



STATE OF WISCONSIN
Department of Safety and Professional Services
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Governor Scott Walker Secretary Dave Ross

REAL ESTATE EXAMINING BOARD
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Angela Hellenbrand (608) 261-5406
June 27, 2013

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.

AGENDA

10:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-4)

B. Approval of Minutes - April 18, 2013 (5-6)

C. Administrative Matters

- 1) Welcome New Board Members (7-8)
- 2) DSPP Job Ready Initiative (9-10)
- 3) Staff Updates

D. Credentialing Matters

- 1) Review of License Procedure for Reciprocity

E. DLSC Matters

- 1) Real Estate Examining Board Annual Report 2012 (11-18)

F. Education and Examination Matters

G. Business Entities – Discussion and Consideration (19-22)

H. Position Statement Review

I. Legislative/Administrative Rule Matters – Discussion and Consideration (23-24)

- 1) Scope for REEB 12 & REEB 25 – Application and Education (25-26)
- 2) Scope for REEB 15 & REEB 18 – Records and Technology (27-28)
- 3) Hearing Draft for REEB 16 – Forms (29-38)
- 4) Hearing Draft for REEB 18 – Trust Accounts (39-48)
- 5) Draft Scope for REEB 22 & REEB 26 – Apprentices & Inactive Licenses (49-50)

J. Practice Matters

K. Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Presentations of Petition(s) for Summary Suspension
- 3) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 4) Presentation of Final Decisions
- 5) Disciplinary Matters
- 6) Executive Director Matters
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Class 1 Hearing(s)
- 10) Practice Matters
- 11) Legislation/Administrative Rule Matters
- 12) Liaison Report(s)
- 13) Informational Item(s)
- 14) Speaking Engagement(s), Travel, or Public Relation Request(s)

L. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)

M. Monitoring

- 1) Lakeyia Howard **(51-74)**
- 2) John F. Redel **(75-88)**

N. Administrative Warnings

- 1) 12 REB 110 – C.S. **(89-90)**
- 2) 12 REB 110 – B.W. **(91-92)**

O. Presentation and Deliberation on Proposed Stipulations, Final Decisions and Orders by the Division of Legal Services and Compliance (DLSC)

- 1) **Adolf E. Pavelec and Pavelec Realty – 12 REB 084 (93-102)**
 - Case Advisor: **Randal Savaglio**
- 2) **Shorewest Realtors, Inc. – 12 REB 104 (103-108)**
 - Case Advisor: **Tammy Wagner**
- 3) **Scott B. Salan and Udoni & Salan Realty Group, LLC – 12 REB 124 (109-116)**
 - Case Advisor: **Randal Savaglio**
- 4) **Michael R. Brenizer and Brenizer Realtors R, Inc. – 12 REB 126 (117-122)**
 - Case Advisor: **Stephen Beers**

P. DLSC Matters

- 1) Case Status Report
- 2) **Case Closing(s)**
 - a. 11 REB 118 (**123-128**)
 - b. 12 REB 027 (**129-132**)
 - c. 12 REB 056 (**133-138**)
 - d. 12 REB 057 (**139-144**)
 - e. 12 REB 084 (**145-148**)
 - f. 12 REB 089 (**149-152**)
 - g. 12 REB 104 (**153-156**)
 - h. 12 REB 126 (**157-162**)
 - i. 12 REB 132 (**163-166**)
 - j. 13 REB 021 (**167-170**)

Q. Deliberation of Items Received After Printing of the Agenda

- 5) Disciplinary Matters
- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Class 1 Hearings
- 9) Monitoring Matters
- 10) Professional Assistance Procedure (PAP) Matters
- 11) Petition(s) for Summary Suspensions
- 12) Petition(s) for Extension of Time
- 13) Proposed Stipulations, Final Decisions and Orders
- 14) Administrative Warnings
- 15) Proposed Decisions
- 16) Matters Relating to Costs
- 17) Motions
- 18) Petitions for Rehearing
- 19) Formal Complaints
- 20) Case Closings
- 21) Appearances from Requests Received or Renewed

R. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

S. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

T. Board Member Training

ADJOURNMENT

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**REAL ESTATE EXAMINING BOARD
MEETING MINUTES
April 18, 2013**

Present: Stephen Beers, Marie Hetzer, Dennis Pierce, Randal Savaglio, Michael Mulleady and Tammy Wagner.

Staff: Tom Wightman, Executive Director; David Carlson, Communications Specialist and Angela Hellenbrand.

Stephen Beers, Board Chair, called the meeting to order at 10:24 a.m. A quorum of Six (6) members was confirmed.

ADOPTION OF AGENDA

Additions:

C.2. Question on Form WB-1

C.3. Response to Question on Incomplete Renewal Applications

H.g. Report on REEB 15 and Scope Status

MOTION: Randal Savaglio moved, seconded by Dennis Pierce to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Randal Savaglio moved, seconded by Dennis Pierce, to approve the minutes of February 21, 2013. Motion carried unanimously.

CLOSED SESSION

MOTION: Randal Savaglio moved, seconded by Tammy Wagner, to convene to closed session to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.). Roll Call Vote: Stephen Beers - yes; Marie Hetzer - yes; Michael Mulleady-yes; Dennis Pierce-yes; Randal Savaglio - yes; and Tammy Wagner - yes. Motion carried unanimously. Open session recessed at 12:18 p.m.

RECONVENE TO OPEN SESSION

MOTION: Randal Savaglio moved, seconded by Michael Mulleady, to reconvene in open session at 12:30 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION

MOTION: Randal Savaglio moved, seconded by Tammy Wagner, to affirm the following actions taken in closed session. Motion carried unanimously.

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

MOTION: Tammy Wagner moved, seconded by Randal Savaglio, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the following matters:

12 REB 032 – Derek M. Larson

12 REB 101 – La Vonne J. Scott and Scottie Realty, Inc

12 REB 104 – Sally K. Wellnitz

Motion carried unanimously.

CASE CLOSINGS

MOTION: Michael Mulleady moved, seconded by Marie Hetzer to close the following cases according to the recommendations by the Division of Legal Services and Compliance:

12 REB 014 (IE)

12 REB 130 (NV)

Motion carried unanimously.

ADMINISTRATIVE WARNINGS

MOTION: Tammy Wagner moved, seconded by Dennis Pierce to issue the following Administrative Warning as recommended by the Division of Legal Services and Compliance:

12 REB 085, F.H.

Motion carried unanimously.

REQUESTS FOR EXEMPTION OF REINSTATEMENT REQUIREMENTS

MOTION: Tammy Wagner moved, seconded by Michael Mulleady to deny the request of M.S. for an exemption from the reinstatement requirements so she may renew her salespersons license. Motion carried unanimously.

ADJOURNMENT

MOTION: Randal Savaglio moved, seconded by Marie Hetzer to adjourn the meeting at 12:31 p.m. Motion carried unanimously.

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**State of Wisconsin
Department of Safety & Professional Services**

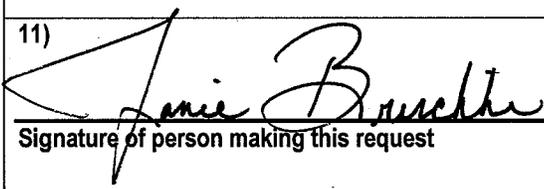
AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Angela Hellenbrand Executive Director		2) Date When Request Submitted: 11 June 2013 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Real Estate Examining Board			
4) Meeting Date: 27 June 2013	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Executive Director Matters - DSPS Job Ready Initiative	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: n/a	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Janie Brischke		2) Date When Request Submitted: 06/06/2013 <small>Items will be considered late if submitted after 4:30 p.m. and less than:</small> <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Real Estate Examining Board			
4) Meeting Date: 06/27/2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? DLSC - Real Estate Examining Board Annual Report 2012	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input checked="" type="checkbox"/> Yes (<u>Fill out Board Appearance Request</u>) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Janie Brischke and Cortney Keo will be presenting the DLSC - Real Estate Examining Board Annual Report 2012 to the Board and answer any questions they may have.			
11) Authorization <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 60%;">  Signature of person making this request </div> <div style="width: 35%; text-align: right;"> 06/06/13 Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Supervisor (if required)</div> <div style="width: 35%; text-align: right;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)</div> <div style="width: 35%; text-align: right;">Date</div> </div>			
Directions for including supporting documents: <ol style="list-style-type: none"> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. 			

REAL ESTATE EXAMINING BOARD



DIVISION OF LEGAL SERVICES and COMPLIANCE

STATISTICS

(June 4, 2013)

DIVISION OF LEGAL SERVICES AND COMPLIANCE

The Division of Legal Services and Compliance (DLSC) is a public law office which provides legal services to professional boards and regulated industries. As part of these services, DLSC provides a Team which consists of intake staff, investigators, paralegals, prosecutors and a designated board counsel. DLSC also monitors compliance with disciplinary orders and administers the Professional Assistance Procedure -- a confidential monitoring program for impaired professionals.

Over the past two years, DLSC Teams have had unprecedented success in resolving the backlog of pending cases.ⁱ This has resulted in more manageable caseloads, and in turn, higher levels of consumer protection and a renewed focus on quality legal work. DLSC has the capacity to allocate resources as necessary to ensure responsible consumer protection.

