

Clearinghouse Rule 13-100

STATE OF WISCONSIN
REAL ESTATE EXAMINING BOARD

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE :
REAL ESTATE EXAMINING BOARD : NOTICE OF PUBLIC HEARING
: :
: :
: :
: (CR)

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Real Estate Examining Board in ss. 15.08 (5) (b), 227.11 (2), 452.07 (1m), and 452.12 (6) (a), Stats., and interpreting ss. 452.07 (1m), 452.05 (1) (b), and 452.07, Stats, the Real Estate Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal chs. REEB 22 and 26; and amend ss. 11.01 (intro.), 11.02 (intro.) 12.04 (1) (intro.), 12.04(2) (intro.) and 25.065 (1) and (Note), relating to apprentices and inactive licenses.

Hearing Date, Time and Location

Date: February 20, 2014
Time: 10:00 a.m.
Location: 1400 East Washington Avenue*
Room 121A
Madison, Wisconsin
* Enter at 55 North Dickenson Street

APPEARANCES AT THE HEARING:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708-8935. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 452.07 (1) and (1m), Stats.

Statutory authority: ss. 15.08 (5) (b), 227.11 (2), 452.07 (1m), and 452.12 (6) (a), Stats.

Explanation of agency authority: Examining boards are generally authorized by ss. 15.08 (5) (b) and 227.11 (2) (a), Stats., to promulgate rules for their own guidance and for guidance within the profession and to promulgate rules interpreting any statute enforced or administered by it. Under s. 452.07 (1m), Stats., the board shall advise the secretary on rulemaking relating to licensees and promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice. Section 452.12 (6) (a), Stats., sunset on October 31, 1995; it states that: “Any licensee, except a time-share salesperson registered under s. 452.025, may apply for registration as an inactive licensee on or before the license renewal date. This paragraph does not apply after October 31, 1995.”

Related statute or rule: Chapters REEB 1 to 26

Plain language analysis:

In response to Executive Order 61, the Real Estate Examining Board reviewed their rules, chapters REEB 1 to 26, and identified two areas that either no longer reflected contemporary industry practices or had sunset by state statutes.

While provided through statutory authority, s. 452.12 (6) (a), Stats., an individual may apply for a registration as an apprentice under a supervisory broker. In this review, it was determined that such the process in ch. REEB 22, relating to apprentices, is no longer followed in practice. Real estate brokers have the opportunity to train future license applicants as unlicensed professionals and do so in a less formal mentoring role within the guidelines of the duties of a supervising broker. The Board, therefore, chose to eliminate this chapter in its entirety.

Regarding the review of ch. REEB 26, inactive licenses, it was found that although a process was in place for recognizing inactive licenses, the agency had only received one application in the past 18 months and that license has since expired. In addition, s. 452.12 (6) (a), Stats., provided for applications for inactive licenses, this section sunset on October 31, 1995. The Board, therefore, chose to eliminate this chapter in its entirety.

SECTION 1. This section proposes various amendments related chapters in the REEB series (chs. REEB 1 to 26). Specifically proposed is to delete references to chs. REEB 22 and 26, and references in the renewal sections if the individual had the status of an inactive licensee and references to s. 452.12 (6), Stats., specific to inactive licensees.

SECTION 2. This section proposes to repeal both chapters REEB 22, apprentices, and REEB 26, inactive licenses.

SECTION 3. This section defines the effective date of this rule once through the rulemaking process as specified in s. 277.11 (12).

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

The federal government does not mandate licenses for active or inactive real estate brokers or salespersons; or are there laws regarding apprenticeships in the real estate profession.

Comparison with rules in adjacent states:

The following information is a result of an Internet-based search for the four adjacent states.

