

INTRODUCTION

Purpose and Structure

The Legislature, by s. 35.93 and ch. 227, Stats., directed the publication of the rules of executive agencies having rule-making authority in a loose-leaf, continual revision system known as the Wisconsin Administrative Code. The Code is kept current by means of new and replacement pages. The pages are issued monthly, together with notices of hearings, notices of proposed rules, emergency rules, instructions for insertion of new material, and other information relating to administrative rules. This service is called the Wisconsin Administrative Register, and comes to the subscriber near the middle and at the end of each month. Code pages are issued to subscribers only with the end of the month Register. The editing and publishing of the Register and Code is done by the Revisor of Statutes Bureau, Suite 800, 131 W. Wilson St., Madison, Wisconsin, 53703. (608-266-7275).

Availability

The complete code and the upkeep service are distributed to the county law libraries; to the libraries of the University of Wisconsin Law School and Marquette University Law School; to the State Historical Society; to the Legislative Reference Bureau and to the State Law Library, and to certain designated public libraries throughout the state.

The sale and distribution of the Register, Code and of its parts is handled by Department of Administration, Document Sales, P.O. Box 7840, Madison, Wisconsin 53707. (608-266-3358 information) (1-800-362-7253 or 608 264-9419 charge card orders).

Table of Contents

Each code with more than one chapter will have a table of chapters. After the title of each chapter will be the page numbers on which the chapter begins. Each chapter will have a table of sections.

History Notes

Each page of the code as it was originally filed and printed pursuant to the 1955 legislation, had a date line "1-2-56". A rule which is revised or created subsequent to the original printing date is followed by a history note indicating the date and number of the Register in which it was published and the date on which the revision or creation of the rule became effective. Additions to a section's history note will be shown in **bold face** when those affected code sections are first released. The absence of a history note at the end of a section indicates that the rule has remained unchanged since the original printing in 1956. The date line at the bottom of the page indicates the month in which the page was released, but does not necessarily mean a substantive change has occurred on that page. Some common abbreviations used in the history notes are: cr. - created, am. - amend, r. - repeal, recr. - recreate, renum. - renumber, eff. - effective and emerg. - emergency.

In some instances an *entire* chapter has been repealed and recreated or renumbered subsequent to the original printing date. When this occurs a note has been placed at the beginning of the chapter after the table of sections to contain this information. A separate history note appears after each section indicating the date when the revision or creation became effective.

Index

The index for the complete Wisconsin Administrative Code will be found in the last volume of the complete set. It will be recompiled, reprinted and distributed at least 3 times a year. Some codes have a separate index prepared by the agency involved. See the Uniform Dwelling Code (chs. ILHR 20-25) and the Building and Heating Code (chs. ILHR 50-64) as examples.

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Chapter ILHR 67

RENTAL UNIT ENERGY EFFICIENCY STANDARDS

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Subchapter I Purpose and Scope

ILHR 67.01 Purpose. The purpose of this chapter is to establish rules for the department to administer and enforce s. 101.122, Stats.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. Register, December, 1984, No. 348, eff. 1-1-85.

ILHR 67.02 Scope. The rules contained in this chapter establish minimum energy efficiency standards for rental units that must be met before the ownership of a rental unit may be transferred; inspection procedures for determining whether a rental unit complies with the energy efficiency standards specified in this chapter; procedures for certifying that a rental unit meets the energy efficiency standards specified in this chapter; procedures for obtaining an exemption from a specific energy conservation measure based on a 5-year cost payback; procedures for obtaining a stipulation or waiver for rental units that do not meet the standards specified in this chapter; and procedures that the department will use to administer and enforce this chapter.

(1) **STATE RENTAL UNIT ENERGY CODE.** The energy efficiency standards in this chapter shall apply to all rental units in this state unless specifically exempted.

(2) **MUNICIPAL RENTAL UNIT ENERGY CODES.** After the effective date of this chapter, no municipality may enforce a code or ordinance of minimum energy efficiency standards for rental units in the municipality unless the energy efficiency standards of the code or ordinance are at least as strict as the energy efficiency standards specified in this chapter.

(a) **Department authorization.** The department may authorize a municipality in writing to issue the department certificate specified in s. ILHR 67.08, if the department determines that the municipality can provide adequate inspection service of the standards under subch. III.

(b) **Filing of certificates.** A copy of all certificates issued by the municipality under par. (a) shall be filed with the department.

(c) **Revocation of municipal authority.** The department may revoke the authority of a municipality to issue the department certificate at any time that it determines the municipality is issuing department certificates without adequate inspection of the standards under subch. III.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. (intro.), Register, December, 1984, No. 348, eff. 1-1-85.

ILHR 67.03 Application. (1) **RENTAL UNITS COVERED.** After January 1, 1985, no owner may transfer a rental unit unless an inspector certified by the department has issued a certificate indicating that the rental unit meets the rental unit energy efficiency standards specified in this chapter; or unless a waiver has been issued as specified in s. ILHR 67.08 (2); or unless a stipulation is issued as specified in s. ILHR 67.08 (3).

(2) **RENTAL UNITS EXCLUDED.** The following rental units are excluded from the provisions of this chapter:

(a) Any dwelling unit not rented at any time from November 1 to March 31;

(b) Any building which contains up to 4 rental units and one of the dwelling units will be owner-occupied;

(c) Any building constructed after December 1, 1978, which contains up to 2 dwelling units and which is less than 10 years old;

(d) Any building constructed after April 15, 1976, which contains more than 2 dwelling units and which is less than 10 years old;

(e) Mobile homes;

(f) Hotels and motels used primarily for transient residency; and

(g) Health care facilities.

(3) **MULTIPLE USE OCCUPANCY.** Any building which contains a rental unit, and which is not excluded under sub. (2), and is located in a building with another occupancy shall comply with the following:

(a) If the rental unit comprises more than 50% of the total gross area of the building, the entire building shall be made to conform to the provisions of this chapter.

(b) If the rental unit comprises 50% or less of the total gross area of the building, only items specific or unique to the rental unit portion of the building shall comply with the provisions of this chapter.

(4) **RENTAL UNITS IN CONDOMINIUMS.** Any condominium unit, as defined under s. 703.02 (15), Stats., which is a rental unit shall, at the time of transfer, be brought into compliance with the provisions of s. ILHR 67.05. The provisions of s. ILHR 67.05 shall apply to all building elements of the individual unit as defined in s. 703.02 (15), Stats., but not to the common elements which are defined in s. 703.02 (2), Stats., and contained in the condominium declaration as outlined in s. 703.09, Stats.

Note: The definitions of s. 703.02, Stats., which are referred to above, are as follows:

"Common elements" means all of a condominium except its units; and
"Unit" means a part of a condominium intended for any type of independent use, including one or more cubicles of air at one or more levels of space or one or more rooms or enclosed spaces located on one or more floors (or parts thereof) in a building. A unit may include 2 or more noncontiguous areas.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (1), (2) (intro.) and (h), cr. (3) and (4), Register, December, 1984, No. 348, eff. 1-1-85; am. (2), r. and recr. (4), Register, November, 1985, No. 359, eff. 12-1-85.

Subchapter II Definitions

ILHR 67.04 Definitions. In this chapter:

(1) "Accessible" means capable of being reached without removal or alteration of any part or parts of the permanent structure finish materials or paved sidewalk or driveway. Cavities under

floors in unfinished attic areas are accessible. Exposed foundation areas located above paved sidewalks or driveways are accessible.

(2) "Annual fuel utilization efficiency (AFUE)" means the efficiency rating of the heating plant model. Unlike steady-state conditions, this rating is based on average usage conditions, including on and off cycling as set out in the U.S. department of energy test procedures.

Note: The higher the AFUE rating, the higher the heating plant efficiency will be.

(4) "Authorize" means to affix a DILHR authorization stamp to a form for a Certificate of Compliance, Stipulation or Waiver, sign the form in the space marked "Inspector Signature" or "Signature of Agency Office" and write the relevant dates, identification of the signing official and authorization stamp number in the appropriate spaces.

(4m) "Basement" means a space of full story height below the first or ground floor with its entire floor line below exit discharge grade.

(5) "Box sill" means that portion of the building envelope between the top of the foundation wall and the sub-floor immediately above, or the perimeter of the floor joists.

(6) "British thermal unit (Btu)" means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit at or near 39.2° F.

(8) "Condominium" means a multiple dwelling unit building in which there is separate ownership of individual dwelling units, as created by ch. 703, Stats.

(8m) "Crawl space" means an unfinished space of less than full story height below the first or ground floor. Crawl spaces may be vented or unvented to the outside.

(10) "Department" means the department of industry, labor and human relations.

(11) "Dwelling unit" means a building or that part of a building which is used as a home or residence.

