

STATE OF WISCONSIN
REAL ESTATE EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : REAL ESTATE EXAMINING BOARD
REAL ESTATE EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 18-051)

PROPOSED ORDER

An order of the Real Estate Examining Board to amend REEB 24.17 (3) relating to violation of board orders.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 452.14, Stats.

Statutory authority: ss. 15.08 (5) (b) and 452.07 (1), Stats.

Explanation of agency authority:

Each examining board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular profession. [s. 15.08 (5) (b), Stats.]

The board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice. [s. 452.07 (1), Stats.]

Related statute or rule: Chapter REEB 24

Plain language analysis:

Section 1 removes the word “disciplinary” in order to clarify it is unprofessional conduct to violate terms of any board order.

Summary of, and comparison with, existing or proposed federal regulation: None

Comparison with rules in adjacent states:

Illinois: Illinois does not enumerate violation of a board order as unprofessional conduct.

Iowa: Failure to comply with an order of the commission imposing discipline is grounds for discipline in Iowa.

Michigan: Michigan does not enumerate violation of a board order as unprofessional conduct.

Minnesota: Minnesota may take disciplinary action if the licensee has violated or failed to comply with any provision of the statute governing real estate or any rule or order.

Summary of factual data and analytical methodologies:

The Board issues a variety of orders, for example issuing a limited license order to allow an applicant to practice with certain limitations in place instead of denying the license entirely. This proposed order clarifies that it is unprofessional conduct to violate any provisions or terms or conditions of any order of the Board and not just disciplinary orders.

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

This rule was posted for economic comments and none were received. This rule clarifies an unprofessional conduct provision.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

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TEXT OF RULE

SECTION 1. REEB 24.17 (3) is amended to read:

REEB 24.17 (3) VIOLATION OF STATUTES, ADMINISTRATIVE CODE AND ~~DISCIPLINARY BOARD~~ ORDERS. Licensees shall not violate any provisions or terms or conditions of, or aid or abet the violation of ch. 452, Stats., chs. REEB 11 to 25 or any ~~disciplinary~~ order of, the board.

SECTION 2. 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)

This Proposed Order of the Real Estate Examining Board is approved for submission to the Governor and Legislature.

Dated _____

Signature _____

Chair
Real Estate Examining Board