

CR 92-200

**CERTIFICATE**

**STATE OF WISCONSIN**

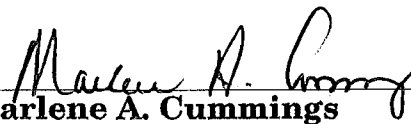
**DEPARTMENT OF REGULATION AND LICENSING**

**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 12th day of July, 1993.**

**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.**

**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 12th day of July, 1993.**

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

**RECEIVED**

**JUL 12 1993**  
*4:00 pm*  
Revisor of Statutes  
Bureau

10-1-93

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING

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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 92-200)            |

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ORDER

An order of the Department of Regulation and Licensing to repeal RL 12.01 (2) (a) 2, ch. RL 20, and RL 25.065 (4); to renumber RL 12.01 (2) (a) 1; to amend RL 25.02 (1) (a), (2) (h) 1 f and (3), RL 25.03 (1), (3) (q) 10 and (4), RL 25.06 (2) (a) (intro.), RL 25.065 (6m), RL 25.066 (2) (intro.) and (4), and RL 25.08 (3) (a) and (b); to repeal and recreate RL 12.04, RL 25.065 (5) and RL 26.03; and to create RL 25.02 (2) (a) 6, and RL 25.03 (3) (h) 7 of the administrative code relating to education and examination requirements for real estate brokers and salespersons and licensure of non-resident applicants for licensure.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 452.05 (2) and 452.07, Stats., and s. 440.08 (3) (b), Stats., as created by SECTION 3305 of 1991 Wisconsin Act 39.

Statutes interpreted: ss. 440.01 (1) (dm), 440.08 (3) (b), 452.05 (1), 452.09 (2) and (3), 452.11 and 452.12 (5) and (6), Stats.

Sections 2 and 4 of the rule proposal repeals rules which have been made obsolete by the enactment of 1991 Wisconsin Act 207, relating to the licensing of non-resident applicants.

Section 3 relates to satisfying continuing education requirements. Real estate licensees are required to satisfy a continuing education requirement during each biennial licensing period. They may either attend classroom education and take an examination at the end of the education or they may take a test-out examination administered by the department pursuant to s. 452.12 (5) (c) 2, Stats., which covers the same contents as the classroom education. The department determines the number of classroom hours which must be obtained each biennium and the content of the education. The department may require up to 12 hours each biennium. If a licensee does not satisfy the continuing education requirement during the biennium, the licensee's license may not be renewed until the licensee satisfies the requirement.

The classroom education includes an examination consisting of at least 5 questions for each hour of instruction. The test-out examination consists of at least 60 questions. The test-out examination may only be given up to July 1 of the second year of the biennium.

Section 3 of the rule proposal describes the alternatives for satisfying the continuing education requirement by those who do not renew by the renewal date, which is January 1 of every odd-numbered year. Some persons may have

satisfied all or a portion of the continuing education requirement during the biennium, but did not renew in a timely manner. Other persons may not have satisfied the requirement and will still have to satisfy it. The problem is that the education from previous bienniums will only be available for a short time after the renewal date. Schools will want to teach the continuing education courses for the new biennium as soon as licensees want to begin taking such courses. To solve this problem and other problems relating to late renewals, the rule proposal requires persons who renew their license less than 5 years after the renewal date to either provide proof of having attended the precise 12 hours of education which was required during the biennium preceding the date of renewal, provide proof of having passed the test-out examination before July 1 of the biennium preceding the date of renewal, provide proof of having attended portions of the salesperson's pre-license education program which is available throughout the state at most any time, or provide proof of having attended a combination of the precise hours and portions of the salesperson's course. On the other hand, persons who fail to renew their license within 5 years after the renewal date are required to obtain pre-license education and pass the pre-license examination.

Sections 5 and 9 clarify that when applicants for a real estate broker's or salesperson's license satisfy the education requirement by attending the 36-hour or 72-hour pre-license education course, that course must have been satisfactorily completed within 5 years before the date of application for the license.

Sections 6, 7, 10 and 11 slightly modify the pre-license education curricula by making reference to provisions in 1991 Wisconsin Act 162 and 1991 Wisconsin Act 163, pertaining to real estate contracts, agreements to arbitrate real estate transaction disputes and seller's condition reports.

