

CR 91-174

CERTIFICATE

STATE OF WISCONSIN

DEPARTMENT OF REGULATION AND LICENSING

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:


I, Marlene A. Cummings, Secretary of the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Department, do hereby certify that the annexed rules were duly approved and adopted by the Department of Regulation and Licensing on the 3rd day of June, 1992.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

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8:45 AM  
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IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 1400 East Washington Avenue, Madison, Wisconsin this 3rd day of June, 1992.

  
\_\_\_\_\_  
Marlene A. Cummings  
Secretary  
Department of Regulation  
and Licensing

8-1-92

JUN 3 1992

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Bureau

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|------------------------------|---|--|
| IN THE MATTER OF RULE-MAKING | : | ORDER OF THE                           |
| PROCEEDINGS BEFORE THE       | : | DEPARTMENT OF REGULATION AND LICENSING |
| DEPARTMENT OF REGULATION     | : | ADOPTING RULES                         |
| AND LICENSING                | : | (CLEARINGHOUSE RULE 91-174)            |

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ORDER

An order of the Department of Regulation and Licensing to amend RL 16.03 (1) (a) and RL 16.04 (1), (2) and (3); and to create RL 16.04 (2m) and (3m) of the administrative code relating to approved forms for use by real estate brokers and salespersons.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2) and 452.07, Stats.

Statute interpreted: s. 452.05 (1) (b), Stats.

In this proposed order the Department of Regulation and Licensing is amending rules pertaining to situations for which the department has no approved form. First, the department is amending s. RL 16.03 (1) (a) to specify the type of forms prepared and approved by the State Bar of Wisconsin which real estate brokers may use. Specifying these forms will avoid potential problems, relating to other changes in this rule proposal, if the State Bar were to prepare and approve a lease form.

Current rules permit licensees involved in transactions for which there is no approved form to only use a form which has been prepared by the client or the client's attorney. The department is amending s. RL 16.04 to permit real estate brokers and salespersons, when acting as an agent and when leasing real estate, to use a lease form which has been either drafted by a principal to the transaction or an attorney, provided the form has been approved by the licensee's client. The form must also show the identity of the drafter. On the other hand, when a licensee is leasing his or her own property, the licensee may use lease forms which have been drafted by the licensee or obtained from another source.

Section RL 16.04 (2) slightly modifies the general principle pertaining to situations for which there is no approved form and the licensee is acting as agent, but provides an exception relating to lease forms. This section was originally developed because at one time the department had no approved form for the sale of timeshare intervals and for leasing businesses and farms. However, the department has now prepared timeshare purchase contracts. Therefore, this subsection will continue to apply only to timeshare listings and any other kind of transaction for which there is no approved form (none are apparent at this time).

Section RL 16.04 (2m) creates an exception to the general rule in RL 16.04 (2) and permits real estate brokers and salespersons, when acting as agents, to use lease forms which have been drafted by a principal to the transaction or an attorney and have been approved by their client.

Section RL 16.04 (3) continues to state the general principle pertaining to situations for which there is no approved form and the licensee is acting as a sole principal or one of several principals, but provides an exception relating to lease forms. This section was originally developed for the same reason that s. RL 16.04 (2) was developed.

Section RL 16.04 (3m) creates an exception to the general rule in RL 16.04 (3) and permits real estate brokers and salespersons, when acting as a sole principal or one of several principals, to use whatever lease form is available to them from a reliable source.

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TEXT OF RULE

SECTION 1. RL 16.03 (1) (a) is amended to read:

RL 16.03 (1) (a) Forms prepared and approved by the state bar of Wisconsin for deeds, mortgages, mortgage notes, truth-in-lending disclosures, land contracts, release of mortgage, satisfaction of mortgage, assignment of mortgage and assignment of land contract;

SECTION 2. RL 16.04 (1) and (2) are amended to read:

RL 16.04 (1) Except as provided in subs. (2), (2m), and (3) and (3m), a licensee shall use approved forms when acting as an agent or a principal in a real estate transaction.

(2) ~~For~~ Except as provided in sub. (2m), for those kinds of real estate transactions for which the department has not approved contractual forms a licensee may, when acting as an agent, use contractual forms drafted by a client or ~~a client's~~ an attorney, but only for that client's transactions, if the name of the drafter is imprinted on the form before use by a licensee.

SECTION 3. RL 16.04 (2m) is created to read:

RL 16.04 (2m) A licensee may, when acting as an agent, use forms for leasing real property which have been drafted by a principal to the transaction or an attorney and have been approved by the licensee's client. All lease forms shall identify the drafter.

SECTION 4. RL 16.04 (3) is amended to read:

RL 16.04 (3) ~~For~~ Except as provided in sub. (3m), for those kinds of real estate transactions for which the department has not approved contractual forms a licensee may, when acting as a sole principal or one of several principals, use contractual forms drafted by the licensee's attorney, if the name of the drafter is imprinted on the form before use by the licensee.

SECTION 5. RL 16.04 (3m) is created to read:

RL 16.04 (3m) A licensee may, when acting as a sole principal or one of several principals, use forms for leasing real property which have been drafted by the licensee or obtained from another source.

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.

Date

June 3, 1992

Agency

Marlene A. Cummings  
Marlene A. Cummings, Secretary  
Department of Regulation  
and Licensing

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CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

DATE: June 3, 1992

TO: Gary Poulson  
Assistant Revisor of Statutes

FROM: Pamela Haack, Administrative Assistant  
Department of Regulation and Licensing

SUBJECT: Final Rulemaking Order

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**Agency: DEPARTMENT OF REGULATION AND LICENSING**

**Clearinghouse Rule: 91-174**

Attached is a copy and a certified copy of a final order adopting rules.

Would you please publish these rules in the code.

Thank you.