

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.101.413 renewal dates,)	PROPOSED AMENDMENT AND
24.210.611, 24.210.641, 24.210.660,)	REPEAL
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 November 9, 2009, at 9:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and repeal of the above-stated rules.

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 (board) no later than 5:00 p.m., on November 6, 2009, to advise us of the nature of the accommodation that you need. Please contact Barb McAlmond, Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2325; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdrre@mt.gov.

3. The department is proposing to amend the following rule. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.101.413 RENEWAL DATES AND REQUIREMENTS (1) through (5)(ag) remain the same.

(ah)	Realty Regulation	Property Manager	Annually	October 31
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		Real Estate Broker	Annually	October 31
		Real Estate Salesperson	Annually	October 31
		Timeshare Broker	Annually	October 31
		Timeshare Salesperson	Annually	October 31
		Timeshare Offering	Annually	Anniversary Date of License

AUTH: 37-1-101, 37-1-141, MCA

IMP: 37-1-101, 37-1-141, MCA

REASON: The 2009 Montana Legislature enacted Chapter 317, Laws of 2009 (Senate Bill 269), an act revising the laws regulating the sale of timeshares. The bill was signed by the Governor on April 18, 2009, and became effective on October 1, 2009. The department is amending this rule to align with the statutory changes and implement the legislation by deleting the fees for timeshare broker licensure and renewal of timeshare offering licenses.

4. The board is proposing to amend the following rules. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.210.611 APPLICATION FOR LICENSE -- SALESPERSON AND BROKER (1) through (4) remain the same.

(5) All experience, including transactions, must be presented on board forms.

(6) A waiver applicant must hold a current active license in good standing.

(7) All waiver applicants will be required to pass the state examination.

~~(5)~~ (8) In addition to (1) through ~~(4)~~ (7), all applicants for licensure as a salesperson must:

(a) and (b) remain the same.

~~(6)~~ (9) In addition to (1) through ~~(4)~~ (7), all applicants for licensure as a broker must:

(a) and (b) remain the same.

(c) The experience required by ~~(6)(b)~~ (9)(b) must be legally obtained while licensed as a real estate licensee in this state, or licensed in another jurisdiction.

(d) remains the same.

(e) Entry-only listings and 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.

(e) remains the same but is renumbered (f).

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

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

REASON: The board determined it is reasonably necessary to amend this rule throughout by renumbering for better organization and clarity. The board is adding (5) to require that applicants submit proof of experience on forms provided by the board. Applicants often provide experience documentation that is incomplete or extremely difficult for staff to review and evaluate. Requiring the use of board forms will shorten the evaluation process and ensure the required information is submitted.

The board recently proposed a rule defining an entry-only listing, which has become a common listing format. However, entry-only listings require next to no involvement by a licensee and as such, do not provide applicants with the experience that the board deems necessary to show an applicant is qualified. Further, while other jurisdictions' real estate boards and commissions do license mortgage brokers, the Montana board does not. Brokers coming from other jurisdictions often submit mortgage transactions as qualifying experience for an endorsement real estate broker license. The board concluded that experience in entry-only listings and mortgage brokering does not qualify a person to be a Montana licensed real estate broker and is amending this rule to clarify this.

Because the board has the ability under 37-1-304, MCA, to waive the exam requirement for out-of-state applicants, the board recently canceled all reciprocity agreements with other states. All out-of-state licensed applicants must now go through the waiver process to qualify for a Montana license, if they wish to rely on their current license status. A waiver is the board's evaluation of an applicant's previous experience. Often, out-of-state applicants are not currently licensed in the other state, are on a status other than active, or are subject to discipline in the other state. The board believes that an applicant's recent, active, and current experience helps ensure qualified Montana licensees and enhances public safety and welfare. Therefore, the board is amending this rule to specify that out-of-state applicants must be currently licensed and in good standing in another state.

The board is adding (7) to specify that although the board may waive some of the licensure requirements for out-of-state licensed applicants, they will not waive the state exam requirement. The board has always required that all waiver applicants must pass the state examination, but had not yet put it into rule.

