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## REALTY REGULATION RULES

AS OF SEPTEMBER 30, 2022

This version of the Administrative Rules of Montana is provided as a tool for board members and department staff. In case of inconsistencies, the rule text in the Montana Administrative Register is the official rule text and will prevail.

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DEPARTMENT OF LABOR AND INDUSTRY

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## Subchapter 1

## Organizational Rule

24.210.101 BOARD ORGANIZATION (1) The Board of Realty Regulation adopts and incorporates the organizational rules of the Department of Labor and Industry as listed in chapter 1 of this title. (History: 2-4-201, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2022 MAR p. 1837, Eff. 9/24/22.)

## Subchapter 2

## Procedural Rules

24.210.201 PROCEDURAL RULES (1) The Board of Realty Regulation adopts and incorporates the procedural rules of the Department of Labor and Industry as listed in chapter 2 of this title. (History: 2-4-201, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2022 MAR p. 1837, Eff. 9/24/22.)

24.210.202 PUBLIC PARTICIPATION (1) The Board of Realty Regulation adopts and incorporates the public participation rules of the Department of Labor and Industry as listed in chapter 2 of this title. (History: 2-3-103, MCA; IMP, 2-3-103, MCA; NEW, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2022 MAR p. 1837, Eff. 9/24/22.)

## Subchapter 3

## Definitions

24.210.301 DEFINITIONS The terms used in this chapter shall have their common meaning as used in the real estate industry, and unless the context otherwise requires, the following meanings shall also apply:

- (1) "Act" shall include a failure to act.
- (2) "Advertising" means information, in whatever form, used to promote real property for sale, lease, rent, exchange, or purchase, or to promote the brokerage or sales services of a licensee, except that the dissemination of property data to an individual prospective buyer or seller at the individual's request shall not be deemed advertising for the purpose of these rules.
- (3) "Agency" or "agency relationship" shall include those relationships which are expressed in 37-51-102 and 37-51-313, MCA, and specifically do not include the common law of agency.
- (4) "Agent" shall include subagent.
- (5) "Agricultural," "farm," and "ranch" shall include real estate parcels over 40 acres in size, principally used for, or capable and intended for use in, the production of plant or animal crops.
- (6) "Buy" or "buyer" shall include purchase, purchaser, lease, lessee, and like terms.
- (7) "Closed transaction" means a transaction in which parties have performed all duties in the agreement. In the case of a lease, it would be at the signing of the lease.
- (8) "Commercial property" shall include real estate that is principally used for, or capable and intended for use in, the production, distribution, or sale of goods or services, and any real estate which has over four residential units when transferred as a group of units.
- (9) "Course provider" is a board-approved entity that is responsible to the board for the administration of approved education courses in accordance with board laws and rules.
- (10) "Designated broker" is a broker who has been designated by other brokers of a real estate brokerage company to be the broker with the authority for the maintenance of a trust account, if any.
- (11) "Designated property manager" is a property manager who has been designated by other property managers of a property management company to be the property manager with the authority for the maintenance of a trust account.
- (12) "Distance education" is a course or courses in which the instruction does not take place in a traditional classroom setting, but rather, through other media where the teacher and student are separated by distance and sometimes by time.

(13) "Electronic records" may include checks and bank statements.

(14) "Entry-only listing" is a listing in which the seller and the seller's agent have agreed to limit the seller agent's involvement in the transaction process.

(15) "Hour" of education is equal to 50 minutes of instructional time.

(16) "Incapacity" as used in ARM 24.210.601, means being in a condition as a result of accident or illness that renders the person wholly incapable of conducting the business of a supervising broker. A voluntary or anticipated incapacity or an extended absence from the supervising broker's office is not an incapacity.

(17) "Internet" means the Internet, the World Wide Web, or Internet-based electronic information distribution networks, and any derivative delivery systems or evolutions of such delivery systems that may be connected to individual computers, terminals, and other consumer electronic interface devices through which information is delivered via computer servers connected via phone lines or other cable, wire, fiber, wireless, or other analogous linkages to a computer, computer network or networks including, but not limited to, web pages, e-mail, news groups, discussion lists, bulletin boards, instant messaging, chat rooms, voice over net, multimedia advertising, links, and/or banner advertisements.

(18) "Internet advertising" means advertising conducted via the Internet.

(19) "Licensee" shall include anyone who has been issued a license by the board or who has made application for a license from the board. For disciplinary purposes, "licensee" also includes anyone with a lapsed or expired license.

(20) "Licensee identification" as used in this chapter means a written disclosure of the licensee's name, and identifying that the advertisement is made by a real estate licensee or by a brokerage company.

(21) "Maintenance service" means any entity hired to perform repairs or maintenance on the property.

(22) "Personal funds" means funds other than trust funds, which belong to the licensee or the property management business. Uses may include, but are not limited to:

- (a) trust account maintenance;
- (b) financial institution fees;
- (c) designated interest earnings; and
- (d) purchasing checks.

(23) "Personal indebtedness" means the licensee's personal expenses or expenses of the property management business debited from a trust account, including, but not limited to:

- (a) personal bills or expenses;
- (b) recreational expenditures;
- (c) personnel wages, benefits, and incentives; and
- (d) business operating expenses.

(24) "Principal" shall include the seller or buyer with whom the agent has a contract in a real estate transaction. It shall include a property owner with whom the agent has a contract in property management activity.

- (25) "Seller" shall include vendor, lessor, and like terms.
- (26) "Supervising broker" is a broker who is responsible for supervision and training of one or more licensed salespersons pursuant to 37-51-302, MCA.
- (27) "Supervision" shall include substantially day-to-day, active overseeing.
- (28) "Third-party" shall include any person who is not the principal or agent.
- (29) "Transaction" means a listing, sale, lease, or exchange.
- (30) "Trust funds" are all monies belonging to others and accepted by a licensee, while acting in the capacity of a licensee. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-1-136, 37-51-103, 37-51-204, 37-51-301, 37-51-302, 37-51-303, 37-51-306, 37-51-309, 37-51-313, 37-51-314, 37-51-315, 37-51-321, 37-51-324, 37-51-401, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2001 MAR p. 951, Eff. 5/11/01; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2008 MAR p. 2558, Eff. 12/12/08; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2018 MAR p. 1163, Eff. 6/23/18; AMD, 2021 MAR p. 556, Eff. 5/15/21.)

## Subchapter 4

## General Provisions

24.210.401 FEE SCHEDULE (1) The following fees are required for each of the licensing services listed.

- (2) All fees are nonrefundable.
- (3) Examination fees are payable to the testing service under contract with the board.
- |   |        |
|---|--------|
| (4) Original broker license   | \$90   |
| (5) Active renewal for broker license   | 90     |
| (6) Inactive renewal for broker license   | 45     |
| (7) Original salesperson license  | 80     |
| (8) Active renewal for salesperson license  | 80     |
| (9) Inactive renewal for salesperson license  | 40     |
| (10) Change of salesperson supervising broker:  |        |
| (a) submitted by mail   | 40     |
| (b) submitted online  | no fee |
| (11) Transfer of salesperson supervision to temporary supervising broker              | 45     |
| (12) Late fee for transfer of salesperson supervision to temporary supervising broker | 90     |
| (13) Reinstatement of a license suspended or revoked within a license period          | 50     |
| (14) Activating a salesperson license on inactive status                              | 40     |
| (15) Activating a broker license on inactive status                                   | 45     |
| (16) Prelicensing course application for approval and renewal                         | 150    |
| (17) Individual application for CE course credit (per course)                         | 45     |

(History: 37-1-131, 37-1-134, 37-51-203, 37-51-207, MCA; IMP, 37-1-131, 37-1-134, 37-1-141, 37-51-202, 37-51-204, 37-51-207, 37-51-301, 37-51-302, 37-51-303, 37-51-309, 37-51-311, MCA; Eff. 12/31/72; AMD, Eff. 12/5/74; AMD, Eff. 12/4/76; AMD, 1977 MAR p. 110, Eff. 9/23/77; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 592, Eff. 3/26/82; AMD, 1985 MAR p. 1754, Eff. 11/15/85; AMD, 1987 MAR p. 2089, Eff. 11/13/87; AMD, 1987 MAR p. 2236, Eff. 12/11/87; AMD, 1989 MAR p. 754, Eff. 6/16/89; AMD, 1990 MAR p. 1156, Eff. 6/15/90; AMD, 1994 MAR p. 3186, Eff. 12/23/94; AMD, 1997 MAR p. 1819, Eff. 10/7/97; AMD, 1998 MAR p. 2861, Eff. 10/23/98; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2000 MAR p. 3166, Eff. 11/10/00; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2007 MAR p. 1815, Eff. 11/9/07; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2013 MAR p. 1533, Eff. 8/23/13; AMD, 2018 MAR p. 1163, Eff. 6/23/18; AMD, 2019 MAR p. 1056, Eff. 7/27/19; AMD, 2021 MAR p. 619, Eff. 5/29/21; AMD, 2021 MAR p. 1778, Eff. 12/11/21; AMD, 2022 MAR p. 238, Eff. 2/12/22.)

Rules 24.210.402 through 24.210.404 reserved

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24.210.405 APPLICATION OF RULES--SUBCHAPTER DISTINCTION  
(REPEALED) (History: 37-51-203, 37-53-104, MCA; IMP, 37-51-203, 37-53-104, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2007 MAR p. 1329, Eff. 9/7/07.)

24.210.406 SEVERABILITY (1) If any section, subsection, sentence, clause or phrase of these rules be for any reason held to be invalid, such holding shall not affect the validity of the remaining portion of said rules. The Montana Board of Realty Regulation hereby declares that it would have passed and adopted these rules in each section, subsection, sentence, clause or phrase thereof, separately and irrespective of the fact that any one or more of them be held invalid. (History: 37-1-131, 37-51-203, MCA; IMP, 37-51-202, 37-51-203, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455.)

Rules 24.210.407 through 24.210.409 reserved

24.210.410 PURPOSE OF BOARD (1) It is the purpose of this board to regulate the licensing of applicants and the practice of licensees in order to safeguard the public interest and require knowledge, competency, accountability, and professional conduct by all licensees doing business in the state of Montana. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-1-316, 37-51-202, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 661, Eff. 4/25/86; AMD, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07.)

24.210.411 BOARD MEETINGS (1) Board meetings shall be scheduled at a time and place as may be determined by the board. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-1-307, 37-51-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07.)

24.210.412 PUBLIC RECORDS (1) The public record of the meetings of the board is available for public inspection at the office of the board during usual business hours. (History: 37-51-203, MCA; IMP, 37-51-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07.)

Rules 24.210.413 through 24.210.415 reserved

24.210.416 APPLICATIONS FOR EXAMINATION AND LICENSE IN GENERAL – BROKER AND SALESPERSON (1) The board may establish procedures for review of applications for licensing.

(2) The board may appoint a testing entity to process and conduct any examination required by the board. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-51-202, 37-51-302, 37-51-303, MCA; Eff. 12/31/72; AMD, Eff. 12/4/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1981 MAR p. 1613, Eff. 11/26/81; AMD, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2019 MAR p. 1056, Eff. 7/27/19.)

24.210.417 MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a real estate broker, real estate salesperson, or property manager.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a real estate broker, real estate salesperson, or property manager. Satisfactory evidence includes:

- (a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements. (History: 37-1-145, MCA; IMP, 37-1-145, MCA; NEW, 2014 MAR p. 2469, Eff. 10/10/14.)

24.210.418 NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2017 MAR p. 1145, Eff. 7/22/17; AMD, 2021 MAR p. 556, Eff. 5/15/21.)

Rule 24.210.419 reserved

24.210.420 APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.)

Rules 24.210.421 through 24.210.425 reserved

24.210.426 TRUST ACCOUNT REQUIREMENTS (1) A broker is responsible at all times for the proper handling of earnest money, security deposits, or other funds received by a broker, a broker's salesperson, or funds received by a broker as a designated broker pursuant to (3)(c) on behalf of customers or clients. Brokers who have delegated authority for maintenance of a trust account are required to review the records maintained by the designated broker to ensure compliance with these rules.

