WHEN OWNERS MUST COMPLY

The code only applies to residential property when its ownership is being transferred and when its use after the sale will be rental. “Transfer” means a transfer of ownership by deed, land contract or judgement. In the case of a land contract, transfer occurs when the contract is entered into, not when the deed is transferred.

Ownership conveyance also includes transfer of a controlling stock or controlling partnership interest or an interest in a lease in excess of one year, which was contracted after January 1, 1985.

The Code applies to rehabilitations even though buildings may be vacant during the period of renovation. It also applies to buildings purchased for resale. If buildings are not resold within one year, they must meet the standards of the Code.

The buyer has filed a Waiver with the Department of Safety and Professional Services (DSPS) stating that the building will be demolished within two years.

WHAT PROPERTIES ARE NOT COVERED

The code excludes transfers that are:

- For security purposes;
- Between agent and principal or trustee and beneficiary without consideration;
- Part of divorce settlements;
- For no or nominal consideration between husband and wife or parent and children;
- Part of the probate process;
- Involuntary, including foreclosures, bankruptcies, condemnation, court-ordered property transfers or delinquent taxes and assessments; but not any subsequent transfer to a party without a previous interest;
- Conversion to condominium.

The code excludes buildings that are:

- To be occupied by the purchaser as a primary residence for at least one year beginning within 60 days of transfer. (Applies only to buildings with 4 or fewer dwelling units.);
- If the property is a rental;
- If it is more than 50% residential, then the entire property must comply with the Code. If it is more than 50% residential, then the entire building must conform to the Code. (Storefront windows and doors are exempted from this requirement.)

THE WEATHERIZATION STANDARDS

The following weatherization standards are code requirements:

- WINDOWS must be double-glazed or equipped with storm windows. Exempted are windows in doors and furnace rooms. Windows located in basements, which are not habitable rooms may be permanently sealed and insulated to R-5 in lieu of double-glazing or installing storm windows.
- PATIO DOORS AND INWARD-SWINGING EXTERIOR DOORS must be insulated and double-glazed; or be equipped with a storm door, unless they are provided with a vestibule. Storm doors must have self-closing devices.
- WEATHERSTRIPPING must be installed on exterior storm doors.
- CAULKING or glazing compound must be applied to exterior joints of storm doors and to glazing of storm windows.

The Department will accept blower door testing of the building, per SPS 367.11(3), in lieu of the prescriptive infiltration measures.

- Hospitals or nursing homes which are licensed by the Wis. Dept. of Health Services.
- Excluded properties or transfers must be so indicated on the Real Estate Transfer Return.

Without this indication, the Register of Deeds will not record the property transfer documents.

Keep in mind that the Code applies to the future use of the property. Single family homes and individual condominium units (in one- or two-unit buildings) that are used as rental properties are also subject to the Code.

A more detailed list of excluded transfers can be found in the Code and on the back of the Real Estate Transfer Return form.

HOW MIXED USE BUILDINGS ARE TREATED

The Code applies to mixed-use properties, such as apartments above retail space, based on the percentage of the total floor area occupied by the residential units. If it is 50% or less residential, then just the residential units must comply with the Code. If it is more than 50% residential, then the entire building must conform to the Code. (Storefront windows and doors are exempted from this requirement.)
HOW TO SATISFY A STIPULATION

A list of

• presented to the Register of Deeds for recording.

the documents of transfer for rental property when

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WHAT IS REQUIRED BY THE REGISTER

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Satisfaction of Compliance: if the

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property without meeting the weatherization

Within two years of transfer, an owner can apply

Deeds.

presented to

DSPS

Stipulation form is obtained from

be obtained within 1 year after transfer. The

Certificate of Compliance:

building into compliance by signing a Stipulation

building owners at an agreed fee, subject to a

State-set maximum.