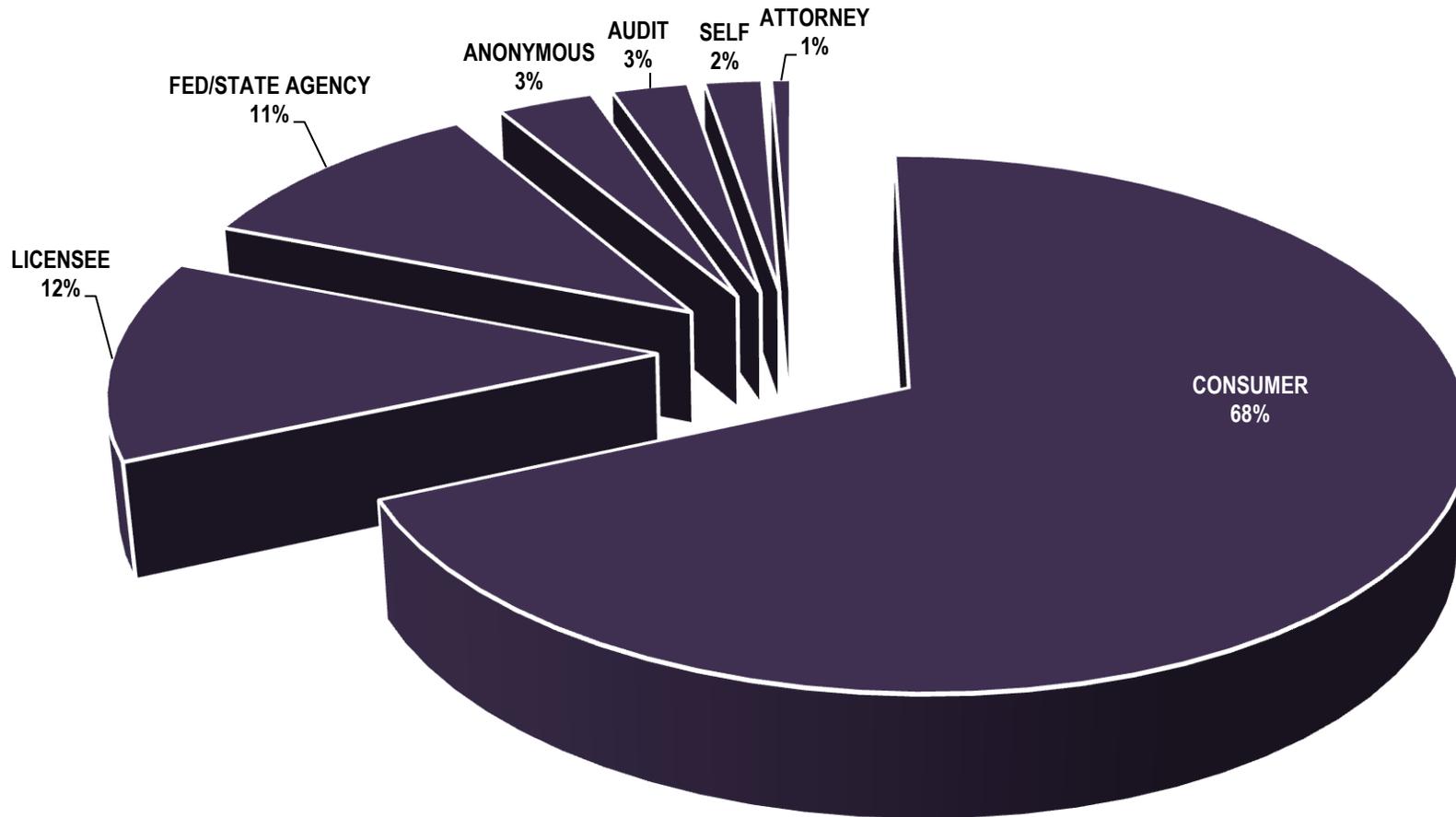
Key DLSC statistics for 2012 for the Real Estate Examining Board (REEB) include:

- Complaints Received: **150 (involving 318 respondents)**
- Complaints/Respondents Resolved:
 - Formally (through prosecution and negotiated stipulations): **66**
 - Closed after Investigation (without a Formal Order): **96**
 - Closed by the Board's Screening Panel: **193**
- Backlog Eliminated:
 - Oldest cases are from the year 2011 – total of 6 (status: 4 opened for legal action and 2 opened for investigation)
- Number of participants enrolled in the Professional Assistance Procedure (PAP) program: **0**
- Number of participants being actively monitored under a disciplinary order: **194 (as of June 4, 2013)**
- Primary source of complaints originated from **consumers, licensees and federal/state agencies.**
- Most common discipline issued included **reprimands, license limitations and suspensions.**

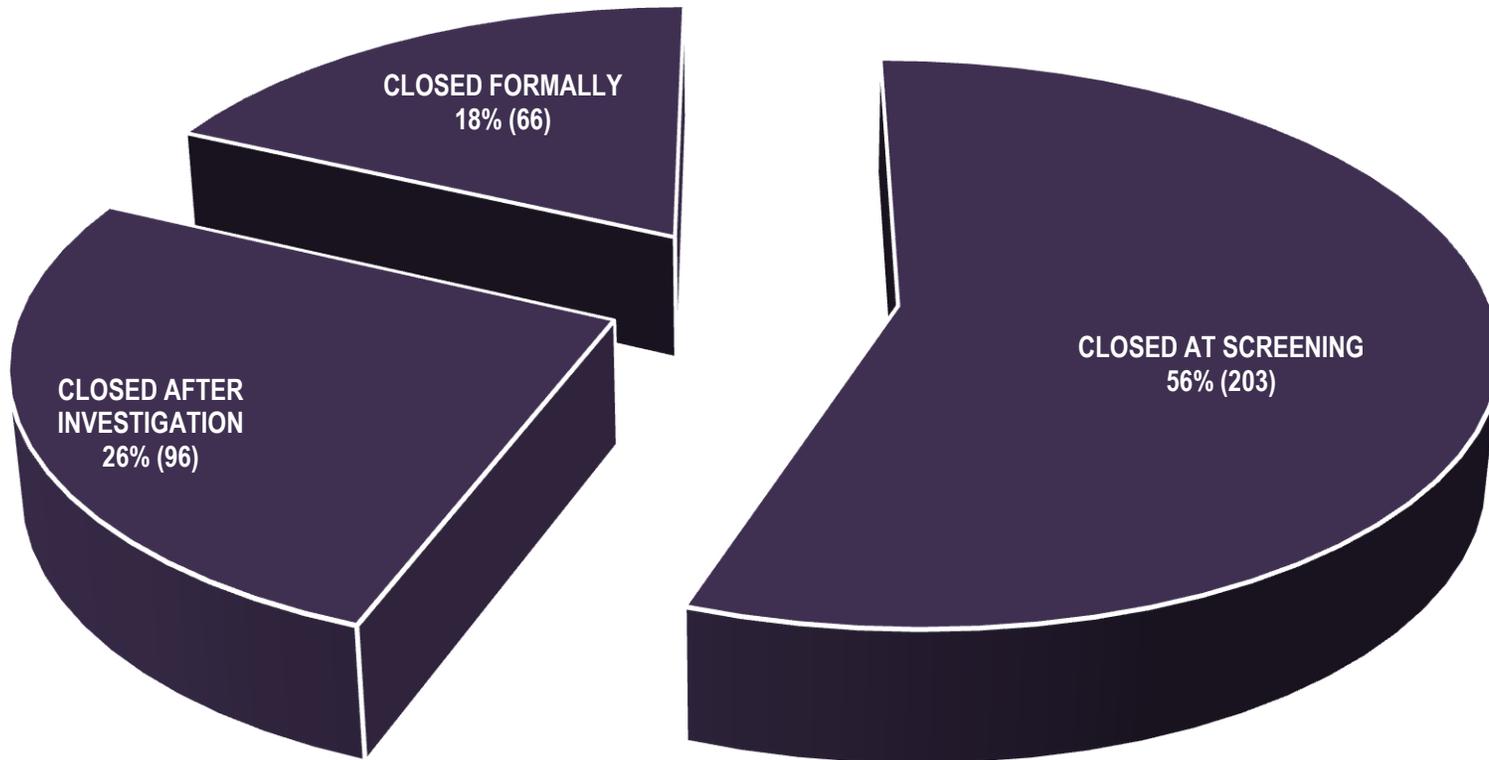
In 2012, DLSC consolidated legal services, implemented staff production metrics and quality control procedures, standardized templates and conducted legal training, which has resulted in enhanced efficiencies, higher standards of service to our Boards and responsible consumer protection. These improved services are reflected in our statistics. DLSC respects and values the Real Estate Examining Board's service to the State of Wisconsin and members of its profession. We look forward to continuing our partnership in 2013 and working hard to continue to improve our services to the Board and to the public, including our revamped case advisor training methods and materials.

