

BEFORE THE BOARD OF REALTY REGULATION
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.210.401 fee schedule,)	PROPOSED AMENDMENT AND
24.210.416 applications for)	REPEAL
examination and license in general-)	
broker and salesperson, 24.210.661)	
new licensee mandatory continuing)	
education-salespersons, 24.210.667)	
continuing real estate education,)	
24.210.801 fee schedule, 24.210.835)	
continuing property management)	
education, and the repeal of)	
24.210.616 waiver of experience)	
requirement for broker licensing)	
prohibited, and 24.210.666,)	
24.210.674, 24.210.677, 24.210.834,)	
24.210.840, and 24.210.843)	
pertaining to board approval of)	
courses, providers, and instructors)	

TO: All Concerned Persons

1. On June 18, 2019, at 9:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Realty Regulation no later than 5:00 p.m., on June 11, 2019, to advise us of the nature of the accommodation that you need. Please contact Rhonda Morgan, Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2320; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; or dlibsdrre@mt.gov (board's e-mail).

3. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.210.401 FEE SCHEDULE (1) ~~Except as otherwise provided by statute or rule, the~~ The following fees are required by the board for each of the licensing services listed in this rule. ~~All fees are subject to change by the board, within the limitations provided in 37-51-311, MCA.~~

(2) Fees All fees are deemed earned by the board upon receipt nonrefundable.

(3) Examination fees are payable to the national testing service under contract with the board.

(4) remains the same.

(5) Renewal of a <u>Active renewal for broker license</u>	175
(6) <u>Inactive renewal for broker license</u>	87.50
(6)(7) Original sales <u>salesperson license</u>	150
(7)(8) Renewal of a sales <u>Active renewal for salesperson license</u>	150
(9) <u>Inactive renewal for salesperson license</u>	75
(8) remains the same but is renumbered (10).	
(a) submitted via paper change form <u>by mail</u>	40
(b) remains the same.	
(9)(11) Transfer of <u>salesperson supervision to a single temporary supervising broker</u>	45
(10)(12) Late filing of fee for transfer of salesperson supervision to <u>temporary supervising broker notification</u>	90
(11) and (12) remain the same but are renumbered (13) and (14).	
(13)(15) Activating a <u>salesperson license on inactive status</u>	80 75
(16) <u>Activating a broker license on inactive status</u>	87.50
(14)(17) Original recovery fund <u>account assessment</u>	35
(15) Continuing education course application for approval or renewal	130
(16) Education course instructor application for approval or renewal	87.50
(17) and (18) remain the same but are renumbered (18) and (19).	
(19) Predetermination or waiver application fee	87.50
(20) Each additional course hour option from one course outline	35
(21)(20) Individual CE request application for CE course credit (per course)	45
(22)(21) Late filing of fee for individual CE request application for CE course credit (per course)	100
(23) Instructor/course development course	\$175 per course
(24) Additional standardized fees are specified in ARM 24.101.403.	

AUTH: 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, ~~37-51-305~~, 37-51-308, 37-51-309, 37-51-311, 37-51-502, MCA

REASON: The Legislative Audit Division conducted a performance audit of the Board of Realty Regulation, Licensing Real Estate Professionals, in January 2016. The audit revealed that the board's inactive license fees conflict with the department

rule ARM 24.101.403. The board is amending this rule to align these fees with the department rule and address the audit findings.

The board is amending and repealing rules in this notice to eliminate board preapproval of CE courses, providers, and instructors. The board determined it is reasonably necessary to amend this rule and ARM 24.210.801 and align with those changes by eliminating the fees associated with board CE approval. The board is further amending this rule for improved grammar, language consistency, and improved clarity for the reader. The board is striking (24) as an unnecessary repetition of ARM 24.101.403, the department rule on administrative fees. The board estimates the fee changes will affect approximately 519 persons and decrease annual revenue by \$40,325.

Implementation citations are being amended to delete reference to a repealed statute.

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 ~~or equivalency~~.

(2) remains the same.