(2) All licensees shall ensure that all trust funds which the licensee receives are deposited in the broker's trust account or are delivered to the designated holder of the funds within three business days of receipt of the money, unless otherwise agreed to by the parties. If funds are delivered to a third party, the licensee must obtain documentation of receipt by the third party. The licensee must maintain the documentation of the delivery of the funds in the same manner as trust account records.

(3) If a broker elects to hold trust funds, the broker must comply with the following:

(a) Offices or firms having more than one broker may utilize a single trust account;

(b) A broker may maintain more than one trust account, but each trust account must be maintained separately;

(c) A broker may delegate authority for maintenance of a trust account to a designated broker with whom the broker is employed or associated. Delegation shall not relieve either broker from responsibility for any failure to comply with these trust account requirements whether by the delegating broker or the designated broker;

(d) All monies belonging to others and accepted by the broker while acting in the capacity as a broker shall be deposited in an insured account at an institution located in Montana and identified by the words "trust account." Trust funds must be liquid and may not be maintained in sweep accounts, invested in certificates of deposit or repurchase agreements, or any other method which places trust funds at risk. The broker must account for trust funds at all times;

(e) Trust funds may be maintained in interest-bearing accounts with the interest payable to the broker, principal, third-party, or any other person, as may be designated by written agreement. Interest payable to the broker shall be identified by written agreement as consideration for services performed and will be considered personal funds unless otherwise designated;

(f) Trust funds shall be retained in this trust account until the transaction involved is closed or terminated; however, trust funds may be disbursed to the closing agent in anticipation of closing upon written agreement of the buyers and sellers;

(g) At the client's written instructions, trust funds which would otherwise be due and payable from a trust account may be retained in the trust account although there is no purchase, lease, or rental agreement in existence, or when the transaction has been terminated;

(h) Money held in the trust account, which is due and payable to the broker, must be withdrawn within ten business days after such money becomes due and payable to the broker. Money not withdrawn from the trust account within the ten business days is subject to the personal funds limitations. However, the money may not be withdrawn until the financial institution has indicated that deposit has been verified and the funds are available;

(i) A broker shall not be entitled to any part of the earnest money or other monies paid to the broker in connection with any real estate transaction as part or all of the commission or fee until the transaction has been closed or terminated. If there is a division of forfeited earnest money between the broker and seller, it shall be pursuant to a written agreement between them;

(j) No payments of personal indebtedness shall be made from a trust account or trust funds;

(k) The broker will not be disciplined for a negative account or ledger balance that occurs only as the result of a deposit that was dishonored after the financial institution had indicated the funds were available;

(l) Maintenance of each individual trust account shall include the broker or designated broker, keeping at the broker or designated broker's office, a complete record of all funds received and disbursed in the following manner:

(i) proof of deposit showing the date of deposit or electronic transfer, amount, source of the money, and where deposited;

(ii) monthly bank statements are to be retained and kept on file;

(iii) disbursement of trust funds shall be made by either check or electronic transfer. If checks are used, trust account checks shall be numbered and all voided checks recorded. The checks shall denote the broker's business name and address, and must be designated as "trust account";

(iv) a record which shows the chronological sequence in which funds are received and disbursed;

(v) for funds received, the record must include the date the funds are deposited, the name of the party who is giving the money, the name of the principal, and the amount;

(vi) for disbursements, the record must include the date the funds are disbursed, the name of the payee, the name of the principal, and the amount;

(vii) no disbursement from the trust account shall be made until the deposit has been verified; and

(viii) a running balance must be shown after each entry;

(m) A chronological record shall be kept to show the receipts and the disbursements as they affect a single, particular transaction. The record must include the names of the parties to a transaction, the date, and the amounts received. When disbursing funds, the date, payee, and amount must be shown. A running balance must be shown after each entry;

(n) The trust account must be reconciled monthly;

(o) A salesperson or a broker who has delegated the broker's obligation to maintain a trust account to a designated broker pursuant to (c), shall place all funds for deposit in the custody of the supervising or designated broker in adequate time for the supervising or designated broker to comply with all trust account requirements;

(p) A broker may deposit and keep a sum not to exceed \$1000 of broker's personal funds in the trust account, which sum includes any interest earned on the trust account if the trust account is maintained in an interest-bearing account and the interest accrues to the broker;

(i) personal funds may be distributed for trust account bank charges, related trust account maintenance expenses, and when due and payable to the property manager; and

(ii) if personal funds are held in the trust account, a chronological ledger must be kept showing all deposits and disbursements of personal funds. The record entries must clearly identify the parties to a transaction, the dates, and the amounts received. When depositing funds, the date of the deposit, the source of funds, and the amount must be shown. When disbursing funds, the date of the disbursement, the name of the payee, and the amount must be shown. A running balance must be shown after each entry;

(q) Funds deposited in a trust account in connection with a real estate transaction shall not be commingled with the broker's personal funds or other funds in the trust account; and

(r) All required trust account records may be maintained electronically, but must be maintained in a manner that permits auditing.

(4) The board is authorized to examine each broker's trust account and related real estate documents. Such examination will be conducted by a board representative and will be at such time as the board representative may request during normal business hours. The broker is required to fully cooperate with the board representative. (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-319, 37-51-313, 37-51-321, 37-51-324, MCA; Eff. 12/31/72; AMD, Eff. 4/4/74; AMD, Eff. 7/5/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1981 MAR p. 1613, Eff. 11/26/81; AMD, 1982 MAR p. 1199, Eff. 6/18/82; AMD, 1990 MAR p. 1156, Eff. 6/15/90; AMD, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2013 MAR p. 1621, Eff. 9/6/13; AMD, 2018 MAR p. 1163, Eff. 6/23/18; AMD, 2021 MAR p. 1778, Eff. 12/11/21.)

Rules 24.210.427 through 24.210.429 reserved

24.210.430 INTERNET ADVERTISING RULES (1) Licensees who engage in any form of Internet advertising, including, but not limited to, web sites, blogs, video streaming, and social media, either directly or indirectly, shall comply with the Internet advertising rules set out in this rule. This rule does not apply to traditional forms of advertising or promotion, such as newspaper, television, radio advertisements, yard signs, or direct mailings.

(2) All Internet advertising shall truthfully and accurately describe the real property or service advertised. Real property advertisements shall identify the city, town, or county in which the real property is located. A specific street address is not required.

(3) All Internet advertising shall provide licensee identification. The timing and placement of such licensee identification shall vary, depending upon the nature of the advertisement or promotion, as follows:

(a) Whenever a licensee or brokerage company owns a web page or controls its content, every viewable page should include (or link to) a licensee identification. (A viewable page is one that may or may not scroll beyond the borders of the screen and includes the use of framed pages.)

(b) E-mail shall include a licensee identification at the beginning or end of each message, unless the licensee has previously provided licensee identification to all recipients of the e-mail.

(c) News groups, discussion lists, and bulletin boards shall include licensee identification at the beginning or end of each message.

(d) Licensee identification is not necessary in connection with instant messages if the licensee provided the written licensee identification via another format or medium (e.g., e-mail or letter) prior to providing or offering to provide, licensable services.

(e) Licensee identification is required prior to providing or offering to provide licensable services during a chat session or in text visible on the same web page that contains a chat session if the licensee or brokerage company controls the web site hosting the chat session.

(f) Licensee identification is required prior to the advertising message or in text visible on the same web page that contains a voice over net (VON) session.

(g) Licensee identification is not necessary for audible messaging if it was provided via another medium (i.e., e-mail, letter) prior to providing or offering to provide licensable services.

(h) Licensee identification should be visible as part of the advertising message when using multimedia advertising (e.g., web-based, executable e-mail, attachments, etc.).

(i) Banner ads should link to a web page that has licensee identification, unless the banner ad has licensee identification contained in it.



(4) Licensees' Internet advertising may include real properties on which neither the licensee nor the brokerage company is the listing agent, so long as the listing agent has offered cooperation and has consented to Internet advertising by the licensee engaging in the Internet advertising, and the owners of the property have consented to the same.

(a) The offer of cooperation and consent to Internet advertising may arise pursuant to the rules and regulations of a multiple listing service in which the listing agent and the licensee, engaging in the Internet advertising, are both participating (provided the multiple listing system gives the listing agents the option of prohibiting Internet advertising of some or all of their listings by some or all of the participants on that multiple listing system) or by specific written agreement between them.

(b) The owner's consent may be included in the listing agreement and need not identify the specific licensee to whom consent to Internet advertising is given.

(c) Licensees' Internet advertising of real properties, on which neither the licensee nor the brokerage company is the listing agent, must set forth as part of the property information, a statement that the subject property is listed with another licensee or brokerage company and shall identify the listing agent or brokerage company.

(d) The content of any property data obtained from another listing agent or multiple listing system may not be changed in whole or in part. However, such property data may be formatted differently, be condensed, and further advertised if the advertisement contains the following statement or similar language: "The foregoing material was abstracted from another source and does not contain all of the information available at the source site. Please request further information when considering this property."

(e) No licensee shall be responsible for errors or misrepresentations of others who reproduce or further disseminate the information concerning the licensee's listings, unless the licensee originated the error or misrepresentation and failed to update the information.

(5) All Internet advertising must be current as of the date of the advertisement and must be updated within seven days in the event of material changes to the listing, such as its expiration, termination, or amendment, and/or in the event of material changes to the information otherwise found in the Internet advertising. Internet advertising shall indicate the date on which it was created and last updated.

(6) All information, disclosures, statements, and the like required by this rule to be included in a licensee's Internet advertising shall be displayed in a size, color, typestyle, and location that a reasonable person will notice and be able to read.

(7) The licensee is responsible to assure the accuracy of Internet advertising published or disseminated by another person or another party under the direction of the licensee. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-51-102, 37-51-103, 37-51-301, 37-51-321, MCA; NEW, 2001 MAR p. 785, Eff. 5/11/01; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2013 MAR p. 1621, Eff. 9/6/13.)

Rules 24.210.431 through 24.210.434 reserved

24.210.435 INVESTIGATIONS COMMITTEE (REPEALED) (History: 37-1-131, 37-51-203, MCA; IMP, 37-51-202, 37-51-322, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2007 MAR p. 1329, Eff. 9/7/07.)

Subchapter 5 reserved

## Subchapter 6

## Brokers and Salespersons

24.210.601 GENERAL LICENSE ADMINISTRATION REQUIREMENTS

(1) Trust account records and real estate related documents, including sales contracts, leases and options, agency agreements, closing statements, and all other real estate related documents shall be maintained for eight years from the latter of the date of receipt or the date the transaction was completed.

(2) Any time that a salesperson's association with the supervising broker is terminated, the supervising broker shall immediately return the salesperson's license to the board office with a letter noting the termination. The supervising broker remains the supervising broker for the salesperson, until the license and release are received by the board.

(3) A dispute between a salesperson and the supervising broker shall not be cause for failing to immediately return the salesperson's license to the board office.

(4) A salesperson shall not practice without being associated with a supervising broker. A salesperson whose association with their supervising broker has been terminated must properly notify the board of any new supervising broker relationship, or the desire to place the license on inactive status and pay all required fees within ten days of the board receiving the termination of association. A licensee shall not practice with an inactive license.

(5) When required in writing to do so by a salesperson formerly associated with a supervising broker, the supervising broker shall promptly provide the former salesperson with a certified statement on the form prescribed by the board, identifying all real estate transactions in which the salesperson was involved in connection with the salesperson's association with the supervising broker, within the three years preceding the request.

(6) Upon termination of a salesperson's association with the salesperson's supervising broker, the supervising broker shall immediately notify all principals as to the listings or pending transactions in which the salesperson was involved, that the salesperson is no longer affiliated or associated with the supervising broker, and that the listings and pending transactions are the responsibility of the supervising broker.