Sections 8 and 12 amend the current rule to clarify that a person licensed in another state and applying for a license in Wisconsin may satisfy some of the education requirements by attending education courses in another state under certain conditions, provided that the person holds an active license, rather than an inactive license in that state.

Sections 13 and 17 clarify an issue relating to the experience or knowledge needed by a person who wishes to be approved as an instructor of real estate pre-license or continuing education.

Section 14 repeals RL 25.06 (2) (a) 4, because issues relating to continuing education for late renewals are now addressed in Section 1 of these proposed rules.

Section 15 provides a single response to 2 questions which frequently are asked: whether persons who become original licensees during a biennium must satisfy the continuing education requirement, in addition to the pre-license education and examination which they had just completed, and whether persons who had been salespersons and subsequently became brokers during the biennium must satisfy the continuing education requirement, in addition to the pre-license education and examination which they had just completed. In the first case, the pre-license education and examination satisfies the continuing education requirement for that biennium. In the second case it does not.

Section 16 amends s. RL 25.065 (6m) for the sole purpose of more clearly stating the policy which was intended when initially promulgated.

Section 18 permits the department to require a school seeking initial approval or reapproval of continuing education programs and courses to submit information about the school's response to complaints concerning an instructor.

Section 19 amends an existing rule which states the causes for limiting, suspending or revoking the approval of a school or an instructor to present programs and courses pursuant to ch. 452, Stats. and ch. RL 25. This section also amends provisions pertaining to the department denying or withdrawing the approval of any educational program, course or instructor pursuant to due process rights, as specified in the amendment.

Section 20 addresses the requirements for reinstating an inactive licensee to active licensure. The requirements are similar to those for licensees who renew their licenses after the renewal date; however, since inactive licensees are required to obtain active licensure by filing an application before the renewal deadline, they cannot be required to pay a late renewal penalty fee.

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TEXT OF RULE

SECTION 1. RL 12.01 (2) (a) 1 is renumbered RL 12.01 (2) (a).

SECTION 2. RL 12.01 (2) (a) 2 is repealed.

SECTION 3. RL 12.04 is repealed and recreated to read:

RL 12.04 RENEWAL AFTER LICENSE EXPIRATION. (1) LESS THAN 5 YEARS. If an applicant files an application for renewal of the applicant's real estate license with the department less than 5 years after the renewal date, as defined in s. 440.01 (1) (dm), Stats., and the applicant is not registered as an inactive licensee, the applicant shall pay the applicable renewal fee and penalty fee specified in s. 440.08, Stats., and provide evidence of having satisfied the continuing education required by s. 452.12 (5), Stats., in one of the following manners:

(a) The applicant shall either provide proof of having successfully completed the classroom education which was required during the biennium preceding the date of renewal of the applicant's license, provide proof of having successfully passed the test-out examination which was administered during the biennium preceding the date of renewal of the applicant's license, or provide proof of having successfully completed any 8 of the 15 hours of education in s. RL 25.03 (3) (h) and the 4 hours of education in s. RL 25.03 (3) (m). In this paragraph "successfully completed" means passing an examination pursuant to s. RL 25.066 (6) (d).

(b) The applicant who successfully completed a portion of, but not all of, the classroom education which was required during the biennium preceding the date of renewal of the applicant's license may obtain the additional required hours by successfully completing all or a portion of s. RL 25.03 (3) (h) and (m). In this paragraph "successfully completed" means passing an examination pursuant to s. RL 25.066 (6) (d).

(c) The applicant shall also before the next renewal date satisfy the continuing education required of all licensees during the biennium in which the applicant renews his or her license.

(2) MORE THAN 5 YEARS. If an applicant files an application for renewal of a real estate license 5 or more years after the renewal date and the applicant is not registered as an inactive licensee, the applicant shall pay the fee specified in s. 440.05 (1), Stats., and satisfy education and examination requirements, as follows:

(a) Education requirements. 1. Except as provided in subd. 3, an applicant for a broker's license shall satisfy requirements specified in any one of the following: s. RL 25.02 (1) (b), 25.02 (1) (c), or 25.02 (2). An applicant who obtains classroom education pursuant to s. RL 25.02 (2) must complete the education within 5 years preceding the date of the application for license.

