

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

In the matter of the amendment of)	NOTICE OF AMENDMENT AND
ARM 24.101.413 renewal dates,)	REPEAL
24.210.611, 24.210.641, 24.210.660,)	
24.210.674 and 24.210.677 brokers)	
and salespersons, 24.210.801,)	
24.210.805, 24.210.809, 24.210.828,)	
24.210.835, 24.210.840 and)	
24.210.843 property management,)	
24.210.1001, 24.210.1007,)	
24.210.1016, 24.210.1020,)	
24.210.1025 and 24.210.1037)	
timeshare licensure and registration,)	
and the repeal of 24.210.1003,)	
24.210.1005, 24.210.1011,)	
24.210.1013, 24.210.1018,)	
24.210.1029, 24.210.1033 and)	
24.210.1035 timeshare licensure and)	
registration)	

TO: All Concerned Persons

1. On October 15, 2009, the Board of Realty Regulation (board) published MAR Notice No. 24-210-35 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 1748 of the 2009 Montana Administrative Register, issue no. 19.

2. On November 9, 2009, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the November 17, 2009, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: Two commenters requested that the board not amend ARM 24.210.611(9)(e), regarding entry-only listings not qualifying as experience for a broker license. The commenters stated that the board did not amend the definition of entry-only listing during their last rule project and instead referred the matter to a newly created rule review task force. The commenters suggested the board not proceed with this amendment and instead refer it to the task force.

RESPONSE 1: The board agrees with the commenters and is not amending ARM 24.210.611(9)(e) regarding entry-only listings, but will refer the matter to the board's rule review task force.

COMMENT 2: One commenter stated that a licensee should be responsible to provide a net sheet of basic costs at the time of listing or within a reasonable amount of time after taking a listing. The commenter further stated that most consumers are not knowledgeable about title insurance or prorated taxes, and that amending ARM 24.210.641 to eliminate this requirement may reduce a licensee's liability. The commenter also suggested adding language to require that licensees only provide an estimate and that it would not be considered unprofessional conduct if an agent is just not precise on an estimate.

RESPONSE 2: The board agreed that most consumers are not knowledgeable about costs associated with a real estate transaction. The board concluded that not eliminating this requirement unduly increases a licensee's liability for providing estimated closing costs when the licensee is not privy to all liens on the property. The board is amending this rule exactly as proposed.

COMMENT 3: One commenter supported the proposed amendment to ARM 24.210.641 eliminate the requirement that agents provide estimated costs and fees for sellers to help reduce the liability on licensees.

RESPONSE 3: The board appreciates all comments made during the rulemaking process and is amending the rule exactly as proposed.

4. The board has amended ARM 24.101.413, 24.210.641, 24.210.660, 24.210.674, 24.210.677, 24.210.801, 24.210.805, 24.210.809, 24.210.828, 24.210.835, 24.210.840, 24.210.843, 24.210.1001, 24.210.1007, 24.210.1016, 24.210.1020, 24.210.1025, and 24.210.1037 exactly as proposed.

5. The board has amended ARM 24.210.611 with the following changes, stricken matter interlined, new matter underlined:

24.210.611 APPLICATION FOR LICENSE -- SALESPERSON AND BROKER (1) through (9)(d) remain as proposed.

(e) ~~Entry-only listings and transactions~~ Transactions in which the applicant only participated as a mortgage broker shall not qualify as experience under (9)(b) or under 37-51-302, MCA.

(f) remains as proposed.

6. The board has repealed ARM 24.210.1003, 24.210.1005, 24.210.1011, 24.210.1013, 24.210.1018, 24.210.1029, 24.210.1033, and 24.210.1035 exactly as proposed.

BOARD OF REALTY REGULATION
CINDY WILLIS, CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 16, 2010