

Chapter ILHR 68

CERTIFICATION STANDARDS FOR RENTAL UNIT ENERGY INSPECTIONS

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Subchapter I General

ILHR 68.01 Scope. The purpose of this chapter is to establish standards for certification, including provisions for suspension and revocation, of inspectors for the purpose of inspecting rental units subject to the rental unit energy efficiency standards in ch. ILHR 67.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.02 Application. The rules contained in this chapter shall apply to all persons engaged in the administration and enforcement of the rental unit energy efficiency chapter promulgated by the department or engaged in the education, training and testing of persons for certification as a rental unit energy inspector.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.03 Administration and enforcement. All energy inspections of rental units for the purpose of administering and enforcing the rental unit energy efficiency chapter adopted by the department shall be performed by a rental unit energy inspector certified by the department under the provisions of this chapter.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.04 Authority. (1) **DEPARTMENTAL AUTHORITY.** Pursuant to s. 101.122, Stats., the department has been granted the authority and jurisdiction over the certification, including suspension and revocation, of rental unit energy efficiency inspectors certified for the purpose of inspecting rental units for energy efficiency standards adopted by the department.

(2) **MUNICIPAL AUTHORITY.** Pursuant to s. 101.122 (6r), Stats., any municipality which exercises jurisdiction over the inspection of rental units falling within the scope of the rental unit energy efficiency chapter or any part thereof, promulgated by the department, shall provide for inspections by persons certified under the rules of this chapter.

(a) Any termination of employment of or disciplinary action against a municipal certified rental unit energy efficiency inspector for cause directly related to the conditions of certification under this chapter shall be reported to the department.

(b) Termination of employment or disciplinary action of any certified rental unit energy efficiency inspector by a municipality shall not constitute suspension or revocation of the department certification issued under this chapter.

(c) No certified rental unit energy efficiency inspector carrying a valid department certification may be required to obtain any municipal certification or license to provide energy inspections of rental units under the rental unit energy efficiency chapter promulgated by the department.

(3) **CERTIFIED RENTAL UNIT ENERGY INSPECTOR.** Pursuant to s. 101.122, Stats., a certified rental unit energy efficiency inspector may:

(a) Inspect rental units subject to the energy efficiency standards adopted by the department;

(b) Issue certificates that the rental unit complies with the rental unit energy efficiency standards adopted by the department, except that the inspector may not issue a certificate for a rental unit in which the inspector or the inspector's employer, other than the state or municipality, has a monetary or personal interest;

(c) Specify in writing the energy conservation measures necessary to make the rental unit comply with the department energy efficiency standards;

(d) Enter into contractual agreements with the department, municipality, or owner requesting such inspection service; and

(e) Recommend waivers and stipulations.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.05 Definitions. (1) "Approved" means acceptable to the department.

(2) "Certification" means an inspection performed by a certified rental unit energy efficiency inspector to determine if the rental unit complies with the standards specified in the rental unit energy efficiency chapter promulgated by the department and the issuance of a certificate verifying the rental unit complies with the energy efficiency standards specified in ch. ILHR 67.

(3) "Certified rental unit energy efficiency inspector" means a natural person certified by the department to perform energy efficiency inspections under the rental unit energy efficiency chapter promulgated by the department.

(4) "Conflict of interest" means a certified Rental Unit Energy Efficiency Inspector certifying energy conservation measures required in s. ILHR 67.05 in which the inspector or the inspector's employer, other than the state or municipality, has or will have a direct monetary or personal interest, or if the inspector has a personal or monetary interest in the transfer of the property.

(5) "Department" means the department of industry, labor and human relations.

(6) "Incompetence" means conduct which evidences a lack of ability to discharge the duty required under this chapter and the rental unit energy efficiency chapter promulgated by the department or an inability to apply those principles, or failure to maintain competency in the current practices and methods applicable to energy efficiency inspection of rental units under the rental unit energy efficiency chapter.

