend RL 12.04 (1) (a), 25.01 (3), (4) and (7), 25.02 (1) (intro.) and (a) and (2) (title), (intro.) and (a), (b) to (g), 2. to 5., (h) and (i), 25.025 (title), (1) (intro.) and (a) and (2) (intro.), (a), (b) and (c), 25.03 (1), (2) (title) and (3) (title), (intro.), (a) 6., (b) to (k), (L), 4. and (m) to (r), 25.035 (title), (1) (intro.), (a) and (b) and (2) (intro.) and (a) to (h), the Note following 25.05 (1) (e) and (3), 25.06 (title), (a), the Note following (1) (a) and (b), 25.065 (5), 25.066 (1) and (4), 25.066 (6) (c) to (f) and (j), 25.07 (1) and (2) (c) 4. and 25.075 (3); to repeal and recreate RL 25.06 (1) (e); and to create RL 25.01 (2m) and (5m), 25.02 (2) (a) 7., 25.025 (2) (a) 7. and 25.066 (6) (k), relating to education, pre-license and continuing education programs and courses.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

02-22-99 RECEIVED BY LEGISLATIVE COUNCIL.

03-22-99 REPORT SENT TO AGENCY.

RNS:DD:rv;jal

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

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CLEARINGHOUSE RULE 99-036

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.]

1. Statutory Authority

In a number of respects, the requirements and regulations of the rule that apply to "distance education" are, or at least appear to be, less rigorous than the requirements and regulations that apply to more traditional forms of education. Given the nature of "distance education," the requirements and regulations concerning that type of education might arguably warrant more rigorous treatment. Because in many cases there is no apparent rationale for the disparity of treatment between "distance education" and traditional forms of education, the rule may be subject to challenge in this regard. For example, if there is no minimum instruction hour requirement applicable to "distance education," why should such a requirement be applied to other forms of education? Or, why should an hourly requirement not apply to "distance education"?

2. Form, Style and Placement in Administrative Code

- a. In the context of the rule, it is not clear why s. RL 25.01 (7) is amended.
- b. In s. RL 25.025 (1) (a), it is inappropriate drafting style to strike the period and add "or." [See s. 1.03, Manual.]
- c. In s. RL 25.025 (2) (intro.), it is suggested that "under this subsection" be inserted after "program."

d. In s. RL 25.035 (1) (intro.), it is suggested that “having completed” be deleted.

e. In s. RL 25.035 (2) (intro.), it is suggested that “under this subsection” be inserted following “program.”

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

The cross-references to applicable fair housing-related rules and laws in s. RL 25.03 (3) (L) should be compared to s. RL 25.035 (2) (e).

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

a. The use of “attendance” in s. RL 25.025 (1) (a) should be reviewed in connection with its application to “distance education” programs. In general, the remainder of the rule should be reviewed in this regard.

b. In s. RL 25.06 (1) (e) (intro.), it is suggested that the semicolon be deleted and a separate sentence created. Also see s. RL 25.066 (6) (k) (intro.). It appears that “not” in the clause following the semicolon is mistakenly included.

c. Section RL 25.06 (1) (e) requires that a school seeking approval of a “distance education” course merely certify that it will do the listed requirements. There is no requirement that the department actually approve how this will be accomplished by the school or that the school indicate how it proposes to accomplish the requirements. Should the rule specify what a school must do to comply with the requirements?

d. In s. RL 25.066 (6) (d), what are the requirements for examinations for “distance education” courses?

e. In s. RL 25.07 (1), “cover” is vague.

f. In s. RL 25.075 (3), given the limitation to classroom education courses, what is the requirement for “distance education” continuing education programs?



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING



Tommy G. Thompson
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February 22, 1999

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TO: Ron Sklansky, Director
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FROM: Pamela A. Haack, Administrative Rules Coordinator
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Room 171, 1400 East Washington Avenue
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RE: Proposed Rule-Making Order of the Department of Regulation and Licensing

Attached please find a proposed rule-making order of the Department of Regulation and Licensing submitted under s. 227.15, Wis. Stats. The proposed order contains citations to the statutory authority under which the department intends to adopt the proposed rules and a description of the effect of the proposal.

Please stamp or sign a copy of this letter to acknowledge receipt. Please call me at 266-0495 if I can be of any assistance to the Clearinghouse in reviewing this rule.

Thank you.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 99-)

PROPOSED ORDER

An order of the Department of Regulation and Licensing to *repeal* RL 12.04 (1) (b), 25.05 (6) and the Note following (6), 25.066 (6) (b) and (i), 25.075 (4) and 25.076; to *amend* RL 12.04 (1) (a), 25.01 (3), (4) and (7), 25.02 (1) (intro.), (a), (2) (title), (2) (intro.) and (a), (b) to (g), 2. to 5., (h) and (i), 25.025 (title), (1) (intro.), (a), (2) (intro.), (a), (b) and (c), 25.03 (1), (2) (title), (3) (title), (3) (intro.), (a), 6., (b) to (L), 4. and (m) to (r), 25.035 (title), (1) (intro.), (a), (b), (2) (intro.) and (a) to (h), the Note following 25.05 (1) (e) and (3), 25.06 (title), (a) (a), the Note following (1) (a), and (b), 25.065 (5), 25.066 (1) and (4), 25.066 (6) (c) to (f) and (j), 25.07 (1) and (2) (c) 4. and 25.075 (3); to *repeal and recreate* RL 25.06 (1) (e); and to *create* RL 25.01 (2m) and (5m), 25.02 (2) (a) 7., 25.025 (2) (a) 7. and 25.066 (6) (k), relating to education, pre-license and continuing education programs and courses.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 452.06 (2) and 452.07, Stats., and s. 452.05, Stats., as amended by 1997 Wisconsin Act 27.

Statutes interpreted: ss. 452.05, 452.09 (2) and 452.12 (5), Stats.

