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**REAL ESTATE EXAMINING BOARD**  
**Room N208, 4822 Madison Yards Way, 2<sup>nd</sup> Floor, Madison**  
**Contact: Christian Albouras (608) 266-2112**  
**October 24, 2019**

*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 record of the actions of the Board.*

**AGENDA**

**10:00 A.M.**

**OPEN SESSION – CALL TO ORDER – ROLL CALL**

**A. Adoption of Agenda (1-3)**

**B. Approval of Minutes of August 22, 2019 (4-8)**

C. Introductions, Announcements and Recognition

**D. Administrative Matters**

- 1) Department, Staff and Board Updates
- 2) Board Members – Term Expiration Dates

**E. 10:00 A.M. PUBLIC HEARING: Clearinghouse Rule 19-128 Relating to Obsolete References to Rental Unit Energy Efficiency Standard in Curriculum (9-16)**

- 1) Review and Respond to Public Hearing Comments and Clearinghouse Report

F. Legislative and Policy Matters – Discussion and Consideration

- 1) Legislation and Pending or Possible Rulemaking Projects

**G. Administrative Rules Matters – Discussion and Consideration (17-22)**

- 1) REEB 24 Relating to Conduct and Ethical Practices
- 2) Pending or Possible Rulemaking Projects

H. Real Estate Contractual Forms Advisory Council Update – Discussion and Consideration

I. Real Estate Curriculum and Examination Council Update – Discussion and Consideration

J. Discussion and Consideration of Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Administrative Matters
- 3) Election of Officers
- 4) Appointment of Liaisons and Alternates
- 5) Delegation of Authorities

- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Practice Matters
- 9) Legislative and Administrative Rule Matters
- 10) Liaison Reports
- 11) Board Liaison Training and Appointment of Mentors
- 12) Informational Items
- 13) Division of Legal Services and Compliance (DLSC) Matters
- 14) Presentations of Petitions for Summary Suspension
- 15) Petitions for Designation of Hearing Examiner
- 16) Presentation of Stipulations, Final Decisions and Orders
- 17) Presentation of Proposed Final Decisions and Orders
- 18) Presentation of Interim Orders
- 19) Petitions for Re-Hearing
- 20) Petitions for Assessments
- 21) Petitions to Vacate Orders
- 22) Requests for Disciplinary Proceeding Presentations
- 23) Motions
- 24) Petitions
- 25) Appearances from Requests Received or Renewed
- 26) Speaking Engagements, Travel, or Public Relation Requests, and Reports

#### K. Public Comments

**CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), 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.).**

#### L. Deliberation on Department of Legal Services and Compliance (DLSC) Matters

- 1) **Administrative Warnings**
  - a. 19 REB 040 – L.A. & F.F.P.W. **(23-24)**
  - b. 19 REB 051 – E.M.L. & E.L.R. **(25-26)**
- 2) **Case Closing(s)**
  - a. 17 REB 057 – E.M.M., K.J.H., A.L.H., & P.R.G. **(27-30)**
  - b. 18 REB 010 – J.L.F. **(31-33)**
  - c. 18 REB 066 – J.P.H., S.S., & S.R. **(34-38)**
  - d. 18 REB 098 – M.J.C. & T.F.R. **(39-42)**
- 3) **Monitoring Matters (43-44)**
  - a. Francoise Cain – Requesting Termination of Suspension **(45-76)**
  - b. LaKeyca Howard – Requesting Full Licensure **(77-91)**
  - c. Marcus Mallette – Requesting Full Licensure **(92-106)**
  - d. Shawn Nash – Requesting Full Licensure **(107-125)**
  - e. Travis Schinke – Compliance Review **(126-144)**
  - f. Paula Wegner – Requesting Full Licensure **(145-166)**

#### M. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters

- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) 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. Open Session Items Noticed Above Not Completed in the Initial Open Session

**ADJOURNMENT**

**NEXT MEETING DATE: DECEMBER 12, 2019**

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 MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED  
 WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**REAL ESTATE EXAMINING BOARD  
MEETING MINUTES  
AUGUST 22, 2019**

**PRESENT:** Robert Larson, Richard Marino, Dennis Pierce, Thomas Richie, Robert Webster (*via Skype*)

**EXCUSED:** Jerry Lyons

**STAFF:** Christian Albouras, Executive Director; Sharon Henes, Administrative Rules Coordinator; Megan Glaeser, Bureau Assistant; and Other Department Staff

**CALL TO ORDER**

Thomas Richie, Chairperson, called the meeting to order at 10:05 a.m. A quorum of five (5) members was confirmed.

**ADOPTION OF AGENDA**

**Amendments to the Agenda:**

- Revisions to the WB-11 – Residential Offer to Purchase” **ADD:**
  - Additional Materials
- Closed Session: Under item “J. Deliberation on DLSC Matters, 2. Case Closings” **ADD:**
  - 17 REB 034 – L.L.M., G.M.L.B.I.
  - 17 REB 090 – L.L.M., G.M.L.B.I.
- Closed Session: Under item “J. Deliberation on DLSC Matters, 3. Proposed Stipulations, Final Decisions and Orders” **ADD:**
  - 17 REB 034 and 17 REB 090 – Christopher H. Murphy

**MOTION:** Dennis Pierce moved, seconded by Richard Marino, to adopt the Agenda as amended. Motion carried unanimously.

**APPROVAL OF THE MINUTES OF JUNE 13, 2019**

**Amendments to the Minutes:**

**MOTION:** Dennis Pierce moved, seconded by Robert Larson, to approve the Minutes of June 13, 2019 as published. Motion carried unanimously.

**REAL ESTATE CONTRACTUAL FORMS ADVISORY COUNCIL UPDATE**

**Review of Proposed Revisions to the WB-11 Residential Offer to Purchase**

**MOTION:** Robert Webster moved, seconded by Robert Larson, to approve the WB-11 Residential Offer to Purchase forms as presented on pages 327-336 of the 8/22/2019 meeting agenda materials with amendments, and to designate the Chairperson to approve the final version of this form. Motion carried unanimously.

**MOTION:** Robert Webster moved, seconded by Richard Marino, to set 11/1/2019 as the optional use date and 1/1/2020 as the mandatory use date for the final version of the revised WB-11 form. Motion carried unanimously.

**MOTION:** Richard Marino moved, seconded by Dennis Pierce, to request that the Department make the final version of the WB-11 form accessible to the public following its approval by the Chairperson and prior to the optional use date. Motion carried unanimously.

### **CLOSED SESSION**

**MOTION:** Dennis Pierce moved, seconded by Richard Marino, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), 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.). Thomas Richie, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Robert Larson-yes; Richard Marino-yes; Dennis Pierce-yes; Thomas Richie-yes; and Robert Webster-yes. Motion carried unanimously.