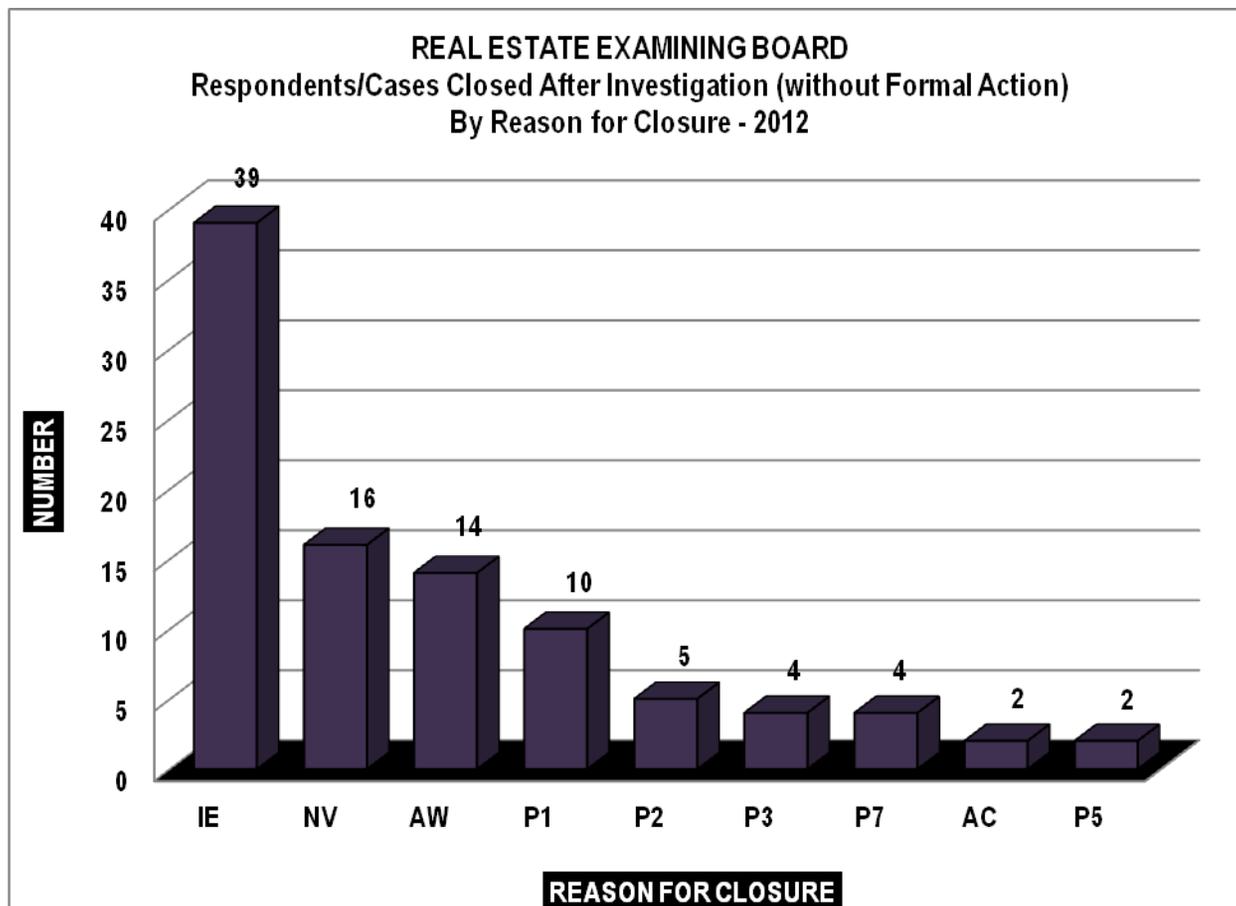
ⁱ **Note:** In January 2011 DLSC had a total of **221** cases in backlog status for all professional boards (defined as cases aged 2008 or older). Currently, the backlog has been all but eliminated with **only 1** case from 2008 in hearing. Only 11 cases remain for all boards from 2009 and 2010 with 7 of those cases in hearing. This accomplishment is unprecedented in the Department's history.

**REAL ESTATE EXAMINING BOARD
SOURCE OF COMPLAINTS - 2012**



**REAL ESTATE EXAMINING BOARD
CLOSURES - 2012**





- **INSUFFICIENT EVIDENCE FOR PROSECUTION (IE)** - There is insufficient evidence to meet the standard of proof required to prove that a violation occurred.
- **NO VIOLATION OF STATUTES OR RULES (NV)** - There is sufficient evidence to show that no violation of statutes or rules occurred.
- **ADMINISTRATIVE WARNING (AW)** - There was an Administrative Warning issued to the credential holder pursuant to Sec. 440.205, Stats. Administrative warnings do not constitute an adjudication of guilt or the imposition of discipline and may not be used as evidence that the credential holder is guilty of the alleged misconduct.
- **PROSECUTORIAL DISCRETION (P1)** - There may have been a minor or technical violation but a decision was made not to commence formal disciplinary action because the incident in question was not seriously harmful to the public.
- **PROSECUTORIAL DISCRETION (P2)** - There may have been a minor or technical violation but a decision was made not to commence formal disciplinary action on the grounds that compliance with statutes or rules has been gained.
- **PROSECUTORIAL DISCRETION (P3)** - There may have been a violation that is more than a minor or technical violation. However, it is not a violation, which caused serious harm, and a determination has been made that the expenditure of resources required to pursue the violation would greatly exceed the value to the public of having the matter pursued.
- **PROSECUTORIAL DISCRETION (P7)** - There may have been a violation, but the regulatory authority has taken action in regard to this credential holder that addressed the conduct and further action is unnecessary.
- **ADMINISTRATIVE CLOSURE (AC)** - There is a duplicate complaint; a file was opened in error; or the Respondent named in the complaint is inaccurately identified.
- **PROSECUTORIAL DISCRETION (P5)** - There may have been a violation, but because the person or entity in question cannot be located, is no longer actively practicing or does not have a current credential to practice, a decision was made to close the case and place a "FLAG OR HOLD" on the credential in accordance with the Department's "Hold Status and Flagged Credentials" Policy. In the event that the person or entity is located an application for renewal of the credential is received or the credential is renewed, the case may be re-opened and reconsidered.

REAL ESTATE EXAMINING BOARD
TYPE OF DISCIPLINE/OUTCOME ISSUED FROM FINAL DECISIONS and ORDERS
JANUARY 1, 2012 - DECEMBER 31, 2012

TYPE OF DISCIPLINE/OUTCOME	NUMBER
REPRIMAND	35
FORFEITURE	28
LIMITATION REQUIRING REPORTS WITH FINDINGS	21
LIMITATION REQUIRING EDUCATION/TESTING WITH FINDINGS (includes remedial education)	20
SUSPENSION	11
LIMITATION RESTRICTING PRACTICE WITH FINDINGS	9
LIMITATION REQUIRING MENTOR/SUPERVISION WITH FINDINGS	8
PROBATION/PAROLE/CORRECTIONAL SUPERVISION - COMPLY WITH ALL TERMS AND CONDITIONS	8
SURRENDER	4
LIMITATION REQUIRING TREATMENT WITH FINDINGS	3
LIMITATION REQUIRING ASSESSMENT WITH FINDINGS	1
REVOCATION	1
TOTAL	149
<p>DISMISSAL: An Order of judgment finally disposing of an action.</p> <p>LIMITATION: Defined in Wis. Stat. § 440.01(1)(d) to mean "to impose conditions and requirements upon the holder of the credential, to restrict the scope of the holder's practice, or both."</p> <p>REPRIMAND: A public warning of the licensee for a violation.</p> <p>SUSPENSION(SUMMARY): Expedited disciplinary procedure used when necessary for immediate protection of the public health, safety or welfare.</p> <p>SUSPENSION: Wis. Stat. § 440.01(h) "to completely and absolutely withdraw and withhold for a period of time all rights, privileges and authority previously conferred by the credential." Licensee may not engage in the practice of the profession during term of suspension.</p> <p>REVOCATION: Wis. Stat. § 440.01(f) "to completely and absolutely terminate the credential and all rights, privileges and authority previously conferred by the credential."</p>	
NOTES	
<ol style="list-style-type: none"> 1. Discipline/Outcome - A respondent may have more than one type of discipline/outcome. 2. This chart does not include Administrative Warnings because they are not considered disciplines. 	

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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Angela Hellenbrand Executive Director		2) Date When Request Submitted: 18 June 2013 <small>Items will be considered late if submitted after 4:30 p.m. and less than:</small> <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Real Estate Examining Board			
4) Meeting Date: 27 June 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Discussion and Consideration Related to Business Entities	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Discussion and Consideration Related to Business Entities - The WRA is requesting guidance as to the practice, regulation and process of communication relating to business entities.			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			



The following comments are provided to the Real Estate Examining Board and Board Legal Counsel by the WRA staff as per the Board's request at the April 18, 2013 meeting regarding the discussion of business entities. The WRA is requesting guidance as to the practice, regulation and process of communication relating to business entities.

OVERALL PROCESS – GENERAL DSPS

Online process, forms and communication with DSPS

- 1) Make available online form (2018 or 8012?) that allows business entities to communicate a change of business representatives.
- 2) Development of a form to document delegation of broker supervision responsibilities by a company that can be communicated to the DSPS and such delegation indicated online.
- 3) Request DSPS update the Licensee Look up relating to business entities, currently uses "company" or "officer/etc" or "employee" – would be clearer if it stated business representative
- 4) Is there an established process to be followed to change the business representative other than at renewal time? Business representatives change throughout the year, not just at renewal.

