



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Real Estate Commission TITLE-SERIES: 174-02
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 174-02 Schedule of Fees

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 30-40-8

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

§30-40-8. Rule-making authority.

- (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:
- (1) Fees for applications, examinations, licenses, renewal of licenses, changes to licenses requiring reissuance, courses, investigations, copies of records, license certifications and other fees considered necessary by the commission, none of which shall be prorated or refundable: Provided, That the fee schedule in effect prior to enactment of this article, enumerated in section nine, article twelve, chapter forty-seven of this code, shall continue to be effective until withdrawn, revoked or amended;
 - (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;
 - (3) The experience required of an applicant;
 - (4) The minimum standards for licensure;
 - (5) The standards for examinations;
 - (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;
 - (8) Renewal of licenses;

- (9) Use of firm or trade name;
- (10) Denying, suspending, revoking or reinstating a license;
- (11) Form and use of contracts used in a real estate transaction;
- (12) Notification required to clients or customers of agency relationship;
- (13) Professional conduct requirements; and
- (14) Any other purpose to carry out the requirements of this article or to protect the public interest.

(b) All rules in effect as of the passage of this article previously promulgated by the commission pursuant to article twelve, chapter forty-seven of this code will remain in effect until amended, modified, repealed or replaced, except that references to provisions of former enactments of this article are interpreted to mean provisions of this article

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/26/2017

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/26/2017

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

None

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This legislative rule establishes the fees to be charged by the Commission.

Licensing, license renewal and examination fees have not been changed, just presented in more logical way Some of the fees for changes to the current licensees and/or company status have been increased to reflect the business environment. This is the first proposed change in many years (since initiation of the fees).

Fees were proposed for initial approval, registration and renewal of pre-license and continuing education providers and instructors

A fee increase is proposed for the approval of continuing education courses which has not been changed since its initiation

Insufficient Funds (proposed § 174-2-3) explanation was added

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Fee Schedule for the agency

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

Little to none

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

Little to none

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2017 Increase/Decrease (use "-")	2018 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
	0	0	0

TITLE 174
LEGISLATIVE RULE
REAL ESTATE COMMISSION

SERIES 2
SCHEDULE OF FEES

§174-2-1. General.

1.1. Scope. -- This legislative rule establishes the fees to be charged by the Commission.

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

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset provision. -- This rule shall terminate and have no further force or effect upon the expiration of seven (7) years from its effective date.

§174-2-2. Schedule of fees.

~~2.1. Examination fee / Reexamination -- \$25.00, if the examination is administered by the Real Estate Commission.~~

~~2.2. Examination fee / Reexamination fee -- Up to \$150.00, not to exceed the actual cost to conduct the examination if the examination is provided by an accredited examination provider.~~

~~2.3. Original application fee -- \$25.00.~~

~~2.4. Broker / Associate broker license -- \$150.00, per year.~~

~~2.5. Salesperson license -- \$75.00, per year.~~

~~2.6. Branch office license -- \$150.00, per year.~~

~~2.7. Broker / Associate Broker renewal -- \$150.00, per year, payable by the fifteenth day of June.~~

~~2.8. Salesperson's renewal fee -- \$75.00, per year, payable by the fifteenth day of June.~~

~~2.9. Branch office renewal -- \$150.00 payable by the fifteenth day of June.~~

~~2.10. Change of Employing Broker -- \$10.00~~

~~2.11. Duplicate license -- \$10.00~~

~~2.12. Certification -- \$10.00~~

~~2.13. Change of name -- \$10.00~~

~~2.14. Change of office address—\$10.00~~

~~2.15. Late renewal fee—\$10.00, in addition to the required renewal fee, for each renewal application postmarked between July 1, and September 30 of the year in which due.~~

~~2.16. Reinstatement fee—\$50.00, in addition to the required renewal fee, for each renewal application postmarked between October 1, and December 31 of the year in which due.~~

~~2.17. Reinstatement fee—\$100.00, in addition to the required renewal fee, for each renewal application postmarked between January 1, and June 15 of the year subsequent to the year in which due.~~

~~2.18. Roster of active licensees—\$100.00, one county—\$5.00~~

~~2.19. Course Provider registration fee for each continuing education course—\$50.00, per year.~~

~~2.20. Returned check charge—\$25.00.~~

~~2.21. Copies of public records—\$0.25 per page plus staff time, if applicable, but only if the total charge equals or exceeds \$5.00.~~

2.1. Salesperson/Broker license application fee: \$25.00.

2.2. Examination fees: Up to \$150.00 for each examination taken, which, in the event of a third-party examination provider, shall not exceed the negotiated fee agreed to by the examination provider.