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

24.210.641 UNPROFESSIONAL CONDUCT (1) through (5)(q) remain the same.

~~(r) failing to inform the seller in writing of the estimated costs and fees associated with the sale at the time a listing is taken and when an offer is presented;~~

(s) through (u) remain the same, but are renumbered (r) through (t).

(u) violating the residential tenants' security deposits laws of Title 70, chapter 25, MCA;

(v) violating the landlord and tenant residential and commercial laws of Title 70, chapter 26, MCA;

(w) violating the Montana Residential Mobile Home Lot Rental Act of Title 70, chapter 33, MCA;

(x) violating as a seller's agent, the radon disclosure requirements of Title 75, chapter 3, MCA;

(y) violating the Residential Lead-Based Paint Disclosure Program of Title X, section 1018 of the United States Code.

(v) through (an) remain the same but are renumbered (z) through (ar).

(6) remains the same.

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

IMP: 37-1-141, 37-1-306, 37-1-307, 37-1-312, 37-1-316, 37-1-319, 37-51-102, 37-51-202, 37-51-313, 37-51-314, 37-51-321, 37-51-512, MCA

REASON: The board determined it is reasonable and necessary to eliminate from unprofessional conduct the failure of an agent to inform the seller in writing of estimated costs and fees. Because many factors can impact the proceeds, estimated costs and fees are typically unknown to an agent. The board also notes that because any estimate from an agent could be imprecise, there is a great chance of unfair liability against the agent, even when every good faith effort is made to provide accurate information. Rather than subject the agent to unnecessary liability and/or litigation, the board is amending this rule to no longer include the failure to provide written estimates of costs and fees as unprofessional conduct.

The board is amending this rule to add to unprofessional conduct a licensee's violation of several federal and Montana laws. The board intends that violations of all Montana's landlord tenant laws be considered unprofessional conduct, but recently discovered that several of these laws are not included in (5)(w) of this rule as they do not appear in Title 70, chapter 24, MCA. The board is amending this rule to include the provisions as unprofessional conduct.

The board is also adding provisions regarding radon and lead-based paint nondisclosure as unprofessional conduct. These disclosure requirements currently apply to licensees through other statutes and the board concluded that specifying the violations as unprofessional conduct will enhance public safety and welfare.

24.210.660 PRELICENSING EDUCATION -- SALESPERSONS AND BROKERS (1) through (3)(b) remain the same.

(c) the distance education course ~~provider must be~~ is certified by the Association of Real Estate License Law Officials (ARELLO) and ~~provide the course provider has provided~~ appropriate documentation that the ARELLO certification is in effect. Approval will cease immediately should ARELLO certification be discontinued for any reason; and

(d) through (13) remain the same.

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

IMP: 37-1-131, 37-51-302, MCA

REASON: The board is amending this rule and ARM 24.210.674 to clarify that it is the individual distance education course that must be ARELLO certified and not the provider. The amendments also clarify that the provider must provide adequate documentation to the board of a distance course's current certification. The board

notes that this is the current requirement, but is amending the rule in response to requests for clarification of the process for distance education course approval.

24.210.674 CONTINUING REAL ESTATE EDUCATION -- COURSE APPROVAL (1) through (5)(b) remain the same.

(c) the distance education course ~~provider~~ is certified by the Association of Real Estate License Law Officials (ARELLO) and ~~provides~~ the course provider has provided appropriate documentation that the ARELLO certification is in effect. Approval will cease immediately should ARELLO certification be discontinued for any reason; and

(d) remains the same.

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

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

24.210.677 CONTINUING REAL ESTATE EDUCATION -- INSTRUCTOR APPROVAL (1) remains the same.

(2) The initial approval of an instructor will be in effect for the remainder of that calendar year, and the next calendar year in its entirety, expiring on December 31. Approval may be revoked if ~~the instructor fails to demonstrate effective teaching skills for cause.~~

(3) through (5) remain the same.

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

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: The board determined it is reasonably necessary to amend this rule to specify that the board may revoke an instructor's approval for cause. The board recently addressed a situation where an instructor did not teach per the approved course outline and provided inaccurate information, but did not necessarily demonstrate poor teaching skills. The board concluded that to better ensure that approved instructors are teaching appropriately, it is necessary to amend this rule to allow instructor approval revocation for reasons other than poor teaching skills.