(12) "Energy conservation measure" means any measure which increases the energy efficiency of a rental unit, including, but not limited to, the installation of caulking, weatherstripping, insulation and storm windows.

(12m) "Exit discharge grade" means the elevation of finished exterior surface of paved or unpaved ground at any exit discharge doorsill.

(13) "Fahrenheit" means a thermometric scale in which 32° denotes freezing and 212° denotes boiling of water under normal pressure at sea level.

(14) "Financial institution" means any state or nationally chartered bank, savings and loan association, credit union, mutual savings bank, trust company bank or other lending authority created or licensed under state or federal law.

(15) "Finish material" means drywall, plaster, siding or other material covering the structure, but does not include floors in unfinished spaces.

(17) "Gross area" means the occupied or usable floor area in a building but not including space occupied by columns, walls, partitions, mechanical shafts or ducts.

(17m) "Ground floor" means a space of full story height which is a level of a building on a sloping or multilevel site and which has the floor line partly, but not entirely, below exit discharge grade.

(18) "Habitable room" means any room used for sleeping, living or dining purposes, excluding such enclosed places as kitchens, closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms, and similar spaces.

(19) "Health care facilities" means either hospitals or nursing homes.

(20) "Inspector" means a person certified by the department to perform inspections for energy efficiency in rental units.

(22) "Issue" means to authorize a certificate of compliance, stipulation or waiver and give the authorized copy of the form to the owner, owner's representative or other appropriate person who may use it for recordation of the property transfer.

(23) "Municipality" means a city, village or town.

(24) "Owner" means any person having a legal interest of 50% or more in a rental unit or a purchaser of a rental unit under a land contract, but does not mean a tenant with or without an option to purchase.

(25) "Owner-occupied" means one dwelling unit in a rental unit building used as the primary residence by the owner for at least one year immediately after the date of transfer.

Note: If a dwelling unit is subject to an existing lease held by a person other than the owner, the dwelling unit cannot be owner-occupied at the time of transfer. The dwelling unit may be owner-occupied on termination of the lease if the requirements of s. ILHR 67.08 (3) (c) are met.

(27) "Rental unit" means a dwelling unit which is rented for a monetary exchange or is part of an agreement between employer and employee where a dwelling unit is provided as part of the remuneration for employment. The definition of a dwelling unit as a rental unit will be based on its use after transfer.

Note: Single family dwellings which are used as rental units after transfer are subject to the provisions of this chapter.

(28) "Sidewalls" means the exterior building envelope walls excluding the box sill and including windows, doors, and other openings above the box sill.

(29) "Thermal performance" means the gross heat loss from the exterior building envelope.

(30) "Thermal resistance (R)" means a measure of the ability of materials to retard the flow of heat. The R-value is the reciprocal of a heat transfer coefficient or thermal transmittance, expressed by U; $R = 1/U$.

Note: The higher the R-value of a material, the more difficult it is for heat to flow through the material.

(31) "Thermal transmittance (U)" means the coefficient of heat transmission expressed in units of Btu per hour per square foot per degree F. It is the time rate of heat flow. The U-value applies to combinations of different materials used in series along the heat flow path and also to single materials that comprise a building section, and includes cavity air spaces and surface air films on both sides.

Note: The lower the U-value of a material, the more difficult it is for heat to flow through the material.

(32) "Transfer" means a conveyance of ownership interest, including a controlling stock or partnership interest, in a rental unit by deed, land contract or judgement; or conveyance of an interest in a lease in excess of one year which was contracted after January 1, 1985. Transfer does not mean a conveyance under chs. 851 to 879, Stats., (probate) or mean:

(a) Transfers for nominal or no consideration which confirm, correct or reform a transfer previously made;

(b) Transfers for delinquent taxes or assessments to federal, state or local governments provided that, before subsequent transfer, the transferee presents the stipulation described in this chapter, and that compliance shall be no later than one year after the date of the subsequent transfer;

(c) Transfers resulting from court-ordered partitions of property;

(d) Transfers resulting from involuntary merger or liquidation of financial institutions;

(e) Transfers from a subsidiary corporation to its parent for no consideration, or in sole consideration of cancellation, surrender or transfer of capital stock between parent and subsidiary corporation;

(f) Transfers between husband and wife or parent and children for nominal or no consideration;

(g) Transfers between agent and principal or trustee and beneficiary without actual consideration;

(h) Transfers made solely to provide security for a debt or obligation or transfers made to or from financial institutions solely for release of security for debt or obligation;

(i) Transfers pursuant to or in lieu of condemnation;

(j) Transfers pursuant to property division under ch. 767, Stats., (divorce);

(k) Transfers of property pursuant to foreclosure or in lieu of foreclosure provided that, before subsequent transfer, the transferee present a stipulation as described in s. ILHR 67.08 (3), and that compliance shall be no later than one year after date of the subsequent transfer. These transfers include but are not limited to property which reverts back to financial institutions, land contracts which revert back to the seller and property transferred due to delinquent taxes awaiting sheriff's sale.

(L) Transfers of property to persons licensed under ch. 452, Stats., (real estate broker) solely for the purpose of facilitating sale of property, provided the sales contract stipulates that property shall meet the rules if it is not sold within a year, and provided that, before subsequent transfer, the transferee present a stipulation as described in this chapter, and that compliance shall be no later than one year after date of the subsequent transfer;

(m) Transfers to trustees in court-declared bankruptcies, provided that before subsequent transfer, the transferee present a stipulation as described in this chapter, and that compliance shall be no later than one year after date of the subsequent transfer; and

(n) Transfers pursuant to condominium declaration as under ch. 703, Stats.

Note: It is the intent of this definition to exempt transactions which are involuntary, for security purposes or for nominal consideration.

(33) "Vapor barrier" means a material, including vapor barrier paint, with a vapor transmission rate not greater than 1.00 perm.

(34) "Vented" means provided with outside air by natural or mechanical means via permanent openings. This venting may be for purposes of removing moisture, exhausting fumes or for providing combustion air.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (1) and (6), r. and recr. (4) and (11), r. (22), renum. (10), (12) to (21) to be (12) to (22) and am. (16), (17) and (22), cr. (10), Register, December, 1984, No. 348, eff. 1-1-85; renum. (2) to (23) to be (5), (6), (8), (10) to (15), (17), (19), (20), (23), (24), (25), (27) to (33) and am. (24), (27), (32) (intro.) and (k), cr. (2), (4), (18), (22), (32) (n) and (34), Register, November, 1985, No. 359, eff. 12-1-85; emerg. am. (1), cr. (3), (4m), (7), (8m), (9), (12m), (16), (17m), (21) and (26), eff. 2-17-86; am. (1), cr. (3), (4m), (7), (8m), (9), (12m), (16), (17m), (21) and (26), Register, June, 1986, No. 366, eff. 7-1-86; r. (3), (7), (9), (16), (21) and (26), Register, June, 1989, No. 402, eff. 7-1-89.

Subchapter III

Rental Unit Energy Efficiency Standards

ILHR 67.05 Energy efficiency standards. Any building containing rental units, except those specified in s. ILHR 67.03 (2), transferring ownership after January 1, 1985, shall meet the minimum prescriptive energy conservation measures specified in this section, unless an exemption has been issued under s. ILHR 67.06, unless a petition for variance has been granted as specified in s. 101.02 (6), Stats., or unless a waiver or stipulation has been issued as specified in s. ILHR 67.08 (2) and (3).

(1) INSULATION. (a) *Insulation of attic areas and access panels or doors.* Insulation shall be provided in all accessible areas as specified in Table 67.05-A.

TABLE 67.05-A
INSULATION OF ATTICS AND ACCESS PANELS OR DOORS

	If insulation of an R-Value less than or equal to R-5 is present	If insulation of an R-Value greater than R-5, but less than or equal to R-10 is present	If insulation of an R-Value greater than R-10, but less than R-19 is present	If insulation of an R-Value of R-19 or greater is present
Attics (a) (b) (c)	Insulation shall be added to bring the total insulation level to R-38	Insulation shall be added to bring the total insulation level to R-38	R-19 insulation shall be added to the existing insulation	No additional insulation is required
Horizontal Access Panels or Doors to Attics or Other Vented Spaces	Insulation shall be added to bring the total insulation level to R-19	Insulation shall be added to bring the total insulation level to R-19	Insulation shall be added to bring the total insulation level to R-19	No additional insulation is required
Vertical Access Panels or Doors to Attics or Other Vented Spaces	Insulation shall be added to bring the total insulation level to R-5	No additional insulation is required	No additional insulation is required	No additional insulation is required

(a) Wall and ceiling cavities open to the attic area shall be insulated.

(b) If knob and tube wiring is present, insulation shall be installed in such a way as not to cause a hazard. The owner may wish to consult the municipal inspector or an insulation contractor for the correct insulation procedure.