(7) Listings and pending transactions of a salesperson are the responsibility of the supervising broker upon termination of the association between the salesperson and supervising broker.

(8) Supervising brokers are responsible for the performance of salespeople under the supervising brokers' supervision. If a complaint is submitted to the Board of Realty Regulation, alleging improper conduct on the part of a salesperson, a copy of the complaint shall be provided to the supervising broker who shall also provide a response to the complaint.

(9) Supervising brokers must provide ongoing real estate training to all salespeople under their supervision, in order to assure competent practice of the profession.

(10) A listing agreement negotiated by a salesperson is not valid until it is reviewed, signed, and dated by the supervising broker.

(11) Supervising brokers have the responsibility to exercise adequate supervision to assure that all documents for a real estate transaction, prepared by salespeople under their supervision, are appropriately prepared and executed.

(12) A broker shall not sign the application of a salesperson, unless the broker and salesperson will be in lawful association, through employment contract or otherwise.

(13) Principals and agents to a particular transaction may consent to communication directly with each other's client.

(14) A salesperson whose supervising broker has failed to renew or reinstate the broker's expired or suspended broker license or supervising broker endorsement must request to be placed on inactive status or transfer their salesperson license to another supervising broker within ten days of being notified by the board that their supervising broker no longer has an active broker license or endorsement. A salesperson shall not conduct licensed activity during this unsupervised period.

(15) A supervising broker must immediately inform the broker's supervised salespeople that the supervising broker no longer has an active broker license or endorsement.

(16) An active, licensed salesperson may be temporarily associated with a supervising broker other than the existing supervising broker of record listed on the salesperson's pocket card as follows:

(a) The temporary transfer of supervision must be in writing and must be provided to the salesperson by the broker of record. The writing must include:

(i) authorization of the transfer of supervision of the salesperson by the existing supervising broker, including the name and signature of the existing supervising broker;

(ii) acceptance of responsibility for the performance of the salesperson by the temporary supervising broker, including the name and signature of the temporary supervising broker;

(iii) the names of all salespersons transferring to the temporary supervising broker, which may be less than all of the salespersons under the supervision of the existing supervising broker; and

(iv) the effective beginning date and termination date of the temporary transfer.

(b) An existing supervising broker supervising more than one salesperson may temporarily transfer said salespersons to different temporary supervising brokers. Each individual salesperson may only have one temporary supervising broker at any given time.

(c) An existing supervising broker may not transfer temporary supervision of a salesperson for more than 60 days in any 12-month period, and any individual salesperson may not be temporarily supervised by anyone for more than 60 days in any 12-month period, unless transferred to a new supervising broker of record. This limit may not be extended without written approval by the board, which must be based on good cause. A temporary supervising broker may exceed 60 days of temporary supervision in any 12-month period. A temporary supervising broker is not the "broker of record" of any salesperson who is temporarily transferred to the temporary supervising broker.

(d) The existing supervising broker may terminate the temporary transfer of supervision prior to the effective termination date by providing notice to the temporary supervising broker. Written notice shall also be provided to the board.

(e) A temporary supervising broker must supervise the salespeople for the agreed length of time and may not transfer supervision to any broker, other than the original existing supervising broker of record.

(f) Temporary transfers of supervision may be extended beyond the effective termination date subject to the limitation of (c).

(g) The written transfer of supervision must be provided to the board no later than the three business days prior to the effective beginning date of the temporary transfer of supervision. A late filing will result in a late fee assessed against the existing supervising broker regardless of cause.

(17) In the event of the death or unanticipated incapacity of a salesperson's supervising broker (both existing and temporary):

(a) The salesperson may not practice real estate until the salesperson's license is transferred to a different supervising broker.

(b) The salesperson must inform the board of the death or incapacity within ten days of the existing supervising broker's death or incapacity.

(c) Supervision of the salesperson may be transferred to a temporary supervising broker as provided in (16). However, the authorization set forth in (16)(a) shall not be required.

(18) A salesperson who does not wish to be supervised by a temporary supervising broker may place their salesperson license on inactive status or transfer their license to another supervising broker as provided in this rule. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-51-202, 37-51-301, 37-51-309, 37-51-313, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2013 MAR p. 1621, Eff. 9/6/13; AMD, 2018 MAR p. 1163, Eff. 6/23/18; AMD, 2022 MAR p. 238, Eff. 2/12/22.)

24.210.602 EXAMINATION (1) License examinations may be held at such times and places determined by the board.

(2) The rules established by the examination provider shall be obeyed by all persons taking an examination. A violation of the examination provider's rules may result in imposition of any sanction found in 37-1-312, MCA.

(3) The board may, from time to time, review and amend the examination type, format, and the score upon which the pass or fail determination is made.

(4) All test scores may be scaled and equated for the specific examination by the testing agency that provides or administers the examination. Candidates for licensure must take a board-approved examination and make a passing score as determined by a psychometrically sound, criterion-related method associated with assessment of minimal competence. The method used shall be published prior to the administration of the examination. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-1-312, 37-1-316, 37-51-202, 37-51-302, 37-51-303, MCA; Eff. 12/31/72; AMD, Eff. 11/4/74; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 46, Eff. 1/12/07; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2012 MAR p. 1776, Eff. 9/7/12.)

24.210.603 APPLICATION FOR EXAMINATION – SALESPERSON AND BROKER (REPEALED) (History: 37-1-131, 37-51-203, MCA; IMP, 37-51-202, 37-51-302, 37-51-303, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2007 MAR p. 1329, Eff. 9/7/07.)

24.210.604 SUPERVISING BROKER ENDORSEMENT (1) A supervising broker endorsement will be issued to any broker completing the supervising broker pre-endorsement course. The course will be part of the overall continuing education requirement.

(2) An out-of-state broker shall complete the supervising broker pre-endorsement course before being issued the supervising broker endorsement.

(3) To maintain the supervising broker endorsement, a broker shall complete four hours each licensure year of board-approved education in the area of supervising broker continuing education as designated by the board. This education will be part of the overall continuing education requirement.

(4) Only brokers with a current supervising broker endorsement or who are attempting to reinstate an expired endorsement may get credit for completing supervising broker continuing education.

(5) A supervising broker who obtains the endorsement by grandfathering may complete the supervising broker pre-endorsement education course and receive continuing education credit one time.

(6) Failure to complete the four-hour supervising broker continuing education requirement shall result in the lapsing, expiration, or termination of the supervising broker endorsement pursuant to 37-1-141, MCA.

(7) A lapsed or expired supervising broker endorsement may be renewed pursuant to 37-1-141, MCA.

(8) A supervising broker endorsement cannot be placed on inactive status. In order to maintain the endorsement, the supervising broker must complete the supervising broker continuing education annually. Failure to complete the supervising broker continuing education will result in the endorsement lapsing, expiring, and terminating.

(9) A supervising broker endorsement that has terminated cannot be reinstated. A broker will be required to meet the current requirements to obtain the supervising broker endorsement again. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-1-141, 37-1-319, 37-51-202, 37-51-204, 37-51-302, 37-51-303, MCA; NEW, 2008 MAR p. 2558, Eff. 12/12/08; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2022 MAR p. 238, Eff. 2/12/22.)

24.210.605 REASONABLE SUPERVISION (1) Supervising brokers shall provide reasonable supervision for licensed salespersons with two or more years of experience that shall include, but not be limited to, compliance with the following:

(a) maintaining a written office policy describing the duties and responsibilities of licensees affiliated with the broker. A copy of the written policy shall:

(i) be given to, read, and signed by each licensee; and  
(ii) be available for inspection, upon request, by any authorized representative of the board;

(b) auditing all transaction files to ensure compliance with all applicable laws and regulations;

(c) consulting with and/or assisting throughout the transaction;

(d) communicating directly in person or by electronic communication on a regular basis;

(e) providing regular training on applicable real estate law, contracts, and current business practices; and

(f) reviewing all advertising, in any media, of any service for which a license is required.

(2) Nothing in this rule shall prevent a supervising broker from engaging others to assist in providing the supervision outlined in (1). The supervising broker takes full responsibility for any additional brokers, salespersons, or unlicensed assistants employed by the broker to assist or audit a licensee's business. (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-319, 37-51-302, MCA; NEW, 2021 MAR p. 1778, Eff. 12/11/21.)

24.210.606 HIGH LEVEL OF SUPERVISION (1) In addition to the requirements of ARM 24.210.605, a supervising broker shall provide a high level of supervision for licensed salespersons with less than two years of experience or have less than ten transaction sides in a calendar year as follows:

- (a) provide specific training in office policies and procedures;
- (b) review and provide assistance in preparing contracts;
- (c) monitor transactions from contract to closing; and
- (d) review documents in preparation for closing.

(2) Nothing in this rule shall prevent a supervising broker from engaging others to assist in providing the supervision outlined in (1). The supervising broker takes full responsibility for any additional brokers, salespersons, or unlicensed assistants employed by the broker to assist or audit a licensee's business. (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-319, 37-51-302, MCA; NEW, 2021 MAR p. 1778, Eff. 12/11/21.)

Rules 24.210.607 through 24.210.609 reserved

24.210.610 PREDETERMINATION FOR LICENSING (REPEALED)

(History: 37-1-131, 37-51-203, MCA; IMP, 37-1-135, 37-1-137, 37-1-203, 37-1-307, 37-1-319, 37-51-202, 37-51-302, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2012 MAR p. 1776, Eff. 9/7/12; REP, 2022 MAR p. 238, Eff. 2/12/22.)



24.210.611 APPLICATION FOR LICENSE – SALESPERSON AND BROKER

(1) Applicants for license must make application on forms approved by the board and accompanied by the required fee.

(2) No application for license will be accepted by the board until the individual has made application for and successfully completed the examination.

(3) All individuals successfully completing the examination must apply for licensure within 12 months from the date of examination. Failure to make application within that time shall invalidate the examination results.

(4) If an applicant currently holds, or has ever held a real estate license in another jurisdiction, a license verification from that licensing jurisdiction is required before a Montana license will be issued.

(5) All experience, including transactions, must be presented on board forms.

(6) A waiver applicant must hold a current active license in good standing.

(7) All waiver applicants will be required to pass the state examination.

(8) In addition to (1) through (7), all applicants for licensure as a salesperson must:

(a) submit proof of completing 70 hours of approved prelicensing education obtained within a period of 24 months immediately preceding the date of the submission of the application; and

(b) submit the proposed supervising broker's certification of the applicant's good repute and the broker's written acceptance of responsibility for supervising the licensed activities of the salesperson.

(9) In addition to (1) through (7), all applicants for licensure as a broker must:

(a) submit proof of completing 60 hours of approved prelicensing education obtained within a period of 18 months immediately preceding the date of the submission of the application; and

(b) submit for the purpose of determining if a broker applicant has been "actively engaged as a licensed real estate salesperson," evidence acceptable to the board that the salesperson has obtained a total of 30 points in any combination of point types within the past 36 months prior to the date of application. Point types and values are as follows:

(i) transaction points:

(A) one point for each closed residential real estate transaction, no more than five leases;

(B) three points for each closed farm, ranch, agricultural, or commercial transaction, no more than five leases; or

(C) upon furnishing evidence satisfactory to the board, an applicant may receive credit for both sides of a transaction.

