



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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November 20, 2002

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Richard E. Strader
Real Estate Commission
1033 Quarrier St. Suite 400
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

Proposed Rule: Requirements in Approval and Registration of Real Estate Courses, Course Providers and Instructors, 174CSR3

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

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SCANNED

FILED

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ANALYSIS OF PROPOSED LEGISLATIVE RULES

2002 NOV 13 A 10:12

Agency: Real Estate Commission

OFFICE OF THE SECRETARY OF STATE

Subject: Requirements in Approval and Registration of Real Estate Courses, Course Providers and Instructors, 174CSR3

PERTINENT DATES

Filed for public comment: June 13, 2002

Public comment period ended: July 14, 2002

Filed following public comment period: July 19, 2002

Filed LRMRC: July 19, 2002

Filed as emergency:

Fiscal Impact: None

ABSTRACT

BRIEF SUMMARY:

1. The new rule contains the provisions relating to real estate courses, course providers and instructors.

The proposed rule is new. The following is a section-by-section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines terms.

Defines terms necessary to implementing the rule.

Section 3 Real Estate Courses, Course Providers and Instructors.

The new rule provides, in part, the following:

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.

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

The rule provides a grading scale.

The rule sets forth provisions for providers relating to record keeping, licensing certificates, and pre-license education courses.

The rule sets forth provisions for continuing education courses, providers education requirements, Distance Education Courses.

AUTHORITY

Statutory authority: W.Va. Code, §30-40-8, which provides, in part, as follows:

(a) The commission may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code which are necessary for the conduct of its business, the holding of hearings and for the general implementation, enforcement and administration of the provisions of this article, including, but not limited to, establishing, administering and governing the following:

...(2) The minimum requirements and qualifications necessary for approval by the commission of providers, instructors and the course content of any prelicense education course required in section fourteen of this article;

...(6) The minimum requirements and qualifications necessary for approval by the commission of providers, instructors and courses of continuing professional education required by section sixteen of this article;

(7) Continuing professional education requirements for licensees, including any exemptions...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes

VIII. OTHER

None