2. Except as provided in subd. 3, an applicant for a salesperson's license shall satisfy requirements in s. RL 25.03. An applicant must complete the education within 5 years preceding the date of application for license.

3. An applicant who has held a real estate license in another licensing jurisdiction within the 2 years prior to filing an application for renewal is not required to obtain any education described in subd. 1 and 2.

(b) Examination requirements. 1. An applicant for a broker's license shall successfully pass both the salesperson's and the broker's examination pursuant to s. RL 12.02.

2. An applicant for a salesperson's license shall successfully pass the salesperson's examination pursuant to s. RL 12.02.

NOTE: The applicant shall apply to and pay the cost of the examination directly to the testing agency under contract with the department for administration of the examination pursuant to s. 440.07 (2), Stats.

SECTION 4. Chapter RL 20 is repealed.

SECTION 5. RL 25.02 (1) (a) is amended to read:

RL 25.02 (1) (a) Present evidence satisfactory to the department of successful completion, within 5 years before application for a license, of the 36-hour educational program in sub. (2) which has been approved in accordance with this chapter and either satisfy educational requirements in s. RL 25.03 (3) or present evidence satisfactory to the department of licensure as a salesperson in Wisconsin.

SECTION 6. RL 25.02 (2) (a) 6 is created to read:

RL 25.02 (2) (a) 6 'Agreement to arbitrate real estate transaction disputes - s. 788.015, Stats.'

SECTION 7. RL 25.02 (2) (h) 1 f is amended to read:

RL 25.02 (2) (h) 1. f. Seller's disclosure duties - ch. 709, Stats.

SECTION 8. RL 25.02 (3) is amended to read:

RL 25.02 (3) SATISFACTION OF BROKER'S 36-HOUR PROGRAM BY OUT-OF-STATE APPLICANTS. An applicant who has held a an active real estate license in another licensing jurisdiction within the 2 year period prior to filing an application for an original real estate broker's license may satisfy the requirements of sub. (2) if the applicant submits evidence of attendance at 20 hours of education in sub. (2) (a), (b), (c), (g) and (h) which shall be completed at a school approved by the department under s. RL 25.05 or 25.06. The remaining contents in sub. (2) may be completed at any school, provided that the department shall determine whether the contents are substantially equivalent to those offered by schools whose programs have been approved by the department.

SECTION 9. RL 25.03 (1) is amended to read:

RL 25.03 (1) EDUCATIONAL REQUIREMENTS OF APPLICANT FOR AN ORIGINAL REAL ESTATE SALESPERSON'S LICENSE. (1) GENERAL REQUIREMENTS. Each applicant for an original real estate salesperson's license shall present evidence of attendance, within 5 years before application for a license, at the 72-hour educational program approved by the department in accordance with this chapter.

SECTION 10. RL 25.03 (3) (h) 7 is created to read:

RL 25.03 (3) (h) 7 'Agreement to arbitrate real estate transaction disputes - s. 788.015, Stats.'

SECTION 11. RL 25.03 (3) (q) 10 is amended to read:

RL 25.03 (3) (q) 10 'Disclosure documents - s. 452.23 and ch. 709, Stats. and s. RL 24.07.'

SECTION 12. RL 25.03 (4) is amended to read:

RL 25.03 (4) SATISFACTION OF SALESPERSON'S 72-HOUR PROGRAM BY OUT-OF-STATE APPLICANTS. An applicant who has held a an active real estate license in another licensing jurisdiction within the 2 year period prior to filing an application for an original real estate salesperson's license may satisfy the requirements of sub. (3) if the applicant submits evidence of attendance at 23 hours of education in sub. (3) (b) 5, (e) 9 to 11, (g) 9 and 10, (h) 6, (i) 1, (L) 4 and 5, (m) 1, (n) 9, (p) 10, (q) 4 to 11 and (r) 1 to 9 which shall be completed at a school approved by the department under s. RL 25.05 or 25.06. The remaining contents in sub. (3) may be completed at any school, provided that the department shall determine whether the contents are substantially equivalent to those offered by schools whose programs have been approved by the department.

SECTION 13. RL 25.06 (2) (a) (intro.) is amended to read:

RL 25.06 (2) (a) (intro.) Instructors of pre-license educational noncredit programs shall be approved by the department. Instructors shall be knowledgeable in the subject which they are teaching. The department may limit its approval to specific content areas set forth in ss. RL 25.02 (3) and 25.03 (3). Instructors shall possess at least one of the following minimum qualifications:

SECTION 14. RL 25.065 (4) is repealed.