- (ii) education points:
  - (A) three points for an associate's degree in real estate;
  - (B) three points for Certified Commercial Investment Member (CCIM) or Council of Real Estate Broker Managers (CRB);
  - (C) five points for a bachelor's degree or higher in business management;
  - (D) five points for a juris doctorate; or
  - (E) five points for a bachelor's degree or higher in real estate.
- (iii) supervision points are obtained through supervision of real estate activity for any broker who has supervised real estate activity a minimum of 36 months:
  - (A) one point for each year of real estate brokerage supervisory experience, maximum of three points;
  - (B) one point for each licensed real estate full-time equivalent (FTE) supervised within the last 36 months, maximum of ten points; or
  - (C) one point for every five transactions supervised in the last 36 months, maximum of 15 points.
- (iv) educator points are obtained by being an approved real estate educator in a jurisdiction:
  - (A) one point for each instructor day (minimum of six hours) within the past 36 months, maximum of ten points.
- (c) The experience required by (9)(b) must be legally obtained while licensed as a real estate licensee in this state, or licensed in another jurisdiction.
- (d) Closed real estate transactions of property owned by the applicant, by a corporation, partnership, trust, or other entity in which the applicant has an interest or by such an entity which employed the applicant as an employee, shall not qualify as experience under (9)(b), or under 37-51-302, MCA.
- (e) Transactions in which the applicant only participated as a mortgage broker shall not qualify as experience under (9)(b) or under 37-51-302, MCA.
- (f) In order for a listing to be considered a closed real estate transaction, the listing must have sold.
- (g) In order to claim credit for a transaction, the applicant must have taken an active role in the transaction as determined by the board, except that a supervising broker may claim supervision points as provided in (9) above.
- (h) No more than one credit total per side per transaction may be claimed by a team or its members.
- (10) The board will review all nonroutine applications. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-1-304, 37-51-202, 37-51-302, 37-51-303, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; AMD, 1992 MAR p. 2274, Eff. 10/16/92; AMD, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2008 MAR p. 2558, Eff. 12/12/08; AMD, 2010 MAR p. 532, Eff. 2/26/10; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2022 MAR p. 238, Eff. 2/12/22.)

Rules 24.210.612 through 24.210.614 reserved

24.210.615 APPLICATION FOR DETERMINATION OF EQUIVALENT EXPERIENCE FOR BROKER LICENSING (REPEALED) (History: 37-1-131, 37-51-203, MCA; IMP, 37-51-202, 37-51-302, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; AMD, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1994 MAR p. 1585, Eff. 6/10/94; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; REP, 2017 MAR p. 1145, Eff. 7/22/17.)

24.210.616 WAIVER OF EXPERIENCE REQUIREMENT FOR BROKER LICENSING PROHIBITED (REPEALED) (History: 37-1-131, 37-51-203, MCA; IMP, 37-51-202, 37-51-302, 37-51-306, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2019 MAR p. 1056, Eff. 7/27/19.)

Rules 24.210.617 through 24.210.620 reserved

24.210.621 NONRESIDENT LICENSE – SALESPERSON AND BROKER (REPEALED) (History: 37-1-131, 37-51-203, MCA; IMP, 37-51-202, 37-51-302, 37-51-306, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2007 MAR p. 1329, Eff. 9/7/07.)

Rules 24.210.622 and 24.210.623 reserved

24.210.624 INACTIVE LICENSES (1) A licensed broker or salesperson not engaged in licensed activities may place the licensee's license on inactive status by completing the change form requesting that the license be placed inactive and paying the required fee in accordance with ARM 24.210.401. A salesperson must also forward a release from the salesperson's supervising broker.

(2) A licensee whose license is on inactive status with the board has the sole responsibility to keep the board informed as to any change of the licensee's residency or mailing address during the period of time the real estate licensee remains on inactive status.

(3) In order to avoid lapse, expiration, or termination of the license, an inactive licensee must renew the inactive license each renewal period.

(4) An inactive licensee does not need to report continuing education until converting the license to active status as found in ARM 24.210.625.

(5) An inactive licensee may not receive compensation for real estate activity except for compensation that was earned while the license was active or payments made to an inactive licensee as the seller of a real estate brokerage business. (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-319, 37-51-202, 37-51-204, MCA; Eff. 12/31/72; AMD, Eff. 7/5/75; AMD, 1978 MAR p. 203, Eff. 2/4/78; AMD, 1979 MAR p. 200, Eff. 3/1/79; AMD, 1979 MAR p. 1548, Eff. 12/14/79; AMD, 1980 MAR p. 1280, Eff. 4/25/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 2091, Eff. 11/25/82; AMD, 1989 MAR p. 1339, Eff. 9/15/89; AMD, 1990 MAR p. 1156, Eff. 6/15/90; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2018 MAR p. 1163, Eff. 6/23/18.)

24.210.625 INACTIVE TO ACTIVE LICENSE STATUS (1) For an inactive real estate licensee to become active, the licensee must:

(a) request to move to an active status via the board-provided change form;  
(b) demonstrate completed continuing education that would have been required if on active status not to exceed 24 credits; and

(c) pay the required fee in accordance with ARM 24.210.401. (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-306, 37-1-319, 37-51-202, 37-51-204, 37-51-311, MCA; Eff. 12/31/72; AMD, Eff. 7/5/75; AMD, 1978 MAR p. 203, Eff. 2/24/78; AMD, 1979 MAR p. 200, Eff. 3/1/79; AMD, 1979 MAR p. 1548, Eff. 12/14/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1989 MAR p. 1339, Eff. 9/15/89; AMD, 1998 MAR p. 1496, Eff. 6/12/98; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2015 MAR p. 933, Eff. 7/17/15; AMD, 2018 MAR p. 1163, Eff. 6/23/18.)

Rules 24.210.626 through 24.210.628 reserved

24.210.629 RECIPROCITY (1) Subject to 37-51-306, MCA, the board may enter into an agreement with any other jurisdiction establishing the conditions through which residents of the other jurisdiction may obtain a nonresident license in this state, and establishing terms of nonresident practice in this state, if the other jurisdiction grants Montana resident licensees the same privileges. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-304, 37-51-202, 37-51-302, 37-51-306, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07.)

Rules 24.210.630 through 24.210.634 reserved

24.210.635 RENEWALS (1) Each licensee will renew on or before the date set by ARM 24.101.413.

(2) All licensees, including inactive licensees, are required to renew or the license will lapse, expire, or terminate per 37-1-141, MCA.

(3) Incomplete renewal forms will not be accepted and will be returned to the licensee. Any form returned to the licensee must be properly completed and resubmitted before the date as set by ARM 24.101.413, or the late penalty fee as specified in ARM 24.101.403 will be required. An unrenewed license will lapse, expire, or terminate per 37-1-141, MCA.

(4) All continuing education requirements must be met before a license is renewed.

(5) The provisions of ARM 24.101.408 apply. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-1-141, 37-51-202, MCA; NEW, 1997 MAR p. 1819, Eff. 10/7/97; AMD, 2000 MAR p. 2013, Eff. 7/28/00; AMD, 2000 MAR p. 3166, Eff. 11/10/00; AMD, 2001 MAR p. 2291, Eff. 11/22/01; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2009 MAR p. 2373, Eff. 12/11/09; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2018 MAR p. 1163, Eff. 6/23/18.)

Rules 24.210.636 through 24.210.640 reserved

24.210.641 UNPROFESSIONAL CONDUCT (1) In addition to all other statutes and rules administered by the board, the following are considered unprofessional conduct:

(a) acting as an agent for a party or parties in a real estate transaction where that agency representation conflicts with the obligations owed by the licensee to another party. This does not prohibit dual agency as permitted in 37-51-313, MCA.

(b) engaging in activities that constitute the practice of law;

(c) failing to advise their principal and any other party to the transaction with whom the licensee is directly working, that outside professional services should be secured when appropriate;

(d) engaging the services of any attorney, title company, appraiser, escrow agent, insurance agent, maintenance service, or other like person or entity, on behalf of a principal, third-party, or other person, without informing and obtaining consent from the person obligated to pay for the services;

(e) engaging or recommending the services of an attorney, title company, appraiser, escrow agent, maintenance service, or other like person or entity, on behalf of a principal, third-party, or other person, without disclosing any family relationship, financial relationship, and/or financial interest that the licensee or real estate agency with which the licensee is associated may have in that person or entity being engaged or recommended;

(f) failing, when entering into a listing agreement, to promptly verify that the principal listing the property is the owner or is authorized by the owner to list the property. The licensee may, but is not required to, conduct a title search or obtain a title report at the initial listing;

(g) failing to disclose the fact that the individual is a licensee when the licensee first seeks information from the owner, the owner's agent, or tenant about any property, whether for the licensee's own account or as agent for another;

(h) falsifying documents, placing any party's signature on a document, or altering or amending a document on behalf of any party without authority of a written power of attorney from the party;

(i) advising that an offer or counter offer has been accepted without the licensee having in the licensee's possession a document signed by the party evidencing the party's acceptance;

(j) committing any act of forgery, fraud, misrepresentation, deception, misappropriation, conversion, theft, or any other like act;

(k) knowingly entering, or willfully continuing in any transaction, either as a principal or agent, wherein a purpose or objective of the licensee or the licensee's principal is to commit any of the following acts:

(i) using or conspiring with others to obtain inflated property appraisals;

(ii) influencing others to purchase property for another person in order to circumvent credit and down payment requirements or other limitations imposed by lenders, the Department of Housing and Urban Development (HUD), or the Veterans Administration (VA);

(iii) filing an application to refinance a loan for the purpose of drawing out the equity, when prohibited by lenders, HUD or VA regulations; or

(iv) acquiring as an investor, or personally, properties subject to a loan guaranteed or insured by HUD, collect rents thereon, while purposely failing to make mortgage payments on the property;

(l) failing to document in writing and obtain signatures by the parties to all agreements. Licensees shall document in writing, and have signed by the parties, any changes to the terms and provisions of the agreement which occur between the time a buy/sell is executed and the closing of a transaction;

(m) failing, as a seller's agent, to participate in negotiations as defined in 37-51-102, MCA, unless the seller has waived this obligation in writing;

(n) failing, as a seller's agent, to submit to the seller all offers and counter offers received by the licensee until such time as a pending transaction has been closed or the listing agreement terminates unless the seller waives these obligations in writing. Seller agents are not obligated to continue to actively market the property after an offer has been accepted by the seller unless directed in writing to do so by the seller;

(o) failing, as a buyer agent, to participate in negotiations as defined in 37-51-102, MCA, unless the buyer has waived these obligations in writing;

(p) failing, as a buyer agent, to submit to the buyer all offers and counter offers until an offer has been accepted or the buyer broker agreement terminates, unless the buyer waives these obligations in writing. Buyer agents are not obligated to show properties to their buyer after an offer has been accepted unless directed in writing to do so by the buyer;

(q) representing to any lender, guaranteeing agency, or other interested party, either orally or through the preparation of false documents, an amount other than the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(r) when acting as a listing agent, disclosing the name of a person making an offer or the amount or terms of an offer to other persons interested in making offers. This shall not prohibit the listing agent from disclosing that an offer has been made;

(s) when acting as a buyer agent, disclosing to a client who is a principal to a real estate transaction, the name of a competing client who is also making an offer on the same property or disclosing the amount, terms or provisions of the competing client's offer;

(t) violating the residential tenants' security deposits laws of Title 70, chapter 25, MCA;

(u) violating the landlord and tenant residential and commercial laws of Title 70, chapter 26, MCA;

(v) violating the Montana Residential Mobile Home Lot Rental Act of Title 70, chapter 33, MCA;

(w) violating as a seller's agent, the radon disclosure requirements of Title 75, chapter 3, MCA;

(x) violating the Residential Lead-Based Paint Disclosure Program of Title X, section 1018 of the United States Code;

(y) failing, while acting as a property manager as defined in 37-51-102, MCA, to abide by the requirements of Title 37, chapter 51, part 6, MCA, and the requirements of the Board of Realty Regulation's rules for property management as set forth in ARM 24.210.805 and 24.210.828, except for the advertising requirements of ARM 24.210.828(3)(u);

(z) violating the landlord tenant laws of Title 70, chapter 24, MCA;

(aa) violating the state and federal fair housing statutes;

(ab) violating the Americans with Disabilities Act;

(ac) soliciting, selling, or offering for sale real property by conducting lotteries, raffles, or contests for the purpose of influencing a purchaser or prospective purchaser of real property. Door prizes can be awarded so long as the participant is not required to pay any consideration or enter into any contract arrangement in order to participate in the door prize drawing;

