

**Report From Agency**

**STATE OF WISCONSIN  
REAL ESTATE EXAMINING BOARD**

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**IN THE MATTER OF RULEMAKING :  
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE  
REAL ESTATE EXAMINING BOARD : CR 16-042**

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**I. THE PROPOSED RULE:**

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

**II. REFERENCE TO APPLICABLE FORMS: N/A**

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA is attached.

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

The purpose of the proposed rule is to update the real estate chapters to reflect current real estate practiced as provided in 2015 Act 258 including: terminology, provisions relating to independent contractor relationship, duties of licensees, supervision of licensees, use of unlicensed personal assistants, business representatives, inactive license references, fees for predeterminations on criminal records, electronic records retention, use of forms and elimination of timeshare registration.

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

The Board held a public hearing on August 18, 2016. The following people either testified at the hearing, or submitted written comments:

Cori Lamont representing the Wisconsin Realtors Association registered in support of the proposed rule.

The Board made no modifications to its rule-making proposal prompted by public comments.

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

**Comment 5g:** In s. REEB 11.02, consider defining the terms “licensed broker business entity” and “licensed individual broker” as used in the proposed rule. Definitions could cite to s. 452.01 (4x) and (4y), Stats., respectively.

**Response:** The Board considered defining the terms and decided the terminology was clear and did not necessitate further clarification.

**Comment 5o:** Similar to the comment in par. m., above, consider reviewing the proposed rule in its entirety to ensure that all changes from “broker” to “firm” have been made as appropriate. For example, under Sections 11 and 12, the proposed rule changes many references from “broker” to “firm”, but not all. Further, if it is intended to leave “broker” in some circumstances, review whether the term should be changed from “broker” to “licensee”, for the sake of consistency.

**Response:** There are instances wherein the term “broker” appropriately remains in the proposed rule. The two terms “broker” and “firm” are not interchangeable in all instances. For example a firm does not draft a document; a broker does. Likewise, the term “broker” is not interchangeable with the term “licensee”. A broker is a licensee but not all licensees are brokers. Licensee includes brokers and salespersons and the two professions have different scopes of practice.

**Comment 5t:** In s. REEB 18.031 (2), the provision should be rephrased to state that the requirement applies to a licensee “associated with a firm”, for the sake of consistency. For example, it could be rephrased as follows: “A licensee associated with a firm who receives real estate trust funds shall promptly submit the funds to the firm”.

**Response:** This section pertains to the duties of licensees. If the Board would limit it to “licensees associated with a firm” that would not include a licensed individual broker.

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

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

None. This rule does not have any impact on small business.