

CR 91-55

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CERTIFICATE

STATE OF WISCONSIN

DEPARTMENT OF REGULATION AND LICENSING

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Marlene A. Cummings, Secretary of the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Department, do hereby certify that the annexed rules were duly approved and adopted by the Department of Regulation and Licensing on the 15th day of November, 1991.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 1400 East Washington Avenue, Madison, Wisconsin this 15th day of November, 1991.



Marlene A. Cummings
Secretary
Department of Regulation
and Licensing

2-1-92

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION AND LICENSING
DEPARTMENT OF REGULATION : ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 91-55)

ORDER

An order of the Department of Regulation and Licensing to repeal RL 25.04, RL 25.09 and RL 25.10; to renumber RL 25.01 (1), (2), (3) and (5); to renumber and amend RL 25.01 (4); to amend RL 12.015 (1), RL 12.02 (1) and (2), RL 25.005, RL 25.01 (6), RL 25.076 and RL 25.08 (3); to repeal and recreate RL 12.015 (2), RL 12.02 (3), RL 25.02, RL 25.03, RL 25.05, RL 25.06, RL 25.07 and RL 25.075; and to create RL 25.01 (3) and (4), RL 25.065 and RL 25.066 of the administrative code relating to examinations and continuing education requirements for real estate brokers and salespersons.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 452.05 (1) and 452.07, Stats.

Statutes interpreted: ss. 452.09 (2) and (3), 452.05 (1) and 452.12 (5) (c), Stats.

Current provisions in Chapter RL 12 require that an applicant for a real estate broker's license have one year of experience as a salesperson. This chapter also authorizes the department to use real estate licensing examinations which have both a national portion and a state portion. However, 1989 Wisconsin Act 341 repealed the experience requirement in s. 452.09 (2) (b), Stats., and significantly modified the contents of the broker's education requirement.

This rule proposal eliminates the one-year experience requirement in Chapter RL 12 and it provides for either a single-portion or a two-portion (national and state) examination. A single portion examination is now appropriate for the broker's examination, because the new broker's course focuses on real estate brokerage management and is unique to Wisconsin. The whole examination will be a state-portion examination. The revisions to Chapter RL 12 address the consequences of having a single-portion examination relative to passing scores and conditions affecting applicants licensed in another state. The revisions also, pursuant to s. 452.09 (3) (e), Stats., require completion of pre-license education before taking a licensing examination and they require that a broker applicant either hold a Wisconsin real estate salesperson's license or have passed the salesperson's examination before being eligible for a broker's license (see s. 452.09 (3) (d), Stats.).

Current provisions in Chapter RL 25 define the salesperson's and the broker's pre-license education requirement. They require that salesperson applicants complete a 45-hour course in real property law, unless the applicant qualifies for a statutory waiver, and that brokers complete a 90-hour course in real property law, real estate marketing, appraising and financing. Current rules

limit the acceptability of education which a licensee has obtained to 5 years from the date of completion. The current rules permit licensees from another state to satisfy all of the education requirement by submitting evidence of having completed comparable education in their state. Current rules also list requirements for approval of schools, programs and instructors; define attendance requirements and conditions for receipt of certificates of attendance; prohibit correspondence courses; permit periodic reviews and investigation by the department; and list the application and certification forms prepared by the department.

The proposed rules address all of the broad issues which are addressed in the current rules, plus comprehensive procedures and conditions for approval of continuing education programs, courses and instructors. 1989 Wisconsin Act 341 created a mandatory continuing education requirement for all real estate licensees, pursuant to s. 452.12 (5) (c), Stats.

The proposed rules restate and clarify the pre-license education requirements created by 1989 Wisconsin Act 341 and stated in s. 452.09 (2) and (3), Stats. Thus, the new 36-hour broker's course contents are defined in s. RL 25.02 and the new 72-hour salesperson's course contents are defined in s. RL 25.03. The proposed rules permit the department to accept some comparable education received by an applicant who has been licensed in another state; however, a salesperson applicant is required to obtain 23 of the 72 hours of education and a broker applicant 20 of the 32 hours of education at a school approved pursuant to ss. RL 25.05 or 25.06. The time limit on the acceptability of the education after it has been obtained has been eliminated.

In addition to changes or additions stated above, the proposed rules change or add to the current rules as follows:

1. They change the reapproval deadline for pre-license schools, courses and instructors from September 30 to August 15.
2. They prohibit an instructor whose real estate license has been limited, suspended or revoked from instructing in an approved program.
3. They provide conditions for conducting courses by telecommunications or audiovisual means.
4. They state that licensees must complete continuing education before renewing their license every two years, except that, pursuant to s.452.12 (5) (c) 2, Stats., they may pass an examination conducted by the department. Moreover, the department may extend the time for completing the requirement for health reasons which prevent completion of the education, for active duty in the military service, and for other compelling reasons. In addition, a new licensee is not required to complete continuing education during the remaining portion of the biennium in which he or she obtained a license.
5. They require approved schools to conduct an examination at the end of continuing education courses, consisting of 5 questions for each hour of instruction. Licensees must obtain a score of 70 on the examination.
6. They permit approved schools to prepare their own continuing education examinations; however, the schools must submit 5 multiple-choice questions for each hour of instruction to the department, in order to obtain approval to conduct a course.

7. They require approved schools for pre-license and continuing education to give each person who successfully completes a course or program a certificate of attendance, and, in the case of continuing education, they require approved schools to send to the department a list of those who attend the program or course, clearly indicating those who passed the examination.

8. They require approved schools to maintain attendance records for at least 5 years after a program or course has been conducted.

9. They describe the continuing education examination to be conducted by the department and conditions for satisfactorily completing, retaking and reviewing the examination.