24.210.801 FEE SCHEDULE (1) through (11) remain the same.

(12) ~~Continuing education~~ Education course instructor application for approval or renewal 50

(13) Prelicensing course 250 150

(14) remains the same.

AUTH: 37-1-134, ~~37-51-202~~, 37-51-203, MCA

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

REASON: The board is amending the property management fee schedule to specify that the education course instructor fee applies to the approval and renewal of all instructors, not just continuing education instructors. The board approves several types of education course instructors and is amending the rule to reflect this.

The board is also amending this rule to reduce the prelicensing course application fee to mirror the fees for that of real estate prelicensing courses at ARM 24.210.401. The board discovered that although the approval processes are the same, the fee for approval and renewal of real estate and property management prelicensing courses are different. The board estimates that this fee change will affect one licensee and result in a \$100 reduction in annual board revenue.

Authority cites are being amended to provide the complete and accurate sources of the board's rulemaking authority.

24.210.805 PROPERTY MANAGEMENT TRUST ACCOUNT REQUIREMENTS (1) through (4) remain the same.

(5) A property manager may maintain more than one trust account, ~~but must notify the board of each and every account by name and number.~~

(6) through (8) remain the same.

(9) Money held in the trust account which is due and payable to the property manager must be withdrawn within ten business days after such money becomes due and payable or when the ~~property ledger is~~ owner and tenant ledgers are reconciled, except as exempted in (4).

(10) through (16) remain the same.

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

IMP: 37-1-316, 37-1-319, 37-51-202, 37-51-321, 37-51-601, MCA

REASON: The board is amending this rule regarding board notification of property management trust accounts. The board has become more concerned with identity theft and keeping information confidential and is amending this rule to no longer require that property managers notify the board office of all trust accounts maintained. The board notes that such information will be obtained by the auditor through the compliance audit process.

The board notes that property managers are required to keep the owner and tenant ledgers, but not property ledgers. An auditor recently discovered this inaccuracy and the board is amending (9) to reflect the correct ledger requirements.

24.210.809 PRELICENSURE PRELICENSING PROPERTY MANAGEMENT COURSE AND INSTRUCTOR REQUIREMENTS (1) Request for prelicensing education course and instructor approval must be made on forms approved by the board and submitted 60 days prior to the initial course offering date.

(2) Expiration of course approval or instructor approval is three years from the date of approval, but may be revoked for cause.

(3) Distance education courses may be approved if the board determines that:

(a) an appropriate and complete application has been filed and approved by the board;

(b) the distance education course meets the content requirements as established under this rule;

(c) the distance education course is certified by the Association of Real Estate License Law Officials (ARELLO) and the course provider has provided

appropriate documentation that the ARELLO certification is in effect. Approval will cease immediately should the ARELLO certification be discontinued for any reason; and

(d) the distance education course meets all other requirements as prescribed in the statutes and rules that govern the operation of approved courses.

(4) Instructors teaching more than 25 percent of a precicensing course must be approved by the board as precicensing instructors.

(5) The course provider is responsible for the actions and representations of all instructors who aid or assist in the instruction of the precicensing education course.

(6) No more than eight hours of instruction may be offered per day. Examination time does not count as hours of instruction.

(7) Approved instructors must have:

(a) a bachelor's degree in a field traditionally associated with the subject matter being taught; or

(b) advanced training on instruction methods and adult learning; and

(c) one year of experience in property management education.

(1) and (2) remain the same but are renumbered (8) and (9).

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

IMP: 37-51-202, 37-51-601, 37-51-603, MCA

REASON: The board determined it is reasonable and necessary to amend this rule and set forth the requirements for board approval of property management precicensing courses and instructors. The board has received applications and inquiries regarding approval of additional precicensing courses, precicensing distance education courses, and instructors. The board has no mechanism in rule for the board to evaluate instructors for minimal qualifications or to approve property management precicensing distance education courses. The board is amending this rule to address the inquiries and specify the necessary minimum requirements.

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

(n) violating the residential tenants' security deposits laws of title 70, chapter 25, MCA;

(o) violating the landlord and tenant residential and commercial laws of title 70, chapter 26, MCA;

(p) violating the Montana Residential Mobile Home Lot Rental Act of title 70, chapter 33, MCA;

(q) violating the Residential Lead-Based Paint Disclosure Program of title X, section 1018 of the United States Code;

(n) through (x) remain the same but are renumbered (r) through (ab).