This proposed rule-making order was prepared with the assistance, review and recommendation of the Council of Real Estate Curriculum and Examinations and the Real Estate Board. These proposed rules make two substantive changes and many minor amendments relating to the primary changes. First, this proposal defines "distance education" and provides criteria for the department to approve educational programs and courses presented by distance education. "Distance education" is distinguished from "classroom education." The definition of "classroom education" focuses on the fact that an instructor is physically present in the classroom for the purpose of providing instruction in person, or a proctor is physically present in the classroom for the purpose of taking attendance and supervising the presentation of instruction by an instructor who is present by an electronic, audio or audiovisual medium. The definition of "distance learning" focuses on the fact that neither an instructor nor a proctor is physically present with the student. The student may undertake instruction by using a paper, electronic or audiovisual medium by himself or herself without an instructor or proctor present to take attendance or supervise the presentation of the instruction.

Secondly, this proposal creates criteria for the approval of pre-license and continuing education programs and courses presented by distance education. These criteria do not require an approved school to present distance education programs and courses for a specific number of hours. However, the specific number of hours are still required for "classroom education." Many minor amendments occur throughout the proposal, in order to clarify these primary changes.

The criteria for approval of distance education programs and courses have been added to ss. RL 25.06 and RL 25.066, relating to the approval of pre-license and continuing education noncredit programs and instructors. The criteria address the need for a school to ascertain that instructors are available to students at reasonable times and by reasonable means, that there will be a reasonable level of examination security for the examination given at the end of continuing education courses, that the courses will sufficiently cover the subjects specified for courses, that the school will provide reasonable oversight to ensure that the students who take the examination are the enrolled students, and that the school will provide a reasonable opportunity for student self-evaluation of mastery.

explain
This proposal modifies some of the contents of the pre-license broker's and salesperson's courses in order to stay current with statutory changes, rule changes, and changes in the practices of the industry.

specify
A few policies are amended because they are no longer needed. One example is the need for an approved school to submit a reapproval application every year. The requirement that a school must inform the department of changes in its structure or programming within 10 days after a change is made remains in the rules. Some forms have been eliminated by these changes and the notes at the end of certain sections have been changed accordingly.

TEXT OF RULE

SECTION 1. RL 12.04 (1) (a) is amended to read:

Renewal after license expiration
RL 12.04 (1) (a) The applicant shall either provide proof of having successfully completed the classroom education which was required during the biennium preceding the date of renewal of the applicant's license, provide proof of having successfully passed the test-out examination which was administered during the biennium preceding the date of renewal of the applicant's license, or provide proof of having successfully completed any 8 of the 15 hours of education in s. RL 25.03 (3) (h) and the 4 hours of education in s. RL 25.03 (3) (m), or of having successfully completed the educational program in s. RL 25.035 (2). In this paragraph "successfully completed" means passing an examination pursuant to s. RL 25.066 (6) (d).

ch RL 25 Education
SECTION 2. RL 12.04 (1) (b) is repealed. *explain*

SECTION 3. RL 25.01 (2m) is created to read:

RL 25.01 (2m) "Classroom education" means the provision of educational programs or courses to one or more students in a setting in which either an instructor is physically present

with the students or a representative of an approved school is physically present with the students for the purpose of taking attendance and providing instruction by audiotape, cable television, satellite line or other similar method and the instructor is available for student questions by telephone or E-mail, or by a continuous 2-way audio or audiovisual connection.

SECTION 4. RL 25.01 (3) and (4) are amended to read:

RL 25.01 (3) "Continuing education course" means an approved segment of ~~the total number of a~~ continuing education hours program required by the department pursuant to s. 452.05 (1) (d), Stats.

(4) "Continuing education program" means the total number of continuing education hours or subjects required by the department pursuant to s. 452.05 (1) (d), Stats. *check*

SECTION 5. RL 25.01 (5m) is created to read:

RL 25.01 (5m) "Distance education" means the provision of educational programs or courses without an instructor or a representative of an approved school physically present with the students. "Distance education" includes, but is not limited to, the delivery of educational programs and courses on CD-ROM, computer disk, or the Internet.

SECTION 6. RL 25.01 (7) is amended to read:

RL 25.01 (7) "Hour" means a period of 50 minutes of actual ~~classroom~~ instruction and shall not include time spent in writing tests or examinations given by the school. *why change?*

SECTION 7. RL 25.02 (1) (intro.), (a), (2) (title), (2) (intro.) and (a) are amended to read:

Broker's License
RL 25.02 (1) EDUCATIONAL REQUIREMENTS. (intro.) Each applicant for an original real estate broker's license shall ~~do~~ satisfy any one of the following requirements:

(a) Present evidence satisfactory to the department of successful completion, within 5 years before application for a license, of the ~~36-hour~~ educational program in sub. (2), which has been approved in accordance with this chapter, and either satisfy the salesperson's educational requirements in s. RL 25.03 (3) or present evidence satisfactory to the department of licensure as a salesperson.)

(2) (title) BROKER'S 36-HOUR PRE-LICENSE PROGRAM. (intro.) The ~~36-hour~~ educational programs program for applicants for an original real estate broker's license shall cover all of the following topics under each paragraph title, be presented during and, if presented as classroom education, shall be presented in no less than ~~the number of~~ 36 hours stated after each paragraph title, and include:

(a) Contracts. ~~2 hours.~~

SECTION 8. RL 25.02 (2) (a) 7. is created to read:

RL 25.02 (2) (a) 7. Commercial real estate commission lien - s. 779.32, Stats. *explan.*

SECTION 9. RL 25.02 (2) (b) to (g), 2. to 5., (h) and (i) are amended to read:

RL 25.02 (2) (b) Approved forms. ~~4 hours.~~

(c) Trust accounts, escrow, closing statement. ~~5 hours.~~

(d) Business management and marketing. ~~5 hours.~~

(e) Financial and office management. ~~4 hours.~~

(f) Personnel. ~~4 hours.~~

(g) Business ethics. ~~4 hours.~~

2. 'Advertising - s² RL 24.04.

3. 'Offers - ss². RL 24.12, 24.13.

4. 'Self-dealing - s². RL 24.05.

5. 'Disclosure - s² RL 24.07.

