

STATEMENT OF SCOPE

REAL ESTATE EXAMINING BOARD

Rule No.: REEB 11, 15, 16, 24, 25

Relating to: Marketing, Advertising, and Compensation

Rule Type: Permanent

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

N/A

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

The objective of the proposed rule is to update the administrative code of the Real Estate Examining Board in line with 2025 Wisconsin Act 69. This Act will make changes to laws governing real estate practice, specifically in marketing, advertising, and compensation. The Board has identified the need to discuss and consider updating several code chapters in line with the Act. The Board will consider rulemaking for that purpose and for making other updates deemed necessary.

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

2025 Wisconsin Act 69 makes a variety of changes to laws governing real estate practice. These changes will be in chapter 452 of the Wisconsin Statutes. The Act makes a minor clarification regarding compensation in providing brokerage services. The Act creates new requirements for a listing firm when listing a residential property containing one to 4 dwelling units. These new requirements are generally related to marketing and advertising. They require the listing firm to publicly market and advertise the property unless the owner specifically opts out. It also requires the Board to develop a consumer brochure to promote and explain the benefits of publicly marketing properties for sale. Regarding advertising by licensees, the Act creates a requirement for a disclaimer if images of a property in advertising have been enhanced by technology. Regarding fees and commissions, the Act prohibits firm-to-firm compensation for brokerage services involving a residential property with one to 4 dwelling units. The Act clarifies that in transactions involving a residential property with one to 4 units, for a seller to compensate a non-listing firm for brokerage services, or for a non-listing firm to receive compensation from a party other than their client, these must be expressly stated in the offer or contract.

Wisconsin Administrative Code chapters REEB 11, 15, 16, 24, and 25 contain subject matters that could be affected by these statutory changes. The code chapters cover authority and definitions, obligation to furnish copies and maintain records, approved forms and legal advice, conduct and ethical practices, and education. The Board has identified the need to review these chapters and propose updates in line with the statutory changes. The board may also consider other code updates deemed necessary.

The alternative to pursuing this rule project is that the administrative code could become out of line with statute, causing confusion and lack of clarity on regulations. The code could lack needed updates to keep in step with current law and the industry.

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

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

Section 452.07 (3), Stats.: “The board may promulgate rules regarding advertising by brokers or salespersons that do not conflict with s. 452.136.”

Section 452.05 (1) (c), Stats., states that “[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.”

Section 452.05 (1) (d), Stats., states that “[the board ... shall] After consultation with the council on real estate curriculum and examinations, brokers and salespersons licensed under this chapter, and interested members of the public, establish criteria for the approval of continuing educational programs and courses in real estate related subjects required for renewal under s. 452.12 (5) (c).”

Section 15.08 (5) (b), Stats., states that each examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 227.11 (2) (a), Stats., states that an agency “may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

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

Approximately 100 hours.

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

Real estate brokers, salespersons, and firms in Wisconsin.

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

None.

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

None to minimal. This rule is not likely to have a significant economic impact on small businesses.

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Approved for publication:



Authorized Signature

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Date Submitted

Approved for implementation:



Authorized Signature

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