10. They add a provision in s. RL 25.08 (3) for disciplining a school or instructor when the school or instructor has not complied with the conditions of approval or has falsified information on any application or certificate.

TEXT OF RULE

SECTION 1. RL 12.015 (1) is amended to read:

RL 12.015 APPLICATION REQUIREMENTS. (1) EDUCATIONAL REQUIREMENTS. Each applicant for an original real estate broker's license or an original real estate salesperson's license shall submit evidence ~~of compliance with that~~ the educational requirements ~~of in ch. RL 25 were completed before taking the~~ licensing examination.

SECTION 2. RL 12.015 (2) is repealed and recreated to read:

RL 12.015 (2) BROKER'S ELIGIBILITY REQUIREMENT. An applicant for examination to obtain an original real estate broker's license shall complete the education requirements specified in s. RL 25.02 (1) and shall either hold a Wisconsin real estate salesperson's license or shall have passed the salesperson's examination pursuant to s. RL 12.02.

SECTION 3. RL 12.02 (1)^(intro.) and (2) are amended to read:

RL 12.02 EXAMINATIONS. (1) WRITTEN EXAMINATIONS. Each applicant for examination to obtain a broker's or salesperson's license shall ~~be required to~~ read and write a comprehensive examination in English, testing that person's competency to transact the business of a real estate broker or salesperson. The examination shall be in conformity with s. 452.09 (3), Stats., ~~as applicable,~~ and shall may consist of one or 2 parts. If the examination consists of 2 parts, the parts shall be designated as follows:

(2) COMPETENCY. The grade of 75 or above on ~~both parts~~ a one-part examination or each part of a 2-part examination may be evidence of competency and a grade below 75 in the one-part examination or either part of a 2-part examination shall be proof of incompetency. To pass ~~the~~ a 2-part examination, applicants shall pass both parts. An applicant for examination, for the first time, who passes one part of a 2-part examination shall be conditionally credited with the part on which the passing grade was received, and may, upon application, be re-examined on the part failed at any ~~of the 6 examinations immediately following the examination on which the applicant did not pass on~~

~~both-parts examination administered during the following 12 months.~~ A person who does not pass the part retaken at one of the 6 examinations ~~immediately following the examination on which the applicant did not pass on both parts administered during the following 12 months~~ shall revert to the status of a new applicant, and will ~~be required to~~ rewrite both parts, if reapplication is made. In addition to a grade of 75, the department may, ~~in its discretion,~~ require further supplemental proof of competency. In all cases, the grade below 75 received on the written examination shall be controlling on the question of competency and cannot be supplemented by other proof.

SECTION 4. RL 12.02 (3) is repealed and recreated to read:

RL 12.02 (3) EXAMINATION REQUIREMENTS FOR APPLICANTS LICENSED IN ANOTHER STATE. (a) An applicant for a license as a salesperson who submits proof to the department that he or she held a salesperson's license in another state at any time during the 2 years immediately preceding the date of application in Wisconsin is required to take and pass either a single-part salesperson's examination or only the state part of a 2-part salesperson's examination, depending on whether a single-part or a 2-part examination is made available by the department.

(b) An applicant for a license as a broker who does not hold a salesperson's license in Wisconsin and who submits proof to the department that he or she held a broker's license in another state within 2 years prior to the date of application in Wisconsin is required to complete the education requirement in s. RL 25.02 (1) and take and pass only a single-part salesperson's examination or only the state part of a 2-part salesperson's examination, depending on whether a single-part or a 2-part examination is made available by the department, and either a single-part broker's examination or only the state part of a 2-part broker's examination, depending on whether a single-part or a 2-part examination is made available by the department.

(c) An applicant for a license as a broker who holds a salesperson's license in Wisconsin and who submits proof to the department that he or she holds a broker's license in another state within 2 years prior to the date of application in Wisconsin is required to take and pass either a single-part broker's examination or only the state part of a 2-part broker's examination, depending on whether a single-part or a 2-part examination is made available by the department.

SECTION 5. RL 25.005 is amended to read:

RL 25.005 AUTHORITY. The following rules are adopted pursuant to ss. ~~452.02 (1) (e)~~ 227.11 (2), 452.05, 452.07, 452.09 (2) and ~~(4) (3)~~ and 452.12 (5) (c), Stats.

SECTION 6. RL 25.01 (1), (2), (3) and (5) are renumbered (2), (7), (5) and (1).

SECTION 7. RL 25.01 (4) is renumbered (8) and amended to read:

RL 25.01 (8) ~~"Non-credit~~ "Noncredit program" means an educational program ~~or training session~~ which does not satisfy requirements for an associate degree or higher degree at the school offering the educational program ~~or training session~~.

SECTION 8. RL 25.01 (6) is amended to read:

RL 25.01 (6) "Evidence of attendance" means an official transcript, student grade report, or department-approved certificate showing satisfactory completion of educational programs or ~~training-sessions~~ courses.

SECTION 9. RL 25.01 (3) and (4) are created to read:

RL 25.01 (3) "Continuing education course" means an approved segment of the total number of continuing education hours required by the department pursuant to s. 452.05 (1) (d), Stats.

(4) "Continuing education program" means the total number of continuing education hours required by the department pursuant to s. 452.05 (1) (d), Stats.

SECTION 10. RL 25.02 and 25.03 are repealed and recreated to read:

RL 25.02 EDUCATIONAL REQUIREMENTS OF APPLICANT FOR AN ORIGINAL REAL ESTATE BROKER'S LICENSE. (1) EDUCATIONAL REQUIREMENTS. Each applicant for an original real estate broker's license shall:

(a) Present evidence satisfactory to the department of successful completion of the 36-hour educational program in sub. (2) which has been approved in accordance with this chapter and either satisfy educational requirements in s. RL 25.03 (3) or present evidence satisfactory to the department of licensure as a salesperson in Wisconsin;

(b) Submit proof that the applicant has received 20 semester hour credits in real estate or real estate related law courses from an accredited institution of higher education. A quarter hour credit equals 2/3 of a semester hour credit; or

(c) Submit proof that the applicant is licensed to practice law in Wisconsin.