(c) If floor boards are present, insulation shall be installed over the floor boards to the required R-value or the cavities below the floor boards shall be completely filled with insulation.

(b) *Insulation of box sills, side walls and floors.* Insulation shall be provided in all accessible areas as specified in Table 67.05-B.

TABLE 67.05-B
INSULATION OF BOX SILLS, SIDE WALLS AND FLOORS

	If insulation of an R-Value less than or equal to R-2.5 is present	If insulation of an R-Value greater than R-2.5, but less than or equal to R-10 is present	If Insulation of an R-Value greater than R-10 is present
Box Sills (a)	Insulation shall be added to bring the total insulation level to R-19	R-11 insulation shall be added to the existing insulation	No additional insulation is required
Side Walls (a) (b) (c) (d)	Insulation shall be added to bring the total insulation level to R-11	No additional insulation is required	No additional insulation is required
Floors over Vented Spaces including Crawl Spaces (a) (e) (f) (g)	Insulation shall be added to bring the total insulation level to R-19	R-11 insulation shall be added to the existing insulation	No additional insulation is required

(a) Walls or floors which separate the rental unit from a garage which is unvented or is vented with outside air shall be insulated, if accessible.

(b) If a garage is attached to a rental unit and the garage is vented with outside air which is heated or supplied with heated air from another source, then the exterior walls of the garage shall be insulated, if accessible.

(c) Wall and ceiling cavities open to the attic area shall be insulated.

(d) If knob and tube wiring is present, insulation shall be installed in such a way as not to cause a hazard. The owner may wish to consult the municipal inspector or an insulation contractor for the correct insulation procedure.

(e) Structural concrete floors or ceilings are considered to be inaccessible due to the difficulty of attaching insulation and fire barriers.

(f) Precautions shall be taken to prevent the freezing of water service pipes located in that space. The water pipes shall be insulated to R-5 or a suitable alternative shall be provided to prevent freezing.

(g) If a ceiling over a crawl space which has an earth floor is insulated, then a vapor barrier shall be installed over the floor of the crawl space.

(c) *Insulation of ducts and pipes.* Insulation shall be provided in all accessible areas as specified in Table 67.05-C.

TABLE 67.05-C
INSULATION OF DUCTS AND PIPES

BUILDING ELEMENT	AMOUNT OF INSULATION REQUIRED
Heating Supply and Return Ducts Located In:	
Vented Spaces	R-5
Uninsulated Basements Which have 12 inches or More Average Accessible Exposure	R-5
Crawl Spaces Which Have Insulated Ceilings	R-5
Basements Which Have Insulated Ceilings	R-5
Heating Supply Ducts Located In Uninsulated Basements With Less Than 12 Inches Average Accessible Exposure	R-5
Steam Heating Pipes Not Located In Habitable Rooms, Kitchens or Bath or Toilet Rooms	R-4
Hydronic Heating Pipes Not Located In Habitable Rooms, Kitchens or Bath or Toilet Rooms	R-2
Domestic Hot Water Pipes:	
Circulating	R-2
Noncirculating Hot and Cold Water Pipes Within 5 Feet of Water Heater	R-2

(2) **WINDOWS.** All windows shall be double glazed or shall be provided with exterior or interior storm windows except that windows of store fronts are exempt from the requirements of this subsection. Where exterior storms are installed over openable windows required for natural ventilation, a portion of the storm shall be openable from the inside. Windows located in boiler or furnace rooms do not need to be double glazed or equipped with storms. Windows located in basement areas which are not habitable rooms may be permanently sealed and insulated in lieu of double glazing or installing exterior or interior storm windows.

(3) **WEATHERSTRIPPING.** Windows, including basement windows, which are designed to be opened, doors exposed to the exterior, and doors and access panels to attic or other vented spaces shall be provided with weatherstripping. All swinging exterior doors shall be equipped with a doorsweep. Any crack that exceeds 0.10 inches shall be weatherstripped. Windows located in boiler or furnace rooms need not be weatherstripped.

(4) **CAULKING.** All accessible exterior joints within the first 3 stories between the foundation and box sill; around the windows, including basement windows, and door frames; at penetrations from utility services and pipes, dryer vents and all other openings or cracks in the exterior building envelope shall be caulked, gasketed or otherwise sealed. This requirement does not apply to openings for combustion air and joints in the siding.

(5) **DOORS.** Patio doors shall be insulated, double glazed or equipped with a storm door. Where no vestibule exists, inward swinging exterior doors shall be insulated, double glazed or equipped with a storm door. Door lites need not be double glazed if they are part of the door. All storm doors shall be equipped with a self-closing device.

(6) **MOISTURE CONTROL.** (a) *Ceilings.* Minimum ventilation shall be provided above the ceiling or attic insulation. The free area of ventilation shall be at least 1/300 of the horizontal area. Where overhangs with soffits are provided, one-half of the free area shall be near the eaves and one-half in the upper one-third of the roof or gable. Where it is impractical to install gravity venting, power vent systems may be used to provide equivalent ventilation. Power vents shall be connected to a humidistat.

(b) *Crawl spaces.* Minimum ventilation shall be provided in unheated crawl spaces. The area of ventilation shall be at least 1/300 of the floor space. The area of ventilation shall be distributed equally to at least 2 openings in the foundation wall. The openings shall be located to provide cross ventilation. Where ac-

cessible, a vapor barrier shall be applied to cover the exposed earth.

(7) **EQUIPMENT.** All heating equipment which is not electric and all water heaters which are not electric shall have been examined within 6 months prior to the date of the energy efficiency inspection by a contractor, service technician, or energy supplier to ensure that the equipment is properly adjusted and maintained. Water heaters located in vented spaces and in basements and crawl spaces which are uninsulated or have insulated ceilings shall be provided with insulated jackets with a minimum insulating value of R-5. Insulated jackets are not required for water heaters stamped as meeting ASHRAE 90-75, 90-77 or 90A-80. Combustion air openings shall be unobstructed. All showers shall be equipped with flow restricters rated at three gallons per minute or less. Through-wall air conditioners shall be fully covered, and effectively sealed from the inside or outside or both during the heating season.

Note: The department will accept as evidence a service report signed and dated by the contractor, service technician or energy supplier that the heating equipment and water heater is properly adjusted and maintained.

Note: ASHRAE is an acronym for the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc. Copies of ASHRAE standards for domestic water heating systems may be purchased from the ASHRAE Publications Sales Department, 1791 Tullie Circle N.E., Atlanta, Georgia 30329.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (intro.), (2) to (5) and (7), r. and recr. table, Register, December, 1984, No. 348, eff. 1-1-85; emerg. am. table, (6) (b) and (7), eff. 1-1-85; am. (intro.), (2) to (5) and (7), r. and recr. (1), Register, November, 1985, No. 359, eff. 12-1-85; am. table 67.05-C, Register, December, 1985, No. 360, eff. 1-1-86; emerg. am. table 67.05-C, cr. (1) (d) and (e), eff. 2-17-86; am. table 67.05-C, cr. (1) (d) and (e), Register, June, 1986, No. 366, eff. 7-1-86; am. table 67.05-B, r. (1) (d) and (e), tables 67.05-D and E, Register, June, 1989, No. 402, eff. 7-1-89.

ILHR 67.06 Cost payback exemptions. No specific energy conservation measure may be required under s. ILHR 67.05 (1) to (5) and (7) where the cost payback obtained from installing the specific energy measure exceeds 5 years. In order to receive an exemption for a specific energy measure, the owner shall submit evidence to the department to demonstrate that the cost payback for the specific energy measure exceeds 5 years. Envelope cost payback calculations shall be made in accordance with this section unless otherwise approved by the department. All calculations and analyses shall be based on the actual conditions to which the specific energy measure is subject. Other nonenvelope cost payback calculations utilizing principles and concepts outlined in this section may be approved by the department. The final acceptance of any cost payback shall be made by the department.

(1) **APPLICATION FOR COST PAYBACK EXEMPTIONS.** Any request for an exemption of a specific energy conservation measure based on cost payback shall be made in writing on application forms provided by the department.

(2) **PROCESSING APPLICATIONS FOR EXEMPTIONS.** (a) *Information required.* Any application for an exemption shall be submitted to the department for processing along with the 5-year payback calculations, drawings and pictures describing the specific energy conservation measure to be exempted, fuel bills or utility documentation of fuel cost, the cost estimate for the installed specific energy conservation measure, and processing fees. The application form shall be signed and dated by the owner requesting the exemption.

(b) *Department processing.* The department shall evaluate and process the application in accordance with this section and shall process the applications for exemption in the order of the date the applications are received by the department. All forms shall be completed and all information requested shall be received by the department before processing of the exemption will occur. Submitted cost estimates which differ significantly from the average or typical costs established by the department, will be subject to department examination. The applicant may be asked for additional information concerning the particular energy conservation measure. Analyses submitted on department worksheets or pre-approved analyses shall receive priority over alternative analysis methods.

