

Dear Senators COOK, Ward-Engelking, Lakey, and
Representatives CLOW, Berch, Crane:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Division of Occupational and Professional Licenses - Real Estate Commission, Idaho:
IDAPA 24.37.01 - Rules of the Idaho Real Estate Commission (ZBR Chapter Rewrite) - Proposed
Rule (Docket No. 24-3701-2401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/14/2024. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/12/2024.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Division Manager - Matt Drake

DATE: October 28, 2024

SUBJECT: Division of Occupational and Professional Licenses - Real Estate Commission, Idaho

IDAPA 24.37.01 - Rules of the Idaho Real Estate Commission (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 24-3701-2401)

Summary and Stated Reasons for the Rule

The Division of Occupational and Professional Licenses - Idaho Real Estate Commission submits Notice of Rulemaking. The Division notes that this is a Zero- Based Regulation (“ZBR”) chapter rewrite. Accordingly, the Division states that this rulemaking streamlines and simplifies existing rules. The Division states that the rulemaking also updates the rules to comply with governing statute.

The Division states that no fees are being increased and no new fees are being imposed by the rulemaking.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. The rules are not anticipated to have a fiscal impact.

Statutory Authority

This rulemaking appears authorized pursuant to Chapter 20, Title 54, Idaho Code, Idaho Code, as well as section 67-2604, Idaho Code.

cc: Division of Occupational and Professional Licenses - Real Estate Commission, Idaho
Krissy Veseth

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
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Tel: 208-334-2475
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IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.37.01 – RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 24-3701-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as Title 55, Chapter 22, Idaho Code, and 55-2203, Idaho Code.

PUBLIC HEARING SCHEDULE: The public hearing concerning this rulemaking will be held as follows:

24.37.01 – Rules of the Idaho Real Estate Commission
Tuesday, September 17, 2024 – 9 a.m. (MT) Division of Occupational and Professional Licenses Soldier Room, Chinden Campus Building 4 11341 W. Chinden Blvd. Boise, ID 83714
Virtual Meeting Link
Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.

The hearing site will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Real Estate Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

Due to the volume of reformatting of the rule chapter, the redline version of the rules provided in the bulletin will show many sections of the current rules being struck and added back in as new text as they are moving to new sections for consistent formatting. A redlined document to show what changes were made can be found at [insert link here](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

N/A. The proposed amendments to the rules do not impose any new or increased fees.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-3701-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2024, Idaho Administrative Bulletin, [Vol. 24-6, p.80-81](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

N/A. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2024.

DATED this 2nd day of August, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3701-2401
(ZBR Chapter Rewrite)

24.37.01 – RULES OF THE IDAHO REAL ESTATE COMMISSION

000. LEGAL AUTHORITY.

~~The Rules of the Idaho Real Estate Commission contained herein have been~~ adopted pursuant to Sections ~~54-2007, 67-2504, 67-2614, 67-9409, and 67-9406~~, Idaho Code. ~~Any violation of these rules, or of any provision of Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code, is sufficient cause for disciplinary action as prescribed in Sections 54-2059, 54-2060, or 55-1811, Idaho Code.~~ (3-28-23)(____)

001. SCOPE.

These rules contain the requirements for implementation and enforcement of the Idaho Real Estate License Law, the Idaho Real Estate Brokerage Representation Act, and the Subdivided Lands Disposition Act, contained in Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code. (3-28-23)

002. – 00599. (RESERVED)

100. LICENSURE.

01. Renewal of Expired License. If an active license expires, the licensee must complete and submit

with the application an attestation that during the period the license was expired, the licensee either did or did not do or attempt to do any acts described in the definitions of real estate broker or salesperson in Section 54-2004, Idaho Code. ()

02. Mandatory Errors and Omissions Insurance. Every licensee will certify such coverage to the Commission in the form and manner prescribed by statute, these rules, and any policy adopted by the Commission. ()

03. Insurance Plan. The Commission will make available to all active licensees, subject to terms and availability from a qualified insurance carrier, a policy of Errors and Omissions Insurance under a Group Plan obtained by the Commission. Licensees may obtain errors and omissions insurance independently of the Group Policy available through the Commission, subject, however, to the terms and conditions set forth in these rules. ()

a. Insurance Carrier. For the purposes of this section: ()

i. Shall maintain an A.M. Best Company rating of B+ or better, and an A.M. Best Financial Size Category of Class VI or higher; ()

ii. Is and will remain for the policy term duly authorized by the Idaho Department of Insurance to do business in the state of Idaho as an insurance carrier; and ()

iii. Is and will remain for the policy term qualified and authorized by the Idaho Department of Insurance to write policies of errors and omissions insurance in Idaho of the type contemplated by these rules. ()

b. Approved Policy. The policy shall cover all activities contemplated under Chapter 20, Title 54, Idaho Code, be subject to such terms and conditions as are customary in the insurance industry for policies of errors and omissions insurance, which are otherwise permissible under Idaho law and the rules of the Idaho Insurance Department, and which are contained in a policy of insurance which has been approved by the Department of Insurance. That policy shall provide, at a minimum, the following terms and conditions:

