

WSR 22-10-101

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed May 4, 2022, 10:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-04-013.

Title of Rule and Other Identifying Information: WAC 308-124A-785 Broker first active renewal, 308-124A-790 Continuing education clock hour requirements, new 308-124A-802 Defining prescribed Washington real estate fair housing curriculum, 308-124H-810 Course titles reserved for prescribed curriculum courses, 308-124H-820 General requirements for course approval, and 308-124H-825 Secondary education provider course content approval application.

Hearing Location(s): On June 8, 2022, at 1:00 - 2:30 p.m. Zoom virtual hearing, web link <https://dol-wa.zoom.us/j/84564602549?pwd=aVh0a0VfamlaLldhRnJDU0paZmxmdz09>, Meeting ID 845 6460 2549, Passcode 903319; Call-in one tap mobile +12532158782,,84564602549#,,,,*903319# US (Tacoma), +14086380968,,84564602549#,,,,*903319# US (San Jose), Meeting ID 845 6460 2549, Passcode 903319. Find your local number: <https://dol-wa.zoom.us/j/84564602549?pwd=aVh0a0VfamlaLldhRnJDU0paZmxmdz09>. If hearing participants have any issues accessing the public hearing web link or calling in, they can email rulescoordinator@dol.wa.gov and we will contact you to assist. If you would like to submit a written comment, these are considered with the same gravity as those that are submitted at the public hearing and can be emailed to rulescoordinator@dol.wa.gov.

Date of Intended Adoption: June 9, 2022.

Submit Written Comments to: Stephanie Sams, 405 Black Lake [Boulevard], Olympia, WA 98502, email doleducation5378@dol.wa.gov, by May 23, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of licensing (DOL) is conducting rule making related to implementing fair housing for real estate licensees. This is the result of SSB 5378, which passed the Washington state legislature in 2021. This requires new and current professional real estate licensees in Washington to take instructional hours in fair housing. DOL is tasked with providing the fair housing and prevention of unfair practices curriculum for real estate licensees. The proposed rules incorporate the "Washington State Real Estate Fair Housing" course into existing rules, make nonsubstantive technical and grammatical edits for clarity, and clarifies that licensees attest to meeting certain requirements and are subject to audit. Please see attached itemized summary of WAC changes.

Reasons Supporting Proposal: To update existing administrative rules to incorporate the new fair housing and consumer protection requirements outlined in SSB 5378 (2021).

Statutory Authority for Adoption: RCW 18.85.041.

Statute Being Implemented: RCW 18.85.041, 18.85.101, 18.85.211.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: DOL, governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Sams, 405 Black Lake [Boulevard], Olympia, WA 98502; Implementation

and Enforcement: Tim Allen, 405 Black Lake [Boulevard], Olympia, WA 98502.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The legislation imposes additional requirements on all new and current professional real estate licensees in Washington; to take an additional six hours of instruction in fair housing. The rules adopt changes necessary to implement SSB 5378 (2021) in regard to fair housing and consumer protection education required for real estate licensees. The rule changes proposed include adding "Washington State Real Estate Fair Housing" to the list of required courses, clarifies that licensees must attest to completion of required training and may be subject to audit, and makes some grammatical and streamlining edits for clarification purposes. These requirements are dictated by statute, and are being further clarified in rule, without adding additional requirements or new practices/procedures for licensees.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Explanation of exemptions: This rule making will adopt changes necessary to implement SSB 5378 (2021) in regard to fair housing and consumer protection education required for real estate licensees. The rule changes proposed include adding "Washington State Real Estate Fair Housing" to the list of required courses, clarifies that licensees must attest to completion of required training and may be subject to audit, and makes some grammatical and streamlining edits for clarification purposes.

May 4, 2022
Ellis Starrett
Rules Coordinator

OTS-3753.1

AMENDATORY SECTION (Amending WSR 10-06-078, filed 3/1/10, effective 7/1/10)

WAC 308-124A-785 Broker first active license renewal. The minimum requirements for a broker to be issued the first renewal of an active license are: The broker has furnished proof of successful completion of ~~((ninety))~~ 90 clock hours ~~((commenced))~~ started after the date first licensed, from ~~((a))~~ prescribed ~~((curriculum))~~ curricula approved by the real estate program, including real estate law, advanced practices and ~~((thirty))~~ 30 hours in approved continuing education, including the core curriculum and Washington real estate fair housing.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-785, filed 3/1/10, effective 7/1/10.]

