

IN THE SENATE

SENATE BILL NO. 1323

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2013, IDAHO  
2 CODE, TO REVISE REQUIREMENTS RELATING TO ERRORS AND OMISSIONS INSURANCE  
3 AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2018, IDAHO  
4 CODE, TO PROVIDE THAT A LICENSED SALESPERSON WHO OBTAINS A BROKER  
5 LICENSE SHALL RETAIN THE RENEWAL PERIOD AND EXPIRATION DATE OF HIS  
6 SALESPERSON LICENSE; AMENDING SECTION 54-2023, IDAHO CODE, TO REVISE  
7 CONTINUING EDUCATION REQUIREMENTS AND TO MAKE A TECHNICAL CORRECTION;  
8 AND AMENDING SECTION 54-2055, IDAHO CODE, TO REQUIRE THAT A LICENSEE  
9 MAKE A CERTAIN DISCLOSURE WITHIN A SPECIFIED AMOUNT OF TIME.  
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 54-2013, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 54-2013. ERRORS AND OMISSIONS INSURANCE. (1) Each licensee who is  
15 actively licensed under this chapter shall, as a condition to licensing,  
16 carry and maintain errors and omissions insurance to cover all licensed  
17 activities under the provisions of this chapter.

18 (2) The commission shall make the insurance required under the  
19 provisions of this section available to each licensee by contracting with  
20 an insurance provider for errors and omissions insurance coverage for each  
21 licensee after competitive, sealed bidding in accordance with chapter 57,  
22 title 67, Idaho Code. The exact premium shall be set by the commission by  
23 motion.

24 (3) Any policy obtained by the commission shall be available to each  
25 licensee with no right on the part of the insurance provider to cancel  
26 coverage for any licensee.

27 (4) Each licensee shall have the option of obtaining errors and  
28 omissions insurance independently, if the coverage contained in an  
29 independently obtained policy complies with the minimum requirements  
30 established by the commission.

31 (5) The commission shall determine the terms and conditions of coverage  
32 required under the provisions of this section including, but not limited  
33 to, the minimum limits of coverage, the permissible deductible and the  
34 permissible exemptions.

35 (6) A licensee seeking to obtain or renew an active license shall  
36 certify to the commission that he is in compliance with the insurance  
37 requirements of this section. A licensee who elects not to participate  
38 in the insurance program administered by the commission shall obtain a  
39 certificate of coverage, signed by an authorized agent or employee of the  
40 insurance carrier, reflecting proof of insurance meeting the requirements  
41 established by the commission. Upon request by the commission the licensee  
42 shall produce the certificate for inspection. Requests for certificates

1 shall be sent by first class mail to the licensee's business or residence  
 2 address as reflected by the commission's records and a copy of the request  
 3 shall be sent to the licensee's designated broker, if any. A licensee  
 4 failing to produce a certificate of coverage within thirty (30) days of a  
 5 request to do so may have his license inactivated by the commission and shall  
 6 not be entitled to reactivate the license unless and until he provides to the  
 7 commission a certificate of coverage reflecting proof of insurance meeting  
 8 the requirements of the commission. Nothing in this subsection shall  
 9 limit the ability of the commission to investigate or discipline a licensee  
 10 for failing to maintain insurance while on active status in violation of  
 11 subsection (1) of this section or for violating any other section of chapter  
 12 20, title 54, Idaho Code, or any rule of the commission.

13 (7) If the commission is unable to obtain errors and omissions  
 14 insurance coverage to insure all licensees who choose to participate in  
 15 the insurance program at a reasonable premium, not to exceed two hundred  
 16 dollars (\$200) per year, per licensee, the requirement of insurance coverage  
 17 as provided in this section shall be void during the applicable contract  
 18 period.

19 (8) The commission is also specifically empowered to charge and  
 20 collect an administrative fee in addition to the premium paid from each  
 21 licensee who obtains errors and omissions insurance through the commission  
 22 contract, which fee shall not exceed ten dollars (\$10.00) per licensee.  
 23 This administrative fee shall be of an amount sufficient to raise that  
 24 revenue required to administer the provisions of this section. The limit in  
 25 subsection (7) of this section applies only to premium cost and not to any  
 26 administrative fee charged.

