



## STATE OF WISCONSIN

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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**  
**August 22, 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 – June 27, 2013 (5-10)**
- C. Administrative Matters – Discussion and Consideration**
  - 1) Staff Updates
  - 2) Public Agenda Request Form **(11-14)**
  - 3) Metrics
- D. Education and Examination Matters – Discussion and Consideration**
  - 1) AD HOC Committee on Real Estate Education 2010 Recommendations **(15-20)**
- E. Legislative/Administrative Rule Matters – Discussion and Consideration (21-40)**
  - 1) Rules Update
    - a. Rule Drafting chs. REEB 12 & 25 Application & Education
    - b. Scope chs. REEB 15 & 18 Records & Technology
    - c. Scope chs. REEB 22 & 26 Apprentices & Inactive Licenses
  - 2) Public Hearing Draft ch. REEB 16 Forms
  - 3) Public Hearing Draft ch. REEB 18 Trust Accounts
- F. Practice Matters – Discussion and Consideration**
  - 1) Timeshares **(41-42)**
  - 2) Business Entities
    - a. Proposed Changes to Business Entities Form 815 **(43-46)**
    - b. Renewal Language for Business Representatives. – Has Business Entity License Been Renewed **(47-48)**

G. Informational Items

- 1) Reciprocity Update on Indiana
- 2) Real Estate Contractual Forms Advisory Committee Update

H. 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)

I. Public Comments

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

**J. Monitoring – Discussion and Consideration**

- 1) Bobby Anthony **(49-62)**
- 2) Lori R. Love **(63-80)**

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

- 1) Leo C. Fronk 12 REB 031 and Bluegreen Vacations Unlimited, Inc. 12 REB 056 **(81-90)**
- 2) Tara L. McDonald 12 REB 056 **(91-96)**
- 3) Dean J. Dvorak 12 REB 125 **(97-104)**

**L. DLSC Matters – Discussion and Consideration**

- 1) Case Status Report **(105-108)**
- 2) Case Closings
  - a. 12 REB 026 **(109-112)**
  - b. 12 REB 031 **(113-118)**
  - c. 12 REB 072 **(119-124)**
  - d. 12 REB 111 **(125-128)**
  - e. 12 REB 127 **(129-132)**

**M. Deliberation of Items Received After Printing of the Agenda**

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

**N. Consulting with Legal Counsel**

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

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

**P. Board Member Training**

**Q. Case Advisor Training (133-204)**

**ADJOURNMENT**

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**REAL ESTATE EXAMINING BOARD  
MEETING MINUTES  
JUNE 27, 2013**

Present: Stephen Beers; Marie Hetzer; Michael Mulleady; Dennis Pierce; Randal Savaglio;  
Charles Szafir; Tammy Wagner  
Staff: Angela Hellenbrand, Executive Director; Joshua Archiquette, Bureau Assistant;  
and other Department Staff

Stephen Beers, Board Chair, called the meeting to order at 10:01. A quorum of seven (7) members was confirmed.

**ADOPTION OF AGENDA**

**MOTION:** Marie Hetzer moved, seconded by Dennis Pierce, to adopt the agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES**

**MOTION:** Michael Mulleady moved, seconded by Randal Savaglio, to approve the minutes of April 18, 2013 as published. Motion carried unanimously.

**BUSINESS ENTITIES**

**MOTION:** Michael Mulleady moved, seconded by Randal Savaglio, to designate Marie Hetzer and Michael Mulleady to work with DSPS Staff and Wisconsin Realtors Association in regards to business entities. Motion carried unanimously.

## LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

**MOTION:** Michael Mulleady moved, seconded by Tammy Wagner, to approve the permanent Scope Statement on REEB 12 and 25 Wis. Admin. Code and designate the Chair as the Board's representative to approve the Scope for implementation after publication. Motion carried unanimously.

**MOTION:** Marie Hetzer moved, seconded by Dennis Pierce, to approve the permanent Scope Statement on REEB 15 and 18 Wis. Admin. Code and designate the Chair as the Board's representative to approve the Scope for GORC, publication and implementation after publication. Motion carried unanimously.

**MOTION:** Dennis Pierce moved, seconded by Randal Savaglio, that a public hearing for rule changes to REEB 18 Wis. Admin. Code will be held at a future Board meeting. Additional suggestions for REEB 18 Wis. Admin. Code may be submitted for review and approval by the Board Chair for consideration before the public hearing. Motion carried unanimously.

**MOTION:** Randal Savaglio moved, seconded by Tammy Wagner, that a public hearing for rule changes to REEB 16 Wis. Admin. Code will be held at a future Board meeting. Additional suggestions for REEB 16 Wis. Admin. Code may be submitted for review and approval by the Board Chair for consideration before the public hearing. Motion carried unanimously.

**MOTION:** Tammy Wagner moved, seconded by Michael Mulleady, to approve the permanent Scope Statement on REEB 22 and 26 Wis. Admin. Code and designate the Chair as the Board's representative to approve the Scope for GORC, publication and implementation after publication. Motion carried unanimously.

## CLOSED SESSION

**MOTION:** Michael Mulleady moved, seconded by Tammy Wagner, to convene to closed session pursuant to Wisconsin State statutes 19.85(1)(a)(b)(f) and (g) for the purpose of conducting appearances, reviewing monitoring requests, requests for licensure, deliberate on stipulations, administrative warnings, proposed decisions and orders, consulting with Legal Counsel and Division of Legal Services and Compliance case status reports. Stephen Beers read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Michael Mulleady – yes; Randal Savaglio – yes; Stephan Beers – yes; Marie Hetzer – yes; Dennis Pierce – yes; Charles Szafir – yes; and Tammy Wagner – yes. Motion carried unanimously.

