



**MONTANA  
ADMINISTRATIVE  
REGISTER**



**BOARD OF REALTY REGULATION  
DEPARTMENT OF LABOR AND INDUSTRY**

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**NOTICE OF PROPOSED RULEMAKING**

**MAR NOTICE NO. 2025-125.1**

**Summary**

Rule changes following Red Tape Relief Initiative review and to implement House Bill 615 (2023)

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**Hearing Date and Time**

Thursday, July 24, 2025, at 9:00 a.m.

**Virtual Hearing Information**

A public hearing will be held via remote conferencing to consider the proposed changes to the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: <https://mt-gov.zoom.us/j/88191488114>

Meeting ID: 881 9148 8114; Password: 802170

Dial by Telephone +1 646 558 8656

Meeting ID: 881 9148 8114; Password: 802170

**Comments**

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at [dli.mt.gov/rules](https://dli.mt.gov/rules) or P.O. Box 1728; Helena, Montana 59624. Comments must be received by Friday, July 25, 2025, at 5:00 p.m.

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## **Accommodations**

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, July 17, 2025, at 5:00 p.m.

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## **Contact**

Department of Labor and Industry  
(406) 444-5466  
laborlegal@mt.gov  
Montana Relay: 711

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## **General Reasonable Necessity Statement**

In support of the Governor's Red Tape Relief Initiative, the Department of Labor and Industry (department) is conducting comprehensive reviews of the administrative rules of the professional licensing boards and programs administratively attached to the department. This review focuses on updating rules to current standards and procedures, and eliminating unnecessary, redundant, and overburdensome regulations and those duplicated in statute. Other suggested changes replace out-of-date terminology for current language and processes, and amend rules and catchphrases for accuracy, consistency, simplicity, better organization, and ease of use for customers and staff. The streamlined rules will increase department efficiencies by further standardizing procedures used among all licensing boards and programs.

The 2023 Montana Legislature enacted Chapter 220, Laws of 2023 (House Bill 615), an act revising requirements for professional liability insurance for real estate broker and salesperson licensees. The bill became effective April 24, 2023, and is codified at 37-51-325, MCA. It is reasonably necessary to adopt NEW RULE 5 to implement the bill.

The board determined it is reasonably necessary to amend four rules, repeal 14 rules, and adopt five rules to align with the Red Tape Relief Initiative. Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority. If additional specific bases for a proposed action exist, the board will identify those reasons immediately following the specific rule.

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## **Rulemaking Actions**

### **AMEND**

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

## 24.210.301 DEFINITIONS

The terms used in this chapter ~~shall~~ have their common ~~meaning as~~ meanings 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)~~(1) "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~~ but does not include 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)~~(2) "Agency" or "agency relationship" ~~shall include those~~ includes relationships ~~which are expressed~~ described in 37-51-102 and 37-51-313, MCA, ~~and specifically do not include~~ but not the common law of agency.
- ~~(4)~~(3) "Agent" ~~shall include~~ includes subagent.
- ~~(5)~~(4) "Agricultural," "farm," and "ranch" ~~shall include~~ means 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)~~(5) "Buy" or "buyer" ~~shall include~~ means 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)~~(6) "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~~ to maintain a trust account, if any.

- ~~(11)~~(7) "Distance education" is a course or courses in which the instruction ~~does not take place in a traditional classroom setting, but rather, occurs~~ through other media where the teacher and student are separated by distance and sometimes by time.
- ~~(12)~~ "Electronic records" ~~may include checks and bank statements.~~
- ~~(13)~~(8) "Entry-only listing" is a listing ~~in which~~ where the seller and the seller's agent have agreed to limit the seller agent's involvement in the transaction process.
- ~~(14)~~(9) "Hour" of education is equal to 50 minutes of instructional time.
- ~~(15)~~ "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.
- ~~(16)~~ "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.
- ~~(17)~~ "Internet advertising" means advertising conducted via the Internet.
- ~~(18)~~ "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.
- ~~(19)~~ "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.
- ~~(20)~~(10) "Maintenance service" means any entity hired to perform repairs or maintenance on the property.
- ~~(21)~~ "Personal funds" means funds other than trust funds, which belong to the licensee. Uses may include, but are not limited to:
- ~~(a)~~ trust account maintenance;
  - ~~(b)~~ financial institution fees;
  - ~~(c)~~ designated interest earnings; and
  - ~~(d)~~ purchasing checks.