(h) Consumer protection. ~~5 hours.~~

(i) Specialty areas. ~~3 hours.~~

SECTION 10. RL 25.025 (title), (1) (intro.), (a), (b), (2) (intro.) and (a) are amended to read:

RL 25.025 (title) **Satisfaction of broker's ~~36-hour program~~ educational requirements by out-of-state applicants.** (1) (intro.) An applicant who has held an active real estate broker's license in another licensing jurisdiction within the 2 year period prior to filing an application for an original real estate broker's license in Wisconsin may satisfy the broker's educational requirements of s. RL 25.02 (2) (1) ~~if the applicant submits by submitting~~ evidence of all one of the following:

(a) Attendance at ~~3 hours of the education~~ educational programs under sub. (2) and s. RL 25.035 (2) at a school approved by the department under s. RL 25.05 or 25.06; or

(b) ~~Attendance at 33 hours of education on some or all contents of Satisfaction of the requirements in s. RL 25.02 (2), completed at any school (1) (b) or (c).~~

(2) (intro.) ~~The content contents of the 3-hour course educational program~~ shall include all of the following and, if presented as classroom education, shall be presented in no less than 3 hours:

(a) Broker-only contracts and contract issues. ~~Minimum of .5 hours.~~

SECTION 11. RL 25.025 (2) (a) 7. is created to read:

RL 25.025 (2) (a) 7. Commercial real estate broker's commission lien - s. 779.32, Stats.

SECTION 12. RL 25.025 (2) (b) and (c) are amended to read:

RL 25.025 (2) (b) Miscellaneous Wisconsin laws. ~~Minimum of .5 hours.~~

(c) Review, update or more in-depth coverage of any of the contents of the ~~13-hour salesperson's educational~~ course in s. RL 25.035 (2).

SECTION 13. RL 25.03 (1), (2) (title), (3) (title), (3) (intro.), (a), 6., (b) to (L), 4. and (m) to (r) are amended to read:

RL 25.03 (1) GENERAL REQUIREMENTS. Each applicant for an original real estate salesperson's license shall present evidence of attendance, within 5 years before application for a license, at the ~~72-hour~~ educational program in sub. (3), which has been approved by the department in accordance with this chapter s. RL 25.05 or 25.06.

(2) (title) ~~TEN HOUR~~ TEN SEMESTER-HOUR WAIVER.

(3) (title) ~~SALESPERSON'S 72-HOUR~~ PRE-LICENSE PROGRAM. (intro.) The ~~72-hour~~ educational program for applicants for an original real estate salesperson's license shall include cover all of the following topics and, if presented as classroom education, shall be presented in no less than 72 hours:

(a) Real property. ~~4 hours.~~

6. ~~Types of housing~~ Mobile homes - s. 70.043, Stats.

(b) The real estate business. ~~1 hour.~~

(c) Real estate brokerage. ~~3 hours.~~

(d) Listing agreements. ~~5 hours.~~

Real Estate
Salesperson's
License

under the
statute

- (e) Interests in real estate. ~~5 hours.~~
- (f) Legal descriptions. ~~3 hours.~~
- (g) Taxes and other liens. ~~2 hours.~~
- (h) Real estate contracts. ~~15 hours.~~
- (i) Title records and transfers of title. ~~2 hours.~~
- (j) Real estate finance and basic math. ~~7 hours.~~
- (k) Appraisal - market analysis. ~~5 hours.~~
- (L) Fair housing laws. ~~2 hours.~~

4. Equal rights - s. ~~101.22~~ 106.04, Stats. *CR - 1001
change
page*

- (m) Ethical real estate practices. ~~4 hours.~~
- (n) Leases. ~~2 hours.~~
- (o) Property management. ~~1 hour.~~
- (p) Land use control and development. ~~3 hours.~~
- (q) Environmental concerns. ~~3 hours.~~
- (r) Miscellaneous Wisconsin license laws. ~~5 hours.~~

SECTION 14. RL 25.035 (title), (1) (intro.), (a), (b), (2) (intro.) and (a) to (h) are amended to read:

RL 25.035 (title) **Satisfaction of salesperson's ~~72-hour program~~ educational requirements by out-of-state applicants.** (1) (intro.) An applicant who has held an active real estate salesperson's license in another licensing jurisdiction within the 2-year period prior to filing an application for an original real estate salesperson's license in Wisconsin may satisfy the educational requirements of s. RL 25.03 (3) if the applicant submits evidence of all having completed one of the following:

(a) Attendance at ~~no less than 13 hours of education~~ the educational program in sub. (2) at a school approved by the department under s. RL 25.05 or 25.06.

(b) ~~Attendance at 59 hours of education on some or all contents of~~ Satisfaction of the 10 semester-hour waiver in s. RL 25.03 (3) (2), completed at any school.

(2) (intro.) The ~~content~~ contents of the ~~13-hour course~~ educational program shall include all of the following and, if presented as classroom education, shall be presented in no less than 13 hours:

- (a) Contracts. ~~Minimum of 3.5 hours.~~
- (b) Agency. ~~Minimum of 2 hours.~~
- (c) Business conduct. ~~Minimum of 1 hour.~~
- (d) Consumer protection. ~~Minimum of 2 hours.~~
- (e) Fair housing. ~~Minimum of .5 hours.~~ Wisconsin law - s. RL 24.03 (1), ss. 66.432, 106.04, Stats.
- (f) Environmental factors. ~~Minimum of 1 hour.~~
- (g) Trust accounts and escrows. ~~Minimum of 1.5 hours.~~
- (h) Miscellaneous issues. ~~Minimum of 1.5 hours.~~

SECTION 15. The Note following RL 25.05 (1) (e) is amended to read:

Note: An applicant may obtain a copy of the Application for Approval of Pre-license Credit Courses ~~which satisfy the 72-hour and 36 requirement~~, Form #828, from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 16. RL 25.05 (3) is amended to read:

RL 25.05 (3) When approving one or more pre-license credit courses, the department shall specify the single course or combination of courses which satisfy cover either the 36 hours topics in s. RL 25.02 (2) or the 72 hours topics in s. RL 25.03 (3).

