

Chapter ILHR 67

RENTAL UNIT ENERGY EFFICIENCY STANDARDS

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Subchapter I Purpose and Scope

ILHR 67.01 Purpose. The purpose of this chapter is to establish rules for the department to administer and enforce s. 101.122, Stats.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. Register, December, 1984, No. 348, eff. 1-1-85.

ILHR 67.02 Scope. The rules contained in this chapter establish minimum energy efficiency standards for rental units that must be met before the ownership of a rental unit may be transferred; inspection procedures for determining whether a rental unit complies with the energy efficiency standards specified in this chapter; procedures for certifying that a rental unit meets the energy efficiency standards specified in this chapter; procedures for obtaining an exemption from a specific energy conservation measure based on a 5-year cost payback; procedures for obtaining a stipulation or waiver for rental units that do not meet the standards specified in this chapter; and procedures that the department will use to administer and enforce this chapter.

(1) **STATE RENTAL UNIT ENERGY CODE.** The energy efficiency standards in this chapter shall apply to all rental units in this state unless specifically exempted.

(2) **MUNICIPAL RENTAL UNIT ENERGY CODES.** After the effective date of this chapter, no municipality may enforce a code or ordinance of minimum energy efficiency standards for rental units in the municipality unless the energy efficiency standards of the code or ordinance are at least as strict as the energy efficiency standards specified in this chapter.

(a) *Department authorization.* The department may authorize a municipality in writing to issue the department certificate specified in s. ILHR 67.08, if the department determines that the municipality can provide adequate inspection service of the standards under subch. III.

(b) *Filing of certificates.* A copy of all certificates issued by the municipality under par. (a) shall be filed with the department.

(c) *Revocation of municipal authority.* The department may revoke the authority of a municipality to issue the department certificate at any

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time that it determines the municipality is issuing department certificates without adequate inspection of the standards under subch. III.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. (intro.), Register, December, 1984, No. 348, eff. 1-1-85.

ILHR 67.03 Application. (1) **RENTAL UNITS COVERED.** After January 1, 1985, no owner may transfer a rental unit unless an inspector certified by the department has issued a certificate indicating that the rental unit meets the rental unit energy efficiency standards specified in this chapter; or unless a waiver has been issued as specified in s. ILHR 67.08 (2); or unless a stipulation is issued as specified in s. ILHR 67.08 (3).

(2) **RENTAL UNITS EXCLUDED.** The following rental units are excluded from the provisions of this chapter:

(a) Any dwelling unit not rented at any time from November 1 to March 31;

(b) Any building which contains up to 4 rental units and one of the dwelling units is occupied by the owner;

(c) Any building constructed after December 1, 1978, which contains up to 2 dwelling units and which is less than 10 years old;

(d) Any building constructed after April 15, 1976, which contains more than 2 dwelling units and which is less than 10 years old;

(e) Mobile homes;

(f) Hotels and motels used primarily for transient residency;

(g) Health care facilities; and

(h) Buildings which are declared condominiums under ch. 703, Stats., prior to the effective date of the rules contained in this chapter.

(3) **MULTIPLE USE OCCUPANCY.** Any building which contains a rental unit, and which is not excluded under sub. (2), and is located in a building with another occupancy shall comply with the following:

(a) If the rental unit comprises more than 50% of the total gross area of the building, the entire building shall be made to conform to the provisions of this chapter.

(b) If the rental unit comprises 50% or less of the total gross area of the building, only items specific or unique to the rental unit portion of the building shall comply with the provisions of this chapter.

(4) **RENTAL UNITS IN CONDOMINIUMS.** Any unit which serves as a rental unit in a condominium building which is not excluded under sub. (2) shall, at the time of transfer, be brought into compliance with the provisions of s. ILHR 67.05 to the extent that each rental unit has the specific building element.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (1), (2) (intro.) and (h), cr. (3) and (4), Register, December, 1984, No. 348, eff. 1-1-85.

Subchapter II Definitions

ILHR 67.04 Definitions. In this chapter:

(1) "Accessible" means capable of being reached without removal or alteration of any part or parts of the permanent structure, finish materials or paved sidewalk or driveway. Cavities under floors in unfinished attic areas are accessible.

(2) "Box sill" means that portion of the building envelope between the top of the foundation wall and the sub-floor immediately above, or the perimeter of the floor joists.

(3) "British thermal units" means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit at or near 39.2° F.

(4) "Condominium" means a multiple dwelling unit building in which there is separate ownership of individual dwelling units created by ch. 703, Stats.

(5) "Department" means the department of industry, labor and human relations.

(6) "Dwelling unit" means a building or that part of a building which is used as a home or residence.

(7) "Energy conservation measure" means any measure which increases the energy efficiency of a rental unit, including, but not limited to, the installation of caulking, weatherstripping, insulation and storm windows.

(8) "Fahrenheit" means a thermometric scale in which 32° denotes freezing and 212° denotes boiling of water under normal pressure at sea level.

(9) "Financial institution" means any state or nationally chartered bank, savings and loan association, credit union, mutual savings bank, trust company bank or other lending authority created or licensed under state or federal law.

(10) "Finish material" means drywall, plaster, siding or other material covering the structure, but does not include floors in unfinished spaces.

(11) "Gross area" means the occupied or usable floor area in a building but not including space occupied by columns, walls, partitions, mechanical shafts or ducts.

(12) "Health care facilities" means either hospitals or nursing homes.

