

PROPOSED RULE AMENDMENTS

MARK UP VERSION

For the purpose of allowing broker pre-license, broker post-license and salesperson post-license education to be taken by distance education or on-line

Sections Amended:

- Section 4.1 Applications; education; experience.
- Section 11.5 Post-license education requirement.
- Section 16.1 Instructor application; education; experience.
- Section 16.3 Course approval requirements.

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AUG 27 2019
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4.1 Applications; education; experience.

Applicants for original licensure as a broker or salesperson must apply on forms provided by the Commission, pay the application fee established by these regulations, and meet the following requirements:

(a) Broker applicants must provide proof of the following:

- (1) Attainment of the age of majority, which proof may consist of a birth certificate or copy thereof, driver's license, or other document or proof of age which is satisfactory to the Commission;
- (2) Successful completion within thirty six (36) months immediately preceding the date of the application of a course or courses of instruction in real estate by actual classroom attendance *or completion of approved distance education* of which at least forty-five (45) hours are in a course developed by the Commission, for a total of not less than sixty (60) classroom hours. Proof of completion of such education requirement shall consist of the original certificate(s), or certified copies thereof, from the school or organization or other documentation satisfactory to the Commission;

(3)(A) Service by the applicant of an active bona fide apprenticeship by holding a valid real estate salesperson's license issued by the Commission, or by holding a valid real estate salesperson's license or broker's license issued by the appropriate licensing agency of another state, for a period of not less than twenty four (24) months within the previous forty eight (48) month period immediately preceding the date of application, which proof may consist of the official license records of the Commission or certified copies of licensure records of the appropriate licensing agency of another state, plus such other documentation as the Commission deems satisfactory to demonstrate that the applicant has gained experience in the real estate business equal to that which would be gained by a person engaged in the real estate business on a full time basis during a minimum two year period of time; Listings, sales or other licensed activities may be considered by the commission in determining whether the applicant meets this qualification; Consideration shall be given to the broker applicant's local real estate market and/or specialized area of real estate practice. Any person whose application for broker license is denied by the executive director may appeal such denial to the Commission provided the request is in writing and received in the office of the Commission not later than sixty (60) days following the date of denial by the executive director.

(B) However, pursuant to Section § 17-42-303 (b)(2) the Commission may waive such experience requirement for a real estate broker applicant who has held an active real estate broker's license for a period of not less than eighteen (18) months or who has experience acceptable to the commission in a field considered real estate related for a period of not less than twenty-four months within the previous forty-eight-month period immediately preceding the date of application. Each request for such waiver shall be in writing and shall include such proof as necessary to establish the applicant's eligibility for the waiver. Such proof may consist of the official license records of the Commission, certified copies of

license records of the appropriate licensing agency of another state, or such other documentation as the Commission deems satisfactory;

(4) The applicant's affidavit that he/she has no record of unprofessional conduct;

(5) Any other information or documents related to professional licenses held by the applicant; formal disciplinary actions by regulatory agencies; or, pending lawsuits filed or judgments entered against the applicant for fraud, deceit, dishonesty, misrepresentation, or conversion of property including money belonging to another.

(b) Salesperson applicants must provide proof of the following:

(1) Attainment of the age of majority, which proof may consist of a birth certificate or copy thereof, driver's license, or other document or proof of age which is satisfactory to the Commission;

(2) Successful completion of a course or courses of instruction in real estate by actual classroom attendance or completion of approved ~~correspondence~~ distance education courses of not less than sixty (60) classroom hours, of which at least thirty (30) hours must be in the basic principles of real estate; which proof shall consist of the original certificate(s), or certified copies thereof, from the school or other organization or other documentation satisfactory to the Commission;

(3) The applicant's affidavit that he/she has no record of unprofessional conduct;

(4) Any other information or documents related to professional licenses held by the applicant; formal disciplinary actions by regulatory agencies; or, pending lawsuits filed or judgments entered against the applicant for fraud, deceit, dishonesty, misrepresentation, or conversion of property including money belonging to another.