(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, 37-1-306, 37-1-316, 37-1-319, 37-51-202, 37-51-508, 37-51-512, 37-51-601, 37-51-607, MCA

REASON: The board is amending this rule to add to unprofessional conduct a property management licensee's violation of several federal and Montana laws. The board intends that violations of all Montana's landlord tenant laws be considered unprofessional conduct, but recently discovered that several of these laws are not included in (3)(k) of this rule as they do not appear in Title 70, chapter 24, MCA. The board is amending this rule to include the provisions as unprofessional conduct.

24.210.835 CONTINUING PROPERTY MANAGEMENT EDUCATION

(1) through (4) remain the same.

(5) No licensee may repeat a course for credit in the same calendar year reporting period.

(6) through (12) remain the same.

(13) All continuing education courses must be taken and completed within the reporting period. No carryover hours will be accepted from one reporting period to another, except as provided in ARM 24.210.829.

(14) remains the same.

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

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, MCA

REASON: The board determined it is reasonably necessary to amend this rule to correct an inaccurate reference concerning property management education. Board licenses and education requirements were formerly set on a calendar year basis but were changed to an October 31 renewal and reporting date. The board found that this outdated reference to a calendar year period was inadvertently missed in prior rulemaking projects.

The board is also amending this rule to address potential confusion regarding allowable carryover education. Per ARM 24.210.829, newly licensed property managers must complete 12 hours of specific continuing education within two years of licensure. The board is amending this rule to clarify that while carryover hours are generally prohibited, property managers are subject to this special requirement.

24.210.840 CONTINUING PROPERTY MANAGEMENT EDUCATION -- COURSE APPROVAL (1) through (5)(b) remain the same.

(c) the distance education course ~~provider~~ is certified by the Association of Real Estate License Law Officials (ARELLO) and provides the course provider has provided appropriate documentation that the ARELLO certification is in effect. Approval will cease immediately should ARELLO certification be discontinued for any reason; and

(d) remains the same.

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

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: The board is amending this rule to clarify that it is the individual property management education course that must be ARELLO certified and not the provider.

The amendments further clarify that the course provider must provide adequate documentation to the board of a course's current certification. The board notes that this is the current requirement, but is amending the rule to address requests for clarification of the process for property management education course approval.

24.210.843 CONTINUING PROPERTY MANAGEMENT EDUCATION -- INSTRUCTOR APPROVAL (1) remains the same.

(2) The initial approval of an instructor will be in effect for the remainder of that calendar year and the next calendar year in its entirety, expiring December 31. Approval may be revoked if the instructor fails to demonstrate effective teaching skills for cause.

(3) through (5) remain the same.

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

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-202, MCA

REASON: The board determined it is reasonably necessary to amend this rule to specify that the board may revoke an instructor's approval for cause. The board recently addressed a situation where an instructor did not teach per the approved course outline and provided inaccurate information, but did not necessarily demonstrate poor teaching skills. The board concluded that to better ensure that approved instructors are teaching appropriately, it is necessary to amend this rule to allow instructor approval revocation for reasons other than poor teaching skills.

24.210.1001 FEE SCHEDULE (1) and (2) remain the same.

(3) For initial <u>Initial</u> filing of an application for registration of the sale of a timeshare	\$500
(4) For an amendment <u>Amendment</u> of registration of the sale of a timeshare	200
(5) For the renewal of registration of the sale of a timeshare	200
(6) For each original timeshare broker license application	35
(7) For each timeshare broker license renewal	35
(8) (5) For each original <u>Original</u> timeshare salesperson license application	45 <u>35</u>
(9) (6) For each timeshare <u>Timeshare</u> salesperson license renewal	45 <u>35</u>
(7) <u>Placing an active license on inactive status</u>	<u>10</u>
(8) <u>Activating a license on inactive status</u>	<u>45</u>
(10) (9) For each timeshare <u>Timeshare</u> correspondence course <u>fees are payable to the course provider as approved by the board.</u>	25 <u>25</u>
(11) For the original exam registration and any subsequent exam registration	35