- ~~(22)~~ "Personal indebtedness" means the licensee's personal expenses 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.
- ~~(23)~~(11) "Principal" ~~shall include~~ includes the seller or buyer with whom ~~the~~ an agent has a contract in a real estate transaction. ~~It shall include~~ and a property owner with whom ~~the~~ an agent has a contract in property management activity.
- ~~(24)~~(12) "Seller" ~~shall include~~ includes vendor, lessor, and like terms.
- ~~(25)~~ "Supervising broker" ~~is a broker who is responsible for supervision and training of one or more licensed salespersons pursuant to 37-51-302, MCA.~~
- ~~(26)~~(13) "Supervision" ~~shall include~~ means substantially day-to-day, active overseeing.
- ~~(27)~~(14) "Third-party" ~~shall include~~ means any person who is not the principal or agent.
- ~~(28)~~(15) "Transaction" means a listing, sale, lease, or exchange.
- ~~(29)~~(16) "Trust funds" are all monies belonging to others and accepted by a licensee, while acting in the capacity of a licensee.

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 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

### **Reasonable Necessity Statement**

It is reasonably necessary to strike the definition of "act" as the term is not used anywhere in current board rules. The board is removing the definition of "closed transaction" as everyone applying under ARM 24.210.611 understands the meaning and the definition adds nothing to the current industry meaning. It is reasonable to eliminate the definition of "commercial property" as the term is not used in statute or rule.

The board is striking (9) as the term “course provider” only occurs in ARM 24.210.660 regarding prelicensing education and the definition adds nothing to the generally accepted common definition.

It is no longer necessary to have special definitions for “Internet” and “Internet advertising” as Internet is a commonly used and accepted term today. The board is striking the definition of “licensee identification” and relocating it to ARM 24.210.430 as the term is only utilized in that rule. The board is striking (12) because there are many types of acceptable electronic records, and it is not necessary to attempt to list them all in rule. The board is striking “licensee” as it is common sense that someone holding a board license is a licensee. The definition adds nothing to the generally accepted definition.

The board is striking (15) and clarifying in ARM 24.210.601 that a supervising broker’s incapacity must be involuntary and unanticipated.

It is reasonably necessary to delete definitions of “personal funds” and “personal indebtedness” as these terms are used only in ARM 24.210.426. The rule text is descriptive enough and these separate definitions add nothing to their current industry meanings. The board is striking “supervising broker” as the term is adequately defined and described in 37-51-102(24) and 37-51-302(4), MCA.

## **24.210.602 EXAMINATIONS**

- (1) Applicants must complete a board-approved national examination and a Montana-based examination for licensure.
- (2) License examinations may be held at such times and places determined The state-based examination is created, updated, and administered by an examination provider contracted by the board.
- ~~(2)(3) The Applicants taking an examination must abide by 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.~~

- (4) Salesperson licensure examinations will test applicants on subjects outlined in ARM 24.210.660(10).

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 37-1-131, ~~37-1-312, 37-1-316, 37-51-202,~~ 37-51-302, 37-51-303, MCA

### **Reasonable Necessity Statement**

The board is amending this rule to align with the current processes for the administration of the board's required licensure examinations. The board is adding (4) to provide a reference to the subject matter covered in the salespersons' examination per 37-51-303, MCA.