The Board Convened into Closed Session at 12:19 p.m.

## RECONVENE TO OPEN SESSION

**MOTION:** Randal Savaglio moved, seconded by Dennis Pierce, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 1:17 p.m.

## MONITORING

**MOTION:** Tammy Wagner moved, seconded by Michael Mulleady, to deny the request to Lakeycia Howard to transfer her Limited Real Estate Sales License to a regular Real Estate Sales License. **Reason for Denial:** non-compliance of Board order. Motion carried unanimously.

**MOTION:** Randal Savaglio moved, seconded by Tammy Wagner, to grant the request to reinstate John F. Redel's broker's license with no limitations. Motion carried.

*Stephen Beers recused himself from deliberation and voting in the matter of John F. Redel. Michael Mulleady acted as Chair in his absence.*

## ADMINISTRATIVE WARNINGS

**MOTION:** Randal Savaglio moved, seconded by Dennis Pierce, to issue an administrative warning in the matter of case number 12 REB 110 C.S.. Motion carried unanimously.

**MOTION:** Randal Savaglio moved, seconded by Dennis Pierce, to issue an administrative warning in the matter of case number 12 REB 110 B.W.. Motion carried unanimously.

## STIPULATION, FINAL DECISIONS AND ORDERS BY DLSC

**MOTION:** Michael Mulleady moved, seconded by Tammy Wagner, to adopt the stipulation and issue the Final Decision and Order in case number 12 REB 084 – Adolf E. Pavelec and Pavelec Reality. Motion carried unanimously.

**MOTION:** Michael Mulleady moved, seconded by Tammy Wagner, to adopt the stipulation and issue the Final Decision and Order in case number 12 REB 104 – Shorewest Realtors, Inc.. Motion carried unanimously.

**MOTION:** Michael Mulleady moved, seconded by Tammy Wagner, to adopt the stipulation and issue the Final Decision and Order in case number 12 REB 124 – Scott B. Salan and Udoni & Salan Realty Group, LLC. Motion carried unanimously.

**MOTION:** Michael Mulleady moved, seconded by Tammy Wagner, to adopt the stipulation and issue the Final Decision and Order in case number 12 REB 126 – Michael R. Brenizer and Brenizer Realtors R, Inc.. Motion carried unanimously.

## CASE CLOSINGS

**MOTION:** Tammy Wagner moved, seconded by Randal Savaglio, to close case # 11 REB 118(S.W.S) for Prosecutorial Discretion (P1). Motion carried.

**MOTION:** Tammy Wagner moved, seconded by Randal Savaglio, to close case # 11 REB 118(L.H.H.) for Prosecutorial Discretion (P3). Motion carried.

**MOTION:** Tammy Wagner moved, seconded by Randal Savaglio, to close case # 11 REB 118(K.R.E.) for No Violation (NV). Motion carried.

**MOTION:** Tammy Wagner moved, seconded by Randal Savaglio, to close case # 11 REB 118(C.J.D.) for Prosecutorial Discretion (P1). Motion carried.

*Stephen Beers recused himself from deliberation and voting in the matter of 11 REB 118.  
Michael Mulleady acted as Chair in his absence.*

**MOTION:** Randal Savaglio moved, seconded by Michael Mulleady, to close case # 12 REB 027 for Prosecutorial Discretion (P1) and refer to DATCP. Motion carried unanimously.

**MOTION:** Randal Savaglio moved, seconded by Marie Hetzer, to close case # 12 REB 056(D.A.B. and C.M.S.) for Prosecutorial Discretion (P1). Motion carried unanimously.

**MOTION:** Randal Savaglio moved, seconded by Tammy Wagner, to close case # 12 REB 057 for Prosecutorial Discretion (P1) and refer to DATCP. Motion carried unanimously.

**MOTION:** Tammy Wagner moved, seconded by Michael Mulleady, to close case # 12 REB 084(T.C.) for No Violation (NV). Motion carried unanimously.

**MOTION:** Tammy Wagner moved, seconded by Dennis Pierce, to close case # 12 REB 089 for No Violation (NV). Motion carried unanimously.

**MOTION:** Michael Mulleady moved, seconded by Tammy Wagner, to close case # 12 REB 104(S.R. and J.A.H) for No Violation (NV). Motion carried unanimously.

**MOTION:** Randal Savaglio moved, seconded by Dennis Pierce, to close case # 12 REB 126 (A.P.B) for No Violation (NV). Motion carried unanimously.

**MOTION:** Tammy Wagner moved, seconded by Randal, to close case # 12 REB 132 for No Violation (NV). Motion carried unanimously.

**MOTION:** Tammy Wagner moved, seconded by Michael Mulleady, to close case # 13 REB 021 for Compliance Gained (P2). Motion carried unanimously.

### **ADJOURNMENT**

**MOTION:** Randal Savaglio moved, seconded by Dennis Pierce, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:27 p.m.

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  <b>Joshua Archiquette on behalf of Angela Hellenbrand</b>		<b>2) Date When Request Submitted:</b>  <b>8/7/13</b>  <small>Items will be considered late if submitted after 4:30 p.m. and less than 8 work days before the meeting.</small>	
<b>3) Name of Board, Committee, Council, Sections:</b>  <b>Real Estate Examining Board</b>			
<b>4) Meeting Date:</b>  <b>8/22/2013</b>	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> <b>Administrative Matters – Public Agenda Request Form</b>	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled?</b>  <input type="checkbox"/> Yes ( <a href="#">Fill out Board Appearance Request</a> ) <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>  <b>Demonstration of the DSPPS public agenda request form</b>			
<b>11) Authorization</b>			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)			
Date			
<b>Directions for including supporting documents:</b> 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.			

