



**STATE OF ARKANSAS
REAL ESTATE COMMISSION**

612 South Summit Street
Little Rock AR 72201-4740
Phone: (501) 683-8010
www.arec.arkansas.gov

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Gary C. Isom
Executive Director
Andrea S. Alford
Deputy Executive Director

October 12, 2016

Ms. Donna K. Davis
Administrative Rules Analyst
Bureau of Legislative Research
Administrative Rules Review Section
One Capitol Mall, Room L-517
Little Rock, AR 72201

Re: Proposed Amendments to AREC Commission Regulations 6 and 11.

Dear Ms. Davis,

Enclosed are copies of the Questionnaire for Filing Proposed Rules and Regulations, Financial Impact Statement, a current and marked-up copy of the existing Regulations, and a Summary of the Proposed Rule for filing:

Renewal; Inactive Status; Expired Licenses—Commission Reg. 6;
Continuing Education—Commission Reg. 11.

Also enclosed is a third packet of the same documents to be "file-marked" with the date received for AREC's files.

A Public Hearing to consider the proposed Regulation Amendments will be held at 9:00 a.m. on Monday, November 14, 2016, in the Meeting Room of the Arkansas Real Estate Commission, 612 S. Summit St., Little Rock, Arkansas.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary C. Isom".

Gary C. Isom
Executive Director

GCI/ems

Real Estate Commission Proposed Rule Summary

Public Hearing

Monday, November 14, 2016 – 9:00 a.m.

Arkansas Real Estate Commission

612 South Summit, Little Rock, Arkansas

The current annual continuing education requirement for real estate licensees is six (6) classroom hours. This amendment will add one (1) classroom hour on personal safety, increasing the total annual requirement to seven (7) classroom hours. This initiative is largely in response to the 2014 murder of a real estate agent in North Little Rock. The intent is to help ensure that licensees and consumers have a safer real estate market in which to transact business.

The second change will allow the Real Estate Commission to address two issues that were brought to our attention through town hall styled meetings with brokers in various sections of the state. Brokers in south Arkansas expressed that access to quality education was limited because of the low number of real estate licensees in their area. The other issue raised was the lack of variety in subject matter of the courses offered by instructors, despite the fact that a large number of topics qualify for continuing education. Real estate schools and educators will be encouraged and provided the opportunity to address these weaknesses. However, in the event these needs are not met, this amendment will allow the Real Estate Commission to offer education in those underserved areas to hopefully improve the licensees' educational experience and make their time spent on education more worthwhile.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Arkansas Real Estate Commission
DIVISION _____
DIVISION DIRECTOR Gary Isom
CONTACT PERSON Gary Isom
ADDRESS 612 South Summit, Little Rock, Arkansas 72201
PHONE NO. 5018375343 **FAX NO.** 5016838020 **E-MAIL** gary.isom@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Gary Isom
PRESENTER E-MAIL gary.isom@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

Renewal; Inactive Status; Expired Licenses - Commission Reg. 6;

1. What is the short title of this rule? Continuing Education - Commission Reg. 11.
2. What is the subject of the proposed rule? Continuing Education for Real Estate Licensees
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒
If yes, please provide the federal rule, regulation, and/or statute citation. _____
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☐ No ☒
If yes, what is the effective date of the emergency rule? _____
- When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes ☐ No ☐

5. Is this a new rule? Yes ☐ No ☒
If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes ☐ No ☒
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

- Is this an amendment to an existing rule? Yes ☒ No ☐
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Arkansas Code Annotated Sections 17-42-307(b)(1) and 17-42-501.

7. What is the purpose of this proposed rule? Why is it necessary? To increase the likelihood that real estate licensees will implement safety precautions in the real estate market and to increase the availability of real estate education in underserved areas.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). www.arec.arkansas.gov

9. Will a public hearing be held on this proposed rule? Yes ☒ No ☐

If yes, please complete the following:

Date: November 14, 2016

Time: 9:00 a.m.

Place: Arkansas Real Estate Commission, 612
S. Summit St., Little Rock, AR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

Adjournment of Public Hearing conducted on November 14, 2016.

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

January 1, 2017

12. Do you expect this rule to be controversial? Yes ☐ No ☒

If yes, please explain. While the industry, through the Arkansas Realtors Association, supports the amendments, some licensees may object to the additional hour of education.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Real Estate Commission
DIVISION _____
PERSON COMPLETING THIS STATEMENT Gary Isom
TELEPHONE NO. 5018375343 **FAX NO.** 5016838020 **EMAIL:** gary.isom@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Renewal; Inactive Status; Expired Licenses - AREC Reg. 6;
Continuing Education - AREC Reg. 11.

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☒ No ☐
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>
Total	<u>0</u>

Next Fiscal Year

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>
Total	<u>0</u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ 15.00

Next Fiscal Year

\$ 15.00

Each person who holds an active Arkansas real estate licensee will need to acquire one additional hour on safety education annually from a real estate education school providing such education or alternate source.

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:

- (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

MARKED-UP COPY

Arkansas Real Estate Commission Regulation

SECTION 6. RENEWAL; INACTIVE STATUS; EXPIRED LICENSES.

