

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

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2002 JUN 13 P 2:44

Form #2

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Real Estate Commission TITLE NUMBER: 174

RULE TYPE: Legislative CITE AUTHORITY: WV Code §30-40-8

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 3

TITLE OF RULE BEING PROPOSED: Requirements in Approval and Registration of Real Estate
Courses, Course Providers and Instructors

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 14, 2002 AT 4:00 P.M. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Richard E. Strader, Executive Director

West Virginia Real Estate Commission

1033 Quarrier Street, Suite 400

Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Richard E. Strader

Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SCANNED

54.40



**State of West Virginia
Real Estate Commission**

1033 Quarrier Street, Suite 400
Charleston, West Virginia 25301-2315
(304) 558-3555
FAX (304) 558-6442
www.state.wv.us/wvrec

RICHARD E. STRADER, CPA
EXECUTIVE DIRECTOR

COMMISSIONERS

VAUGHN L. KIGER, CHAIRMAN
MORGANTOWN

ROBERT P. MCLEAN, VICE CHAIRMAN
BECKLEY

JOHN H. REED, III, SECRETARY
HURRICANE

SUMMARY OF PROPOSED LEGISLATIVE RULE

AGENCY: Real Estate Commission

RULE: 174-3

STATUTORY
AUTHORITY: WV Code §30-40-8

SUMMARY

Proposing a new rule to:

1. Contain the provisions relating to real estate courses, course providers and instructors.



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**STATEMENT OF CIRCUMSTANCES
REQUIRING PROPOSED LEGISLATIVE RULE**

AGENCY: Real Estate Commission
RULE: 174-3
STATUTORY
AUTHORITY: WV Code §30-40-8

STATEMENT OF CIRCUMSTANCES

1. The provisions contained in this rule were previously contained in CSR §174-1, which is being amended. As part of the process, the Real Estate Commission concluded it was more appropriate to have the rules relating to educational issues in a separate rule.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 174, Series 3 - Requirements in Approval and Registration of Real Estate Co

Type of Rule: Legislative Interpretive Procedural

Agency: Real Estate Commission

Address: 1033 Quarrier Street, Suite 400

Charleston, WV 25301

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0.00	0.00	0.00	0.00	0.00
PERSONAL SERVICES	0.00	0.00	0.00	0.00	0.00
CURRENT EXPENSE	0.00	0.00	0.00	0.00	0.00
REPAIRS & ALTERATIONS	0.00	0.00	0.00	0.00	0.00
EQUIPMENT	0.00	0.00	0.00	0.00	0.00
OTHER	0.00	0.00	0.00	0.00	0.00

2. Explanation of Above Estimates:

No increased costs are projected to result from implementation of this rule.

3. Objectives of These Rules:

To promulgate rules required by the passage of Senate Bill #453, which moved the real estate license act into Chapter 30 of State Code.

Rule Title: Requirements in Approval and Registration fo Real Estate Courses, Course Provi

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

None

C. Economic Impact on Citizens/Public at Large.

None

Date: June 13, 2002

Signature of Agency Head or Authorized Representative:

Richard E. Strader

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: June 13, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Real Estate Commission
1033 Quarrier Street, Suite 400
Charleston, WV 25301

Phone: 304-558-3555

LEGISLATIVE RULE TITLE: Title 174, Series 3 - Requirements in Approval and
Registration of Real Estate Courses, Course Providers and
Instructors

1. Authorizing statute(s) citation WV Code §30-40-8

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 13, 2002

b. What other notice, including advertising, did you give of the hearing?
Notice to all real estate offices that the rule had been proposed.
Notice to all providers of prelicense and continuing education courses.
Posting of the proposed rule on the Commission's Web Site.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
Public Comment Period: July 14, 2002

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Richard E. Strader, Executive Director

WV Real Estate Commission
1033 Quarrier Street, Suite 400
Charleston, WV 25301

Phone: 304-558-3555

Fax: 304-558-6442

Email: <wvrec@wvrec.state.wv.us>

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

**TITLE 174
LEGISLATIVE RULE
REAL ESTATE COMMISSION**

FILED

SERIES 3

**REQUIREMENTS IN APPROVAL AND REGISTRATION OF REAL ESTATE COURSES,
COURSE PROVIDERS AND INSTRUCTORS.**

2007 JUN 15 2:45

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§174-3-1. General.

1.1. Scope. -- This legislative rule establishes the minimum requirements and qualifications necessary for approval and registration of providers, instructors, courses and the content of pre-license education courses and continuing education courses.

1.2. Authority. -- W. Va. Code §30-40-8

1.3. Filing Date. --

1.4. Effective Date. --

§174-3-2. Definitions.

2.1. Commission. -- The term "Commission" means the West Virginia Real Estate Commission as authorized by WV Code §30-40-6.

2.2. Distance Education. -- The term "Distance Education" means courses of instruction in which instruction takes place through media where the teacher and student are separated by distance and sometimes by time.

2.3. Licensee. -- The term "licensee" means a broker, an associate broker, and a salesperson as defined in WV Code §30-40-4.

2.4. Applicant. -- The term "applicant" means any person, partnership, association or corporation who is making application to the Commission for a real estate license.

§174-3-3. Real Estate Courses, Course Providers and Instructors.

30.1. Certification of Commission. -- All real estate courses, course providers and instructors must be certified by and registered with the Commission prior to offering or conducting a course of education in compliance with the pre-license education requirement provided for in WV Code § 30-40-14, or the continuing education requirement provided for in WV Code § 30-40-16. Post-Secondary Education Institutions accredited by an accrediting agency officially recognized by the United States Department of Education are approved providers.

