

Clearinghouse Rule 06-014

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 06-)

PROPOSED ORDER

An order of the Department of Regulation and Licensing to repeal RL 128.03 (1) (c) and (d); and to amend RL 128.03 (1) (intro.), (a) and (b), the Note following RL 128.04 (1), the Note following RL 128.04 (1m) (e), and the Note following RL 128.04 (6) (b), relating to educational programs for auctioneers.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statute interpreted:

Section 480.08 (5) and (6), Stats.

Statutory authority:

Sections 227.11 (2) and 480.08 (6), Stats.

Explanation of agency authority:

The Department of Regulation and Licensing is authorized under s. 480.08 (6), Stats., to promulgate rules establishing requirements and procedures for registered auctioneers to complete continuing education programs or courses of study in order to qualify for renewal.

Related statute or rule:

Section 480.08 (5), Stats., which states, in part, that a renewal application for an auctioneer certificate shall be accompanied by proof of completion of continuing education requirements under sub. (6).

Plain language analysis:

SECTIONS 1 and 2. Under the current law, in order to renew a registration, an auctioneer must complete 12 hours of continuing education that consists of four specific

courses. The subject matter of those courses include: 1) three hours in Wisconsin laws relating to auctioneer ethical and professional conduct; 2) three hours in Wisconsin laws relating to maintenance of records and trust accounts; 3) three hours in federal laws relating to auctioneering and Wisconsin laws other than those described in paragraphs 1) and 2) above, and 4) three hours in certain elective courses that are relevant to the practice and legal requirements of auctioneering.

Except for the three hour ethics course, the department proposes to revise the rules to eliminate the specific subject matter areas or topics identified in the rules. Instead, the department would identify and approve the subject matter areas or topics biennially.

SECTIONS 3, 4 and 5 amend Notes to amend the address of the department and include the department's website.

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

There are no federal laws that govern continuing education requirements for auctioneers.

Comparison with rules in adjacent states:

Illinois:

Illinois requires auctioneers to complete 12 hours of continuing education, of which six include mandatory core subjects and 6 include elective subjects.

Iowa:

Do not regulate auctioneers.

Michigan:

Do not regulate auctioneers.

Minnesota:

Do not regulate auctioneers.

Summary of factual data and analytical methodologies:

No study resulting in the collection of factual data was used relating to this rule. The primary methodology for revising the rule is the board's analysis and determination that a rule change is necessary.

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

The proposed rule would change the specific subject matter area requirements for auctioneer continuing education requirements. There are 1,963 auctioneers licensed in Wisconsin. There are also 318 registered auction companies who are licensed in Wisconsin. It should be noted that an individual who is registered as an auctioneer may act as an auction company without having to additionally register as an auction company. Auction companies are not required to take continuing education and would not be affected by this rule change. Of the 1,963 auctioneers licensed in Wisconsin, a majority are probably small business owners.

In order for auctioneers to renew their license, the auctioneer would have to take continuing education courses. Currently, four specific courses are required for continuing education for a total of 12 hours. Except for the ethics course requirement, the remaining course requirements would be in subjects approved by the department biennially. There will be no additional reporting requirements, bookkeeping requirements, or compliance costs. This rule would merely set a standard for review of course content biennially, rather than have permanent course requirements. The same 12 hour requirement would be in place. In the future, auctioneers may have to take classes in different subjects than were required previously. This rule change will not have an effect on small business.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The Department of Regulation and Licensing anticipates no significant fiscal impact on the private sector.

Fiscal estimate:

The Department of Regulation and Licensing will incur staff costs of \$5,100 annually to approve an expansion of available educational courses.

Effect on small business:

These proposed rules will have no significant 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 larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison,

Wisconsin 53708-8935. Telephone: (608) 266-0495. Email:
pamela.haack@drl.state.wi.us.

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

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@drl.state.wi.us. Comments must be received on or before April 28, 2006 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. RL 128.03 (1) (intro.), (a) and (b) are amended to read:

RL 128.03 Courses; examinations. (1) COURSES. (intro.) The educational program shall consist of ~~4 courses and shall cover all of the topics under each paragraph title, be presented during no less than the number of hours stated after each paragraph title, and~~ 12 hours, which shall include:

(a) ~~Course A: 3~~ Three hours in the Wisconsin laws relating to auctioneer ethical and professional conduct.

(b) ~~Course B: 3~~ Nine hours in ~~the Wisconsin laws relating to maintenance of records and trust accounts~~ topics pertinent to the practice of auctioneering that shall be approved by the department biennially.

SECTION 2. RL 128.03 (1) (c) and (d) are repealed.

SECTION 3. The Note following RL 128.04 (1) is amended to read:

Note: Applications for educational program and course approval are available from the Department of Regulation and Licensing, ~~Bureau of Direct Licensing and Real Estate~~ Office of Education and Examinations, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or from the department's website at: <http://drl.wi.gov>.

SECTION 4. The Note following RL 128.04 (1m) (e) is amended to read:

Note: Applications for educational program and course approval are available from the Department of Regulation and Licensing, Office of Education and Examinations, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or from the department's website at: <http://drl.wi.gov>.

SECTION 5. The Note following RL 128.04 (6) (b) is amended to read:

Note: Applications for approval of instructors are available from the Department of Regulation and Licensing, ~~Bureau of Direct Licensing and Real Estate~~ Office of Education and Examinations, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or from the department's website at: <http://drl.wi.gov>.

(END OF TEXT OF RULE)

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.

Dated _____

Agency _____

Celia M. Jackson, Secretary
Department of Regulation and Licensing

RL 128 CR06- (Educational programs) Draft to CH 2-21-06