CREDENTIALING AND REAL ESTATE EXAMINING BOARD

Licensing and/or organization issues

- 1) Do sole proprietor brokers have to obtain a business entity license?
- 2) Must both the business representative and the business entity license be renewed? Is it enough if the business representative has a current license leaving the entity without a current entity license?
- 3) May a person with a broker's license be the business representative for more than one licensed business entity?
 - a. May that person work as a broker for them all?
 - i. I.e., provide brokerage services on behalf of all the companies the broker is the named business representative of.
 - b. May that person also affiliate with one other company where the person is not a business representative?
 - i. E.g., a licensed broker is a business representative for one licensed business entity license and a practicing broker- agent for another company. Meaning I use my broker license as the business representative for Land Realty LLC while I also practice as a broker-agent for ABC Real Estate.
- 4) May there be multiple business representatives for a licensed business entity?
- 5) What proof does DSPS require to show the business representative meets the 452.01(3k) definition of business representative?
 - a. What is the definition of manager in 452.01(3k)?
- 6) May a licensed business entity license hold another business entity license?
 - a. E.g., salesperson has created an LLC and is hired by a broker or business entity. Moreover, may the broker "employ" the salesperson LLC or must the salesperson be the "employee" of the company?
 - b. If not, may a salesperson in that situation have another broker be the business representative for the LLC's licensed business entity?
 - c. May an LLC be the business representative for the licensed business entity that is a Corporation

REAL ESTATE EXAMINING BOARD

Commissions

- 1) May a broker pay commission to an entity?
 - a. Must that entity hold a business entity license?
- 2) May a broker pay a commission to an entity without a business entity license if it is owned by a licensee?
- 3) May an agent have an entity, but that entity is not a licensed business entity?

The following questions are addressing scenarios that may fall into one of two categories as described below.

Category 1) A licensee without an entity or sole proprietor

- a. Owns it in their own name or
- b. Owns it in the name of an entity (non-licensed)

Category 2) A licensee with a licensed business entity

- a. Owns it in their own name
- b. Owns it in the name of an entity (non-licensed)
- c. Owns it in the name of that licensed business entity
- d. Owns it in the name of another licensed business entity

Agency

- 1) May a broker list their own (personally owned not entity owned) property if they are a sole proprietor?
 - a. Is that broker a principal or agent when conducting that transaction?
- 2) May a broker list their own (personally owned not entity owned) property with their own licensed business entity?
- 3) May a broker list property (owned by an entity not a licensed real estate business entity) with the licensed real estate business entity?
- 4) May a broker act as a representative of an entity without a listing? E.g., broker is a member of an LLC who owns a property in the name of a non-licensed entity.
 - a. What disclosure of licensure, if any, is required?
- 5) May an agent sign a listing contract or a buyer agency agreement for their own property, as the agent, if there is a licensed business entity?
- 6) If the licensed business entity is the title holder of real property. E.g., the real estate company is the owner of the property housing their business.
 - a. May (or must) the licensed business entity list the property?
 - b. What disclosures are necessary?
 - c. If not, may the broker who is the owner of the entity sell the property For Sale By Owner (FSBO)?
 - i. If so can that broker draft the offer?
 - ii. If a licensee is acting as a representative of an entity and there is no listing or buyer agency does that trigger the REEB 24.05(2) written consent rule?

Independent Practice Rules

Independent practice rule REEB 17.03 states the broker may engage in real estate practice in his or her own name.

When the broker engages in independent practice

- 1) May the broker have an entity?
- 2) May the broker be a business representative of a company not owned by the licensee?

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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Jean MacCubbin, Program Manager		2) Date When Request Submitted: 06062013	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Real Estate Examining Board			
4) Meeting Date: 20130627	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? LEG_ADMIN MATTERS 1. Scope chs. REEB 12 & 25 Application & Education 2. Scope chs. REEB 15 & 18 Records and Technology 3. Hearing Draft ch. REEB 16 Forms 4. Hearing Draft ch. REEB 18 Trust Accounts 5. Research Findings chs. REEB 22 & 26 Apprentices & Inactive Licenses; Draft Scope	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: 1. Discuss and Consider Approving Scope for chs. REEB 12 & 25 for Implementation 2. Discuss and Consider Approving Scope for chs. REEB 15 & 18 Records and Technology for submittal to GORC, Publication and Implmentation 3. Discuss and Consider Approving Hearing Draft ch. REEB 16 Forms, establish hearing date 4. Discuss and Consider Approving Hearing Draft ch. REEB REEB 18 Trust Accounts, establish hearing date 5. Discuss and Consider Draft Scope for chs. REEB 22 & 26 Apprentices & Inactive Licenses for submittal to GORC, Publication and Implmentation			
11) <i>Jean MacCubbin</i> Signature of person making this request		Authorization <i>6/6/2013</i> Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: REEB 12 and 25

Relating to: Applications and Education

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

With the exception of renumbering these chapters to reflect the Department of Safety and Professional Services and the Real Estate Examining Board (the Board), these chapters have had only minor revisions dating back to 1998 and 1999, respectively.

The Board seeks to update, clarify, correct or repeal provisions relating to original, renewal and examination applications; documentation of applications; internal processing of applications and examinations including, but not limited to, parts of original and renewal examinations; and the handling of expired licenses. In addition the Board seeks to update, clarify, correct, or repeal provisions relating to definitions; educational program content, continuing education and requirements for real estate brokers and real estate salespersons; means by which education is presented; and requirements for out-of-state applicants and licensees. Other changes reflect sections repealed by various recently enacted Wis. Acts.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The proposed changes will serve to clarify, correct, or repeal certain current provisions to recognize contemporary technologies. The alternative is having provisions not reflecting current practices and technologies.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.08 (5) (b), requires all examining boards to "...promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession."

Section 227.11 (2) (a), Stats., authorizes all agencies to promulgate rules interpreting the statutes it enforces or administers, when deemed necessary to effectuate the purpose of such statutes.

Section 452.07 (1), Stats., obligates the Real Estate Examining Board to "...promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to develop the rules is expected to be about 450 hours, depending on the complexity. This includes coordinating the rule-making process with the Board's meeting schedule, conducting research, drafting and processing the proposed rules through public hearings, legislative review, and adoption. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule:

These rules may have a minimal affect on any professional organization, approved course provider or instructor, or approved school of learning providing pre-application or continuing education for applicants or licensees.

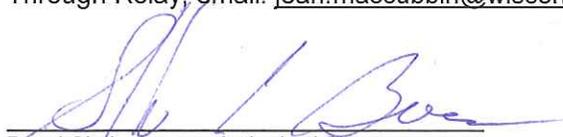
7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

An Internet-based search of the U.S. Code and the code of federal regulations (CFR) for applications and education relating to the licensing of real estate brokers and real estate salespersons did not reveal any existing or proposed regulations at the federal level.

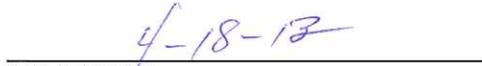
8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

Any anticipated cost of complying with the proposed rule is deemed minimal to none.

Contact Person: Jean MacCubbin, Program Manager, Division of Policy Development, Department of Safety and Professional Services; P.O. Box 8935; Madison WI 53708; phone: 608.266.0955 or contact Through Relay; email: jean.maccubbin@wisconsin.gov.



Board Chairperson or Authorized Signature



Date Submitted

File: REEB 12 and 25 Scope final

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: REEB 15 and 18

Relating to: Obligation to Furnish Copies and Maintain Records, and Trust Accounts

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

Chapter REEB 15, Real Estate Broker's Obligation to Furnish Copies and Maintain Records, was created in November 1985 (as ch. RL 15) and with the exception of a minor correction in authority and chapter renumbering, there have been no substantial changes since this rule became effective. At this time the Real Estate Examining Board (the Board) intends in this proposed revision to make minor corrections in format, update the chapter to reflect any statutory changes, provide clarification where appropriate and allow new and current technology in records retention.

Chapter REEB 18, Trust Accounts, is added to this scope statement as provisions for maintaining records in ch. REEB 15 may allow the retention of records in electronic formats and the use of current electronic software. The bookkeeping section, s. REEB 18.13, may be revised to allow similar technology as in ch. REEB 15. In addition, depository institutions currently provide options for electronic bank statements and exporting such financial data to bookkeeping software. When requested by the department or board as in s. REEB 18.036, these records may be determined to be in an acceptable format. With the exception of renumbering and minor changes, this chapter has not been revised since 1994.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Existing rules relating to the retention of certain records that are used in the practice of real estate can be found in s. REEB 15.04. This section requires a real estate broker to retain for at least 3 years exact copies of documents and correspondence utilized in connection with any transaction. These documents and correspondence must be made available to the Department of Safety and Professional Services (the department) or the Board for inspection and copying upon request. The proposed rule may clarify what comprises a record. In addition, the proposed revision intends to provide the broker the ability to retain records in electronic format, stipulate retention times and offer possible discipline for not providing such records when so requested.

Existing rules relating to bookkeeping systems and examination of bank records are found in ch. REEB 18. It is widely known that ledger and journaling financial software is utilized in the real estate industry; the Board intends that these rule revisions recognize current practice and modernize the provisions for records and recordkeeping.

No new policies are expected to be created in these revisions. The alternative to not updating these chapters is that record storage and current prescribed bookkeeping formats may continue to be costly and duplicative.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.08 (5) (b), Stats.: This section requires any examining board to promulgate rules for their own guidance or the guidance of the respective trade or profession.

Section 227.11 (2), Stats.: This section confers that each agency has rule-making powers interpreting the authority to enforce and administer as provided in the statutes.

Section 452.07, Stats.: This section provides the Real Estate Examining Board the express authority to draft and approve rules relating to the guidance of the real estate profession. "S. 452.07 Rules. (1) The board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice."

Section 452.13, Stats.: This section outlines procedures for brokers regarding their trust accounts, interest-bearing accounts and furnishing financial documents to the department, board or the Department of Administration on request.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to develop the rules is expected to be about 210 hours, depending on the complexity. This includes coordinating the rule-making process with the Board, research, rule drafting, and processing the rules through public hearings, legislative review, and adoption. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule:

Real estate licensees.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

An Internet search of the U.S. Code and the code of federal regulations (CFR) did not reveal any existing or proposed regulations at the federal level for: applications and education relating to the licensing of real estate brokers and real estate salespersons, real estate broker's trust accounts, records retention or records kept in a specific format.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The anticipated cost of complying with the proposed rule is deemed minimal to none as it is expected that any electronic format required would include various options and may already be utilized.