# BOARD AGENDA ITEM

## Test Instructions

Go to: <http://dpsuat.wi.gov/public-board-agenda-item>

### DSPS PUBLIC BOARD AGENDA ITEM

Before submitting your request, please consult your [Profession Specific Codebook](#) which will contain the answer to most questions. Please note, neither the Department nor the Boards can respond to the following issues: potential or ongoing litigation, billing, business advice, employer / employee disputes, legal opinion and questions involving professional judgement or discretion. Furthermore, you may be asked to appear before the Board to address your requested agenda item.

#### FILL OUT THIS FORM

\* Board:

\* First Name:

\* Last Name:

\* Address Line 1:

Address Line 2:

\* City:

\* State:

\* Zip:

Phone Number:

\* Email:

\* Subject:

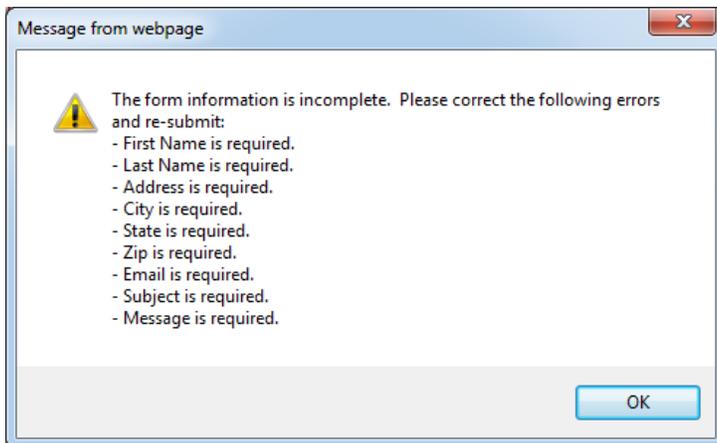
\* Message:

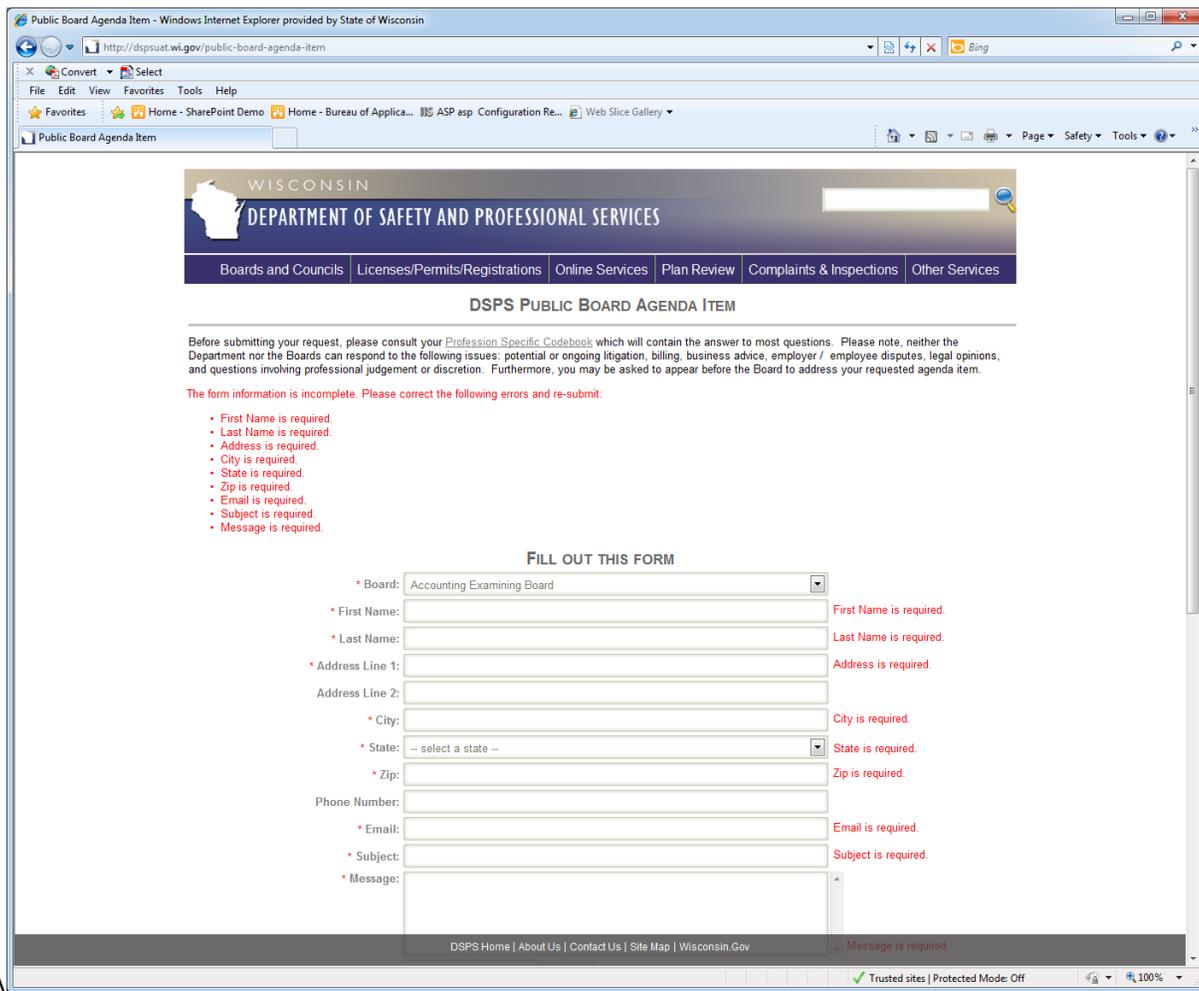
File attachments:



Type the code from the image

1. Select a Board
2. Click on Send. A pop-up dialog box will appear as the required information has not been entered. Click OK. You will note that also on the screen in red it has the fields that were not entered.