(13) "Inspector" means a person certified by the department to perform inspections for energy efficiency in rental units.

(14) "Municipality" means a city, village or town.

(15) "Owner" means any person having a legal or equitable interest in a rental unit, but does not mean a tenant with or without an option to purchase.

(16) "Owner-occupied" means one dwelling unit in a rental unit building used as the primary residence by the owner for at least one year immediately after the date of transfer.

(17) "Rental unit" means a building or that part of a building used as a home or residence which is rented.

(18) "Sidewalls" means the exterior building envelope walls excluding the box sill and including windows, doors, and other openings above the box sill.

(19) "Thermal performance" means the gross heat loss from the exterior building envelope.

(20) "Thermal resistance (R)" means a measure of the ability of materials to retard the flow of heat. The R-value is the reciprocal of a heat transfer coefficient or thermal transmittance, expressed by U; $R = 1/U$.

Note: The higher the R-value of a material, the more difficult it is for heat to flow through the material.

(21) "Thermal transmittance (U)" means the coefficient of heat transmission expressed in units of Btu per hour per square foot per degree F. It is the time rate of heat flow. The U-value applies to combinations of different materials used in series along the heat flow path and also to single materials that comprise a building section, and includes cavity air spaces and surface air films on both sides.

Note: The lower the U-value of a material, the more difficult it is for heat to flow through the material.

(22) "Transfer" means a conveyance of ownership interest, including a controlling stock interest, in a rental unit by deed, land contract or judgment; or conveyance of an interest in a lease in excess of one year which was contracted before January 1, 1985 with an option to purchase. Transfer does not mean a conveyance under chs. 851 to 879, Stats., (probate) or mean:

(a) Transfers for nominal or no consideration which confirm, correct or reform a transfer previously made;

(b) Transfers for delinquent taxes or assessments to federal, state or local governments provided that, before subsequent transfer, the transferee presents the stipulation described in this chapter, and that compliance shall be no later than one year after the date of the subsequent transfer;

(c) Transfers resulting from court-ordered partitions of property;

(d) Transfers resulting from involuntary merger or liquidation of financial institutions;

(e) Transfers from a subsidiary corporation to its parent for no consideration, or in sole consideration of cancellation, surrender or transfer of capital stock between parent and subsidiary corporation;

(f) Transfers between husband and wife or parent and children for nominal or no consideration;

(g) Transfers between agent and principal or trustee and beneficiary without actual consideration;

(h) Transfers made solely to provide security for a debt or obligation or transfers made to or from financial institutions solely for release of security for debt or obligation;

(i) Transfers pursuant to or in lieu of condemnation;

(j) Transfers pursuant to property division under ch. 767, Stats., (divorce);

(k) Transfers of property to financial institutions pursuant to foreclosure or in lieu of foreclosure provided that, before subsequent transfer, the transferee present a stipulation as described in this chapter, and that compliance shall be no later than one year after date of the subsequent transfer;

(l) Transfers of property to persons licensed under ch. 452, Stats., (real estate broker) solely for the purpose of facilitating sale of property, provided the sales contract stipulates that property shall meet the rules if it is not sold within a year, and provided that, before subsequent transfer, the transferee present a stipulation as described in this chapter, and that compliance shall be no later than one year after date of the subsequent transfer; and

(m) Transfers to trustees in court-declared bankruptcies, provided that before subsequent transfer, the transferee present a stipulation as described in this chapter, and that compliance shall be no later than one year after date of the subsequent transfer.

Note: It is the intent of this definition to exempt transactions which are involuntary, for security purposes or for nominal consideration.

(23) "Vapor barrier" means a material, including vapor barrier paint, with a vapor transmission rate not greater than 1.00 perm.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (1) and (6), r. and recr. (4) and (11), r. (22), renum. (10), (12) to (21) to be (12) to (22) and am. (16), (17) and (22), cr. (10), Register, December, 1984, No. 348, eff. 1-1-85.

ILHR 67.05 Energy efficiency standards. Any building containing rental units, except those specified in s. ILHR 67.03 (2), transferring ownership after January 1, 1985, shall meet the minimum prescriptive energy conservation measures specified in this section, unless an exemption has been issued under s. ILHR 67.06 or unless a waiver or stipulation has been issued as specified in s. ILHR 67.08 (2) and (3).

(1) **INSULATION.** Insulation shall be provided in all accessible areas as specified in Table 67.05.

TABLE 67.05

BUILDING ELEMENT	AMOUNT OF INSULATION REQUIRED		
	If R-0 to R-10 is present initially	If R-11 to R-18 is present initially	If R-19 or more is present
Ceiling (f) (i)	R-38	Add R-19	None
BUILDING ELEMENT	If R-0 to R-2.5 is present initially	If R-3 to R-10 is present initially	If R-11 or more is present initially
Box Sills (c)	R-19	Add R-11	None
Side Walls (c) (f) (i)	R-11	None	None
Floors over unheated basements or unheated crawl spaces (a) (c) (e) (g) (h)	R-19	Add R-11	None
BUILDING ELEMENT	AMOUNT OF INSULATION REQUIRED		
Heating Supply Ducts In Unheated Spaces and Unheated Basements (a)			R-5
Steam Heating Pipes (b)			R-4
Hydronic Heating Pipes (b)			R-2
Domestic Hot Water Pipes Circulating			R-2
Non-Circulating Within 5 Feet of Water Heater			R-2
Access Panels or Doors to Attics or Unheated Areas			
Horizontal			R-19
Vertical			R-5
Foundations (d) (e)			
Exterior (above grade and to 18" below grade) or Interior (full height)			R-5 R-5

(a) Basements and crawl spaces are considered to be unheated unless foundation walls are insulated.