The Board convened into Closed Session at 11:24 a.m.

### **CREDENTIALLING MATTERS**

#### **Application Reviews**

**MOTION:** Robert Webster moved, seconded by Richard Marino, to send a notice of intent to deny the Real Estate Broker Renewal application of Edward Konz, and to offer him a limited license once all requirements are met. Reason for Denial: Conviction substantially related to practice of real estate under s. 111.335. Motion carried unanimously.

**MOTION:** Robert Webster moved, seconded by Dennis Pierce, to deny the Real Estate Salesperson Renewal application of Joshua Slaton, once all requirements are met. Reason for Denial: Conviction substantially related to practice of real estate and denial necessary to protect public health, safety or welfare under s. 452.14 (3), s. 111.321, s. 111.322, s. 111.335 s. 440.09(4)(a). Motion carried unanimously.

### **DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS**

#### **Administrative Warnings**

#### ***18 REB 108 – L.L.L.***

**MOTION:** Dennis Pierce moved, seconded by Richard Marino, to issue an Administrative Warning in the matter of L.L.L., DLSC Case Number 18 REB 108. Motion carried unanimously.

## Case Closings

**MOTION:** Dennis Pierce moved, seconded by Robert Larson, to close the following DLSC Cases for the reasons outlined below:

1. 17 REB 090 – L.L.M., G.M.L.B.I. – No Violation
2. 18 REB 003 – K.A.K., C.B.T.R.E.G., R.D.F – No Violation
3. 18 REB 030 – A.A.F. – No Violation
4. 18 REB 040 – T.E. – No Violation
5. 18 REB 083 – T.J.K., G.E.B, 212 – No Violation
6. 18 REB 091 – D.R.E. – No Violation
7. 18 REB 099 – R.J.S., S.R. – No Violation
8. 18 REB 103 – G.D.T. – No Violation
9. 18 REB 105 – J.S., A.P.S. – No Violation
10. 18 REB 109 – H.M., R.B., J.S., J.I., F.W. – No Violation

Motion carried unanimously.

**MOTION:** Robert Larson moved, seconded by Richard Marino, to close the following DLSC Cases for the reasons outlined below:

1. 17 REB 058 – E.R. – No Violation
2. 17 REB 058 – J.B. – Lack of Jurisdiction (L2)
3. 17 REB 058 – K.C.M. – No Violation

Motion carried unanimously.

### ***17 REB 034 – L.L.M., G.M.L.B.I.***

**MOTION:** Richard Marino moved, seconded by Robert Larson, to close DLSC Case Number 17 REB 034, against L.L.M., G.M.L.B.I., for No Violation. Motion carried unanimously.

### ***18 REB 071 – J.K.H., E.L.M.***

**MOTION:** Robert Larson moved, seconded by Richard Marino, to close DLSC Case Number 18 REB 071, against J.K.H., and E.L.M., for Prosecutorial Discretion (P7). Motion carried unanimously.

## Proposed Stipulations, Final Decisions and Orders

**MOTION:** Robert Larson moved, seconded by Richard Marino, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against the following DLSC Cases:

1. 17 REB 034 and 17 REB 090 – Chris H. Murphy
2. 17 REB 045 – Lynne A. Nelson
3. 17 REB 058 – Dennis M. Flahave
4. 17 REB 086 – Arnold H. Lange and Lange Auction & Realty LLC
5. 18 REB 030 – Robin J. Fazio and Buyers Vantage Inc.
6. 18 REB 040 – Jeffrey T. Tekaver
7. 18 REB 040 – Tammy L. Tekaver

Motion carried unanimously.

### ***17 REB 121 – Jeffrey K. Hamann and Easy Living Management Inc.***

**MOTION:** Richard Marino moved, seconded by Dennis Pierce, to adopt the Findings of Fact, Conclusions of law and Order in the matter of disciplinary proceedings against Jeffrey K. Hamann and Easy Living Management Inc., DLSC Case Number 17 REB 121. Motion carried unanimously.

### **Monitoring Matters**

#### ***Andrew Armstrong – Requesting Full Licensure***

**MOTION:** Dennis Pierce moved, seconded by Robert Larson, to grant the request of Andrew Armstrong for full licensure. Motion carried unanimously.

#### ***Kimberly Jensen – Requesting Full Licensure***

**MOTION:** Richard Marino moved, seconded by Dennis Pierce, to grant the request of Kimberly Jensen for full licensure. Motion carried unanimously.

#### ***Cole Knutson – Requesting Full Licensure***

**MOTION:** Robert Larson moved, seconded by Denis Pierce, to grant the request of Cole Knutson for full licensure. Motion carried unanimously.

#### ***Sean Lentz – Requesting Full Licensure***

**MOTION:** Thomas Richie moved, seconded by Dennis Pierce, to grant the request of Sean Lentz for full licensure. Motion carried unanimously.

#### ***Robert Ryde, Sr. – Requesting Full Licensure***

**MOTION:** Dennis Pierce moved, seconded by Richard Marino, to grant the request of Robert Ryde, Sr. for full licensure. Motion carried unanimously.

#### ***Jamie Scholl – Requesting Full Licensure***

**MOTION:** Thomas Richie moved, seconded by Dennis Pierce, to deny the request of Jamie Scholl for full licensure. **Reason for Denial:** Insufficient compliance with the terms of the order. Motion carried unanimously.

### **Deliberation of Proposed Final Decisions and Orders**

**MOTION:** Richard Marino moved, seconded by Robert Larson, to adopt the Findings of Fact, Conclusions of law and Proposed Decision and Order in the matter of disciplinary proceedings against Ross Graham - DHA Case Number SPS-19-0023/DLSC Case Number 19 REB 004. Motion carried unanimously.

*(Jameson Whitney recused himself and left the room for deliberation in the matter concerning Ross Graham – DHA Case Number SPS-19-0023/DLSC Case Number 19 REB 004. Colleen Meloy served as Legal Counsel for the duration of this item.)*

## RECONVENE TO OPEN SESSION

**MOTION:** Richard Marino moved, seconded by Robert Larson, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 1:02 p.m.

## VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

**MOTION:** Richard Marino moved, seconded by Dennis Pierce, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

*(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)*

## ADJOURNMENT

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

The meeting adjourned at 1:03 p.m.

