

**IDAPA 33 – REAL ESTATE COMMISSION****DOCKET NO. 33-0000-1900F****NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2097, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed fee rule and the text of the pending fee rule with an explanation of the reasons for the change:

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 33, rules of the Idaho Real Estate Commission:

**IDAPA 33**

- 33.01.01, *Rules of the Idaho Real Estate Commission*

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 5,328-5,338](#).

These pending fee rules are necessary to protect the welfare of the citizens of Idaho and confer a benefit upon its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. Without these Rules in place, the Real Estate Commission will be unable to adequately protect the public in regulated real estate transactions. The Rules provide public protection by ensuring licensees have sufficient Errors & Omissions insurance and that they possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest. Portions of the proposed text have been simplified to provide clarity and deleted to remove redundant language repeated from Idaho Code.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

IDAPA 33.01.01.100: Licensing Fees;  
License Renewal Fees;  
Late License Renewal Fees;  
Fee to Print License Certificate;  
Fee to Compile Education or License History.

These fees are being imposed pursuant to Section 54-2020, Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact MiChell Bird, (208) 334-3285.

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**REAL ESTATE COMMISSION  
IDAPA 33**

***Docket No. 33-0000-1900F  
Omnibus Notice – Pending Fee Rule***

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Dated this 23rd day of October, 2019.

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## IDAPA 33 – REAL ESTATE COMMISSION

### 33.01.01 – RULES OF THE IDAHO REAL ESTATE COMMISSION

#### 000. LEGAL AUTHORITY.

The Rules of the Idaho Real Estate Commission contained herein have been adopted pursuant to Section 54-2007, Idaho Code. Any violation of these rules, or of any provision of Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code, is sufficient cause for disciplinary action as prescribed in Sections 54-2059, 54-2060, or 55-1811, Idaho Code. (3-15-02)

#### 001. TITLE AND SCOPE.

**01. Title.** These rules are titled IDAPA 33.01.01, “Rules of the Idaho Real Estate Commission,” IDAPA 33, Title 01, Chapter 01. (3-15-02)

**02. Scope.** These rules contain the requirements for implementation and enforcement of the Idaho Real Estate License Law, the Idaho Real Estate Brokerage Representation Act, and the Subdivided Lands Disposition Act, contained in Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code. ( )

**002. – 005. (RESERVED)**

#### 006. ELECTRONIC SIGNATURES.

*Electronic signatures are permissible in accordance with the Uniform Electronic Transactions Act, Title 28, Chapter 50.* ( )

**007. – 099. (RESERVED)**

### RULES 100 THROUGH 199 APPLICATION, LICENSURE AND TERMINATION OF LICENSES

#### 100. FEES.

License *and other* fees:

	<i>Initial License</i>	<i>Renewal</i>	<i>Late Fee</i>	<i>Other</i>
<i>Broker</i>	<i>\$160</i>	<i>\$160</i>	<i>\$25</i>	
<i>Salesperson</i>	<i>\$160</i>	<i>\$160</i>	<i>\$25</i>	
<i>Business Entity</i>	<i>\$50</i>	<i>\$50</i>	<i>\$25</i>	
<i>Branch Office</i>	<i>\$50</i>	<i>\$50</i>	<i>\$25</i>	
<i>Cooperative License</i>	<i>\$100</i>			
<i>Education or License History</i>				<i>\$10</i>
<i>License Certificate</i>				<i>\$15</i>

( )

**101. – 104. (RESERVED)**

#### 105. CONDITIONS TO RENEW EXPIRED LICENSE.

The Commission may accept a licensee’s application to renew an expired license upon the following conditions: (3-29-10)

**01. Payment of Late Fee.** The applicant must pay the late license renewal fee. ( )

**02. Renewal After Expiration of Active License.** If *an active* license expires, the licensee must complete and submit with the application *an attestation that during the period the license was expired, the licensee*

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*either did or did not do or attempt to do any acts described in the definitions of real estate broker or salesperson in Section 54-2004, Idaho Code.* ( )

**03. Investigate or Discipline a Licensee.** Nothing in this Section limits the ability of the Commission to investigate or discipline a licensee for violating Subsection 54-2018(3), Idaho Code, or for violating any other provision of the Real Estate License Law or these rules. ( )

**106. -- 116. (RESERVED)**

**117. MANDATORY ERRORS AND OMISSIONS INSURANCE.**

Every licensee, upon obtaining or renewing an active real estate license in the state of Idaho *will* have in effect and maintain a policy of errors and omissions insurance *as* required by Section 54-2013, Idaho Code, to cover all activities contemplated under Chapter 20, Title 54, Idaho Code and *will* certify such coverage to the Commission in the form and manner prescribed by statute, these rules, *and any policy adopted by the Commission.* ( )

**118. INSURANCE PLAN.**

The Commission *will* make available to all active licensees, subject to terms and availability from a qualified insurance carrier, a policy of Errors and Omissions Insurance under a Group Plan obtained by the Commission. *Licensees may obtain errors and omissions insurance independently of the Group Policy available through the Commission, subject, however, to the terms and conditions set forth in these rules.* ( )

**01. Insurance Carrier.** For the purposes of Section 118: ( )

**a.** *Shall* maintain an A.M. Best Company rating of B+ or better, and an A.M. Best Financial Size Category of Class VI or higher; ( )

**b.** *Is* and will remain for the policy term duly authorized by the Idaho Department of Insurance to do business in the state of Idaho as an insurance carrier; *and* ( )

**c.** *Is* and will remain for the policy term qualified and authorized by the Idaho Department of Insurance to write policies of errors and omissions insurance in Idaho of the type contemplated by these rules. ( )

