



Montana Department of LABOR & INDUSTRY

MONTANA BOARD OF REALTY REGULATION

MONTANA BOARD OF REALTY REGULATION
PO Box 200513
Helena, MT 59620-0513

WWW.REALESTATE.MT.GOV
(406) 841-2300
FAX (406) 841-2309
dlibsdrre@mt.gov

Spring 2018 Edition

CURRENT BOARD MEMBERS

Ric Smith, Industry Member, Chair
Polson, MT Term 5/12/2017 to 5/1/2021
Dan Wagner, Industry Member
Billings, MT Term 7/24/2015 to 5/1/2019
Eric Ossorio, Industry Member
Big Sky, MT Term 7/24/2015 to 5/1/2019
Cindy Lanier, Industry Member
Lakeside, MT Term 7/24/2015 to 5/1/2019
Josh Peck, Public Member
Butte, MT Term 7/24/2015 to 5/1/2019
Julie Gardner, Industry Member
Missoula, MT Term 5/12/2017 to 5/1/2020
Vacant, Public Member

DEPARTMENT STAFF

Rhonda Morgan – Executive Officer
Graden Hahn – Board Counsel
Jennifer Stallkamp – Department Counsel
Rita Reichert – Compliance Specialist
Tiffany Huss – Auditor

BOARD MEETING DATES

July 19th
October 25th
February 7th

In this Issue:

- Executive Officer Report
- Attention Property Managers - REMINDER
- Upcoming Courses
- Q&A
- Auditor's Corner
- Online Supervising Broker Changes

Executive Officer Report

By Rhonda Morgan, Executive Officer

There continues to be an extensive number of licensees in our database that have not provided an email address or that have an old email address listed with us. Please help to make sure you, your supervised salespersons, and peers provide us with an updated email address. You can submit this from our website or from your online licensing account.

Also as a reminder, please remember to UPDATE your ADDRESS if it changes! It is the responsibility of the licensee to notify the Board within 10 days of a change, and it is in your best interest to do so in order to receive any correspondence.

The online option to change supervising broker relationships is live and is being well-received. See the related article in this newsletter for more information.

Current active licenses:

- Broker - 2158
- Salesperson - 3051
- Property Manager - 643

Current inactive licenses:

- Broker - 116
- Salesperson - 350
- Property Manager - 14

Total new licenses issued per license year:

- 2018 to date: B = 82; S = 355; PM = 78
- 2017: B = 138; S = 584; PM = 104
- 2016: B = 72; S = 502; PM = 116
- 2015: B = 73; S = 440; PM = 103

Administrative Rules Update:

- The Final Notice for MAR 24-210-44 will be submitted on June 12, 2018. <http://boards.bsd.dli.mt.gov/rre#8?3>



Attention Property Managers REMINDER

The Board of Realty Regulation adopted a new Administrative Rule requiring all active property manager licensees to complete four hours of property management trust account continuing education (CE) by July 22, 2018. Licensees may have their license *administratively suspended* if the CE is not taken prior to July 22, 2018. These four hours can be included in the required 12 hours of continuing education credits.

New property manager licensees who were issued a license on or after July 22, 2017, are required to take four hours of property management trust account CE prior to their first renewal cycle. These four hours can be included in the required 12 hours of continuing education credits, which must be taken by the second renewal cycle.

UPCOMING COURSES

June 29, 2018
4-Hour Trust Accounting Review
Missoula, [click here](#) to register

July 10, 2018
Property Management Trust Account Course
Contact [Tiffany Huss](#) to register

July 17, 2018
Property Management Trust Account Course
Hamilton, [click here](#) to register

September 26-27, 2018
Principles of Property Management
(including Trust Account CE)
Missoula, [click here](#) to register

September 27-28, 2018
Rookie Course
Contact MOR at 406-728-0560 to register

Scheduled upcoming courses can always be found on our website home page.
www.realestate.mt.gov

Q&A

Q: *As an agent, when am I required to provide the relationship disclosures to my clients? Can I do it at the time the buy/sell is signed?*

A: No. Montana Code Annotated § 37-51-314 (2) requires a seller agent to make the initial disclosure at the time the listing agreement is executed. § 37-51-314(3) requires a buyer agent to make the initial disclosure at the time the buyer/broker agreement is executed. § 37-51-314(4) provides the disclosure timing for agents working as statutory brokers.

Q: *What information does the disclosure need to contain?*

A: § 37-51-314 (6) provides the information for the initial relationship disclosure, and § 37-51-314(7) provides the requirements for any subsequent disclosures that are necessary.