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b> Sharon Henes Administrative Rules Coordinator		<b>2) Date When Request Submitted:</b> 14 October 2019 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>													
<b>3) Name of Board, Committee, Council, Sections:</b> Real Estate Examining Board															
<b>4) Meeting Date:</b> 24 October 2019	<b>5) Attachments:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> Public Hearing on Clearinghouse Rule 19-128 relating Obsolete References to Rental Unit Energy Efficiency Standard in Curriculum a. Review and respond to Clearinghouse Report and Public Hearing comments													
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <input type="checkbox"/> Yes <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> Hold Public Hearing at 10:00 a.m.  Discuss any public hearing comments. Review, discuss and respond to any Clearinghouse comments.															
<b>11) Authorization</b> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; border-bottom: 1px solid black;"><i>Sharon Henes</i></td> <td style="width: 40%; border-bottom: 1px solid black; text-align: right;"><i>10/14/19</i></td> </tr> <tr> <td style="font-size: small;">Signature of person making this request</td> <td style="text-align: right; font-size: small;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black; text-align: right;"> </td> </tr> <tr> <td style="font-size: small;">Supervisor (if required)</td> <td style="text-align: right; font-size: small;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black; text-align: right;"> </td> </tr> <tr> <td colspan="2" style="font-size: small;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)    Date</td> </tr> </table>				<i>Sharon Henes</i>	<i>10/14/19</i>	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	
<i>Sharon Henes</i>	<i>10/14/19</i>														
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.															

STATE OF WISCONSIN  
REAL ESTATE EXAMINING BOARD

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

An order of the Real Estate Examining Board to repeal REEB 25.028 (2) (g) 5., 25.033 (18) (j), and 25.038 (7) (e) relating to obsolete references to rental unit energy efficiency standards in curriculum.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** ss. 452.09 and 452.11, Stats.

**Statutory authority:** ss. 15.08 (5) (b), 452.05 (1) (c), 452.07 (1), Stats.

**Explanation of agency authority:**

Each examining board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular profession. [s. 15.08 (5) (b), Stats.]

452.05 (1) (c) The board shall after consultation with the council on real estate curriculum and examinations, promulgate rules establishing criteria for the approval of educational programs and training sessions under s. 452.09 (2) and approve such programs and sessions in accordance with the established criteria.

452.07 (1) The board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice.

**Related statute or rule:**

Chapter SPS 367, in which the Department of Safety and Professional Services established rental unit efficiency standards. The authorizing statute for this rule, s. 101.122, Stats., was repealed effective December 1, 2018 by 2017 Act 59. Chapter SPS 367 was then repealed by CR 18-056.

**Plain language analysis:**

The Real Estate Examining Board rules currently require pre-licensure education to include instruction relating to rental unit energy efficiency standards. This rule revision removes these references to rental unit energy efficiency standards which have been rendered obsolete by the repeal of ch. SPS 367.

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

The federal government does not regulate the pre-licensure educational requirements for members of the real estate profession.

**Comparison with rules in adjacent states:**

**Illinois:** Illinois does not require applicants for real estate licenses to be educated in rental unit energy efficiency standards.

**Iowa:** Iowa does not require applicants for real estate licenses to be educated in rental unit energy efficiency standards.

**Michigan:** Michigan does not require applicants for real estate licenses to be educated in rental unit energy efficiency standards.

**Minnesota:** Minnesota does not require applicants for licensure to be educated in rental unit energy efficiency standards.

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

The Board reviewed REEB 25 in light of the repeal of SPS 367 and determined that the obsolete references to rental unit energy efficiency standards should be repealed.

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

This rule was posted for economic comments and none were received. The rule repeals obsolete references.

**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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

**Agency contact person:**

Sharon Henes, Administrative Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before October 24, 2019 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. REEB 25.028 (2) (g) 5. is repealed.

SECTION 2. REEB 25.033 (18) (j) is repealed.

SECTION 3. REEB 25.038 (7) (e) is repealed.

SECTION 4. 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.

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(END OF TEXT OF RULE)

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 24 September 2019
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) REEB 25	
4. Subject Obsolete references to rental unit energy efficiency standards in curriculum	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0.00	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The authorizing statute for chapter SPS 367, s. 101.122, Stats., was repealed effective December 1, 2018 by 2017 Act 59. Chapter SPS 367 was then repealed by CR 18-056. The Real Estate Examining Board rules currently require pre-licensure education to include instruction relating to rental unit energy efficiency standards. The rental unit energy efficiency standard references were rendered obsolete by the repeal of ch. SPS 367.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. This rule was posted for economic impact and none were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This rule does not have an economic or fiscal impact as it only repeals obsolete references.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implement this rule is the rule will not contain obsolete references which could cause confusion.	
16. Long Range Implications of Implementing the Rule the long range implication of implement the rule is not having obsolete references in the rule.	
17. Compare With Approaches Being Used by Federal Government None	
18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota) The neighboring states do not require applicants for real estate licenses to be educated in rental unit energy efficiency standards.	

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

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19. Contact Name Sharon Henes	20. Contact Phone Number 608-261-2377
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This document can be made available in alternate formats to individuals with disabilities upon request.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
- 

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Scott Grosz**  
*Clearinghouse Director*

**Anne Sappenfield**  
*Legislative Council Director*

**Margit Kelley**  
*Clearinghouse Assistant Director*

**Jessica Karls-Ruplinger**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 19-128

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]**

#### **2. Form, Style and Placement in Administrative Code**

In the rule analysis explanation of agency authority, for the sake of consistency, the department could move the citations to the end of the second and third paragraphs as it has done with the first paragraph.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the rule analysis description of the fiscal estimate and economic impact analysis, the second instance of the word “analysis” is misspelled and could be corrected.

b. In the rule analysis listing of the deadline to submit comments on the proposed rule, the identified year in the deadline of October 24, 3019 should be corrected to October 24, 2019.

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b> Sharon Henes Administrative Rules Coordinator		<b>2) Date When Request Submitted:</b> 14 October 2019 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
<b>3) Name of Board, Committee, Council, Sections:</b> Real Estate Examining Board			
<b>4) Meeting Date:</b> 24 October 2019	<b>5) Attachments:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> Administrative Rule Matters 1. REEB 24 Relating to Conduct and Ethical Practices 2. Updates on Pending or Possible Rulemaking Projects	
<b>7) Place Item in:</b> <input type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <input type="checkbox"/> Yes <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>			
<b>11) Authorization</b>			
<i>Sharon Henes</i>		<i>10/14/19</i>	
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.			

## Chapter REEB 24

### CONDUCT AND ETHICAL PRACTICES FOR REAL ESTATE LICENSEES

REEB 24.01 Authority and intent.  
 REEB 24.02 Definitions.  
 REEB 24.03 Competent services.  
 REEB 24.04 Advertising.  
 REEB 24.05 Disclosure of compensation and interests.  
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 REEB 24.07 Inspection and disclosure duties.  
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REEB 24.085 False portrayal of interest, prohibited.  
 REEB 24.09 Securing agency agreements.  
 REEB 24.10 Net listing prohibited.  
 REEB 24.12 Confidentiality of offers.  
 REEB 24.13 Drafting and submission of written proposals.  
 REEB 24.15 Adequate funds required.  
 REEB 24.16 Availability of rules.  
 REEB 24.17 Miscellaneous requirements.