(ad) paying a commission in connection to a real estate sale or transaction to a person who is not licensed as a real estate broker or real estate salesperson under this chapter; however, payment to any principals, reducing the commission owed by any principals, or payments made to the seller of a real estate brokerage business even if the seller is no longer a licensee is not considered payment of a commission to an unlicensed person;

(ae) failing to disclose in advertising the licensee's name and identifying that the advertisement is made by a real estate licensee or that the advertising is made by a brokerage company;

(af) failing to comply with Internet advertising subject to the provisions of ARM 24.210.430;

(ag) failing to disclose their identity as a real estate licensee at first contact;

(ah) failing to comply with all completion and reporting requirements for continuing education as established by the board;

(ai) failing to respond to a request from the board;

(aj) engaging in or conducting business as a real estate licensee, or advertising as a real estate licensee, or conducting the business of a real estate licensee at a time when the licensee's real estate license has expired or is on inactive status;

(ak) acting as a buyer agent without a written buyer broker agreement;

(al) acting as a seller agent without a written listing agreement;



- (am) acting as a dual agent in a transaction if the licensee is a principal;
- (an) acting as a dual agent in a transaction without a written agreement from each principal;
- (ao) acting as a seller agent in a transaction if the licensee is the buyer in the same transaction;
- (ap) acting as a buyer agent in a transaction if the licensee is the seller in the same transaction;
- (aq) submitting a competing offer as a principal in a transaction with the licensee's client;
- (ar) failing to account for or misappropriation of funds being held in trust;
- (as) failing to document any agreement allowing an agent's principal to negotiate directly with an opposing agent;
- (at) failing as a listing agent on an entry-only listing to comply with all other statute and rule requirements of a real estate licensee;
- (au) as a supervising broker, failing to immediately inform the broker's supervised salespersons that the supervising broker's license or endorsement has expired; or
- (av) failing as a supervising broker to adequately supervise his or her salespeople. A supervising broker endorsement may be limited or revoked as a consequence of violating this subsection.

(2) The revocation, suspension, or other disciplinary treatment of any other professional or occupational license or privilege, held by the licensee in this state or another jurisdiction, may be grounds for license discipline in this state if the board determines that the substantive grounds for the previous disciplinary treatment relates to the public health, safety, and welfare as it applies to real estate activity.

(3) Real estate licensees are responsible for the actions of their employees who aid or assist the real estate licensee in the performance of real estate functions. At no time may an unlicensed employee perform an activity for which a license is required. (History: 37-1-131, 37-1-136, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-136, 37-1-137, 37-1-307, 37-1-312, 37-1-316, 37-1-319, 37-51-306, 37-51-309, 37-51-313, 37-51-314, 37-51-321, 37-51-324, MCA; Eff. 12/31/72; NEW, 1978 MAR p. 203, Eff. 2/24/78; AMD, 1979 MAR p. 1548, Eff. 12/14/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 105, Eff. 1/31/86; AMD, 1987 MAR p. 588, Eff. 5/15/87; AMD, 1990 MAR p. 1156, Eff. 6/15/90; AMD, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1994 MAR p. 297, Eff. 2/11/94; AMD, 1994 MAR p. 667, Eff. 4/1/94; AMD, 1994 MAR p. 1585, Eff. 6/10/94; AMD, 1995 MAR p. 468, Eff. 3/31/95; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1997 MAR p. 399, Eff. 2/25/97; AMD, 1997 MAR p. 1026, Eff. 6/24/97; AMD, 1998 MAR p. 2861, Eff. 10/23/98; AMD, 1998 MAR p. 3277, Eff. 12/18/98; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2001 MAR p. 785, Eff. 5/11/01; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2007 MAR p. 1815, Eff. 11/9/07; AMD, 2008 MAR p. 808, Eff. 4/25/08; AMD, 2009 MAR p. 748, Eff. 5/15/09; AMD, 2010 MAR p. 532, Eff. 2/26/10; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2017 MAR p. 1145, Eff. 7/22/17; AMD, 2018 MAR p. 1163, Eff. 6/23/18; AMD, 2021 MAR p. 619, Eff. 5/29/21.)

Rule 24.210.642 reserved

24.210.643 CITATIONS AND FINES (1) Citations issued by the department may be presented to the licensee responsible for the maintenance of the trust account personally or mailed by certified mail.

(2) A licensee who receives a citation has five business days from the receipt of the citation to either pay the fee or file a written dispute. Failure to either pay the fine or file a written dispute within five business days is unprofessional conduct and subject to board discipline. If a licensee disputes a citation, the citation and dispute will be forwarded to the screening panel for consideration. (History: 37-51-203, MCA; IMP, 37-51-324, MCA; NEW, 2008 MAR p. 2558, Eff. 12/12/08; AMD, 2021 MAR p. 619, Eff. 5/29/21.)

Rules 24.210.644 and 24.210.645 reserved

24.210.646 DISCIPLINARY GUIDELINES -- PUBLIC NOTICE (1) The board, in its discretion, may impose disciplinary action against a licensee violating any law or rules of the board. The board shall decide on a case-by-case basis the type and extent of disciplinary action it deems appropriate applying the following considerations:

- (a) the seriousness of the infraction;
- (b) the detriment to the health, safety, and welfare of the people of Montana;

and

- (c) past or pending disciplinary actions relating to the licensee.

(2) In addition to any sanction provided in 37-1-312, MCA, the board may impose one or more of the following sanctions against a licensee who violates one or more of the laws or rules of the board:

- (a) revocation of a license;
- (b) suspension of its judgment of revocation on terms and conditions

determined by the board;

- (c) placing a licensee on probation;
- (d) public or private reprimand or censure of a licensee;

(e) taking any other action in relation to disciplining a licensee as the board in its discretion considers proper;

(f) limitation or restriction of the scope of the license and the licensee's practice;

- (g) deferral of disciplinary proceedings or imposition of disciplinary sanctions;

or

- (h) ordering the licensee to successfully complete appropriate training.

(3) When a license is revoked or suspended, the license must immediately be surrendered to the board.

(4) Any order of license discipline, when final, including those reached by settlement agreement, may be published. (History: 37-1-131, 37-1-136, 37-51-203, MCA; IMP, 2-4-623, 37-1-136, 37-1-312, 37-51-321, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2018 MAR p. 1163, Eff. 6/23/18.)

Rules 24.210.647 through 24.210.650 reserved

24.210.651 REINSTATEMENT (1) Unless a specific period of suspension or revocation is set out in any final order of the board, a suspension shall be for one year and a revocation shall be permanent.

(2) As a condition to the reinstatement of a suspended license, in addition to any other conditions allowed by law, the board may require the applicant to take and pass a qualifying examination, or course, or both as determined by the board.

(History: 37-1-131, 37-1-136, 37-51-203, MCA; IMP, 37-1-314, 37-51-202, 37-51-321, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1990 MAR p. 1156, Eff. 6/15/90; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07.)

Rules 24.210.652 through 24.210.659 reserved

24.210.660 PRELICENSING EDUCATION - SALESPERSONS AND BROKERS (1) Request for approval of a prelicensing education course and instructor approval must be made on forms approved by the board and submitted 60 days prior to the initial course offering date.

(2) Expiration of course approval or instructor approval is three years from the date of approval, but may be revoked for cause.

(3) Distance education courses may be approved if the board determines that:

(a) an appropriate and complete application has been filed and approved by the board;

(b) the distance education course meets the content requirements as established under this rule;

(c) the distance education course is certified by the Association of Real Estate License Law Officials (ARELLO) and the course provider has provided appropriate documentation that the ARELLO certification is in effect. Approval will cease immediately should ARELLO certification be discontinued for any reason; and

(d) the distance education course meets all other requirements as prescribed in the statutes and rules that govern the operation of approved courses.

(4) It is the responsibility of the applicant to verify that courses are approved for Montana prior to completing the course for credit.

(5) Advanced nationally recognized designation courses may be submitted and may be approved, in part, to fulfill specific topics of the broker prelicensing education requirement.

(6) Instructors teaching more than 25 percent of a prelicensing course must be approved by the board as prelicensing instructors.

(7) The course provider is responsible for the actions and representations of all instructors who aid or assist in the instruction of the prelicensing education course.

(8) No more than eight hours of instruction may be offered per day. Examination time does not count as hours of instruction.

(9) Approved instructors must have one year of experience in real estate education, and:

(a) a bachelor's degree in a field traditionally associated with the subject matter being taught; or

(b) advanced training on instruction methods and adult learning.

(10) Prelicensing courses to obtain a sales license must consist of at least 70 hours of instruction of and must include theory and practical application of each of the following topics:

(a) key steps in a real estate transaction, including listings, contracts for sale, inspections and due diligence, financing, and closing;

(b) real estate law, including Title 37, chapter 51, MCA, the board's administrative rules, and federal real estate marketing rules;

(c) real estate taxation;

(d) property management and leasing, including the Montana Residential Landlord Tenant Act of 1977;

- (e) ethics and standards of practice;
- (f) escrow, closing, and settlement practices;
- (g) real estate financing, including mortgages, trust deeds and indentures, seller financing, commercial financing, mortgage brokers and bankers, and government involvement in real estate financing;
- (h) environmental issues;
- (i) agency law;
- (j) contract law and documents, including listings and contracts of sale;
- (k) general trust accounting for real estate licenses;
- (l) forms of real estate ownership, including estates, condominiums, and cooperatives;
- (m) title and transfer of title, including buyer inspection of title, legal aspects of a deed, methods of property conveyance, clouds on the title, and selling mortgaged properties;
- (n) recording acts;
- (o) encumbrances and easements;
- (p) public and private land use controls, including the police power;
- (q) fair housing;
- (r) Regulation Z;
- (s) land descriptions;
- (t) appraisal and valuation; and
- (u) math and financial calculations.

(11) The 60 hours of board-approved broker prelicensing education will consist of the following modules:

- (a) business management;
- (b) contracts;
- (c) financial management;
- (d) liability pertaining to real estate practice;
- (e) professional conduct;
- (f) real estate and property management trust accounting; and
- (g) property management.

(12) Courses must be designed so that no more than ten minutes per 60 minutes are allowed for breaks in instruction. Break time may be accumulated and used in blocks at the instructor's discretion.

(13) The applicant must attend 90 percent of the first hour and 100 percent of each additional hour of the approved course time in order to receive credit for attendance. Reasonable accommodations will be made for people with medical conditions.

(14) A board representative may, at no charge, audit all board-approved courses for rule compliance. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-51-302, MCA; NEW, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2010 MAR p. 532, Eff. 2/26/10; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2021 MAR p. 619, Eff. 5/29/21.)

24.210.661 NEW LICENSEE MANDATORY CONTINUING EDUCATION – SALESPERSONS (REPEALED) (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA; NEW, 2000 MAR p. 2013, Eff. 7/28/00; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2006 MAR p. 1171, Eff. 5/5/06; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2015 MAR p. 933, Eff. 7/17/15; AMD, 2017 MAR p. 1145, Eff. 7/22/17; AMD, 2019 MAR p. 1056, Eff. 7/27/19; REP, 2021 MAR p. 619, Eff. 5/29/21.)

Rules 24.210.662 through 24.210.665 reserved

24.210.666 COURSE PROVIDER (REPEALED) (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, 37-51-204, 37-51-302, MCA; NEW, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2017 MAR p. 1145, Eff. 7/22/17; REP, 2019 MAR p. 1056, Eff. 7/27/19.)

24.210.667 CONTINUING REAL ESTATE EDUCATION (1) Each active licensee is required to complete a minimum of 12 hours of continuing real estate education every licensing year between November 1 and October 31.

(2) The required hours shall be in real estate continuing education courses that are:

(a) approved by the Association of Real Estate License Law Officials' (ARELLO) Distance Education Certification, or a state real estate licensing regulatory agency or real estate commission; or

(b) endorsed by a national, state, or local Association of REALTORS®, or a national, state, or local real estate, landlords, or property management association.