Contact Person: Jean MacCubbin, Program Manager, Division of Policy Development, Department of Safety and Professional Services; P.O. Box 8935; Madison WI 53708; phone: 608.266.0955 or contact Through Relay; email: Jean.MacCubbin@wisconsin.gov.

Chairman Real Estate Examining Board

Date Submitted

STATE OF WISCONSIN
REAL ESTATE EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : REAL ESTATE EXAMINING BOARD
REAL ESTATE EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Real Estate Examining Board to repeal REEB 16.03 (2) Note; to amend REEB 16.03 (1) (intro.), (a) and (b), REEB 16.04 (2), REEB 16.05 (1) and (2), REEB 16.06 (1) (intro.), (a), (b), (e) and (f), REEB 16.03 (3), REEB 16.06 (4) (intro.) and (a) to (c), REEB 16.06 (5) (intro.) and (a) to (c); and REEB 16.06 (6) and (7); and to create REEB 16.02 (intro.), (1m), (2e), (2m), (2r), (4m) and Note, REEB 16.03 (3) and Note, relating to use of approved forms and legal advice.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 452.07 (1m), 452.05 (1) (b) and 452.07, Stats.

Statutory authority: ss. 15.405 (11), 227.11 (2), 452.07 (1m), 452.05 (1) (b) and 452.07 (1m), Stats.

Explanation of agency authority:

Examining boards are generally authorized by ss. 15.08 (5) (b) and 227.11 (2) (a), Stats., to promulgate rules for its own guidance and for guidance within the profession and to promulgate rules interpreting any statute enforced or administered by it. Under s. 452.07 (1m), Stats., the board shall advise the secretary on rulemaking relating to licensees and under s. 452.05 (1) (b) the board shall approve forms for real estate practice. Under s. 452.07 (1m), Stats., the board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice.

Related statute or rule:

There are no other statutes or rules other than those listed above.

Plain language analysis:

This proposed rule-making order clarifies the rules relating to the use of approved forms and legal advice, specifically:

SECTIONS 1 to 4: These proposed changes clarify various terms used in the industry not previously defined in this rule or in chs. REEB 11 to 26.

SECTIONS 5, 9, 10, 12, 14: These proposed changes relate solely to updating rule format since the last revision to this chapter in 1986.

SECTIONS 6, 7 and 8: These proposed changes relate to the listing of board-approved forms for use by licensees. The listing previously was in an unenforceable Note; the listing now is included in the rule text. A Note is created to provide information on how to obtain board-approved forms.

SECTIONS 11: These proposed changes relate to the authority given to the board in s. 452.05 (1) (b), Stats., regarding approving forms.

SECTION 13: These proposed changes relate to updating format, but also clarify when an attorney may have responsibilities involving a real estate transaction.

SECTION 15: These proposed changes are meant to clarify under what circumstances a licensee may alter approved forms.

Summary of, and comparison with, existing or proposed federal regulation:

Under the Real Estate Settlement Procedures Act (RESPA) various federally-created forms are required for us in all states, particularly for settlement transactions and closings. One example is a form FmHA, or its successor agency, required under Public Law 103-354 1940-59, Settlement Statement.

[<http://www.law.cornell.edu/cfr/text/7/1940.406>] There is no indication that current Federal laws dictate the use of approved forms for state use other than those related to federally-backed mortgages, HUD property transactions and radon disclosure.

Comparison with rules in adjacent states: An Internet-based search revealed the following:

Illinois: In Illinois the Bureau of Real Estate Professions administers and enforces the Illinois Real Estate License Act of 2000, the Real Estate Timeshare Act, the Land Sales Registration Act, the Real Estate Appraiser Licensing Act of 2002, Provisions and Rules of the Uniform Standards of Professional Appraisal Practice, the Auction License Act, and the Home Inspector License Act. The Bureau has responsibility for the licensing and regulating real estate brokers, managing brokers, leasing agents, real estate firms, real estate appraisers, auctioneers, auction firms, home inspectors, and home inspector entities. In Illinois there are ‘standard’ forms for various real estate transactions; these forms were not found to be state-approved forms, but available from various sources such as legal firms and professional groups. The Internet-based search did not reveal any details relating to Illinois codes and statues pertaining to state- or board- approved forms or any provisions for relating to legal advice provided by licensees.

Iowa: In Iowa the Professional Licensing Division (IPLD) oversees the real estate industry through the following rules: Iowa Code ch. 543B, Real Estate Brokers and Salespersons; ch. 543C, Sales of Subdivided Land Outside of Iowa; and ch. 557A, Iowa Time-Share Act. These rules are published in the Iowa Administrative Code ch. 193E. Under the jurisdiction of the IPLD, the Iowa Real Estate Commission regulates and administers the real estate laws in Iowa. An index of state-approved forms used in the real estate industry is found at:

http://www.state.ia.us/government/com/prof/sales/forms_indexNew.html. Other than recommending buyers to obtain the advice of an attorney prior to signing contracts or offers, the rules were silent regarding allowing or prohibiting licensees providing legal advice.

Michigan: In Michigan Article 25 of Public Act 299 of 1980, licenses and regulates the real estate industry. The Board of Real Estate Brokers and Salespersons approves forms, which are listed on:

<http://www.dleg.state.mi.us/dms/results.asp?docowner=BCSC&docat=Real+Estate&docat=LicDiv&Search=Search>. No information was found to determine if the Michigan Board of Real Estate Brokers and Salespersons limits or allows licensees to provide legal advice.

Minnesota: The Minnesota statutes licensing and regulating the real estate industry is Article 25 of Public Act 299 of 1980, published in ch. 384. The Board of Real Estate Brokers and Salespersons, part of the Department of Commerce, approves forms; these are listed on:

<http://www.dleg.state.mi.us/dms/results.asp?docowner=BCSC&docat=Real+Estate&docat=LicDiv&Search=Search>. No information was found regarding licensees providing legal advice.

Summary of factual data and analytical methodologies:

The information comparing the states listed in this analysis was obtained directly from and Internet-based search and a review of the applicable regulations and rules, when found.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Data was obtained from the Division of Professional Credential Processing regarding the number of licensees that would be affected by this regulatory change. As of 4/15/2013, there are 6,139 active licensed real estate salespersons and 10,373 active licensed real estate brokers. There are 1,051 licensed real estate business entities. The majority of real estate licensees work in small business environments; however, the proposed rules do not include any policy changes which would impact licensees or small business.

Fiscal Estimate and Economic Impact Analysis:

~~The Fiscal Estimate and Economic Impact Analysis is attached.~~

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone (608) 266-0955; email at Jean.MacCubbin@wisconsin.gov; or by telecommunications relay services at 711.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Department of Safety and Professional Services, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Jean.MacCubbin@wisconsin.gov. Comments must be received on or before * _____ to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. REEB 16.02 (intro.) is created to read:

REEB 16.02 Definitions. Definitions contained in s. REEB 11.02 shall also apply to this chapter. In this chapter:

SECTION 2. REEB 16.02 (1m) is created to read:

REEB 16.02 (1m) “Buyer agreement” means for the purposes of this chapter:

(a) An exclusive buyer agency agreement binding the buyer to the broker, makes the buyer pay the broker if property is bought during the term of the agreement, even if the buyer locates and arranges to buy the property.

(b) An exclusive-agency buyer agency agreement makes the broker the exclusive agent of the buyer, but the buyer does not have to pay a commission to the broker if the buyer finds the property and arranges for the purchase without the broker being a party to the transaction.

(c) An open buyer agency agreement provides no exclusivity to any agent and allows the buyer to be represented by any number of agents, and the buyer may find the property without the broker being a party to the transaction. Only the agent that finds the property that the buyer purchases is entitled to a commission.

SECTION 3. REEB 16.02 (2e), (2m) and (2r) are created to read:

REEB 16.02 (2e) “Exclusive right to locate” means a written buyer agency agreement whereby a broker makes a reasonable effort to locate property acceptable to the buyer or buyers.

(2m) “Exclusive right to locate and negotiate” means a written buyer agency agreement with the owner of the real estate property to negotiate on behalf of the seller for locating property acceptable to the buyer or buyers.

(2r) “Exclusive right to negotiate” means a written buyer agency agreement with the explicit and usually exclusive right of a broker to represent one party in the negotiation of an agreement or contract.

SECTION 4. REEB 16.02 (4m) and (Note) are created to read:

REEB 16.02 (4m) “One-party listing” means a real estate listing when a broker signs a contract with a seller to sell a specific property to a single, named party.

Note: The charge for a one-party listing varies; a typical fee may be a flat fee, an hourly rate or a commission percentage based on the sale price of the property.

SECTION 5. REEB 16.03 (1) (intro.), (a) and (b) are amended to read:

REEB 16.03 Approved forms. (1) In addition to forms prepared for and approved by the board pursuant to s. 452.05 (1) (b), Stats., the board approves all of the following forms for use by brokers:

(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;

(b) Uniform commercial code forms: 1, 2, 3, 4, 11, 410, 411, 430, 445, 450 and 451.

SECTION 6. REEB 16.03 (2) Note is repealed.