27 SECTION 2. That Section 54-2018, Idaho Code, be, and the same is hereby  
 28 amended to read as follows:

29 54-2018. LICENSE RENEWALS -- INACTIVE LICENSE STATUS -- PERSONAL  
 30 CHANGES -- EFFECTIVE DATES -- FEES NONREFUNDABLE. (1) Initial license  
 31 period. Each new license shall be for a period of one (1) year plus the  
 32 months up to and including the next birth date of the licensee, not to exceed  
 33 a period of two (2) years, and shall expire on the last day of the month of  
 34 the birth date of the licensee. A salesperson licensed in this state who  
 35 applies for and obtains a broker license shall retain the license renewal  
 36 period and expiration date of his salesperson license. Corporations,  
 37 partnerships, limited liability companies and other entities defined as  
 38 "persons" in this chapter shall have established as the equivalent of a birth  
 39 date, the birth date of its designated broker. Licensed branch offices shall  
 40 have established as the equivalent of a birth date, the birth date of the  
 41 designated broker for the branch office.

42 (2) License renewal. Each license shall be renewable for a period of  
 43 two (2) years by timely submitting a completed application. Applications  
 44 must be received at the commission office on or before 5 p.m. of the  
 45 expiration date.

46 (a) If renewing an active license, the application shall include:

47 (i) Certification that the applicant has met the commission's  
 48 continuing education requirements as set forth in section  
 49 54-2023, Idaho Code;

1 (ii) Certification that the applicant has met the mandatory  
2 errors and omissions insurance requirement for real estate  
3 licensees as set forth in section 54-2013, Idaho Code; and

4 (iii) Payment of all renewal fees established by this chapter or by  
5 the commission.

6 (b) If renewing an inactive license, the application shall include  
7 payment of all renewal fees established by this chapter or by the  
8 commission by rule.

9 (3) Late renewal. If the licensee fails to submit a completed  
10 application for renewal or pay the renewal fee on or before the expiration  
11 date, the commission may accept a later application or payment of the fee,  
12 subject to such conditions as the commission may require including, but not  
13 limited to, the assessment of a late fee; provided that between the license  
14 expiration date and the date of renewal of the license, the rights of the  
15 licensee under such license shall be expired, and during such period of  
16 expiration it shall be unlawful for any licensee to do or attempt to offer  
17 to do any of the acts of the kind and nature described in the definitions  
18 of real estate broker or real estate salesperson in section 54-2004, Idaho  
19 Code, in consideration of compensation of any kind or expectation thereof.  
20 An expired license that is not renewed within one (1) year of the expiration  
21 date shall be automatically terminated by the commission and may not be  
22 renewed.

23 (4) Active and inactive license status. A licensee who is a designated  
24 broker or associated with a designated broker shall hold an active license.  
25 A licensee who has paid all applicable fees, who is not associated with  
26 a designated broker and who holds a current license that is not revoked,  
27 suspended or terminated shall hold his license on inactive status. A  
28 licensee seeking to change from active license status to inactive license  
29 status shall have the broker submit a change of status application to the  
30 commission in the form and manner approved by the commission. During the  
31 period that his license is inactive, the licensee shall not engage in the  
32 business or act in the capacity of real estate broker, associate broker or  
33 salesperson. However, an inactive licensee may receive a referral fee for  
34 any referral made during the period his license was active. A licensee may  
35 activate an inactive license by meeting each of the following:

36 (a) If activating as a sales associate, associating with a designated  
37 Idaho broker and having the broker submit an application in the form and  
38 manner approved by the commission;

39 (b) If activating as a designated broker, establishing an office in the  
40 manner required by this chapter and submitting an application in the  
41 form and manner approved by the commission;

42 (c) Paying any required fees;

43 (d) Obtaining and maintaining a policy of errors and omissions  
44 insurance as required by section 54-2013, Idaho Code, and in accordance  
45 with the rules of the commission and certifying the same; and

46 (e) Successfully completing any continuing education requirements, as  
47 prescribed in section 54-2023, Idaho Code, and certifying the same for  
48 the current license period.

49 (5) Continuing education. A licensee shall not submit an application  
50 to renew a license on active status or to activate an inactive license

1 without having obtained the continuing education credit hours required by  
2 section 54-2023, Idaho Code. A licensee who violates this subsection (5)  
3 shall be subject to disciplinary action by the commission.

4 (6) Time required. The commission may request satisfactory proof of  
5 continuing education compliance from any licensee who has certified to the  
6 commission that he has completed the requirement. The request shall state  
7 the time within which the proof must be received at the commission office,  
8 which time shall not be less than ten (10) business days.