(b) Steam and hydronic heating pipe located in "dwelling units" need not be covered with insulation.

(c) Exterior walls of garages are not required to be insulated. Walls or floors separating the garage from the dwelling unit shall be insulated, if accessible.

(d) Slab-on-grade foundations shall have exterior insulation. Floating slabs need only be insulated for the thickness of the slabs.

(e) Insulation of the foundation walls or insulation of the floor above the basement or crawl space is required but not both.

(f) Wall and ceiling cavities open to the attic area shall be insulated.

(g) If the basement ceiling is insulated, precautions may need to be taken to prevent the freezing of water service pipe.

(h) If floors over unheated crawl spaces are insulated, a vapor barrier shall be installed over the floor of the crawl space.

(i) If knob and tube wiring is present, insulation shall be installed in such a way as not to cause a hazard. If there is live knob and tube wiring under an attic floor or within walls, insulation may not be blown under the floor or into the wall cavities because the good condition of the wiring cannot be assured.

(2) **WINDOWS.** All windows shall be double glazed or shall be provided with exterior or interior storm windows except that hopper, awning and metal casement, type windows and windows of store fronts are exempt from the requirements of this subsection. Where exterior storms are installed over openable windows required for natural ventilation, a portion of the storm shall be openable from the inside. Windows located at boiler or furnace rooms do not need to be double glazed or equipped with storms.

(3) **WEATHERSTRIPPING.** Windows designed to be opened, doors exposed to the exterior, and doors and access panels to unheated spaces shall be provided with weatherstripping. The crack where the weatherstripping is installed may not exceed 0.10 inches. Windows located in boiler or furnace rooms need not be weatherstripped.

(4) **CAULKING.** All accessible exterior joints within the first 3 stories between the foundation and box sill; around the windows and door frames; at penetrations from utility services and pipes, dryer vents and all other openings or cracks in the exterior building envelope shall be caulked, gasketed or otherwise sealed. This requirement does not apply to openings for combustion air and joints in the siding.

(5) **DOORS.** Patio doors shall be insulated, double glazed or equipped with a storm door. Where no vestibule exists, inward swinging exterior doors shall be insulated, double glazed or equipped with a storm door. Door lites need not be glazed. All storm doors shall be equipped with a self-closing device.

(6) **MOISTURE CONTROL.** (a) *Ceilings.* Minimum ventilation shall be provided above the ceiling or attic insulation. The free area of ventilation shall be at least 1/300 of the horizontal area. Where overhangs with soffits are provided, one-half of the free area shall be near the eaves and one-half in the upper one-third of the roof or gable. Where it is impractical to install gravity venting, power vent systems may be used to provide equivalent ventilation. Power vents shall be connected to a humidistat.

(b) *Crawl spaces.* Minimum ventilation shall be provided in unheated crawl spaces. The area of ventilation shall be at least 1/300 of the floor space. The area of ventilation shall be distributed equally to at least 2 openings in the foundation wall. The openings shall be located to provide cross ventilation. Where accessible, a vapor barrier shall be applied to cover the exposed earth.

(7) **EQUIPMENT.** All heating equipment and water heaters shall have been inspected within the past 6 months of energy efficiency inspection by a contractor, service technician, or energy supplier to ensure that the equipment is properly adjusted and maintained. Water heaters located in unheated spaces shall be provided with insulated jackets with a minimum insulating value of R-5. Water heaters stamped as meeting ASHRAE 90-75, 90-77 or 90A-80 may be located in unheated spaces without insulating blankets. Combustion air openings shall be unobstructed. All showers shall be equipped with flow restricters rated at 3

gallons per minute or less. Through-wall air conditioners shall be fully covered, and effectively sealed from the inside or outside or both during the heating season.

Note 1: ASHRAE is an acronym for the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc. Copies of ASHRAE standards for domestic water heating systems may be purchased from the ASHRAE Publications Sales Department, 1791 Tullie Circle, N.E. Atlanta, Georgia 30329.

Note 2: The department will accept as evidence a service report signed and dated by the contractor, service technician or energy supplier that the heating equipment and water heater is properly adjusted and maintained.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (intro.), (2) to (5) and (7), r. and recr. table, Register, December, 1984, No. 348, eff. 1-1-85.

ILHR 67.06 Cost payback exemptions. No specific energy conservation measure may be required under s. ILHR 67.05 (1) to (5) and (7) where the cost payback obtained from installing the specific energy measure exceeds 5 years. In order to receive an exemption for a specific energy measure, the owner shall submit evidence to the department to demonstrate that the cost payback for the specific energy measure exceeds 5 years. Envelope cost payback calculations shall be made in accordance with this section unless otherwise approved by the department. All calculations and analyses shall be based on the actual conditions to which the specific energy measure is subject. Other nonenvelope cost payback calculations utilizing principles and concepts outlined in this section may be approved by the department. The final acceptance of any cost payback shall be made by the department.

(1) **APPLICATION FOR COST PAYBACK EXEMPTIONS.** Any request for an exemption of a specific energy conservation measure based on cost payback shall be made in writing on application forms provided by the department.

Note: See Appendix for an example of the application form (SBD-7303).