(7) "Misconduct" means an act performed in the discharge of duties which jeopardizes the interests of the public, including

violation of the state law related to energy efficiency inspection of rental units, of administrative rules relating to energy efficiency inspection of rental units, preparation of deficient or falsified reports related to certification or inspection of rental units, failure to submit information or reports required by law or contract when requested by the municipality or the department, conduct which evidences a lack of trustworthiness, misrepresentation of qualifications such as education, experience or certification, illegal entry of premises, misuse of funds, or misrepresentation of authority related to the energy efficiency inspection of rental units.

(8) "Municipality" means any city, village or town in this state.

(9) "Negligence" means failure by omission or commission to discharge the duty required to perform energy efficiency inspections of rental units under the rental unit energy efficiency chapter promulgated by the department.

(10) "Secretary" means the secretary of the department of industry, labor and human relations.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (4), Register, November, 1985, No. 359, eff. 12-1-85.

Subchapter II

Inspector Certification

ILHR 68.06 Application for certification or recertification. Any person performing energy efficiency inspections of rental units may be certified by the department. Persons certified may be employees of the department or a municipality, or a private individual. All applicants shall be at least 18 years of age.

(1) Application for certification and recertification shall be made to the department together with the payment of the fees as specified in ch. ILHR 2. Applications shall be made on forms provided by the department and may be obtained by writing to:

Safety and Buildings Division
Department of Industry, Labor and Human Relations
P.O. Box 7969
Madison, Wisconsin 53707

(2) Upon receipt of the completed application form, the department shall review and evaluate the application and make all necessary notifications to the applicant. If it is determined that the applicant does not qualify for certification or recertification, the applicant shall be notified of such findings in writing and instructed of the appeals procedure provided under subch. IV. The department shall review and make a determination on an application for inspector certification within 15 business days of receipt of the application and all documents required to complete the review.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (2), Register, April, 1985, No. 352, eff. 5-1-85; correction in (1) made under s. 13.93(2m)(b) 7., Stats., Register, September, 1995, No. 477.

ILHR 68.07 Requirements for certification. Eligibility for certification shall be based upon receipt and approval of the application and on the successful completion of an approved examination.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.08 Examination. (1) **APPLICATION FOR EXAMINATION.** All applications for examination shall be filed with the department prior to examination. The applicant shall be advised by the department of the date and place of the examination. The department shall notify all applicants for examination of the time and place of the next examination within 15 days of receipt of the application.

(2) **TIME AND PLACE OF EXAMINATION.** Scheduled examinations shall be offered at least annually. Specific details regarding time and place are available from the department upon request. The department shall schedule examinations within 18 months of the date of the last examination.

(3) **SCOPE OF EXAMINATION.** The examination shall test the applicant's ability to inspect rental units as follows:

- (a) Knowledge of rental unit energy efficiency standards;
- (b) Energy efficiency inspection procedures;
- (c) Thermal performance calculations;
- (d) Cost payback calculations; and
- (e) Issuance of certification.

(4) **GRADING OF EXAMINATIONS.** The final grading of all examinations shall be by persons approved by the department. A grade of 70% or greater shall be considered a passing grade for certification as an inspector.

(5) **EXAMINATION RETAKE.** All applications for re-examination shall be filed with the department prior to the scheduled date of the examination to be retaken.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (1) and (2), Register, April, 1985, No. 352, eff. 5-1-85.

ILHR 68.09 Issuance of certificate. Upon successful completion of the requirements for certification, the department shall notify the applicant in writing and shall issue an inspection certificate. The department shall issue the inspection certificate within 30 business days of successful completion by the applicant of the requirements for certification. The certificate shall bear the name of the applicant, certification number and expiration date. The certificate shall be valid for a period of one year.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, April, 1985, No. 352, eff. 5-1-85.

ILHR 68.10 Renewal of certificate. Upon receipt of written notice of expiration, certification may be renewed. Certification renewal shall be contingent on successful completion of ongoing approved education programs or receiving a passing grade on the examination. The department shall review and make a determination on an application for renewal of certification within 30 business days of receipt of an application for renewal.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, April, 1985, No. 352, eff. 5-1-85.