AUTH: 37-1-131, 37-51-203, MCA

IMP: 37-1-131, 37-51-202, 37-51-302, 37-51-303, MCA

REASON: As the board repealed the equivalency application rule, ARM 24.210.615, in July 2017, it is reasonably necessary to amend this rule and remove an erroneous reference to equivalency applications. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.210.661 NEW LICENSEE MANDATORY CONTINUING EDUCATION—SALESPERSONS (1) All new ~~sales~~ salesperson licensees are required to complete the ~~board mandated~~ new licensee mandatory continuing education requirement, commonly known as the 12-hour rookie course, within 120 days following their original license issue date. If no rookie course is offered within the 120-day period, the new licensee must complete the class when the class is next offered ~~after the 120-day period unless, at the board's discretion, it~~ unless the new salesperson licensee's deadline for completing the rookie course is extended for good cause at the board's discretion. Only live in-person presentations of the rookie course will be approved by the board. ~~No online or webinar rookie courses are appropriate.~~

(2) For the first licensing year only, the rookie course will substitute for a salesperson's ~~regular~~ continuing education requirement. The regular 12-hour continuing education requirement begins ~~with the~~ in a new salesperson licensee's second year of licensing.

~~(3) All licensees are required to submit the renewal form and renewal fee by the date set by ARM 24.101.413 and each renewal date thereafter.~~

(3) A course provider which is approved to administer the approved 12-hour rookie course for new salesperson licensees may seek reimbursement for up to

\$2,000 of demonstrated losses incurred in providing and administering the rookie course. Compensation will be limited to reasonable expenses. Application for reimbursement must be made on board-approved forms which detail the nature and amount of losses.

AUTH: 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

REASON: The board is striking (3) as an unnecessary repetition of ARM 24.101.413, the department rule on renewal dates and requirements. Because the board is repealing ARM 24.210.666 in this notice, it is reasonably necessary to move relevant provisions on rookie course providers to this rule. The board is further amending this rule for grammatical consistency, to reduce duplicate provisions, and improve clarity.

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. ~~The licensing year is from~~ between November 1 ~~through and~~ October 31.

~~(2) Courses completed after the renewal deadline will result in a late renewal and penalty regardless of when the licensee submits the renewal application.~~

(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 in order to receive credit for attendance. Reasonable accommodations will be made for people with medical conditions.~~

~~(4) The required hours shall be in real estate related courses~~ topics approved by the board.

~~(5) By August 1 of each year, the board will identify topics in which the required hours of education must be obtained for the following reporting year. The board, in its discretion, may adjust the topics at any time.~~

(5) Courses must be taught by an instructor who:

(a) has a bachelor's degree in a field associated with real estate;

(b) is approved as an instructor by any state real estate licensing regulatory agency or real estate commission; or

(c) has five years of active licensed experience as a broker.

~~(6) No carry over hours will be recognized or allowed.~~ No credit will be granted for carry over hours from a prior licensing year.

~~(7) No licensee shall repeat a course for credit in the same reporting year, without the course receiving prior board approval.~~

~~(8) The course provider must supply each licensee with a course completion certificate and student evaluation form approved by the board and must verify attendance of each licensee.~~

~~(9) Course and instructor evaluation forms approved by the board must be provided and may be collected by a board representative and forwarded to the board office.~~

~~(10) A board representative may, at no charge, audit all board-approved courses for rule compliance.~~

~~(11) All continuing education course providers must report licensee attendance at approved continuing education offerings to the board within 20 days of the course offering.~~

~~(12) The course provider must report all education attendance in a format approved and provided by the board.~~

~~(13) Failure to accurately and timely provide attendance information to the board could result in withdrawal of the course provider approval.~~

~~(14) All continuing education courses must be taken and completed within the reporting period.~~

(15) remains the same but is renumbered (7).

~~(16)~~(8) Licensees completing who have completed continuing education in another jurisdiction or completing education that the licensee believes meets the topic requirements of the board, but which was not previously submitted to the board for approval, may submit an individual course application for approval consideration course credit to be granted at the board's discretion.