AMENDATORY SECTION (Amending WSR 14-16-054, filed 7/29/14, effective 8/29/14)

WAC 308-124A-790 Continuing education clock hour requirements.

A licensee (~~shall submit~~) must attest to the department (~~evidence of~~) satisfactory completion of clock hours, pursuant to RCW 18.85.211, in the manner (~~and on forms~~) prescribed by the department.

(1) A licensee applying for renewal of an active license (~~shall submit evidence of~~) must attest to the completion of at least (~~thirty~~) 30 clock hours of instruction in a course(s) approved by the real estate program and (~~commenced~~) started within (~~forty-eight~~) 48 months of a licensee's renewal date. The clock hours of instruction attested to are subject to audit by the department.

(a) A minimum of (~~fifteen~~) 15 clock hours must be completed within (~~twenty-four~~) 24 months of the licensee's current renewal date, and a portion of that (~~fifteen~~) 15 must include three hours of the prescribed core curriculum defined in WAC 308-124A-800 and requisite hours of the prescribed Washington real estate fair housing curriculum defined in WAC 308-124A-802.

(b) Up to (~~fifteen~~) 15 clock hours of instruction beyond the (~~thirty~~) 30 clock hours submitted for a previous renewal date may be carried forward to the following renewal date. Failure to (~~report~~) attest to the successful completion of the prescribed core (~~curriculum~~) and Washington real estate fair housing curricula clock hours (~~shall~~) will result in denial of license renewal.

(c) If Washington real estate fair housing education was not completed during initial qualification for licensure, renewing licensees must take the six-hour Washington real estate fair housing education; and every renewal after must include three hours of Washington real estate fair housing education.

(2) The (~~thirty~~) 30 clock hours (~~shall~~) must be satisfied by (~~evidence of~~) completion of approved real estate courses as defined in WAC 308-124H-820. ((A)) Portions of the (~~thirty~~) 30 clock hours of continuing education must include three clock hours of prescribed core curriculum defined in WAC 308-124A-800 and three clock hours of prescribed Washington real estate fair housing curriculum as defined in WAC 308-124A-802.

(3) Courses for continuing education clock hour credits (~~shall be commenced~~) must be started after issuance of a first license.

(4) A licensee (~~shall~~) must not place a license on inactive status to avoid the continuing education requirement or the post-licensing requirements. If a licensee (~~shall submit evidence of~~) is inactive less than one year, they must attest to the completion of continuing education clock hours to activate ((a)) the license (~~if activation occurs within one year after the license had been placed on inactive status and the last renewal of the license had been as an inactive license~~). A licensee (~~shall submit evidence of completing~~) must attest to the post-licensing requirements if not previously satisfied upon returning to active status. The clock hours of instruction

or post-licensing requirements attested to are subject to audit by the department.

(5) Approved courses may be repeated for continuing education credit in subsequent renewal periods.

(6) Clock hour credits for continuing education (~~shall~~) will not be accepted if:

(a) The course is not approved pursuant to chapter 308-124H WAC and chapter 18.85 RCW;

(b) Course(s) was taken to activate an inactive license pursuant to RCW 18.85.265(3);

(c) Course(s) submitted to satisfy the requirements of RCW 18.85.101 (1)(c), broker's license, RCW 18.85.211, 18.85.111, managing broker's license and WAC 308-124A-780, reinstatement.

(7) Instructors (~~shall~~) will not receive clock hour credit for teaching or course development.

[Statutory Authority: RCW 18.85.041. WSR 14-16-054, § 308-124A-790, filed 7/29/14, effective 8/29/14; WSR 13-14-077, § 308-124A-790, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.041, 18.85.101, and 18.85.181. WSR 11-09-009, § 308-124A-790, filed 4/8/11, effective 5/9/11. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-790, filed 3/1/10, effective 7/1/10.]