(c) (1) The Commission may require each original applicant for a salesperson or broker license, including nonresident applicants applying pursuant to Arkansas Code Ann. § 17-42-305, using forms furnished by and pursuant to instructions provided by the Commission to apply for a state and federal criminal background check to be conducted by the Identification Bureau of the Department of Arkansas State Police and Federal Bureau of Investigation pursuant to Arkansas Code Ann. § 17-42-315.

(2) "Criminal background check" means a state and nation-wide criminal records check conducted by the Arkansas State Police and Federal Bureau of Investigation, including the taking of fingerprints.

(3) Each such applicant shall submit, prior to or with the Application for Real Estate Examination, the form furnished by the Commission authorizing the release of the applicant's criminal background check report to the Commission and shall pay any applicable fees, associated with the State and Federal criminal background checks, pursuant to written instructions provided by the Commission. The release form shall authorize the Identification Bureau of the Arkansas State Police to forward all criminal history information obtained concerning the applicant in regard to any offense referred to in Arkansas Code Ann. § 17-42-315 to the Commission.

(4) The criminal background check shall be completed within six months immediately preceding the date the Application for Real Estate License Examination is received in the Commission's office, and if not, the application shall be returned to the applicant.

(5) Upon request and proof of identification satisfactory to the Commission the Commission may make the report of any criminal information available to the applicant who is the subject of the report and shall provide the applicant a reasonable time to challenge the accuracy or completeness of the information therein, through the State Identification Bureau pursuant to Arkansas Code Ann. § 12-12-211 and Arkansas Crime Information Center Regulation 7(F).

(6) Should an applicant challenge his/her conviction report, he/she shall notify the Commission in writing. After receipt of such notice, the Commission shall not determine whether an applicant is qualified for the license applied for until the applicant has had reasonable opportunity to challenge said conviction report and shall not process the application until the challenge of said report is resolved by the State Identification Bureau and/or Arkansas Crime Information Center. The applicant shall notify the Identification Bureau to forward to the Commission changes in the applicant's report as a result of any such challenge.

(7) Except as provided in Arkansas Code Ann. § 17-42-315 (g), no person shall receive or hold a license issued by the Commission if the person has been convicted by any court in the State of Arkansas

or of any similar offense by a court in another state or of any similar offense by a federal court of an offense identified in Ark. Code Ann. § 17-42-315 (f).

(8) After a hearing the Commission may waive a conviction identified in the preceding paragraph, upon application of the applicant, pursuant to the provisions of Ark. Code Ann. § 17-42-315 (g).

(d) (1) Broker applicants who have previously held an Arkansas real estate license shall not be required to:

- (A) complete any pre-license education previously completed by the broker applicant, or
- (B) demonstrate fulfillment of the requirements of Regulation 4.1(a)(3)(A).

(2) Broker applicants who have previously held an Arkansas real estate license shall be required to:

- (A) pay the application fee established by these regulations;
- (B) comply with the requirements of subsection (c) of this section;
- (C) provide an affidavit that he/she has no record of unprofessional conduct and is not holding a suspended or probationary professional license in any state; and
- (D) provide any other information or documents related to professional licenses held by the applicant; formal disciplinary actions by regulatory agencies; or, pending lawsuits filed or judgments entered against the applicant for fraud, deceit, dishonesty, misrepresentation, or conversion of property including money belonging to another.

(3) The Executive Director may waive the requirement to complete the broker licensure exam and may consider the following when granting a waiver under this subsection:

- (A) the length of time an Arkansas real estate broker license was held; and
- (B) the length of time since the applicant held an Arkansas real estate broker license.

(4) Salesperson applicants who have previously held an Arkansas real estate salesperson license shall not be required to complete any pre-license education.

(5) Salesperson applicants who have previously held an Arkansas real estate license shall be required to:

- (A) pay the application fee established by these regulations;
- (B) comply with the requirements of subsection (c) of this section;
- (C) provide an affidavit that he/she has no record of unprofessional conduct and is not holding a suspended or probationary professional license in any state; and
- (D) provide any other information or documents related to professional licenses held by the applicant; formal disciplinary actions by regulatory agencies; or, pending lawsuits filed or judgments entered against the applicant for fraud, deceit, dishonesty, misrepresentation, or conversion of property including money belonging to another.