### **24.210.624 INACTIVE LICENSES**

- (1) ~~A licensed broker or salesperson~~ Licensed brokers and salespersons not engaged in licensed activities may place ~~the licensee's license~~ their licenses 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~~ While inactive, licensees must inform the board ~~informed as to~~ of any change ~~of~~ in the licensee's residency or mailing address ~~during the period of time the real estate licensee remains on inactive status.~~
- (3) ~~In order to~~ To avoid lapse, expiration, or termination ~~of the license,~~ an inactive licensee ~~must renew the inactive license~~ must be renewed each renewal period.
- (4) ~~An inactive licensee does not need to report~~ Licensees do not need to obtain 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:
  - (a) compensation ~~that was~~ earned while the license was active; or
  - (b) payments made to an inactive licensee as the seller of a real estate brokerage business.
- (6) For an inactive real estate licensee to become active, the licensee must:

- (a) request to move to an active status via a board-approved form;
- (b) submit proof of current professional liability and errors and omissions insurance;
- (c) demonstrate completed continuing education that would have been required if on active status not to exceed 24 credits; and
- (d) pay the required fee in accordance with ARM 24.210.401.

**Authorizing statute(s):** ~~37-1-131~~, 37-1-319, 37-51-203, MCA

**Implementing statute(s):** ~~37-1-131~~, 37-1-319, 37-51-202, ~~37-51-204~~, MCA

### **Reasonable Necessity Statement**

The board is amending this rule to simplify language and align with current procedures. It is reasonably necessary to add (6) to incorporate provisions from ARM 24.210.625 which is proposed for repeal, so all inactive status provisions will be this single rule.

The board is clarifying in (6) the insurance requirement to shift from inactive to active status. While this is required for all board licensees, it was not previously set forth in rule.

### **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®, a national, state, or local real estate association, or a national, state, or local landlords' 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.~~ No continuing education is required for salesperson licensees who are licensed less than 12 months on their first renewal.

**Authorizing statute(s):** 37-1-131, 37-1-319, 37-51-203, MCA

**Implementing statute(s):** 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

### **Reasonable Necessity Statement**

The board is amending (6) to remove licensees' ability to seek special board approval for CE courses to align with standardized department procedures. The rule provides clear guidance to ensure licensees can select qualifying courses. Additionally, the standardized CE audit processes provide licensees with adequate time to cure any audit deficiencies so that extensions and special approvals are no longer necessary.

It is reasonably necessary to amend this rule to allow new salesperson licensees a full licensure period before requiring CE compliance. The board concluded that because salesperson applicants have recently completed 70 hours of prelicensing education, it is not necessary to require additional CE until after 12 months of licensure.

### **ADOPT**

The rules proposed to be adopted are as follows:

### **NEW RULE 1 (24.210.414) RECORD RETENTION**

- (1) Licensees must maintain trust account records and real estate related documents for eight years from the date of receipt or the date the transaction was completed, whichever is the latest, including sales contracts, offers, leases and options, agency agreements, and closing statements.

**Authorizing statute(s):** 37-1-131, MCA

**Implementing statute(s):** 37-1-131, MCA

### **Reasonable Necessity Statement**

For improved clarity, the board is relocating this provision from ARM 24.210.601(1) to this proposed new rule. The remaining provisions of ARM 24.210.601 regarding salesperson supervision are being simplified and rewritten into NEW RULE 3.

The board is adding offers to the records licensees must maintain to align with ARM 24.210.641(1)(n) and (p), which state that failure to provide all offers to clients until one is accepted or the agreement terminated is unprofessional conduct. This change will also aid in investigating complaints by ensuring these records are available when requested.

### **NEW RULE 2 (24.210.422) TRUST ACCOUNTS**

- (1) Brokers who receive any monies on behalf of other persons must deposit the funds in a trust account per 37-1-319, MCA, and maintain the account according to this rule.
- (2) Trust accounts must be:
  - (a) liquid;
  - (b) readily accessible;
  - (c) insured in Montana financial institutions;
  - (d) identified as trust accounts; and
  - (e) reconciled each month having activity.
- (3) Trust funds cannot be:
  - (a) maintained in sweep accounts; or
  - (b) invested in certificates of deposit, repurchase agreements, or any other method that places funds at risk.
- (4) Brokers:
  - (a) may separately maintain multiple trust accounts;
  - (b) are responsible for all funds in and maintenance of their trust accounts;