(2) **PROCESSING APPLICATIONS FOR EXEMPTIONS.** (a) *Information required.* Any application for an exemption shall be submitted to the department for processing along with the 5-year payback calculations, drawings and pictures describing the specific energy conservation measure to be exempted, fuel bills or utility documentation of fuel cost, the cost estimate for the installed specific energy conservation measure, and processing fees. The application form shall be signed and dated by the owner requesting the exemption.

(b) *Department processing.* The department shall evaluate and process the application in accordance with this section and shall process the applications for exemption in the order of the date the applications are received by the department. All forms shall be completed and all information requested shall be received by the department before processing of the exemption will occur. Analyses submitted on department worksheets or pre-approved analyses shall receive priority over alternative analysis methods.

(3) **EXEMPTION FOR FOUNDATION INSULATION.** Any request for an exemption from foundation insulation shall include an analysis of the cost payback for each of the following conditions:

(a) Installing insulation of the basement or crawl space ceiling, if accessible;

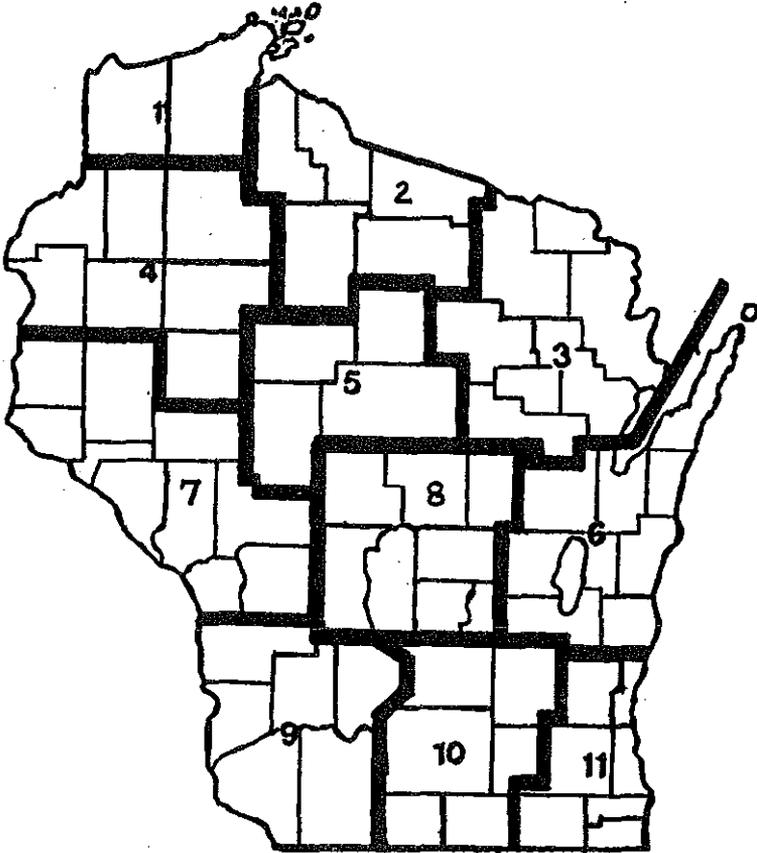
(b) Installing insulation at the exterior of the foundation, if accessible;
and

(c) Installing insulation at the interior of the foundation, if accessible.

(4) **PROCEDURES FOR CALCULATING PAYBACK.** The calculation of the envelope energy savings and the determination of the economic feasibility for each minimum energy efficiency standard shall be computed as follows:

**FIGURE 67.06
DEGREE DAYS PER YEAR**

Wisconsin Division of State Energy Degree Day Zones



Zone 1 - 9, 169
 Zone 2 - 9, 114
 Zone 3 - 8, 460
 Zone 4 - 8, 721
 Zone 5 - 8, 487

Zone 6 - 8,098
 Zone 7 - 8,388
 Zone 8 - 8,201
 Zone 9 - 7,171
 Zone 10 - 7,730
 Zone 11 - 7,444

(a) *Energy savings calculations.* The following energy savings equation shall be used to calculate the heat loss of the specific energy measure:

$$ES = \frac{(U_i - U_f) \times A \times D \times 24}{K \times V}$$

where:

ES = The fuel or energy savings in the appropriate energy units for the estimated period; e.g., hundreds of cubic feet of natural gas, gallons of fuel oil, or kilowatt-hours of electricity.

U_i = U value of the existing building element, including any insulation that is already contained in the building element being evaluated, expressed in Btu/hr - ft²-F°.

U_f = U value of the existing building element, including the level of insulation required in Table 67.05 for the specific building element being evaluated, expressed in Btu/hr - ft²-F°.

A = The gross area of the building element being evaluated, in square feet.

V = The heating value of the fuel type:

Oil	138,500 Btu/Gal
Gas	100,000 Btu/CCF
Electricity	3413 Btu/Kilowatt-Hr
LP (Propane & Butane)	91,500 Btu/Gal
Coal	10,000 Btu/lb
Wood	4,000 Btu/lb or 25,000,000 Btu/cord

K. = A correction factor which includes the effects of rated full load efficiency, part load performance, oversizing and energy conservation devices. The following factors shall be used unless higher efficiencies for newer equipment can be substantiated:

LP	.55
Gas	.55
Oil	.55
Electricity	1.00
Wood	0.50
Coal	0.50

D = Number of 65° F degree days for the estimated period based on geographical zones in Figure 67.06.

(b) *Energy price.* The current retail price per unit of energy (P) shall be determined for the annual energy savings at the time the calculations are submitted.