SECTION 17. RL 25.05 (6) and the Note following (6) are repealed. *explain*

SECTION 18. RL 25.06 (title), (1) (a), the Note following (1) (a), and (b) are amended to read:

RL 25.06 (title) **Requirements for approval of pre-license noncredit programs and instructors.** (1) APPROVAL OF PROGRAMS. (a) A school seeking initial approval from the department of pre-license educational noncredit programs or courses shall submit its application on a form provided by the department. ~~The approval of programs shall expire on August 15~~

*Approval of
Pre-license
courses*

following the date of initial approval and every August 15 thereafter. A school shall obtain approval of credit courses before the school conducts courses in the year following August 15.

Note: An applicant may obtain a copy of the Application for Approval of Pre-license Non-credit 72-hour and 36-Hour Noncredit Programs, Form #830, and the Application for Reapproval of Programs and Courses, Form #829, from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

(b) The department may require a school seeking initial approval and reapproval of pre-license educational noncredit programs or courses to describe or furnish its organizational structure, registration policies, fee schedules, promotional materials, detailed outlines of each program or course with specific allocations of classroom hours to each topic presented as classroom education, student records system, the names and qualifications of instructors, the method of instruction, the method for evaluating instructors and a summary of evaluations conducted, and the time, date and location of each program.

SECTION 19. RL 25.06 (1) (e) is repealed and recreated to read:

RL 25.06 (1) (e) A school seeking the approval of pre-license noncredit programs or courses presented as distance education is not required to designate the number of hours of instruction; however, it shall certify to the department that it will not do all of the following:

1. Ensure that instructors approved by the department under sub. (2) are available to the students at reasonable times and by reasonable means.
2. Ensure that the distance education programs and courses will sufficiently cover the required subjects.
3. Provide reasonable oversight to ensure that students who complete the distance education program are the enrolled students.
4. Ensure that the school's distance education program and courses will provide a reasonable opportunity for student self-evaluation of mastery.

SECTION 20. RL 25.065 (5) is amended to read:

RL 25.065 (5) A person who receives an original salesperson's or broker's license during a licensing biennium, ~~and who was not licensed as either a salesperson or broker on the first day of the biennium~~ is not required to satisfy the continuing education requirement during the biennium in which the person becomes a licensee receives that license. ~~However, a person who held a salesperson's license before the first day of a biennium and subsequently receives a broker's license must satisfy the continuing education requirement during the biennium in which the person receives a broker's license.~~

No 10/2/99 comment that D.R. actually appears here that is 25.06(1)(b)

check

SECTION 21. RL 25.066 (1) and (4) are amended to read:

RL 25.066 (1) A school seeking ~~initial~~ approval from the department of ~~the~~ a continuing education program or a course shall submit its application on a form provided by the department. A school shall submit ~~applications~~ an application for approval of a continuing education ~~programs and~~ program or course to the department before conducting ~~any~~ the continuing education program or course which the department has prescribed for a licensing biennium.

cf. RL 25.066 (1) same treatment
(4) The department may require a school seeking initial approval and reapproval of continuing education programs and courses to describe or furnish its organizational structure, registration policies, fee schedules, promotional materials, detailed outlines of each program with specific allocations of ~~classroom~~ hours to each topic presented as classroom instruction, student records system, the names and qualifications of administrators and instructors, the method of instruction, a summary of evaluations conducted, information about the school's response to complaints concerning an instructor, ~~and the time, date and location of each continuing education program.~~

SECTION 22. RL 25.066 (6) (b) is repealed. *20/1/99*

SECTION 23. RL 25.066 (6) (c) to (f) are amended to read:

RL 25.066 (6) (c) A school shall submit to the department with the application for approval at least 5 15 multiple-choice questions for each ~~hour of instruction~~ course. The school shall clearly indicate the answer to each question and the portion of the course outline to which the question relates. The questions shall comply with reasonable standards of test development and shall relate to the substantive contents of the continuing education program or course. The questions shall be the original work of the writer and not be published. A school may only make questions available to school personnel.

that is reasonable
(d) A school shall agree to conduct an examination at the end of each continuing education program or course. The examination shall contain at least 5 15 multiple-choice questions for each ~~hour of instruction~~ course. ~~The~~ In courses presented by classroom education, the examination shall be closed-book and the passing score shall be no less than 70%, unless the school provides substantial justification to the department for a lower score and the department approves the lower passing score.

that is reasonable
(e) A school shall agree not to make available to students before the students take a specific examination the questions or answers to the questions. A school shall keep tests and answer sheets in a secure location at all times before and after administration of the examination, ~~including during construction and printing.~~

(f) A school shall agree to inform students about the number of points of credit for each question in the examination and the passing score. It shall also provide clear instructions to students for recording their responses ~~on the examination booklet~~ to the questions.

SECTION 24. RL 25.066 (6) (i) is repealed. ← why?

SECTION 25. RL 25.066 (6) (j) is amended to read:

RL 25.066 (6) (j) A school may not count examination time as part of the ~~required~~ classroom hours required in a classroom education course.

SECTION 26. RL 25.066 (6) (k) is created to read:

RL 25.066 (6) (k) A school seeking the approval of continuing education programs and courses presented as distance education is not required to designate the number of hours of instruction, however, it shall certify to the department that it will do all of the following:

1. Ensure that instructors approved by the department under sub. (2) are available to the students at reasonable times and by reasonable means.

2. Provide a reasonable level of examination security for the examination given at the end of each distance education continuing education course. *of requirements for classroom*

3. Sufficiently cover the subjects specified for continuing education courses.

4. Provide reasonable oversight to ensure that the students who take the examination are the enrolled students.

5. Provide a reasonable opportunity for student self-evaluation of mastery.

SECTION 27. RL 25.07 (1) and (2) (c) 4. are amended to read: ~

RL 25.07 (1) ATTENDANCE REQUIREMENTS. A student shall attend all the required hours of a classroom education course and ~~receive~~ cover all the required contents of a classroom education course or a distance education course before a school may give a certificate of attendance to the student. In addition, for continuing education programs and courses, a student shall also satisfactorily complete the course examination administered by the school, as provided in s. RL 25.066 (6) ~~(g) to (i)~~ (d).

(2) (c) 4. Clearly state the number of hours the student has successfully completed ~~both by attending the complete program or course or by passing the program or course examination~~ in an educational program presented as classroom education.