(2) BROKER'S 36-HOUR PROGRAM. The 36-hour educational programs for applicants for an original real estate broker's license shall cover all of the topics under each paragraph title, be presented during no less than the number of hours stated after each paragraph title, and include:

(a) Contracts. 2 hours.

1. 'Definition of a contract'.
 - a. Contract versus agreement.
2. 'Elements of a contract'.
 - a. Offer.
 - b. Acceptance.
 - c. Consideration.
 - d. Competent parties.

3. 'Time is of the essence'.
 4. 'Acceptance versus counteroffers'.
 5. 'The law of conveyances'.
 - a. Conveyance defined.
 - b. Requirements for a valid conveyance.
- (b) Approved forms. 4 hours.
1. 'The forms approval process'.
 - a. Forms committee.
 - b. Real estate board.
 - c. Department of regulation and licensing.
 2. 'The authorized practice of law'.
 - a. Reynolds v. Dinger, 14 Wis. 2d, 193.
 - b. Chapter RL 16.
 3. 'Review of forms'.
 - a. Listing contract.
 - b. Offer.
 - c. Counteroffer.
 - d. Amendment.
 - e. Buyer agency agreement.
 - f. Lease.
 - g. Grant of option.
 - h. Bill of sale.
 - i. Offer to exchange property with acceptance.
 - j. Cancellation and mutual release.
 - k. State bar forms - s. RL 16.03 (1).
 - l. Uniform commercial code forms.
 - m. Forms used in other states.
 4. 'Developing a form and contingency manual'.

5. 'Supervising salesperson's use of approved forms'.

(c) Trust accounts, escrow, closing statement. 5 hours.

1. 'Trust accounts - ch. RL 18'.

- a. Trust account definition.
- b. Trust funds definition.
- c. When is a trust account required.
- d. Procedure to open a trust account.
- e. Procedure to open an interest bearing trust account.
- f. Authorization to sign trust account checks.
- g. Deposit of trust funds.
- h. Disbursement of trust funds.
- i. Bookkeeping system.

2. 'Escrow agreement procedures'.

- a. Escrows requiring separate escrow agreements.
- b. Pre-closing earnest money escrows.
- c. Post closing escrows.
- d. Escrows not requiring separate escrow agreements.
- e. Drafting escrow agreements.

3. 'Closing procedures'.

- a. Licensees are not required by license law to perform closings.
- b. Choosing a closing statement.
- c. Closing preparation procedures.
- d. Setting a closing date.
- e. Preparing closing documentation.
- f. Closing procedures.
- g. Post closing procedures.

(d) Business management and marketing. 5 hours.

1. 'The legal environment'.
 - a. Licensure.
 - b. Legal concerns.
 - c. Policy manual - s. RL 17.08.
 2. 'The business plan'.
 - a. Form of ownership.
 - b. Start up.
 - c. Capital budget.
 - d. Operation budget.
 - e. Marketing strategies.
 3. 'Professional services'.
 - a. Attorneys.
 - b. Accountants.
 4. 'Operational policies'.
 - a. Policy and procedures manual.
 - b. Independent contractors agreement.
- (e) Financial and office management. 4 hours.
1. 'Financial management'.
 - a. System of income and expense accounting.
 - b. Forms used in all systems.
 - c. Accounting for deposits.
 - d. Accounting for payroll.
 - e. General disbursements.
 - f. Accounts used for handling funds.
 - g. Bank reconciliations.
 - h. Financial reports.
 2. 'Budgeting'.
 - a. Definition of a budget.

- b. Purpose of the budget.
 - c. Comparison of budget income and expenses.
 - d. Preparing the budget.
 - 3. 'Office management - ch. RL 15'.
 - a. Retention of records.
- (f) Personnel. 4 hours.
- 1. 'Hiring'.
 - a. General criteria.
 - b. Determining needs.
 - c. Personnel selection.
 - d. Equal opportunity.
 - e. Workers' compensation.
 - 2. 'Contracts'.
 - a. Employee.
 - b. Independent contractor.
 - 3. 'Policy manual'.
 - a. Purpose.
 - b. Company history and philosophy.
 - c. Development and implementation.
 - d. Termination.
 - 4. 'Training'.
 - 5. 'Licensure and supervision of employees - ch. RL 17'.
- (g) Business ethics. 4 hours.
- 1. 'Dealing with the public'.
 - a. Principal and agent relationship - s. RL 24.025.
 - b. Treating all parties fairly - s. RL 24.025.
 - c. Avoid discrimination - s. RL 24.03 (1).
 - d. Competence in area of service - s. RL 24.03 (2).

- e. Legal counsel not to be discouraged - s. RL 24.06.
 - f. Tie-ins - s. RL 24.075.
 - g. Agreements in writing - s. RL 24.08.
 - h. Misleading market values - s. RL 24.09.
 - i. No net listings - s. RL 24.10.
- 2. 'Advertising - s. RL 24.04'.
 - a. False ads.
 - b. Disclosure to the public.
 - c. Obtain permission.
 - d. Advertised price.
- 3. 'Offers - ss. RL 24.12, 24.13'.
 - a. Confidentiality.
 - b. Draft and submit all offers.
 - c. Submit promptly.
 - d. Present fairly.
 - e. Prompt notification.
- 4. 'Self-dealing - s. RL 24.05'.
 - a. Disclosure of profits.
 - b. Disclosure of intent.
 - c. Property owned by licensee.
 - d. Referral of service.
 - e. Compensation from more than one party.
- 5. 'Disclosure - s. RL 24.07'.
 - a. Material facts.
 - b. Property inspection.
 - c. Agency.
- 6. 'Dealings with fellow licensees'.
 - a. Negotiations through listing broker - s. RL 24.13

(5).

