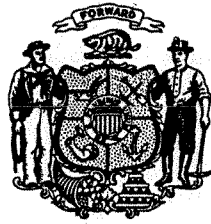


WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-142

AN ORDER to amend RL 133.01 (3), 133.02 (1) and 135.02 (1) (b), relating to home inspector examination and continuing education requirements.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

10-06-00 RECEIVED BY LEGISLATIVE COUNCIL.

10-30-00 REPORT SENT TO AGENCY.

RNS:REL:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

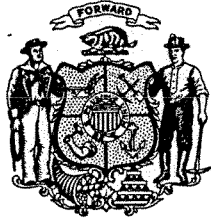
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-142

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

In s. RL 133.02 (1), the word "Part" should not be capitalized.

5. Clarity, Grammar, Punctuation and Use of Plain Language

The analysis provides that "Section RL 133.02 (1) is amended to state that the department determines the passing grade on Part I of the examination by using subject matter experts and following procedures outlined in the rule." In contrast, the text of s. RL 133.02 (1) provides that the department shall determine the passing grade for part II of the examination after consultation with subject matter experts, and "shall determine the passing grade for Part II of the examination in the same manner as for Part I or the department may accept a passing grade recommendation of a testing agency whose examination has been approved by the department." In s. RL 133.02 (1), should the first reference to "part II" be changed to "part I"?

JAN 26 2001

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION AND
DEPARTMENT OF REGULATION : LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 00-142)

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DEPARTMENT OF REGULATION AND LICENSING is submitting in final draft form rules relating to home inspector examination and continuing education requirements.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 00-142
DEPARTMENT OF REGULATION : (s. 227.19 (3), Stats.)
AND LICENSING :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

Section RL 133.01 (3) is amended to state that the home inspector examination to be administered after January 1, 2001, will consist of two parts. Part I will consist of an examination on the Wisconsin statutes and administrative rules that relate to the practice of home inspection. Part II will consist of an examination relating to the principles and procedures relating to the practice of home inspection.

Section RL 133.02 (1) is amended to state that the department determines the passing grade on Part I of the examination by using subject matter experts and following procedures outlined in the rule. This is the case, because the department prepares Part I of the examination. However, since the department may prepare Part II of the examination or may simply approve an examination prepared by a testing agency, the department may determine the passing score for Part II by either using the procedures for Part I of the examination or by accepting the passing score recommendations of the testing agency.

Section RL 135.02 (1) is amended to remove "classroom" from the definition of "hour," as that term relates to continuing education programs and courses. This change will avoid a conclusion that was unintended when the current rule was drafted, that is that distance learning courses will not satisfy the continuing education requirements.

These proposed rules were developed with the advice and counsel of an advisory committee, created pursuant to 1997 Wisconsin Act 81 and consisting of 6 home inspectors and 3 public members.

V. NOTICE OF PUBLIC HEARING:

A public hearing was conducted by Cletus J. Hansen, on behalf of Secretary Marlene A. Cummings, on November 13, 2000. There were no appearances at the public hearing and no written comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules were reviewed by the department's Small Business Review Advisory Committee, as defined in s. 227.114 (1) (a), Stats. The impact has gradually taken place over the past year when the national examination was implemented with a \$200.00 fee. The rules clarify that registrants will be able to satisfy continuing education requirements by distance learning.

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1/25/01

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 00-142)

PROPOSED ORDER

An order of the Department of Regulation and Licensing to amend RL 133.01 (3), 133.02 (1) and 135.02 (1) (b), relating to home inspector examination and continuing education requirements.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2) and 440.974, Stats.

Statutes interpreted: ss. 440.972 and 440.973, Stats.

Section RL 133.01 (3) is amended to state that the home inspector examination to be administered after January 1, 2001, will consist of two parts. Part I will consist of an examination on the Wisconsin statutes and administrative rules that relate to the practice of home inspection. Part II will consist of an examination relating to the principles and procedures relating to the practice of home inspection.

Section RL 133.02 (1) is amended to state that the department determines the passing grade on Part I of the examination by using subject matter experts and following procedures outlined in the rule. This is the case, because the department prepares Part I of the examination. However, since the department may prepare Part II of the examination or may simply approve an examination prepared by a testing agency, the department may determine the passing score for Part II by either using the procedures for Part I of the examination or by accepting the passing score recommendations of the testing agency.

Section RL 135.02 (1) is amended to remove "classroom" from the definition of "hour," as that term relates to continuing education programs and courses. This change will avoid a conclusion that was unintended when the current rule was drafted, that is that distance learning courses will not satisfy the continuing education requirements.

These proposed rules were developed with the advice and counsel of an advisory committee, created pursuant to 1997 Wisconsin Act 81 and consisting of 6 home inspectors and 3 public members.

TEXT OF RULE

SECTION 1. RL 133.01 (3) is amended to read:

RL 133.01 (3) On or after January 1, 2001, the department shall prepare ~~and~~ or approve ~~the required examination~~ a 2-part examination. Part I shall consist of an examination relating to the Wisconsin statutes and administrative rules that relate to the practice of home inspection. Part II shall consist of an examination relating to the principles and procedures that relate to the practice of home inspection.

SECTION 2. RL 133.02 (1) is amended to read:

RL 133.02 (1) To pass each examination part the applicant shall receive a grade determined by the department to represent the minimum competence to practice. The department shall determine the passing grade for part I of the examination after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession. The department shall determine the passing grade for part II of the examination in the same manner as for part I or the department may accept the passing grade recommendation of a testing agency whose examination has been approved by the department.

SECTION 3. RL 135.02 (1) (b) is amended to read:

RL 135.02 (1) (b) "Hour" means 50 minutes of ~~classroom~~ instruction.

(END OF TEXT OF RULE)

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 _____

Agency _____

Secretary

Department of Regulation and Licensing

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules were reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats. The impact has gradually taken place over the past year when the national examination was implemented with a \$200.00 fee. The rules clarify that registrants will be able to satisfy continuing education requirements by distance learning.

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1/25/01