

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

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 24.210.625 inactive to active)	AMENDMENT
license status, 24.210.661 and)	
24.210.829 new licensee mandatory)	NO PUBLIC HEARING
continuing education, 24.210.667)	CONTEMPLATED
continuing real estate education,)	
24.210.826 inactive to active status -)	
property management, and)	
24.210.835 continuing property)	
management education)	

TO: All Concerned Persons

1. On June 1, 2015, the Board of Realty Regulation proposes to amend 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 the rulemaking process and 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 May 15, 2015, to advise us of the nature of the accommodation that you need. Please contact Maggie Connor, Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2303; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; or dlibsdrre@mt.gov (board's e-mail).

3. GENERAL REASONABLE NECESSITY: The board determined it is reasonably necessary to amend the rules to remove all references to the board's annual core course education requirement. Because development of the core course every year requires great expense and effort on the part of the board, the board has concluded that the core course requirement is more burdensome than beneficial for both licensees and the consuming public.

The board determined it is reasonably necessary to delete all references or designations in the rules to the board's regular continuing education courses as being either "mandatory" or "elective," since these designations have no value with respect to the protection of the public or competence of licensees. However, for the current time, the board will continue to refer to the new licensee "rookie" course as the "board-mandated new licensee mandatory continuing education." Any reference in rule to the rookie course as "mandatory," "mandated," or any similar term will be retained in rule at this time. In the future, the board may revisit the necessity of the rookie course.

Accordingly, the board has determined that it is reasonably necessary to generally amend several rules in this notice at this time. Where additional specific

bases for a proposed action exist, the board will identify those reasons immediately following that rule.

4. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.210.625 INACTIVE TO ACTIVE LICENSE STATUS (1) and (1)(a) remain the same.

(b) provide evidence of completing 24 hours of continuing education within the preceding 24 months, ~~of which eight hours must be mandatory education and the remaining 16 hours may be mandatory or elective education; and~~

~~(c) provide evidence of completing the previous license year core course in addition to the continuing education, and~~

(d) remains the same, but is renumbered (c).

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

IMP: 37-1-306, 37-1-319, 37-51-202, 37-51-204, 37-51-302, 37-51-308, 37-51-311, MCA

24.210.661 NEW LICENSEE MANDATORY CONTINUING EDUCATION - SALESPERSONS (1) ~~All new sales licensees will receive an interim license that will terminate October 31 of the year of the initial license date.~~

(2) (1) All new sales licensees are required to complete the board-mandated new licensee mandatory continuing education requirement, commonly known as the 12-hour rookie course, by the first renewal date as set by ARM 24.101.413, following their original license issue date.

~~(3) A new license will be issued upon completion of the new licensee mandatory continuing education required by this rule.~~

(4) (2) For the first licensing year only, the rookie course will substitute for a salesperson's regular continuing education. ~~The new licensee mandatory continuing education does not replace the~~ The regular 12-hour continuing education requirement, ~~which~~ begins with the second year of licensing.

~~(5) (3)~~ (3) All licensees are required to submit the renewal form and renewal fee by the date set by ARM 24.101.413 ~~of their license~~ and each renewal year date thereafter.

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

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: The board is amending this rule by deleting references to interim licenses to comply with department licensure processes. The board also determined there is no statutory authority for such designation. Without interim licenses, there will be no issuance of "new" licenses, and a salesperson's first license will be just a regular license. The board is therefore striking (3), which addresses new licenses.

The board also concluded it is necessary to clarify in (1) that new salesperson licensees must complete the board-mandated new licensee mandatory continuing education by the first renewal after being newly licensed. The board always

intended that new sales licensees complete the board-mandated new licensee mandatory continuing education by their first renewal, and is amending this rule now to eliminate any confusion about this requirement.

Further, it is necessary to amend (2) to clarify that the rookie education in the first year of a new salesperson's license will substitute for the continuing education requirement for that first year. While this amendment does not change the substance of the rule with regard to newly licensed salespeople, the board is amending it to address confusion among staff and licensees.

24.210.667 CONTINUING REAL ESTATE EDUCATION (1) Each active licensee ~~is required to annually complete a board-mandated core education course of a length established by the board every year. The board-mandated core education does not apply to meeting the continuing education requirement provided for in (2), except as provided in (18) and (19).~~

~~(2) In addition to the board-mandated core education course, each active licensee is required to complete a minimum of 12 hours of continuing real estate education every licensing year. The licensing year is from November 1 through October 31.~~

~~(3) A licensee must complete the board-mandated core education course that contributes to the professional competency of the licensee in their real estate practice.~~

(4) through (6) remain the same, but are renumbered (2) through (4).

~~(7) (5) By August 1 of each year, the board will identify topics in which the required hours of education must be obtained for the following reporting year. The board, in its discretion, may adjust the topics at any time. A minimum of four hours must come from the mandatory topics identified by the board.~~

(8) through (17) remain the same, but are renumbered (6) through (15).

~~(18) A licensee completing board-mandated core education courses beyond the core course completed for professional competency required in (3), may apply one course toward meeting current continuing education requirements. The core course completion certificate(s) must be provided to the board office in order to receive continuing education credit.~~

~~(19) A licensee with both a real estate and property management license must complete both board-mandated core education courses, but may apply one course toward meeting the current continuing education requirement by providing the core course completion certificate(s) to the board office.~~

(20) and (21) remain the same, but are renumbered (16) and (17).

