



MONTANA
ADMINISTRATIVE
REGISTER

BOARD OF REALTY REGULATION
DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-349.1

Summary

Substantial Equivalency - Trust Accounts - Supervision - Criminal Convictions

Hearing Date and Time

Monday, December 29, 2025, at 2:00 p.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the agency's 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/89854429450>

Meeting ID: 898 5442 9450; Password: 9518929335

Dial by Telephone: +1 646 558 8656

Meeting ID: 898 5442 9450; Password: 9518929335

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 or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, January 2, 2026, at 5:00 p.m.

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 Monday, December 22, 2025, at 5:00 p.m.

Contact

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

General Reasonable Necessity Statement

The 2025 Montana Legislature passed House Bill (HB) 246 which was signed by the Governor April 3, 2025, and will become effective October 1, 2025. The bill standardizes substantial equivalency determinations in professional licensing and eliminates duplicative statutory sections regarding equivalency and reciprocity.

While historically available to applicants licensed in other states or jurisdictions, licensure by substantial equivalency has never been consistent among the professional licensing boards and programs. HB 246 creates a standard definition for determining substantial equivalency to be uniformly utilized by all the boards and programs when processing endorsement applications. This will create overall efficiencies in processing endorsement applications and reduce licensing wait times for applicants and employers.

To implement the legislation and further the endorsement licensing process, the board is proposing to adopt NEW RULE 1. The board has compared current licensure standards of the fifty United States for board licensees and determined those that are substantially equivalent per the definition in 37-1-302, MCA. This new rule will adopt and incorporate by reference the board's initial approved list of states having substantially equivalent licensing standards. The list will be published on the board's website. The board will analyze other states' licensing standards annually, and update the published list as needed.

The board is proposing two other new rules as discussed during its red tape relief initiative rule making. The board elected not to adopt the new rules at that time, preferring to gather more information. The board is proposing a change to its rule regarding applicants with criminal convictions, specifically to address applicants who have received a first-offense driving under the influence (DUI) conviction within the two years preceding licensure. The board has not denied any applications based on misdemeanor convictions over the past several years, and has

determined there is no reason to continue reviewing those applications, easing the path to licensure for applicants.

More specific reasonable necessity statements will follow each rule.

Rulemaking Actions

AMEND

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

24.210.420 APPLICANTS WITH CRIMINAL CONVICTIONS

- (1) The board incorporates ARM 24.101.406 by reference with ~~no modifications~~ the following modification:
 - (a) Nonviolent misdemeanor convictions for driving under the influence (DUI) in (5)(a) are routine if the conviction date is more than one year before the application date, unless the applicant is still in custody due to the conviction.

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

Implementing statute(s): 37-1-101, 37-1-131, MCA

Reasonable Necessity Statement

The board is amending this rule after reviewing many nonroutine applications where the applicant had a first offense DUI within the two years prior to the rule. The board has not denied or otherwise restricted the issuance of licenses unless the applicant is still in custody or still serving the terms of the sentence. The board proposes to narrow the window to first-offense DUIs within the year prior to application, as the applicant will likely have completed all sentencing terms unless the offense occurred within a year prior to application. The board will still review other DUIs as nonroutine if it is not a first offense and has occurred within the five years prior to application.

ADOPT

The rules proposed to be adopted are as follows:

NEW RULE 1 SUBSTANTIAL EQUIVALENCY

- (1) The board adopts and incorporates by reference the 2025 substantial equivalency list for the board's publication. The publication is available on the board's website.
- (2) The board intends to review the publication annually. However, failure to review or adopt a new list does not change the effectiveness of the adoption in this rule.
- (3) License applications from individuals licensed in substantially equivalent states are routine applications as to the education, examination, and experience requirements for licensure. Applications may be nonroutine on other bases.

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

Implementing statute(s): 37-1-304, MCA

Reasonable Necessity Statement

See the general reasonable necessity statement.

NEW RULE 2 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. If funds are delivered to a third party, the broker must obtain and retain documentation of receipt by the third party.
- (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 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.

- (3) A listing agreement negotiated by a salesperson is not valid until it is reviewed, signed, and dated by the 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 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. The board may still consider conduct based on contractual agreements and whether that conduct meets the board's rules and regulations.

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:

24.210.426 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 this rule and replacing it with NEW RULE 2.

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.

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's changes do not impose new regulatory burdens on Montana small businesses, and make the rules more clear for existing practitioners.

Bill Sponsor Notification

The primary bill sponsor was contacted on August 20, 2025, by electronic mail.

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 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.

Rule Reviewer

Jennifer Stallkamp

Approval

Sarah Swanson, Commissioner

Approval

Sharon Virgin, Chair, Board of Realty Regulation