	<u>Limit Liability Coverage for Each Occurrence Not Less Than</u>	<u>Annual Aggregate Limit Not Less Than</u>
<u>Individual License Coverage</u>	<u>\$100,000*</u>	<u>\$300,000*</u>
<u>Firm Coverage</u>	<u>\$500,000*</u>	<u>\$1,000,000*</u>
	<u>*Not including costs of investigation and defense</u>	

i. A deductible amount of not greater than three thousand five hundred dollars (\$3,500), which includes costs of investigation and defense; ()

ii. A policy period equal to each licensee's two (2) year license renewal date or the prorated equivalent, or, if an annually renewable policy, a statement of the policy period, and in either case, the policy shall provide for continuous coverage during the policy period; ()

iii. An extended reporting period per insured of at least ninety (90) days following termination of the policy period; and ()

iv. Prior acts coverage shall be offered to licensees with continuous past coverage. ()

04. Failure To Maintain Insurance. Failure of a licensee to obtain and maintain insurance coverage

required by Section 54-2013, Idaho Code, regardless whether coverage is later obtained and made retroactive by the carrier, will result in denial or inactivation of any active license and will be deemed insufficient application for licensure under Section 67-5254, Idaho Code. A late insurance renewal is considered failure to maintain insurance. Failure to maintain insurance shall be grounds for disciplinary action. ()

05. Falsification Of Certificates. Any licensee who, acting alone or in concert with others, willfully or knowingly causes or allows a certificate of coverage to be filed with, or produced to, the commission which is false, fraudulent, or misleading, will be subject to disciplinary action, including but not limited to suspension or revocation of license, in accordance with Chapter 52, Title 67, Idaho Code; provided, however, that nothing herein will entitle such licensee to notice and hearing on the automatic inactivation of license. ()

101. -- 149. (RESERVED)

150. EDUCATION.

01. Education Records Access. As provided for in Section 74-106, Idaho Code, the Commission may enable a designated broker to access and review the education records of any licensee currently licensed with the broker. ()

02. Approved Topics For Continuing Education. ()

a. Topics Approved by the Commission. Topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, will be approved by the Commission as they pertain to real estate brokerage practice and actual real estate knowledge. ()

b. Topics Not Eligible for Continuing Education Credits. Topics which are specifically exam preparation in nature or not directly related to real estate brokerage practice will not be eligible for approval. ()

03. Minimum Teaching Standards. All courses offered for credit by a certified provider will be taught in accordance with the standards and written policies adopted by the Real Estate Commission. Course instructors will conduct themselves in a professional manner when performing instructional duties and will not engage in conduct that criticizes, degrades, or disparages the Commission, any student, other instructor, brokerage, agency, or organization. ()

a. Certification Requirement. A course required to be taught by a Commission-certified or Commission-approved instructor will be taught only by an instructor that is currently approved or certified for that course. ()

b. Outlines and Curriculum. A course must be taught in accordance with the course outline or curriculum approved by the Commission. ()

c. Attendance Requirement. The course instructor will adhere to the Commission's written attendance policy and credit hours will only be submitted for students who have successfully met the attendance requirements for which the course was approved. ()

d. Maintaining Exam Security. The instructor will take reasonable steps to protect the security of course examinations and will not allow students to retain copies of final course examinations or the exam answer key. ()

e. Use of Exam Questions Prohibited. The instructor will not obtain or use, or attempt to obtain or use, in any manner or form, Idaho real estate licensing examination questions. ()

151. -- 199. (RESERVED)

~~006~~**200. ELECTRONIC SIGNATURES PRACTICE STANDARDS.**

01. Electronic Signatures. Electronic signatures are permissible in accordance with the Uniform

Electronic Transactions Act, Title 28, Chapter 50.

