



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 13-002

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

2. Form, Style and Placement in Administrative Code

a. Under SECTION 1, on page 6 of the rule, s. ATCP 134.04 (2) is repealed and then recreated without a title. Section 1.05 (1), Manual, states that if any subsection is titled, then all subsections in that section should be titled. As such, s. ATCP 134.04 (2) should be recreated with a title.

b. SECTION 1 of the rule repeals and recreates s. ATCP 134.04 (2), followed by subs. 1. to 4. However, no paragraphs are created. Thus, subs. 1. to 4., found on page 6, lines 5 to 9, should be pars. (a) to (d). [s. 1.03 (1), Manual.]

c. SECTION 2 of the rule amends s. ATCP 134.06 (3) (a) (intro.). As such, the term “(intro.)” should be included on page 6, line 10. The introductory clause should also be modified to reflect this change. Also on page 6, line 10, a comma is missing between s. ATCP 134.06 (2) (b) 1. and (3) (a) (intro.).

d. Under SECTION 2, on page 7 of the rule, the period at the end of s. ATCP 134.06 (2) (b) 1. should not be underscored because it is retained from the current text. In addition, in s. ATCP 134.06 (3) (a) 6., “in” on line 19 should be underscored because it is new text. [s. 1.06 (1) and (4), Manual.]

e. Under SECTION 4, on page 9 of the rule, the text of s. ATCP 134.08 (6) (a) should be shown in the rule, even though it is not being amended by the rule. When the contents of a section are amended, the text of the entire section should be reproduced. Alternatively, in the

treatment of SECTION 4, the agency could individually list the provisions in s. ATCP 134.08 that are being amended and exclude s. ATCP 134.08 (6) (a).

4. Adequacy of References to Related Statutes, Rules and Forms

a. There are a number of statutes in ch. 704, Stats., that should be included in the “Statutes Interpreted” section on page 1. The following statutes are referenced in the “Plain Language Analysis” section and should also be listed on page 1: ss. 704.07 (2) (bm), 704.28 (1) and (4) (b), and 704.44, Stats. Also, it appears that ss. 704.05 (5) (bf) and 704.28 (2), Stats., are interpreted, even though they are not listed in the “Plain Language Analysis.” If this is correct, these statutes should also be listed.

b. On page 4 of the “Plain Language Analysis,” under the subsection explaining “Withholding security deposits,” reference is made to s. 704.28 (1), Stats. It appears that the rule also amends ch. ATCP 134 to be consistent with s. 704.28 (2), Stats. As such, this statute should also be cited on page 4.

c. On page 4 of the “Plain Language Analysis,” under the subsection explaining “Confiscating personal property left behind by the tenant,” no statutory citation is given. It appears that the applicable statute is s. 704.05 (5) (bf), Stats. If this is correct, this section of the statutes should be referenced on page 4.

d. It appears from the “Plain Language Analysis” that the purpose of SECTION 4 of the rule, found on page 8, is to make s. ATCP 134.08 consistent with s. 704.44, Stats. However, the rule does not include the requirements found in s. 704.44 (1m) and (9), Stats. Is this an oversight? If the agency does not intend to include subs. (1m) and (9), Stats., in s. ATCP 134.08, it should explain, in the “Plain Language Analysis,” why those provisions were omitted.

e. Under SECTION 4, on page 8 of the rule, “subsection” should be inserted after “This” in s. ATCP 134.08 (3) to clarify what “this” refers to. Similarly, “subsection” should be inserted after “This” in s. ATCP 134.08 (5), and “paragraph” should be inserted after “This” in s. ATCP 134.08 (6) (b). [s. 1.01 (9), Manual.]