- 24.07 (4) (b) 2.
 - b. Obtain seller's permission for subagent - s. RL
 - c. Confidentiality of offer - s. RL 24.12.
 - d. Disclose material facts - s. RL 24.07 (2) (a), (b),
 - (c).
 - e. False information - s. RL 24.07 (3).
 - f. Disclose buyer agent and seller subagent - s. RL
 - 24.07 (4) (b).
 - g. Timely transfer of earnest money - s. RL 18.08.
- 7. 'Dealings with licensee and salespeople'.
 - a. Licensee supervision - s. RL 17.08.
 - b. Office supervision - s. RL 17.09.
- (h) Consumer protection. 5 hours.
 - 1. 'Disclosure'.
 - a. Property inspections - s. RL 24.07 (1) (a).
 - b. Investigation of other facts - s. RL 24.07 (1) (b).
 - c. Use of third party inspectors - s. RL 24.07 (2).
 - d. Wisconsin statutes s. 452.23, Stats.
 - e. Civil liability for misrepresentation.
 - f. Seller's disclosure duties.
 - g. Buyer's inspection obligation.
 - 2. 'Fair housing'.
 - a. Federal law.
 - b. State of Wisconsin law.
 - c. Local fair housing law.
 - d. Sanctions for violations.
 - e. Testers and fair housing organizations.
 - f. Conduct prohibited by fair housing law.
 - g. Responding to fair housing questions.
 - h. Instituting equal professional service procedures.

3. 'Antitrust: conspiracy and group boycotts'.
 - a. Section 1 of the Sherman act.
 - b. "Conspiracy" requirement.
 - c. "Restraint of trade" requirement.
 - d. Compensation and "prices" which have been fixed.
 - e. Situations creating inferences of price fixing.
 - f. How to respond to antitrust situations.
 - g. Elements same as price fixing - conspiracy and restraint of trade.
 - h. Situations creating inference of boycott.
 - i. Good boycotts: sanctions necessary to enforce reasonable industry self regulation.
4. 'Complaint handling procedures'.
 - a. Consumer satisfaction.
 - b. Liability avoidance.
 - c. Feedback on fair housing or other law violations.
 - d. Prevent complaint through education.
 - e. Document the complaint handling program in policy and procedures manual.
 - f. Inform the parties of the complaint handling program.
 - g. Dispute resolution systems.
5. 'Environmental factors'.
 - a. Underground storage tanks: registration and closure.
 - b. Asbestos.
 - c. Radon.
 - d. Procedures for "high risk" properties.
 - e. Wetlands and floodplain.
6. 'Education buyers and sellers'.
 - a. Property inspection and disclosure of defects.

- b. Earnest money procedures.
- c. Licensees' responsibilities and expertise.
- d. Utilizing third party experts.

(i) Specialty areas. 3 hours.

1. 'Property management'.
 - a. Management contracts.
 - b. Insurance liability.
 - c. Security deposits.
 - d. Breach of lease.
 - e. Property inspections.
 - f. Tenant and landlord rights and obligations - ch. AG
 - g. Rules regarding negotiating leases.
2. 'Business opportunities'.
 - a. Special expertise and licensing requirements - s.
 - b. Approved forms.
 - c. Bulk sales law.
3. 'Selling specialized properties as a brokerage activity'.
4. 'Alternative marketing methods'.
 - a. Exchanges.
 - b. Installment sales.
 - c. Syndication.
 - d. Cooperatives.
5. 'Mortgage banking'.
 - a. Definition of mortgage banker, loan originator, loan solicitor.
 - b. When separate registration is needed.
 - c. Legality of referral fees, "Real Estate Settlement

134.

RL 24.03.

Procedures Act."

6. 'Real estate appraisal'.
 - a. Definition.
 - b. When separate certification is needed.
7. 'Farms'.
 - a. Specialized forms.
8. 'Auctions'.
 - a. Auctioneer requires real estate license to call auction of real estate.
9. 'Mobile homes'.
 - a. When a real estate license or separate license is required.
10. 'Time-share'.
 - a. Familiarity with ch. 707, Stats., when selling time-shares.

(3) SATISFACTION OF BROKER'S 36-HOUR PROGRAM BY OUT-OF-STATE APPLICANTS. An applicant who has held a real estate license in another licensing jurisdiction within the 2 year period prior to filing an application for an original real estate broker's license may satisfy the requirements of sub. (2) if the applicant submits evidence of attendance at 20 hours of education in sub. (2) (a), (b), (c), (g) and (h) which shall be completed at a school approved by the department under ss. RL 25.05 or 25.06. The remaining contents in sub. (2) may be completed at any school, provided that the department shall determine whether the contents are substantially equivalent to those offered by schools whose programs have been approved by the department.

RL 25.03 EDUCATIONAL REQUIREMENTS OF APPLICANT FOR AN ORIGINAL REAL ESTATE SALESPERSON'S LICENSE. (1) GENERAL REQUIREMENTS. Each applicant for an original real estate salesperson's license shall present evidence of attendance at the 72-hour educational program approved by the department in accordance with this chapter.

(2) TEN-HOUR WAIVER. The educational requirement in sub. (1) is not required of an applicant who submits proof that the applicant has received 10 semester hour credits in real estate or real estate related law courses at an accredited institution of higher education. A quarter hour credit equals 2/3 of a semester hour credit.

(3) SALESPERSON'S 72-HOUR PROGRAM. The 72-hour educational program for applicants for an original real estate salesperson's license shall include:

- (a) Real property. 4 hours.