3. Fill in the rest of the information.
4. Click on SELECT in the FILE ATTACHMENTS

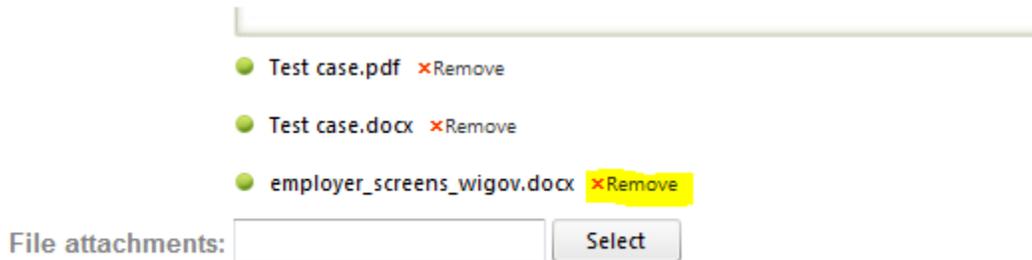
File attachments:

You can only choose one at a time, but you may click on select again to choose another file. Choose at least three files to upload. The image below is what you will see after choosing the files

- Test case.pdf
- Test case.docx
- employer\_screens\_wigov.docx

File attachments:

5. Click on Remove next to one of the files you chose.



By doing that, that specific file will not be attached to the e-mail.

6. Enter a bad formatted email in the email field.



You will note that to the right of the email it states that the Email must be valid.

7. Enter all the information required on the form, put in a correctly formatted email, do not enter the Captcha Phrase. Click on SEND. See results below. You will note that all information in the form is still filled out as well as your attachments still exist within the form.



Type the code from the image

8. Enter the captcha phrase and click on send.
9. An email will go to the appropriate email group based on the Board you chose; the email address that was entered in the form will also receive the email.
10. You are done.

**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: 15 July 2013  Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections: Real Estate Examining Board			
4) Meeting Date: 22 August 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Education and Exam Matters - AD HOC Committee on Real Estate Education 2010 Recommendations	
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:  Steve Beers requested copies for the board members of the recommendations made by the Education Ad Hoc committee for additional education requirements for the Salesman and Brokers licenses. This was probably done about 2+ years ago.			
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.			

**AD HOC COMMITTEE ON REAL ESTATE EDUCATION  
MEETING MINUTES  
JANUARY 21, 2010  
RESCHEDULED FROM DECEMBER 9, 2009**

**PRESENT:** Steven Beers (arrived at 8:15), Anne Blood, Lawrence Sager and Rita McCain-Walker (by Telephone), Cori Lamont (arrived at 8:30)

**STAFF:** Yolanda McGowan, Bureau Director, Michelle Solem, Bureau Assistant and Secretary Jackson

**CALL TO ORDER**

Yolanda McGowan, Bureau Director, called the meeting to order at 8:10 a.m. A quorum of three (3) was confirmed.

**APPROVAL OF AGENDA**

**MOTION:** Larry Sager moved, seconded by Anne Blood, to adopt the Agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES**

**MOTION:** Larry Sager moved, seconded by Anne Blood, to approve the Minutes of November 17, 2009, as published. Motion carried unanimously.

**ADMINISTRATIVE REPORT**

Yolanda McGowan updated the committee on recent staffing changes and indicated that the Department is still in the process of completing the hiring process to create a fully staffed division.

Secretary Jackson spoke to the committee noting this to be their last meeting. The Committee provided Secretary Jackson with a brief report of the progress that the Committee has made. Secretary Jackson raised concern about the reasons for suggesting post-license training, noting that the Department is a consumer protection. Secretary Jackson asked for a listing of the Committee's recommendations for submission to the Real Estate Examining Board. Secretary Jackson asked that the formal recommendations include a great deal of detail related to the 24 hour course and exam. She also requested information related to the model that was used to develop this scenario. Secretary Jackson thanked the Committee for their service.

**DESIGNATIONS**

There were categories included in the agenda. The committee discussed the use of designations, testing the category list included in the agenda materials.

## RECIPROCITY

The Committee agreed that the 24 hour live education requirement in addition to the current education requirements, would also be required for reciprocal licensees.

**MOTION:** Anne Blood moved, seconded by Larry Sager, to recommend that for reciprocal salesperson requirements, the 24 hour education requirement be added to the current requirements. Motion carried unanimously.

The Committee discussed requirements for reciprocal broker licensure in Wisconsin. It was suggested that out of state brokers receive credit for home state transactions up to 30% of the required transaction points. All else would remain the same. The Committee also discussed removing the 2 year salesperson requirement if the applicant has maintained a broker's license for 2 of the previous 4 years in the applicant's home state. In addition, verifiable designation courses would also be allowed. If they have not held a Broker's license in their home state for 2 of the previous 4 years, they would apply as a salesperson and would be required to follow the Wisconsin track to obtain a Wisconsin Broker's license.