**Note:** Chapter REB 15 as it existed on February 29, 1980 was repealed and a new chapter REB 15 was created effective March 1, 1980. Renumbered from chapter REB 15, effective March 1, 1983. Chapter RL 24 was renumbered chapter REEB 24 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

**REEB 24.01 Authority and intent. (1)** The rules in this chapter are adopted pursuant to ss. 227.11, 452.01, 452.07, 452.133, 452.138, 452.139 and 452.14, Stats.

**(2)** The intent of the board in adopting the rules in this chapter is to establish minimum standards of conduct for real estate licensees and to define that conduct which may result in board discipline pursuant to s. 452.14, Stats.

**(3)** If a licensee violates rules in this chapter, the licensee has demonstrated incompetency to act as a broker or salesperson in such manner as to safeguard the interests of the public under s. 452.14 (3) (i), Stats. However, the term “incompetency” is not limited in its meaning to violations of this chapter.

**(4)** If a licensee violates the rules set forth in s. REEB 24.075, the licensee has engaged in improper, fraudulent or dishonest dealing as used in s. 452.14 (3) (k), Stats. However, the terms “improper, fraudulent or dishonest dealing” are not limited in their meaning to violations of s. REEB 24.075.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. (3) to be (5), (3) renum. from REB 15.02 (2) and cr. (4), Register, December, 1980, No. 300, eff. 1-1-81; renum. from REB 15.01 and am. (2) to (4), Register, February, 1983, No. 326, eff. 3-1-83; am. (1) and (3), r. (5) (intro.) and (d), renum. (5) (a) to (c) to be RL 24.025, RL 24.03 (2) (b) and (c), Register, January, 1987, No. 373, eff. 2-1-87; correction in (4) made under s. 13.93 (2m) (b) 4., Stats., Register, May, 1988, No. 389; am. Register, April, 1995, No. 472, eff. 5-1-95; correction in (2), (4) made under s. 13.92 (4) (b) 6., 7., Stats., Register November 2011 No. 671; EmR1620: emerg. am. (3), eff. 7-1-16; CR 16-042: am. (3) Register February 2017 No. 734, eff. 3-1-17.

**REEB 24.02 Definitions. (1)** “Adverse fact” means any of the following:

(a) A condition or occurrence that is generally recognized by a competent licensee as doing any of the following:

1. Significantly and adversely affecting the value of the property.
2. Significantly reducing the structural integrity of improvements to real estate.
3. Presenting a significant health risk to occupants of the property.

(b) Information that indicates that a party to a transaction is not able to or does not intend to meet his or her obligations under a contract or agreement made concerning the transaction.

**(3)** “Brokerage service” means any service described under s. 452.01 (2), Stats., provided to a person by a firm and any licensees associated with the firm.

**(4)** “Builder” means any person engaged in the business of constructing homes without a buyer under contract or constructing homes under a contract with the buyer.

**(5)** “Buyer’s firm” means a firm who has an agency agreement with a buyer.

**(7)** “Commonly controlled corporation” means one of 2 or more corporations in which the same person or persons own stock in each of the corporations, possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of the total number of shares of all other classes of stock of the corporations.

**(10)** “Effectively controlled” means having the power or authority to cause the transfer of an interest in real estate for oneself or another but does not include the authority conferred by a real estate listing contract.

**(12)** “Material adverse fact” means an adverse fact that a party indicates is of such significance, or that is generally recognized by a competent licensee as being of such significance to a reasonable party, that it affects or would affect the party’s decision to enter into a contract or agreement concerning a transaction or affects or would affect the party’s decision about the terms of such a contract or agreement.

**(13)** “Party” means a person seeking to engage in a transaction.

**(13m)** “Principal firm” means a firm who engages a subagent to provide brokerage services in a transaction.

**(14)** “Qualified third party” means a federal, state or local governmental agency, or any person whom the broker, salesperson or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report described in s. 452.23 (2) (b), Stats.

**(15)** “Secured lender” means an individual or organization originating a loan in a real estate or business opportunity transaction secured by real estate or by the assets of a business or a business opportunity.

**(16)** “Real estate practice” means engaging in conduct which requires a license under ch. 452, Stats.

**(18)** “Transaction” means the sale, exchange, purchase or rental of, or the granting or acceptance of an option to sell, exchange, purchase or rent, an interest in real estate, a business or a business opportunity.

**(19)** “Written proposal” means any written document provided by one party to another during the course of a transaction, including but not limited to notices, offers, counteroffers, options, exchanges, rental agreements, and amendments.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. (1) to be (5), renum. (2) to be REB 15.01 (3), cr. (1) to (4) and (6), Register, December, 1980, No. 300, eff. 1-1-81; renum. from REB 15.02, Register, February, 1983, No. 326, eff. 3-1-83; renum. (4) to (6) to be (7) to (9) under s. 13.93 (2m) (b) 1., Stats., Register, September, 1990, No. 417; renum. (1) to (3) to be (2), (4) and (6), cr. (1), (3) and (5), Register, September, 1990, No. 417, eff. 10-1-90; am. (1), Register, January, 1992, No. 433, eff. 2-1-92; am. (1), Register, July, 1993, No. 451, eff. 8-1-93; r. and recr. (1), renum. (2) to (4) to be (4), (5), (7), (6) and (7) to be (8) and (10), (8) to be (11) and am., (a) to be (17), r. (5), cr. (2), (3), (6), (9), (12) to (16), (18), Register, April, 1995, No. 472, eff. 5-1-95; am. (7), r. (11), Register, July, 1998, No. 511, eff. 8-1-98; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671; CR 10-136: am. (2) to (5), r. (8), am. (13), cr. (13m), r. (17), cr. (19) Register

April 2012 No. 676, eff. 7-1-12; EmR1620: emerg. r. (2), am. (3), (5), (6), (9), (13m), eff. 7-1-16; CR 16-042: r. (2), am. (3), (5), renum. (6), (9) to REEB 11.02 (3m), (4m), am. (13m) February 2017 No. 734, eff. 3-1-17.

**REEB 24.03 Competent services. (1) DISCRIMINATION PROHIBITED.** Licensees may not discriminate against, nor deny equal services to, nor be a party to any plan or agreement to discriminate against any person in any manner unlawful under applicable federal, state or local fair housing law.

**Note:** The primary references for federal and state fair housing laws are the 1988 amendments to the Federal Housing Act (Title VII of the Civil Rights Act of 1968) and Chapter 106, Subchapter II, Stats.

**(2) COMPETENCE REQUIRED.** (a) Licensees shall not provide services which the licensee is not competent to provide unless the licensee engages the assistance of one who is competent. Any person engaged to provide such assistance shall be identified and that person's contribution shall be described.

(b) Licensees shall act to protect the public against fraud, misrepresentation and unethical practices.