1. 'Land, real estate and real property'.

2. 'Real property versus personal property'.
 3. 'Classification of fixtures'.
 4. 'Characteristics of real estate'.
 5. 'Types of home ownership'.
 6. 'Types of housing - s. 70.043, Stats'.
 7. 'Ownership expenses'.
 8. 'Property features'.
 9. 'Investment considerations'.
 10. 'Tax benefits for home ownership'.
 11. 'Homeowner's insurance'.
- (b) The real estate business. 1 hour.
1. 'Real estate specialties'.
 2. 'The real estate market'.
 3. 'Factors affecting supply and demand'.
 4. 'Business cycles'.
 5. 'Real estate practice - ch. 452, Stats'.
- (c) Real estate brokerage. 3 hours.
1. 'Law of agency'.
 2. 'Creation and termination of agency'.
 3. 'Fiduciary duties'.
 4. 'Responsibilities to third parties'.
 5. 'Broker's and salesperson's compensation'.
 6. 'Antitrust laws'.
 7. 'Independent contractor versus employee'.
 8. 'Broker-to-broker relationships'.
 9. 'Sales associate-to-sales associate relationships'.
- (d) Listing agreements. 5 hours.
1. 'Listing property'.

2. 'Listing agreements - ch. RL 16'.
3. 'Special listing provisions'.
4. 'Termination of listings'.
5. 'Obtaining listings'.
6. 'Pricing the property'.
7. 'Disclosures'.
8. 'Home warranties'.

(e) Interests in real estate. 5 hours.

1. 'Government powers'.
2. 'Estates in land'.
3. 'Encumbrances'.
4. 'Water rights'.
5. 'Forms of ownership'.
6. 'Trusts'.
7. 'Ownership by business organizations'.
8. 'Cooperatives'.
9. 'Time-shares - ss. 70.095, 707.02, 707.05, 707.40, 707.47, 707.49, Stats.'.
10. 'Condominiums - ss. 703.08, 703.21, 703.33, Stats.'.
11. 'Homestead - ss. 706.01 (7), 766.605, Stats.'.

(f) Legal descriptions. 3 hours.

1. 'Methods of describing real estate'.
2. 'Land units and measurements'.
3. 'Measuring elevations'.

(g) Taxes and other liens. 2 hours.

1. 'Liens and their effects on title'.
2. 'Tax liens'.
3. 'General tax assessment, equalization, tax bills'.
4. 'Mortgage liens'.

5. 'Mechanics liens'.
6. 'Judgments'.
7. 'Estate and inheritance tax liens'.
8. 'Other liens'.
9. 'Taxes - ss. 74.15, 74.47 (1) and (2), Stats.'.
10. 'Taxation and transfer fee - ss. 77.22, 77.27, Stats.'.

(h) Real estate contracts. 15 hours.

1. 'Contract law'.
2. 'Elements of a valid contract'.
3. 'Performance of contract'.
4. 'Discharge of contract'.
5. 'Default or breach of contract'.
6. 'Forms used in real estate - ch. RL 16'.
 - a. Listing agreements - s. 240.10, Stats.
 - b. Offers to purchase.
 - c. Buyer agency agreements.
 - d. Counteroffers.
 - e. Amendments.
 - f. Understanding closing statements.
 - g. Disclosure forms: seller condition report; agency; buyer and seller disclosure.
 - h. Addendums.
 - i. Cancellation and mutual release agreements.

(i) Title records and transfers of title. 2 hours.

1. 'Requirements of a valid conveyance - ss. 240.10, 706.02, 706.03, Stats.'.
2. 'Types of deeds'.
3. 'Involuntary alienation'.
4. 'Probate'.

5. 'Transfer of title by will and descent'.
6. 'Public records and recording'.
7. 'Evidence of title'.
8. 'Uniform commercial code'.
9. 'Other conveyances'.

(j) Real estate finance and basic math. 7 hours.

1. 'Buyer qualification'.
2. 'Mortgage instruments'.
3. 'Payment plans'.
4. 'Provisions for default: assignment; release; subject to'.
5. 'Land contracts'.
6. 'Secondary mortgage market'.

(k) Appraisal - market analysis. 5 hours.

1. 'Basic principles of value'.
2. 'Direct market comparison approach'.
3. 'Cost approach'.
4. 'Income approach'.
5. 'Appraisal process'.

(L) Fair housing laws. 2 hours.

1. 'Equal opportunity in housing'.
2. 'Federal fair housing law'.
3. 'Blockbusting, steering, redlining'.
4. 'Equal rights - s. 101.22, Stats.'.
5. 'Equal opportunity - s. 66.432, Stats.'.
6. 'Organizations'.

(m) Ethical real estate practices. 4 hours.

1. 'Ch. RL 24'.
2. 'Ethical business conduct'.

(n) Leases. 2 hours.

1. 'Leasehold estates'.
2. 'Standard lease provisions'.
3. 'Lease documents'.
4. 'Legal principles of leases'.
5. 'Assignment and subleasing'.
6. 'Improvements'.
7. 'Maintenance'.
8. 'Breach'.
9. 'Residential rental practices - ss. Ag 134.02, 134.06,

134.09'.

(o) Property management. 1 hour.

1. 'Functions of property manager'.
2. 'Management agreement'.
3. 'Management considerations'.
4. 'Renting and maintaining the property'.
5. 'Risk management'.

(p) Land use control and development. 3 hours.

1. 'Public controls'.
2. 'The master plan'.
3. 'Zoning'.
4. 'Subdivision regulations'.
5. 'Private land-use controls'.
6. 'Building codes'.
7. 'Land development'.
8. 'Subdividing'.
9. 'Interstate land sales full disclosure act'.
10. 'Platting and subdivisions - ss. 236.01, 236.02, 236.03, 236.31, 236.33, 236.335, 236.35, Stats.'