SECTION 7. REEB 16.03 (3) is created to read:

REEB 16.03 (3) The board shall approve for use contractual forms including all of the following:

- (a) WB-1 Residential Listing Contract - Exclusive Right To Sell.
- (b) WB-2 Farm Listing Contract - Exclusive Right To Sell.
- (c) WB-3 Vacant Land Listing Contract - Exclusive Right to Sell.
- (d) WB-4 Residential Condominium Listing Contract - Exclusive Right To Sell.
- (e) WB-5 Commercial Listing Contract - Exclusive Right To Sell.
- (f) WB-6 Business Listing Contract - Exclusive Right To Sell.
- (g) WB-8 Time share Listing Contract.
- (h) WB-11 Residential Offer To Purchase.
- (i) WB-12 Farm Offer To Purchase.
- (j) WB-13 Vacant Land Offer To Purchase
- (k) WB-14 Residential Condominium Offer To Purchase.
- (L) WB-15 Commercial Offer To Purchase.
- (m) WB-16 Business with Real Estate Offer To Purchase.
- (n) WB-17 Offer to Purchase- Business Without Real Estate.
- (o) WB-24 Option To Purchase -Business with Real Estate.
- (p) WB-25 Bill of Sale.
- (q) WB-26 Timeshare Contract (Sale by Developer).
- (r) WB-27 Timeshare Contract (Resale by Non-Developer).
- (s) WB-35 Simultaneous Exchange Agreement.
- (t) WB-36 Buyer Agency/Tenant Representation Agreement.
- (u) WB-37 Exclusive Listing Contract For Lease of Residential Property.
- (v) WB-40 Amendment to Offer to Purchase.
- (w) WB-41 Notice Relating to Offer to Purchase.
- (x) WB-42 Amendment To Listing Contract.
- (y) WB-44 Counter-Offer.
- (z) WB-45 Cancellation Agreement and Mutual Release.
- (aa) WB-46 Multiple Counter-Proposal.
- (ab) WB-47 Amendment to Buyer Agency Contract/Tenant Representation Agreement.

SECTION 8. REEB 16.03 (3) Note is created to read:

REEB 16.03 (3) Note: Copies of the board-approved forms are available upon request to the Department of Safety and Professional Services; Division of Professional Credentialing Processing; PO

Box 8935; Madison, WI 53708-8935; phone (608) 262-2112. Copies of these forms are also accessible for printing and downloading from the department's webpage:
<http://dsps.wi.gov/Default.aspx?Page=68bef88d-5d1f-4201-ad59-46b106695d3b>.

SECTION 9. REEB 16.04 (2) is amended to read:

REEB 16.04 (2) For ~~those kinds of~~ real estate or business opportunity transactions for which the board has not approved contractual forms, a licensee, when acting as an agent or a party, may use contractual forms drafted by a party or an attorney, if the name of the drafter is imprinted on the form before use by a licensee. For the purpose of this subsection, a listing broker ~~is~~ shall be considered a party to the listing contract transaction.

SECTION 10. REEB 16.05 (1) and (2) are amended to read:

REEB 16.05 Legal advice and practice of law. (1) A licensee may not ~~give~~ provide advice or opinions concerning the legal rights or obligations of parties to a transaction, the legal effect of a specific contract or conveyance, or the state of title to real estate.

(2) Notwithstanding sub. (1), a licensee may ~~give~~ provide a general explanation of the provisions in an approved form to the parties to a transaction at the time of completing the form or when delivering an approved form for the seller's or buyer's acceptance.

SECTION 11. REEB 16.06 (1) (intro.), (1) (a), (b), (e) and (f), are amended to read:

REEB 16.06 How to use approved forms. (1) ~~A~~ All of the following apply to a licensee who reproduces or arranges for printing a contractual form prepared for and approved by the board pursuant to s. 452.05 (1) (b), Stats.:

(a) Shall assure that the numbering of lines, line contents and the lines appearing on each page are identical to those on the ~~department's~~ board-approved forms.

(b) May not reproduce the form in such a manner that optional provisions are left out and blank lines are filled in without any indication of where the optional provisions and blank lines occur on the ~~department's~~ board-approved form.

(e) Shall retain the ~~department's board's~~ approval statement and date in the upper left corner exactly as these appear on the ~~department's~~ board-approved form.

(f) Shall assure that the formatting of the form is substantially identical to that on the ~~department's~~ board-approved form.

SECTION 12. REEB 16.06 (3) is amended to read:

REEB 16.06 (3) A licensee may cross out provisions on approved forms to reflect the agreement of a party to a transaction, provided that the deleted provisions remain legible and are initialed by all parties.

SECTION 13. REEB 16.06 (4) (intro.), and (a) to (c) are amended to read:

REEB 16.06 (4) Except as provided in sub. (5), a licensee may use a pre-prepared addendum form and attach it to an approved form under all of the following circumstances:

(a) The addendum has been prepared by the broker or ~~the broker's~~ an attorney who is identified on the addendum; ~~and.~~

(b) The addendum is incorporated by reference into the approved form and the approved form and the addendum are properly related to one another; ~~and.~~

(c) The addendum relates to the blanks on an approved form; or alters or supplants optional, but not mandatory, provisions within an approved form.

SECTION 14. REEB 16.06 (5) (intro.) and (a) to (c) are amended to read:

REEB 16.06 (5) A licensee may use a pre-prepared addendum which supplants or alters the printed, but not mandatory, provisions of an approved form only if all of the following are met:

(a) The addendum has been drafted by an attorney who is identified on the addendum; ~~and.~~

(b) There are no optional or multiple choice provisions in the addendum; ~~and.~~

(c) There are no blanks or fill-in provisions in the addendum except for spaces for the signatures of the parties and those items required under par. (d); ~~and.~~

SECTION 15. REEB 16.06 (6) and (7) are amended to read:

REEB 16.06 (6) A licensee may alter an approved exclusive-right-to-sell listing contract to create an exclusive agency listing ~~or,~~ an open listing, or a buyer agency agreement such as, but not limited to, an exclusive right to negotiate, an exclusive right to locate, or an exclusive right to locate and negotiate.

(7) A licensee shall use the latest ~~approved~~-version of ~~an a board~~-approved form.

SECTION 16. EFFECTIVE DATE. 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.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Stephen Beers, Board Chairperson
Real Estate Examining Board

File: 165 – REEB 16 public hearing draft 2 for 06272013

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STATE OF WISCONSIN
REAL ESTATE EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : REAL ESTATE EXAMINING BOARD
REAL ESTATE EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Real Estate Examining Board to repeal REEB 18.11 (2) and REEB 18.12 and Note; to renumber and amend REEB 18.08 (intro.) as REEB 18.08 (1) and (2), REEB 18.11 (1) as REEB 18.11; to amend REEB 18.01 (title), (5) (intro.) and (a) and (b), (6) (intro.) and (a) to (g), REEB 18.031 (1) (intro.) and (a) and (b), REEB 18.033 (title) and (1) and (2), REEB 18.035 (2), REEB 18.037 (intro.) and Note, REEB 18.05 (title) and (intro.), REEB 18.06, REEB 18.09 (1) (intro.) and (a) to (f), REEB 18.13 (2) to (4) and (6) (e); to repeal and recreate REEB 18.10; and to create REEB 18.02 (1) and Note, REEB 18.02 (Note), REEB 18.02 (4) and Note, REEB 18.034 (1) (title), relating to real estate trust accounts.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 452.07 (1m), and 452.07, Stats.

Statutory authority: ss. 15.405 (11), 227.11 (2), 452.07 (1m) and 452.07, Stats.

Explanation of agency authority:

Examining boards are generally authorized by ss. 15.08 (5) (b) and 227.11 (2) (a), Stats., to promulgate rules for its own guidance and for guidance within the profession and to promulgate rules interpreting any statute enforced or administered by it. Under ss. 452.07 (1m) and 452.07, Stats., the board shall advise the secretary on rulemaking relating to licensees and shall promulgate rules for the guidance of the real estate profession.

Related statute or rule: s. 452.13 (2), Stats.

Plain language analysis:

This proposed rule-making order clarifies the rules relating to real estate trust accounts by correcting internal inconsistencies, reflecting current practices and removing antiquated provisions. In addition format changes and typographical/punctuation errors are being corrected.

SECTION 1: The proposed rules modify the section title to be consistent with section titles in other chapters in this series, REEB 11 to 26.

SECTIONS 2 to 5: The proposed rules add or update definitions commonly used in the real estate industry. When applicable, the statutory definition is cited.

SECTIONS 5 and 6: The proposed rules update formats now in use since the last chapter revision and use terms consistent with those used in ch. 452, Stats.

SECTIONS 6, 7, 8, 11, 13 and 19: The proposed rules correct minor typos, grammatical and punctuation errors, and utilize current format required since the last revision of this chapter.

SECTIONS 9 and 10: The proposed rules move existing text to a more appropriate subsection.

SECTION 12: The proposed rules clarify designating responsibilities as to who holds escrow funds.

SECTION 13: The proposed rules renumber this section by clarifying which text relates to holding funds, and which relates to transferring funds.

SECTIONS 16, 17 and 18: The proposed rules renumber the subsection as an introductory clause due to the repeal of sub. (2). The proposed rules repeal sections that are determined to be no longer in use or archaic to the real estate industry—promissory notes and branch offices.

SECTIONS 19, 20 and 21: The proposed rules relate to recordkeeping, specifically ledgers, journals and trial balances. Clarification of terms and designating responsibilities are also proposed.