2.3. Licensure fees:

2.3.a. broker or associate broker license fee: \$150.00 for the initial and any subsequent license;

2.3.b. salesperson license fee: \$ 75:00 for the initial and any subsequent license; and

2.3.c. branch office license fee: \$150.00.

2.4. Annual license renewal fees:

2.4.a. broker / associate broker fee: \$150.00;

2.4.b. salesperson fee: \$75.00; and

2.4.c. branch office fee: \$150.00.

2.5. Late renewal fees in addition to the required license renewal fee:

2.5.a. For each license renewal paid or postmarked from July 1 through September 30 after the renewal fee was due: \$50.00;

2.5.b. For each license renewal paid or postmarked from September 30 through December 31st after the renewal fee was due: \$75.00;

2.5.c. For each license renewal paid or postmarked from January 1 through June 15th after the renewal fee was due: \$100.00.

2.5.d. Licenses not renewed on or before June 15th after the renewal fee was due cannot be renewed.

2.6. Change of employing broker fee: \$20.00.

2.7. Duplicate license fee: \$10.00.

2.8. Certification of licensure fee: \$20.00.

2.9. Change of licensee name fee: \$10.00.

2.10. Change of company name fee - \$10.00 for each license changed.

2.11. Change of office address fee: \$20.00.

2.12. Pre-license education approval fees:

2.12.a. Provider: \$75.00 initial approval fee and \$50.00 annual renewal fee thereafter.

2.12.b. Course: \$150 initial approval fee and \$100.00 annual renewal fee thereafter.

2.12.c. Instructor: \$75.00 initial approval fee and \$50.00 annual renewal fee thereafter.

2.13. Continuing education approval fees:

2.13.a. Provider: \$50.00 initial approval fee and \$35.00 annual renewal fee thereafter.

2.13.b. Course: \$75.00 initial approval fee and \$50.00 annual renewal fee thereafter.

2.13.c. Instructor: \$50.00 initial approval fee and \$35.00 annual renewal fee thereafter.

2.14. Roster of active licensees: All counties - \$100.00; \$5.00 per county.

2.15. Returned check fee: \$25.00 or the actual charge incurred by the Commission, whichever is greater.

2.16. Copies of public records fee: \$1.00 per page only if the total charge equals or exceeds \$5.00.

2.17. Transaction fee.

2.17.a. For transactions available on-line via the Commission's website, a transaction fee will be added equal to the amount charged by the transaction processing entity. Paper processing of requests for transactions which are available on-line will be charged a \$10.00 processing fee; and

2.17.b. Until such time as the Commission notifies its members via website or otherwise that licenses are to be renewed online, there will be no processing fee. After the commencement of on-line renewals, the Commission may continue to accept paper renewals, for which the licensee shall pay a \$35.00 processing fee in addition to all other renewal fees.

§174-2-3. Insufficient funds. Funds tendered to the Commission for any fee set forth in this rule which remains unpaid due to insufficient funds or for other reason shall nullify the transaction for which the fee remains unpaid. The Commission will afford the payee a reasonable opportunity to pay the fee. If the non-payment is the result of a returned check, only a certified check, money order or credit card charge will be accepted to cure the non-payment. The Commission may require payment of any actual charges or expenses incurred by the Commission prior to lifting the nullification of the transaction. The Commission may also take appropriate collection action and may require the payee to pay the charges of such action.

§174-2-4. Fees Not Refundable. All fees are non-refundable and will not be pro-rated.

§174-2-5. Effect of Non-Compliance. Failure to pay any of the fees required under this legislative rule is just cause for ~~revocation of or~~ refusal to issue or renew a license or the Commission may initiate disciplinary proceedings for violation of this rule.