~~(17) The completed individual course credit application and accompanying fee must be filed with the board office within 30 days after course completion of the course. Failure to timely file the application will result in a late filing fee to avoid a late fee.~~

AUTH: 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

REASON: The board determined it is reasonably necessary to amend and repeal certain rules in this notice to discontinue board preapproval of courses, providers, and instructors. The board concluded this change will increase the number of continuing education (CE) courses available to real estate licensees in Montana. Additionally, requiring three separate applications for each entity for each course is costly and unreasonably prohibitive for CE providers to offer courses in Montana. The board anticipates that authorizing CE credit for licensees who receive their education from real estate experts and professionals already approved by another real estate regulatory agency or real estate professional organizations will increase the number of courses and the diversity of available CE subject matter. Further, establishing instructor qualifications will reasonably ensure continued quality instruction.

The board is further amending this rule for grammatical consistency, to eliminate duplicate provisions, and improve clarity for the reader. The board is amending (3) as it is presumed as a matter of law that all courses are conducted in

compliance with state and federal laws requiring accommodation of qualifying conditions, whether medical or otherwise, for designated course participants.

24.210.801 FEE SCHEDULE (1) ~~Except as otherwise provided by statute or rule, the~~ The following fees are required by the board for each of the licensing services provided to property management licensees and listed below. All fees are subject to change by the board, within the limitations provided in 37-51-311, MCA.

(2) ~~No part of the~~ All fees paid in accordance with the provisions of this chapter is refundable. Fees are deemed earned by the board upon receipt are nonrefundable.

(3) Examination fees are payable to the national testing service under contract with the board.

(4) For each original <u>Original property management license</u>	\$105
(5) For each annual <u>Active renewal for property management license</u>	130
(6) <u>Inactive renewal for property management license</u>	65
(6) For each change of place of business or affiliation	80
(7) remains the same.	
(8) For placing <u>Placing an active license on inactive status</u>	20
(9) For activating <u>Activating an inactive license</u>	80 65
(10) For each original <u>Original recovery account assessment</u>	35
(11) Continuing education course application	130
(12) Education course instructor application for approval or renewal	87.50
(13) remains the same but is renumbered (11).	
(14) (12) <u>Individual CE request application for CE course credit (per course)</u>	45
(15) (13) <u>Late filing of fee for individual CE request application for CE course credit (per course)</u>	100
(16) Instructor/course development course	\$175 per course
(17) Additional standardized fees are specified in ARM 24.101.403.	

AUTH: 37-1-134, 37-51-203, MCA

IMP: 37-1-134, 37-1-141, 37-51-207, MCA

REASON: The Legislative Audit Division conducted a performance audit of the Board of Realty Regulation, Licensing Real Estate Professionals, in January 2016. The audit revealed that the board's inactive license fees conflict with the department rule ARM 24.101.403. The board is amending this rule to align these fees with the department rule and address the audit findings.

The board is amending and repealing rules in this notice to eliminate board preapproval of CE courses, providers, and instructors. The board determined it is reasonably necessary to amend this rule and ARM 24.210.401 and align with those changes by eliminating the fees associated with board CE approval. The board is further amending this rule for improved grammar, language consistency, and improved clarity for the reader. The board is striking (17) as an unnecessary repetition of ARM 24.101.403, the department rule on administrative fees.

The board estimates the fee changes will affect approximately 20 persons and decrease annual revenue by \$1,300.

24.210.835 CONTINUING PROPERTY MANAGEMENT EDUCATION

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

~~(2) Courses completed after the renewal deadline will result in a late renewal and penalty, regardless of when the licensee submits the renewal application.~~

(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 ~~in order to receive credit for attendance. Reasonable accommodations will be made for people with medical conditions.~~

(4) The required hours shall be in courses property management related topics approved by the board.

~~(5) By August 1 of each year, the board will identify topics in which the required hours of education must be obtained. The board, in its discretion, may adjust the topics at any time.~~

(5) Courses must be taught by an instructor who:

(a) has a bachelor's degree in a field associated with property management;

(b) is approved as an instructor by any state real estate licensing regulatory agency or real estate commission; or

(c) has five years of active licensed experience as a broker or property manager.