Auditor's Corner

By Tiffany Huss, Auditor

As a licensee, it is your responsibility to know and understand the laws and rules regarding your license. Laws and rules do change and the Board is not required to provide notice to you. For example, an Administrative Rule proposal ([MAR 24-210-44](#)) was posted in December 2017 – **this proposal includes changes to the trust account rules.**

Please remember to periodically check the website (www.realestate.mt.gov) for updates.

Speaking of trust account requirements, let's review the personal funds dilemma...

Q. *What are personal funds?*

A. Personal funds are funds used for the maintenance of the trust account itself. These funds are not trust funds and belong to the licensee and/or the licensee's employer. Example uses may include, but are not limited to: financial institution fees, designated interest earnings, and purchasing checks and deposit slips. If there are personal funds and/or personal funds transactions in a trust account, licensees are required to maintain a personal funds ledger. FYI, if funds are spent for any purpose other than the maintenance of the trust account, it is called personal indebtedness. And no, personal indebtedness is not allowed.

Q. *What is commingling?*

A. Taking funds from one person/entity to pay another person/entity, aka "robbing from Peter to pay Paul." For clarification, that is also not allowed, with a single exception: if a financial institution indicated deposited funds were available to use and later dishonored said funds, the licensee(s) will not be penalized. However, institution fees associated with the dishonored deposit are **not** part of the exception.

Q. *Do I have to keep personal funds in a trust account?*

A. No. However, if a licensee does not have personal funds in the trust account and the financial institution withdraws a fee the licensee is responsible for, or other similar scenario, the licensee may be penalized for commingling trust funds and any other applicable violations.

Suggestion: if licensees would like to avoid the hassle of maintaining and documenting personal funds, licensees may wish to talk to their financial institution to find out if said institution is willing to debit any fees or credit any interest to a different (non-trust) account. *Please note that not all financial institutions may offer this option.

If you have any questions, please contact me. If you have more questions after asking those questions, *please contact me*. You **will not** be audited if you ask questions – licensees are randomly selected for audits. We want you to be compliant with licensure laws and rules, and we want to help you comply as best as we can. My phone number is (406) 841-2321 and my email address is THuss@mt.gov.

P.S. If you would like to receive notices about upcoming Board meetings, rule notices, etcetera, please email dlibsdrre@mt.gov or call (406) 841-2300 to request to be added to the Board's "Interested Party" list.





Online Supervising Broker Changes

By Rhonda Morgan, Executive Officer

The ability to change the supervising broker relationship is now available online! I hope you all find it to be an easier and more efficient, and cost effective, way to make your supervisory changes.

Relationship changes can only be made by the responsible party; so the supervising brokers can make changes, but the salespersons cannot. The supervising brokers can add new salespersons that they supervise or end a relationship with a licensee that they no longer supervise. This is done under a "relationship amendment" via their online Ebiz system account.

Once the change has been submitted, the system will grab it to process the amendments a couple times per day. This means the change could possibly show up within an hour of submission, or it could take up to 24 hours. All licensees affected by a relationship amendment will receive an email (if they have an email address in our system) notifying them of the change that was made. This email can be used to provide verification of the relationship change to the local Associations/MLS.

The fee for completing a supervising broker relationship change online is \$0.00. Supervising brokers and licensees can still utilize the paper Change Form (<http://boards.bsd.dli.mt.gov/rre#9>) for a fee of \$40.00.

Detailed instructions regarding how to submit a relationship amendment online have been posted on the home page of the Board website. (<http://boards.bsd.dli.mt.gov/rre#0>) Although the instructions have been well received and found to be very clear and understandable, if you have any problems with creating an online account, logging into your online account, or the relationship amendment process, please call our licensing unit to assist at (406) 444-6880.

Here are a few notes/pointers:

- The salesperson's license should automatically be updated with the address of the new supervising broker location.
- Once a relationship is ended, the salesperson status changes to inactive until another supervising broker adds them to their supervision list, at which time their status will change back to active.
- If you need to end a relationship, please do NOT just delete the record. You should put in an end date instead to continue to show that the previous relationship existed.
- You will probably notice there are some old records and cleanup that might need to be done within the list of relationships under your license. You can make those changes all at the same time. Most likely it will be an old relationship, so just put in a close approximate end date if you do not have the exact date the salesperson was no longer being supervised.
- If you get an error at the end of the process of making a relationship change that says you cannot make the change to an unlicensed individual, it means that there is inadvertently an "application" record listed under your relationships. So if the license number shows RRE-RBS-APP-1234 instead of RRE-RBS-LIC-1234 within your list, DELETE the APP record, as the application record should not be showing on your relationship list anyway. This should fix the problem. If not, call the licensing unit at (406) 444-6880.