(q) Environmental concerns. 3 hours.

1. 'Radon'.
2. 'Asbestos'.
3. 'Toxic waste'.
4. 'Underground storage tanks - ss. ILHR 10.74 to 10.805'.
5. 'Floodplains - s. 87.30, Stats. and ss. NR 116.01,
116.06'.
6. 'Flood insurance'.
7. 'Wetlands - s. 23.32, Stats.'
8. 'Farmland preservation - ss. 91.01, 91.17, 91.19,
91.21, Stats.'
9. 'Rental unit energy efficiency standards - ss. ILHR
67.03, 67.08'.
10. 'Disclosure documents - s. 452.23, Stats. and s. RL
24.07'.
11. 'Other'.

(r) Miscellaneous Wisconsin license laws. 5 hours.

1. 'Ch. RL 15 - documents and records'.
2. 'Ch. RL 16 - contractual forms'.
3. 'Ch. RL 17 - licensure and supervision of employees'.
4. 'Ch. RL 18 - trust accounts'.
5. 'Ch. RL 23 - change of name, address, trade names'.
6. 'Commercial bulk sales - ss. 406.101, 406.012, 406.103,
406.104, 406.105, 406.107, 406.108, Stats.'
7. 'Property provisions for aliens and corporations - ss.
710.01, 710.02, Stats.'
8. 'Property rights of married persons - ss. 766.31,
766.51, 766.60, 766.63, Stats.'
9. 'Mortgage banking - ss. 440.71, Stats., and s. RL 40.03
(4) (b)'

(4) SATISFACTION OF SALESPERSON'S 72-HOUR PROGRAM BY OUT-OF-STATE APPLICANTS. An applicant who has held a real estate license in another licensing jurisdiction within the 2 year period prior to filing an application for an original real estate salesperson's license may satisfy the requirements

of sub. (3) if the applicant submits evidence of attendance at 23 hours of education in sub. (3) (b) 5, (e) 9 to 11, (g) 9 and 10, (h) 6, (i) 1, (L) 4 and 5, (m) 1, (n) 9, (p) 10, (q) 4 to 11 and (r) 1 to 9 which shall be completed at a school approved by the department under s. RL 25.05 or RL 25.06. The remaining contents in sub. (3) may be completed at any school, provided that the department shall determine whether the contents are substantially equivalent to those offered by schools whose programs have been approved by the department.

SECTION 11. RL 25.04 is repealed.

SECTION 12. RL 25.05 and 25.06 are repealed and recreated to read:

RL 25.05 REQUIREMENTS FOR APPROVAL OF PRE-LICENSE EDUCATION COURSES TAKEN FOR ACADEMIC CREDIT AT AN ACCREDITED INSTITUTION OF HIGHER EDUCATION. (1) A school seeking initial approval of pre-license credit courses in real estate shall submit its application on a form provided by the department. The department may require the following information and materials:

- (a) The department in the school which is offering the courses.
- (b) The method of instruction for each course.
- (c) The course number and title.
- (d) Detailed outlines of each course with specific allocations of classroom hours to each topic.
- (e) A current school bulletin.

NOTE: An applicant may obtain a copy of the Application for Approval of Credit Courses which satisfy the 72-hour and 36-requirement, Form #828, from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

(2) The department may approve a pre-license credit course if it alone or in conjunction with one or more other courses covers all of the contents and the required number of hours, as provided in ss. RL 25.02 (2) or RL 25.03 (3).

(3) When approving one or more pre-license credit courses, the department shall specify the single course or combination of courses which satisfy either the 36 hours in s. RL 25.02 (2) or the 72 hours in s. RL 25.03 (3).

(4) A school shall inform the department of any changes in the information it submitted in an application form within 10 days following the date of the change.

(5) A school may not discriminate against anyone on the basis of sex, race, color, sexual orientation as defined in s. 111.32 (13m), Stats., handicap, religion, age, physical disability, or national origin in their educational programs.

(6) Course approvals shall expire on August 15 following the date of initial approval and every August 15 thereafter. A school shall obtain

approval of credit courses before the school conducts the courses in the year following August 15.

NOTE: An applicant may obtain a copy of the Application for Reapproval of Programs and Courses, Form #829, from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

RL 25.06 REQUIREMENTS FOR APPROVAL OF PRE-LICENSE PROGRAMS AND INSTRUCTORS. (1) APPROVAL OF PROGRAMS. (a) A school seeking initial approval from the department of pre-license educational noncredit programs shall submit its application on a form provided by the department. The approval of programs shall expire on August 15 following the date of initial approval and every August 15 thereafter. A school shall obtain approval of credit courses before the school conducts courses in the year following August 15.

NOTE: An applicant may obtain a copy of the Application for Approval of Noncredit 72-Hour and 36-Hour Programs, Form #830, and the Application for Reapproval of Programs and Courses, Form #829, from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

(b) The department may require a school seeking initial approval and reapproval of pre-license educational programs to describe or furnish its organizational structure, registration policies, fee schedules, promotional materials, detailed outlines of each program with specific allocations of classroom hours to each topic, student records system, the names and qualifications of instructors, the method of instruction, the method for evaluating instructors and a summary of evaluations conducted, and the time, date and location of each program.

(c) A school shall inform the department of any changes in the information it submitted in an application form within 10 days following the date of the change.

(d) A school may not discriminate against anyone on the basis of sex, race, color, sexual orientation as defined in s. 111.32 (13m), Stats., handicap, religion, age, physical disability, or national origin in their educational programs.

(e) This section does not apply to approval of credit courses specified in s. RL 25.05.