NEW SECTION

WAC 308-124A-802 Defining prescribed Washington real estate fair housing curriculum. Washington real estate fair housing curriculum is a specific course of study approved by the director that provides practical information relating to the right to choose housing free from unlawful discrimination; regardless of age, disability or level of ability, family situation, gender (including sexual orientation, gender identity, and gender expression), marital status, national origin (including language), race, religion, or veteran status. The department will prescribe the curriculum outline to use in developing the curriculum for approval.

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OTS-3754.1

AMENDATORY SECTION (Amending WSR 14-16-054, filed 7/29/14, effective 8/29/14)

WAC 308-124H-810 Course titles reserved for prescribed curriculum courses. Any approved school (~~desiring~~) wanting to offer (~~fundamentals, business management, broker management, real estate law, advanced real estate law, real estate practices, or advanced real estate practices,~~ shall utilize the most recent course curriculum prescribed by the department, and shall include in its title the phrase "real estate fundamentals," "real estate brokerage management," "real estate law," "advanced real estate law," "business management," "real

estate practices," or "advanced real estate practices," if submitted for approval for clock hours. No other courses shall use these phrases in their titles)) mandated real estate training must have "real estate" included in the title, submit for approval of clock hours, and cannot use the following prescribed core curricula phrases in other course titles:

- (1) Real estate fundamentals;
- (2) Real estate brokerage management;
- (3) Real estate law;
- (4) Advanced real estate law;
- (5) Real estate business management;
- (6) Real estate practices;
- (7) Advanced real estate practices; and
- (8) Washington real estate fair housing.

[Statutory Authority: RCW 18.85.041. WSR 14-16-054, § 308-124H-810, filed 7/29/14, effective 8/29/14. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-810, filed 3/1/10, effective 7/1/10.]

AMENDATORY SECTION (Amending WSR 10-06-078, filed 3/1/10, effective 7/1/10)

WAC 308-124H-820 General requirements for course approval.

Courses (~~shall~~) will meet the following requirements:

- (1) Be offered by a private entity approved by the director to operate as a school;
- (2) Be offered by a tax-supported, public technical or community college or other institution of higher learning that certifies clock hours as indicated in RCW 18.85.011(5), consistent with the approval standards prescribed by the director and this chapter;
- (3) Be offered by the Washington real estate commission;
- (4) Have a minimum of three hours of course work or instruction for the student. A clock hour is a period of (~~fifty~~) 50 minutes of actual instruction;
- (5) Provide practical information related to the practice of real estate in any of the following real estate topic areas:
 - (a) Department prescribed curricula:
 - (i) Fundamentals;
 - (ii) Practices;
 - (A) Residential;
 - (B) Commercial;
 - (iii) Advanced practices;
 - (A) Residential;
 - (B) Commercial;
 - (iv) Real estate law;
 - (v) Advanced real estate law;
 - (vi) Brokerage management;
 - (vii) Business management;
 - (viii) Core curriculum;
 - (A) Residential;
 - (B) Commercial;
 - (C) Property management;
 - (b) Open curricula:
 - (i) Legal aspects;

