



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 06-124

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 January 2005.]

1. Statutory Authority

a. The rule would establish regulations relating to pawnbrokers, currently regulated by s. 138.10, Stats. It is not clear what statutory basis the agency has to promulgate the rule. The cited authorities of ss. 220.02 (2) and 227.11 (12), Stats., do not convey express statutory authority to the agency and s. 138.10, Stats., does not provide for rule-making authority for the agency. The source of authority for the rule should be clarified by the agency.

b. The rule would establish uniform hours of operation for all pawnshops under s. DFI-Bkg 77.03 (1). The authority to establish these hours is not readily apparent. Further, it is not clear whether the rule is intended to “occupy the field” and thus preempt any local government regulation with regard to hours of operation.

2. Form, Style and Placement in Administrative Code

a. In the analysis to the rule, the “Comparison with rules in adjacent states” is not really a comparison. It just notes which states regulate pawnbrokers and which do not.

b. In s. DFI-Bkg 77.02 (5) the reference to “par. (2)” should be changed to “sub. (2).” However, the agency should consider modifying or deleting “as defined in [sub.] (2)” since sub. (2) does not define “pawnbroker’s business.”

c. In s. DFI-Bkg 77.06 or 77.09 (intro.), “may not” should replace “shall not.”

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

- a. The agency may wish to allow either verbal or written notification under s. DFI-Bkg 77.05 (2).
- b. In s. DFI-Bkg 77.06, what is “due notice”? Can “due” be deleted?
- c. The agency may wish to include an initial applicability provision in the rule to indicate which transactions will be subject to the rule.