

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

In the matter of the amendment of ARM	)	NOTICE OF PUBLIC HEARING ON
24.210.401 fee schedule, 24.210.601	)	PROPOSED AMENDMENT AND
general license administration	)	REPEAL
requirements, 24.210.604 supervising	)	
broker endorsement, 24.210.611	)	
application for license—salesperson and	)	
broker, 24.210.801 fee schedule,	)	
24.210.807 property management	)	
license transfer requirements,	)	
24.210.828 unprofessional conduct for	)	
property management licensees, and	)	
the repeal of 24.210.610	)	
predetermination for licensing	)	

TO: All Concerned Persons

1. On January 18, 2022, at 9:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment and repeal of the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/86468670445>  
Meeting ID: 864 6867 0445, Passcode: 348382  
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656  
Meeting ID: 864 6867 0445, Passcode: 348382

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

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 January 11, 2022, to advise us of the nature of the accommodation that you need. Please contact Dan Ritter, Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or [dlibsdrre@mt.gov](mailto: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) through (3) remain the same.

(4) Original broker license	\$175 <u>90</u>
(5) Active renewal for broker license	175 <u>90</u>
(6) Inactive renewal for broker license	87.50 <u>45</u>
(7) Original salesperson license	150 <u>80</u>
(8) Active renewal for salesperson license	150 <u>80</u>
(9) Inactive renewal for salesperson license	75 <u>40</u>
(10) through (13) remain the same.	
(14) Activating a salesperson license on inactive status	75 <u>40</u>
(15) Activating a broker license on inactive status	87.50 <u>45</u>
(16) and (17) remain the same.	

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, ~~37-51-308~~, 37-51-309, 37-51-311, MCA

REASON: The board determined it is reasonably necessary to amend this rule to comply with the provisions of 37-1-134, MCA, which requires the board to set fees that provide adequate funding for board operations. The board is also required to comply with 17-2-302 and 17-2-303, MCA, by not allowing the board's cash balance to exceed twice the annual appropriation amount. The board is reducing renewal fees to gradually decrease the board's cash balance and meet the statutory requirements while ensuring adequate revenue to support board activities through the next biennium. The board estimates these fee reductions will affect 5,287 salesperson licensees and applicants and 2,501 broker licensees and applicants and will decrease revenue by approximately \$524,433 annually.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.210.601 GENERAL LICENSE ADMINISTRATION REQUIREMENTS

(1) through (13) remain the same.

(14) A salesperson whose supervising broker has failed to renew or reinstate the broker's expired or suspended broker license or supervising broker endorsement must request to be placed on inactive status or transfer their salesperson license to another supervising broker within ten days of being notified by the board that their supervising ~~broker's broker license or supervising broker endorsement has expired~~ broker no longer has an active broker license or endorsement. A salesperson shall not conduct licensed activity during this unsupervised period.

(15) A supervising broker must immediately inform the broker's supervised salespeople that the supervising ~~broker's broker license or supervising broker endorsement has expired~~ broker no longer has an active broker license or endorsement.

(16) through (18) remain the same.

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

IMP: 37-1-131, 37-51-202, 37-51-301, ~~37-51-305, 37-51-308~~, 37-51-309, 37-51-313, MCA

REASON: In response to a 2015 legislative audit recommendation, the board recently adopted two new rules to strengthen supervision requirements for supervising brokers (MAR Notice No. 24-210-47). After the proposal notice was filed, staff noticed potential ambiguity in this rule regarding suspended licensure of a supervising broker. The board determined it is reasonably necessary to amend this rule to clarify that inactive license status includes both expired and suspended licenses. These amendments are needed to be clear to both salespersons and brokers since salespersons cannot practice without having an active status supervising broker.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule and delete reference to a repealed statute.

24.210.604 SUPERVISING BROKER ENDORSEMENT (1) A supervising broker endorsement will be issued to any broker completing the supervising broker pre-endorsement course. The course will be part of the overall continuing education requirement.

(2) through (9) remain the same.

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

IMP: 37-1-131, 37-1-141, 37-1-319, 37-51-202, 37-51-204, 37-51-302, 37-51-303, MCA

REASON: The board is amending this rule to clarify that the supervising broker pre-endorsement course is acceptable toward required continuing education (CE). Board staff consistently receives questions about this course, and historically, the board has accepted the course when submitted during the CE audit process.

24.210.611 APPLICATION FOR LICENSE-SALESPERSON AND BROKER

(1) remains the same.

(2) No application for license will be accepted by the board until the individual has made application for and successfully completed the examination, ~~except as allowed by ARM 24.210.610.~~

(3) through (7) remain the same.

(8) In addition to (1) through (7), all applicants for licensure as a salesperson must:

(a) submit proof of completing ~~60~~ 70 hours of approved prelicensing education obtained within a period of 24 months immediately preceding the date of the submission of the application; and

(b) through (9)(b)(ii) remain the same.

(A) three points for an ~~associate~~ associate's degree in real estate;

(B) remains the same.