(c) Licensees shall be knowledgeable regarding laws, public policies and current market conditions on real estate matters and assist, guide and advise the buying or selling public based upon these factors.

(d) Licensees are not required to have the technical knowledge, skills or training possessed by competent third party inspectors and investigators of real estate and related areas.

**Note:** Paragraph (d) recognizes that licensees are not required to have the knowledge, skills or training possessed by, for example, persons such as home inspectors, plumbers, electricians or land surveyors.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; am. (1), Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.03, Register, February, 1983, No. 326, eff. 3-1-83; am. (1), renum. (2) to be (2) (a), (2) (b) and (c) renum. from RL 24.01 (5) (b) and (c) and am., Register, January, 1987, No. 373, eff. 2-1-87; am. (1), cr. (2) (d), Register, July, 1993, No. 451, eff. 8-1-93.

**REEB 24.04 Advertising. (1) FALSE ADVERTISING.** Licensees shall not advertise in a manner which is false, deceptive, or misleading.

**(2) DISCLOSURE OF NAME.** (a) Except for advertisements for the rental of real estate owned by the licensee, a licensee shall in all advertising disclose the firm name exactly as printed on the licensed individual broker or the licensed broker business entity's license or disclose a trade name previously filed with the department, as required by s. REEB 23.03, and in either case clearly indicate that the firm is a business concern and not a private party.

(b) Except for advertisements for the rental of real estate owned by the licensee, a licensee associated with a firm shall advertise under the supervision of and in the name of the firm.

(c) A licensee may advertise the occasional sale of real estate owned by the licensee or the solicitation of real estate for purchase by the licensee without complying with pars. (a) and (b), provided that the licensee clearly identifies himself, herself or itself as a real estate licensee in the advertisement.

**(3) ADVERTISING WITHOUT AUTHORITY PROHIBITED.** Licensees shall not advertise property without the consent of the owner.

**(4) ADVERTISED PRICE.** Licensees shall not advertise property at a price other than that agreed upon with the owner; however, the price may be stated as a range or in general terms if it reflects the agreed upon price.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; am. (4), Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.04 and am. (2), Register, February, 1983, No. 326, eff. 3-1-83; renum. (2) to be (2) (a) and am., cr. (2) (b) and (c), Register, January, 1987, No. 373, eff. 2-1-87; am. (2) (c), Register, April, 1995, No. 472, eff. 5-1-95; correction in (2) (a) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671; EmR1620: emerg. am. (2) (a), (b), (3), (4), eff. 7-1-16; CR 16-042: am. (2) (a), (b), (3), (4) Register February 2017 No. 734, eff. 3-1-17.

**REEB 24.05 Disclosure of compensation and interests. (1) COMPENSATION.** (a) A licensee acting as an agent in a real estate or business opportunity transaction may not accept any fee or compensation related to the transaction from any person, other than the licensee's client, principal firm, or firm the licensee is associated with without prior written consent from all parties to the transaction.

(b) A licensee acting as an agent in a real estate or business opportunity transaction may not recommend or suggest to a party to the transaction the services of another individual or entity from which the licensee may receive compensation for a referral or in which the licensee has an interest, unless the licensee, prior to or at the time of the referral, discloses to the party in writing the fact that he or she may receive compensation for the referral or that he or she has an interest in the individual or entity providing the services. This paragraph does not apply when the licensee makes a referral to another licensee for real estate services under s. 452.19, Stats.

**(2) DISCLOSURE OF INTEREST.** A licensee acting as an agent in a real estate or business opportunity transaction may not act in the transaction on the licensee's own behalf, on behalf of the licensee's firm, on behalf of any member of the licensee's immediate family or any combination of members of the licensee's immediate family, or on behalf of any other organization or business entity in which the licensee has an interest without the prior written consent of all parties to the transaction. For the purpose of this subsection, a licensee shall obtain the written consent in the offer to purchase, option, lease or other transaction contract.

**(4) DISCLOSURE TO SELLER.** A listing firm may not pay any compensation or incentive to a licensee who is acting as a buyer in a transaction without prior written consent from the seller.

**(5) DISCLOSURE OF LICENSURE.** (a) A licensee acting as a principal in a real estate or business opportunity transaction shall disclose his, her, or its license status and intent to act in the transaction as a principal at the earliest of all of the following:

1. The first contact with the other party or an agent representing the other party where information regarding the other party or the transaction is being exchanged.

2. A showing of the property.

3. Any other negotiation with the seller or the listing firm.

(b) The disclosure under this subsection shall be made in writing to the other party in a transaction or to an agent representing the other party.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. (3) and (4) to be (4) and (5), cr. (3), Register, December, 1980, No. 300, eff. 1-1-81; am. (5), Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.05, Register, February, 1983, No. 326, eff. 3-1-83; am. (1) and (5), Register, June, 1988, No. 390, eff. 7-1-88; r. and recr. Register, July, 1993, No. 451, eff. 8-1-93; am. (1), (2), (3), (5), Register, April, 1995, No. 472, eff. 5-1-95; renum. (5) to be (5) (a) (intro.), cr. (5) (a) 1. to 3., and (b), Register, January, 2001, No. 541, eff. 2-1-01; CR 10-136: am. (title), (1) (title), renum. (1) to be (1) (a) and am., am. (2), r. (3) (title), renum. (3) to be (1) (b) and am., r. and recr. (4), am. (5) (b) Register April 2012 No. 676, eff. 7-1-12; EmR1620: emerg. am. (1) (a), (2), (4), (5) (a) 3., eff. 7-1-16; CR 16-042: am. (1) (a), (2), (4), (5) (a) 3. Register February 2017 No. 734, eff. 3-1-17.

**REEB 24.06 Unauthorized practice of law.**

**(1) UNAUTHORIZED PRACTICE OF LAW PROHIBITED.** Licensees shall not engage in activities that constitute the unauthorized practice of law.

**(2) LEGAL COUNSEL NOT TO BE DISCOURAGED.** Licensees shall not discourage any person from retaining an attorney.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.06, Register, February, 1983, No. 326, eff. 3-1-83.

**REEB 24.07 Inspection and disclosure duties.**

**(1) INSPECTION OF REAL ESTATE.** (a) *General requirement.* A licensee, when engaging in real estate practice which involves real estate improved with a structure, shall conduct a reasonably competent and diligent inspection of accessible areas of the structure and immediately surrounding areas of the property to detect observable, material adverse facts. A licensee, when engaging in real estate practice which involves vacant land, shall, if the vacant land is accessible, conduct a reasonably competent and diligent inspection of the vacant land to detect observable material adverse facts.

(b) *Listing firm.* When listing real estate and prior to execution of the listing contract, a licensee shall inspect the real estate as required by sub. (1), and shall make inquiries of the seller on the condition of the structure, mechanical systems and other relevant

aspects of the property as applicable. The licensee shall request that the seller provide a written response to the licensee's inquiry.