~~(6) No licensee may repeat a course for credit. No duplicate credit will be granted for repeating a course in the same reporting period, without the course receiving prior board approval.~~

~~(7) The course provider must supply each licensee with a course completion certificate and student evaluation form approved by the board and must verify attendance of each licensee.~~

~~(8) The course provider must provide board-approved course and instructor evaluation forms to course attendees. A board representative may collect the forms and forward them to the board office.~~

~~(9) A board representative may, at no charge, audit all board-approved courses for rule compliance.~~

~~(10) All continuing education course providers must report licensee attendance at approved continuing education offerings to the board within 20 days of the course offering.~~

~~(11) The course provider must report all education attendance in a format approved and provided by the board.~~

~~(12) Failure to accurately and timely provide attendance information to the board could result in withdrawal of the course provider approval.~~

~~(13) All continuing education courses must be taken and completed within the reporting period. No carry over hours will be accepted from one reporting period to another, except as provided in ARM 24.210.829.~~

~~(14) Failure to comply with the continuing education requirements established by the board is unprofessional conduct and will result in disciplinary action by the board.~~

~~(15)~~(7) Licensees ~~completing~~ who have completed continuing education in another jurisdiction or ~~completing education~~ that the licensee believes meets the topic requirements of the board, but which has not previously been submitted to the board for approval, may submit an individual course application for approval consideration course credit to be granted at the board's discretion.

~~(16) The completed individual course application and accompanying fee must be filed with the board office within 30 days of completion of the course. Failure to timely file the application will result in a late filing fee.~~

AUTH: 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

REASON: See the REASON for ARM 24.210.667.

4. The rules proposed to be repealed are as follows:

24.210.616 WAIVER OF EXPERIENCE REQUIREMENT FOR BROKER LICENSING PROHIBITED

AUTH: 37-1-131, 37-51-203, MCA

IMP: 37-51-202, 37-51-302, 37-51-306, MCA

REASON: Northwestern Energy petitioned the board requesting amendment to ARM 24.210.611(9)(d) to allow licensed salespersons employed by Northwestern to count the real estate transactions in which they are involved on behalf of Northwestern toward the experience needed to apply for a broker license, which is prohibited by the current rule. The board determined it is reasonably necessary to repeal this rule in response to Northwestern's request and to address other similarly situated stakeholders. Following this repeal, the board may exercise discretion to waive part or all of the experience requirements for individual broker applicants, depending on the details presented by the applicants.

24.210.666 COURSE PROVIDER

AUTH: 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

REASON: See the REASON for ARM 24.210.667.

24.210.674 CONTINUING REAL ESTATE EDUCATION–COURSE APPROVAL

AUTH: 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

REASON: See the REASON for ARM 24.210.667.

24.210.677 CONTINUING REAL ESTATE EDUCATION–INSTRUCTOR APPROVAL

AUTH: 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

REASON: See the REASON for ARM 24.210.667.

24.210.834 COURSE PROVIDER

AUTH: 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

REASON: See the REASON for ARM 24.210.667.

24.210.840 CONTINUING PROPERTY MANAGEMENT EDUCATION–COURSE APPROVAL

AUTH: 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

REASON: See the REASON for ARM 24.210.667.

24.210.843 CONTINUING PROPERTY MANAGEMENT EDUCATION–INSTRUCTOR APPROVAL

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA
IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-202, MCA

REASON: See the REASON for ARM 24.210.667.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2323, or e-mail to dlibsdrrre@mt.gov, and must be received no later than 5:00 p.m., June 21, 2019.

6. An electronic copy of this notice of public hearing is available at realestate.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2323; e-mailed to dlibsdrre@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.210.401, 24.210.416, 24.210.661, 24.210.667, 24.210.801, and 24.210.835 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.210.616, 24.210.666, 24.210.674, 24.210.677, 24.210.834, 24.210.840, and 24.210.843 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2320; facsimile (406) 841-2323; or to dlibsdrre@mt.gov.

10. Rhonda Morgan, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF REALTY REGULATION
RIC SMITH, BROKER
PRESIDING OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ GALEN HOLLENBAUGH
Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 14, 2019.