(6) The Executive Director may waive the requirement to complete all or part of the salesperson licensure exam and may consider the following when granting a waiver under this subsection:

- (A) the length of time an Arkansas real estate salesperson license was held; and
- (B) the length of time since the applicant held an Arkansas real estate salesperson license.

(7) Broker and salesperson applicants who have previously held an Arkansas real estate license and have been exempted from the exam pursuant to the above must submit proof of satisfactorily completing nine (9) classroom hours or equivalent continuing education units of approved continuing education for each year during which his or her license was expired, not to exceed thirty (30) classroom hours.

(8) Except as provided in this subsection, broker and salesperson applicants who have previously held an Arkansas real estate license must comply with all other requirements of Regulation 4.1.

(e) All classroom hours required by Regulation 4.1(a) and (b) shall be conducted by:

- (1) An accredited postsecondary school wherever situated; or
- (2) A school or organization licensed by the Commission.
- (3) A school or organization approved by a real estate licensing jurisdiction deemed equivalent by the Commission.

(f) The course or courses of instruction requirements of Regulation 4.1(b) may be satisfied by successful completion of such distance education courses as the Commission may by regulation require, giving due consideration to the number of hours necessary to provide instruction in basic competencies

required for a salesperson's or a broker's license.

(g) Both broker and salesperson applicants shall also answer all questions and provide all information requested on the examination application, and shall provide such other information or documentation as the Commission may require.

(h) Applicants that have provided all requirements of Regulation 4.1, may sit for the real estate examination, provided that a state and federal criminal background check, as required by ACA § 17-42-315, has been sent to the Identification Bureau of the Department of Arkansas State Police for a state and federal criminal background check. However no license shall be issued upon successful completion of the examination, until receipt and approval by the Commission of the state and federal criminal background check.

(i) All applications expire one (1) year after the date of the application or upon successful completion of the examination, whichever first occurs. Provided, however that the application of an applicant who takes and passes either part of the examination within one (1) year from the date of his application shall not expire until the six (6) months allowed for retaking the failed portion pursuant to Regulation 4.2(c) has expired.

(j) Application fees are non-refundable.

11.5 Post-license education requirements

(a) Each salesperson and broker will complete a post-license education course as provided herein.

(b) Salespersons shall complete an eighteen (18) classroom hour salesperson course.

(c) Brokers shall complete the thirty (30) classroom hour broker course developed by the Commission.

(d) All post-license education courses shall be conducted by either the Arkansas Real Estate Commission, a school or organization licensed by the Commission, or post-secondary school accredited by a nationally recognized accrediting agency approved by the U.S. Department of Education wherever situated. All post-license education hours ~~shall be conducted by actual classroom attendance~~ may be offered by classroom instruction or approved distance education.

(e) The Arkansas Real Estate Commission will establish the course content for the post-license education courses for new salespersons and brokers.

(f) The broker or salesperson shall deliver to the Commission the original certificate of completion of the post-license education course, or a copy thereof, from an approved provider, or other documentation satisfactory to the Commission. Said documentation must be received by the Commission no later than the end of the month six (6) months following the date of the broker's or salesperson's initial license. If documentation of an individual's post-license education is not received by the Commission within said time period, the license will be placed on inactive status until the broker or salesperson files satisfactory documentation of his completion of said post-license education course.

(g) A broker who is initially licensed in that capacity cannot become an executive broker or principal broker until such broker has completed and filed satisfactory documentation of his completion of the post-license broker education course. However, the Commission may temporarily waive this requirement for a real estate broker who has submitted proof of enrollment in an upcoming course acceptable to the Commission.

16.1 Instructor applications; education; experience.

Applicants for original licensure as a Principal or Associate Instructor must apply on forms provided by the Commission, pay the application fee established by these regulations, and meet the following requirements:

(a) Broker pre-license and broker post-license Instructor applicants must provide proof of the following:

(1) Completion of not less than a high school diploma or GED;

(2) Successful completion of the following courses of instruction in real estate, which proof shall consist of the original certificate(s) or certified copies thereof, from the school or other organization or other documentation satisfactory to the Commission:

(A) Not less than thirty (30) classroom hours in the basic principles of real estate completed by actual classroom attendance or completion of approved distance education courses;

(B) Not less than sixty (60) classroom hours in broker pre-license education to include not less than forty-five (45) hours of broker pre-license education developed by the Commission, completed by actual classroom attendance *or approved distance education*;

(C) Not less than eighteen (18) classroom hours in salesperson post-license education and thirty (30) hours in broker post-license education developed by the Commission, completed by actual classroom attendance *or approved distance education*;

(3) Have in Real Estate five (5) years of work experience within the immediately preceding six (6) years; and

(4) Hold and maintain a current active Arkansas Real Estate Broker License.