ILHR 68.11 Denial of certification. Upon denial of certification or recertification, the department shall notify the applicant in writing stating the reasons for denial. The notice of denial shall be made by certified mail sent to the address filed with the application. Service shall be verified by the certified mail receipt. The department shall notify the applicant as to the reasons for denial of certification within 30 business days of receipt of an application for renewal.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, April, 1985, No. 352, eff. 5-1-85.

Subchapter III

Suspension and Revocation

ILHR 68.12 Suspension or revocation of certification. The department may deny, suspend or revoke the certification of any inspector for any of the following reasons:

- (1) Fraud or deceit in certifying rental units;
- (2) Personal or private use of the department logo or the state seal, including but not limited to use on advertising material, business forms, paper work and business cards;
- (3) Knowingly aiding or abetting the unauthorized inspection of rental units by persons not certified by the department;
- (4) Any negligence, incompetence or misconduct in the discharge of the duties required under this chapter and the rental unit energy efficiency chapter;
- (5) Any misconduct involving the testing or certification process;
- (6) Conviction of a criminal charge, misdemeanor or local regulation substantially related to the circumstances of the certified

inspection activity of rental units or adjudication of mental incompetence by the courts; or

(7) Conflict of interest.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (intro.) renum. (2) to (5) to be (3), (4), (6) and (7), cr. (2) and (5), Register, November, 1985, No. 359, eff. 12-1-85.

**Subchapter IV
Proceedings**

ILHR 68.13 Filing of complaint. Proceedings to revoke or suspend a certificate may be initiated by any person on a signed, written complaint filed with the department. Any alleged violation of the law or the administrative rules of the department shall be set forth in the complaint with particular reference to time, place and circumstance.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.14 Investigation and notification. The department may investigate alleged violations on its own initiative or upon the filing of a complaint. If it is determined that no further action is warranted, the department shall notify the persons affected. If the department determines that there is probably cause, it shall order a hearing and notify the persons affected. The department shall conduct an investigation and notify the persons affected of the results within 3 months of receipt of a complaint.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, April, 1985, No. 352, eff. 5-1-85.

ILHR 68.15 Mailing. Unless otherwise provided by law, all orders, notices and other papers may be served by the department by certified mail addressed to the party at the last known address. If the service is refused, service may be made by sheriff without amendment of the original order, notice or other paper.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.16 Response. Upon receipt of notification of hearing from the department, the charged party may submit to the department a written response within 30 days of the date of service. Failure to respond within the prescribed time limit, or failure to appear at the scheduled hearing, may result in the allegations specified in the complaint being taken as true.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.17 Conciliation agreement prior to hearing. If the department and the respondent are able to reach agreement

on disposition of a complaint prior to hearing, such agreement shall:

- (1)** Be transmitted in writing to the secretary;
- (2)** Not be binding upon any party until accepted by the secretary; and
- (3)** Not be considered a waiver of any defense nor an admission of any fact until accepted by the secretary.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.18 Hearings. (1) SUBPOENAS; WITNESS FEES. Subpoenas may be signed and issued by the department or the clerk of any court of record. Witness fees and mileage of witnesses subpoenaed on behalf of the department may be paid at the rate prescribed for witnesses in circuit court.

(2) CONDUCT OF HEARINGS. All hearings shall be conducted by persons selected by the department. Persons so designated may administer oaths or affirmations and may grant continuances and adjournments for cause shown. The respondent shall appear in person and may be represented by an attorney-at-law. Witnesses may be examined by persons designated by the department.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.19 Findings. The department may make findings and enter its order on the basis of the facts revealed by its investigation. Any findings as a result of petition or hearing shall be in writing and shall be binding unless appealed to the secretary.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.20 Appeal arguments. Appeal arguments shall be submitted to the department in writing unless otherwise ordered.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.21 Petition for rules or declaratory rulings. Petitions for the adoption, repeal or amendment of rules and for declaratory rulings shall be in accordance with ch. 227, Stats.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.22 Penalties. Pursuant to s. 101.122 (7), Stats., any inspector falsifying a certificate shall have his or her certification revoked and may be required to forfeit not more than \$500 per dwelling unit in the rental unit for which the certificate is issued.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.