



**MONTANA
ADMINISTRATIVE
REGISTER**

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

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-125.2

Summary

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

Previous Notice(s) and Hearing Information

On June 27, 2025, the Board of Realty Regulation (agency) published MAR Notice No. 2025-125.1 regarding the public hearing on the proposed changes to the agency's rules, in the 2025 Montana Administrative Register, Issue No. 12.

On July 24, 2025, a public hearing was held on the proposed changes to the rules via the videoconference and telephonic platform. Comments were received by the comment deadline.

Final Rulemaking Action – Effective August 23, 2025

ADOPT AS PROPOSED

The agency has adopted the following rules as proposed:

NEW RULE 1 (24.210.414) RECORD RETENTION

NEW RULE 3 (24.210.428) ADVERTISING

NEW RULE 4 (24.210.438) LIABILITY INSURANCE DEDUCTIBLE

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

24.210.301 DEFINITIONS

24.210.602 EXAMINATIONS

24.210.624 INACTIVE LICENSES

24.210.667 CONTINUING REAL ESTATE EDUCATION

REPEAL

The agency has repealed the following rules as proposed:

24.210.406 SEVERABILITY

24.210.410 PURPOSE OF BOARD

24.210.411 BOARD MEETINGS

24.210.412 PUBLIC RECORDS

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

24.210.417 MILITARY TRAINING OR EXPERIENCE

24.210.430 INTERNET ADVERTISING RULES

24.210.625 INACTIVE TO ACTIVE LICENSE STATUS

24.210.629 RECIPROCITY

24.210.635 RENEWALS

24.210.646 DISCIPLINARY GUIDELINES -- PUBLIC NOTICE

24.210.651 REINSTATEMENT

NOT ADOPTING

The agency has decided not to adopt the following rules as proposed:

NEW RULE 2 (24.210.422) TRUST ACCOUNTS

NEW RULE 5 (24.210.608) SALESPERSON SUPERVISION

The agency has decided not to repeal the following rules as proposed:

24.210.426 TRUST ACCOUNT REQUIREMENTS

24.210.601 GENERAL LICENSE ADMINISTRATION REQUIREMENTS

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

ARM 24.210.301

Comment 1: Several commenters asked whether the stricken definition of "incapacity" is being redefined elsewhere.

Response 1: In the proposal notice, the board rewrote the supervision provisions of ARM 24.210.601 into proposed NEW RULE 5 and proposed repealing ARM 24.210.601. The board is not adopting NEW RULE 5 or repealing ARM 24.210.601 at this time but will address the issue of supervisor incapacity in their continued work on these rules.

Comment 2: Several commenters questioned the removal of the "internet" and "internet advertising" definitions. The commenters believed there is a clear difference between the two advertising types and the definitions should be retained.

Response 2: The board disagrees with the commenter and determined it is no longer necessary to define "internet" or "internet advertising" as both are broadly known and understood. The board concluded that internet advertising is commonly utilized in the current advertising of real estate.

Comment 3: Several commenters questioned the removal of the definition of "supervising broker" and asked if it was defined elsewhere.

Response 3: The board notes that "supervising broker" is defined in statute at 37-51-102, MCA.

ARM 24.210.624

Comment 4: Commenters questioned the language that brokers and salespersons "not engaged in licensed activities" may go on inactive status. The commenters asked for the language to be further defined.

Response 4: The suggestion to clarify or further define “not engaged in licensed activities” was not proposed to be changed in this notice and exceeds the scope of the proposed rule changes. The board may consider the suggestion in a future rulemaking project.

NEW RULE 3 (ARM 24.210.428)

Comment 5: Commenters opposed the new advertising rule, believing that there is still a significant difference between internet advertising and other advertising methods and some confusion may exist. The commenters also asked whether internet advertising includes social media.

Response 5: The board concluded that since internet advertising is so broadly utilized in current real estate practice, there is no longer a need to define or address it as a separate or developing advertising method. The board intends for this new rule to address all types of real estate advertising by board licensees, except for the specific internet provisions of the rule. If a complaint comes to the board that questions whether something qualifies as advertising versus “communicating with clients,” the board would make a determination based on the specific facts of the complaint.

NEW RULE 4 (ARM 24.210.438)

Comment 6: Several commenters opposed allowing only qualified accountants to verify a real estate firm’s ability to pay the difference between the firm’s professional liability deductible and \$10,000. They suggested allowing others such as attorneys, a firm’s internal CFO or bookkeeper, financial advisors, or a bank that holds the firm’s deposits.

Response 6: The board determined that a letter from a bank or a firm’s bookkeeper may not adequately capture the liability side of the necessary analysis. Not all attorneys are necessarily experienced in fiscal analysis. The board concluded that requiring an actively licensed accountant in good standing to attest to a firm’s ability to pay will ensure an independent fiscal analysis with the least chance of a conflict of interest due to an employer-employee or business-owner relationship. Accountants are experienced in the required analysis and the board concluded this method is the least burdensome on real estate firms while providing adequate public protection.

Comment 7: Several commenters found the requirements for a qualified accountant to be weak and questioned whether a letter from an “online licensed accountant in another country” would be acceptable.

Response 7: There is no evidence that accountants licensed outside Montana are unable or less competent to provide the required analysis under the board’s standards.

Comment 8: One commenter broadly supported the rule changes.

Response 8: The board appreciates all comments received in the rulemaking process.

NEW RULE 2 (ARM 24.210.422)

Comment 9: Commenters questioned several aspects of NEW RULE 2 (ARM 24.210.422), a rewrite of the current trust account rule, ARM 24.210.426, that is proposed for repeal.

Response 9: Following review of the comments and lengthy discussion, the board decided to not proceed with the repeal of ARM 24.210.426 or the adoption of NEW RULE 2 (ARM 24.210.422). The board intends to address the commenters' questions in a future meeting and rulemaking project.

NEW RULE 5 (ARM 24.210.608)

Comment 10: Commenters questioned several aspects of NEW RULE 5 (ARM 24.210.608), a rewrite of ARM 24.210.601, the current rule containing salesperson supervision provisions, that is proposed for repeal.

Response 10: Following review of the comments and lengthy discussion, the board decided to not proceed with the repeal of ARM 24.210.601 or the adoption of NEW RULE 5 (ARM 24.210.608). The board intends to address the commenters' questions in a future meeting and rulemaking project.

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Rule Reviewer

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Approval

Sarah Swanson, Commissioner

Approval

Sharon Virgin, Chair, Board of Realty Regulation