9 (7) Satisfactory proof. Upon request from the commission, the licensee  
10 shall submit satisfactory proof of having met the continuing education  
11 requirement set forth in section 54-2023, Idaho Code. "Satisfactory proof"  
12 shall, for each course, consist of documentation:

13 (a) Identifying the licensee, the title of the course or challenge  
14 exam, the course certification number, the course provider, the number  
15 of classroom hours, the completion date of the course or challenge exam,  
16 and including:

17 (i) A transcript of the course taken;

18 (ii) A letter from the provider verifying successful completion  
19 of the course; or

20 (iii) A course completion certificate; and

21 (b) Identifying the course certification approval number to establish  
22 that the course is approved for continuing education credit as provided  
23 by section 54-2023, Idaho Code. The commission may, in its sole  
24 discretion, accept alternative documentation establishing that the  
25 course is approved for credit.

26 (8) Failure to submit proof. A licensee failing to submit satisfactory  
27 proof of completing the continuing education requirement after being  
28 requested to do so by the commission may have his license inactivated by the  
29 commission and shall not be entitled to reactivate the license unless and  
30 until he provides to the commission satisfactory proof that he meets the  
31 continuing education requirements of section 54-2023, Idaho Code. Nothing  
32 in this section shall limit the ability of the commission to investigate or  
33 discipline a licensee for violating subsection (5) of this section or for  
34 violating any other section of this chapter.

35 (9) Change in personal information. An individual licensee, whether  
36 active or inactive, shall provide written notice to the commission, in the  
37 form and manner approved by the commission, of any change of his personal  
38 name, address of personal residence or personal telephone number. Notice  
39 shall be provided within ten (10) days of the change. If the licensee has  
40 changed his personal name, he shall also submit legal proof of the change  
41 and, if an active licensee, he shall have the broker submit the written  
42 notice of change to the commission.

43 (10) Issuance of the license and effective date. A real estate license  
44 shall be deemed issued, and any requested license changes shall become  
45 effective, when the completed application, attachments, and any required  
46 fees are received at and approved by the commission. An application that is  
47 incomplete or lacking the required fees shall be returned to the applicant  
48 and no license shall be issued until a completed application and all required  
49 fees are received at and actually approved by the commission. A brokerage is  
50 not required to obtain, display or possess a physical license certificate as

1 evidence of the individual's active licensure; however, the commission may  
2 make license certificates available for a fee as authorized by this chapter.  
3 A brokerage shall not display or otherwise make available to the public a  
4 license certificate for any individual who does not hold an active license  
5 with the brokerage.

6 (11) Fees nonrefundable. No licensee shall be entitled to a refund of  
7 any fee after the license or license change has become effective.

8 SECTION 3. That Section 54-2023, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 54-2023. CONTINUING EDUCATION REQUIREMENTS. Each licensee applying  
11 to renew an Idaho real estate license on active status, and each Idaho  
12 licensee applying to change from inactive to active license status, shall  
13 successfully complete a commission core course, plus the required number of  
14 classroom hours of commission-approved or certified continuing education  
15 coursework as provided in this section.

16 (1) Required number of classroom hours. The required number of  
17 classroom hours is as follows:

18 (a) Renewing license on active status. A licensee renewing on active  
19 status must successfully complete a commission core course, plus  
20 sixteen (16) classroom hours of continuing education, on or before the  
21 current license expiration date.

22 (b) Change from inactive to active. Unless the licensee is within the  
23 initial licensing period, a licensee changing from inactive to active  
24 license status shall complete a commission core course, plus sixteen  
25 (16) classroom hours of continuing education, before he can change to  
26 active license status. If the inactive licensee is within his initial  
27 licensing period, no continuing education is required to change to  
28 active license status.

29 (c) Credits used to reactivate license. Continuing education credit  
30 hours applied to activate an inactive license are considered "spent"  
31 and may not thereafter be applied toward the continuing education  
32 requirements for subsequent license renewal.

33 (2) No duplicate credit. No licensee may obtain continuing education  
34 credit for completing:

35 (a) Any core course curriculum for which he has previously received  
36 continuing education credit; or

37 (b) Any course curriculum for which he has received continuing  
38 education credit in the same license period.

39 (3) Excess credits. The classroom hours shall apply to the license  
40 period in which such course is completed; hours completed in excess of those  
41 required for the license period shall not accumulate or be credited for the  
42 purposes of subsequent license renewal periods.