SECTION 28. RL 25.075 (3) is amended to read:

RL 25.075 (3) The continuing education examination shall cover the subjects required for continuing education approved by the department under s. 452.05 (1) (d) and (g), Stats., and

shall have no less than 5 questions for each hour of instruction required of classroom education courses in the approved continuing education program or courses. > 2

SECTION 29. RL 25.075 (4) is repealed.

SECTION 30. RL 25. 076 is repealed.

(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 _____

Marlene A. Cummings, Secretary
Department of Regulation and Licensing

FISCAL EFFECT

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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2/22/99

MAY 04 1999

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION AND
DEPARTMENT OF REGULATION : LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 99-036)**

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DEPARTMENT OF REGULATION AND LICENSING is submitting in final draft form proposed rules relating to education, pre-license and continuing education programs and courses for real estate brokers and salespersons.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.



Tommy G. Thompson
Governor

State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING



Marlene A. Cummings
Secretary

1400 E. WASHINGTON AVENUE
P.O. BOX 8935
MADISON, WISCONSIN 53708-8935
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Administrative Rules in Final Draft Form

Department of Regulation and Licensing

Real Estate Board

Relating to: Education, Continuing Education Programs and Courses

Clearinghouse Rule: No. 99-036

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 99-036
DEPARTMENT OF REGULATION : (s. 227.19 (3), Stats.)
AND LICENSING :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

1997 Wisconsin Act 27 amended Chapter 452, Stats., relating to the practice of real estate, by removing the number of hours required for completion of pre-license and continuing education. The revised statutes require completion of the education that is required by the department in rules promulgated under s. 452.05 (1) (c), Stats. The intent of the statutory change was to enable the department to approve distance learning courses that are less focused on the number of hours of education and more focused on the course contents being presented in a manner that inadequately presents the contents by such media as CD-Rom, the Internet, videotape or audiotape.

This rule proposal creates appropriate distinctions between classroom education and distance learning, in regard to the time or manner in which courses are to be presented, the information provided to the department in an application for approval of educational programs and courses, the criteria for approval by the department and other related issues.

This proposal corrects a few statutory citations in the listing of the contents of several courses and it eliminates several requirements which approved schools have had to comply with during the past few years.

V. NOTICE OF PUBLIC HEARING:

A public hearing was chaired by James Imhoff, Jr., Chairman of the Real Estate Board, on March 25, 1999.

Richard Staff, Vice President of Legal Services, of the Wisconsin Realtors Association was the only member of the public who spoke at the hearing. He stated that the Wisconsin Realtors Association supported the proposed changes.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Following the order of the recommendations of the Council, note the following:

1. Changes were made to several SECTIONS, as noted below, so that the length of courses is more clearly explained.
 - 2.a. The department left this amendment in the rule. The need for it is more apparent after making the additional changes discussed below.
 - 2.b. The drafting style was amended.
 - 2.c. The additional words were inserted, as suggested.
 - 2.d. The words were deleted, as suggested.
 - 2.e. The additional words were inserted, as suggested.
4. No changes were made to the cross-references. No error was made. The first reference is one of five citations to fair housing laws. It refers to both federal and state laws. The second reference combines several citations to state law only.
 - 5.a. The words "attendance at" were changed to "completion of."
 - 5.b. The changes were made, as suggested. "Not" was mistakenly included.
 - 5.c. Changes were made to require schools seeking approval of their programs and courses to describe how it will comply with the criteria for approval. The department notes that the rules give the department authority to approve programs and courses.
 - 5.d. The rule was revised to establish comparable standards for examinations following both classroom and distance learning continuing education courses.
 - 5.e. "Cover" was removed from the proposal and the term in the current rule, "receive" was retained.
 - 5.f. Section RL 25.075 (3) was revised to more clearly address the length of continuing education courses.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These proposed rules will have no significant adverse impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 99-036)

PROPOSED ORDER

An order of the Department of Regulation and Licensing to *repeal* RL 12.04 (1) (b), 25.05 (6) and the Note following (6), 25.066 (6) (b) and (i), 25.075 (4) and 25.076; to *amend* RL 12.04 (1) (a), 25.01 (3), (4) and (7), 25.02 (1) (intro.), (a), (2) (title), (2) (intro.) and (a), (b) to (g), 2. to 5., (h) and (i), 25.025 (title), (1) (intro.), (a), (2) (intro.), (a), (b) and (c), 25.03 (1), (2) (title), (3) (title), (3) (intro.), (a), 6., (b) to (L), 4. and (m) to (r), 25.035 (title), (1) (intro.), (a), (b), (2) (intro.) and (a) to (h), the Note following 25.05 (1) (e) and (3), 25.06 (title), (a) (a), the Note following (1) (a), and (b), 25.065 (5), 25.066 (1) and (4), 25.066 (6) (c) to (f) and (j), 25.07 (1) and (2) (c) 4. and 25.075 (3); to *repeal and recreate* RL 25.06 (1) (e); and to *create* RL 25.01 (2m) and (5m), 25.02 (2) (a) 7., 25.025 (2) (a) 7. and 25.066 (6) (k), relating to education, pre-license and continuing education programs and courses.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 452.06 (2) and 452.07, Stats., and s. 452.05, Stats., as amended by 1997 Wisconsin Act 27.

Statutes interpreted: ss. 452.05, 452.09 (2) and 452.12 (5), Stats.

This proposed rule-making order was prepared with the assistance, review and recommendation of the Council of Real Estate Curriculum and Examinations and the Real Estate Board. These proposed rules make two substantive changes and many minor amendments relating to the primary changes. First, this proposal defines "distance education" and provides criteria for the department to approve educational programs and courses presented by distance education. "Distance education" is distinguished from "classroom education." The definition of "classroom education" focuses on the fact that an instructor is physically present in the classroom for the purpose of providing instruction in person, or a proctor is physically present in the classroom for the purpose of taking attendance and supervising the presentation of instruction by an instructor who is present by an electronic, audio or audiovisual medium. The definition of "distance learning" focuses on the fact that neither an instructor nor a proctor is physically present with the student. The student may undertake instruction by using a paper, electronic or audiovisual medium by himself or herself without an instructor or proctor present to take attendance or supervise the presentation of the instruction.