- (c) may delegate authority for trust account maintenance to another licensed broker. Both brokers are responsible for failure to comply with trust account requirements; and
  - (d) must deposit monies belonging to others into a trust account within three business days, unless otherwise agreed to by the parties.
- (5) Trust funds may be maintained in interest-bearing accounts with interest payable to the broker or any other person. Interest payable to a broker must be identified as consideration for services performed and are personal funds unless otherwise designated.
- (6) Brokers may deposit and hold in a trust account up to \$1,000 of personal funds that include interest accrued to the broker.
  - (a) Personal funds may be distributed for trust account bank charges, related trust account maintenance expenses, and when due and payable to the broker.
  - (b) Money due the broker must be withdrawn within ten business days once due and payable.
- (7) Brokers must maintain complete and chronological records of all trust account funds received and disbursed including personal funds. Each record must include a running balance and clearly identify for all transactions:
  - (a) dates;
  - (b) parties, payees, and sources of funds; and
  - (c) amounts received, disbursed, and deposited.
- (8) Trust account records must be maintained to facilitate auditing.
- (9) Trust funds must be retained in the trust account until the transaction 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.
- (10) At a client's instruction, trust funds otherwise 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.
- (11) A broker is not entitled to any earnest money or other monies paid in connection with a real estate transaction as part or all of the commission or fee until the transaction has been closed or terminated. Division of forfeited earnest money between broker and seller must be pursuant to a written agreement.

**Authorizing statute(s):** 37-1-319, MCA

**Implementing statute(s):** 37-1-319, MCA

### **Reasonable Necessity Statement**

This proposed new rule updates to more general and reasonable requirements for trust accounts and is replacing ARM 24.210.426 which is proposed for repeal. The board is simplifying and streamlining trust account standards to provide clear guidance regarding current trust account maintenance without overly burdensome regulation. Provisions adequately addressed in statute will not be unnecessarily repeated in this rule.

The board is removing the cautionary provision regarding potential discipline following a negative account balance from a dishonored deposit. Department prosecutors have never seen a case involving this section and do not believe a reasonable cause finding would result from this scenario.

Because commingling of trust account funds is allowed, within the parameters of this rule, the board is removing old language to eliminate potential confusion or conflict.

With the expansion of secure, acceptable methods of electronic fund transfer, the board concluded there is no need to specify or limit fund disbursement methods.

The board determined there is no need to specify the actual documents to keep as trust account records. The board trusts licensees to maintain adequate records for each account and situation.

Brokers are required to keep accurate and adequate records to document all trust account activities. There is no need to require specific ledgers/records.

### **NEW RULE 3 (24.210.428) ADVERTISING**

- (1) Any form of advertising by a licensee, either directly or indirectly, must include:
  - (a) a truthful, accurate, and detailed description of the real property or service advertised;
  - (b) the licensee's name; and
  - (c) a statement that the advertisement is made by the licensee or a brokerage company. In an internet advertisement, a link to this information may be used.
- (2) In internet advertising, licensee identification:

- (a) must be visible in a multimedia advertising message (web-based, executable e-mail, attachments, etc.);
  - (b) must be shown in banner ads or a link provided to a web page with licensee identification; and
  - (c) is not necessary in instant or audible messaging if provided via another format prior to providing or offering to provide licensable services.
- (3) Internet advertising may include real properties where neither the licensee nor the brokerage company is the listing agent, if the listing agent and the property owners have consented.
  - (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 are both participating (provided the multiple listing system allows listing agents to prohibit 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 must advise that the property is listed with another licensee or brokerage company and 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. Such property data may be formatted differently, be condensed, and further advertised if the advertisement contains the following 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."

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 37-1-131, 37-51-102, 37-51-103, 37-51-301, 37-51-321, MCA

### **Reasonable Necessity Statement**

The board is repealing ARM 24.210.430 and replacing it with this simplified, streamlined rule for clarity and ease of use by the reader. The current rule was adopted in 2001 when internet advertising was relatively new and greater guidance was warranted. The board is updating the

parameters now in this proposed new rule to acknowledge licensees' increased knowledge and experience in this area, and to align with current accepted standards of advertising practice.

It is reasonably necessary to incorporate standards for licensee identification from ARM 24.210.301 to this rule as this is the only rule where the term is used, and a separate definition is not necessary.

The board is striking the provision regarding licensee responsibility for others who reproduce listings as this will be a fact issue addressed in each disciplinary case.