Stipulation: The purchaser of a rental property

can accept the responsibility for bringing the

building into compliance by signing a Stipulation

which requires that a Certificate of Compliance

be obtained within 1 year after transfer. The

Stipulation form is obtained from DSPS or a

DSPS agent. The completed stipulation must be

presented to DSPS or a DSPS agent for

validation prior to recording by the Register of

Deeds. Agents may charge a handling fee.

Waiver: If demolition of a structure is planned

within two years of transfer, an owner can apply

for a Waiver, which will allow transfer of the

property without meeting the weatherization

standards. The Waiver form can be obtained from

DSPS or a DSPS agent. The completed Waiver

must be presented to DSPS or a DSPS agent for

validation prior to recording by the Register of

Deeds. Agents may charge a handling fee.

Satisfaction of Compliance: the Department shall

issue a satisfaction of compliance, if the

owner can establish one of the exceptions

approved by the department.

A list of DSPS agents is available from DSPS

(address at end of brochure).

HOW TO SATISFY A STIPULATION

1. Hire a State-certified Rental Weatherization

Inspector to inspect the property and determine

what requirements are needed to meet the State

Code. Inspectors are listed under “Building

Inspection” in the yellow pages of telephone

books. If you cannot locate an inspector, write or
call the Industry Services Division for a list.

Actual fees are negotiated and are based on the

private inspectors’ cost and market competition.

However, the maximum fee for inspection and
certification is set by code. This fee includes an

initial inspection, the Field Inspection Report, a

final inspection for compliance, and the issuing of

the stamped certificate. The maximums are:

a. 1 or 2 rental units …………………. $250.00

b. 3 to 8 rental units …………………. $250.00

plus $50.00 for each additional unit over 2

c. Over 8 rental units …………………. $500.00

Plus $25.00 for each additional unit after 8

2. The inspector will leave a copy of a Field

Inspection Report with you and will discuss the

requirements with you.

3. Either hire a contractor, or perform the work

yourself, to bring the building into code

compliance.

4. After completion of the work, you contact the

inspector and request a final inspection. The

inspector will reinspect the property, then issue

a Certificate of Compliance if all requirements

are satisfied. The owner will receive the original

Certificate, which must be recorded at the

County Register of Deeds. The inspector will

send a copy of the Certificate to the

Department of Safety and Professional

Services, which then satisfies the stipulation.

5. Work must be completed and the Certificate

issued within 1 year of the date of the Stipulation.

PENALTIES

Maximum penalty for code evasion, non-

compliance, or for falsifying a certificate under

101.122(7) Wis. Stats. is $500 forfeiture per unit.

FOR FURTHER INFORMATION CONTACT . . .

Department of Safety and Professional Services

Industry Services Division

P.O. Box 7302, Madison, WI 53707-7302

Phone: 608-266-2112, Option 5;

Fax: 608-267-9723

Email: DspsRwpTech@wi.gov

Office hours: 7:45 a.m. to 4:30 p.m., Monday-Friday

Website: www.dsps.wi.gov

The Rental Unit Energy Efficiency Code, Chap.

DSPS 367, is available on-line from our website

(address above) or from:

Document Sales

P.O. Box 7840, 202 S. Thornton Ave.

Madison, WI 53707-7840

Please call 608-266-3358 or 1-800-DOC-SALE

for current cost and order information.

All Rental Weatherization forms, a list of all

properties in the Department’s database including

unsatisfied stipulations and waivers, a list of

credentialled inspectors, DSPS 367, DSPS 302,

DSPS 305 and other reference materials are

available for viewing and/or downloading from our

web page: http://dsps.wi.gov/Programs/Industry-

Services/Industry-Services/Programs/Rental-

Weatherization/

The Department of Safety and Professional

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Deaf, hearing- or speech-impaired callers may

reach us through the Wisconsin Telecommunication

Relay System (WI TRS), 608-264-8777.

SBD 7366-P (R. 12/15)

IMPORTANT INFORMATION for BUYERS and

SELLERS of RESIDENTIAL RENTAL

PROPERTIES