**02. Approved Policy.** The policy shall cover all activities contemplated under Chapter 20, Title 54, Idaho Code, be subject to such terms and conditions as are customary in the insurance industry for policies of errors and omissions insurance, which are otherwise permissible under Idaho law and the rules of the Idaho Insurance Department, and which are contained in a policy of insurance which has been approved by the Department of Insurance. *That policy* shall provide, at a minimum, the following terms and conditions:

	Limit Liability Coverage for Each Occurrence Not Less Than	Annual Aggregate Limit Not Less Than
Individual License Coverage	\$100,000*	\$300,000*
Firm Coverage	\$500,000*	\$1,000,000*
	*Not including costs of investigation and defense	

**a.** A deductible amount of not greater than three thousand five hundred dollars (\$3,500), which includes costs of investigation and defense; ( )

**b.** A policy period equal to each licensee's two (2) year license renewal date or the prorated equivalent, or, if an annually renewable policy, a statement of the policy period, and in either case, the policy shall provide for continuous coverage during the policy period; (3-15-02)

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**c.** An extended reporting period per insured of at least ninety (90) days following termination of the policy period; and (3-15-02)

**d.** Prior acts coverage shall be offered to licensees with continuous past coverage. (3-15-02)

**119. (RESERVED)**

**120. CERTIFICATION A PREREQUISITE FOR LICENSE ISSUANCE OR RENEWAL.**

*Issuance or renewal of an active license requires certification of compliance that satisfies* the requirements of Section 54-2013, Idaho Code. ( )

**121. FAILURE TO MAINTAIN INSURANCE.**

Failure of a licensee to obtain and maintain insurance coverage required by Section *54-2013, Idaho Code, regardless whether coverage is later obtained and made retroactive by the carrier, will* result in *denial or* inactivation of any active license *and will* be deemed insufficient application for licensure under Section 67-5254, Idaho Code. *A late insurance renewal is considered failure to maintain insurance. Failure to maintain insurance shall be grounds for disciplinary action.* ( )

**122. FALSIFICATION OF CERTIFICATES.**

Any licensee who, acting alone or in concert with others, willfully or knowingly causes or allows a certificate of coverage to be filed with, or produced to, the Commission which is false, fraudulent, or misleading, *will* be subject to disciplinary action, including but not limited to suspension or revocation of license, in accordance with Chapter 52, Title 67, Idaho Code; provided, however, that nothing herein *will* entitle such licensee to notice and hearing on the automatic inactivation of license. ( )

**123. -- 199. (RESERVED)**

**200. -- 299. (RESERVED)**

**RULES 300 THROUGH 399**  
**BUSINESS CONDUCT**

**300. DISPUTES CONCERNING COMMISSIONS AND FEES.**

The Idaho Real Estate Commission *will* not be involved in the resolution of disputes between licensees or between licensees and buyers and sellers concerning matters of commissions or fees. ( )

**301. (RESERVED)**

**302. TITLE OPINIONS.**

No real estate broker or sales associate *will* pass judgment upon or give an opinion with respect to the *marketability* of the title to property in any transaction. ( )

**303. LEGAL OPINIONS.**

A broker or sales associate *will* not discourage any party to a real estate transaction from seeking the advice of an attorney. ( )

**304. (RESERVED)**

**305. EDUCATION RECORDS ACCESS.**

As provided for in Section 74-106, Idaho Code, the Commission may enable a designated broker to access and review the education record of any licensee currently licensed with the broker. ( )

**306. -- 399. (RESERVED)**

**RULES 400 THROUGH 499**  
**CONTINUING EDUCATION**

400. -- 401. (RESERVED)

**402. APPROVED TOPICS FOR CONTINUING EDUCATION.**

Continuing education is to assure that licensees possess the knowledge, skills, and competency necessary to function in a manner that protects and serves the public interest, or that promotes the professionalism and business proficiency of the licensee. The knowledge or skills taught in an elective course *will* enable licensees to better serve real estate consumers. ( )

**01. Topics Approved by the Commission.** Topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, *will be approved by the Commission* as they pertain to real estate brokerage practice and actual real estate knowledge. ( )

**02. Topics Not Eligible for Continuing Education Credits.** *Topics which are specifically exam preparation in nature or not directly related to real estate brokerage practice will* not be eligible for approval. ( )

403. -- 499. (RESERVED)

**RULES 500 THROUGH 599  
EDUCATION TEACHING STANDARDS**

**500. MINIMUM TEACHING STANDARDS.**

All courses offered for credit by a certified provider *will* be taught in accordance with the standards *and written policies adopted by* the Real Estate Commission. *Course instructors will conduct themselves in a professional manner when performing instructional duties and will not engage in conduct that criticizes, degrades, or disparages the Commission, any student, other instructor, brokerage, agency, or organization.* ( )

**01. Certification Requirement.** A course required to be taught by a Commission-certified or Commission-approved instructor *will* be taught only by an instructor that is currently approved or certified for that course. ( )

**02. Outlines and Curriculum.** A course must be taught in accordance with the course outline or curriculum approved by the Commission. (3-13-08)

**03. Attendance Requirement.** The course instructor *will* adhere to the Commission's written attendance policy and credit hours *will* only *be submitted* for students who have successfully met the attendance requirements for which the course was approved. ( )

**04. Maintaining Exam Security.** The instructor *will* take reasonable steps to protect the security of course examinations and *will* not allow students to retain copies of final course examinations or the exam answer key. ( )

**05. Use of Exam Questions Prohibited.** The instructor *will* not obtain or use, or attempt to obtain or use, in any manner or form, Idaho real estate licensing examination questions. ( )

501. -- 999. (RESERVED)