It is unnecessary to specify that internet advertising must be current and updated as this is considered accepted standards of advertising practice, which is already addressed in the unprofessional conduct statute, 37-1-316, MCA. For the same reason, the board is striking the requirement for internet advertising to be set forth in an appropriate and readable format.

It is not necessary to state the licensee's responsibility to ensure that others publish accurate advertising as failure to properly supervise is included in unprofessional conduct.

#### **NEW RULE 4 (24.210.438) LIABILITY INSURANCE DEDUCTIBLE**

- (1) Per 37-51-325, MCA, a firm may provide professional liability insurance coverage to an affiliated real estate broker or salesperson under a policy with a maximum deductible between \$10,000 and \$100,000 per claim only upon board approval.
- (2) To obtain approval, a real estate firm must submit a letter from a qualified accountant stating that the firm is financially able to pay the difference between the deductible in the firm's professional liability policy and \$10,000. A qualified accountant is an actively licensed accountant in good standing with their regulatory authority.

**Authorizing statute(s):** 37-51-325, MCA

**Implementing statute(s):** 37-51-325, MCA

#### **Reasonable Necessity Statement**

The 2023 Montana Legislature passed House Bill 615, an act revising requirements for professional liability insurance for licensed real estate brokers and salespersons. The board is adopting this new rule to implement the bill by providing the method by which firms obtain

board approval to have professional liability policies with maximum deductibles greater than \$10,000.

#### **NEW RULE 5 (24.210.608) SALESPERSON SUPERVISION**

- (1) Salesperson supervision may be terminated by the supervising broker or salesperson. Upon termination of a supervision:
  - (a) a salesperson must:
    - (i) notify the board of a new supervising broker relationship or change to inactive license status within ten days of the board receiving notice of the termination; or
    - (ii) within ten days of being notified by the board the supervising broker has no active broker license or endorsement, transfer to another supervising broker or change to inactive license status;
  - (b) a supervising broker must within five calendar days of the termination:
    - (i) notify all principals in the salesperson's listings or transactions that the supervision has terminated, and the listings and pending transactions are now the supervising broker's responsibility;
    - (ii) if requested, provide the former supervised salesperson with a statement documenting all real estate transactions involving the salesperson while supervised by the supervising broker, within the three years preceding the request; and
    - (iii) inform the broker's supervised salespeople when the supervising broker no longer has an active broker license or endorsement.
- (2) A supervising broker may temporarily transfer supervision of one or more salespersons to other supervising brokers by providing notice of the temporary transfer to the salesperson.
  - (a) The notice must include:
    - (i) name of the transferred salesperson(s);
    - (ii) effective and termination dates of the transfer; and
    - (iii) acceptance of supervision responsibility by the temporary supervising broker.

- (b) The supervising broker must provide a copy of the transfer notice to the board within three business days after the beginning of the temporary transfer or a late fee will be assessed.
- (c) A salesperson not wishing to be temporarily supervised must transfer supervision to a new supervising broker or change to inactive license status.
- (d) Temporary transfer of a salesperson may not exceed 60 days in any 12-month period unless extended by the board for good cause.
- (e) Supervising brokers may end a temporary transfer prior to the termination date by providing notice to the temporary supervising broker and the board.
- (f) A temporary supervising broker must supervise for the agreed length of time and may not transfer supervision to anyone except the original supervising broker.
- (g) A salesperson must inform the board within ten days of the death or involuntary, unanticipated incapacity of a supervising broker or temporary supervising broker. Supervision of the salesperson may be transferred to a new supervising broker or another temporary supervising broker.

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 37-1-131, 37-51-202, 37-51-301, 37-51-309, 37-51-313, MCA

### **Reasonable Necessity Statement**

The board is repealing ARM 24.210.601 and replacing it with this simplified, streamlined rule to reflect the current processes for salesperson supervision relationships. The record retention provision is relocated to NEW RULE 2 for clarity.

The board is amending the supervising broker's requirements when a salesperson's supervision is terminated in (1)(b). Current rule requires "immediate" actions of the supervisor, but does not explain what that means. The board concluded that setting a five calendar day time limit for these actions is reasonable and will provide improved enforceability of the provisions.