(2) APPROVAL OF INSTRUCTORS. (a) Instructors of pre-license educational noncredit programs shall be approved by the department. The department may limit its approval to specific content areas set forth in ss. RL 25.02 (3) and 25.03 (3). Instructors shall possess at least one of the following minimum qualifications:

1. Be an instructor of real estate courses who is or has been engaged in the practice of teaching at an accredited institution of higher education.

2. Be a properly licensed or certified person who is engaged in the real estate aspects of appraising, financing, marketing, brokerage management, real property management, real estate counseling, real property law, or other related subjects and has been for at least 5 years continuously engaged in such practice.

3. Be a member of the state bar of Wisconsin who is engaged in the field of real estate-related law.

4. Be a person who, in the judgment of the department, is qualified by experience or education, or both, to supervise a course of study.

NOTE: An applicant may obtain a copy of the Application for Approval of Instructor, Form #831, from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

(b) An instructor whose real estate license has been limited, suspended or revoked may not instruct in approved programs while the disciplinary action is in effect.

(c) A school shall make arrangements so that when instruction is provided by some means without the instructor physically present in the classroom and the students are unable to interact with the person doing the instructing another approved instructor will be present in the classroom. If the students are able to interact with the person doing the instructing a monitor, but not necessarily an approved instructor, shall be present.

SECTION 13. RL 25.065 and 25.066 are created to read:

RL 25.065 CONTINUING EDUCATION REQUIREMENTS FOR BROKERS AND SALESPERSONS.

(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 this chapter, pursuant to an exemption under s. 227.01 (13) (zj), Stats.

(2) A licensee may only satisfy the continuing education requirement by successfully completing the continuing education program or courses which are approved by the department before the programs or courses are conducted, except that pursuant to s. 452.12 (5) (c) 2, Stats., the licensee may take the continuing education examination conducted by the department in lieu of the education.

(3) A licensee shall submit evidence of completion of the continuing education requirement when applying for renewal of license. The department shall withhold issuance of the renewal license until such evidence is submitted and the licensee may not engage in the practice of real estate until having submitted such evidence and having received the license.

(4) A licensee who has not completed the continuing education requirement during the licensing biennium may successfully complete the continuing education program required by the department for that biennium

during the year following the license expiration date and the licensee shall also satisfy the continuing education requirement for that following biennium. The licensee may not complete the overdue requirement by taking the examination conducted by the department.

(5) A licensee who has received an original broker's or salesperson's license during a certain biennium and who was not licensed to practice as either a broker or salesperson on the first day of the biennium is not required to satisfy the continuing education requirement during that biennium, but must do so during each following biennium.

(6) A licensee may attend more than one school in order to complete approved courses which are part of the continuing education program designated by the department under s. 452.05 (1) (d) and (g), Stats.

(6m) A licensee who attends an approved continuing education course and fails the examination given by the school at the end of the course shall retake the course and pass the course examination before being eligible to complete the remaining portion of the continuing education requirement by taking the continuing education examination conducted by the department pursuant to s. RL 25.075.

(7) A licensee may complete less than the complete continuing education program designated by the department under s. 452 (1) (d) and (g), Stats., and subsequently take the continuing education examination conducted by the department.

(8) A licensee who acts as an instructor of an approved continuing education program or course may receive credit toward satisfaction of the licensee's continuing education requirement, provided the licensee successfully completes the program or course examination, as specified in s. RL 25.05. The licensee may not receive credit for teaching a specific course more than one time.

(9) The department may grant an extension of time for completion of the continuing education requirement by a licensee and the licensee may obtain a renewal license for the extension period for one of the following reasons:

(a) Health reasons which prevented attendance at continuing education courses or the continuing education examination;

(b) Active duty in the military service with assignment to a duty station outside Wisconsin; or

(c) Other compelling reasons beyond the control of the applicant while engaged in the real estate business.

RL 25.066 REQUIREMENTS FOR APPROVAL OF CONTINUING EDUCATION SCHOOLS, COURSES AND INSTRUCTORS. (1) A school seeking initial approval from the department of the continuing education program or a course shall submit its application on a form provided by the department. Approval of continuing education programs and courses shall terminate on December 31 following the last day of the licensing biennium. A school shall submit applications for approval of continuing education programs and courses to the department before conducting any continuing education program or course which the department has prescribed for a subsequent licensing biennium.

NOTE: An applicant may obtain a copy of the Request For Approval of Real Estate Continuing Education Program or Courses, Form #1747, from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

(2) Instructors of continuing education programs and courses shall be approved by the department. Instructors shall be experienced in the subject which they are teaching and shall possess at least one of the following minimum qualifications:

(a) Be an instructor of real estate courses who is or has been engaged in the practice of teaching at an accredited institution of higher education.

(b) Be a properly licensed or certified person who is engaged in the real estate aspects of appraising, financing, marketing, brokerage management, real property management, real estate counseling, real property law, or other related subjects and has been for at least 5 years continuously engaged in such practice.

(c) Be a member of the state bar of Wisconsin who is engaged in the field of real estate-related law.

(d) Be a person who, in the judgment of the department, is qualified by experience or education, or both, to supervise a course of study.

NOTE: An applicant may obtain a copy of the Application for Approval of Instructor, Form #831, from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

(3) An instructor whose real estate license has been limited, suspended or revoked may not instruct in approved programs while the disciplinary action is in effect.

(4) The department may require a school seeking initial approval and reapproval of continuing education programs and courses to describe or furnish its organizational structure, registration policies, fee schedules, promotional materials, detailed outlines of each program with specific allocations of classroom hours to each topic, student records system, the names and qualifications of administrators and instructors, the method for evaluating instructors, the method of instruction, a summary of evaluations conducted, and the time, date and location of each continuing program.

(5) A school shall inform the department of any changes in the information which it provided to the department in an application form within 10 days following the date of the change.

