Clearinghouse Rule 21-018

STATE OF WISCONSIN
REAL ESTATE EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	REAL ESTATE EXAMINING BOARD
REAL ESTATE EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE _____)

PROPOSED ORDER

An order of the Real Estate Examining Board to repeal REEB 12.011 and amend REEB 12.017 (3) (a), relating to obsolete references to predetermination of criminal convictions in licensure applicants and apprenticeships.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 440.03 (13) (bm), 452.09 (4), and 452.11 (1), 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.]

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

Related statute or rule: ss. 440.03 (13) (bm), 452.09 (4), and 452.11 (1), Stats.

Plain language analysis:

The Real Estate Examining Board Administrative Rule REEB 12.011 relates to criminal conviction predeterminations. 2017 Act 278 repealed the Real Estate Examining Board's authority to promulgate rules establishing a procedure that allows an individual to apply to the Board for a determination of whether the individual would be disqualified from obtaining a license or certificate due to their criminal record. Act 278 established conviction predetermination requirements, and there is no longer the ability for the Board to conduct its own predeterminations. This rule revision also removes the reference under REEB 12.017(3)(a) to

apprenticeships, as apprenticeships are no longer licensed under the Real Estate Examining Board administrative rules.

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

The federal government does not regulate the prelicensure predetermination for members of the real estate profession nor real estate broker apprenticeships.

Comparison with rules in adjacent states:

Illinois: Illinois does not have a process in which an applicant may apply for a predetermination of a criminal conviction before officially applying for real estate licensure. Illinois does not include apprenticeships for real estate.

Iowa: Iowa requires a background check which includes fingerprint submission, to be completed prior to taking a real estate licensure exam. Once the background check has been reviewed and approved, an applicant then must pass a licensure exam. [Iowa Code § 543B.15(9)]
Iowa does not have real estate apprenticeships.

Michigan: Michigan does not have a predetermination process for applications for real estate licensure nor apprenticeships for real estate.

Minnesota: Minnesota does not have a predetermination process for applications for real estate licensure nor apprenticeships for real estate.

Summary of factual data and analytical methodologies:

The Board reviewed REEB 12 as a result of its 2019 biennial report under s. 227.29, Stats., and determined that REEB 12.011 includes an obsolete reference to predetermination standards that should be repealed. It also found that the reference to apprenticeships should be deleted in s. REEB 12.017(3) (a).

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document 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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Kassandra Walbrun, Administrative Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Kassandra Walbrun, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, which will be scheduled at a future date, in order to be included in the record of rule-making proceedings. A rules calendar, which includes hearing notices, can be found at the Wisconsin State Legislature's website at https://docs.legis.wisconsin.gov/code.

TEXT OF RULE

SECTION 1. REEB 12.011 is repealed.

SECTION 2. REEB 12.017(3)(a) is amended to read:

REEB 12.017 (3) (a) Each applicant for a real estate broker's license shall submit evidence satisfactory to the board that the applicant has practiced as a licensed salesperson under the direct supervision of a licensed broker for at least 2 years within the last 4 years preceding the date of application, ~~excluding any time the applicant spent in an apprenticeship~~. Except as provided in pars. (b) to (d), the evidence shall demonstrate that the applicant's experience as a licensed salesperson qualifies the applicant for a total of at least 40 points based on the following point system:

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)