(c) *Cost of improvement.* The actual total cost (C) of the energy savings improvement shall be determined and an itemized breakdown of the total cost for labor and materials shall be submitted to the department. Additional information may be requested from the applicant if the cost is outside the range of expected, current regional costs.

(d) *Cost payback.* The cost payback period shall be calculated using the following formula:

$$P.B. = \frac{C}{P \times ES}$$

where:

- P.B. = Payback in number of years
 C = Total cost of energy measure
 ES = Total energy savings
 P = Current retail price of energy unit

(5) **PAYBACK LESS THAN 5 YEARS.** If the payback period (P.B.) is less than or equal to 5 years, the specific energy measure shall be installed.

(6) **PAYBACK EXCEEDS 5 YEARS.** If the payback period (P.B.) is more than 5 years, the department shall issue an exemption.

(7) **DEPARTMENT DETERMINATION AND NOTIFICATION.** After the department reviews the calculations and information submitted by the owner, the department shall notify the owner of its findings in writing.

(8) **OWNER'S RESPONSIBILITY.** Upon receipt of the department's determination, the owner shall install the specific energy measure or provide a copy of the exemption letter to the certified inspector.

(9) **EXEMPTION EXPIRATION.** The exemption shall be valid for a period of 5 years from the date specified on the exemption.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. Register, December, 1984, No. 348, eff. 1-1-85.

Subchapter IV Inspection and Certification of Rental Units

ILHR 67.07 Request for energy efficiency inspection. An owner of a rental unit may request an energy efficiency inspection from the department or any inspector certified by the department under ch. ILHR 68 for the purpose of determining whether the rental unit meets the energy efficiency standards specified in this chapter. If an owner, after reasonable effort, is unable to procure an inspection from an authorized municipality or an independent certified rental unit energy inspector, a request for an inspection may be made to the department.

(1) **APPLICATION FOR INSPECTION FROM THE DEPARTMENT OR MUNICIPALITY.** Where an owner requests the inspection from the department or municipality, the owner shall apply for the inspection on forms obtained from the department or municipality.

Note: A copy of the application for inspection form (SBD-7267) is contained in the appendix.

(2) **FILING OF APPLICATION.** No application for inspections will be accepted by the department or municipality that does not contain all of the information requested on the application form. The application shall be filed with the department or municipality enforcing this chapter.

(3) **FEES.** (a) *Municipal fees.* Any fee required by the municipality for administering and enforcing this chapter shall be deposited with the municipality at the time the application is filed.

(b) *Department fees.* Where the department administers and enforces this chapter, the fees required for inspection and certification shall be submitted at the time the application is filed with the department.

(c) *Certified inspection fees.* Where inspections are performed by a certified inspector, other than the department or municipality, the certified inspector may charge a fee to cover the cost of the inspection and issuance of the certificate as specified in ch. Ind 69, Fee Schedule.

(4) **INSPECTIONS.** All energy efficiency inspections for the purpose of certifying rental units under this chapter shall be performed by the department, municipality or inspector certified by the department.

(5) **ACTION TO INSPECT.** The municipality or department performing inspection services under this chapter shall perform inspections within 14 days after an application is filed.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 67.08 Issuance of certificate, waiver or stipulation. (1) **CERTIFICATE OF COMPLIANCE.** If upon inspection, the inspector determines that the building conforms to energy conservation measures specified in this chapter, the inspector shall authorize the certificate of compliance by signing and affixing the DILHR Transfer Authorization label and then issue the certificate prescribed by the department and file a copy of the certificate with the department.

Note: A copy of the certificate form.(SBD-7114) is contained in the Appendix.

(a) *Certificate forms and transfer authorization stamps.* Any certified inspector may obtain certificate forms and transfer authorization stamps from the department.

(b) *Requests for certificate form.* All requests for certificate forms shall be made in writing. The fee for the certificate forms shall accompany the request.

Department of Industry, Labor and Human Relations
Division of Safety and Buildings
Post Office Box 7969
Madison, Wisconsin 53707

(c) *Notice of noncompliance.* If upon inspection, an inspector determines that the rental unit does not conform to the energy measures specified in this chapter, the inspector shall specify in writing the energy conservation measures necessary to make the rental unit comply with the energy efficiency standards specified in this chapter and notify the owner of the findings.

1. Stipulation may be issued where the energy efficiency standards are not met as specified in sub. (3).

2. A certification may be issued after a reinspection if all the required energy measures have been installed. Any request for reinspection performed by the department shall be accompanied with a fee for reinspection.

(2) **WAIVER OF CERTIFICATE.** If a rental unit is scheduled for demolition within 2 years, the department or municipality may issue a written waiver to the energy efficiency standards specified in this chapter. A copy of the waiver shall be filed with the department and municipality. No waiver may be requested for a rental unit which has been issued a previous waiver or stipulation unless the rental unit had received a certificate

of compliance from a certified inspector on some date after the date of issuance of the latest waiver or stipulation under sub. (3).

(a) *Filing of waiver.* The waiver shall be on department forms and signed by the purchaser and filed with the department and municipality for authorization. The department or municipality shall place transfer authorization stamps on the waiver. Municipalities shall obtain transfer authorization stamps from the department. Where a waiver is issued by the municipality, a copy shall be filed with the department.

Note: A copy of the waiver of certificate form (SBD-7116) is contained in the Appendix.