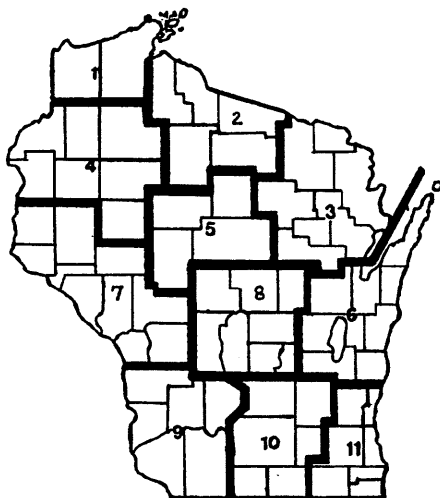
(3m) **EXEMPTION FOR STORM WINDOWS.** Any request for an exemption from storm windows shall include an analysis of the cost payback for each of the following conditions:

(a) Installing storm windows from the exterior, if accessible; and

(b) Installing storm windows from the interior, if accessible.

(4) **PROCEDURES FOR CALCULATING PAYBACK.** The calculation of the envelope energy savings and the determination of the economic feasibility for each minimum energy efficiency standard shall be computed as follows:

FIGURE 67.06
DEGREE DAYS PER YEAR
Wisconsin Division of State Energy Degree Day Zones



Zone 1 - 9, 169	Zone 5 - 8, 487	Zone 9 - 7,171
Zone 2 - 9, 114	Zone 6 - 8,098	Zone 10 - 7,730
Zone 3 - 8, 460	Zone 7 - 8,388	Zone 11 - 7,444
Zone 4 - 8, 721	Zone 8 - 8,201	

(a) *Energy savings calculations.* The following energy savings equation shall be used to calculate the heat loss of the specific energy measure:

$$ES = \frac{(U_i - U_f) \times A \times D \times 24}{K \times V}$$

where:

- ES = The fuel or energy savings in the appropriate energy units for the estimated period; e.g., hundreds of cubic feet of natural gas, gallons of fuel oil, or kilowatt-hours of electricity.
- U_i = U value of the existing building element, including any insulation that is already contained in the building element being evaluated, expressed in Btu/hr - ft²-F°.
- U_f = U value of the existing building element, including the level of insulation required in Table 67.05 for the specific building element being evaluated, expressed in Btu/hr - ft²-F°.
- A = The gross area of the building element being evaluated, in square feet.
- V = The heating value of the fuel type:

Oil	138,500 Btu/Gal
Gas	100,000 Btu/CCF
Electricity	3413 Btu/Kilowatt-Hr
LP (Propane & Butane)	91,500 Btu/Gal
Coal	10,000 Btu/lb
Wood	4,000 Btu/lb or 25,000,000 Btu/cord

- K = A correction factor which includes the effects of rated full load efficiency, part load performance, oversizing and energy conservation devices. The following factors shall be used unless higher AFUE's for newer equipment can be substantiated:

LP	0.55
Gas	0.55
Oil	0.55
Electricity	1.00
Wood	0.50
Coal	0.50

- D = Number of 65° F degree days for the estimated period based on geographical zones in Figure 67.06.

(b) *Energy price.* The current retail price per unit of energy (P) shall be determined for the annual energy savings at the time the calculations are submitted.

(c) *Cost of improvement.* The actual total cost (C) of the energy savings improvement shall be determined and an itemized breakdown of the total cost for labor and materials shall be submitted to the department. Additional information may be requested from the applicant if the cost is outside the range of expected, current regional costs.

(d) *Cost payback.* The cost payback period shall be calculated using the following formula:

$$P.B. = \frac{C}{P \times ES}$$

where:

P.B. = Payback in number of years
 C = Total cost of energy measure
 ES = Total energy savings
 P = Current retail price of energy unit

(5) **PAYBACK LESS THAN 5 YEARS.** If the payback period (P.B.) is less than or equal to 5 years, the specific energy measure shall be installed.

(6) **PAYBACK EXCEEDS 5 YEARS.** If the payback period (P.B.) is more than 5 years, the department shall issue an exemption. Although an exemption may be issued for any requirement, the department may specify an alternative requirement.

(7) **DEPARTMENT DETERMINATION AND NOTIFICATION.** After the department reviews the calculations and information submitted by the owner, the department shall notify the owner of its findings in writing. The department shall review and make a determination on payback calculations within 15 business days of receipt of all calculations and documents necessary to complete the review.

(8) **OWNER'S RESPONSIBILITY.** Upon receipt of the department's determination, the owner shall install the specific energy measure or provide a copy of the exemption letter to the certified inspector.

(9) **EXEMPTION EXPIRATION.** The exemption shall be valid for a period of 5 years from the date specified on the exemption.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. Register, December, 1984, No. 348, eff. 1-1-85; emerg. r. (3), eff. 1-1-85; am. (7), Register, April, 1985, No. 352, eff. 5-1-85; am. (2) (b), (4) (a) and (6), r. and recr. (3), Register, November, 1985, No. 359, eff. 12-1-85; renum. (3) to be (3m), cr. (3), Register, December, 1985, No. 360, eff. 1-1-86; emerg. r. and recr. (3), eff. 2-17-86; r. and recr. (3), Register, June, 1986, No. 366, eff. 7-1-86; r. (3), Register, June, 1989, No. 402, eff. 7-1-89.

Subchapter IV

Inspection and Certification of Rental Units

ILHR 67.07 Request for energy efficiency inspection.

An owner of a rental unit may request an energy efficiency inspection from the department or any inspector certified by the department under ch. ILHR 68 for the purpose of determining whether the rental unit meets the energy efficiency standards specified in this chapter. If an owner, after reasonable effort, is unable to procure an inspection from an authorized municipality or an independent certified rental unit energy inspector, a request for an inspection may be made to the department.

(1) **APPLICATION FOR INSPECTION FROM THE DEPARTMENT OR MUNICIPALITY.** Where an owner requests the inspection from the department or municipality, the owner shall apply for the inspection on forms obtained from the department or municipality.

(2) **FILING OF APPLICATION.** No application for inspections will be accepted by the department or municipality that does not contain all of the information requested on the application form. The application shall be filed with the department or municipality enforcing this chapter.

(3) **FEES.** (a) *Municipal fees.* Any fee required by the municipality for administering and enforcing this chapter shall be deposited with the municipality at the time the application is filed.

(b) *Department fees.* Where the department administers and enforces this chapter, the fees required for inspection and certification shall be submitted at the time the application is filed with the department.

(c) *Certified inspection fees.* Where inspections are performed by a certified inspector, other than the department or municipality, the certified inspector may charge a fee to cover the cost of the in-

spection and issuance of the certificate as specified in ch. ILHR 2, Fee Schedule.

(4) **INSPECTIONS.** All energy efficiency inspections for the purpose of certifying rental units under this chapter shall be performed by the department, municipality or inspector certified by the department.

(5) **ACTION TO INSPECT.** The municipality or department performing inspection services under this chapter shall perform inspections within 10 business days after an application is filed.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (5), Register, April, 1985, No. 352, eff. 5-1-85; correction in (3) (c) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1995, No. 477.

ILHR 67.08 Issuance of certificate, waiver or stipulation.

(1) **CERTIFICATE OF COMPLIANCE.** If upon inspection, the inspector determines that the building conforms to energy conservation measures specified in this chapter, the inspector shall authorize the certificate of compliance by signing and affixing the DILHR Transfer Authorization label and then issue the certificate prescribed by the department and file a copy of the certificate with the department. The department shall issue the certificate within 10 business days of determination that the building conforms to energy conservation measures.

Note: A copy of the certificate form (SBD-7114) is contained in the Appendix.

(a) *Certificate forms and transfer authorization stamps.* Any certified inspector may obtain certificate forms and transfer authorization stamps from the department.

(b) *Requests for certificate form.* All requests for certificate forms shall be made in writing. The fee for the certificate forms shall accompany the request. The department shall respond to all requests for certificate forms within 10 business days of receipt of an application for forms and the required fee.

Note: Copies of the certificate forms are available at no charge from:

Department of Industry, Labor and Human Relations
 Division of Safety and Buildings
 Post Office Box 7969
 Madison, Wisconsin 53707

(c) *Notice of noncompliance.* If upon inspection, an inspector determines that the rental unit does not conform to the energy measures specified in this chapter, the inspector shall specify in writing the energy conservation measures necessary to make the rental unit comply with the energy efficiency standards specified in this chapter and notify the owner of the findings. The department shall specify the energy conservation measures necessary to make the rental unit comply with the energy efficiency standards within 10 business days of completion of the inspection.