~~(3-28-23)~~()

~~02. **Disputes Concerning Commissions and Fees.** The Idaho Real Estate Commission will not be involved in the resolution of disputes between licensees or between licensees and buyers and sellers concerning matters of commissions or fees. ()~~

~~03. **Legal Opinions.** A broker or sales associate will not discourage any party to a real estate transaction from seeking the advice of an attorney. ()~~

~~201. -- 299. (RESERVED)~~

~~300. **DISCIPLINE.**~~

~~Any violation of these rules, or of any provision of Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code, is sufficient cause for disciplinary action as prescribed in Sections 54-2059, 54-2060, or 55-1811, Idaho Code. ()~~

~~007301. -- 099399.(RESERVED)~~

APPLICATION, LICENSURE, AND TERMINATION OF LICENSES
Rules 100 through 199

~~100400. **FEES.**~~

License and other fees:

	Initial License	Renewal	Late Fee	Other
Broker	\$160	\$160	\$25	
Salesperson	\$160	\$160	\$25	
Business Entity	\$50	\$50	\$25	
Branch Office	\$50	\$50	\$25	
Cooperative License	\$100			
Education or License History				\$10
License Certificate				\$15

(3-28-23)

~~101. -- 104. (RESERVED)~~

~~105. **CONDITIONS TO RENEW EXPIRED LICENSE.**~~

~~The Commission may accept a licensee's application to renew an expired license upon the following conditions:~~

~~(3-28-23)~~

~~01. **Payment of Late Fee.** The applicant must pay the late license renewal fee.~~

~~(3-28-23)~~

~~02. **Renewal After Expiration of Active License.** If an active license expires, the licensee must complete and submit with the application an attestation that during the period the license was expired, the licensee either did or did not do or attempt to do any acts described in the definitions of real estate broker or salesperson in Section 54-2004, Idaho Code.~~

~~(3-28-23)~~

~~03. **Investigate or Discipline a Licensee.** Nothing in this Section limits the ability of the Commission to investigate or discipline a licensee for violating Subsection 54-2018(3), Idaho Code, or for violating any other provision of the Real Estate License Law or these rules.~~

~~(3-28-23)~~

~~106. 116. (RESERVED)~~

~~117. MANDATORY ERRORS AND OMISSIONS INSURANCE.~~

~~Every licensee, upon obtaining or renewing an active real estate license in the state of Idaho will have in effect and maintain a policy of errors and omissions insurance as required by Section 54 2013, Idaho Code, to cover all activities contemplated under Chapter 20, Title 54, Idaho Code and will certify such coverage to the Commission in the form and manner prescribed by statute, these rules, and any policy adopted by the Commission. (3-28-23)~~

~~118. INSURANCE PLAN.~~

~~The Commission will make available to all active licensees, subject to terms and availability from a qualified insurance carrier, a policy of Errors and Omissions Insurance under a Group Plan obtained by the Commission. Licensees may obtain errors and omissions insurance independently of the Group Policy available through the Commission, subject, however, to the terms and conditions set forth in these rules. (3-28-23)~~

~~01. Insurance Carrier. For the purposes of Section 118: (3-28-23)~~

~~a. Shall maintain an A.M. Best Company rating of B+ or better, and an A.M. Best Financial Size Category of Class VI or higher; (3-28-23)~~

~~b. Is and will remain for the policy term duly authorized by the Idaho Department of Insurance to do business in the state of Idaho as an insurance carrier; and (3-28-23)~~

~~e. Is and will remain for the policy term qualified and authorized by the Idaho Department of Insurance to write policies of errors and omissions insurance in Idaho of the type contemplated by these rules. (3-28-23)~~

~~02. Approved Policy. The policy shall cover all activities contemplated under Chapter 20, Title 54, Idaho Code, be subject to such terms and conditions as are customary in the insurance industry for policies of errors and omissions insurance, which are otherwise permissible under Idaho law and the rules of the Idaho Insurance Department, and which are contained in a policy of insurance which has been approved by the Department of Insurance. That policy shall provide, at a minimum, the following terms and conditions:~~

	Limit Liability Coverage for Each Occurrence Not Less Than	Annual Aggregate Limit Not Less Than
Individual License Coverage	\$100,000*	\$300,000*
Firm Coverage	\$500,000*	\$1,000,000*
	*Not including costs of investigation and defense	

~~(3-28-23)~~

~~a. A deductible amount of not greater than three thousand five hundred dollars (\$3,500), which includes costs of investigation and defense; (3-28-23)~~

~~b. A policy period equal to each licensee's two (2) year license renewal date or the prorated equivalent, or, if an annually renewable policy, a statement of the policy period, and in either case, the policy shall provide for continuous coverage during the policy period; (3-28-23)~~

~~e. An extended reporting period per insured of at least ninety (90) days following termination of the policy period; and (3-28-23)~~

~~d. Prior acts coverage shall be offered to licensees with continuous past coverage. (3-28-23)~~

