

STATE OF WISCONSIN
REAL ESTATE EXAMINING BOARD

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

PROPOSED ORDER

An order of the Real Estate Examining Board to create ch. REEB 13 relating to cooperative broker agreements.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 452.137, Stats.

Statutory authority: ss. 15.08 (5) (b) and 452.137, 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 trade of profession.

The board shall, by rule, establish the form and terms of the cooperative agreement.

Related statute or rule: None

Plain language analysis:

This rule requires the cooperative agreement between the licensed real estate broker and the out-of-state broker be in writing utilizing a board approved form. The terms must include the terms of cooperation and out-of-state broker's compensation as well as provide that all client funds in connection with the transaction shall be deposited in a trust account maintained by the Wisconsin licensed broker.

Summary of, and comparison with, existing or proposed federal regulation: None

Comparison with rules in adjacent states:

Illinois: Illinois does not have rules relating to out-of-state cooperative broker agreements.

Iowa: Iowa does not have rules relating to out-of-state broker cooperative agreements.

Michigan: Michigan does not have rules relating to out-of-state broker cooperative agreements.

Minnesota: Minnesota does not have rules relating to out-of-state broker cooperative agreements.

Summary of factual data and analytical methodologies:

The Board considered the format and process of other forms utilized by the real estate profession as well as inclusion of the statutory term requirements.

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

This rule was posted for economic comments for a period of 14 days and no comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at Sharon.Henes@wisconsin.gov.

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

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708, or by email to Sharon.Henes@wisconsin.gov. Comments must be received at or before the public hearing to be held on April 16, 2015 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1 Chapter REEB 13 is created to read:

CHAPTER REEB 13

COOPERATIVE AGREEMENT

REEB 13.01 Cooperative agreement. (1) A cooperative agreement between a licensed broker and an out-of-state broker shall be all of the following:

- (a) In writing.
- (b) A form approved by the board pursuant to s. 452.05(1)(b).
- (2) The terms of the cooperative agreement shall contain at least all of the following:
 - (a) The terms of cooperation between the out-of-state broker, any out-of-state salesperson, and the licensed broker.
 - (b) The terms of the out-of-state broker's compensation.
 - (c) Provide that all client funds, as defined in s. 452.13(1)(a), that the out-of-state broker and licensed broker receive in connection with a transaction subject to the cooperative agreement shall be deposited in a trust account maintained by the licensed broker.

SECTION 2. 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.

(END OF TEXT OF RULE)
