

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: SPS 131

Relating to: Written Reports of Home Inspectors

Rule Type: Emergency

1. Finding/nature of emergency:

2017 Wisconsin Act 338 updated the real estate condition report and created a statutory definition of the term “defect” for purposes of home inspection reports and real estate disclosure reports.

Act 338 contains a nonstatutory provision discharging the requirement to provide evidence of an emergency for purposes of creating this emergency rule. Additionally, the nonstatutory language also eliminates the requirement of obtaining the governor’s approval for an emergency statement of scope. Also discharged through nonstatutory language is the requirement to submit the final emergency rules to the governor for approval.

2. Detailed description of the objective of the proposed rule:

The objective of this rulemaking project is to update the administrative code to reflect changes made in 2017 Wisconsin Act 338 by defining and applying the term “defect” within chapter SPS 131.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Current administrative code does not reflect the statutory changes made by 2017 Act 338. This proposed rule will update the administrative code to reflect changes related to the home inspection report and the real estate disclosure report. Without these changes the administrative code will be incongruous to current statutory requirements.

4. Detailed explanation of statutory authority for the :

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

Section 440.974 Rules. (1) “The department shall promulgate rules necessary to administer this subchapter including rules to establish all of the following:

(a) Standards for acceptable examination performance by an applicant for registration.

(b) Subject to s. 440.975, standards for the practice of home inspection by home inspectors and standards for specifying the mechanical and structural components of improvements to residential real property that are included in a home inspection. The rules promulgated under this paragraph shall include standards for the inspection of carbon monoxide detectors. The rules promulgated under this paragraph may not require a home inspector to use a specified form for the report required under s. 440.975 (3).

(c) Subject to s. 440.975, the information that a home inspector is required to provide to a client concerning the results of the home inspection conducted by the home inspector.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

The staff time needed to revise the rules is expected to be 40 hours. This time includes research, consulting, drafting rule revisions, consulting with stakeholders, processing the rule revisions through public hearings, legislative review, and adoption. There are no other resources necessary to revise the rules.

6. List with description of all entities that may be affected by the proposed rule :

Home Inspectors, Real Estate Brokers, Real Estate Salespeople, Real Estate Appraisers

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

None

8. Anticipated economic impact of implementing the rule :

None to minimal. It is unlikely to have any adverse economic impact on small businesses.

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