1. Stipulation may be issued where the energy efficiency standards are not met as specified in sub. (3).

2. A certification may be issued after a reinspection if all the required energy measures have been installed. Any request for reinspection performed by the department shall be accompanied with a fee for reinspection. If the effective date of any rule in this chapter occurs after a notice of noncompliance (inspection field report) has been issued, then only the energy measures specified in the notice of noncompliance need be installed provided that a certificate of compliance is issued within 30 days after the date of the notice of noncompliance.

(2) **WAIVER OF CERTIFICATE.** If a rental unit is scheduled for demolition within 2 years, the department, a department agent or an authorized municipality may issue a written waiver to the energy efficiency standards specified in this chapter. A copy of the waiver shall be filed with the authorized municipality or department agent and the department. No waiver may be requested for a rental unit which has been issued a previous waiver or stipulation unless the rental unit had received a certificate of compliance from a certified inspector on some date after the date of issuance of the latest waiver or stipulation under sub. (3).

(a) *Filing of waiver.* The waiver shall be on department forms and signed by the purchaser and submitted to the authorized municipality or department agent or the department for authorization.

The department, department agent, or authorized municipality shall place a transfer authorization stamp on the waiver. Authorized municipalities and department agents shall obtain transfer authorization stamps from the department. Where a waiver is issued by the authorized municipality or a department agent, a copy shall be filed with the department.

Note: A copy of the waiver of certificate form (SBD-7116) is contained in the Appendix.

(b) *Conditions of waiver.* The waiver shall be conditioned on the demolition of the rental unit within the 2 years of the date of the waiver.

(c) *Notification of demolition.* The owner shall notify the department in writing the date that the building was demolished.

(d) *Failure to demolish.* If demolition does not occur within 2 years of issuance of the waiver, the department or the municipality may do one or more of the following:

1. Order demolition of the rental unit no sooner than 90 days after the order;
2. Withdraw any certificate of occupancy; or
3. Order the owner to bring the rental unit in compliance with the energy measures specified in this chapter.

(e) *Department orders.* 1. 'Order for demolition'. Where the department orders the building to be demolished, the owner shall notify the department in writing the date the building was demolished.

2. 'Order for compliance'. Where the department orders the building to comply with the energy measures in this chapter, the owner shall notify the department that the energy measures have been installed and apply for an inspection of the rental unit as specified in s. ILHR 67.07.

(3) **STIPULATION.** (a) *Stipulation requirements.* 1. If a rental unit does not meet the provisions of this chapter, the transferee or new owner may present a signed stipulation issued by the department, department agent or authorized municipality to the register of deeds for recording.

2. Any rental unit for which a stipulation was issued, but for which no certificate of compliance has been issued, is exempt from any requirement for interior or exterior foundation insulation or basement ceiling insulation.

3. If a stipulation is issued after February 17, 1986, the new owner of the rental unit shall be responsible for bringing the rental unit into compliance with the provisions of this chapter which are in effect on the date of issuance of the stipulation, except for any requirement for interior or exterior foundation insulation or basement ceiling insulation.

(b) *Owners responsibility.* 1. The new owner shall bring the rental unit into compliance and receive a certificate of compliance from a certified inspection no later than one year after the date of transfer. The date of transfer is the date the stipulation is validated by the department, department agent or authorized municipality, unless acceptable documentation of another date is provided to the department.

2. No stipulation may be requested for a rental unit which has been issued a previous stipulation or waiver unless the rental unit had received a certificate of compliance from a certified inspector on some date after the date of issuance of the latest waiver or stipulation under sub. (2).

(c) *Transfer of stipulation responsibility with property.* A purchaser who has agreed to a stipulation may transfer both the property and the stipulation to another person within the initial one year period. The transferee shall sign the original stipulation in the appropriate space provided on that document. The transferee shall send a copy of the modified stipulation to the department or authorized municipality which issued the original stipulation. Authorized municipalities shall file a copy of the modified stipulation with the department. The stipulation may not be extended beyond the original one year agreement.

(d) *Issuance of stipulations to purchasers who wish to occupy the rental unit on termination of an existing lease.* A purchaser of a rental unit who intends to occupy that rental unit as an owner but is unable to occupy the rental unit because it is leased to another person at the time of transfer, shall obtain a certificate of compliance or a stipulation. The stipulation shall be obtained as specified in this section. The purchaser shall indicate "owner to occupy upon termination of existing lease" in the signature box of the stipulation form. The purchaser, within one year after the date of transfer, shall either:

1. Bring the rental unit into compliance with the energy measures specified in this chapter and obtain a certificate of compliance from a certified inspector; or

2. Take occupancy of the rental unit and occupy the rental unit for at least one year. Upon occupancy, the purchaser shall notify, in writing, the department or the authorized municipality which issued the stipulation, stating the date of the occupancy and including a copy of the original stipulation. After review and approval, the department or authorized municipality shall then terminate the stipulation and confirm the termination with the owner by return letter. Where a stipulation is terminated by an authorized municipality, the authorized municipality shall notify the department of the termination of the stipulation.

(e) *Filing stipulation.* The stipulation shall be on department forms signed by the purchaser and be submitted to an authorized municipality, a department agent or the department for authorization. Where a stipulation is issued by the authorized municipality, or by a department agent, a copy shall be filed with the department. Only the department, department agent or authorized municipality may place transfer authorization stamps on the stipulation. Authorized municipalities and department agents shall obtain transfer authorization stamps from the department.

Note: A copy of the stipulation form (SBD-7115) is contained in the Appendix.

(f) *Stipulation inspection.* Once the new owner has installed the necessary energy conservation measures, the owner shall apply for inspection from a certified inspector, authorizing municipality or the department.

1. If upon inspections, it is determined that the rental unit conforms to the conditions specified in the stipulation, the inspector shall issue a certificate indicating the rental unit conforms to the energy measures specified in this chapter. The department shall issue the certificate within 10 business days after determination that the rental unit conforms to the conditions specified in the stipulation.

2. If upon inspection, it is determined that the rental unit does not conform to the conditions specified in the stipulation, the inspector shall notify the owner in writing, specifying the measures necessary for compliance. A certification may be issued after reinspection if all the required energy measures have been installed.

3. The department shall conduct a clerical follow-up no later than 180 days after the stipulated compliance date to determine if a certificate has been issued for the rental unit. If no certificate is on file, the department shall order the owner with a specified time to comply with the energy measures and take the necessary action to secure compliance.

(g) *Filing of certification, waiver and stipulation.* A copy of the certificate, waiver or stipulation shall be filed with the department.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (1) (intro.) and (a), (2) (intro.), renum. (2) (a) to (d) to be (2) (b) to (e), cr. (2) (a) and (3) (c), r. (3) (b), renum. (3) (intro.) and (a) to be (3) (a) and (b) and am., Register, December, 1984, No. 348, eff. 1-1-85; am. (1) (intro.), (b) and (c) (intro.) and (3) (c) 1., Register, April, 1985, No. 352, eff. 5-1-85; am. (1) (c) 2., (2) (intro.) and (a) and (3) (a), renum. (3) (b) to (d) to be (3) (d) to (f) and am. (3) (d), cr. (3) (b) and (c), Register, November, 1985, No. 359, eff. 12-1-85; emerg. r. and recr. (3) (a), (b) and (c), renum. (3) (d) to (f) to be (3) (e) to (g), cr. (3) (d), eff. 2-17-86; r. and recr. (3) (a), (b) and (c), renum. (3) (d) to (f) to be (3) (e) to (g), cr. (3) (d), Register, June, 1986, No. 366, eff. 7-1-86; r. and recr. (3) (a), Register, June, 1989, No. 402, eff. 7-1-89; **correction in (2) made under s. 13.93 (2m) (b) 1., Stats., Register, September, 1995, No. 477.**

ILHR 67.09 Proof of certification. The certificate shall be proof that the rental unit complies with the energy measures specified in this chapter. The certificate shall be valid for a period of 5 years from the date specified on the certificate. The certified inspector shall retain a copy of the inspection report and certification for at least 5 years. The certificate shall include the results of the inspection of the rental unit.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 67.10 Recordation. Pursuant to s. 101.122 (6), Stats., a register of deeds may not accept for recording, any deed or other document of transfer of real estate which includes a rental unit which is not excluded as specified in s. ILHR 67.03 (2) unless the deed or document is accompanied by the certificate, a waiver, or a stipulation. The register of deeds shall record the certificate, waiver or stipulation. The register of deeds may require an exclusion determination form to certify that the property being transferred is not subject to the requirements of this chapter.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. December, 1984, No. 348, eff. 1-1-85; am. Register, November, 1985, No. 359, eff. 12-1-85.