Secondly, this proposal creates criteria for the approval of pre-license and continuing education programs and courses presented by distance education. These criteria require an approved school to design distance education programs and courses so that, if the programs and courses were presented as classroom education, they would be presented for the number of hours required for classroom education for a specific number of hours. However, the specific number of hours are still required for "classroom education." Many minor amendments occur throughout the proposal, in order to clarify these primary changes.

The criteria for approval of distance education programs and courses have been added to ss. RL 25.06 and RL 25.066, relating to the approval of pre-license and continuing education noncredit programs and instructors. The criteria address the need for a school to describe how the following criteria will be met: ascertain that instructors are available to students at reasonable times and by reasonable means, that there will be a reasonable level of examination security for the examination given at the end of continuing education courses, that the courses will sufficiently cover the subjects specified for courses, that the school will provide reasonable oversight to ensure that the students who take the examination are the enrolled students, and that the school will provide a reasonable opportunity for student self-evaluation of mastery.

This proposal modifies some of the contents of the pre-license broker's and salesperson's courses in order to stay current with statutory changes, rule changes, and changes in the practices of the industry.

A few policies are amended because they are no longer needed. One example is the need for an approved school to submit a reapproval application every year. The requirement that a school must inform the department of changes in its structure or programming within 10 days after any changes remain in the rules. Some forms have been eliminated by these changes and the notes at the end of certain sections have been changed accordingly.

TEXT OF RULE

SECTION 1. RL 12.04 (1) (a) is amended to read:

RL 12.04 (1) (a) The applicant shall either provide proof of having successfully completed the classroom education which was required during the biennium preceding the date of renewal of the applicant's license, provide proof of having successfully passed the test-out examination which was administered during the biennium preceding the date of renewal of the applicant's license, or provide proof of having successfully completed any 8 of the 15 hours of education in s. RL 25.03 (3) (h) and the 4 hours of education in s. RL 25.03 (3) (m), or of having successfully completed the educational program in s. RL 25.035 (2). In this paragraph "successfully completed" means passing an examination pursuant to s. RL 25.066 (6) (d).

SECTION 2. RL 12.04 (1) (b) is repealed.

SECTION 3. RL 25.01 (2m) is created to read:

RL 25.01 (2m) "Classroom education" means the provision of educational programs or courses to one or more students in a setting in which either an instructor is physically present with the students or a representative of an approved school is physically present with the students for the purpose of taking attendance and providing instruction by audiotape, cable television, satellite line or other similar method and the instructor is available for student questions by telephone or E-mail, or by a continuous 2-way audio or audiovisual connection.

SECTION 4. RL 25.01 (3) and (4) are amended to read:

RL 25.01 (3) "Continuing education course" means an approved segment of ~~the total number of a continuing education hours~~ program required by the department pursuant to s. 452.05 (1) (d), Stats.

(4) "Continuing education program" means the total number of continuing education hours or subjects required by the department pursuant to s. 452.05 (1) (d), Stats.

SECTION 5. RL 25.01 (5m) is created to read:

RL 25.01 (5m) "Distance education" means the provision of educational programs or courses without an instructor or a representative of an approved school physically present with the students. "Distance education" includes, but is not limited to, the delivery of educational programs and courses on CD-ROM, computer disk, or the Internet.

SECTION 6. RL 25.01 (7) is amended to read:

RL 25.01 (7) "Hour" means a period of 50 minutes of actual ~~classroom~~ instruction and shall not include time spent in writing tests or examinations given by the school.

SECTION 7. RL 25.02 (1) (intro.), (a), (2) (title), (2) (intro.) and (a) are amended to read:

RL 25.02 (1) EDUCATIONAL REQUIREMENTS. (intro.) Each applicant for an original real estate broker's license shall ~~do~~ satisfy any one of the following requirements:

(a) Present evidence satisfactory to the department of successful completion, within 5 years before application for a license, of the ~~36-hour~~ educational program in sub. (2), which has been approved in accordance with this chapter, and either satisfy the salesperson's educational requirements in s. RL 25.03 (3) or present evidence satisfactory to the department of licensure as a salesperson;

(2) (title) BROKER'S 36-HOUR PRE-LICENSE PROGRAM. (intro.) The ~~36-hour~~ educational ~~programs~~ program for applicants for an original real estate broker's license shall cover all of the following topics under each paragraph title, be presented during and shall be

designed so that if the educational program were presented as classroom education, it would be presented in no less than the number of 36 hours stated after each paragraph title, and include:

(a) Contracts. ~~2 hours.~~

SECTION 8. RL 25.02 (2) (a) 7. is created to read:

RL 25.02 (2) (a) 7. Commercial real estate commission lien - s. 779.32, Stats.

SECTION 9. RL 25.02 (2) (b) to (g), 2. to 5., (h) and (i) are amended to read:

RL 25.02 (2) (b) Approved forms. ~~4 hours.~~

(c) Trust accounts, escrow, closing statement. ~~5 hours.~~

(d) Business management and marketing. ~~5 hours.~~

(e) Financial and office management. ~~4 hours.~~

(f) Personnel. ~~4 hours.~~

(g) Business ethics. ~~4 hours.~~

2. ~~Advertising - s~~² RL 24.04.

3. ~~Offers - ss~~². RL 24.12, 24.13.

4. ~~Self-dealing - s~~². RL 24.05.

5. ~~Disclosure - s~~² RL 24.07.

(h) Consumer protection. ~~5 hours.~~

(i) Specialty areas. ~~3 hours.~~

SECTION 10. RL 25.025 (title), (1) (intro.), (a), (b), (2) (intro.) and (a) are amended to read:

RL 25.025 (title) **Satisfaction of broker's 36-hour program educational requirements by out-of-state applicants.** (1) (intro.) An applicant who has held an active real estate broker's license in another licensing jurisdiction within the 2 year period prior to filing an application for an original real estate broker's license in Wisconsin may satisfy the broker's educational requirements of s. RL 25.02 ~~(2)~~ (1) if the applicant submits by submitting evidence of all one of the following:

(a) ~~Attendance at 3 hours of~~ Completion of the education educational programs under sub. (2) and s. RL 25.035 (2) at a school approved by the department under s. RL 25.05 or 25.06.