(b) *Conditions of waiver.* The waiver shall be conditioned on the demolition of the rental unit within the 2 years of the date of the waiver.

(c) *Notification of demolition.* The owner shall notify the department in writing the date that the building was demolished.

(d) *Failure to demolish.* If demolition does not occur within 2 years of issuance of the waiver, the department or the municipality may do one or more of the following:

1. Order demolition of the rental unit no sooner than 90 days after the order;

2. Withdraw any certificate of occupancy; or

3. Order the owner to bring the rental unit in compliance with the energy measures specified in this chapter.

(d) *Department orders.* 1. Order for demolition. Where the department orders the building to be demolished, the owner shall notify the department in writing the date the building was demolished.

2. Order for compliance. Where the department orders the building to comply with the energy measures in this chapter, the owner shall notify the department that the energy measures have been installed and apply for an inspection of the rental unit as specified in s. ILHR 67.07.

(3) **STIPULATION.** (a) *Stipulation requirements.* If the rental unit does not meet the provisions of this chapter, the transferor of a rental unit may present a stipulation signed by the transferee and by the department or municipality in which the rental unit is located stating the new owner of the rental unit shall bring the rental unit into compliance with the energy measures specified in this chapter and receive a certificate of compliance from a certified inspector, no later than one year after the date of the transfer. No stipulation may be requested for a rental unit which has been issued a previous stipulation or waiver unless the rental unit had received a certificate of compliance from a certified inspector on some date after the date of issuance of the latest stipulation or waiver under sub. (2).

(b) *Filing stipulation.* The stipulation shall be on department forms and be filed with the department. Where a stipulation is made by the municipality, a copy shall be filed with the department. Only the department or municipality may place transfer authorization stamps on the stipulation. Municipalities shall obtain transfer authorization stamps from the department.

Note: A copy of the stipulation form (SBD-7115) is contained in the Appendix.

(c) *Stipulation inspection.* Once the new owner has installed the necessary energy conservation measures, the owner shall apply for inspection from a certified inspector, authorizing municipality or the department.

1. If upon inspections, it is determined that the rental unit conforms to the conditions specified in the stipulation, the inspector will issue a certificate indicating the rental unit conforms to the energy measures specified in this chapter.

2. If upon inspection, it is determined that the rental unit does not conform to the conditions specified in the stipulation, the inspector shall notify the owner in writing, specifying the measures necessary for compliance. A certification may be issued after reinspection if all the required energy measures have been installed.

3. The department shall conduct a clerical follow-up no later than 180 days after the stipulated compliance date to determine if a certificate has been issued for the rental unit. If no certificate is on file, the department shall order the owner with a specified time to comply with the energy measures and take the necessary action to secure compliance.

(d) *Filing of certification, waiver and stipulation.* A copy of the certificate, waiver or stipulation shall be filed with the department.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (1) (intro.) and (a), (2) (intro.), renun. (2) (a) to (d) to be (2) (b) to (e), cr. (2) (a) and (3) (c), r. (3) (b), renun. (3) (intro.) and (a) to be (3) (a) and (b) and am., Register, December, 1984, No. 348, eff. 1-1-85.

ILHR 67.09 Proof of certification. The certificate shall be proof that the rental unit complies with the energy measures specified in this chapter. The certificate shall be valid for a period of 5 years from the date specified on the certificate. The certified inspector shall retain a copy of the inspection report and certification for at least 5 years. The certificate shall include the results of the inspection of the rental unit.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 67.10 Recordation. Pursuant to s. 101.122 (6), Stats., a register of deeds may not accept for recording, any deed or other document of transfer of real estate which includes a rental unit unless the deed or document is accompanied by the certificate, a waiver, or a stipulation. The register of deeds shall record the certificate, waiver or stipulation.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. December, 1984, No. 348, eff. 1-1-85.

ILHR 67.11 Revocation of certificate. The department or municipality may revoke any certificate where it appears the certificate was obtained through fraud or deceit or where the owner has willfully refused to comply with a stipulation issued under this chapter.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

Subchapter V Appeals and Penalties

ILHR 67.12 Appeals. (1) **APPEAL OF A DETERMINATION BY A CERTIFIED RENTAL UNIT ENERGY INSPECTOR.** Appeal of any determination made by a certified rental unit energy inspector or municipality shall be made in writing to the department. All appeals shall be filed with the department

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within 30 days after the date of the determination. The department will render a written decision on all appeals.

(2) **APPEAL OF RULES, ORDERS AND DETERMINATION BY THE DEPARTMENT.** Appeals of any rule, determination, or special order issued by the department, shall be made to the department pursuant to the procedures specified under s. 101.02 (6) (e) to (i) and (8), Stats.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 67.13 Penalties. Penalties in this section are established pursuant to s. 101.122 (7), Stats.

(1) **INSPECTORS.** Any inspector falsifying a certificate shall have his or her certification revoked by the department and may be required to forfeit not more than \$500 per dwelling unit in the rental unit for which the certificate is issued.

(2) **OWNERS.** Pursuant to s. 101.122 (7) (b), Stats., any person who offers documents evidencing transfer of ownership for recordation and who, with intent to evade the requirements of these rules, falsely states under s. 706.05 (12), Stats., that the real property involved does not include a rental unit, may be required to forfeit not more than \$500 per dwelling unit in the rental unit being transferred.

(3) **WAIVER.** Pursuant to s. 101.122 (7) (c), Stats., any person who fails to comply with the requirements of a waiver issued under this chapter may be required to forfeit not more than \$500 per dwelling unit in the rental unit for which the waiver is issued.