Illinois: The state of Illinois does not license or have requirements for application as a real estate apprentice. Illinois codes and law do not provide for an inactive license. [Title 68b: professions and occupations, part 1450 real estate license act of 2000]

Iowa: The state of Iowa does not license or have requirements for application as a real estate apprentice. An inactive status in Iowa is required (only) when a salesperson is no longer employed by a broker or is in the process of transferring to another broker. [Iowa code 543B.33]

Michigan: The state of Michigan does not license or have requirements for application as a real estate apprentice. Michigan law does not provide for inactive real estate licenses. [ch. 339, Article 25 of Public Act 299 of 1980]

Minnesota: The state of Minnesota does not license or have requirements for application as a real estate apprentice. Nothing in these state rules provide for an inactive license status. {MN Statutes 82}

Summary of factual data and analytical methodologies:

In the past year, the board reviewed their rules and found that the training of unlicensed individuals was more beneficial to future license applicants and supervising brokers than the process outlined in ch. REEB 22, relating to apprentices. Supervising brokers are provided with such duties in s. 452.12 (3), Stats.

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

The Real Estate Examining Board was the primary source for determining the potential impacts of both the technical and administrative elements of these rules. A responsibility of the Board is to bring forth any concerns they may be aware of or have with the current requirements and with rule changes, and any concerns for any potential economic impacts from the changes. In addition, staff was consulted to provide data on the number of inactive and apprentice licenses or requests.

Fiscal estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary:

This rule change will not have an effect on small business.

Environmental Assessment/Statement:

Not required.

Agency contact person:

Jean MacCubbin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366 Madison, Wisconsin 53708-8366; telephone 608-266-0955 or telecommunication relay at 711; email at Jean.MacCubbin@wisconsin.gov.

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

Comments may be submitted to Jean MacCubbin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to Jean.MacCubbin@wisconsin.gov. Comments must be received at or before the public hearing to be held on February 20, 2014 to be included in the record of rule-making proceedings.

(Text of rule begins on next page.)

TEXT OF RULE

SECTION 1. REEB 11.01 (intro.), 11.02 (intro.) 12.04 (1) (intro.), 12.04(2) (intro.) and 25.065 (1) and (Note) are amended to read:

REEB 11.01 Authority. The rules in chs. REEB 11 to ~~26~~ 25 are adopted by the board pursuant to ss. 227.11 (2), 440.03 (1) and 452.07, Stats.

REEB 11.02 Definitions. ~~As used in~~ In chs. REEB 11 to ~~26~~ 25:

REEB 12.04 (1) LESS THAN 5 YEARS. If an applicant files an application for renewal of the applicant's real estate license with the department less than 5 years after the renewal date, as defined in s. 440.01 (1) (dm), Stats., ~~and the applicant is not registered as an inactive licensee,~~ the applicant shall pay the applicable renewal fee and penalty fee specified in s. 440.08, Stats., and provide evidence of having satisfied the continuing education required by s. 452.12 (5), Stats., in one of the following manners:

(2) MORE THAN 5 YEARS. If an applicant files an application for renewal of a real estate license 5 or more years after the renewal date ~~and the applicant is not registered as an inactive licensee,~~ the applicant shall pay the late renewal fee specified in s. 440.08 (3), Stats., the examination fee specified in s. 440.05 (1) (b), Stats., and satisfy education and examination requirements, as follows:

REEB 25.065 (1) Each licensed broker and salesperson, ~~except an inactive licensee under s. 452.12 (6), Stats.,~~ shall satisfy the continuing education requirement specified in s. 452.12 (5) (c), Stats., during each licensing biennium.

Note: The contents of the continuing education programs and courses are not designated in the Wisconsin administrative code, pursuant to an exemption under s. 227.01 (13) (zj), Stats. This information may be obtained from the Wisconsin Department of Safety and Professional Services, Division of Professional Credential Processing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935 or accessible from the department's webpage at: <http://dsps.wi.gov>.

SECTION 2. Chapters REEB 22 and 26 are repealed.

SECTION 3. EFFECTIVE DATE: 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.

(END OF TEXT OF RULE)

COPIES OF RULE

Copies of this proposed rule are available upon request to Jean MacCubbin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708-8366, by email at Jean.MacCubbin@wisconsin.gov or on our website at <http://dsps.wi.gov/>.

Dated _____

Agency _____

Board Chairperson
Real Estate Examining Board