Summary of, and comparison with, existing or proposed federal regulation:

There are no existing or proposed federal regulations addressing real estate trust accounts with respect to licensees.

Comparison with rules in adjacent states: An Internet-based search revealed the following:

Illinois: In Illinois the Bureau of Real Estate Professions administers and enforces the Illinois Real Estate License Act of 2000, the Real Estate Timeshare Act, the Land Sales Registration Act, the Real Estate Appraiser Licensing Act of 2002, Provisions and Rules of the Uniform Standards of Professional Appraisal Practice, the Auction License Act, and the Home Inspector License Act. The Bureau has responsibility for the licensing and regulating real estate brokers, managing brokers, leasing agents, real estate firms, real estate appraisers, auctioneers, auction firms, home inspectors, and home inspector entities. An internet search did not reveal details relating to any Illinois codes and statues pertaining to real estate trust accounts.

Iowa: In Iowa the Professional Licensing Division (IPLD) oversees the real estate industry through the following rules: Iowa Code ch. 543B, Real Estate Brokers and Salespersons; ch. 543C, Sales of Subdivided Land Outside of Iowa; and ch. 557A, Iowa Time-Share Act. These rules are published in the Iowa Administrative Code ch. 193E. Under the jurisdiction of the IPLD, the Iowa Real Estate Commission regulates and administers the real estate laws in Iowa.

Notification of opening, closing and transferring accounts, naming the accounts, as well as submitting interest to a designated state agency is similar to rules and statutes in Wisconsin.

Michigan: In Michigan Article 25 of Public Act 299 of 1980, licenses and regulates the real estate industry through the Board of Real Estate Brokers and Salespersons. In Michigan, R339.22313, rule 313, real estate trust accounts are held in non-interest bearing, demand-checking accounts. Received funds must be deposited within two banking days, with some exceptions. A third party may manage the funds if interest is being sought. Disbursement, co-mingling and recordkeeping are detailed in the state guidelines for trust accounts. [<http://www.rentupm.com/wp-content/uploads/2011/11/Michigan-Trust-Account-Guidelines.pdf>]

Minnesota: The Minnesota statutes are similar to Wisconsin and require all real estate trust accounts to pool interest from interest bearing accounts. The commissioner of management and budget shall deposit such funds into the housing trust fund account. Chapter 82.75, subd. 5, Trust accounts, outlines the state requirements, which include: maintaining and retaining records, timeliness of transaction including deposits within three business days. [<https://www.revisor.mn.gov/statutes/?id=82.75>]

Summary of factual data and analytical methodologies:

The information comparing the states listed in this analysis was obtained directly from an Internet-based search and a review of the applicable regulations and rules, when found.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Data was obtained from the Division of Professional Credential Processing regarding the number of licensees that would be affected by this regulatory change. As of 4/15/2013, there are 6,139 active licensed real estate salespersons and 10,373 active licensed real estate brokers. There are 1,051 licensed real estate business entities. The majority of real estate licensees work in small business environments; however, the proposed rules do not include any policy changes which would impact licensees or small business.

Fiscal Estimate and Economic Impact Analysis:

~~The Fiscal Estimate and Economic Impact Analysis is attached.~~

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone (608) 266-0955; email at Jean.MacCubbin@wisconsin.gov; or by telecommunications relay services at 711.

TEXT OF RULE

SECTION 1. REEB 18.01 (title) is amended to read:

REEB 18.01 ~~Authorization~~ Authority. The following rules are adopted pursuant to ss. 227.11, 452.07 and 452.13, Stats.

SECTION 2. REEB 18.02 (Note) is created to read:

REEB 18.02 Definitions. In this chapter:

Note: See also definitions in s. REEB 11.02.

SECTION 3. REEB 18.02 (1), (1) Note, (4) and (4) Note are created to read:

REEB 18.02 (1) “Client funds” has that meaning given in s. 452.13 (1) (a), Stats.

Note: Section 452.13 (1) (a) reads: “‘Client funds’ means all downpayments, earnest money deposits or other money related to a conveyance of real estate that is received by a broker, salesperson or time-share salesperson on behalf of the broker’s, salesperson’s or time-share salesperson’s principal or any other person. ‘Client funds’ does not include promissory notes.’”

(4) “Depository institution” has that meaning given in s. 452.13 (1) (b), Stats.

Note: Section 452.13(1) (b) reads: “‘Depository institution’ means a bank, savings bank, savings and loan association or credit union that is authorized by federal or state law to do business in this state and that is insured by the federal deposit insurance corporation or by the national credit union share insurance fund.’”

SECTION 4. REEB 18.02 (5) (intro.), (a) and (b) are amended to read:

REEB 18.02 (5) “Real estate trust account” means an account for real estate trust funds maintained at a depository institution from which withdrawals or transfers can be made without delay, subject to any notice period that the depository institution is required to observe by law, and includes all of the following:

(a) Interest-bearing common trust accounts established for client funds;

(b) Non-interest bearing real estate trust accounts maintained for real estate trust funds other than client funds; ~~and.~~

SECTION 5. REEB 18.02 (6) (intro.) and (a) to (g) are amended to read:

REEB 18.02 (6) “Real estate trust funds” means any cash, checks, share drafts, drafts or notes, ~~other than promissory notes,~~ received by a broker or a broker’s salespersons or time-share salespersons on behalf of a principal or any other person including, ~~but not limited to~~ all of the following:

(a) Payments on land contracts, mortgage payments and any other receipts pertaining to mortgages; ~~.~~

(b) Tax and insurance payments held in escrow; ~~.~~

(c) Advance fees and finder’s fees, unless non-refundable; ~~.~~

(d) Rental application deposits and rents, but only when received while acting as an agent for another; ~~.~~

(e) Payments received for subsequent repayment to a third party; ~~.~~

(f) Security deposits on rental property, except as provided in s. REEB 18.031 (4); ~~and.~~

(g) Initial and additional earnest money downpayments and other ~~monies~~ moneys received in connection with offers to purchase, options and exchanges, even if the broker, salesperson or time-share salesperson receives the downpayments or ~~monies~~ moneys when negotiating the sale of real estate or a business opportunity which the broker, salesperson or time-share salesperson owns in whole or in part, or when negotiating the purchase of real estate or a business opportunity for ownership in whole or in part by the broker, salesperson or time-share salesperson.

SECTION 6. REEB 18.031 (1) (intro.), (a) and (b) are amended to read:

REEB 18.031 Deposits and types of accounts. (1) TIME OF DEPOSIT. A broker shall deposit all real estate trust funds received by the broker or broker’s salespersons or time-share salespersons in a real estate trust account within 48 hours of receipt of the trust funds. If funds are received on a day prior to a holiday or other day when the depository institution is closed, the broker shall deposit the funds within the next 2 business days ~~of in~~ in the depository institution. If a broker receives funds which cannot be deposited by the broker, the broker shall, no later than one business day after receipt, either:

(a) Forward the funds to the payee, if someone other than the broker; ~~or.~~

(b) Return the funds to the ~~payor~~ payer.

SECTION 7. REEB 18.033 (title), (1) and (2) are amended to read:

REEB 18.033 ~~Time when real estate trust account shall be opened or may be closed.~~
Opening and closing real estate trust accounts. (1) OPENING AN ACCOUNT. A broker shall open a real estate trust account if the broker ~~receives~~ expects to receive real estate trust funds.

(2) CLOSING AN ACCOUNT. A broker may close a real estate trust account if no real estate trust funds remain in the account or for reasons specified in s. REEB 18.035.

SECTION 8. REEB 18.034 (1) (title) is created to read:

REEB 18.034 Account designation. (1) NAME ON TRUST ACCOUNT. A broker shall name the broker's real estate trust account with the name appearing on the broker's license or with a trade name submitted to the department under s. REEB 23.03 and shall include the words "trust account" in the name of the account.

SECTION 9. REEB 18.035 (2) is amended to read:

REEB 18.035 (2) CHANGING OR CLOSING AN ACCOUNT. A broker shall notify the department no later than 10 days after a broker changes a real estate trust account name or number, changes the real estate trust account from one depository institution to another, closes a real estate trust account or changes a real estate trust account to or from an interest-bearing common trust account established for client's funds. The notification shall be provided on a form, as required in s. REEB 18.037. When closing a real estate trust account, a broker may inform the board by letter.

SECTION 10. REEB 18.037 (intro.) and Note are amended to read:

REEB 18.037 Form for notification and authorization. A broker shall provide the information and authorization as specified in ss. REEB 18.035 and 18.036 on a form provided by the department. This form shall be designated "consent to examine and audit trust account." ~~However, when closing a real estate trust account, a broker may inform the board by letter only.~~

Note: A copy of this form may be obtained from the Department of Safety and Professional Services, Division of Professional Credential Processing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935, or downloading from the department's webpage: <http://dsps.wi.gov/Licenses-Permits/RealEstateBroker>.

SECTION 11. REEB 18.05 (title) and (intro.) are amended to read:

REEB 18.05 Receipt for earnest money received by ~~the~~ a broker. A broker shall indicate on the offer to purchase the receipt of earnest money received from a buyer at the time the offer is drafted. The offer to purchase form shall be the receipt.

SECTION 12. REEB 18.06 is amended to read:

REEB 18.06 Escrow agreement for earnest money not held by the broker. If the parties to a transaction do not desire that the broker hold the earnest money in the broker's real estate trust account, and wish to designate an escrow agent other than the broker, the broker may not draft the escrow agreement. The escrow agreement shall be drafted by the parties or an attorney. The broker may not hold the funds in the broker's real estate trust account, nor may the broker act in any way as custodian of the funds for the parties. The funds, pursuant to the escrow agreement, shall be held by ~~some other~~ a party other than the broker, such as: a bank, a savings and loan association, a credit union, or an attorney.