(c) *Other licensees.* Licensees, other than listing firms, shall inspect the real estate as required by sub. (1) prior to or during the showing of the property, unless the licensee is not given access for a showing.

(d) *Specific conduct regarding inspections.* A reasonably competent and diligent inspection of real estate improved with a structure does not require the operation of mechanical equipment; the opening of panels, doors or covers for access to mechanical systems; or the moving of furniture, boxes or other property; nor does it require a licensee to observe areas of the property for which entry presents an unreasonable risk of injury or areas accessible only by ladder, by crawling or other equivalent means of access. A licensee is not required to retain third party inspectors or investigators to complete a reasonably competent and diligent inspection. A reasonably competent and diligent inspection of vacant land does not require an observation of the entire property, but shall include, if given access, an observation of the property from at least one point on or adjacent to the property.

(2) **DISCLOSURE OF MATERIAL ADVERSE FACTS.** A licensee may not exaggerate or misrepresent facts in the practice of real estate. A licensee, when engaging in real estate practice, shall disclose to each party, in writing and in a timely fashion, all material adverse facts that the licensee knows and that the party does not know or cannot discover through a reasonably vigilant observation, unless the disclosure of the material adverse fact is prohibited by law. This provision is not limited to the condition of the property, but includes other material adverse facts in the transaction.

**Note:** Certain "material adverse facts", as defined in s. REEB 24.02 (12), may not be disclosed by law. For example, unless specifically authorized by a seller, a licensee may not disclose to a potential buyer the actual minimum sales price the seller will accept. See s. 452.133 (1) (d), Stats.

(3) **DISCLOSURE OF INFORMATION SUGGESTING MATERIAL ADVERSE FACTS.** A licensee, when engaging in real estate practice, who becomes aware of information suggesting the possibility of material adverse facts to the transaction, shall be practicing competently if the licensee discloses to the parties the information suggesting the possibility of material adverse facts to the transaction in writing and in a timely fashion, recommends the parties obtain expert assistance to inspect or investigate for possible material adverse facts to the transaction, and, if directed by the parties, drafts appropriate inspection or investigation contingencies. This provision is not limited to the condition of the property, but includes other material adverse facts to the transaction, including but not limited to defects and conditions included within the report form under ss. 703.33 and 709.03, Stats. A licensee is not required to retain third party inspectors or investigators to perform investigations of information suggesting the possibility of a material adverse fact to the transaction.

(4) **DISCLOSURE OF SIDE AGREEMENTS.** A licensee, when engaging in real estate practice, who becomes aware of the fact that a party to the transaction has not disclosed that party's entire agreement regarding the transaction to that party's secured lender, shall disclose this fact, in writing and in a timely manner, to the party's secured lender.

(5) **RELIANCE UPON THIRD PARTY INSPECTIONS AND INVESTIGATIONS.** If a licensee or a party in a transaction engages the services of a qualified third party to conduct a property inspection or investigation of material facts, the licensee may rely on the results of the inspection or investigation providing the licensee obtains a written report of the inspection or investigation and delivers a copy of the report to all interested parties in a timely manner.

(6) **INCONSISTENCIES.** If a licensee's reasonably competent and diligent inspection reveals facts materially inconsistent with or materially contradictory to the seller's statements provided under sub. (1) (a), or the inspection or investigation report of a third party, the inconsistency shall be disclosed in writing and in a timely manner to the parties.

(7) **FALSE INFORMATION.** Licensees shall not knowingly give false information about another licensee or property listed with another licensee.

(8) **DISCLOSURE OF AGENCY.** (a) *General requirements.* 1. A firm may not negotiate on behalf of a party who is not the firm's client unless the firm provides to the party a copy of the disclosure to customers required under s. 452.135 (1), Stats. If the brokerage services are related to real estate primarily intended for use as a residential property containing one to 4 dwelling units, the firm shall request the party's signed acknowledgement that the party has received a copy of the written disclosure statement.

1g. A firm may not negotiate on behalf of a client unless the firm gives the client a copy of the disclosure required under s. 452.135 (2), Stats.

1r. If a client enters into an agency agreement with a firm to receive brokerage services related to real estate primarily intended for use as a residential property containing one to 4 dwelling units, and the disclosure to clients is not incorporated into the agency agreement, the firm shall request the client's signed acknowledgement that the client has received a copy of the written disclosure statement required in s. 452.135 (2), Stats.

2. Licensees acting as agents of potential buyers of real estate that is used or intended to be used principally for one to 4 family residential purposes, who are negotiating directly with the seller or who are aware that the owner of the real estate has granted a listing firm the exclusive right to sell, shall notify the seller or the listing firm, as applicable, of the licensee's buyer agency relationship at the earlier of all of the following:

a. The first contact with the seller or the listing firm where information regarding the seller or transaction is being exchanged.

b. A showing of the property.

c. Any other negotiation with the seller or the listing firm.

3. When the nature of a licensee's representation of a client or customer changes such that it makes the initial disclosure that was provided under s. 452.135, Stats., incomplete, misleading, or inaccurate, the licensee shall provide the customer or client with a new disclosure, as required in s. 452.135, Stats.

(b) *Agency agreements.* 1. Firms and the licensees associated with the firm shall explain to their clients the responsibilities of listing agents, buyer's agents, and subagents before entering into an agency agreement.

2. No firm or licensees associated with the firm may permit other firms to act as subagents in a transaction unless the firm's client has authorized the use of a subagent in the agency agreement.

(c) *Written proposals.* Licensees shall state, in the offer to purchase, the lease, the option to purchase, or the exchange agreement, whom the licensee represents as an agent in a transaction.

(d) *Subagency arrangements.* 1. A listing firm shall provide a disclosure statement to a customer as required in s. 452.135 (1), Stats., to the buyer if negotiations are being conducted directly with the buyer and not through a buyer's firm.

2. A buyer's firm shall provide a disclosure statement to a customer as required in s. 452.135 (1), Stats., to a seller if negotiations are being conducted directly with the seller and not through a seller's firm.

3. A subagent shall provide a disclosure statement to a customer as required in s. 452.135 (1), Stats., with whom he or she is working but not to the principal firm's client.

4. A principal firm is not required to provide a disclosure statement to a customer as required in s. 452.135 (1), Stats., to a customer of their subagents.

(e) *Agency agreements for lease and property management contracts.* 1. A licensee who is entering into agency agreements for lease or property management contracts shall provide to his or

her clients the disclosure statement as required in s. 452.135 (2), Stats.