(3) The licensee must attend 90 percent of the first hour and 100 percent of each additional hour of the approved course time to receive credit.

(4) No credit will be granted for carry over hours from a prior licensing year.

(5) The board may grant continuing education credit to board members for actively preparing and participating in board meetings. Credit will be limited to no more than three hours of credit per meeting.

(6) Licensees who have completed continuing education that the licensee believes meets the topic requirements of the board may submit an individual application for course credit to be granted at the board's discretion. The individual course credit application and fee must be filed with the board office within 30 days after course completion to avoid a late fee. (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA; NEW, 1987 MAR p. 157, Eff. 2/14/87; AMD, 1987 MAR p. 1780, Eff. 10/16/87; AMD, 1989 MAR p. 1339, Eff. 9/15/89; AMD, 1990 MAR p. 1156, Eff. 6/15/90; AMD, 1993 MAR p. 2233, Eff. 9/17/93; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1998 MAR p. 2861, Eff. 10/23/98; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2000 MAR p. 184, Eff. 1/28/00; AMD, 2000 MAR p. 2013, Eff. 7/28/00; AMD, 2001 MAR p. 785, Eff. 5/11/01; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2006 MAR p. 1171, Eff. 5/5/06; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2007 MAR p. 1815, Eff. 11/9/07; AMD, 2009 MAR p. 2373, Eff. 12/11/09; AMD, 2011 MAR p. 2280, Eff. 10/28/11; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2015 MAR p. 933, Eff. 7/17/15; AMD, 2019 MAR p. 1056, Eff. 7/27/19; AMD, 2021 MAR p. 619, Eff. 5/29/21.)

Rules 24.210.668 through 24.210.673 reserved



24.210.674 CONTINUING REAL ESTATE EDUCATION – COURSE APPROVAL (REPEALED) (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; AMD, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2001 MAR p. 785, Eff. 5/11/01; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2009 MAR p. 2373, Eff. 12/11/09; AMD, 2010 MAR p. 749, Eff. 2/26/10; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2017 MAR p. 1145, Eff. 7/22/17; REP, 2019 MAR p. 1056, Eff. 7/27/19.)

Rules 24.210.675 and 24.210.676 reserved

24.210.677 CONTINUING REAL ESTATE EDUCATION – INSTRUCTOR APPROVAL (REPEALED) (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA; NEW, 1990 MAR p. 1156, Eff. 6/15/90; AMD, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2010 MAR p. 532, Eff. 2/26/10; AMD, 2017 MAR p. 1145, Eff. 7/22/17; REP, 2019 MAR p. 1056, Eff. 7/27/19.)

Subchapter 7 reserved

## Subchapter 8

## Property Management

24.210.801 FEE SCHEDULE (1) The following fees are required for each of the licensing services.

- (2) All fees are nonrefundable.
- (3) Examination fees are payable to the testing service under contract with the board.
- (4) Original property management license \$50
- (5) Active renewal for property management license 50
- (6) Inactive renewal for property management license 25
- (7) Reinstatement of a license suspended or revoked within a license period 50
- (8) Placing an active license on inactive status 20
- (9) Activating an inactive license 25
- (10) Prelicensing course application for approval or renewal 150
- (11) Individual application for CE course credit (per course) 45
- (12) Late fee for individual application for CE course credit (per course) 100

(History: 37-1-134, 37-51-203, MCA; IMP, 37-1-134, 37-1-141, 37-51-207, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 2000 MAR p. 3166, Eff. 11/10/00; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2010 MAR p. 532, Eff. 2/26/10; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2013 MAR p. 1533, Eff. 8/23/13; AMD, 2019 MAR p. 1056, Eff. 7/27/19; AMD, 2021 MAR p. 1778, Eff. 12/11/21; AMD, 2022 MAR p. 238, Eff. 2/12/22.)

Rule 24.210.802 reserved

24.210.803 PROPERTY MANAGEMENT DEFINITIONS The terms used in this chapter shall have their common meaning as used in the property management industry and, unless the content otherwise requires, the following meanings shall also apply:

(1) "Salaried employee" as used in Title 37, chapter 51, part 6, MCA, means an individual employed by an owner to manage the property of that owner. This term does not include an unlicensed real estate or property management secretary or the holder of a similar position employed to manage many owners' property for a single broker or property manager.

(2) "Board" means the Board of Realty Regulation provided in 2-15-1757, MCA. (History: 37-1-131, 37-51-203, MCA; IMP, 37-51-102, 37-51-602, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1999 MAR p. 405, Eff. 3/12/99; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2012 MAR p. 1776, Eff. 9/7/12.)

Rule 24.210.804 reserved

24.210.805 PROPERTY MANAGEMENT TRUST ACCOUNT

REQUIREMENTS (1) Each property manager will maintain a trust account wherein all deposits, rent payments, or other trust funds received by the property manager, on behalf of any other person, shall be deposited.

(a) Offices or firms having more than one property manager may utilize a single trust account.

(b) A property manager may maintain more than one trust account, but each trust account must be maintained separately.

(2) The trust account must be readily accessible, insured in a financial institution located in Montana, and identified by the words "trust account." All monies, belonging to others and accepted by the property manager, shall be deposited in an insured account at an institution located in Montana, and identified by the words "trust account." Trust funds must be liquid and may not be maintained in sweep accounts, invested in certificates of deposit or repurchase agreements, or any other method which places trust funds at risk. The property manager must account for trust funds at all times.

(3) Trust funds may be maintained in interest-bearing accounts with the interest payable to the property manager, principal, third-party, or any other person, as may be designated by written agreement. Interest payable to the property manager shall be identified by written agreement as consideration for services performed and will be considered personal funds unless otherwise designated.

(4) Maintenance of the trust account is the responsibility of the property manager.

(a) A property manager may delegate authority for maintenance of a trust account to a designated property manager with whom the property manager is employed or associated. Delegation shall not relieve either property manager from responsibility for any failure to comply with these trust account requirements whether by the delegating property manager or the designated property manager.

(b) Property managers are responsible for all funds deposited into the trust account by them or their property management staff.

(5) The property manager will not be disciplined for a negative account or ledger balance that occurs only as the result of a deposit that was dishonored after the financial institution had indicated the funds were available.

(6) A property manager may deposit and keep a sum not to exceed \$1000 of a property manager's personal funds in the trust account, which sum includes any interest earned on the trust account if the trust account is maintained in an interest-bearing account and the interest accrues to the property manager. Personal funds may be distributed for trust account bank charges, related trust account maintenance expenses, and when due and payable to the property manager. If personal funds are held in the trust account, a chronological ledger must be kept showing all deposits and disbursements of personal funds. The record entries must clearly identify the parties to a transaction, the dates, and the amounts received. When depositing funds, the date of the deposit, the source of funds, and the amount must be shown. When disbursing funds, the date of the disbursement, the name of the payee, and the amount must be shown. A running balance must be shown after each entry.

(7) Funds deposited in a property manager trust account, in connection with a property management transaction, shall not be commingled with the property manager's personal funds or other funds in the trust account.

(8) All monies belonging to others, which are received by a property manager in a lease or rental transaction, must be deposited into the property manager's trust account within three business days, unless otherwise provided in the lease or rental agreement.

(9) When the property management agreement is terminated, but the rental agreement is still in effect, and the licensee is holding funds deposited by a tenant, the licensee shall:

(a) notify the tenant in writing within five business days of termination of the agreement:

(i) that the agreement has terminated;

(ii) that the funds and current tenant files, including lease and condition reports, will be transferred to the property owner or the owner's designee within 30 days of the termination; and

(iii) the name and address of the property owner or the owner's designee to whom the funds are to be transferred;

(b) transfer funds and current tenant files, including the lease and property condition reports, pursuant to the notice to the tenant within 30 days of termination.

(10) Except for personal funds referenced in (6), no payments of personal indebtedness of the property manager shall be made from such trust accounts or trust funds.

(11) When a property manager is managing the property manager's own real estate, all tenant security deposits must be deposited into a trust account. All remaining funds received and disbursed must be handled in the following manner:

(a) if the property manager solely owns 100 percent of the real estate, rents received shall not be required to be placed into a trust account. If rents received are placed into a trust account, any and all disbursements from the trust account must be described in the property management agreement. A disbursement may not be considered personal indebtedness if the disbursement is for the maintenance of the property(ies) itself and is designated in the management agreement; and

(b) if the property manager owns less than 100 percent of the real estate, all rents received must be placed into a trust account. Any and all disbursements from the trust account must be described in the property management agreement. A disbursement may not be considered personal indebtedness if the disbursement is for the maintenance of the property(ies) itself and is designated in the management agreement.

(12) Money held in the trust account, which is due and payable to the property manager, must be withdrawn within ten business days after such money becomes due and payable to the property manager. The money may not be withdrawn until the deposit has been verified and money not withdrawn from the trust account within the ten business days is subject to the personal funds limitations of (6).

(13) Maintenance of each individual property management trust account shall include the property manager keeping at the property management office a completed record of all funds received and disbursed in the following manner:

(a) proof of deposit showing the date of deposit or electronic transfer, amount, source of money, and where deposited;

(b) monthly bank statements are to be retained and kept on file;

(c) disbursement of trust funds shall be made by either check or electronic transfer. If checks are used, trust account checks must be numbered and all voided checks recorded. The checks must denote the property manager's business name, address, and must be designated as "trust account";

(d) a record which shows the chronological sequence in which funds are received and disbursed;

(i) for funds received, the record must include the date the funds are deposited, the name of the party who is giving the money, the name of the principal, and the amount;

(ii) for disbursements, the record must include the date the funds are disbursed, the name of the payee, the name of the principal, and the amount;

(iii) no disbursement from the trust account shall be made until the deposit has been verified;

(iv) a running balance must be shown after each entry.

(14) A chronological ledger must be kept for each tenant showing all rents, deposits, and disbursements. The record entries must clearly identify the parties to a transaction, the dates, and the amounts received. When disbursing funds, the date, payee, and the amount must be shown. A running balance must be shown after each entry.

(15) A chronological record must be kept for each property owner showing all income, expenses, and disbursements. The record entries must clearly identify the parties to a transaction, the date, and the amounts received. When disbursing funds, the date, the payee, and the amount must be shown. A running balance must be shown after each entry.

(16) The trust account must be reconciled monthly, except in the case where there has been no activity during that month.

(17) Trust account records, complete files of properties managed (including, but not limited to, the property management agreement, lease or rental agreement, and all transactions concerning the property in which the property manager was involved), and all other related documents shall be maintained for not less than eight years from the date the property management agreement terminates. A property manager is not relieved of this requirement in the event the property manager sells or ceases to operate a business.

(18) All required trust account records may be maintained electronically, but must be maintained in a manner to permit auditing.

(19) The board is authorized to examine each property manager's trust account and all related property management records. Such examination will be conducted by a board representative and will be at such time as the board representative may request during normal business hours. The property manager is required to fully cooperate with the board representative. (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-319, 37-51-324, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2010 MAR p. 532, Eff. 2/26/10; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2013 MAR p. 1621, Eff. 9/6/13; AMD, 2018 MAR p. 1163, Eff. 6/23/18.)

Rule 24.210.806 reserved

24.210.807 PROPERTY MANAGEMENT LICENSE TRANSFER REQUIREMENTS (1) A property management licensee who changes the office location must notify the board office in writing within ten business days of the change. The board office will then issue a corrected pocket card for the remainder of the renewal year. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-51-605, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2022 MAR p. 238, Eff. 2/12/22.)

Rule 24.210.808 reserved

24.210.809 PRELICENSING PROPERTY MANAGEMENT COURSE AND INSTRUCTOR REQUIREMENTS

(1) Request for prelicensing education course and instructor approval must be made on forms approved by the board and submitted 60 days prior to the initial course offering date.

(2) Expiration of course approval or instructor approval is three years from the date of approval, but may be revoked for cause.