It is reasonable to amend (2)(b) and change the time in which a supervising broker must provide board notice of a temporary transfer of supervision. Instead of three days prior to the transfer, the board will require notice within three days following the transfer to allow for unexpected circumstances that may drive a temporary transfer. Additionally, the board will no longer require the transferring supervisor's signature in the notice. The board concluded that situations may arise where a transferring supervisor is incapacitated or otherwise unable to



sign. The public is adequately protected since the notice must include the acceptance of supervision responsibility by the new supervising broker.

The proposed new rule eliminates all provisions that unnecessarily duplicate statute, including 37-51-102, 37-51-302, and 37-51-309, MCA. The board is striking provisions that reflect out-of-date procedures, such as returning a salesperson's license to the board upon end of a supervisory relationship.

The board is removing the unnecessary provision regarding brokers signing salespersons' applications as this is neither allowed nor required in the current application process. Further, the board does not review or monitor licensees' employment contracts.

The board is striking the provision allowing communication with another agent's clients as this is a contractual term that the board does not regulate.

It is reasonable to remove the caution that salesperson-negotiated listings are the responsibility of a supervising broker as all salesperson activities are the supervisor's responsibility. It is unhelpful and unnecessary to specify a single type of activity.

## **REPEAL**

The rules proposed to be repealed are as follows:

### **24.210.406 SEVERABILITY**

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 37-51-202, 37-51-203, MCA

### **Reasonable Necessity Statement**

It is reasonably necessary to repeal this rule as unnecessary as all rules are considered independently unless otherwise stated in the rule. No other licensing board has this rule currently.

### **24.210.410 PURPOSE OF BOARD**

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 37-1-131, 37-1-316, 37-51-202, MCA

### **Reasonable Necessity Statement**

It is reasonably necessary to repeal this rule as unnecessary as the board's duties and responsibilities are adequately set forth in statute in Title 37, chapters 1 and 51, MCA.

### **24.210.411 BOARD MEETINGS**

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 37-1-131, 37-1-307, 37-51-201, MCA

### **Reasonable Necessity Statement**

The board is repealing this rule to remove language that unnecessarily duplicates statutory provisions as well as processes that are addressed in standardized procedures for all boards.

### **24.210.412 PUBLIC RECORDS**

**Authorizing statute(s):** 37-51-203, MCA

**Implementing statute(s):** 37-51-201, MCA

### **Reasonable Necessity Statement**

The board is repealing this rule as it unnecessarily duplicates statutory provisions of 37-51-201, MCA, and public record parameters and procedures applicable to all boards. Additionally, official board meeting minutes are available on the board's website.

### **24.210.416 APPLICATIONS FOR EXAMINATION AND LICENSE IN GENERAL -- BROKER AND SALESPERSON**

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 37-1-131, 37-51-202, 37-51-302, 37-51-303, MCA

### **Reasonable Necessity Statement**

The board is repealing this rule to remove language that unnecessarily duplicates statutory provisions as well as processes that are addressed in standardized department application procedures for all boards. Boards are not in the business of creating and administering legally defensible licensure examinations and it is common practice to contract with a qualified testing agency to do so. Licensure qualifications and application procedures remain unchanged.

### **24.210.417 MILITARY TRAINING OR EXPERIENCE**

**Authorizing statute(s):** 37-1-145, MCA

**Implementing statute(s):** 37-1-145, MCA

### **Reasonable Necessity Statement**

The 2023 Montana Legislature enacted Chapter 390, Laws of 2023 (House Bill 583), an act generally revising licensing and certification laws for military members, military spouses, and veterans. The bill became effective July 1, 2024.

It is reasonably necessary to repeal this rule to align with the bill's changes to 37-1-145, MCA. The amended statute provides for all boards and programs to accept relevant military education, training, or service toward license qualifications. Specific board or program rules are no longer needed.