(b) ~~Attendance at 33 hours of education on some or all contents of~~ Satisfaction of the requirements in s. RL 25.02 (2), completed at any school (1) (b) or (c).

(2) (intro.) ~~The content contents of the 3-hour course~~ educational program under this subsection shall include all of the following and shall be designed so that if the educational program were presented as classroom education, it would be presented in no less than 3 hours:

(a) Broker-only contracts and contract issues. ~~Minimum of 5 hours.~~

SECTION 11. RL 25.025 (2) (a) 7. is created to read:

RL 25.025 (2) (a) 7. Commercial real estate broker's commission lien - s. 779.32, Stats.

SECTION 12. RL 25.025 (2) (b) and (c) are amended to read:

RL 25.025 (2) (b) Miscellaneous Wisconsin laws. ~~Minimum of 5 hours.~~

(c) Review, update or more in-depth coverage of any of the contents of the ~~13-hour~~ salesperson's educational course in s. RL 25.035 (2).

SECTION 13. RL 25.03 (1), (2) (title), (3) (title), (3) (intro.), (a), 6., (b) to (L), 4. and (m) to (r) are amended to read:

RL 25.03 (1) GENERAL REQUIREMENTS. Each applicant for an original real estate salesperson's license shall present evidence of attendance, within 5 years before application for a license, at the ~~72-hour~~ educational program in sub. (3), which has been approved by the department in accordance with this chapter s. RL 25.05 or 25.06.

(2) (title) ~~TEN-HOUR~~ TEN SEMESTER-HOUR WAIVER.

(3) (title) SALESPERSON'S 72-HOUR PRE-LICENSE PROGRAM. (intro.) The ~~72-hour~~ educational program for applicants for an original real estate salesperson's license shall include cover all of the following topics and shall be designed so that if the educational program were presented as classroom education, it would be presented in no less than 72 hours:

(a) Real property. ~~4 hours.~~

6. ~~Types of housing~~ Mobile homes - s. 70.043, Stats.

(b) The real estate business. ~~1 hour.~~

- (c) Real estate brokerage. ~~3 hours.~~
- (d) Listing agreements. ~~5 hours.~~
- (e) Interests in real estate. ~~5 hours.~~
- (f) Legal descriptions. ~~3 hours.~~
- (g) Taxes and other liens. ~~2 hours.~~
- (h) Real estate contracts. ~~15 hours.~~
- (i) Title records and transfers of title. ~~2 hours.~~
- (j) Real estate finance and basic math. ~~7 hours.~~
- (k) Appraisal - market analysis. ~~5 hours.~~
- (L) Fair housing laws. ~~2 hours.~~

4. Equal rights - s. ~~101.22~~ 106.04, Stats.

- (m) Ethical real estate practices. ~~4 hours.~~
- (n) Leases. ~~2 hours.~~
- (o) Property management. ~~1 hour.~~
- (p) Land use control and development. ~~3 hours.~~
- (q) Environmental concerns. ~~3 hours.~~
- (r) Miscellaneous Wisconsin license laws. ~~5 hours.~~

SECTION 14. RL 25.035 (title), (1) (intro.), (a), (b), (2) (intro.) and (a) to (h) are amended to read:

RL 25.035 (title) **Satisfaction of salesperson's ~~72-hour program educational requirements by out-of-state applicants.~~** (1) (intro.) An applicant who has held an active real estate salesperson's license in another licensing jurisdiction within the 2-year period prior to filing an application for an original real estate salesperson's license in Wisconsin may satisfy the educational requirements of s. RL 25.03 (3) if the applicant submits evidence of all one of the following:

(a) ~~Attendance at no less than 13 hours of education~~ Completion of the educational program in sub. (2) at a school approved by the department under s. RL 25.05 or 25.06.

(b) ~~Attendance at 59 hours of education on some or all contents of~~ Satisfaction of the 10 semester-hour waiver in s. RL 25.03 (3) (2), completed at any school.

(2) (intro.) ~~The content contents of the 13-hour course~~ educational program under this subsection shall include all of the following and shall be designed so that if the educational program were presented as classroom education, it would be presented in no less than 13 hours:

- (a) Contracts. ~~Minimum of 3.5 hours.~~
- (b) Agency. ~~Minimum of 2 hours.~~
- (c) Business conduct. ~~Minimum of 1 hour.~~
- (d) Consumer protection. ~~Minimum of 2 hours.~~
- (e) Fair housing. ~~Minimum of .5 hours.~~ Wisconsin law - s. RL 24.03 (1), ss. 66.432, 106.04, Stats.
- (f) Environmental factors. ~~Minimum of 1 hour.~~
- (g) Trust accounts and escrows. ~~Minimum of 1.5 hours.~~
- (h) Miscellaneous issues. ~~Minimum of 1.5 hours.~~

SECTION 15. The Note following RL 25.05 (1) (e) is amended to read:

Note: An applicant may obtain a copy of the Application for Approval of Pre-license Credit Courses ~~which satisfy the 72-hour and 36 requirement~~, Form #828, from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 16. RL 25.05 (3) is amended to read:

RL 25.05 (3) When approving one or more pre-license credit courses, the department shall specify the single course or combination of courses which satisfy cover either the ~~36 hours~~ topics in s. RL 25.02 (2) or the ~~72 hours~~ topics in s. RL 25.03 (3).

SECTION 17. RL 25.05 (6) and the Note following (6) are repealed.