~~119. (RESERVED)~~

~~120. CERTIFICATION A PREREQUISITE FOR LICENSE ISSUANCE OR RENEWAL.~~

~~Issuance or renewal of an active license requires certification of compliance that satisfies the requirements of Section 54-2013, Idaho Code. (3-28-23)~~

~~121. FAILURE TO MAINTAIN INSURANCE.~~

~~Failure of a licensee to obtain and maintain insurance coverage required by Section 54-2013, Idaho Code, regardless whether coverage is later obtained and made retroactive by the carrier, will result in denial or inactivation of any active license and will be deemed insufficient application for licensure under Section 67-5254, Idaho Code. A late insurance renewal is considered failure to maintain insurance. Failure to maintain insurance shall be grounds for disciplinary action. (3-28-23)~~

~~122. FALSIFICATION OF CERTIFICATES.~~

~~Any licensee who, acting alone or in concert with others, willfully or knowingly causes or allows a certificate of coverage to be filed with, or produced to, the Commission which is false, fraudulent, or misleading, will be subject to disciplinary action, including but not limited to suspension or revocation of license, in accordance with Chapter 52, Title 67, Idaho Code; provided, however, that nothing herein will entitle such licensee to notice and hearing on the automatic inactivation of license. (3-28-23)~~

~~123.—299. (RESERVED)~~

BUSINESS CONDUCT
Rules 300 through 399

~~300. DISPUTES CONCERNING COMMISSIONS AND FEES.~~

~~The Idaho Real Estate Commission will not be involved in the resolution of disputes between licensees or between licensees and buyers and sellers concerning matters of commissions or fees. (3-28-23)~~

~~301. (RESERVED)~~

~~302. TITLE OPINIONS.~~

~~No real estate broker or sales associate will pass judgment upon or give an opinion with respect to the marketability of the title to property in any transaction. (3-28-23)~~

~~303. LEGAL OPINIONS.~~

~~A broker or sales associate will not discourage any party to a real estate transaction from seeking the advice of an attorney. (3-28-23)~~

~~304. (RESERVED)~~

~~305. EDUCATION RECORDS ACCESS.~~

~~As provided for in Section 74-106, Idaho Code, the Commission may enable a designated broker to access and review the education record of any licensee currently licensed with the broker. (3-28-23)~~

~~306.—399. (RESERVED)~~

CONTINUING EDUCATION
Rules 400 through 499

~~400.—401. (RESERVED)~~

~~402. APPROVED TOPICS FOR CONTINUING EDUCATION.~~

~~Continuing education is to assure that licensees possess the knowledge, skills, and competency necessary to function in a manner that protects and serves the public interest, or that promotes the professionalism and business proficiency of the licensee. The knowledge or skills taught in an elective course will enable licensees to better serve real estate consumers. (3-28-23)~~

~~**01. Topics Approved by the Commission.** Topic areas for continuing education, as provided for in~~

~~Sections 54-2023 and 54-2036, Idaho Code, will be approved by the Commission as they pertain to real estate brokerage practice and actual real estate knowledge. (3-28-23)~~

~~02. **Topics Not Eligible for Continuing Education Credits.** Topics which are specifically exam preparation in nature or not directly related to real estate brokerage practice will not be eligible for approval. (3-28-23)~~

~~403. — 499. (RESERVED)~~

EDUCATION TEACHING STANDARDS
Rules 500 through 599

~~500. **MINIMUM TEACHING STANDARDS.**~~

~~All courses offered for credit by a certified provider will be taught in accordance with the standards and written policies adopted by the Real Estate Commission. Course instructors will conduct themselves in a professional manner when performing instructional duties and will not engage in conduct that criticizes, degrades, or disparages the Commission, any student, other instructor, brokerage, agency, or organization. (3-28-23)~~

~~01. **Certification Requirement.** A course required to be taught by a Commission-certified or Commission approved instructor will be taught only by an instructor that is currently approved or certified for that course. (3-28-23)~~

~~02. **Outlines and Curriculum.** A course must be taught in accordance with the course outline or curriculum approved by the Commission. (3-28-23)~~

~~03. **Attendance Requirement.** The course instructor will adhere to the Commission's written attendance policy and credit hours will only be submitted for students who have successfully met the attendance requirements for which the course was approved. (3-28-23)~~

~~04. **Maintaining Exam Security.** The instructor will take reasonable steps to protect the security of course examinations and will not allow students to retain copies of final course examinations or the exam answer key. (3-28-23)~~

~~05. **Use of Exam Questions Prohibited.** The instructor will not obtain or use, or attempt to obtain or use, in any manner or form, Idaho real estate licensing examination questions. (3-28-23)~~

~~501-401. -- 999. (RESERVED)~~