ILHR 67.11 Revocation of certificate. The department or municipality may revoke any certificate where it appears the certificate was obtained through fraud or deceit or where the owner has willfully refused to comply with a stipulation issued under this chapter.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

Subchapter V Appeals and Penalties

ILHR 67.12 Appeals. (1) APPEAL OF A DETERMINATION BY A CERTIFIED RENTAL UNIT ENERGY INSPECTOR. Appeal of any determination made by a certified rental unit energy inspector or municipality shall be made in writing to the department. All appeals shall be filed with the department within 30 business days after the date of the determination. The department shall render a written

decision on all appeals within 60 business days of receipt of all calculations and documents necessary to complete the review.

(2) APPEAL OF RULES, ORDERS AND DETERMINATION BY THE DEPARTMENT. Appeals of any rule, determination, or special order issued by the department, shall be made to the department pursuant to the procedures specified under s. 101.02 (6) (e) to (i) and (8), Stats. The department shall review and make a determination on an appeal of a rule, order or determination by the department within 60 business days of receipt of all calculations and documents necessary to complete the review.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, April, 1985, No. 352, eff. 5-1-85.

ILHR 67.13 Penalties. Penalties in this section are established pursuant to s. 101.122 (7), Stats.

(1) INSPECTORS. Any inspector falsifying a certificate shall have his or her certification revoked by the department and may be required to forfeit not more than \$500 per dwelling unit in the rental unit for which the certificate is issued.

(2) OWNERS. Pursuant to s. 101.122 (7) (b), Stats., any person who offers documents evidencing transfer of ownership for recordation and who, with intent to evade the requirements of these rules, falsely states under s. 706.05 (12), Stats., that the real property involved does not include a rental unit, may be required to forfeit not more than \$500 per dwelling unit in the rental unit being transferred.

(3) WAIVER. Pursuant to s. 101.122 (7) (c), Stats., any person who fails to comply with the requirements of a waiver issued under this chapter may be required to forfeit not more than \$500 per dwelling unit in the rental unit for which the waiver is issued.

(4) STIPULATION. Pursuant to s. 101.122 (7) (d), Stats., any person who fails to comply with a stipulation issued in accordance with this chapter may be required to forfeit not more than \$500 per dwelling unit for the rental unit for which the stipulation was issued.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

Chapter ILHR 68

CERTIFICATION STANDARDS FOR RENTAL UNIT ENERGY INSPECTIONS

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Subchapter I General

ILHR 68.01 Scope. The purpose of this chapter is to establish standards for certification, including provisions for suspension and revocation, of inspectors for the purpose of inspecting rental units subject to the rental unit energy efficiency standards in ch. ILHR 67.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.02 Application. The rules contained in this chapter shall apply to all persons engaged in the administration and enforcement of the rental unit energy efficiency chapter promulgated by the department or engaged in the education, training and testing of persons for certification as a rental unit energy inspector.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.03 Administration and enforcement. All energy inspections of rental units for the purpose of administering and enforcing the rental unit energy efficiency chapter adopted by the department shall be performed by a rental unit energy inspector certified by the department under the provisions of this chapter.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.04 Authority. (1) DEPARTMENTAL AUTHORITY. Pursuant to s. 101.122, Stats., the department has been granted the authority and jurisdiction over the certification, including suspension and revocation, of rental unit energy efficiency inspectors certified for the purpose of inspecting rental units for energy efficiency standards adopted by the department.

(2) MUNICIPAL AUTHORITY. Pursuant to s. 101.122 (6r), Stats., any municipality which exercises jurisdiction over the inspection of rental units falling within the scope of the rental unit energy efficiency chapter or any part thereof, promulgated by the department, shall provide for inspections by persons certified under the rules of this chapter.

(a) Any termination of employment of or disciplinary action against a municipal certified rental unit energy efficiency inspector for cause directly related to the conditions of certification under this chapter shall be reported to the department.

(b) Termination of employment or disciplinary action of any certified rental unit energy efficiency inspector by a municipality shall not constitute suspension or revocation of the department certification issued under this chapter.

(c) No certified rental unit energy efficiency inspector carrying a valid department certification may be required to obtain any municipal certification or license to provide energy inspections of rental units under the rental unit energy efficiency chapter promulgated by the department.

(3) CERTIFIED RENTAL UNIT ENERGY INSPECTOR. Pursuant to s. 101.122, Stats., a certified rental unit energy efficiency inspector may:

(a) Inspect rental units subject to the energy efficiency standards adopted by the department;

(b) Issue certificates that the rental unit complies with the rental unit energy efficiency standards adopted by the department, except that the inspector may not issue a certificate for a rental unit in which the inspector or the inspector's employer, other than the state or municipality, has a monetary or personal interest;

(c) Specify in writing the energy conservation measures necessary to make the rental unit comply with the department energy efficiency standards;

(d) Enter into contractual agreements with the department, municipality, or owner requesting such inspection service; and

(e) Recommend waivers and stipulations.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.05 Definitions. (1) "Approved" means acceptable to the department.

(2) "Certification" means an inspection performed by a certified rental unit energy efficiency inspector to determine if the rental unit complies with the standards specified in the rental unit energy efficiency chapter promulgated by the department and the issuance of a certificate verifying the rental unit complies with the energy efficiency standards specified in ch. ILHR 67.

(3) "Certified rental unit energy efficiency inspector" means a natural person certified by the department to perform energy efficiency inspections under the rental unit energy efficiency chapter promulgated by the department.

(4) "Conflict of interest" means a certified Rental Unit Energy Efficiency Inspector certifying energy conservation measures required in s. ILHR 67.05 in which the inspector or the inspector's employer, other than the state or municipality, has or will have a direct monetary or personal interest, or if the inspector has a personal or monetary interest in the transfer of the property.

(5) "Department" means the department of industry, labor and human relations.

(6) "Incompetence" means conduct which evidences a lack of ability to discharge the duty required under this chapter and the rental unit energy efficiency chapter promulgated by the department or an inability to apply those principles, or failure to maintain competency in the current practices and methods applicable to energy efficiency inspection of rental units under the rental unit energy efficiency chapter.

(7) "Misconduct" means an act performed in the discharge of duties which jeopardizes the interests of the public, including

violation of the state law related to energy efficiency inspection of rental units, of administrative rules relating to energy efficiency inspection of rental units, preparation of deficient or falsified reports related to certification or inspection of rental units, failure to submit information or reports required by law or contract when requested by the municipality or the department, conduct which evidences a lack of trustworthiness, misrepresentation of qualifications such as education, experience or certification, illegal entry of premises, misuse of funds, or misrepresentation of authority related to the energy efficiency inspection of rental units.

(8) "Municipality" means any city, village or town in this state.

(9) "Negligence" means failure by omission or commission to discharge the duty required to perform energy efficiency inspections of rental units under the rental unit energy efficiency chapter promulgated by the department.

(10) "Secretary" means the secretary of the department of industry, labor and human relations.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (4), Register, November, 1985, No. 359, eff. 12-1-85.

Subchapter II

Inspector Certification

ILHR 68.06 Application for certification or recertification. Any person performing energy efficiency inspections of rental units may be certified by the department. Persons certified may be employees of the department or a municipality, or a private individual. All applicants shall be at least 18 years of age.

(1) Application for certification and recertification shall be made to the department together with the payment of the fees as specified in ch. ILHR 2. Applications shall be made on forms provided by the department and may be obtained by writing to:

Safety and Buildings Division
Department of Industry, Labor and Human Relations
P.O. Box 7969
Madison, Wisconsin 53707

(2) Upon receipt of the completed application form, the department shall review and evaluate the application and make all necessary notifications to the applicant. If it is determined that the applicant does not qualify for certification or recertification, the applicant shall be notified of such findings in writing and instructed of the appeals procedure provided under subch. IV. The department shall review and make a determination on an application for inspector certification within 15 business days of receipt of the application and all documents required to complete the review.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (2), Register, April, 1985, No. 352, eff. 5-1-85; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1995, No. 477.

ILHR 68.07 Requirements for certification. Eligibility for certification shall be based upon receipt and approval of the application and on the successful completion of an approved examination.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.08 Examination. (1) **APPLICATION FOR EXAMINATION.** All applications for examination shall be filed with the department prior to examination. The applicant shall be advised by the department of the date and place of the examination. The department shall notify all applicants for examination of the time and place of the next examination within 15 days of receipt of the application.

(2) **TIME AND PLACE OF EXAMINATION.** Scheduled examinations shall be offered at least annually. Specific details regarding time and place are available from the department upon request. The department shall schedule examinations within 18 months of the date of the last examination.

(3) **SCOPE OF EXAMINATION.** The examination shall test the applicant's ability to inspect rental units as follows:

- (a) Knowledge of rental unit energy efficiency standards;
- (b) Energy efficiency inspection procedures;
- (c) Thermal performance calculations;
- (d) Cost payback calculations; and
- (e) Issuance of certification.