(3) Distance education courses may be approved if the board determines that:

(a) an appropriate and complete application has been filed and approved by the board;

(b) the distance education course meets the content requirements as established under this rule;

(c) the distance education course is certified by the Association of Real Estate License Law Officials (ARELLO) and the course provider has provided appropriate documentation that the ARELLO certification is in effect. Approval will cease immediately should the ARELLO certification be discontinued for any reason; and

(d) the distance education course meets all other requirements as prescribed in the statutes and rules that govern the operation of approved courses.

(4) It is the responsibility of the applicant to verify that courses are approved for Montana prior to completing the course for credit.

(5) Instructors teaching more than 25 percent of a prelicensing course must be approved by the board as prelicensing instructors.

(6) The course provider is responsible for the actions and representations of all instructors who aid or assist in the instruction of the prelicensing education course.

(7) No more than eight hours of instruction may be offered per day. Examination time does not count as hours of instruction.

(8) Approved instructors must have one year of experience in the practice of property management or property management education and:

(a) a bachelor's degree in a field traditionally associated with the subject matter being taught; or

(b) advanced training on instruction methods and adult learning.

(9) A property management application must provide evidence of successfully completing a minimum of 30 hours of prelicensure education approved by the board.



(10) The prelicensure curriculum must consist of the following topics:

- (a) landlord tenant law (Title 70, chapter 24, MCA);
- (b) federal and state fair housing laws;
- (c) Americans with Disabilities Act;
- (d) state licensing law and rules;
- (e) trust accounts;
- (f) accounting procedures;
- (g) definitions and terms commonly used in the industry;
- (h) contract law;
- (i) agency; and
- (j) leasing principles.

(11) Courses must be designed so that no more than ten minutes per 60 minutes are allowed for breaks in instruction. Break time may be accumulated and used in blocks at the instructor's discretion.

(12) The applicant must attend 90 percent of the first hour and 100 percent of each additional hour of the approved course time in order to receive credit for attendance. Reasonable accommodations will be made for people with medical conditions. (History: 37-1-131, 37-51-203, MCA; IMP, 37-51-202, 37-51-601, 37-51-603, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 2001 MAR p. 789, Eff. 1/1/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2010 MAR p. 532, Eff. 2/26/10; AMD, 2012 MAR p. 1776, Eff. 9/7/12.)

Rules 24.210.810 and 24.210.811 reserved

24.210.812 APPLICATION FOR PROPERTY MANAGEMENT LICENSURE

(1) An applicant for a property management license must submit a completed original application on forms approved by the board and pay the required fees.

(2) Real estate brokers and salespersons wishing to obtain a property management license must meet all existing property management licensing requirements, including completion of the preclicensing course described in ARM 24.210.809, passing the examination, submitting the license application, and paying the required fee.

(3) Applicants for licensure as a property manager must submit proof of completing a board-approved property management preclicensing course obtained within a period of 24 months, immediately preceding the date of the submission of the application.

(4) All individuals successfully completing the examination must apply for licensure within 12 months from the date of examination. Failure to make application within that time shall invalidate examination results.

(5) The board will review all nonroutine applications. (History: 37-1-131, 37-51-203, MCA; IMP, 37-51-202, 37-51-601, 37-51-603, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1995 MAR p. 468, Eff. 3/31/95; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2012 MAR p. 1776, Eff. 9/7/12.)

Rules 24.210.813 and 24.210.814 reserved

24.210.815 APPLICATION FOR PROPERTY MANAGEMENT EXAMINATION (REPEALED) (History: 37-1-131, 37-51-202, 37-51-203, MCA; IMP, 37-51-603, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2007 MAR p. 1329, Eff. 9/7/07.)

Rules 24.210.816 and 24.210.817 reserved

24.210.818 PROPERTY MANAGEMENT EXAMINATION (1) License examinations may be held at such times and places as determined by the board.

(2) The rules established by the examination provider shall be obeyed by all persons taking an examination. A violation of a rule may result in imposition of any sanction found in 37-1-312, MCA.

(3) The board may from time to time review and amend the examination type, format, and the score upon which the pass or fail determination is made.

(4) The passing score is 80 percent. (History: 37-1-131, 37-51-203, MCA; IMP, 37-1-131, 37-1-312, 37-1-316, 37-51-601, 37-51-603, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07.)

Rule 24.210.819 reserved

24.210.820 TRUST ACCOUNT COURSE REQUIREMENT (1) Except for new licensees as provided in ARM 24.210.829, all active property manager licensees must complete a four-hour property management trust account course as approved by the board within 12 months of the effective date of this rule.

(2) Inactive licensees returning to active status who have not taken this course must take it by the next renewal date after they become active. (History: 37-1-131, MCA; IMP, 37-1-131, MCA; NEW, 2017 MAR p. 1145, Eff. 7/22/17.)

Rules 24.210.821 through 24.210.824 reserved

24.210.825 RENEWALS (1) All active and inactive licensees will be required to renew as set by ARM 24.101.413.

(2) Incomplete renewal forms will not be accepted and will be returned to the licensee. Any form returned to the licensee must be properly completed and resubmitted before the renewal date set forth in ARM 24.101.413. An unrenewed license will lapse, expire, or terminate per 37-1-141, MCA.

(3) The provisions of ARM 24.101.408 apply. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, 37-1-141, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1995 MAR p. 2799, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2001 MAR p. 2291, Eff. 11/22/01; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2014 MAR p. 2469, Eff. 10/10/14; AMD, 2017 MAR p. 1145, Eff. 7/22/17.)

24.210.826 INACTIVE TO ACTIVE STATUS - PROPERTY MANAGEMENT LICENSES (1) In order to become active, an inactive property management licensee must:

- (a) file a change of address application;
- (b) provide evidence of completing 24 hours of continuing education within the preceding 24 months; and
- (c) pay the required fee in accordance with ARM 24.210.801. (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, 37-51-311, 37-51-601, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1999 MAR p. 405, Eff. 3/12/99; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2015 MAR p. 933, Eff. 7/17/15.)

24.210.827 INACTIVE STATUS (1) A licensee not engaged in licensed activities may place the licensee's license on inactive status by completing the change form requesting that the license be placed inactive and by paying the required fee in accordance with ARM 24.210.401.

(2) In order to avoid lapse, expiration, or termination of their license, inactive licensees must renew their inactive license each renewal period.

(3) Inactive licensees do not need to report continuing education until they reactivate their license as found in ARM 24.210.826.

(4) Inactive licensees may not receive compensation for property management activity except for compensation that was earned while their license was active or payments made to an inactive licensee as the seller of a property management business.

(5) A licensee whose license is on inactive status with the board has the sole responsibility to keep the board informed as to any change of the licensee's residency or mailing address during the period of time the license remains on inactive status. (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-141, 37-1-319, 37-51-601, MCA; NEW, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2018 MAR p. 1163, Eff. 6/23/18.)

24.210.828 UNPROFESSIONAL CONDUCT FOR PROPERTY MANAGEMENT LICENSEES

(1) In any transaction in which a property management licensee is involved as a licensee or as a party, has held self out as a licensee, or in which any party has reasonably relied on a licensee's status as a licensee, violation of any statute or rule administered by the board may be considered by the board in determining whether or not the licensee has failed to meet the generally accepted standards of practice.

(2) If the board determines that a licensee has committed an act that violates a statute or the rules administered by the board, such act shall be deemed an act against the interest of the public for which the board may take disciplinary action permitted by law against the licensee.

(3) In addition to all other provisions contained in the statutes and rules administered by the board, the following are considered unprofessional conduct:

(a) failing to maintain a level of knowledge customary for licensees of this state, including laws and rules administered by the board;

(b) violating laws and rules affecting any transaction in which the licensee acts;

(c) engaging in activities that constitute the practice of law;

(d) engaging the services of any attorney, insurance agent, maintenance service, or other like person or like entity, on behalf of a principal, third-party, or other person, without informing and obtaining consent from the person obligated to pay for the services;

(e) engaging or recommending the services of an attorney, insurance company, maintenance service, or other like person or entity, on behalf of a principal, third-party, or other person, without disclosing any family relationship, financial relationship, and/or financial interest that the licensee or property management agency with which the licensee is associated may have in that person or entity being engaged or recommended;

(f) falsifying documents, or placing signatures on documents without authority of a written power of attorney from the party, or committing any act of forgery, fraud, misrepresentation, deception, misappropriation, conversion, theft, or any other like act;

(g) failing to make reasonable efforts to perform all obligations arising from any agreement entered into;

(h) acting as a broker without holding that license separately;

(i) violating the landlord tenant laws of Title 70, chapter 24, MCA;

(j) violating the state and federal human rights statutes;

(k) violating the Americans with Disabilities Act;

(l) violating the residential tenants' security deposits laws of Title 70, chapter 25, MCA;

(m) violating the landlord and tenant residential and commercial laws of Title 70, chapter 26, MCA;

(n) violating the Montana Residential Mobile Home Lot Rental Act of Title 70, chapter 33, MCA;

(o) violating the Residential Lead-Based Paint Disclosure Program of Title X, section 1018 of the United States Code;

(p) when entering into a management agreement failing to make a prompt effort to verify that the principal entering the agreement is the owner or is authorized by the owner to enter such agreement;

(q) failing to disclose to all customers and clients their contractual relationship;

(r) openly advertising property belonging to others, whether by means of printed material, radio, television, or display, or by other means, without a signed property management agreement from the owner of the property. The agreement must be valid as of the date of advertisement. Internet advertising is subject to the provisions of ARM 24.210.430;

(s) failing to include the name of the property management company, or the term "property manager" in any real estate advertising, including property owned by the licensee. Internet advertising is subject to the provisions of ARM 24.210.430.

(t) failing to disclose the fact that the individual is a licensee when the licensee first seeks information from the owner, the owner's agent, or tenant about any property, whether for the licensee's own account or as agent for another.

(u) managing property owned by a separate person or entity without a written property management agreement in place, signed by the owner;

(v) failing to comply with all continuing education completion and reporting requirements as established by the board;

(w) accepting, giving, or charging an undisclosed commission, rebate, or profit on expenditures made for a principal;

(x) committing any act of forgery, fraud, misrepresentation, deception, misappropriation, conversion, theft, or any other like act;

(y) failing to respond to a request from the board;

(z) engaging in or conducting business as a property manager, or advertising as a property manager, or engaging in or conducting the business of a property manager at a time when the licensee's license has expired or is on inactive status; however, payments received by the seller of a property management business even if the seller is no longer a licensee is not considered engaging in or conducting business as a property manager; or

(aa) indicating on a renewal form that the licensee has completed all required continuing education as of the date of submission of the renewal form when the licensee has not completed the continuing education.

(4) The revocation or suspension or other disciplinary treatment of any other professional or occupational license or privilege held by the licensee in this state or another state, whether as an attorney, salesperson, broker, appraiser, or similar occupation or profession, shall be grounds for license discipline in this state, if the board, after appropriate notice and hearing, determines that the substantive grounds for that disciplinary treatment demonstrates the licensee's unworthiness or incompetency to act as a property manager.

(5) A licensed property manager is responsible for the actions of their employees who aid or assist the property manager in the performance of property management functions. At no time may an unlicensed employee perform an activity for which a license is required.

(6) A licensee is not required to either investigate or disclose whether a registered sexual or violent offender resides in proximity to any property with which the licensee manages, shows, negotiates for the rental, or otherwise is involved. (History: 37-1-131, 37-1-136, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-136, 37-1-137, 37-1-316, 37-1-319, 37-51-607, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1995 MAR p. 468, Eff. 3/31/95; AMD, 1995 MAR p. 2397, Eff. 11/10/95; AMD, 1998 MAR p. 3277, Eff. 12/18/98; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2001 MAR p. 785, Eff. 5/11/01; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2010 MAR p. 532, Eff. 2/26/10; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2018 MAR p. 1163, Eff. 6/23/18; AMD, 2021 MAR p. 1778, Eff. 12/11/21; AMD, 2022 MAR p. 238, Eff. 2/12/22.)