(b) Salesperson pre-license Instructor applicants must provide proof of the following:

(1) Completion of not less than a high school diploma or GED;

(2) Successful completion of a course or courses of instruction consisting of not less than thirty (30) classroom hours in the basic principles of real estate completed by actual classroom attendance or completion of approved distance education courses, which proof shall consist of the original certificate(s) or certified copies thereof, from the school or other organization or other documentation satisfactory to the Commission;

(3) Have in Real Estate five (5) years of work experience within the immediately preceding six (6) years; and

(4) Hold and maintain a current active Arkansas Real Estate Broker License.

(c) Salesperson post-license Instructor applicants must provide proof of the following:

(1) Completion of not less than a high school diploma or GED;

(2) Successful completion of the following courses of instruction in real estate, which proof shall consist of the original certificate(s) or certified copies thereof, from the school or other organization or other documentation satisfactory to the Commission:

(A) Not less than thirty (30) classroom hours in the basic principles of real estate completed by actual classroom attendance or completion of approved distance education courses;

(B) Not less than eighteen (18) classroom hours in salesperson post-license education developed by the Commission, completed by actual classroom attendance *or approved distance education*;

(3) Have in Real Estate five (5) years of work experience within the immediately preceding six (6) years; and

(4) Hold and maintain a current active Arkansas Real Estate Broker License.

(d) Continuing education Instructor applicants must provide proof of the following:

(1) Completion of not less than a high school diploma or GED;

(2) Successful completion of a course or courses of instruction consisting of not less than thirty (30) classroom hours in the basic principles of real estate completed by actual classroom attendance or completion of approved distance education courses, which proof shall consist of the original certificate(s) or certified copies thereof, from the school or other organization or other documentation satisfactory to the Commission

- (3) Have in Real Estate five (5) years of work experience within the immediately preceding six (6) years; and
- (4) Hold and maintain a current active Arkansas Real Estate Broker License.
- (e) Real estate Guest Speakers must:
 - (1) Have in the subject matter being presented five (5) years of work experience within the immediately preceding six (6) years;
 - (2) Register with the Commission on forms prescribed by the Commission; and
 - (3) Refrain from engaging in product and/or service promotion during class time.
- (f) All Instructors shall demonstrate in a manner satisfactory to the Commission a thorough, accurate and current knowledge of the subject matter being taught.
- (g) The Commission may require Instructor and Administrator attendance at an annual Educator Retreat Workshop and other semi-annual Instructor training workshops.

16.3 Course approval requirements.

Applications for real estate education course approvals must be submitted on forms provided by the Commission and accompanied by the application fee established by these regulations and shall meet the following requirements:

- (a) Salesperson Pre-License Courses:
 - (1) Must include not less than thirty (30) classroom hours in the basic principles of real estate; and
 - (2) May be offered by classroom instruction or approved distance education.
- (b) Broker Pre-License Courses:
 - (1) Must adhere to the Commission's approved broker pre-license education content outline, learning objectives and measurement tools;
 - (2) May not be marketed as examination preparation or "exam prep" courses; and
 - (3) ~~Must be offered by classroom instruction only~~ ***May be offered by classroom instruction or approved distance education.***
- (c) Salesperson and Broker Post-License Courses:
 - (1) Must adhere to the Commission's approved salesperson and broker post-license education content outlines, learning objectives and measurement tools; and
 - (2) ~~Must be offered by classroom instruction only.~~ ***May be offered by classroom instruction or approved distance education.***
- (d) Continuing Education Courses:
 - (1) Must be based upon subject matter topics identified by the Commission, as established by § 17-42-502;
 - (2) Must include a course outline and learning objectives; and
 - (3) May be offered by classroom instruction or approved distance education.