43 (4) Commission-ordered education. No licensee shall obtain continuing  
44 education credit for education ordered by the commission as part of a  
45 disciplinary action.

46 (5) Obtaining continuing education classroom hours. In order to obtain  
47 continuing education classroom hours, a licensee must:

48 (a) Successfully complete a commission-approved continuing education  
49 course;

1 (b) Successfully complete a commission-approved continuing education  
2 challenge exam;

3 (c) Attend ~~an entire~~ regularly-scheduled meeting of the commission  
4 from the time the meeting is called to order until the meeting  
5 is adjourned or until the licensee is excused by the commission  
6 chairperson. A maximum of four (4) hours for this activity shall be  
7 credited for any one (1) meeting in any one (1) license period;

8 (d) Successfully complete a commission-approved broker prelicense  
9 course, or a commission-approved continuing education challenge exam,  
10 in advanced real estate study. Continuing education credit may be  
11 obtained for retaking the same broker prelicense course or challenge  
12 exam only if completed after three (3) years of completing the previous  
13 course or challenge exam; or

14 (e) Provide to the commission a transcript or course completion  
15 certificate of successful completion of any of the following courses  
16 without commission preapproval of the curriculum, instructors or  
17 providers:

18 (i) Professional designation courses. Any course developed by  
19 national professional organizations that is required in order to  
20 earn professional designations from a national organization in  
21 specialized areas of licensed real estate practice;

22 (ii) Courses accredited by another profession or jurisdiction.  
23 Any course approved by and offered in satisfaction of another  
24 professional or occupational licensing authority's education  
25 requirements, if the commission determines that the course is  
26 within the approved topic areas established by the commission; or

27 (iii) Courses offered by an accredited college or university.  
28 Any course offered in satisfaction of a degree requirement by an  
29 accredited college or university if the commission determines  
30 that the course is within the approved topic areas established by  
31 the commission.

32 (f) If a certified course instructor, teach a live course for which  
33 continuing education credit may be obtained. Credits shall be granted  
34 for the number of classroom hours taught.

35 (6) Licensee duty to keep satisfactory proof. The licensee shall keep  
36 satisfactory proof of having completed the continuing education requirement  
37 and shall submit such proof at the request of the commission as provided in  
38 section 54-2018, Idaho Code.

39 (7) Provisional license -- Extension of time. A three-month extension  
40 of time for completing the education requirements may be obtained by  
41 submitting with the renewal application, or application to activate,  
42 satisfactory evidence showing that the applicant was unable to comply with  
43 such education requirements. Such evidence shall be:

44 (a) Bona fide hardship preventing completion of the reinstatement  
45 requirements of an inactive license;

46 (b) Health reasons preventing attendance or completion; or

47 (c) ~~Active duty in the military service with assignment to a permanent~~  
48 ~~duty station outside of the state during the last twelve (12) months of a~~  
49 ~~license period; or~~

1       ~~(d)~~ Other compelling cause beyond the control of the applicant while  
2 engaged in the real estate business.  
3 If such an extension is granted, the licensee shall receive a provisional  
4 license for a period of time not to exceed three (3) months. No further  
5 extension of time may be granted. A license issued or renewed after an  
6 extension of time has been granted shall retain the original license  
7 expiration date. Failure to satisfy the continuing education requirement  
8 within the time granted shall result in the automatic inactivation of the  
9 license.

10       SECTION 4. That Section 54-2055, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12       54-2055. LICENSEES DEALING WITH THEIR OWN PROPERTY. (1) Any actively  
13 licensed Idaho broker, sales associate, or legal business entity shall  
14 comply with this entire chapter when that licensee is buying, selling or  
15 otherwise acquiring or disposing of the licensee's own interest in real  
16 property in a regulated real estate transaction.

17       (2) A licensee shall disclose in writing to any buyer or seller no  
18 later than at the time of presentation of the purchase and sale agreement  
19 that the licensee holds an active Idaho real estate license, if the licensee  
20 directly, indirectly, or through a third party, sells or purchases an  
21 interest in real property for personal use or any other purpose; or acquires  
22 or intends to acquire any interest in real property or any option to purchase  
23 real property.

24       (3) Each actively licensed person buying or selling real property or  
25 any interest therein, in a regulated real estate transaction, must conduct  
26 the transaction through the broker with whom he is licensed, whether or not  
27 the property is listed.