2. A licensee shall provide to prospective tenants a disclosure statement as required in s. 452.135 (1), Stats., when negotiating the terms of a lease on behalf of the client.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; emerg. r. (2), eff. 10-14-80; cr. (3), Register, December, 1980, No. 300, eff. 1-1-81; r. (2), Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.07, Register, February, 1983, No. 326, eff. 3-1-83; cr. (2), Register, January, 1987, No. 373, eff. 2-1-87; am. (1), r. and recr. (2), cr. (4), Register, June, 1988, No. 390, eff. 7-1-88; am. (1), cr. (1) (a) to (c) and (4) (d), r. and recr. (2), Register, September, 1990, No. 417, eff. 10-1-90; r. and recr. (1), renum. (2), (3), (4) to be (5), (6), (7), cr. (2), (3), (4), Register, July, 1993, No. 451, eff. 8-1-93; am. (1) (a), (d), (2), (3), (5), renum. (1) (a), (b) to be (1) (b), (c) and am., (6) to be (7), r. (1) (c), (7), r. and recr. (4), cr. (6), (8), Register, April, 1995, No. 472, eff. 5-1-95; am. (8) (a) 2. (intro.), a. and c., Register, January, 2001, No. 541, eff. 2-1-01; CR-136: r. and recr. (8) (a) 1., cr. (8) (a) 1g., Ir., am. (8) (a) 2. (intro.), 3., r. (8) (a) 4., am. (8) (b) (title), 1., 2., (c), r. and recr. (8) (d), (e) Register April 2012 No. 676, eff. 7-1-12; EmR1620: emerg. am. (1) (b) (title), (c), (3), (8) (a) 1. to 1r., 2. (intro.), a., c., (b), (d), (e), eff. 7-1-16; CR 16-042: am. (1) (b) (title), (c), (3), (8) (a) 1. to 1r., 2. (intro.), a., c., (b), (d), (e) Register February 2017 No. 734, eff. 3-1-17.

**REEB 24.075 Tie-in arrangements.** Licensees shall not:

(1) Condition the sale of real estate owned by the licensee or whose sale is effectively controlled by the licensee to a buyer upon the buyer's agreement to purchase another parcel or real estate.

(2) Condition the sale of real estate owned by the licensee or whose sale is effectively controlled by the licensee upon the buyer's agreement to list the real estate or other real estate owned by the buyer with the licensee.

**Note:** The following are 2 common examples of activities which would violate this subsection: (1) requiring a builder to list a speculation home with the licensee; and (2) requiring a buyer to list a present home with the licensee.

(3) Condition the sale of vacant real estate owned by the licensee or whose sale is effectively controlled by the licensee upon the buyer's agreement to employ one or more specific builders to make improvements on the real estate unless:

(a) The builder owns a bona fide interest in the real estate; and there is full disclosure as specified in s. REEB 24.05 (1) (b).

(b) The builder and the licensee or the builder and the owner of the real estate are the same person or are commonly controlled corporations and whose business is selling improved property and not vacant land; and there is full disclosure as in s. REEB 24.05 (1) (b).

(c) The agreement is a bona fide effort to maintain development quality or architectural uniformity and no consideration passes from contractor to licensee for soliciting this agreement.

**History:** Cr. Register, December, 1980, No. 300, eff. 1-1-81; renum. from REB 15.075 and am. (3) (a) and (b), Register, February, 1983, No. 326, eff. 3-1-83; correction in (3) (a), (b) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671; correction in (3) (a), (b) made under s. 13.92 (4) (b) 7. Stats., Register April 2012 No. 676.

**REEB 24.08 Agreements to be in writing.** A licensee shall put in writing all listing contracts, guaranteed sales agreements, buyer agency agreements, offers to purchase, property management agreements, option contracts, financial obligations and any other commitments regarding transactions, expressing the exact agreement of the parties unless the writing is completed by the parties or their attorneys or the writing is outside the scope of the licensee's authority under ch. REEB 16.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.08, Register, February, 1983, No. 326, eff. 3-1-83; am. Register, January, 1987, No. 373, eff. 2-1-87; am. Register, June, 1988, No. 390, eff. 7-1-88; am. 24.08, Register, July, 1993, No. 451, eff. 8-1-93; correction made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

**REEB 24.085 False portrayal of interest, prohibited.** No licensee shall draft or use any document which the licensee knows falsely portrays an interest in real estate.

**History:** Cr. Register, December, 1980, No. 300, eff. 1-1-81; renum. from REB 15.085, Register, February, 1983, No. 326, eff. 3-1-83.

**REEB 24.09 Securing agency agreements.** Licensees may not mislead a potential client regarding the benefits which might be realized through the use of the licensee's services.

A licensee also may not mislead a potential client regarding the market value of real estate or a business opportunity to be leased, rented, purchased, optioned, or sold under an agency agreement.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.09, Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. Register, April, 1995, No. 472, eff. 5-1-95; CR 10-136: am. Register April 2012 No. 676, eff. 7-1-12.

**REEB 24.10 Net listing prohibited.** Licensees shall not obtain, negotiate or attempt to obtain or negotiate any listing contract providing for a stipulated net price to the owner with the excess over the stipulated net price to be received by the firm as commission.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.10, Register, February, 1983, No. 326, eff. 3-1-83; EmR1620: emerg. am., eff. 7-1-16; CR 16-042: am. Register February 2017 No. 734, eff. 3-1-17.

**REEB 24.12 Confidentiality of offers.** (1) Except as provided in sub. (2), a licensee acting as a principal or an agent in a real estate or business opportunity transaction shall not disclose any of the terms of one prospective buyer's offer to purchase, exchange agreement or option contract proposal to any other prospective buyer or to any person with the intent that this information be disclosed to any other prospective buyer. Licensees shall encourage all prospective buyers to submit their best offers. A licensee may, but is not required to, disclose information known by the licensee regarding the existence of other offers on the property, the fact that a seller has accepted an offer, that the offer is subject to contingencies and that the offer is subject to a clause requiring removal of certain contingencies upon the occurrence of an event such as receipt, acceptance or conditional acceptance of another offer.

(2) As used in this subsection, "right of first refusal" means the right of a person to have the first opportunity to purchase or lease real property. "Right of first refusal" does not mean a so-called "bump clause" which is a contingency provision in a purchase agreement that requires the prospective buyer to remove certain contingencies in the buyer's purchase agreement or to relinquish the buyer's primary status to a secondary offer. If a licensee is providing brokerage services in a transaction and the licensee has knowledge that the property is subject to a right of first refusal, the licensee shall disclose the right of first refusal, in writing and in a timely manner, to all persons seeking to acquire an interest subject to the right of first refusal. After disclosure of the right of first refusal to a party seeking to acquire an interest in the property, the licensee may deliver a copy of that party's subsequent offer to purchase, exchange agreement, option contract or lease proposal to the party holding the right of first refusal.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; am. Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.12, Register, February, 1983, No. 326, eff. 3-1-83; am. Register, July, 1993, No. 451, eff. 8-1-93; renum. RL 24.12 to be (1), cr. (2), Register, January, 2001, No. 541, eff. 2-1-01.