**MOTION:** Anne Blood moved, seconded by Larry Sager, to recommend that applicants for reciprocal broker licensure who have not held a broker's license in another jurisdiction for 2 of the 4 years preceding application, meet the following requirements to obtain a Wisconsin Brokers License:

- Meet current reciprocal Wisconsin Salesperson license requirements and
- Meet current broker's license requirements

Motion carried unanimously.

**MOTION:** Steven Beers moved, seconded by Larry Sager, to recommend that applicants for reciprocal broker licensure, who have held a broker's license in another jurisdiction for 2 of the 4 years preceding application, be able to waive all Wisconsin salesperson's license requirements, except payment of all applicable fees; and a Wisconsin broker's license upon meeting all current Broker's licensing requirements. The salesperson education licensing requirements and the 2 year experience requirement will be waived for those applicants. Said applicants will be able to apply a designated % of transactions in their home jurisdiction to the Wisconsin transaction requirements. Motion carried unanimously.

**MOTION:** Steven Beers moved, seconded by Larry Sager, to recommend that if an applicant for reciprocal broker licensure has held a broker's license in another jurisdiction for 2 of the 4 years preceding application and has paid the applicable fees, the Board waives all of the other Wisconsin salesperson's license requirements; and a Wisconsin broker's license shall be issued upon the applicant meeting all current Broker's licensing requirements. The 2 year portion of the experience requirement shall be waived but the applicant will still be required to complete the transactional

requirement and will be able to apply a designated percentage of the transactions from their home jurisdiction to the Wisconsin transaction requirements. Motion carried unanimously.

### **DISCUSS ISSUES RELATING TO EDUCATION AND EXPERIENCE REQUIREMENTS FOR BROKER LICENSURE**

After much discussion the committee developed the following point system:

#### Designations –maximum 10

#### Completed Closed Transactions – minimum 40 points

- Residential
  - 4 points each
- Commercial
  - 8 points each
- Property Management
  - Managed Property
    - .25 points per month per unit
  - Managed Unit
    - 1 point per month per property management contract
- Time Share/Fractional Sales
  - .25 points per unit sold

#### Experience – maximum 10

- 5 points per year

**MOTION:** Anne Blood moved, seconded by Larry Sager, to accept the point divisions as listed on page 3 of the November 17, 2009, Minutes. Motion carried unanimously.

**MOTION:** Steven Beers moved, seconded by Rita McCain-Walker, to recommend a maximum of 4 points for each residential sales transaction, a maximum of 8 points per commercial sales transaction, .25 points per month per unit of a managed property, and a maximum of 1 point per month per property management contract. Motion carried unanimously.

**MOTION:** Larry Sager moved, seconded by Cori Lamont, to require a minimum of 60 points to obtain a broker's license within the following categories.  
A minimum of 40 points for completed transactions  
A maximum of 10 points for specified education.

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Jean MacCubbin, Program Manager		<b>2) Date When Request Submitted:</b>  08092013  Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>								
<b>3) Name of Board, Committee, Council, Sections:</b>  Real Estate Examining Board										
<b>4) Meeting Date:</b>  20130822	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> <b>LEG_ADMIN MATTERS</b> 1. Rules Update— Rule Drafting chs. REEB 12 & 25 Application & Education Scope chs. REEB 15 & 18 Records and Technology and Scope chs. REEB 22 & 26 Apprentices & Inactive Licenses 2. Public Hearing Draft ch. REEB 16 Forms 3. Public Hearing Draft ch. REEB 18 Trust Accounts								
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled?</b>  <input type="checkbox"/> Yes ( <u>Fill out Board Appearance Request</u> ) <input type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>								
<b>10) Describe the issue and action that should be addressed:</b>  1. Rules Update— Rule drafting REEB 12 & 25; Scopes to be Published 8/15, Implementation (rule drafting) post 8/25: REEB 22 & 26; REEB 15 & 18  2. Discuss and Consider Approving Public Hearing Draft ch. REEB 16 Forms, approve and establish public hearing date for 10/31/2013  3. Discuss and Consider Approving Public Hearing Draft ch. REEB 18 Trust Accounts, approve and public establish hearing date for 10/31/2013										
<table style="width: 100%; border: none;"> <tr> <td style="width: 60%; border: none;"> <b>11)</b>  <i>Jean MacCubbin</i>                      Signature of person making this request                 </td> <td style="width: 40%; border: none; text-align: center;">                     Authorization                       8/9/2013                      Date                 </td> </tr> <tr> <td style="border: none;">                     Supervisor (if required)                 </td> <td style="border: none; text-align: center;">                     Date                 </td> </tr> <tr> <td colspan="2" style="border: none;">                     Executive Director signature (indicates approval to add post agenda deadline item to agenda)                 </td> <td style="border: none; text-align: center;">                     Date                 </td> </tr> </table>				<b>11)</b> <i>Jean MacCubbin</i> Signature of person making this request	Authorization  8/9/2013 Date	Supervisor (if required)	Date	Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date
<b>11)</b> <i>Jean MacCubbin</i> Signature of person making this request	Authorization  8/9/2013 Date									
Supervisor (if required)	Date									
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date								
<b>Directions for including supporting documents:</b> 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.										

STATE OF WISCONSIN  
REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF RULE-MAKING :  
PROCEEDINGS BEFORE THE :  
REAL ESTATE EXAMINING BOARD : NOTICE OF PUBLIC HEARING  
: :  
: :  
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NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Real Estate Examining Board in ss. 15.405 (11), 227.11 (2), 452.07 (1m), 452.05 (1) (b) and 452.07 (1m), Stats., and interpreting ss. 452.07 (1m), 452.05 (1) (b) and 452.07, Stats., the Real Estate Examining Board will hold a public hearing at the time and place indicated below to consider 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 16.05 (1) and (2), REEB 16.06 (1) (intro.), (a), (b), (e) and (f), REEB 16.03 (3) and Note, REEB 16.06 (4) (intro.) and (a) to (b), 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), and (4m), REEB 16.03 (3) and Note, relating to use of approved forms and legal advice.