6.1 Renewal applications.

- (a) -Unless renewed as active or inactive, every real estate broker or salesperson license shall expire on December 31 of each calendar year.
- (b) Notice to renew licenses will be sent by mail or electronically about July 15 of each year to the firm at which the licensee is licensed or such other address as the Commission has on file for the licensee. Renewal applications accompanied by the required fee must be filed with the Commission no later than September 30. In order to be considered filed with the Commission by the deadline; the renewal applications must bear a U.S. Postal Service postmark of September 30, or be received in the Commission's office on or before September 30. If September 30 falls on a Saturday, Sunday or legal holiday, the Commission shall accept as meeting the filing deadline those renewal applications that bear a U.S. Postal Service postmark of the first business day thereafter, and those applications received in the Commission office on the first day the office is open to the public following such Saturday, Sunday or legal holiday. A renewal application filed after the deadline shall be treated as an application to renew an expired license.
- To hold an active license a broker or salesperson shall complete annually seven (7) classroom hours of continuing education approved by the Commission or equivalent continuing education units or equivalent distance education of approved continuing education. One (1) classroom hour, which shall satisfy only one (1) of the seven classroom hours, must focus on how real estate professionals can limit risk to preserve personal safety for agents and consumers.

6.2 Inactive status renewal.

- (a) Any licensee who does not wish to engage in the real estate business at the time of renewal may apply to renew as inactive.
- (b) Any person who holds a license on inactive status shall notify the Commission in writing within seven (7) days of any change of name or address.
- (c) During inactive status a licensee shall not practice as a real estate broker or salesperson in this state without first activating the license.
- (d) An inactive license may be activated upon submitting proof of satisfactorily completing ~~six~~ ~~(6)-seven (7)~~ classroom hours or equivalent continuing education units or equivalent ~~correspondence work~~ distance education of approved continuing education for each year renewed as inactive, not to exceed thirty (30) classroom hours, and such other information as the Commission may require, including payment of the required fee. One (1) classroom hour, which shall satisfy only one (1) of the total classroom hours required for activation, must focus on how real estate professionals can limit risk to preserve personal safety for agents and consumers.

Completion of the continuing education requirement will only satisfy the requirement for the license year in which activated and not for the following year.

(e) All continuing education hours required to activate a license must have been completed in the year in which the license is activated or the preceding calendar year.

(e)(1) The Commission may provide continuing education for licensees under the following circumstances.

(A) If the Executive Director determines that courses are not readily available by classroom delivery for a specific topic which has been identified by the Commission as acceptable for continuing education; or,

(B) If the Executive Director determines that continuing education courses are not readily available by classroom delivery to licensees in a specific geographic area of Arkansas.

(2) When providing continuing education pursuant to this section, the Commission is authorized to incur and pay the reasonable and necessary expenses in connection therewith; and to make reasonable charges for materials provided by the Commission and for services performed in connection with providing the materials. The continuing education courses offered by the Commission shall be open to all licensees unless the content is deemed broker specific, in which case the courses will be open to all brokers.

6.3 Expired licenses.

(a) If an application for the renewal of a license, either active or inactive, and/or the required renewal fee is not received prior to the renewal deadline, such license is deemed to have expired at the end of the renewal period.

(b) A person whose license has expired shall not practice as a real estate broker or salesperson in this state.

(c) Upon reapplication within one (1) year of the last calendar year in which the license was renewed, payment of the required fees, and submission of such additional information as the Commission may require, the license may be reinstated and placed on either active or inactive status for the current license year. However, no license will be issued as active until proof of satisfactory completion of the continuing education requirement as required by Regulation 6.2 is submitted.

(d) Upon successful reapplication the prior year identified as expired will be considered as if inactive for purposes of continuing education requirements.

(e) A former licensee who fails to apply for renewal of an expired license within the prescribed time period shall be regarded as an original applicant.

(f) For purposes of providing notice to and communication with any licensee who permits or has permitted his license to expire and who is the subject of a pending complaint, investigation or hearing pursuant to A. C. A. § 17-42-312, said licensee shall during any such pending complaint, investigation or hearing notify the Commission in writing within seven (7) days of any change of name or address.

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- (d) An inactive license may be activated upon submitting proof of satisfactorily completing seven (7) classroom hours or equivalent continuing education units or equivalent distance education of approved continuing education for each year renewed as inactive not to exceed thirty (30) classroom hours, and such other information as the Commission may require, including payment of the required fee. One (1) classroom hour, which shall satisfy only one (1) of the total classroom hours required for activation, must focus on how real estate professionals can limit risk to preserve personal safety for agents and consumers. Completion of the continuing education requirement will only satisfy the requirement for the license year in which activated and not for the following year.

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(B) If the Executive Director determines that continuing education courses are not readily available by classroom delivery to licensees in a specific geographic area of Arkansas.

