

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 02-030)

ORDER

An order of the Department of Regulation and Licensing to repeal RL 128.02 (2), 128.04 (5) and 128.07; to amend RL 128.02 (1), (4) and 128.04 (1); to repeal and recreate RL 128.03; and to create RL 128.015 and 128.04 (1m) and a Note following RL 128.04 (1m), relating to education requirements prior to first renewal, courses and examinations, approval of educational programs, courses and instructors.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2) and 480.08 (6), Wis. Stats.

Statutes interpreted: s. 480.08 (6), Wis. Stats.

In this rule-making order the Department of Regulation and Licensing, with the advice and counsel of the Auctioneer Board, amends ch. RL 128 for the purpose of reestablishing continuing education requirements for registered auctioneers. The current provisions in ch. RL 128, state the requirements for the approval of courses and instructors, the certification of completion of courses, and an optional test-out examination. However, these provisions have had no validity since December 31, 2000, because a sunset provision in s. RL 128.07 stated that this chapter only applied to registered auctioneers when renewing a registration as an auctioneer for the January 1, 1999-December 31, 2001 biennium.

In proposing to reestablish continuing education for auctioneers, the department proposes to amend several of the provisions that are in the current rule and to create a few new provisions. The following substantive changes are proposed:

Section RL 128.02 (1) increases the number of continuing education hours from 9 to 12 hours each biennium. This section continues the requirement for an indefinite period of time. This section also exempts registrants from the continuing education requirement at the time of their first renewal of registration if they had obtained an initial registration certificate within 6 months before the renewal deadline.

Section RL 128.03 (1) describes the contents of the courses that are part of the 12 hours of education. Section RL 128.03 (2) requires a course provider to give a written examination subsequent to the completion of instruction of each course. A registered auctioneer would be

required to pass the examination in order to receive credit for the course. The rule also defines the nature of the examination and the requirements for passing the examination.

Section RL 128.04 (1m) describes the conditions for approval of distance education courses. "Distance education" is defined in s. RL 128.015.

TEXT OF RULE

SECTION 1. RL 128.015 is created to read:

RL 128.015 Definitions. In this chapter:

(1) "Distance education" means the provision of educational programs or courses without an instructor or a representative of an approved school physically present with the students. "Distance education" includes the delivery of educational programs and courses on CD-ROM, videotape, computer disk, or the internet.

(2) "Hour" means a period of 50 minutes of actual instruction.

(3) "Program provider" means a provider of either a program or a course or both.

SECTION 2. RL 128.02 (1) is amended to read:

RL 128.02 (1) Except as provided in s. RL 128.06, every registered auctioneer applying to renew a registration ~~for the January 1, 1999 - December 31, 2001 biennium~~ shall complete at least ~~9~~ 12 hours in an educational program ~~prior to January 1, 1999, except that a registered auctioneer who is initially registered less than 6 months prior to the first renewal date shall complete the educational program prior to the date for the second renewal of the registration under s. 440.08 (2), Stats.~~

SECTION 3. RL 128.02 (2) is repealed.

SECTION 4. RL 128.02 (4) is amended to read:

RL 128.02 (4) A registered auctioneer who acts as an instructor of an approved educational program or course shall receive credit toward satisfaction of the registered auctioneer's educational requirement. An instructor shall receive ~~4~~ one hour of credit for each 50 minutes of instruction. The registered auctioneer may not receive credit for teaching a specific course more than one time during any biennium.

SECTION 5. RL 128.03 is repealed and recreated to read:

RL 128.03 Courses; examinations. (1) COURSES. 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 include:

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

(b) Course B: 3 hours in the Wisconsin laws relating to maintenance of records and trust accounts.

(c) Course C: 3 hours in federal laws relating to auctioneering and Wisconsin laws other than those described in pars. (a) and (b).

(d) Course D: 3 hours in one of the following electives:

1. Real estate auctions - practice and legal requirements.
2. Commercial auctions - practice and legal requirements.
3. Agricultural auctions - practice and legal requirements.
4. Antiques, collectibles, or household auctions - practice and legal requirements.
5. Other related types of specialty auctions – practice and legal requirements.

(2) EXAMINATIONS. A program provider shall give a written examination subsequent to the completion of instruction of each course. A registered auctioneer, except a registered auctioneer who teaches a course, shall pass the examination in order to successfully complete the course. The examination shall consist of at least 5 multiple-choice questions for each hour of instruction. The program provider shall design the examination so that a person who is competent to protect the public when practicing as an auctioneer would achieve a score of 70% or more. A registered auctioneer who fails to achieve a passing score on an examination shall be permitted to retake the examination within a reasonable time as determined by the program provider. A registered auctioneer who twice fails an examination shall not be credited with having completed the course and is required to retake the course.

SECTION 6. RL 128.04 (1) is amended to read:

RL 128.04 (1) A program provider seeking initial approval from the department of an educational program or a course shall submit its application on a form provided by the department prior to the first date the program or course is offered. The program provider shall include a designation of the courses to be provided, the name and outline of the courses, the name and qualifications of the instructors, and the ~~date, time segments, and location~~ of the courses. The department shall notify the provider whether the program or course has been approved or denied within 20 business days from the date the application is received. The department shall approve an educational program or course if the program provider submits to the department the information required by this subsection and agrees to comply with the provisions in subs. (2) to (6).

SECTION 7. RL 128.04 (1m) and Note are created to read:

RL 128.04 (1m) A program provider seeking the approval of a continuing education program or course that will be presented as distance education shall comply with sub. (1) and shall, additionally, describe to the department how the program provider will do all of the following:

(a) Ensure that instructors approved by the department under sub. (6) are available to the students at reasonable times and by reasonable means.

(b) Provide a reasonable level of examination security for the examination given at the end of each distance education continuing education course.

(c) Sufficiently cover the subjects specified for continuing education courses.

(d) Provide reasonable oversight to ensure that the students who take the examination are the enrolled students.

(e) Provide a reasonable opportunity for student self-evaluation of mastery.

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.

SECTION 8. RL 128.04 (5) is repealed.

SECTION 9. RL 128.07 is repealed.

(END OF TEXT OF RULE)

Section RL 128.02 (1) is effective for the January 1, 2003 to December 31, 2004 biennium and for each biennium thereafter. The remaining 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 _____

Oscar Herrera, Secretary
Department of Regulation and Licensing