



To: Senate Committee on Insurance, Housing, and Trade

From: Cori Lamont, Director of Corporate and Regulatory Affairs
Tom Larson, Senior Vice President of Legal and Public Affairs

Date: May 13, 2015

RE: Relating to: Cooperative Agreements for Out-of-State Real Estate Brokers,
Salespersons and Time-share Salespersons - SB41/AB33

The Wisconsin REALTORS® Association is proposing legislation that will delete the requirement that a form relating to cooperation of Wisconsin brokers with out-of-state brokers be separately created by administrative rule.

Background

In implementing 2013 Wisconsin Act 259, the Real Estate Examining Board (REEB) was informed that the newly created statutory language of Wis. Stat. § 452.137 was interpreted to mean the REEB had to promulgate a rule to establish the cooperative agreement for use between out-of-state brokers who are cooperating with Wisconsin brokers. Act 259 became effective January 1, 2015. Under this legislation, Wisconsin brokers who would like to cooperate with out-of-state brokers are permitted to do so if the Wisconsin broker executes a cooperative agreement. However, based upon the legal interpretation, the REEB was not permitted to begin to draft, discuss, etc. until the effective date of the legislation. The REEB pursued an emergency rule to expedite the rulemaking process but no action could be taken on the rule or form until the Act's effective date of January 1, 2015.

The WRA believes that the REEB already has the authority to create the cooperative agreement under Wis. Admin. Code § REEB 16.03 pursuant to Wis. Stat. § 452.05(1)(b) which reads, "In addition to the other duties and responsibilities of the board under this chapter, the board shall advise the secretary on matters relating to real estate practice and shall: (b) Approve forms for use in real estate practice."

Proposal

Rather than have a separate rule for an authority already granted to the REEB, the WRA proposes to remove the rule requirement in Wis. Stat. § 452.137(4)(a) solely for the cooperative agreement.

The proposed change is not granting the REEB any greater authority that is already bestowed upon it as an examining board. Currently, the REEB creates forms for use in transactions; also known as WB forms, such as listing agreements, offers to purchase, options, exchanges, counter-offers, etc. The intent of the original legislation of 2013 Wisconsin Act 259 was to have the REEB create a WB Cooperative Agreement. The proposed change does not deviate from the original intent of the legislation. The proposed change still requires a cooperative form to be created by the REEB and sets forth the minimum requirements of the form.

If you have any questions or if you need any additional information, please contact us at (608) 241-2047.