AUTH: 37-1-131, 37-1-134, 37-53-104, MCA

IMP: 37-1-134, 37-1-141, 37-53-201, 37-53-202, 37-53-203, 37-53-204, 37-53-301, MCA

REASON: The 2009 Montana Legislature enacted Chapter 317, Laws of 2009 (Senate Bill 269), an act revising the laws regulating the sale of timeshares. The bill was signed by the Governor on April 18, 2009, and became effective on October 1, 2009. The board is amending this rule and ARM 24.210.1007, 24.210.1020, and 24.210.1037 to align with the statutory changes and further implement the legislation. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

Because Senate bill 269 eliminated the licensure of timeshare brokers, only timeshare salespeople will now be licensed. The board is increasing the licensure fees for timeshare salespersons from \$15 to \$35 to ensure the fees for the timeshare licensing and regulation remain commensurate with the costs.

The board is amending this rule to add fees for changing from active to inactive status licensure and back again. Following the passage of SB269, the board anticipates that timeshare salespersons will seek inactive status and is setting these new fees to adequately cover the expenses for staff to process the changes.

Following amendment of ARM 24.210.1016 in this notice, the board will no longer offer its own timeshare prelicensure correspondence course. The board is amending (9) to clarify that although the board will still approve timeshare correspondence courses, the courses will be offered through various providers who will set and collect their own course fees.

The board estimates that the cumulative fee changes will affect approximately 96 individuals and result in a reduction in annual revenue of \$5,695.

24.210.1007 LICENSURE OF TIMESHARE SALESPERSONS (1) ~~Except as provided in ARM 24.210.1003 applications~~ Applications for licensure as a timeshare salesperson shall be made on a completed form provided by the board accompanied by satisfactory proof of successful completion of an approved course of education and examination, a personal disclosure statement, and payment of the required fee.

AUTH: 37-1-131, 37-53-104, MCA

IMP: 37-1-131, 37-53-301, MCA

REASON: The board is amending this rule to delete the reference to ARM 24.210.1003 which is proposed for repeal in this notice. Implementation cites are being amended to accurately reflect all statutes implemented through the rule.

24.210.1016 TIMESHARE COURSE OF EDUCATION REQUIRED FOR LICENSURE (1) Each applicant for licensure ~~or certificate of completion~~ shall have successfully completed a course, or courses, of education related to the timeshare industry and approved by the board. ~~An approved course of education under 37-53-301, MCA, shall consist of eight classroom hours of instruction or the equivalent in subjects approved by the board.~~

~~(2) The board shall provide a correspondence course equivalent to eight classroom hours of instruction. The course is available from the board office upon application and payment of the required fee. Persons taking the course must file an~~

~~affidavit of completion included with the course packet prior to receiving a certificate of completion or taking the required examination for licensure.~~

~~(3) (2) Request for approval for a course of study, other than the board's correspondence course, shall be made in writing and must contain all relevant available information about the course content and the instructors or administrators of the courses, sufficient to enable the board to evaluate timeshare relatedness and to confirm attendance and successful completion. No course will be approved for an applicant if attended more than two years prior to the application for certificate of completion or licensure.~~

AUTH: 37-1-131, 37-53-104, ~~37-53-301~~, MCA
IMP: 37-1-131, 37-53-301, MCA

REASON: The board determined it is reasonably necessary to amend this rule to no longer provide its own prelicensure correspondence course for timeshare sales applicants. The board will continue to evaluate and approve prelicensure courses offered by other providers. Authority and implementation cites are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.210.1020 RENEWALS (1) Each licensee shall renew on or before the date as set by ARM 24.210.413.

~~(1) (2) Renewal notices for all timeshare salespeople will be sent to the last known address in the division's records as specified in ARM 24.101.414.~~

~~(2) (3) All renewals shall include a typewritten, or printed, and sworn update to the personal disclosure statement. Incomplete renewal forms or renewals without the personal disclosure statement will not be accepted and will be returned to the licensee. Any form returned to the licensee must be properly completed and resubmitted before the renewal deadline or late renewal fees will be required.~~

~~(3) (4) The provisions of Timeshare sales licenses will lapse, expire, or terminate according to ARM 24.101.408 apply.~~

AUTH: 37-1-131, 37-53-104, MCA
IMP: 37-1-131, 37-1-141, MCA

REASON: The board is amending this rule to set forth the requirements and standardized processes for license renewal. Although these requirements are already set forth in department rule, the board concluded that also having them in board rules will alleviate confusion among licensees.