30.2. Pre-License Education.

a. The ninety hour (six credit hour) course prescribed for applicants for a salesperson's license shall consist of:

- 30 clock hours - Real Estate Principles and Practice
- 20 clock hours - Real Estate Law
- 20 clock hours - Real Estate Finance
- 20 clock hours - Real Estate Appraisal

b. The additional ninety hour (six credit hour) course prescribed for applicants for a broker's license shall also consist of the same hours in each subject area but shall consist of more in-depth coverage in each subject area.

c. The grading scale for all course providers offering mandatory pre-license real estate education shall be:

- | | |
|--------------|-------------|
| A = 95%-100% | D = 71%-74% |
| B = 86%- 94% | F = 00%-70% |
| C = 75%- 85% | |

In order to sit for the real estate examination, the applicant must have earned a grade of A, B or C in each subject area.

d. After a student has successfully completed an approved pre-license education course, the approved provider shall supply the student with a certificate of course completion which certifies the student's name and address, the course completion date, the number of hours in each subject area, and the letter grade earned.

e. All approved providers shall maintain records indicating the students who have registered for each course, the completion date of the course and the final results of their attendance. These records must be maintained for a minimum period of five (5) years and are subject to inspection by the Commission or its authorized representative. On December 31 of each year, every approved provider shall compile a list of the students completing each class during the previous calendar year and submit the information to the Real Estate Commission prior to January 31 of the succeeding year. Provided, that Post-Secondary Education Institutions approved under Section 30.1 of this rule are exempt from this requirement.

f. The Commission will accept pre-license education courses approved by the Real Estate Regulatory Agency of any other licensing jurisdiction in meeting West Virginia pre-license education requirements if the jurisdiction offers the same privilege to West Virginia. The Commission will not give credit for classroom hours earned in excess of the number of hours awarded by the other jurisdiction.

g. The Commission will prepare and supply a suggested course outline of the material to be taught in the pre-license courses, and will supply supplemental material when the Commission deems it necessary. In addition, the Commission may recommend suggested textbooks to be used in the courses.

30.3. Continuing Education.

a. Guidelines

1. All continuing education courses should contribute directly to the professional competence of the individual.

2. Materials used in programs should be developed by qualified individuals for use with specified teaching methods.

3. Program content must be current.

b. A provider must submit all course materials to the Commission at the time approval is requested. All continuing education course approvals expire on June 30 of each year. All approved course providers shall make application to the Commission for approval of every continuing education course on forms supplied by the Commission and each application shall be accompanied by the appropriate registration fee which is non-refundable. The application shall be accompanied by a copy of all course materials proposed to be used in the course, a copy of any proposed advertisements and any other information that may be required by the Commission.

c. The minimum length of a continuing education course will be three (3) hours with each hour equalling fifty (50) minutes of instruction. The Commission shall determine the amount of credit to be awarded for each course.

d. The Commission will approve courses that deal with real estate related subjects including but not limited to real estate law, agency, ethics, civil rights, equal opportunity, appraisal, contract law, finance, and principal/agent relationships.

e. When approved audio or video tapes are used, a certified instructor must be present at all times while class is in session.

f. Instructors of continuing education courses may obtain credit toward the continuing education requirement in the same amount as the number of hours awarded to the students but only for the first time the course is taught. No credit shall be given for subsequent teaching of the same course.

g. Each course provider approved to offer continuing education courses shall maintain records indicating the student's name and address, the completion date of the course, the course title, and the amount of hours awarded. These records must be maintained for a minimum period of five (5) years and shall be open to inspection by the Commission or its authorized representative. Each approved provider shall annually supply the Commission with a comprehensive list of all students who have completed a course in continuing education at their institution during the fiscal year July 1 through June 30 no later than July 15 of the succeeding fiscal year. Provided, that Post-Secondary Education Institutions approved under Section 30.1 of this rule, are exempt from this paragraph.

h. Distance Education Courses.

1. The Commission will not approve any distance education course that is not structured and cannot be monitored.

2. Each distance education course must, at a minimum, contain a comprehensive final examination consisting of both objective and subjective types of questions in sufficient quantity to assure the student has a thorough knowledge of the course material. In conjunction with submission of the final comprehensive examination to the course provider, the student must execute an affidavit under the penalties of false swearing stating he or

she is the individual that completed the final examination, that he or she received no assistance while completing the examination and that he or she actively studied the material in the course for at least the number of hours specified to be awarded for completion of the course.

3. A course provider may not issue a certificate of course completion to any student prior to successful completion of the final comprehensive examination. The minimum passing score on the final comprehensive examination shall be 75%.

30.4. Instructors of pre-license and continuing education courses.

a. Each instructor shall apply for and be approved prior to instructing any real estate course. Provided, that this requirement shall not apply to any guest speaker or to any instructor or professor of a Post-Secondary Educational Institution that is accredited by an accrediting agency officially recognized by the United States Department of Education.

b. An instructor will be approved by the Commission only if he or she:

1. Is an attorney at law with a minimum of five (5) years of active practice in the area of study he or she proposes to teach;

2. Holds a degree in real estate from an accredited college or university;

3. Is a licensed real estate broker, associate broker, or salesperson with a minimum of five (5) years experience in the area of study he or she proposes to teach;

4. Holds a degree from an accredited college or university and has at least (2) years of teaching experience and possesses a minimum of two hundred (200) classroom hours in the area of study he or she proposes to teach; or

5. Has a minimum of three (3) years of professional or educational experience as a teacher in the area of study he or she proposes to teach.

30.5 Promotion of products or services prohibited. -- A course provider or instructor may not promote any product or service while offering or conducting any pre-license or continuing education course.