**Hearing Date, Time and Location**

**Date:** October 31, 2013  
**Time:** 10:00 a.m.  
**Location:** 1400 East Washington Avenue  
Room 121A  
Madison, Wisconsin  
\* Enter through 55 North Dickenson Street

**APPEARANCES AT THE HEARING:**

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708-8935. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Safety and Professional Services.

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## 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 3: These proposed changes clarify **and create** various terms used in the industry not previously defined in this rule or in chs. REEB 11 to 26. **The terms relate primarily to types of agreements, contracts and listings.**

SECTION 4. This section is updated to reflect a new definition.

**SECTIONS 5 to 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.

SECTION 9. Minor changes are proposed for clarity.

SECTIONS 10 to 14: These proposed changes relate to the authority provided to the board in s. 452.05 (1) (b), Stats., regarding approving forms **as well as the conditions of use and amending such forms.**

**SECTION 15. The effective date is stated as it will be timely for training and examination purposes.**

**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 use 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 statutes 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](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&doccat=Real+Estate&doccata=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&doccat=Real+Estate&doccata=LicDiv&Search=Search>. No information was found regarding licensees providing legal advice.

**Summary of factual data and analytical methodologies:**

The purpose of the proposed rule was to update and clarify rule provisions; no specific data or analytical methodology was used.

**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 were 6,139 active licensed real estate salespersons and 10,373 active licensed real estate brokers. There were 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.

**Initial Regulatory Flexibility Analysis or Summary:**

This rule will not have a significant adverse effect on small business.

**Environmental Assessment/Statement:** [if required]

N/A

**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](mailto: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 53708-8935; telephone (608) 266-0955; email at [Jean.MacCubbin@wisconsin.gov](mailto: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 Jean MacCubbin, Program Manager, 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](mailto:Jean.MacCubbin@wisconsin.gov). Comments must be received on or before the public hearing to be held October 31, 2013 to be included in the record of rule-making proceedings.

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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 (1) is renumbered REEB 16.02 (1e).

SECTION 3. REEB 16.02 (1) and Note, (1m), (2e), (2m), (2r), (3m) and (4m) are created to read:

**REEB 16.02 (1)** "Agency agreement" has the meaning given in s. 452.01 (1m), Stats.

**Note:** Section 452.01 (1m) reads: "Agency agreement" means a written agreement between a broker and a client under s. 452.135 (1).

**(1m)** “Buyer agency/tenant representation agreements” means a written agency agreement authorizing a broker to provide brokerage services to the client for the procurement of an interest in property and providing the terms whereby the broker may earn a commission.

**(2e)** “Exclusive right to locate buyer agency/tenant representation agreement” means a written buyer agency/tenant representation agreement giving the broker the exclusive right to locate an interest in property for the client.

**(2g)** “Exclusive right to locate and negotiate buyer agency/tenant representation agreement” means a written buyer agency/tenant representation agreement giving the broker the exclusive right to locate an interest in property and to negotiate the procurement of an interest in property for the client.

**(2m)** “Exclusive right to negotiate buyer agency/tenant representation agreement” means a written buyer agency/tenant representation providing broker the exclusive right to negotiate the procurement of an interest in a property for the client.

**(3m)** “Listing contract” means a written agency agreement authorizing a broker to provide brokerage services to the client for the sale or rental of property and providing the terms whereby the broker may earn a commission.

**(4m)** “One-party listing” means a written listing contract containing all of the elements of an exclusive right to sell listing, except that listing broker is entitled to a commission only if the property is sold by the owner, by the broker or by anyone else to a specific party or parties identified in the written listing contract.

SECTION 4. REEB 16.02 (3) is amended to read:

**REEB 16.02 (3)** “Exclusive right to sell listing” means a written listing agreement ~~appointing contract giving~~ a broker the exclusive agent for the sale of property for a specific period of time, and which entitles the listing broker to a commission if the property is sold by the owner, by the broker or by anyone else.

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 and approved by the board pursuant to s. 452.05 (1) (b), Stats., the board approves 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) is amended to read:

**REEB 16.03 (2)** In addition to forms prepared and approved by the board pursuant to s. 452.05 (1) (b), Stats., the board grants approval of the forms in sub. (1) (c), (d) ~~and~~, (e) and sub. (3) for use by salespersons.

SECTION 7. REEB 16.03 (2) Note is repealed.

SECTION 8. REEB 16.03 (3) and Note 1 and Note 2 are created to read:

**REEB 16.03 (3) Contractual forms for use in real estate practice.** The following board-approved contractual forms shall be used by brokers:

- (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 Offer To Purchase-Business With Real Estate.
- (n) WB-17 Offer To Purchase-Business Without Real Estate.
- (o) WB-24 Option To Purchase.
- (p) WB-25 Bill Of Sale.
- (q) WB-26 Time Share Contract (Sale By Developer).
- (r) WB-27 Time Share Contract (Resale By Non-Developer).
- (s) WB-35 Simultaneous Exchange Agreement.
- (t) WB-36 Buyer Agency/Tenant Representation Agreement.
- (u) WB-37 Residential Listing Contract - Exclusive Right To Rent.
- (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 & Mutual Release.
- (aa) WB-46 Multiple Counter-Proposal.
- (bb) WB-47 Amendment To Buyer Agency/Tenant Representation Agreement.

