

## **License Qualification Changes on or after July 1, 2006:**

Sales agent license applicants will be required to satisfactorily complete the New *Sales Agent Course* and pass a State examination;

Associate Broker applicants will be required to be licensed as a sales agent with a real estate brokerage agency for at least 2 years within the 5 years immediately preceding the date of the license application and satisfactorily complete the New Associate Broker Course;

Broker applicants – no change. See requirements listed below.

The link to the new law effective July 1, 2006 is available on the REC website. The link to the proposed rules is also available. What follows is a list of frequently asked questions regarding the new license qualifications, continuing education requirements and brokerage practice issues. If your question is not answered by the responses that follow, please contact the Commission office for assistance.

Most Frequently Asked Questions regarding the law/rule changes effective July 1, 2006:

License Qualifications:

*Q. "I have a sales agent license and have completed the law and practice courses. My "two years" is up on June 20, 2006. Do I need to take the associate broker exam to qualify for the associate broker license?"*

*A. If you apply for the associate broker license on or after July 1, 2006 and you qualified for the sales agent license by passing the sales agent examination, you will not be required to pass another state test. If you qualified for the sales agent license by passing the sales agent course, you will need to pass the sales agent exam offered after July 1, 2006. Remember, there will be no examination called "associate broker" after July 1, 2006.*

*Q. "I have a sales agent license and I completed the law course but was not able to complete the practice course. Will I still need to complete the practice course after July 1?"*

A. Sales agents who completed one of the 2 (law or practice) current associate broker courses but not both before July 1, 2006, will need to satisfactorily complete the new associate broker course offered after July 1, 2006. (The new associate broker course outline has not been approved by the Commission as of the date of this Notice.)

Q. *“I’m thinking about a career in real estate. If I completed the sales agent course or passed the sales agent exam before July 1, 2006 will I need to do anything else to qualify for a sales agent license after July 1, 2006?”*

A. Only those applicants who were **licensed as a sales agent on or before June 30, 2006** are eligible to transition to the associate broker license. Passage of the sales agent course or exam prior to July 1, 2006 without the issuance of a sales agent license does not qualify the applicant for a sales agent license on or after July 1, 2006. Applicants who have not been issued a sales agent license before July 1, 2006 will need to satisfy all of the license qualifications for sales agents, which will include satisfactorily completing the new sales agent course and passing a State examination.

#### Continuing Education:

Q. *“What is the current core course and when will a new core course be required?”*

A. The current core course is “New Laws and Rules Core Course”. Licensees renewing between now and December 31, 2006, must complete EITHER “Offers and Counter Offers” or “New Laws and Rules Core Course.” Any licensee renewing or reactivating after December 31, 2006 must complete “New Laws and Rules Core Course.”

Q. *“My license is currently inactive. How many continuing education hours will I need to activate my license?”*

A. It depends on how long your license has been inactive. 32 MRSA §13196 (2) establishes the incremental increase in the number of continuing education clock hours required to activate a license up to 6 years. After 6 years, inactive licensees are required to pass an examination to activate a license. The incremental increase by year and number of clock hours (the clock hours include the required core course) is as follows:

- Inactive for one day to 2 years - 21 clock hours;
- Inactive for more than 2 years but less than 4 years – 28 clock hours;
- Inactive for more than 4 years but less than 6 years – 36 clock hours; and
- Inactive for more than 6 years requires the licensee to pass the State examination for that purpose.

### Real Estate Brokerage Practice Changes

- Q. *“I am a buyer broker. I have several current buyer clients will the new law changes effective July 1, 2006 have an effect on my practice?”*
- A. Yes. 32 MRSA §13177-A will require all client level brokerage agreements, including buyer brokerage agreements, to be in writing and, at a minimum, include 4 specific provisions.
- Q. *“I am a commercial real estate broker. Will the new law changes effective July 1, 2006 have an effect on my practice?”*
- A. Yes, if your company policy is to represent sellers or buyers as clients. 32 MRSA §13177-A will require all client level brokerage agreements, including commercial real estate listings or buyer brokerage agreements, to be in writing and, at a minimum, include 4 specific provisions.
- Q. *“Will the changes effective July 1, 2006 require me to change my company’s real estate brokerage relationship policy?”*
- A. Yes. At a minimum, each real estate brokerage agency will be required to amend the company’s policy to incorporate the new presumption of transaction broker. 32 MRSA §13282 provides that a real estate brokerage agency is presumed to be a transaction broker unless the agency has agreed, in a written brokerage agreement meeting the requirements of 32 MRSA §13177-A, to represent either a buyer or seller.
- Q. *“The term “transaction broker” was the subject of an advisory ruling issued by the Commission several years ago and is a term*

*generally understood by licensees. I heard the new law defines the term "transaction broker." Is this a new definition?*

- A. Yes. 32 MRSA §13271 (13-A) defines transaction broker as meaning "a real estate brokerage agency that provides real estate brokerage services to one or more parties in a real estate transaction without a fiduciary relationship as a buyer agent, a seller agent, a subagent or a disclosed dual agent." As noted in the question above, licensees are presumed to be a transaction broker unless there is a written brokerage agreement with a buyer or seller client. Further, as provided by §13283 a transaction broker has limited responsibilities and is prohibited from performing the brokerage services listed in subsection 3 of this section.
- Q. *"Will licensees be required to give Agency Disclosure Form #2 to buyers and sellers after July 1, 2006?"*
- A. No. The Commission has developed a new agency relationship form. If the rules proposed by the Commission are adopted as proposed, a new Form #3 will be available and required to be used after July 1, 2006.
- Q. *I am a designated broker and I'm thinking of opening a new trust account in the local credit union, are there any special rules about having the real estate trust account in a credit union?*
- A. Yes. 32 MRSA §13178 effective July 1, 2006 requires a real estate brokerage agency to maintain the real estate trust account(s) in a "federally insured account or accounts in a financial institution authorized to do business in this State . . ." The requirement of a "federally insured account" means that each deposit in a real estate trust account must be insured to the limit set by law. Insurance coverage for credit union accounts (including real estate trust accounts) may be limited to members of the credit union. Designated brokers who currently have or may be considering opening a real estate trust account in a credit union will need to confirm that each deposit is covered by insurance to be in compliance with this Section of the Brokerage Act.