24.210.829 NEW LICENSEE MANDATORY CONTINUING EDUCATION – PROPERTY MANAGER (1) All new property management licensees are required to complete 12 hours of property management continuing education by the second renewal date as set by ARM 24.101.413, following their original license issue date. Four of the hours must consist of courses in property management trust accounts and must be taken before the first renewal date following original issuance of the license. In the event there is no course offered by the end of the licensing year, a new licensee must complete the course when the class is next offered unless it is extended for good cause at the board's discretion. After satisfactorily completing their first renewal, property manager licensees may satisfy their continuing education obligations for subsequent years by choosing any continuing education courses approved by the board, whether designated as property management education or not. (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-306, 37-1-319, 37-51-603, MCA; NEW, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2015 MAR p. 933, Eff. 7/17/15; AMD, 2017 MAR p. 1145, Eff. 7/22/17.)

Rules 24.210.830 through 24.210.833 reserved

24.210.834 COURSE PROVIDER (REPEALED) (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, 37-51-204, 37-51-302, 37-51-603, MCA; NEW, 2012 MAR p. 1776, Eff. 9/7/12; REP, 2019 MAR p. 1056, Eff. 7/27/19.)

24.210.835 CONTINUING PROPERTY MANAGEMENT EDUCATION

(1) Each active licensee is required to complete a minimum of 12 hours of continuing property management education every licensing year between November 1 and October 31.

(2) The required hours shall be in property management continuing education courses that are:

(a) approved by the Association of Real Estate License Law Officials' (ARELLO) Distance Education Certification, or a state real estate licensing regulatory agency or real estate commission; or

(b) endorsed by a national, state, or local Association of REALTORS®, or any national, state, or local real estate, landlords, or property management association.

(3) The licensee must attend 90 percent of the first hour and 100 percent of each additional hour of the approved course time to receive credit.

(4) No duplicate credit will be granted for repeating a course in the same reporting period.

(5) Licensees who have completed continuing education that the licensee believes meets the topic requirements of the board may submit an individual application for course credit to be granted at the board's discretion. The individual application and fee must be filed with the board office within 30 days of completion. (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1995 MAR p. 2799, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2001 MAR p. 789, Eff. 1/1/02; AMD, 2001 MAR p. 2291, Eff. 11/22/01; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2010 MAR p. 532, Eff. 2/26/10; AMD, 2011 MAR p. 2280, Eff. 10/28/11; AMD, 2012 MAR p. 1776, Eff. 9/7/12; AMD, 2015 MAR p. 933, Eff. 7/17/15; AMD, 2019 MAR p. 1056, Eff. 7/27/19; AMD, 2021 MAR p. 619, Eff. 5/29/21.)



24.210.836 CONTINUING PROPERTY MANAGEMENT EDUCATION REPORTING REQUIREMENTS (REPEALED) (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-101, 37-1-131, 37-1-306, 37-1-319, MCA; NEW, 2001 MAR p. 2291, Eff. 11/22/01; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2006 MAR p. 1583, Eff. 7/1/06; REP, 2007 MAR p. 1329, Eff. 9/7/07.)

Rules 24.210.837 through 24.210.839 reserved

24.210.840 CONTINUING PROPERTY MANAGEMENT EDUCATION – COURSE APPROVAL (REPEALED) (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1995 MAR p. 2799, Eff. 11/10/95; AMD, 1999 MAR p. 405, Eff. 3/12/99; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2010 MAR p. 532, Eff. 2/26/10; AMD, 2012 MAR p. 1776, Eff. 9/7/12; REP, 2019 MAR p. 1056, Eff. 7/27/19.)

Rules 24.210.841 and 24.210.842 reserved

24.210.843 CONTINUING PROPERTY MANAGEMENT EDUCATION – INSTRUCTOR APPROVAL (REPEALED) (History: 37-1-131, 37-1-319, 37-51-203, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, 37-51-202, MCA; NEW, 1993 MAR p. 1909, Eff. 8/13/93; AMD, 1995 MAR p. 2799, Eff. 11/10/95; AMD, 2002 MAR p. 2905, Eff. 10/18/02; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1329, Eff. 9/7/07; AMD, 2010 MAR p. 532, Eff. 2/26/10; REP, 2019 MAR p. 1056, Eff. 7/27/19.)

Subchapter 9 reserved

## Subchapter 10

## Timeshare Licensure and Registration

24.210.1001 FEE SCHEDULE (1) Except as otherwise provided by statute or rule, the following fees are required by the board for each of the licensing services listed in this rule.

- (2) Fees are deemed earned by the board upon receipt and not refundable.
- (3) Initial filing of an application for registration of the sale of a timeshare \$500
- (4) Amendment of registration of the sale of a timeshare 200
- (5) Original timeshare salesperson license application 35
- (6) Timeshare salesperson license renewal 35
- (7) Placing an active license on inactive status 10
- (8) Activating a license on inactive status 45
- (9) Timeshare correspondence course fees are payable to the course provider as approved by the board. (History: 37-1-131, 37-1-134, 37-53-104, MCA; IMP, 37-1-134, 37-1-141, 37-53-201, 37-53-202, 37-53-203, 37-53-204, 37-53-301, MCA; NEW, 2007 MAR p. 1815, Eff. 11/9/07; AMD, 2010 MAR p. 532, Eff. 2/26/10.)

Rule 24.210.1002 reserved

24.210.1003 TIMESHARE LICENSURE FOR LICENSED REAL ESTATE BROKERS AND SALESPERSONS (REPEALED) (History: 37-1-131, 37-53-104, MCA; IMP, 37-53-301, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2010 MAR p. 532, Eff. 2/26/10.)

Rule 24.210.1004 reserved

24.210.1005 LICENSURE OF TIMESHARE BROKERS (REPEALED) (History: 37-1-131, 37-53-104, MCA; IMP, 37-53-102, 37-53-301, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2010 MAR p. 532, Eff. 2/26/10.)

Rule 24.210.1006 reserved

24.210.1007 LICENSURE OF TIMESHARE SALESPERSONS

(1) Applications for licensure as a timeshare salesperson shall be made on a completed form provided by the board accompanied by satisfactory proof of successful completion of an approved course of education and payment of the required fee. (History: 37-1-131, 37-53-104, MCA; IMP, 37-1-131, 37-53-301, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2010 MAR p. 532, Eff. 2/26/10.)

Rules 24.210.1008 through 24.210.1010 reserved

24.210.1011 REQUIREMENTS OF PERSONAL DISCLOSURE STATEMENT REQUIRED FOR LICENSURE (REPEALED) (History: 37-1-131, 37-53-104, MCA; IMP, 37-53-104, 37-53-301, 37-53-302, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2010 MAR p. 532, Eff. 2/26/10.)

Rule 24.210.1012 reserved

24.210.1013 TIMESHARE LICENSURE FOR NONRESIDENTS (REPEALED) (History: 37-1-131, 37-53-104, MCA; IMP, 37-1-131, 37-53-104, 37-53-301, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2010 MAR p. 532, Eff. 2/26/10.)

Rules 24.210.1014 and 24.210.1015 reserved

24.210.1016 TIMESHARE COURSE OF EDUCATION REQUIRED FOR LICENSURE (1) Each applicant for licensure shall have successfully completed a course, or courses, of education related to the timeshare industry and approved by the board.

(2) No course will be approved for an applicant if attended more than two years prior to the application for licensure. (History: 37-1-131, 37-53-104, MCA; IMP, 37-1-131, 37-53-301, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; AMD, 1989 MAR p. 475, Eff. 4/28/89; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1815, Eff. 11/9/07; AMD, 2010 MAR p. 532, Eff. 2/26/10.)

Rule 24.210.1017 reserved

24.210.1018 TIMESHARE EXAMINATION REQUIREMENTS FOR LICENSURE (REPEALED) (History: 37-1-131, 37-53-104, MCA; IMP, 37-53-301, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2007 MAR p. 1815, Eff. 11/9/07; REP, 2010 MAR p. 532, Eff. 2/26/10.)

Rule 24.210.1019 reserved

24.210.1020 RENEWALS (1) Each licensee shall renew on or before the date as set by ARM 24.210.413.

(2) Renewal notices for all timeshare salespeople will be sent to the last known address in the division's records as specified in ARM 24.101.414.

(3) Incomplete renewal forms will not be accepted and will be returned to the licensee. Any form returned to the licensee must be properly completed and resubmitted before the renewal deadline or late renewal fees will be required.

(4) Timeshare sales licenses will lapse, expire, or terminate according to ARM 24.101.408. (History: 37-1-131, 37-53-104, MCA; IMP, 37-1-131, 37-1-141, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1815, Eff. 11/9/07; AMD, 2010 MAR p. 532, Eff. 2/26/10.)

Rules 24.210.1021 through 24.210.1024 reserved

24.210.1025 TIMESHARE REGISTRATION APPLICATION

REQUIREMENTS (1) Application for registration of a timeshare offering shall be made on a form provided by the board and include the required documents and the required fee.

(2) Application materials filed with the ARELLO Timeshare Registry (ATR) are preferred. (History: 37-53-104, MCA; IMP, 37-53-104, 37-53-201, 37-53-202, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2010 MAR p. 532, Eff. 2/26/10.)

Rule 24.210.1026 reserved

24.210.1027 ALTERNATIVE ACCEPTABLE DOCUMENTS FOR  
TIMESHARE REGISTRATION

(1) Subject to (2), any document or set of documents actually filed with, or actually compiled in accordance with a rule of any agency of the United States or any other state shall be acceptable alternatives to the documents required to be filed with an application for registration of a timeshare offering under 37-53-202, MCA.

(2) If, in the board's discretion, the alternative documents do not provide reasonably equivalent material and recent information required by 37-53-202, MCA, and any applicable rule, the board may require that the alternative documents be supplemented accordingly. (History: 37-53-104, 37-53-204, MCA; IMP, 37-53-104, 37-53-204, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455.)

Rule 24.210.1028 reserved

24.210.1029 TIMESHARE REGISTRATION DISCLOSURE DOCUMENT REQUIREMENTS (REPEALED) (History: 37-53-104, 37-53-303, MCA; IMP, 37-53-303, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2010 MAR p. 532, Eff. 2/26/10.)

Rule 24.210.1030 reserved

24.210.1031 TIMESHARE CONDITIONS OF REGISTRATION REQUIREMENTS (1) It shall be a condition of registration that the registrant assures purchasers quiet enjoyment of the timeshare unit by providing satisfactory guarantee to the purchaser that all promises made that are yet to be performed or remain executory are covered by a performance bond, a trust, an escrow, or similar arrangement. (History: 37-53-104, 37-53-212, MCA; IMP, 37-53-104, 37-53-212, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455.)

Rule 24.210.1032 reserved

24.210.1033 TIMESHARE RENEWAL REGISTRATION REQUIREMENTS (REPEALED) (History: 37-53-104, MCA; IMP, 37-53-104, 37-53-203, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2010 MAR p. 532, Eff. 2/26/10.)

Rule 24.210.1034 reserved

24.210.1035 TIMESHARE AMENDMENT FOR ADDITIONAL INTERVAL REGISTRATION REQUIREMENTS (REPEALED) (History: 37-53-104, MCA; IMP, 37-53-103, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; REP, 2010 MAR p. 532, Eff. 2/26/10.)

Rule 24.210.1036 reserved

24.210.1037 TIMESHARE AMENDMENT FOR MATERIAL CHANGE REGISTRATION REQUIREMENTS (1) Amendment to application for registration shall be made on a form provided by the board and accompanied by the required attached documents and payment of the required fee. (History: 37-53-104, MCA; IMP, 37-53-203, MCA; NEW, 1988 MAR p. 877, Eff. 5/13/88; TRANS, from Commerce, 2005 MAR p. 2455; AMD, 2010 MAR p. 532, Eff. 2/26/10.)