(4) **GRADING OF EXAMINATIONS.** The final grading of all examinations shall be by persons approved by the department. A grade of 70% or greater shall be considered a passing grade for certification as an inspector.

(5) **EXAMINATION RETAKE.** All applications for re-examination shall be filed with the department prior to the scheduled date of the examination to be retaken.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (1) and (2), Register, April, 1985, No. 352, eff. 5-1-85.

ILHR 68.09 Issuance of certificate. Upon successful completion of the requirements for certification, the department shall notify the applicant in writing and shall issue an inspection certificate. The department shall issue the inspection certificate within 30 business days of successful completion by the applicant of the requirements for certification. The certificate shall bear the name of the applicant, certification number and expiration date. The certificate shall be valid for a period of one year.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, April, 1985, No. 352, eff. 5-1-85.

ILHR 68.10 Renewal of certificate. Upon receipt of written notice of expiration, certification may be renewed. Certification renewal shall be contingent on successful completion of on-going approved education programs or receiving a passing grade on the examination. The department shall review and make a determination on an application for renewal of certification within 30 business days of receipt of an application for renewal.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, April, 1985, No. 352, eff. 5-1-85.

ILHR 68.11 Denial of certification. Upon denial of certification or recertification, the department shall notify the applicant in writing stating the reasons for denial. The notice of denial shall be made by certified mail sent to the address filed with the application. Service shall be verified by the certified mail receipt. The department shall notify the applicant as to the reasons for denial of certification within 30 business days of receipt of an application for renewal.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, April, 1985, No. 352, eff. 5-1-85.

Subchapter III

Suspension and Revocation

ILHR 68.12 Suspension or revocation of certification. The department may deny, suspend or revoke the certification of any inspector for any of the following reasons:

- (1) Fraud or deceit in certifying rental units;
- (2) Personal or private use of the department logo or the state seal, including but not limited to use on advertising material, business forms, paper work and business cards;
- (3) Knowingly aiding or abetting the unauthorized inspection of rental units by persons not certified by the department;
- (4) Any negligence, incompetence or misconduct in the discharge of the duties required under this chapter and the rental unit energy efficiency chapter;
- (5) Any misconduct involving the testing or certification process;
- (6) Conviction of a criminal charge, misdemeanor or local regulation substantially related to the circumstances of the certified

inspection activity of rental units or adjudication of mental incompetence by the courts; or

(7) Conflict of interest.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (intro.) renum. (2) to (5) to be (3), (4), (6) and (7), cr. (2) and (5), Register, November, 1985, No. 359, eff. 12-1-85.

Subchapter IV Proceedings

ILHR 68.13 Filing of complaint. Proceedings to revoke or suspend a certificate may be initiated by any person on a signed, written complaint filed with the department. Any alleged violation of the law or the administrative rules of the department shall be set forth in the complaint with particular reference to time, place and circumstance.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.14 Investigation and notification. The department may investigate alleged violations on its own initiative or upon the filing of a complaint. If it is determined that no further action is warranted, the department shall notify the persons affected. If the department determines that there is probable cause, it shall order a hearing and notify the persons affected. The department shall conduct an investigation and notify the persons affected of the results within 3 months of receipt of a complaint.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, April, 1985, No. 352, eff. 5-1-85.

ILHR 68.15 Mailing. Unless otherwise provided by law, all orders, notices and other papers may be served by the department by certified mail addressed to the party at the last known address. If the service is refused, service may be made by sheriff without amendment of the original order, notice or other paper.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.16 Response. Upon receipt of notification of hearing from the department, the charged party may submit to the department a written response within 30 days of the date of service. Failure to respond within the prescribed time limit, or failure to appear at the scheduled hearing, may result in the allegations specified in the complaint being taken as true.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.17 Conciliation agreement prior to hearing. If the department and the respondent are able to reach agreement

on disposition of a complaint prior to hearing, such agreement shall:

(1) Be transmitted in writing to the secretary;

(2) Not be binding upon any party until accepted by the secretary; and

(3) Not be considered a waiver of any defense nor an admission of any fact until accepted by the secretary.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.18 Hearings. (1) SUBPOENAS; WITNESS FEES. Subpoenas may be signed and issued by the department or the clerk of any court of record. Witness fees and mileage of witnesses subpoenaed on behalf of the department may be paid at the rate prescribed for witnesses in circuit court.

(2) CONDUCT OF HEARINGS. All hearings shall be conducted by persons selected by the department. Persons so designated may administer oaths or affirmations and may grant continuances and adjournments for cause shown. The respondent shall appear in person and may be represented by an attorney-at-law. Witnesses may be examined by persons designated by the department.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.19 Findings. The department may make findings and enter its order on the basis of the facts revealed by its investigation. Any findings as a result of petition or hearing shall be in writing and shall be binding unless appealed to the secretary.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.20 Appeal arguments. Appeal arguments shall be submitted to the department in writing unless otherwise ordered.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.21 Petition for rules or declaratory rulings. Petitions for the adoption, repeal or amendment of rules and for declaratory rulings shall be in accordance with ch. 227, Stats.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

ILHR 68.22 Penalties. Pursuant to s. 101.122 (7), Stats., any inspector falsifying a certificate shall have his or her certification revoked and may be required to forfeit not more than \$500 per dwelling unit in the rental unit for which the certificate is issued.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

APPENDIX 67-68

The material contained in this Appendix is for informational purposes only and is numbered to correspond with the number of the rule as it appears in the code.

A67.08 (1) – Certificate of compliance. Form SBD-7114.

A67.08 (2) – Waiver of certificate. Form SBD-7116.

A67.08 (3) – Stipulation. Form SBD-7115.

DILHR CONTROL #

Rental Unit Energy Efficiency Standards

Certificate of Compliance

This instrument Was Drafted By:
Wisconsin Department of Industry,
Labor and Human Relations
Safety & Buildings Division
Rental Weatherization Program
P.O. Box 7969, Madison, WI 53707
(608) 266-0671

TYPE OR PRINT USING BLACK INK

Owner's Name(s):		Rental Building Location - Street Address:		Recording Information (Leave Blank)	
Street Address:		City:		County:	
City:		State & Zip Code:		Number of Rental Buildings on Property:	
Owner's Telephone Number (Include area code): ()		Has this unit ever been issued a stipulation? ☐ Yes ☐ No		Number of Rental Units on Property:	
Legal Description of Rental Unit Property (may attach separate sheet):		Stipulation No. S- _____		Return To:	

Certificate Instructions

This certificate is to be completed and signed by an inspector currently licensed by the Department of Industry, Labor and Human Relations for Rental Unit Energy Efficiency inspection. The original copy must be retained by the owner of the rental unit for use at time of transfer of ownership. Further, the department recommends that it be recorded. **NOTICE TO INSPECTORS:** Per ILHR 67.08 (1), the yellow copy of this certificate must be forwarded to the department within 15 business days of the certificate issuance. A copy of the Field Inspection Report should be attached to the yellow DILHR Certificate copy.

CERTIFICATE CHECKLIST							INSPECTION DATES	
REQUIREMENT	INSULATION LEVEL		Fail Dates	DILHR Exemption Number (or Comments)	NOT		1	2
	Initial	Final			Applicable	Accessible	3	
1 Doors								
2 Windows								
3 Caulking								
4 Weatherstripping								
5 Box Sill	R =	R =						
6 Floors Over Vented Spaces	R =	R =						
7 Forced Air Ducts	R =	R =						
8 Steam Heating Pipes	R =	R =						
9 Hydronic Heating Pipes	R =	R =						
10 Water Heater Jacket								
11 Domestic Water Pipes	R =	R =						
12 Heating Equipment Insp.								
13 Shower Flow Restrictors								
14 Air Conditioner Covers								
15 Side Walls	R =	R =						
16 Access Panels and Doors	R =	R =						
17 Attic Insulation	R =	R =						
18 Moisture Control: Attic & Crawl								

PURPOSE: Section 101.122(4) and (6), Wis. Stats., requires that a properly authorized Certificate of Compliance, Stipulation or Waiver accompany the transfer documents at the time of recordation. This process is further explained in Chapter ILHR 67.08 and 67.10, Wisconsin Administrative Code. Receipt of a Certificate of Compliance from a currently licensed inspector is proof of conformance with energy conservation standards of ILHR 67.05. In lieu of the Certificate of Compliance, the purchaser may accept responsibility for future conformance with either a Stipulation or Waiver.

CERTIFICATE OF COMPLIANCE

The rental unit described above is certified as meeting the minimum rental unit energy efficiency standards of ILHR 67. Each applicable item on the checklist complies with ILHR 67.05 or has been issued an exemption number. **Certificate is not valid unless signed and dated by the inspector.**

Inspector's Name (Print)	Inspector's Telephone Number	Certified Inspector's Number	Place DILHR Transfer Authorization Number Stamp Here (on white copy only)
Date Rental Unit Certified	This Certificate is valid for 5 years from the date of the inspector's signature and is transferable during that period.		
Inspector Signature	DILHR Transfer Authorization Number: C- _____		

SBD-7114 (R. 04/92)

Copy Distribution: White-Owner; Yellow-DILHR; Green-Inspector; Pink-Other



Doc. No.