(4) **STIPULATION.** Pursuant to s. 101.122 (7) (d), Stats., any person who fails to comply with a stipulation issued in accordance with this chapter may be required to forfeit not more than \$500 per dwelling unit for the rental unit for which the stipulation was issued.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

Chapter ILHR 68 CERTIFICATION STANDARDS FOR RENTAL UNIT ENERGY INSPECTIONS

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Subchapter I General

ILHR 68.01 Scope. The purpose of this chapter is to establish standards for certification, including provisions for suspension and revocation, of inspectors for the purpose of inspecting rental units subject to the rental unit energy efficiency standards in ch. ILHR 67.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.02 Application. The rules contained in this chapter shall apply to all persons engaged in the administration and enforcement of the rental unit energy efficiency chapter promulgated by the department or engaged in the education, training and testing of persons for certification as a rental unit energy inspector.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.03 Administration and enforcement. All energy inspections of rental units for the purpose of administering and enforcing the rental unit energy efficiency chapter adopted by the department shall be performed by a rental unit energy inspector certified by the department under the provisions of this chapter.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.04 Authority. (1) **DEPARTMENTAL AUTHORITY.** Pursuant to s. 101.122, Stats., the department has been granted the authority and jurisdiction over the certification, including suspension and revocation, of rental unit energy efficiency inspectors certified for the purpose of inspecting rental units for energy efficiency standards adopted by the department.

(2) **MUNICIPAL AUTHORITY.** Pursuant to s. 101.122 (6r), Stats., any municipality which exercises jurisdiction over the inspection of rental units falling within the scope of the rental unit energy efficiency chapter or any part thereof, promulgated by the department, shall provide for inspections by persons certified under the rules of this chapter.

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(a) Any termination of employment of or disciplinary action against a municipal certified rental unit energy efficiency inspector for cause directly related to the conditions of certification under this chapter shall be reported to the department.

(b) Termination of employment or disciplinary action of any certified rental unit energy efficiency inspector by a municipality shall not constitute suspension or revocation of the department certification issued under this chapter.

(c) No certified rental unit energy efficiency inspector carrying a valid department certification may be required to obtain any municipal certification or license to provide energy inspections of rental units under the rental unit energy efficiency chapter promulgated by the department.

(3) **CERTIFIED RENTAL UNIT ENERGY INSPECTOR.** Pursuant to s. 101.122, Stats., a certified rental unit energy efficiency inspector may:

(a) Inspect rental units subject to the energy efficiency standards adopted by the department;

(b) Issue certificates that the rental unit complies with the rental unit energy efficiency standards adopted by the department, except that the inspector may not issue a certificate for a rental unit in which the inspector or the inspector's employer, other than the state or municipality, has a monetary or personal interest;

(c) Specify in writing the energy conservation measures necessary to make the rental unit comply with the department energy efficiency standards;

(d) Enter into contractual agreements with the department, municipality, or owner requesting such inspection service; and

(e) Recommend waivers and stipulations.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.05 Definitions. (1) "Approved" means acceptable to the department.

(2) "Certification" means an inspection performed by a certified rental unit energy efficiency inspector to determine if the rental unit complies with the standards specified in the rental unit energy efficiency chapter promulgated by the department and the issuance of a certificate verifying the rental unit complies with the energy efficiency standards specified in ch. ILHR 67.

(3) "Certified rental unit energy efficiency inspector" means a natural person certified by the department to perform energy efficiency inspections under the rental unit energy efficiency chapter promulgated by the department.

(4) "Conflict of interest" means a certified rental unit energy efficiency inspector inspecting a rental unit in which the inspector or the inspector's employer, other than the state or municipality, has a monetary or personal interest.

(5) "Department" means the department of industry, labor and human relations.

(6) "Incompetence" means conduct which evidences a lack of ability to discharge the duty required under this chapter and the rental unit energy efficiency chapter promulgated by the department or an inability to apply those principles, or failure to maintain competency in the current practices and methods applicable to energy efficiency inspection of rental units under the rental unit energy efficiency chapter.

(7) "Misconduct" means an act performed in the discharge of duties which jeopardizes the interests of the public, including violation of the state law related to energy efficiency inspection of rental units, of administrative rules relating to energy efficiency inspection of rental units, preparation of deficient or falsified reports related to certification or inspection of rental units, failure to submit information or reports required by law or contract when requested by the municipality or the department, conduct which evidences a lack of trustworthiness, misrepresentation of qualifications such as education, experience or certification, illegal entry of premises, misuse of funds, or misrepresentation of authority related to the energy efficiency inspection of rental units.

(8) "Municipality" means any city, village or town in this state.

(9) "Negligence" means failure by omission or commission to discharge the duty required to perform energy efficiency inspections of rental units under the rental unit energy efficiency chapter promulgated by the department.

(10) "Secretary" means the secretary of the department of industry, labor and human relations.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

Subchapter II Inspector Certification

ILHR 68.06 Application for certification or recertification. Any person performing energy efficiency inspections of rental units may be certified by the department. Persons certified may be employes of the department or a municipality, or a private individual. All applicants shall be at least 18 years of age.