(C) five points for a ~~bachelor~~ bachelor's degree or higher in business management;

(D) five points for a ~~law degree~~ juris doctorate; or

(E) five points for a ~~bachelor~~ bachelor's degree or higher in real estate.  
(iii) through (c) remain the same.

(d) Closed real estate transactions of property owned by the applicant, by a corporation, partnership, trust, or other entity in which the applicant has an interest or by such an entity which employed the applicant as an employee, shall not qualify as experience under ~~(6)(b)~~ (9)(b), or under 37-51-302, MCA.

(e) through (10) remain the same.

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

IMP: 37-1-131, 37-1-304, 37-51-202, 37-51-302, 37-51-303, MCA

REASON: Because ARM 24.210.610 is proposed for repeal in this notice, the board is striking its reference from (2). Following the 2019 passage of Senate Bill 77, the board amended ARM 24.210.660 to reflect the new 70-hour prelicensing education requirement for salespersons. The board is amending (8)(a) now as this change was inadvertently missed in this rule. Other amendments correct terminology for several educational degrees and an internal subsection's reference.

24.210.801 FEE SCHEDULE (1) through (3) remain the same.

(4) Original property management license	\$ <del>405</del> <u>50</u>
(5) Active renewal for property management license	<del>130</del> <u>50</u>
(6) Inactive renewal for property management license	<del>65</del> <u>25</u>
(7) and (8) remain the same.	
(9) Activating an inactive license	<del>65</del> <u>25</u>
(10) through (12) remain the same.	

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

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

REASON: The board determined it is reasonably necessary to amend this rule to comply with the provisions of 37-1-134, MCA, by setting fees that provide adequate funding for board operations. The fee changes are also necessary to comply with 17-2-302 and 17-2-303, MCA, by not allowing the board's cash balance to exceed twice the annual appropriation amount. The board is reducing renewal fees to gradually decrease the board's cash balance and meet the statutory requirements while ensuring adequate revenue to support board activities through the next biennium. The board estimates these fee reductions will affect 1,131 property management licensees and applicants and will decrease revenue by approximately \$71,514 annually.

24.210.807 PROPERTY MANAGEMENT LICENSE TRANSFER

REQUIREMENTS (1) A property management licensee who changes the office location must notify the board office in writing within ten business days of the change. ~~The proper fee must accompany such notice.~~ The board office will then issue a corrected pocket card for the remainder of the renewal year.

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

IMP: 37-1-131, 37-51-605, MCA

REASON: In MAR Notice No. 24-210-45 (2019), the board removed the fee for changing place of business or affiliation, but inadvertently missed striking the fee reference from this rule. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.210.828 UNPROFESSIONAL CONDUCT FOR PROPERTY MANAGEMENT LICENSEES (1) through (3)(e) remain the same.

(f) ~~(6)~~ (6) the A licensee is not required to either investigate or disclose whether a registered sexual or violent offender resides in proximity to any property with which the licensee manages, shows, negotiates for the rental, or otherwise is involved; (3)(g) through (ab) remain the same but are renumbered (3)(f) through (aa).  
(4) and (5) remain the same.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-136, 37-1-137, 37-1-316, 37-1-319, 37-51-607, MCA

REASON: The board is renumbering this subsection for proper grammar and clarity.

4. The rule proposed to be repealed is as follows:

24.210.610 PREDETERMINATION FOR LICENSING

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

IMP: 37-1-135, 37-1-137, 37-1-203, 37-1-307, 37-1-319, 37-51-202, 37-51-302, MCA

REASON: A 2016 legislative audit division report on the licensing of real estate professionals revealed the infrequent use of predeterminations since this rule's adoption in 1990 and recommended eliminating this rule. Department staff also concluded that the board is the only licensing board to use such a process. In 2019 the board removed the predetermination application fee from the fee schedule in MAR Notice No. 24-210-45, and removed the application form from the website. With such infrequent use and per the audit's finding, the board determined it is reasonably necessary to repeal this rule. Additionally, the board recently adopted ARM 24.101.406 to achieve greater consistency among all boards' analyses of applicants with criminal convictions.

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) 841-2305, or e-mail to [dlibsdrr@mt.gov](mailto:dlibsdrr@mt.gov), and must be received no later than 5:00 p.m., January 20, 2022.

6. An electronic copy of this notice of public hearing is available at [www.realestate.mt.gov](http://www.realestate.mt.gov) (department and board's website). Although the department

strives to keep its websites accessible at all times, concerned persons should be aware that websites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a website 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) 841-2305; e-mailed to [dlibsdrre@mt.gov](mailto: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, 24.210.601, 24.210.604, 24.210.611, 24.210.801, 24.210.807, and 24.210.828 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 24.210.610 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) 841-2244; facsimile (406) 841-2305; or to [dlibsdrre@mt.gov](mailto:dlibsdrre@mt.gov).

10. Department staff has been designated to preside over and conduct this hearing.

BOARD OF REALTY REGULATION  
DAN WAGNER  
PRESIDING OFFICER

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

/s/ LAURIE ESAU  
Laurie Esau, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 14, 2021.