SECTION 13. REEB 18.08 (intro.) is renumbered REEB 18.08 (1) and (2) and amended to read:

REEB 18.08 Real estate trust funds and cooperating brokers. (1) HOLDING FUNDS. If a transaction involves a cooperating broker and the parties have not agreed otherwise, the cooperating broker shall transfer any trust funds received to the listing broker or other person designated by the parties to hold the trust funds within 24 hours of the deadline stated in the offer, option, exchange agreement or lease for transfer of the funds.

(2) TRANSFERRING FUNDS. If the trust funds are received in the form of a personal check, share draft or draft, the cooperating broker may withhold transfer of the payment pending evidence of clearance from the ~~payor's~~ payer's depository institution. In any case, the cooperating broker shall transfer the trust funds to the listing broker within 30 days after receipt, unless the cooperating broker has obtained definitive information from the depository institution that the personal check, share draft or draft has not cleared.

SECTION 14. REEB 18.09 (1) (intro.) and (a) to (f) are amended to read:

REEB 18.09 Disbursement of trust funds. (1) PROPER DISBURSEMENT. A broker who disburses trust funds from ~~his or her~~ the broker's real estate trust account under any of the following circumstances shall not be deemed to have violated s. 452.14 (3) (i), Stats.:

(a) To the ~~payor~~ payer upon the rejection, expiration or withdrawal prior to binding acceptance of an offer to purchase, lease, exchange agreement or option on real estate or a business opportunity;

(b) As directed in a written earnest money disbursement agreement signed by all parties having an interest in the trust funds. ~~A For the purposes of this subsection, a closing statement is a shall be the~~ written earnest money disbursement agreement ~~for the purposes of this subsection. An offer to purchase, lease, exchange agreement or option is not a written earnest money disbursement agreement for the purpose of this subsection.~~

(c) To a court having jurisdiction over a civil action involving all parties having an interest in the trust funds;

(d) As directed by order of a court;

(e) Upon a good faith decision based upon advice of an attorney not representing any party to the contract;

(f) Upon authorization granted within the contract; ~~or.~~

SECTION 15. REEB 18.10 is repealed and recreated to read:

REEB 18.10 Comingling funds prohibited. (1) DEPOSITABLE FUNDS. A broker shall deposit only real estate trust funds in the broker's real estate trust account.

(a) Except for sub. (b), a broker shall not commingle the broker's personal funds or other funds in the real estate trust account.

(b) A broker may deposit and maintain a sum not to exceed \$300.00 from the broker's personal funds in any real estate trust account. Such sum shall be specifically identified and deposited to cover service charges relating to the real estate trust account.

(2) ADDITIONAL FUNDS. A broker shall deposit additional personal funds in the broker's real estate trust account within 10 business days following receipt of a statement or other notification from a depository institution that a service charge has been made against the account for which insufficient personal funds are available in the real estate account.

SECTION 16. REEB 18.11 (1) renumbered as 18.11 (intro.) and amended to read:

REEB 18.11 Non-depositable items. (1) ~~OTHER THAN PROMISSORY NOTES.~~ ~~With the exception of promissory notes, a~~ A broker shall not hold any instrument, equity or thing of value which is not depositable in a real estate trust account. Non-depositable items ~~other than promissory notes~~ shall be held by one of the parties to a transaction or some other party, subject to an escrow agreement prepared by the parties or an attorney.

SECTION 17. REEB 18.11 (2) is repealed.

SECTION 18. REEB 18.12 and Note are repealed.

SECTION 19. REEB 18.13 (1) (intro.) and (a) to (d) are amended to read:

REEB 18.13 (1) CASH JOURNAL. A broker shall maintain a record, called a journal, ~~which shall show~~ showing the chronological sequence in which real estate trust funds are received and disbursed as follows:

(a) For funds received, the journal shall include at least the date, the name of the party ~~who is giving~~ providing the money, and the amount.

(b) For disbursements, the journal shall include at least the date, the payee, the number of the check, share draft or draft, and the amount.

(c) The journal shall identify each transaction by including at least the name of the principal, an identification number or other means of identification ~~which will link~~ linking the journal to the transactions and the ledger described in sub. (2).

(d) The journal shall ~~show~~ include a running balance for each day on which receipts or disbursements are entered.

SECTION 20. REEB 18.13 (2) to (4) are amended to read:

REEB 18.13 (2) LEDGER. A broker or a person designated by the broker shall maintain a record ~~which shows~~ including the receipts and the disbursements as they affect each particular transaction ~~e.g., including~~ including transactions between buyer and seller, landlord and tenant, etc. The ledger entry shall include the names of ~~both~~ all parties to a transaction, the dates and the amounts received and the name of the party ~~giving~~ or parties providing the money if different from the buyer. ~~The ledger entry~~ Ledger entries shall include at least the date, payee, number of the check, share draft or draft and amount when funds are disbursed. The ledger shall ~~show~~ include a running balance and segregate each transaction. The broker shall maintain a separate ledger or separate section of the ledger for each of the various kinds of real estate transactions, ~~e.g., including~~ including sales, rental collections or mortgage and land contract collections.

(3) ACCOUNT RECONCILIATION. The broker or a person designated by the broker shall reconcile the real estate trust account or accounts in writing each month except in the case where there has been no activity during the month. The written reconciliation shall include at least the ending account statement balance, the date and amounts of the deposits in transit, the number of the check, share draft or draft and amount of checks, share drafts or drafts written but not paid by the depository institution as of the ending date shown on the account statement to be reconciled, and the reconciled account statement ending balance.

(4) TRIAL BALANCE. The broker or a person designated by the broker shall prepare or have prepared, in conjunction with sub. (3), a written listing, “trial balance”, of all open items in the real estate trust account. ~~The list must show~~ listing shall include at least the names of ~~the all~~ parties to the transaction and the amount held in trust for the parties at the time corresponding to the account reconciliation. The broker may in lieu of the names of the parties to the transaction substitute the ledger page number or other means of identification from the ledger to label the funds in the trial balance.

SECTION 21. REEB 18.13 (6) (e) is amended to read:

REEB 18.13 (6) (e) All records which are not maintained as written paper records are capable of being immediately converted to written paper records and immediately made available without charge to the department or board for the purposes of ~~department~~ an audit or investigation.

SECTION 22. EFFECTIVE DATE. 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.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Stephen Beers, Board Chairperson
Real Estate Examining Board

DRAFT 1

STATEMENT OF SCOPE

Real Estate Examining Board

Rule No.: Chs. REEB 22 and 26

Relating to: Inactive Real Estate Licenses and Apprenticeships

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The Real Estate Examining Board in reviewing their rules, chs. REEB 11 to 26, and responding to their charge in Executive Order 61, determined that these two chapters be brought to the attention of department staff for future rule-making projects.

Section 452.09 (5), Stats., deals with apprenticeships in the real estate profession. Correspondingly, ch. REEB 22 allows a sponsoring broker to indenture an apprentice under a temporary salesperson permit for a period of one year and such permit is non-renewable. This chapter outlines various steps regarding application, supervision, compensation, contracts and duties. The Board and the department report that only one application has been received in the past 18-month period; therefore, ch. REEB 22, apprentices, is proposed to be repealed.

In addition, s. 452.12 (6), Stats., states that the ability is granted to a licensee, except for a time-share salesperson, to apply for an inactive license, but this ability has sunset as of October 31, 1995. Therefore, ch. REEB 26, inactive licenses, is proposed to be repealed.

Due to the repeal of these two chapters, there may be cross references or code citations in other chapters in this series requiring correction. These corrections in chs. REEB 11 to 26 are proposed to be included in this or subsequent rule-making orders; other corrections may include correcting typographical and formatting errors.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The portion of the Statutes allowing for inactive licensees, s. 452.12 (6), Stats., sunset on October 31, 1995. The portion of the Statues allowing for the application of apprenticeships, s. 452.09 (5), Stats., is used rarely and the process of application, approval and oversight is complicated and inefficient to all parties involved.

By not repealing these two chapters, the rules relating to real estate brokers and salespersons will continue to be out-of-date or overly cumbersome.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.08 (5) (b), Stats.: “ Shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 227.11 (2), Stats.: “Rule-making authority is expressly conferred as follows: (a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 452.07 Stats.: “Rules. (1)The board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice. (1m)The board shall promulgate rules that specify the supervisory duties of brokers under s. [452.12 \(3\)](#). “

Section 452.12 (6), Stats.: Most of this subsection relates to inactive licenses, how inactive licensees may apply for reinstatement and the limitations on practicing real estate while in inactive status; all of this paragraphs either sunset on October 31, 1995 or allowed application prior to November 1, 1990, with a 5-year limit.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to develop the rules is expected to be about 75 hours. This includes coordinating the rule-making process with the Board's meeting schedule, conducting research, drafting and processing the proposed rules through public hearings, legislative review, and adoption. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule:

Licensees

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

An Internet based search of the *Code of Federal Regulations* (CFR) and the *Federal Register* did not find any federal regulations relating to application for inactive or apprenticeship licenses in the real estate industry.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

It is anticipated that there will be no economic impact on small business.

Contact Person: Jean MacCubbin, 608.266.0955

Department Head or Authorized Signature

Date Submitted

File: REEB 22 & 26 Scope draft1