SECTION 18. RL 25.06 (title), (1) (a), the Note following (1) (a), and (b) are amended to read:

RL 25.06 (title) Requirements for approval of pre-license noncredit programs and instructors. (1) APPROVAL OF PROGRAMS. (a) A school seeking initial approval from the department of pre-license educational noncredit programs or courses shall submit its application on a form provided by the department. ~~The approval of programs shall expire on August 15 following the date of initial approval and every August 15 thereafter. A school shall obtain approval of credit courses before the school conducts courses in the year following August 15.~~

Note: An applicant may obtain a copy of the Application for Approval of Pre-license Non-credit 72 hour and 36-Hour Noncredit Programs, Form #830, and the Application for Reapproval of Programs and Courses, Form #829, from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

(b) The department may require a school seeking initial approval and reapproval of pre-license educational noncredit programs or courses to describe or furnish its organizational structure, registration policies, fee schedules; promotional materials, detailed outlines of each program or course with specific allocations of classroom hours to each topic presented as classroom education, student records system, the names and qualifications of instructors, the method of instruction, the method for evaluating instructors and a summary of evaluations conducted, and the time, date and location of each program.

SECTION 19. RL 25.06 (1) (e) is repealed and recreated to read:

RL 25.06 (1) (e) A school seeking the approval of pre-license noncredit programs or courses presented as distance education is not required to designate the number of hours of instruction. However, it shall describe to the department how it will do all of the following:

1. Ensure that instructors approved by the department under sub. (2) are available to the students at reasonable times and by reasonable means.
2. Ensure that the distance education programs and courses will sufficiently cover the required subjects.
3. Provide reasonable oversight to ensure that students who complete the distance education program are the enrolled students.
4. Ensure that the school's distance education program and courses will provide a reasonable opportunity for student self-evaluation of mastery.

SECTION 20. RL 25.065 (5) is amended to read:

RL 25.065 (5) A person who receives an original salesperson's or broker's license during a licensing biennium, ~~and who was not licensed as either a salesperson or broker on the first day of the biennium~~ is not required to satisfy the continuing education requirement during the biennium in which the person ~~becomes a licensee~~ receives that license. ~~However, a person who held a salesperson's license before the first day of a biennium and subsequently receives a broker's license must satisfy the continuing education requirement during the biennium in which the person receives a broker's license.~~

SECTION 21. RL 25.066 (1) and (4) are amended to read:

RL 25.066 (1) A school seeking ~~initial~~ approval from the department of ~~the~~ a continuing education program or a course shall submit its application on a form provided by the department. A school shall submit ~~applications~~ an application for approval of a continuing education ~~programs and program or course~~ to the department before conducting ~~any~~ the continuing education program or course which the department has prescribed for a licensing biennium.

(4) The department may require a school seeking initial approval and reapproval of continuing education programs and courses to describe or furnish its organizational structure, registration policies, fee schedules, promotional materials, detailed outlines of each program with specific allocations of ~~classroom~~ hours to each topic presented as classroom instruction, student records system, the names and qualifications of administrators and instructors, the method of instruction, a summary of evaluations conducted, information about the school's response to complaints concerning an instructor, ~~and the time, date and location of each continuing education program.~~

SECTION 22. RL 25.066 (6) (b) is repealed.

SECTION 23. RL 25.066 (6) (c) to (f) are amended to read:

RL 25.066 (6) (c) A school shall submit to the department with the application for approval at least 5 15 multiple-choice questions for each hour of instruction course. The school shall clearly indicate the answer to each question and the portion of the course outline to which the question relates. The questions shall comply with reasonable standards of test development and shall relate to the substantive contents of the continuing education program or course. The questions shall be the original work of the writer and not be published. A school may only make questions available to school personnel.

(d) A school shall agree to conduct an examination at the end of each continuing education program or course. The examination shall contain at least 5 15 multiple-choice questions for each hour of instruction course. ~~The examination shall be closed book and the~~ The passing score shall be no less than 70%, unless the school provides substantial justification to the department for a lower score and the department approves the lower passing score.

(e) A school shall agree not to make available to students before the students take a specific examination the questions or answers to the questions. A school shall keep tests and answer sheets in a secure location at all times before and after administration of the examination, ~~including during construction and printing.~~

(f) A school shall agree to inform students about the number of points of credit for each question in the examination and the passing score. It shall also provide clear instructions to students for recording their responses ~~on the examination booklet~~ to the questions.

SECTION 24. RL 25.066 (6) (i) is repealed.

SECTION 25. RL 25.066 (6) (j) is amended to read:

RL 25.066 (6) (j) A school may not count examination time as part of the ~~required~~ classroom hours required in a classroom education course.

SECTION 26. RL 25.066 (6) (k) is created to read:

RL 25.066 (6) (k) A school seeking the approval of continuing education programs and courses presented as distance education is not required to designate the number of hours of instruction. However, it shall describe to the department how it will do all of the following:

1. Ensure that instructors approved by the department under sub. (2) are available to the students at reasonable times and by reasonable means.
2. Provide a reasonable level of examination security for the examination given at the end of each distance education continuing education course.
3. Sufficiently cover the subjects specified for continuing education courses.
4. Provide reasonable oversight to ensure that the students who take the examination are the enrolled students.
5. Provide a reasonable opportunity for student self-evaluation of mastery.

SECTION 27. RL 25.07 (1) and (2) (c) 4. are amended to read:

RL 25.07 (1) ATTENDANCE REQUIREMENTS. A student shall attend all the required hours of a classroom education course and receive all the required contents of a classroom education course or a distance education course before a school may give a certificate of attendance to the student. In addition, for continuing education programs and courses, a student

shall also satisfactorily complete the course examination administered by the school, as provided in s. RL 25.066 (6) ~~(g) to (i)~~ (d).

(2) (c) 4. Clearly state the number of hours the student has successfully completed ~~both by attending the complete program or course or by passing the program or course examination~~ in an educational program presented as classroom education.

SECTION 28. RL 25.075 (3) is amended to read:

RL 25.075 (3) The continuing education examination shall cover the subjects required for continuing education approved by the department under s. 452.05 (1) (d) and (g), Stats., and shall have no less than 5 questions for each hour of instruction in classroom education courses or 5 questions for each hour of instruction if the topics presented in a distance education course were presented as a classroom education course or courses in the approved continuing education program or courses.

SECTION 29. RL 25.075 (4) is repealed.

SECTION 30. RL 25. 076 is repealed.

(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 _____

Marlene A. Cummings, Secretary
Department of Regulation and Licensing

FISCAL EFFECT

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will not have an adverse impact on small businesses, as defined in s 227.114 (1) (a), Stats.

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