(6) The following are additional criteria for approval of continuing education programs or courses:

(a) Applicants for approval of continuing education programs or courses may not discriminate against anyone on the basis of sex, race, color, sexual orientation as defined in s. 111.32 (13m), Stats., handicap, religion, age, physical disability, or national origin in their educational programs.

(b) A school shall agree not to conduct an approved continuing education program or course during more than 6 hours in any one day.

(c) A school shall submit to the department with the application for approval at least 5 multiple-choice questions for each hour of instruction. The school shall clearly indicate the answer to each question and the portion of the course outline to which the question relates. The questions shall comply with reasonable standards of test development and shall relate to the substantive contents of the continuing education program or course. The questions shall be the original work of the writer and not be published. A school may only make questions available to school personnel.

NOTE: An applicant may obtain a copy of the Continuing Education Question Development Form, Form #1746, and the Instructions for Submitting Continuing Education Questions, Form #1745, from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

(d) A school shall agree to conduct an examination at the end of each continuing education program or course. The examination shall contain at least 5 multiple-choice questions for each hour of instruction. The examination shall be closed-book and the passing score shall be no less than 70 percent, unless the school provides substantial justification to the department for a lower score and the department approves the lower passing score.

(e) A school shall agree not to make available to students before the students take a specific examination the questions or answers to the questions. A school shall keep tests and answer sheets in a secure location at all times before and after administration of the examination, including during construction and printing.

(f) A school shall agree to inform students about the number of points of credit for each question in the examination and the passing score. It shall also provide clear instructions to students for recording their responses on the examination booklet.

(g) A school shall agree to provide each student with a certificate of attendance at a program or course. The certificate shall comply with the requirements in s. RL 25.07.

(h) A school shall agree to submit to the department within 30 days after completion of a program or course a list of those who attended the program or course. The list shall clearly state the name of the school; the name of the program, course or courses; the names of all those who completed the program or course and a clear indication of those who passed the examination and those who did not pass the examination; the date of birth or the license number of each person whose name appears on the list; the total number of hours credited to each successful student and the name and signature of an authorized agent of the school.

(i) A school shall make arrangements so that when instruction is provided by some means without the instructor physically present in the classroom and the students are unable to interact with the person doing the

instructing another approved instructor will be present in the classroom. If the students are able to interact with the person doing the instructing a monitor, but not necessarily an approved instructor, shall be present.

(j) A school may not count examination time as part of the required classroom hours.

SECTION 14. RL 25.07 and 25.075 are repealed and recreated to read:

RL 25.07 CERTIFICATION OF ATTENDANCE AT PRE-LICENSE AND CONTINUING EDUCATION PROGRAMS AND COURSES. (1) ATTENDANCE REQUIREMENTS. A student shall attend all the required hours and receive all the required contents before a school may give a certificate of attendance to the student. In addition, for continuing education programs and courses a student shall also satisfactorily complete the course examination administered by the school, as provided in s. RL 25.066 (6) (g) to (i).

(2) CERTIFICATION OF ATTENDANCE. (a) Schools shall provide an individual certificate of attendance to all students upon satisfactory completion of education programs and courses.

(b) The department may accept an official transcript or student grade report as evidence of satisfactory completion of credit courses.

(c) Certificates for pre-license noncredit programs and all continuing education programs and courses shall meet the following criteria:

1. Clearly state the name of the school.
2. Clearly state the name of the student.
3. Clearly state the name of the program or course and whether it satisfies prelicense or continuing education requirements.
4. Clearly state the number of hours the student has successfully completed both by attending the complete program or course or by passing the program or course examination.
5. Clearly state the date of completion of the program or course.
6. Be signed by an authorized person at the school.

(d) A school shall maintain attendance records for at least 5 years after a program or course has been conducted.

RL 25.075 CONTINUING EDUCATION EXAMINATION CONDUCTED BY THE DEPARTMENT.

(1) The department shall conduct a continuing education examination pursuant to s. 452.12 (5) (c) 2, Stats.

(2) The department shall conduct the continuing education examination during each biennial licensure period, but not from July 1 to December 31 of each even-numbered year.

(3) The continuing education examination shall cover the subjects required for continuing education approved by the department under s. 452.05 (1) (d) and (g), Stats., and shall have no less than 5 questions for each hour of instruction in the approved continuing education program or courses.

(4) The department shall permit a licensee to retake the continuing education examination one time. If the licensee fails the examination a second time, the licensee shall attend an approved continuing education program or course and pass all course examinations.

(5) The department shall require a minimum passing score of 70 on the continuing education examination.

(6) The department shall permit licensees who take the continuing education examination to review the examination and the examination results, as provided in s. RL 12.025.

SECTION 15. RL 25.076 is amended to read:

RL 25.076 CORRESPONDENCE COURSES. Correspondence courses do not satisfy educational requirements in this chapter except to satisfy requirements in ss. ~~RL-25.02-(2)-(a)-and-(e)~~ RL 25.02 (1) (b) and 25.03 (2).

SECTION 16. RL 25.08 (3) is amended to read:

RL 25.08 (3) DENIAL OR WITHDRAWAL OF APPROVAL. (a) The department may limit, suspend or revoke the approval of a school or instructor to conduct any program or course, which had been approved pursuant to this chapter, when the school or instructor has falsified information on any application or certificate of attendance submitted to the department or when the school or instructor has not complied with the conditions for approval. Such actions may also be cause for disciplinary action against a licensee, pursuant to s. 452.14, Stats.

(b) If, after investigation, the department denies or deems it proper to withdraw its approval of any educational program, course, or instructor, written notification must be given with reasons for such action. The school or instructor may request a hearing before the department.

SECTION 17. RL 25.09 and 25.10 are repealed.

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.

Dated 11/15/91

Agency Marlene A. Cummings
Marlene A. Cummings, Secretary
Department of Regulation
and Licensing