



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary-designee Randy Romanski

Report From Agency

DATE: May 25, 2021

TO: The Honorable Chris Kapenga
President, Wisconsin State Senate
Room 220 South, State Capitol
PO Box 7882
Madison, WI 53707-7882

The Honorable Robin Vos
Speaker, Wisconsin State Assembly
Room 217 West, State Capitol
PO Box 8953
Madison, WI 53708-8953

FROM: Randy Romanski, Secretary-Designee
Department of Agriculture, Trade and Consumer Protection

SUBJECT: Residential Rental Practices, ch. ATCP 134; Final Draft Rule (Clearinghouse Rule #20-033)

Introduction

The Department of Agriculture, Trade and Consumer Protection (DATCP) is transmitting this rule for legislative committee review, as provided in Wis. Stat. § 227.19 (2) and (3). DATCP will publish notice of this referral in the Wisconsin Administrative Register, as provided in Wis. Stat. § 227.19 (2). This rule amends Wis. Admin. Code ch. ATCP 134, which regulates residential rental practices.

Background

This proposed rule would modify a current rule related to residential rental practices. Existing ch. ATCP 134 (Residential Rental Practices) and existing ch. 704, Stats. (Landlord and Tenant) both regulate dealings involving residential renters and their landlords. However, because of an addition to ch. 704, Stats., by 2017 Wisconsin Act 317, s. 41, there is now a specific matter – namely, the maximum actual cost amount that a landlord may require a prospective tenant to pay for a consumer credit report – where ch. ATCP 134 is inconsistent with ch. 704, Stats. This rulemaking will eliminate that inconsistency and changes the maximum amount that a landlord may charge a prospective tenant for a consumer credit report from \$20 to the amount specified by statute.

Rule Content

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This rule changes the maximum amount that a landlord may charge a prospective tenant for a consumer credit report from \$20 to the amount specified by statute.

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

No existing or proposed federal regulations have an impact on this rule.

Comparison with Rules in Adjacent States

Illinois, Iowa, Michigan, and Minnesota all have statutes or administrative rules governing residential rental practices. These laws address common topics such as rental agreements, security deposits, and other duties of landlords and tenants.

Summary of Factual Data and Analytical Methodologies

None taken since none was deemed appropriate. The purpose of the effort was to harmonize the rule with statute.

Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

No analysis has been conducted. 2017 Wisconsin Act 317 created an inconsistency between rule and statute. Therefore, the rule will not have any effects that the existing law would not already impose.

Effect on Small Business

Many of the landlords affected by this rule are “small businesses.” However, because the change permits landlords to charge prospective tenants \$5 more for credit reports, the rule change will not adversely affect landlords. Again, 2017 Wisconsin Act 317 created an inconsistency between rule and statute. Therefore, the rule will not have any effects that the existing law would not already impose.

Small Business Regulatory Review Report

The Small Business Regulatory Review Board did not issue a report on this rule.

Hearing

DATCP held a hearing on the draft rule on September 17, 2020. After the hearing, DATCP accepted comments until September 25, 2020.

Changes from Hearing Draft

No public comments were received either at the hearing or in writing during the comment period.

DATCP received a comment from the Wisconsin Legislative Council Rules Clearinghouse and accepted it. They suggested that DATCP change § ATCP 134.05 (4) (a) from "... to pay the landlord's actual cost, ~~up to \$20~~ \$25..." to read "... to pay the landlord's actual cost, ~~up to \$20~~ the amount specified in s. 704.085 (1) (a), Stats...." The Clearinghouse suggested the change to reduce the need to conduct rulemaking in the future should the Legislature change the amount again.