

**STATE OF WISCONSIN  
REAL ESTATE EXAMINING BOARD**

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**IN THE MATTER OF RULEMAKING :  
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE  
REAL ESTATE EXAMINING BOARD : CR 21-018  
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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

None

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA is attached.

**IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:**

The purpose of the rule is to repeal or modify provisions of the rule identified in the Real Estate Examining Board's 2019 report to the Joint Committee for Review of Administrative Rules pursuant to s. 227.29, Stats.

**V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:**

The Real Estate Examining Board held a public hearing on April 15, 2021. No one appeared and no comments were submitted to the Board.

There were no modifications made to the rule as a result of the public hearing.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

The Board determined it would not accept the recommendation provided in the Clearinghouse Report under "1. Statutory Authority". This recommendation indicated the Board should consider whether Section 1 of the proposed rule "should be included in the rule". Section 1 repeals the board's predetermination procedures. Predetermination procedures are prescribed under s. 111.335 (4) (f) 6, Stats. The Board determined maintaining separate provisions would be duplicative of the procedures under s. 111.335 (4) (f) 6, Stats. The predetermination procedures are implemented by the Department of Safety and Professional Services across the various licensure programs.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

**VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:**

None. There is no effect on small businesses.

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 21-018)

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PROPOSED ORDER

An order of the Real Estate Examining Board to repeal REEB 12.011 and amend REEB 12.017 (3) (a) (intro.), relating to obsolete references to predetermination of criminal convictions in licensure applicants and apprenticeships.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** ss. 111.335 (4) (f) 6., 440.03 (13) (bm), 452.09 (4), and 452.11 (1), Stats.

**Statutory authority:** ss. 15.08 (5) (b) and 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.]

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

**Related statute or rule:** ss. 111.335 (4) (f) 6., 440.03 (13) (bm), 452.09 (4), and 452.11 (1), Stats.

**Plain language analysis:**

The Real Estate Examining Board Administrative Rule REEB 12.011 relates to criminal conviction predeterminations. 2017 Act 278 requires that the Real Estate Examining Board promulgate rules establishing a procedure that allows an individual to apply to the Board for a determination of whether the individual would be disqualified from obtaining a license or certificate due to their criminal record. Section 111.335 (4) (f) 6., Stats. provides the

requirements in which the predeterminations are reviewed by the Wisconsin Department of Safety and Professional Services in lieu of the Board.

This rule revision also removes the reference under REEB 12.017 (3) (a) (intro.) to apprenticeships, as apprenticeships are no longer licensed under the Board's administrative rules.

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

The federal government does not regulate the prelicensure predetermination for members of the real estate profession nor real estate broker apprenticeships.

**Comparison with rules in adjacent states:**

**Illinois:** Illinois does not have a process in which an applicant may apply for a predetermination of a criminal conviction before officially applying for real estate licensure. Illinois does not include apprenticeships for real estate.

**Iowa:** Iowa requires a background check which includes fingerprint submission, to be completed prior to taking a real estate licensure exam. Once the background check has been reviewed and approved, an applicant then must pass a licensure exam. [Iowa Code § 543B.15(9)] Iowa does not have real estate apprenticeships.

**Michigan:** Michigan does not have a predetermination process for applications for real estate licensure nor apprenticeships for real estate.

**Minnesota:** Minnesota does not have a predetermination process for applications for real estate licensure nor apprenticeships for real estate.

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

The Board reviewed REEB 12 as a result of its 2019 biennial report under s. 227.29, Stats., and determined that REEB 12.011 includes an obsolete reference to predetermination standards that should be repealed. It also found that the reference to apprenticeships should be deleted in s. REEB 12.017 (3) (a) (intro.).

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis document 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:**

Kassandra Walbrun, 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.

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TEXT OF RULE

SECTION 1. REEB 12.011 is repealed.

SECTION 2. REEB 12.017 (3) (a) (intro.) is amended to read:

**REEB 12.017 (3) (a) (intro.)** Each applicant for a real estate broker's license shall submit evidence satisfactory to the board that the applicant has practiced as a licensed salesperson under the direct supervision of a licensed broker for at least 2 years within the last 4 years preceding the date of application, ~~excluding any time the applicant spent in an apprenticeship~~. Except as provided in pars. (b) to (d), the evidence shall demonstrate that the applicant's experience as a licensed salesperson qualifies the applicant for a total of at least 40 points based on the following point system:

SECTION 3. 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.

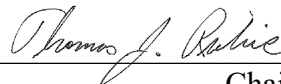
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(END OF TEXT OF RULE)

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This Proposed Order of the Real Estate Examining Board is approved for submission to the Governor and Legislature.

Dated 6/15/21

Agency   
Chair  
Real Estate Examining Board

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>	<p>2. Date 12/22/2020</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) REEB 12</p>	
<p>4. Subject Predetermination on licenses and obsolete reference to apprenticeships in broker application requirements</p>	
<p>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</p>	<p>6. Chapter 20, Stats. Appropriations Affected</p>
<p>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</p>	
<p>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></p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0.00</p>	
<p>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 checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule The objective of the rule is to repeal or modify provisions of the rule identified in the Real Estate Examining Board's report to the Joint Committee for Review of Administrative Rules pursuant to s. 227.29, Stats. The rule proposes to make changes in compliance with 2017 Act 278, which eliminated predetermination on licenses, and to remove the obsolete reference to apprenticeships in broker application requirements.</p>	
<p>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. The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of the EIA. This rule does not affect any governmental units.</p>	
<p>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) The rule was posted for comments and none were received. The rule does not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule Implementing this rule will provide consistency between statutes and administrative code. The alternative to implementing this rule is to leave the administrative code unchanged, which is inconsistent with statute.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implications of implementing the rule include consistency between statutes and administrative code.</p>	

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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17. Compare With Approaches Being Used by Federal Government  
None

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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)  
Illinois: Illinois does not have a process in which an applicant may apply for a predetermination of a criminal conviction before officially applying for real estate licensure. Illinois does not include apprenticeships for real estate.

Iowa: Iowa requires a background check which includes fingerprint submission, to be completed prior to taking a real estate licensure exam. Once the background check has been reviewed and approved, an applicant then must pass a licensure exam. [Iowa Code § 543B.15(9)] Iowa does not have real estate apprenticeships.

Michigan: Michigan does not have a predetermination process for applications for real estate licensure nor apprenticeships for real estate.

Minnesota: Minnesota does not have a predetermination process for applications for real estate licensure nor apprenticeships for real estate.

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19. Contact Name Kassandra Walbrun	20. Contact Phone Number 608-261-4463
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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:

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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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