### **24.210.426 TRUST ACCOUNT REQUIREMENTS**

**Authorizing statute(s):** 37-1-131, 37-1-319, 37-51-203, MCA

**Implementing statute(s):** 37-1-131, 37-1-319, 37-51-313, 37-51-321, 37-51-324, MCA

### **Reasonable Necessity Statement**

The board is repealing and replacing this rule with NEW RULE 1.

### **24.210.430 INTERNET ADVERTISING RULES**

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 37-1-131, 37-51-102, 37-51-103, 37-51-301, 37-51-321, MCA

**Reasonable Necessity Statement**

The board is repealing this rule and replacing it with NEW RULE 4 for clarity and ease of use. See REASON for NEW RULE 4.

**24.210.601 GENERAL LICENSE ADMINISTRATION REQUIREMENTS**

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 37-1-131, 37-51-202, 37-51-301, 37-51-309, 37-51-313, MCA

**Reasonable Necessity Statement**

The board is repealing this rule and replacing it with NEW RULE 3 to simplify, streamline, and reflect the current processes for salesperson supervision relationships. See REASON for NEW RULE 3.

**24.210.625 INACTIVE TO ACTIVE LICENSE STATUS**

**Authorizing statute(s):** 37-1-131, 37-1-319, 37-51-203, MCA

**Implementing statute(s):** 37-1-306, 37-1-319, 37-51-202, 37-51-204, 37-51-311, MCA

**Reasonable Necessity Statement**

It is reasonably necessary to repeal this rule and incorporate its relevant provisions into ARM 24.210.624.

**24.210.629 RECIPROCITY**

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 37-1-304, 37-51-202, 37-51-302, 37-51-306, MCA

**Reasonable Necessity Statement**

The board is repealing this rule as unnecessary since reciprocity is adequately addressed for all boards in statute at 37-1-304, MCA.

**24.210.635 RENEWALS**

**Authorizing statute(s):** 37-1-131, 37-51-203, MCA

**Implementing statute(s):** 37-1-131, 37-1-141, 37-51-202, MCA

**Reasonable Necessity Statement**

It is reasonably necessary to repeal this unneeded rule as all renewal provisions are adequately addressed in statute or standardized department renewal procedures, which apply to all licensing boards and programs.

**24.210.646 DISCIPLINARY GUIDELINES -- PUBLIC NOTICE**

**Authorizing statute(s):** 37-1-131, 37-1-136, 37-51-203, MCA

**Implementing statute(s):** 2-4-623, 37-1-136, 37-1-312, 37-51-321, MCA

**Reasonable Necessity Statement**

The board is repealing this rule to remove language that unnecessarily duplicates the statutory provisions of 37-1-307, 37-1-311, 37-1-312, and 37-51-321, MCA.

**24.210.651 REINSTATEMENT**

**Authorizing statute(s):** 37-1-131, 37-1-136, 37-51-203, MCA

**Implementing statute(s):** 37-1-314, 37-51-202, 37-51-321, MCA

## **Reasonable Necessity Statement**

The board is repealing this rule to remove language that unnecessarily duplicates statutory provisions of 37-1-312 and 37-1-314, MCA. Further, the board is eliminating (1) because final orders must contain specific periods of discipline.

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## **Small Business Impact**

The Montana small businesses that will probably be affected by the proposed rule changes are small businesses that employ licensed real estate brokers and salespersons. The board has determined that the proposed rule changes will not create a significant and direct impact on these small businesses.

The Montana small businesses that will probably be affected by the proposed rule adoption of NEW RULE 4 (ARM 24.210.438) that implements House Bill 615 (2023) are larger real estate firms that intend to provide professional liability insurance coverage to employees who are licensed real estate brokers and salespersons. The board has determined that the proposed rule changes will not create a significant and direct impact on these small businesses.

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## **Bill Sponsor Notification**

The bill sponsor contact requirements do apply and have been fulfilled. The primary bill sponsor was contacted on August 11, 2024, by electronic mail.

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## **Interested Persons**

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at [dli.mt.gov/rules](https://dli.mt.gov/rules) or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

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## **Rule Reviewer**

Quinlan L. O'Connor

## **Approval**

Sarah Swanson, Commissioner

## **Approval**

Sharon Virgin, Chair, Board of Realty Regulation