24.210.1025 TIMESHARE REGISTRATION APPLICATION REQUIREMENTS (1) remains the same.

(2) Application materials filed with the ARELLO Timeshare Registry (ATR) are preferred.

AUTH: 37-53-104, MCA
IMP: 37-53-104, 37-53-201, 37-53-202, MCA

REASON: The board determined it is reasonably necessary to amend this rule to address the recently developed ARELLO Timeshare Registry (ATR). Board use of the ATR is beneficial because the materials are stored securely in an electronic format which saves storage space but allows the board access. Timeshare applicants will no longer need to maintain large files and copy these files every time another jurisdiction requires them. Following amendment, applicants will still be able to submit a paper registration should they choose to do so.

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

24.210.1037 TIMESHARE AMENDMENT FOR MATERIAL ADVERSE CHANGE REGISTRATION REQUIREMENTS (1) Amendment to application for registration ~~or renewed registration~~ shall be made on a form provided by the board and accompanied by the required attached documents and payment of the required fee.

AUTH: 37-53-104, MCA
IMP: 37-53-203, MCA

REASON: The board is deleting "adverse" from this rule's title for accuracy. The board notes that developers must file an amendment for all material changes in an application, whether the changes are adverse or not.

5. The rules proposed to be repealed are as follows:

24.210.1003 TIMESHARE LICENSURE FOR LICENSED REAL ESTATE BROKERS AND SALESPERSONS found at ARM page 24-24171.

AUTH: 37-1-131, 37-53-104, MCA
IMP: 37-53-301, MCA

REASON: The 2009 Montana Legislature enacted Chapter 317, Laws of 2009 (Senate Bill 269), an act revising the laws regulating the sale of timeshares. The bill was signed by the Governor on April 18, 2009, and became effective on October 1, 2009. The board is repealing 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 to align with the statutory changes and further implement the legislation.

24.210.1005 LICENSURE OF TIMESHARE BROKERS found at ARM page 24-24172.

AUTH: 37-1-131, 37-53-104, MCA
IMP: 37-53-102, 37-53-301, MCA

24.210.1011 REQUIREMENTS OF PERSONAL DISCLOSURE STATEMENT REQUIRED FOR LICENSURE found at ARM page 24-24173.

AUTH: 37-1-131, 37-53-104, MCA
IMP: 37-53-104, 37-53-301, 37-53-302, MCA

24.210.1013 TIMESHARE LICENSURE FOR NONRESIDENTS found at ARM page 24-24174.

AUTH: 37-1-131, 37-53-104, MCA
IMP: 37-1-131, 37-53-104, 37-53-301, MCA

24.210.1018 TIMESHARE EXAMINATION REQUIREMENTS FOR LICENSURE found at ARM page 24-24180.

AUTH: 37-1-131, 37-53-104, MCA
IMP: 37-53-301, MCA

24.210.1029 TIMESHARE REGISTRATION DISCLOSURE DOCUMENT REQUIREMENTS found at ARM page 24-24182.

AUTH: 37-53-104, 37-53-303, MCA
IMP: 37-53-303, MCA

24.210.1033 TIMESHARE RENEWAL REGISTRATION REQUIREMENTS found at ARM page 24-24185.

AUTH: 37-53-104, MCA
IMP: 37-53-104, 37-53-203, MCA

24.210.1035 TIMESHARE AMENDMENT FOR ADDITIONAL INTERVAL REGISTRATION REQUIREMENTS found at ARM page 24-24185.

AUTH: 37-53-104, MCA
IMP: 37-53-103, MCA

6. 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 by e-mail to dlibsdrre@mt.gov, and must be received no later than 5:00 p.m., November 17, 2009.

7. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.realestate.mt.gov. The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text

will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

8. 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 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, or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on May 11, 2009, by telephone and e-mail.

10. Barb McAlmond, program manager, has been designated to preside over and conduct this hearing.

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 October 5, 2009