SECTION 15. RL 25.065 (5) is repealed and recreated to read:

RL 25.065 (5) A person who receives an original license during a licensing biennium, and who was not licensed as either a salesperson or a broker on the first day of the biennium is not required to satisfy the continuing education requirement during the biennium in which the person becomes a licensee. However, a person who held a salesperson's license before the first day of a biennium and subsequently receives a broker's license must satisfy the continuing education requirement during the biennium in which the person receives a broker's license.

SECTION 16. RL 25.065 (6m) is amended to read:

RL 25.065 (6m) A licensee who attends an approved continuing education course and fails the examination given by the school at the end of the course shall retake the course and pass the course examination before being eligible to ~~complete the remaining portion of the continuing education requirement by taking~~ take the continuing education examination conducted by the department pursuant to s. RL 25.075.

SECTION 17. RL 25.066 (2) (intro.) is amended to read:

RL 25.066 (2) (intro.) Instructors of continuing education programs and courses shall be approved by the department. Instructors shall be ~~experienced~~ knowledgeable in the subject which they are teaching and shall possess at least one of the following minimum qualifications:

SECTION 18. RL 25.066 (4) is amended to read:

RL 25.066 (4) The department may require a school seeking initial approval and reapproval of continuing education programs and courses to describe or furnish its organizational structure, registration policies, fee schedules, promotional materials, detailed outlines of each program with specific allocations of classroom hours to each topic, student records system, the names and qualifications of administrators and instructors, the method of instruction, a summary of evaluations conducted, information about the school's response to complaints concerning an instructor, and the time, date and location of each continuing education program.

SECTION 19. RL 25.08 (3) (a) and (b) are amended to read:

RL 25.08 (3) DENIAL OR WITHDRAWAL OF APPROVAL. (a) The department may limit, suspend or revoke the approval of a school or instructor to conduct any program or course, which had been approved pursuant to this chapter, when the school or instructor:

1. ~~has falsified~~ Has falsified information on any application or certificate of attendance submitted to the department;

2. ~~or when the school or instructor~~ Has not complied with the conditions for approval;

3. Has given credit to students for an amount of time present in class when the actual amount was less than the credited amount;

4. Has divulged to students before administration of a continuing education course examination questions which will be used in the examination when administered;

5. Has not followed the course outline approved by the department;

6. Has provided instruction on several occasions when not adequately prepared to teach; or

7. Has violated any provisions in this chapter.

Violation of subds. 1 to 4 may also be cause for disciplinary action against a licensee, pursuant to s. 452.14, Stats.

(b) If, after investigation, the department ~~denies or~~ deems it proper to deny or withdraw its approval of any school, educational program, course, or instructor, written notification must be given with reasons for such action. ~~The school or instructor may request a hearing before the department~~ the department shall follow the procedures in ch. RL 1 for denial of approval and the procedures in ch. RL 2 for limiting, suspending or revoking approval.

SECTION 20. RL 26.03 is repealed and recreated to read:

RL 26.03 REINSTATEMENT OF ACTIVE LICENSE. An inactive licensee may be reinstated to active licensure by satisfaction of the requirements in s. RL 12.04, except that the licensee shall pay the fee specified in s. 440.08, Stats., and the department may not require the licensee to pay a late renewal penalty fee.

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(END OF TEXT OF RULE)  
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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 7/12/93

Agency Marlene A. Cummings

Marlene A. Cummings, Secretary  
Department of Regulation  
and Licensing

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**CORRESPONDENCE/MEMORANDUM**

**STATE OF WISCONSIN**

**DATE:** July 12, 1993

**TO:** Gary Poulson  
Assistant Revisor of Statutes

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

**SUBJECT:** Final Rulemaking Order

**RECEIVED**

**JUL 12 1993**

Revisor of Statutes  
Bureau

**Agency: DEPARTMENT OF REGULATION AND LICENSING**

**Clearinghouse Rule: 92-200**

Attached is a copy and a certified copy of a final order adopting rules.  
Would you please publish these rules in the code.

Please stamp or sign a copy of this letter to acknowledge receipt.

Thank you.