- (ii) Taxation;
 - (iii) Appraisal;
 - (iv) Evaluating real estate and business opportunities;
 - (v) Property management and leasing;
 - (vi) Construction and land development;
 - (vii) Ethics and standards of practice;
 - (viii) Washington real estate fair housing;
 - (ix) Real estate closing practices;
 - ~~((ix))~~ (x) Current trends and issues;
 - ~~((x))~~ (xi) Principles/essentials;
 - ~~((xi))~~ (xii) Finance;
 - ~~((xii))~~ (xiii) Hazardous waste and other environmental issues;
 - ~~((xiii))~~ (xiv) Commercial;
 - ~~((xiv))~~ (xv) Real estate sales and marketing;
 - ~~((xv))~~ (xvi) Instructor development;
 - ~~((xvi))~~ (xvii) Consumer protection;
 - ~~((xvii))~~ (xviii) Cross cultural communication;
 - ~~((xviii))~~ (xix) Advanced management practices;
 - ~~((xix))~~ (xx) Use of computers and/or other technologies as applied to the practice of real estate;
- (6) Be under the supervision of an instructor approved to teach the topic area, who ~~((shall))~~ will, at a minimum, be available to respond to specific questions from students on an immediate or reasonably delayed basis;
- (7) The following types of courses will not be approved for clock hours:
- (a) Mechanical office and business skills, such as, keyboarding, speed-reading, memory improvement, grammar, and report writing;
 - (b) Standardized software programs such as word processing, email, spreadsheets or databases; an example: A course using spreadsheet program to demonstrate investment analysis would be acceptable, but a course teaching how to use a spreadsheet would not be acceptable;
 - (c) Orientation courses for licensees, such as those offered by trade associations;
 - (d) Personal and sales motivation courses or sales meetings held in conjunction with a licensee's general business;
 - (e) Courses that are designed or developed to serve other professions, unless each component of the curriculum and content specifically shows how a real estate licensee can utilize the information in the practice of real estate;
 - (f) Personal finance, etiquette, or motivational type courses;
 - (g) Courses that are designed to promote or offer to sell specific products or services to real estate licensees such as warranty programs, client/customer database systems, software programs or other devices. Services or products can be offered during nonclock hour time, such as breaks or lunchtime. Letterhead, logos, company names or other similar markings by itself, on course material are not considered promotional;
 - (h) Clock hours will not be awarded for any course time devoted to meals or transportation;
- (8) Courses of ~~((thirty))~~ 30 clock hours or more which are submitted for approval ~~((shall))~~ will include a comprehensive examination(s) and answer key(s) of no fewer than three questions per clock hour with a minimum of ~~((ninety))~~ 90 questions, and a requirement of passing course grade of at least 70 percent; essay question examina-

tion keys (~~shall~~) will identify the material to be tested and the points assigned for each question;

(9) Include textbook or instructional materials approved by the director, which (~~shall~~) will be kept accurate and current;

(10) Not have a title which misleads the public as to the subject matter of the course;

(11) The provider's course application (~~shall~~) will identify learning objectives and demonstrate how these are related to the practice of real estate;

(12) Courses offering the prescribed core curriculum (~~shall~~) will meet the requirements of WAC 308-124A-800 and those offering the prescribed Washington real estate fair housing curriculum will meet the requirements of WAC 308-124A-802;

(13) Only primary providers (~~shall~~) will be approved to teach the prescribed core curriculum and Washington real estate fair housing; and

(14) Course providers offering core curriculum within a course exceeding three clock hours must clearly indicate in the application for approval where the core curriculum elements are met in the course.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-820, filed 3/1/10, effective 7/1/10.]

AMENDATORY SECTION (Amending WSR 14-16-054, filed 7/29/14, effective 8/29/14)

WAC 308-124H-825 Secondary education provider course content approval application. (1) An approved school (applicant) may offer courses (~~(, except for the mandated courses,)~~) that are currently approved for another (~~(education provider or course developer provided a secondary provider course content approval application is submitted to the department;~~

~~(2-))~~ secondary education school after:

(a) The applicant (~~(must also)~~) provides written authorization by the (~~(original))~~ secondary education (~~(provider/developer))~~ school permitting the use of the course content by the applicant (~~(;~~

~~(3-))~~; and

(b) The department issues a certificate of course approval (~~(will be provided))~~ to the secondary education (~~(provider;~~

~~(4-))~~ school.

(2) The applicant must use the course approval number issued by the department on all certificates of course completion (~~(;~~

~~(5-))~~.

(3) Course approval is valid only for the dates of the (~~(original education provider/course developer's approval;~~ and

~~(6-))~~ originally approved course.

(4) The applicant may not apply for secondary (~~(provider course content approval applications may not be used for))~~ school approval for the following courses: Real ((state)) estate fundamentals, real estate brokerage management, real estate law, advanced real estate law, business management, real estate practices, advanced real estate practices, Washington real estate fair housing, or core course.

[Statutory Authority: RCW 18.85.041. WSR 14-16-054, § 308-124H-825, filed 7/29/14, effective 8/29/14. Statutory Authority: RCW 18.85.040

and 18.85.041. WSR 10-06-078, § 308-124H-825, filed 3/1/10, effective 7/1/10.]