DILHR USE

Rental Unit Energy Efficiency Standards

Waiver

This Instrument Was Drafted By:
 Wisconsin Department of Industry,
 Labor & Human Relations
 Safety & Buildings Division
 Rental Weatherization Program
 P.O. Box 7969, Madison, WI 53707
 (608) 266-0671

TYPE OR PRINT USING BLACK INK

Seller's Name(s):		Rental Building Location - Street Address:	Recording Information (Leave Blank)
Street Address:		City:	County:
City:	State & Zip Code	Number of Rental Buildings on Property	Number of Rental Units on Property
Seller's Telephone Number (indicate area code):			
Legal Description of Rental Unit Property (may attach a separate sheet):			
Return To:			

Purpose: Section 101.122, (4) and (6) Wis. Stats., requires that a properly authorized Certificate of Compliance, Stipulation or Waiver accompany the transfer documents at the time of recordation. This process is defined in Chapter ILHR 67, Wisconsin Adm. Code. Receipt of a Certificate indicates conformance with ILHR 67.05. In lieu of the Certificate, the purchaser may accept responsibility for program compliance with either a Stipulation under ILHR 67.08(3), or a Waiver under ILHR 67.08(2).

Waiver: The seller of the residential rental building may present to the Register of Deeds this Waiver signed by the purchaser and validated (See Instructions below), stating that the new residential rental building owner will demolish the building no later than two years after the date of transfer. The date of transfer is the date this Waiver is validated below by an agency official, unless documentation of another date is provided to DILHR.

Instructions: To receive a Waiver, the seller of the residential rental building must provide the seller and purchaser information requested above, as well as have the purchaser sign the applicable signature/address block below. The Waiver must then be submitted to DILHR, or a DILHR Agent for validation (Contact DILHR for a list of Agents). If there is not an authorized DILHR Agent in your area, the Waiver and \$50.00 nonrefundable filing fee (do not send cash) should be sent to DILHR, Rental Weatherization Program, P.O. Box 7969, Madison, WI 53707. Make sure the check is made payable to DILHR, and that it accompanies this Waiver application. The DILHR validated Waiver Agreement will be returned to the purchaser unless another party is designated in writing.

This document is valid only if no previous Stipulation or Waiver is currently on file for this property.

WAIVER AGREEMENT

(WW)

In lieu of meeting the Rental Unit Energy Efficiency Certificate requirements, I (we) agree to notify the Department of Industry, Labor and Human Relations (DILHR) of the above described rental unit's demolition. Demolition shall occur within two years of the effective date of transfer. Upon demolition I (we) shall notify DILHR, at the above address, of the date the building was demolished. This action is required in specific accordance with ILHR 67.08(2), ILHR 67.13(3) and Wisconsin Statutes 101.122

Print Purchaser's Name(s):		Purchaser's Signature(s):		Date Signed:
Purchaser's Street Address:		Purchaser's City, State & Zip Code		Purchaser's Telephone Number (include area code)
Validated By:	☐ DILHR ☐ DILHR Agent ☐ Authorized Municipality	Date Validated:	Expiration Date (add two (2) years to Date Validated):	Place Blue DILHR Transfer Authorization Number Stamp Here On White Copy
Auth. or Tax Rev. #		Official's Signature Number from Stamp Here:	Enter DILHR Transfer Authorization:	
Municipality/County Name:		Office of:	W - _____	

TRANSFER OF WAIVER

If the above described residential rental building(s) is transferred within two years of the validation date of this Waiver and before the residential rental has been demolished in compliance with ILHR 67, the new purchaser must sign below and forward a copy of this document to DILHR. By signing below, the new purchaser accepts the compliance responsibility in this Waiver, thus requiring the above described rental building's demolition before the expiration date given above.

Print New Purchaser's Name(s):		New Purchaser's Signature(s):		Date Signed:
New Purchaser's Street Address:		City, State & Zip Code:		Telephone Number (include area code):

SBD-7116 (R. 08/93)



Copy distribution: White - For Recordation; Yellow - DILHR; Green - Municipality/Inspector; Pink - Seller(s)

Doc. No.

DILHR USE

Rental Unit Energy Efficiency Standards Stipulation

This Instrument Was Drafted By:

Wisconsin Department of Industry,
Labor and Human Relations
Safety & Buildings Division
Rental Weatherization Program
P.O. Box 7969, Madison, WI 53707
(608) 266-0671

TYPE OR PRINT USING BLACK INK Personal information you provide may be used for secondary purposes [Privacy Law, s. 1504 (1)(m)].

Seller's Name(s): 		Rental Building Location – Street Address: 		Recording Information (Leave Blank) 	
Street Address: 		City: 		County: 	
City: 		State & Zip Code: 		Number of Rental Buildings on Property: 	
Seller's Telephone Number (Include area code): 		Number of Rental Units on Property: 			
Legal Description of Rental Unit Property (may attach separate sheet):					
Return To:					

PURPOSE: Section 101.122 (4) and (6), Wis. Stats. requires that a properly authorized Certificate of Compliance, Stipulation or Waiver accompany the transfer documents at the time of recordation. This process is further explained in chapter ILHR 67.08 and 67.10, Wisconsin Administrative Code. Receipt of a Certificate of Compliance from a currently licensed inspector is proof of conformance with energy conservation standards of ILHR 67.05. In lieu of the Certificate of Compliance, the purchaser may accept responsibility for future conformance with either Stipulation or Waiver.

USE: The purchaser of a residential rental building shall present this properly validated Stipulation to the Register of Deeds at the time the transfer is to be recorded. This indicates the building is subject to the Rental Weatherization Rules, and that the new owner will bring into compliance with energy standards within ONE (1) YEAR following the transfer.

INSTRUCTIONS: The purchaser(s) should complete all entries down through the Stipulation Agreement to include purchaser's signature/address block. The Stipulation must then be submitted to DILHR in Madison or to DILHR agent for validation (contact DILHR for location of nearest DILHR agent). When submitting for validation to DILHR, send all copies of completed form plus \$50.00 nonrefundable filing fee. Do not send cash; make check payable to DILHR, and mail to: DILHR, Rental Weatherization Program, P.O. Box 7969, Madison, WI 53707. After validation, copies will be returned to purchaser unless another party is designated in writing.

BUILDING WITH EXISTING LEASE: The purchaser of a building with 4 units or less who intends to owner-occupy, but is unable to do so within 60 days of the transfer due to an existing lease, is required to take out a Stipulation. DILHR will cancel the Stipulation after confirming that the owner has occupied one of the units. Written notification to DILHR of owner-occupancy is required. DILHR will confirm cancellation in writing.

This document is valid only if no previous Stipulation or Waiver is currently on file for this property.

STIPULATION AGREEMENT

(WS)

(in accordance with ILHR 67.08(3), ILHR 67.13(4) and Wisconsin Statutes 101.122)

I (we) accept all responsibility to bring the above described residential rental building into compliance with energy conservation standards of ILHR Chapter 67 no later than ONE (1) year from the date of validation.

Print Purchaser's Name(s): 		Purchaser's Signature(s): 		Date Signed: 	
Purchaser's Street Address 		Purchaser's City, State & Zip Code 		Purchaser's Telephone Number (include area code) 	
Validated By: ☐ DILHR ☐ DILHR Agent ☐ Authorized Municipality		Date Validated 		Expiration Date (add one (1) year to date validated) 	
Print Official's Name: 		Official's Signature 		Enter DILHR Transfer Authorization Number From Stamp Here: 	
Municipality/County Name: 		Office of: 		Place Yellow DILHR Transfer Authorization Number Stamp Here On White Copy 	

TRANSFER OF STIPULATION

If the above described residential rental Building(s) is transferred within one year of the validation date of this Stipulation and before the residential rental building has been certified as being in compliance with ILHR 67, the new purchaser must sign below and attach a copy of this document to DILHR. By signing below, the new purchaser accepts the compliance responsibility to this Stipulation, **THUS REQUIRING CODE COMPLIANCE BEFORE THE EXPIRATION DATE GIVEN ABOVE**. Transfer of the property after expiration date is not valid without conformance to energy standards.

Print New Purchaser's Name(s): 		New Purchaser's Signature(s): 		Date Signed: 	
New Purchaser's Street Address: 		City, State & Zip Code: 		Telephone Number (include area code): 	

SBDB-7115 (R. 12/94)

Copy Distribution: White-For Recordation; Yellow-DILHR; Green-DILHR Agent