**REEB 24.13 Drafting and submission of written proposals.** (1) REFUSAL PROHIBITED. Licensees shall not refuse to draft or submit any written proposal unless the terms of the written proposal would be contrary to specific instructions of the other party.

(2) WITHHOLDING WRITTEN PROPOSALS PROHIBITED. (a) Listing firms shall permit access to listed property for showing purposes, to all buyers and persons assisting or advising buyers, without unreasonable delay, unless the buyer's or other person's access is contrary to specific written instructions of the seller.

(b) Licensees shall promptly present all written proposals received to the licensee's client or customer. Licensees shall not withhold any written proposal from presentation pending the party's action on a written proposal previously presented.

(3) FAIR PRESENTATION OF WRITTEN PROPOSALS. (a) Licensees shall present all written proposals in an objective and unbiased manner to their clients and customers. Licensees shall inform their clients and customers of the advantages and disadvantages of all submitted written proposals.

(b) A listing licensed individual broker acting as a sole proprietor or licensee associated with a listing firm may not submit his or her own personal written proposal or offer to purchase a property which the firm has listed if the licensee has knowledge of the terms of any pending offer, except that a firm may arrange for a guaranteed sale at the time of listing.

(4) **NOTIFICATION OF ACTION ON WRITTEN PROPOSAL.** Licensees shall promptly inform their clients and customers whether the other party has accepted, rejected, or countered their written proposal. A licensee shall immediately provide a written statement to the other party's firm that includes the date and time when the written proposal was presented when such a statement is requested by the other party or the other party's firm. A licensee shall immediately provide a written statement to the other party's firm that includes the date and time when the written proposal was rejected or had expired without acceptance when such a statement is requested by the other party or the other party's firm.

(5) **NEGOTIATION THROUGH FIRM.** A licensee may not negotiate a sale or lease of real estate directly with a party if the licensee knows that the party has an unexpired written contract in connection with the real estate which grants to another licensee an exclusive right to sell, lease, or negotiate. All negotiations shall be conducted with the firm holding the exclusive right to sell, lease, or negotiate, and not with the party, except with the consent of the firm or where the absence of the firm, or other similar circumstances, reasonably compels direct negotiation with the party. A listing firm has no duty to investigate whether a buyer has granted a buyer's agent an exclusive right to negotiate.

**Note:** The Department of Safety and Professional Services' approved form, WB-36, does not grant the buyer's agent an exclusive right to negotiate.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; cr. (5), Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.13, Register, February, 1983, No. 326, eff. 3-1-83; renum. (3) to be (3) (a), cr. (3) (b), am. (4), Register, January, 1987, No. 373, eff. 2-1-87; am. (3) (a), Register, June, 1988, No. 390, eff. 7-1-88; am. (3) (b), r. and recr. (2), Register, July, 1993, No. 451, eff. 8-1-93; am. (3) (b) and (5), Register, January, 2001, No. 541, eff. 2-1-01; CR 10-136: am. (title), (1), (2) (title), (b), (3) (title), (a), (4), (5) Register April 2012 No. 676, eff. 7-1-12; EmR1620: emerg. am. (2) (a), (3) (b), (4), (5), eff. 7-1-16; CR 16-042: am. (2) (a), (3) (b), (4), (5) Register February 2017 No. 734, eff. 3-1-17.

**REEB 24.15 Adequate funds required.** Licensees shall not issue checks upon business or trust accounts which contain insufficient funds.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.15, Register, February, 1983, No. 326, eff. 3-1-83.

**REEB 24.16 Availability of rules.** Firms shall have the

rules of the department readily available in all offices for the use of all licensees.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.16, Register, February, 1983, No. 326, eff. 3-1-83; am. Register, January, 1987, No. 373, eff. 2-1-87; correction made under s. 13.92 (4) (b) 6., Stats., Register November 2011 No. 671; CR 10-136: am. Register April 2012 No. 676, eff. 7-1-12; EmR1620: emerg. am., eff. 7-1-16; CR 16-042: am. Register February 2017 No. 734, eff. 3-1-17.

**REEB 24.17 Miscellaneous requirements. (1) VIOLATIONS OF LAW.** Licensees may not violate, or aid or abet the violation of, any law the circumstances of which substantially relate to the practices of a real estate licensee. A licensee who has been convicted of a crime shall send to the board within 48 hours after the judgment of conviction a copy of the complaint or other information which describes the nature of the crime and the judgment of conviction in order that the board may determine whether the circumstances of the crime of which the licensee was convicted are substantially related to the practice of a real estate licensee, pursuant to s. 111.335 (3) (a), Stats.

(2) **CONVICTION.** The board may discipline a licensee on the basis of a conviction of any crime, the circumstances of which substantially relate to the practice of real estate. A certified copy of a judgment of a court of record showing such conviction, within this state or without, shall be presumptive evidence of conviction.

(2m) **FELONY CONVICTION.** The board may revoke a license or registration on the basis of a conviction of a felony that is a bar to licensure or registration under s. 452.25 (1) (a), Stats.

(3) **VIOLATION OF STATUTES, ADMINISTRATIVE CODE AND BOARD ORDERS.** Licensees shall not violate any provisions or terms or conditions of, or aid or abet the violation of ch. 452, Stats., chs. REEB 11 to 25 or any order of, the board.

(4) **IMPAIRED PRACTICE.** Licensees shall not render services while the ability of the licensee to competently perform duties is impaired by mental or emotional disorder, drugs or alcohol.

(5) **DUTY TO COOPERATE WITH THE BOARD AND THE DEPARTMENT.** Licensees and applicants shall respond to the department and the board regarding any request for information within 30 days of the date of the request.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; am. (2), Register, December, 1980, No. 300, eff. 1-1-81; renum. from REB 15.17 and am. (2), Register, February, 1983, No. 326, eff. 3-1-83; am. (1), Register, January, 1986, No. 373, eff. 2-1-87; renum. (2) and (3) to be (3) and (4), cr. (2), Register, June, 1988, No. 390, eff. 7-1-88; am. (3), Register, July, 1998, No. 511, eff. 8-1-98; correction in (1), (3) made under s. 13.92 (4) (b) 6., 7., Stats., Register November 2011 No. 671; CR 10-136: am. (1), cr. (5) Register April 2012 No. 676, eff. 7-1-12; CR 15-051: cr. (2m) Register January 2016 No. 721, eff. 2-1-16; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register January 2014 No. 721; EmR1620: emerg. am. (1), eff. 7-1-16; CR 16-042: am. (1) Register February 2017 No. 734, eff. 3-1-17; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register December 2018 No. 756; CR 18-051: am. (3) Register July 2019 No. 763, eff. 8-1-19.