**Note 1:** 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>.

**Note 2:** These forms, form numbers, or form titles are subject to change; for the most current listing refer to the department's webpage: <http://dsps.wi.gov/Licenses-Permits/RealEstateBroker>.

SECTION 9. 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 10. REEB 16.06 (1) (intro.), (1) (a), (b), (e) and (f), are amended to read:

**REEB 16.06 How to use approved forms. (1)** All of the following apply to a licensee who reproduces or arranges for printing a contractual form prepared 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 11. REEB 16.06 (4) (intro.), and (a) to (b) 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.~~

SECTION 12. 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 provisions of an approved form only if 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~~ blank lines 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 13. REEB 16.06 (6) and (7) are amended to read:

**REEB 16.06 (6)** A licensee may alter an approved ~~exclusive right to sell~~ exclusive right to sell listing contract to create an exclusive agency listing ~~or, an open listing or an open listing or a one-party listing.~~

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

SECTION 14. REEB 16.06 (8) is created to read:

**REEB 16.06 (8)** A licensee may alter an approved buyer agency/tenant representation agreement in order to create an exclusive right to negotiate, exclusive right to locate, or an exclusive right to locate and negotiate buyer agency/tenant representation agreement.

SECTION 15. EFFECTIVE DATE. The rules adopted in this order shall take effect on **July 1, 2014** following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)

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COPIES OF RULE

Copies of this proposed rule are available upon request to Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935, by email at [Jean.MacCubbin@wisconsin.gov](mailto:Jean.MacCubbin@wisconsin.gov) or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>.

*File: 165- REEB 16 Public hearing Notice FINAL 08222013*

STATE OF WISCONSIN  
REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF RULE-MAKING :  
PROCEEDINGS BEFORE THE :  
REAL ESTATE EXAMINING BOARD : NOTICE OF PUBLIC HEARING  
: :  
: :  
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NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Real Estate Examining Board in ss. 15.405 (11), 227.11 (2), 452.07 (1m) and 452.07, Stats., and interpreting ss. 452.07 (1m), and 452.07, Stats., the (Board or Department) will hold a public hearing at the time and place indicated below to consider an order to repeal REEB 18.11 (2) and REEB 18.12 and Note; to renumber and amend REEB 18.11 (1) as REEB 18.11 (intro.); to amend REEB 18.01 (title), REEB 18.02 (5) (intro.) and (a) and (b), REEB 18.02 (6) (intro.) and (a) to (g), REEB 18.031 (1) (intro.) and (a) to (d), REEB 18.033 (title) and (2), REEB 18.035 (2), REEB 18.037 (intro.) and Note, 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 18.02 (1), REEB 18.10; and to create, REEB 18.02 (intro.) (Note), REEB 18.02 (1e) and Note, REEB 18.02 (4) and Note, REEB 18.034 (1) (title) and REEB 18.10, relating to real estate trust accounts.

**Hearing Date, Time and Location**

**Date:** October 31, 2013  
**Time:** 10:00 a.m.  
**Location:** 1400 East Washington Avenue\*  
Room 121A  
Madison, Wisconsin

\*Enter through 55 North Dickenson Street

**APPEARANCES AT THE HEARING:**

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708-8935. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Safety and Professional Services.

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## 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 6: The proposed rules add or update definitions commonly used in the real estate industry. When applicable, the statutory definition is cited. In addition the proposed rules update formatting now in use since the last chapter revision and use terms consistent with those used in ch. 452, Stats.

SECTIONS 7, 8, 9, 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 10 and 11: The proposed rules move existing text to a more appropriate subsection and provide information to access forms via the department webpage.

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

SECTION 14: The proposed rules recreate this section to clarify which text relates to depositing funds, and which relates to other funds.

SECTIONS 15, 16, and 17: 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 antiquated to the real estate industry—promissory notes and branch offices.

SECTIONS 18, 19 and 20: The proposed rules relate to recordkeeping, specifically ledgers, journals and trial balances. Clarification of terms and designating responsibilities are also proposed.

SECTION 21. This section creates an effective date of July 1, 2014, which is timely for upcoming training and examinations.

**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 statutes 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.

**Initial Regulatory Flexibility Analysis or Summary:**

This rule will not have a significant adverse effect on “small business.

**Environmental Assessment/Statement:** [if required]

N/A

**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 53708-8935; telephone (608) 266-0955; email at [Jean.MacCubbin@wisconsin.gov](mailto: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 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, WI 53708-8935, or by email to Jean.MacCubbin@wisconsin.gov. Comments must be received at or before the public hearing to be held on October 31, 2013 to be included in the record of rule-making proceedings.

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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 (intro.) (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) is repealed and recreated to read:

**REEB 18.01 (1)** “Business day” means a calendar day in which a depository institution is open and excluding Sundays and any legal holiday observed by U.S. postal service whereby registered mail is neither received or delivered.

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

**REEB 18.02 (1e)** “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 5. 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 6. 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~~ funds received in connection with offers to purchase, options and exchanges, even if the broker, salesperson or time-share salesperson receives the downpayments or ~~monies~~ funds 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 7. 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 ~~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 8. REEB 18.033 (title), 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.**

**(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 9. 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 10. 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 11. 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://dps.wi.gov/Licenses-Permits/RealEstateBroker>.

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 18.09 (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 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 14. REEB 18.10 is repealed and recreated to read:

**REEB 18.10 Commingling 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 15. 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 16. REEB 18.11 (2) is repealed.

