



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 04-134

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 October 2002.]

2. Form, Style and Placement in Administrative Code

a. In SECTION 1, in those definitions with the phrase “specified under” the phrase “given in” should be substituted. For example, in sub. (27m), “given in s. 101.91 (2), Stats.” should be used. In sub. (41m), is there a reason that the term “pro-forma” is used since the definition does not appear to be consistent with the normal use of the term “pro forma”? Is “pro-forma statement” a term of art, distinct to this industry?

b. In s. Comm 5.323 (1) and elsewhere in the rule, “under” should be substituted for “pursuant to.”

c. In s. Comm 5.323 (2) (d) 2., first sentence, “the” should be inserted before “equivalent.” In the second sentence, a comma should be inserted after “small business” and “that” should be substituted for “which.” In the third sentence, “shall not” should be “may not.” In sub. (3) (b), “chairman” should be “chairperson.”

d. In s. Comm 5.323 (5) (b), a comma should be inserted after “shall.” In sub. (5) (e), the last sentence would be clearer if it read: “If the manufactured homes in an advertisement are either all new or all used, one reference in the advertisement designating that they are new or used is sufficient.” As a general comment with reference to the disclosures required in advertisements, should a specific sized print be required so that the disclosure is readily noticeable? In sub. (5) (g), “which” should be “that.” In sub. (6) (c) 2., “other party” should be “other person” (the definition of “person” for purposes of the statutes and rules is broad enough to include both individuals and corporate or other entities). Paragraph (e) indicates that an

increase in price is prohibited except if the price increase is due to the addition of new equipment required by law, to tax changes or to reappraisal. Is it clear in the rule that the provisions in par. (e) should be included in the contract so that the retail purchaser will know of the possibility of increases? In par. (h) (title), "*On site*" should be hyphenated. In par. (h) 2., the last part would be clearer if it read: "...if the retail purchaser is rejected by, or the purchaser's manufactured home is not permitted in, the manufactured home park." In pars. (e) 3., (i) and (j), "which" should be "that."

e. In s. Comm 5.323 (8) (c) 1., second sentence, "also" should be deleted. In the fourth sentence, is there a clearer way of stating "is not required to be technically exhaustive"? What does that phrase mean? In subd. 2., the first sentence should be written in the active voice--"The seller of...shall provide..." "In subd. 3., "neither" should be "not." In sub. (9) (a) 1., the second sentence would be clearer if "if it is accessible" is replaced by "if the office is accessible." In par. (d) 1., the last part of the provision is confusing and should be clarified ("at least 10 days in advance of any temporary sale to last longer than 10 days"). In par. (f) (intro.), "minimum of" should be deleted. In subd. 5., there should be no capital letters in the list of information, and "Model/ID" should be spelled out (e.g., "model and identification number"). In par. (g), "under" should replace "described in."

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

With reference to the various forms referred to throughout the rule, it is not clear which of these forms are new, revised, or existing. The Analysis of Proposed Rules states: "Several changes deal with the use of new department forms. An existing Note in section Comm 5.01 indicates how department forms are obtained." It does not appear that the note to s. Comm 5.01 is adequate. The department should refer to s. 1.09 (2), Manual, "Reference to Forms," for the requirements the rule must meet for reference to forms. Also, in some cases in the rule, the name of the form is identified in the text, in some cases it is not.