(1) Application for certification and recertification shall be made to the department together with the payment of the fees as specified in ch. Ind 69, Wis. Adm. Code. Applications shall be made on forms provided by the department and may be obtained by writing to:

Safety and Buildings Division
Department of Industry, Labor and Human Relations
P.O. Box 7969
Madison, Wisconsin 53707

(2) Upon receipt of the completed application form, the department shall review and evaluate the application and make all necessary notifications to the applicant. If it is determined that the applicant does not qualify for certification or recertification, the applicant shall be notified of such findings in writing and instructed of the appeals procedure provided under subch. III [IV] of this chapter.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

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ILHR 68.07 Requirements for certification. Eligibility for certification shall be based upon receipt and approval of the application and on the successful completion of an approved examination.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.08 Examination. (1) **APPLICATION FOR EXAMINATION.** All applications for examination shall be filed with the department prior to examination. The applicant shall be advised by the department of the date and place of the examination.

(2) **TIME AND PLACE OF EXAMINATION.** Scheduled examinations shall be offered at least annually. Specific details regarding time and place are available from the department upon request.

(3) **SCOPE OF EXAMINATION.** The examination shall test the applicant's ability to inspect rental units as follows:

- (a) Knowledge of rental unit energy efficiency standards;
- (b) Energy efficiency inspection procedures;
- (c) Thermal performance calculations;
- (d) Cost payback calculations; and
- (e) Issuance of certification.

(4) **GRADING OF EXAMINATIONS.** The final grading of all examinations shall be by persons approved by the department. A grade of 70% or greater shall be considered a passing grade for certification as an inspector.

(5) **EXAMINATION RETAKE.** All applications for re-examination shall be filed with the department prior to the scheduled date of the examination to be retaken.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.09 Issuance of certificate. Upon successful completion of the requirements for certification, the department shall notify the applicant in writing and shall issue an inspection certificate. The certificate shall bear the name of the applicant, certification number and expiration date. The certificate shall be valid for a period of 2 years.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.10 Renewal of certificate. Upon receipt of written notice of expiration, certification may be renewed. Certification renewal shall be contingent on successful completion of on-going approved education programs or receiving a passing grade on the examination.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.11 Denial of certification. Upon denial of certification or recertification, the department shall notify the applicant in writing stating the reasons for denial. The notice of denial shall be made by certified mail sent to the address filed with the application. Service shall be verified by the certified mail receipt.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

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Subchapter III Suspension and Revocation

ILHR 68.12 Suspension or revocation of certification. The department may suspend or revoke the certification of any inspector for any of the following reasons:

- (1) Fraud or deceit in certifying rental units;
- (2) Knowingly aiding or abetting the unauthorized inspection of rental units by persons not certified by the department;
- (3) Any negligence, incompetence or misconduct in the discharge of the duties required under this chapter and the rental unit energy efficiency chapter;
- (4) Conviction of a criminal charge, misdemeanor or local regulation substantially related to the circumstances of the certified inspection activity of rental units or adjudication of mental incompetence by the courts; or
- (5) Conflict of interest.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

Subchapter IV Proceedings

ILHR 68.13 Filing of complaint. Proceedings to revoke or suspend a certificate may be initiated by any person on a signed, written complaint filed with the department. Any alleged violation of the law or the administrative rules of the department shall be set forth in the complaint with particular reference to time, place and circumstance.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.14 Investigation and notification. The department may investigate alleged violations on its own initiative or upon the filing of a complaint. If it is determined that no further action is warranted, the department shall notify the persons affected. If the department determines that there is probable cause, it shall order a hearing and notify the persons affected.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.15 Mailing. Unless otherwise provided by law, all orders, notices and other papers may be served by the department by certified mail addressed to the party at the last known address. If the service is refused, service may be made by sheriff without amendment of the original order, notice or other paper.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.16 Response. Upon receipt of notification of hearing from the department, the charged party may submit to the department a written response within 30 days of the date of service. Failure to respond within the prescribed time limit, or failure to appear at the scheduled hearing, may result in the allegations specified in the complaint being taken as true.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

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ILHR 68.17 Conciliation agreement prior to hearing. If the department and the respondent are able to reach agreement on disposition of a complaint prior to hearing, such agreement shall:

- (1) Be transmitted in writing to the secretary;
- (2) Not be binding upon any party until accepted by the secretary; and
- (3) Not be considered a waiver of any defense nor an admission of any fact until accepted by the secretary.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.18 Hearings. (1) **SUBPOENAS; WITNESS FEES.** Subpoenas may be signed and issued by the department or the clerk of any court of record. Witness fees and mileage of witnesses subpoenaed on behalf of the department may be paid at the rate prescribed for witnesses in circuit court.

(2) **CONDUCT OF HEARINGS.** All hearings shall be conducted by persons selected by the department. Persons so designated may administer oaths or affirmations and may grant continuances and adjournments for cause shown. The respondent shall appear in person and may be represented by an attorney-at-law. Witnesses may be examined by persons designated by the department.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.19 Findings. The department may make findings and enter its order on the basis of the facts revealed by its investigation. Any findings as a result of petition or hearing shall be in writing and shall be binding unless appealed to the secretary.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.20 Appeal arguments. Appeal arguments shall be submitted to the department in writing unless otherwise ordered.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.21 Petition for rules or declaratory rulings. Petitions for the adoption, repeal or amendment of rules and for declaratory rulings shall be in accordance with ch. 227, Stats.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.22 Penalties. Pursuant to s. 101.122 (7), Stats., any inspector falsifying a certificate shall have his or her certification revoked and may be required to forfeit not more than \$500 per dwelling unit in the rental unit for which the certificate is issued.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.