SECTION 17. REEB 18.12 and Note are repealed.

SECTION 18. 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 19. REEB 18.13 (2) to (4) are amended to read:

**REEB 18.13 (2) LEDGER.** A 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~~ 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 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 20. 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 21. EFFECTIVE DATE. The rules adopted in this order shall take effect on **July 1, 2014** following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)

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COPIES OF RULE

Copies of this proposed rule are available upon request to Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, by email at [Jean.MacCubbin@wisconsin.gov](mailto:Jean.MacCubbin@wisconsin.gov) or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>.



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# Wisconsin Department of Safety and Professional Services

Mail To: P.O. Box 8935  
Madison, WI 53708-8935

FAX #: (608) 261-7083  
Phone #: (608) 266-2112

1400 E. Washington Avenue  
Madison, WI 53703  
E-Mail: dsps@wi.gov  
Website: http://dsps.wi.gov

## DIVISION OF PROFESSIONAL CREDENTIAL PROCESSING

### APPLICATION FOR REAL ESTATE BUSINESS ENTITY LICENSE

Attach Form #814 if your business is required to maintain a trust account per ch. REEB 18, WI Adm. Code.  
Attach Form #813 if your business is located outside Wisconsin.

#### CHECK TYPE OF BUSINESS ENTITY:

- |   |  |  |                                      |
|---|--|--|--------------------------------------|
| <input type="checkbox"/> Association    | <input type="checkbox"/> Corporation   | <input type="checkbox"/> Limited Liability Company     | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Business Trust | <input type="checkbox"/> Joint Venture | <input type="checkbox"/> Limited Liability Partnership | <input type="checkbox"/> Syndicate   |

#### PRINT OR TYPE NAME AND ADDRESS OF BUSINESS ENTITY:

\_\_\_\_\_

Business Address (Number, Street)

City State Zip Code

#### ENTER TRADE NAME, IF ANY:

ENTER DAYTIME TELEPHONE  
NUMBER OF MAIN OFFICE  
(\_\_\_\_) \_\_\_\_\_

**NOTE:** Most types of business entities (including those formed under the laws of another state or country) must file documents with the Wisconsin Department of Financial Institutions. Contact that office at 608-261-7577 or at [www.wdfi.org/corporations/](http://www.wdfi.org/corporations/) for more information and **check one** of the statements below:

- The business entity identified above is required by law to file documents with the Department of Financial Institutions in order to engage in business in Wisconsin and I certify that the documents have been filed, as required, and that the business entity has met current legal requirements to engage in business in Wisconsin.
- The business entity identified above has not filed documents, as described above, with another Wisconsin agency, because the business entity is not required to do so.

**APPLICATION FEE:** Make check payable to Department of Safety and Professional Services and attach to this application.

- \$ 75.00 Initial License  
 \$ 107.00 Reinstatement

#### For Receipting Use Only

For Office Use Only	
License #	Date Granted

# Wisconsin Department of Safety and Professional Services

## BUSINESS REPRESENTATIVES OF THE BUSINESS ENTITY

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

(Use a separate sheet if necessary)

## SUPERVISING BROKER OF THE BUSINESS ENTITY.

Name and Address of Licensed Broker  
Responsible for this business entity:

Title: \_\_\_\_\_

Occupation Last 2 Years: \_\_\_\_\_

Wisconsin License # \_\_\_\_\_

### **STATEMENT OF ARREST OR CONVICTION: MARK AN X IN THE APPROPRIATE BOX.**

If you answer **YES** to any questions, give all details on a separate sheet.

- |   | <u>YES</u>               | <u>NO</u>                |
|---|--------------------------|--------------------------|
| A. Has the business entity or any of its business representatives ever been convicted of a misdemeanor or a felony, or operating while intoxicated (OWI), in this or any other state, <b>OR</b> are criminal charges or OWI charges currently pending? <u>If YES, complete and attach Form #2252.</u>   | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Has the business entity or any of its business representatives ever surrendered, resigned, cancelled or been denied a professional license or other credential in Wisconsin or any other jurisdiction? <u>If YES, give details on an attached sheet, including the name of the profession and the agency.</u>  | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Has any licensing or other credentialing agency ever taken any disciplinary action against the business entity or any of its business representatives, including but not limited to, any warning, reprimand, suspension, probation, limitation or revocation? <u>If YES, attach a sheet providing details about the action, including the name of the credentialing agency and date of action.</u> | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Is disciplinary action pending against the business entity or any of its business representatives in any jurisdiction? <u>If YES, attach a sheet providing details about pending action, including the name of the agency and status of action.</u>  | <input type="checkbox"/> | <input type="checkbox"/> |
| E. Have any suits or claims ever been filed against the business entity as a result of professional services? <u>If YES, submit a copy of the claim or suit and a copy of the final settlement or disposition.</u>  | <input type="checkbox"/> | <input type="checkbox"/> |
| F. Does the business entity currently hold, or has held in the past, any credential (license) issued by the Department of Safety and Professional Services or any of the Boards? <u>If YES, what type of credential?</u>  | <input type="checkbox"/> | <input type="checkbox"/> |

And if in another name, what name? \_\_\_\_\_

### **Affidavit must be signed by a business representative**

*I hereby affirm that the answers set forth are true and correct to the best of our knowledge and belief and understand that if we are issued a license, failure to comply with the license law or rules and regulations of the Wisconsin Department of Safety and Professional Services may be cause for disciplinary action against the business entity or any and all business representatives.*

\_\_\_\_\_  
Signature of Business Representative

\_\_\_\_\_  
Date



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