(2) When providing continuing education pursuant to this section, the Commission is authorized to incur and pay the reasonable and necessary expenses in connection therewith; and to make reasonable charges for materials provided by the Commission and for services performed in connection with providing the materials. The continuing education courses offered by the Commission shall be open to all licensees unless the content is deemed broker specific, in which case the courses will be open to all brokers.

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hearing pursuant to A. C. A. § 17-42-312, said licensee shall during any such pending complaint, investigation or hearing notify the Commission in writing within seven (7) days of any change of name or address.

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SECTION 11. CONTINUING EDUCATION.

11.1 Requests for waiver or extension.

Each request for a waiver of the continuing education requirement under A.C.A. § 17-42-307(c) or extension of time to complete post license education requirement, shall be in writing and shall be supported by clear and convincing evidence. The Commission shall acknowledge each such request and shall announce its decision in writing. If the waiver or extension is granted, the Commission may impose such terms and conditions as it deems appropriate.

11.2 ~~Renewal of expired license~~ Continuing Education Topics.

~~Repealed (10/10/2014)~~

(a) (1) Annually, the Commission shall identify subject matter topics that will be acceptable for continuing education courses for the upcoming license year.

(2) For the annual continuing education requirement the commission may:

(A) Identify a specific topic of not more than three (3) classroom hours to be included in the annual continuing education requirement; or,

(B) Develop and require a specific curriculum for continuing education courses for licensed brokers or their designees for the annual continuing education.

(b) (1) The Commission may provide continuing education for licensees under the following circumstances:

(A) If the Executive Director, in consultation with the Commissioners, determines that courses are not readily available by classroom delivery for a specific topic which has been identified by the Commission as acceptable for continuing education; or,

(B) If the Executive Director, in consultation with the Commissioners, determines that continuing education courses are not readily available by classroom delivery to licensees in a specific geographic area of Arkansas.

(2) When providing continuing education pursuant to this section, the Commission is authorized to incur and pay the reasonable and necessary expenses in connection therewith; and to make reasonable charges for materials provided by the Commission and for services performed in connection with providing the materials. The continuing education courses offered by the Commission shall be open to all licensees unless the content is deemed broker specific, in which case the courses will be open to all brokers.

11.3 Approved courses and instructors.

Only those courses and instructors which are approved by the Commission or which are exempted from such approval by Section A.C.A. §17-42-503 shall be accepted by the Commission for continuing education credit.

11.4 No duplication of pre-licensing and continuing education credit.

No educational courses or hours submitted as credit toward the prelicensing education requirement shall be used as credit for the continuing education requirements, and no educational courses or hours submitted for credit toward the continuing education requirements shall be used or counted to satisfy the pre-licensure educational requirements.

11.5 Post-license education requirements

- (a) Each salesperson and broker will complete a post-license education course as provided herein.
- (b) Salespersons shall complete an eighteen (18) classroom hour salesperson course.
- (c) Brokers shall complete the thirty (30) classroom hour broker course developed by the Commission.
- (d) All post-license education courses shall be conducted by either the Arkansas Real Estate Commission, a school or organization licensed by the Commission, or post-secondary school accredited by a nationally recognized accrediting agency approved by the U.S. Department of Education wherever situated. All post-license education hours shall be conducted by actual classroom attendance.
- (e) The Arkansas Real Estate Commission will establish the course content for the post-license education courses for new salespersons and brokers.
- (f) The broker or salesperson shall deliver to the Commission the original certificate of completion of the post-license education course, or a copy thereof, from an approved provider, or other documentation satisfactory to the Commission. Said documentation must be received by the Commission no later than the end of the month one (1) year following the date of the broker's or salesperson's initial license. If documentation of an individual's post-license education is not received by the Commission within said time period, the license will be placed on inactive status until the broker or salesperson files satisfactory documentation of his completion of said post-license education course.
- (g) A broker who is initially licensed in that capacity cannot become an executive broker or principal broker until such broker has completed and filed satisfactory documentation of his completion of the post-license broker education course. However, the Commission may temporarily waive this requirement for a real estate broker who has submitted proof of enrollment in an upcoming course acceptable to the Commission.

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- (2) For the annual continuing education requirement the commission may:
 - (A) Identify a specific topic of not more than three (3) classroom hours to be included in the annual continuing education requirement; or,
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- (b) (1) The Commission may provide continuing education for licensees under the following circumstances:
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- (e) The Arkansas Real Estate Commission will establish the course content for the post-license education courses for new salespersons and brokers.
- (f) The broker or salesperson shall deliver to the Commission the original certificate of completion of the post-license education course, or a copy thereof, from an approved provider, or other documentation satisfactory to the Commission. Said documentation must be received by the Commission no later than the end of the month one (1) year following the date of the broker's or salesperson's initial license. If documentation of an individual's post-license education is not received by the Commission within said time period, the license will be placed on inactive status until the broker or salesperson files satisfactory documentation of his completion of said post-license education course.
- (g) A broker who is initially licensed in that capacity cannot become an executive broker or principal broker until such broker has completed and filed satisfactory documentation of his completion of the post-license broker education course. However, the Commission may temporarily waive this requirement for a real estate broker who has submitted proof of enrollment in an upcoming course acceptable to the Commission.