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

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.210.826 INACTIVE TO ACTIVE STATUS - PROPERTY MANAGEMENT LICENSES (1) and (1)(a) remain the same.

(b) provide evidence of completing 24 hours of continuing education within the ~~proceeding~~ preceding 24 months, ~~of which eight hours must be mandatory education and the remaining 16 hours may be mandatory or elective education;~~ and (c) 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, 37-51-311, 37-51-601, MCA

REASON: The board is amending (1)(b) to utilize the correct term "preceding" and clarify that evidence must be provided of continuing education completed in the 24 months prior to the licensee converting to active licensure.

24.210.829 NEW LICENSEE MANDATORY CONTINUING EDUCATION - PROPERTY MANAGER (1) All new property management licensees are required to complete 12 hours of ~~new licensee mandatory~~ property management continuing education by the second renewal date as set by ARM 24.101.413, following their original license issue date. ~~Six~~ Two of these ~~the~~ hours must consist of:

~~(a) two hours of courses in property management trust accounts; . After satisfactorily completing their first renewal, property manager licensees may satisfy their continuing education obligations for subsequent years by choosing any continuing education courses approved by the board, whether designated as property management education or not.~~

~~(b) two hours of leasing principles; and~~

~~(c) two hours of state law update.~~

~~(2) New property managers will receive an interim license that will terminate on the second renewal date as set by ARM 24.101.413, following their original license issue date.~~

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

IMP: 37-1-306, 37-1-319, 37-51-603, MCA

REASON: The board determined it is reasonably necessary to amend the continuing education requirements for newly licensed property managers, which is currently treated differently than a salesperson's rookie education. New property managers must complete 12 hours of property management education by the second renewal date after being newly licensed. Six of those hours are specific education and constitute the new licensee mandatory property management.

After the first renewal, property managers are required to annually complete 12 property management education hours. The board is proposing to reduce the new licensee property manager education from six specific education hours to only two hours in trust account education, thus allowing the property manager to choose the remaining hours to meet the 12-hour requirement. The board has observed that the trust account education is most valuable for new property managers because trust account issues are involved in most discipline against property managers.

After the required 12 hours of property management education in the first year, property managers will be able to take any real estate education approved by

the board, whether designated as property management education or not. This change will allow property managers much more flexibility in meeting their continuing education responsibilities.

24.210.835 CONTINUING PROPERTY MANAGEMENT EDUCATION

~~(1) Each active licensee is required to annually complete a board-mandated core education course of the length established by the board every year. The board-mandated core education does not apply to meeting the continuing education requirement provided for in (2), except as provided in (16) and (17).~~

~~(2) In addition to the board-mandated core education course, each active licensee is required to complete a minimum of 12 hours of board-approved continuing property management education every licensing year. The licensing year is from November 1 through October 31.~~

(2) Courses completed after the renewal deadline will result in a late renewal and penalty, regardless of when the licensee submits the renewal application.

~~(3) A licensee must complete the board-mandated core education course that contributes to the professional competency of the licensee in their property management practice.~~

~~(4) and (5) remain the same, but are renumbered (3) and (4).~~

~~(6) (5) By August 1 of each year, the board will identify topics in which the required hours of education must be obtained. The board, in its discretion, may adjust the topics at any time. A minimum of four hours must come from the mandatory topics identified by the board.~~

~~(7) through (15) remain the same, but are renumbered (6) through (14).~~

~~(16) A licensee completing board-mandated core education courses beyond the core course completed for professional competency required in (3), may apply one course toward meeting current continuing education requirements. The core course completion certificate(s) must be provided to the board office in order to receive continuing education credit.~~

~~(17) A licensee with both a real estate and property management license must complete both board-mandated core education courses, but may apply one course toward meeting the current continuing education requirement by providing the core course completion certificate(s) to the board office.~~

~~(18) and (19) remain the same, but are renumbered (15) and (16).~~

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

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: The board is adding (2) to emphasize that education completed after the renewal date is untimely and will subject renewing licensees to a late fee regardless of when the renewal is submitted. This is not a change in the board's position, but simply a clarification. A late fee is not considered a disciplinary action.

Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

5. Concerned persons may submit their data, views, or arguments concerning the proposed amendments in writing to the Board of Realty Regulation,

301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2323, or e-mail to dlibsdrre@mt.gov, and must be received no later than 5:00 p.m., May 29, 2015.

6. If persons who are directly affected by the proposed amendments wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the Board of Realty Regulation at the above address no later than 5:00 p.m., May 29, 2015.

7. If the board receives requests for a public hearing on the proposed amendments from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed rules; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected is determined to be 59 persons based on current inactive and property manager licensees.

8. An electronic copy of this notice is available at www.realestate.mt.gov (board's web site). 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.

9. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this program. 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 program 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) 841-2323; e-mailed to dlibsdrre@mt.gov; or made by completing a request form at any rules hearing held by the agency.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.210.625, 24.210.661, 24.210.667,

24.210.826, 24.210.829, and 24.210.835 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, by facsimile to (406) 841-2323, or e-mail to dlibsdrre@mt.gov.

BOARD OF REALTY REGULATION
PAT GOODOVER
CHAIRPERSON

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 20, 2015