

STATE OF CALIFORNIA
DEPARTMENT OF REAL ESTATE



Real Estate MATTERS!

*Winter 2011 Real Estate Educators' Conference
Hilton San Diego Mission Valley
February 25, 2011*

**Regulations of the Real Estate Commissioner
ARTICLE 25. Continuing Education Requirements**

Amendments effective 1/1/2011 - Attached

ARTICLE 25. Continuing Education Requirements

REPEAL SECTION 3005 TO READ:

~~§ 3005. Definitions.~~

As used in this article, the following definitions will apply:

~~(a) "Clock hours" means 50 minutes actually spent in any combination of presenting course content, seminar, conference discussions, or workshop activity.~~

~~(b) "Approval" or "approved" with reference to an offering means a determination by the Department that the appropriate hours of continuing education credit will be given to licensees who have successfully completed the course within the time period specified by statute.~~

~~(c) "Final examination" means the test by which the sponsor, after completion of a continuing education offering, determines whether a participant has successfully completed the offering according to standards previously approved by the Department.~~

~~(d) "Material change" as used in Section 3007.2 means a significant deviation, in one or more aspects, from the offering as approved by the Department including a change in curriculum, course length, method of presentation, workbooks, texts, or syllabi, but not including changes designed exclusively to reflect recent changes in statutes, regulations or decisional law.~~

~~(e) "Completed" as used in Sections 3006, 3006.1, and 3013 in reference to a continuing education offering, means the date of successful completion of a final examination.~~

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

AMEND SECTION 3006 TO READ:

Section 3006. Criteria for Approval of Offerings.

In acting on an application for approval of a continuing education offering, the ~~commissioner~~ Commissioner shall apply, but shall not be limited to the application of; the following criteria in determining that the appropriate hours of continuing education credit will be given to licensees who have successfully completed the course within the time period specified by Section 10170.5 of the Business and Professions Code:

(a) The offering shall have at least one successive clock hour of instruction which is based on 50 minute increments of actual instruction.

(b) For other than a correspondence course offering, participants shall be physically present for at least 90% of the offering time exclusive of the time allocated to the administering of a final examination.

(c) For other than a correspondence course offering all continuing education offerings, a sponsor

shall provide ~~written materials, including a course outline, to each student. The written course outline shall consist of not less than three pages for each clock hour of instruction each~~ participant at least a written course outline that is a narrative outline consisting of not less than three (3) pages per credit-hour. Each page shall contain an average of 200 words.

(d) A continuing education offering shall have an appropriate form of final examination, ~~such as, but not limited to, multiple choice, essay or oral examinations~~ as set forth in Section 3007.3.

(e) Instructors, conference leaders, lecturers, and others who present a continuing education ~~requirement~~ offering shall meet at least one of the following qualifications:

(1) A bachelor's degree in a related field to that in which the person is to teach, from a school listed as an institution of higher learning by the U.S. Department of Education, or from a comparable school of a foreign country.

(2) A valid teaching credential or certificate issued by the Board of Governors of the California Community Colleges or by a comparable California teacher-credentialing agency authorizing the holder to teach in the field of knowledge covered in the offering.

(3) Three years full-time experience in the applicable field.

(4) Any combination of at least three years of full-time experience and college level education in the applicable field.

(5) The ~~commissioner~~ Commissioner may approve instructors who in his or her judgment meet the criteria for approval or who otherwise evidence their teaching qualifications by education or experience or a combination of the two.

(f) An instructor shall not be qualified if the instructor:

(1) Does not satisfy the criteria in subdivision (e);

(2) Has engaged in any violation of Article 25 (commencing with Section 3005) of these regulations or has engaged in conduct which would have warranted the denial of an application for approval or withdrawal of approval of a continuing education offering;

(3) As a real estate licensee has had that license suspended, revoked or restricted as a result of disciplinary action; or

(4) Acted or conducted himself or herself in a manner which would have warranted the denial of his or her application for a real estate license.

(g) A correspondence course shall consist of adequate study materials to assure that the course cannot be completed in less time than the number of hours for which it is approved.

(h) Every sponsor shall maintain on file with the ~~commissioner~~ Commissioner a current address.

(i) ~~Beginning on January 1, 2004, the~~ The sponsor shall notify each ~~student~~ participant that an

evaluation form is available on the Department's internet website for on-line evaluation of courses and instructors.

(j) The sponsor shall comply with the provisions of the Americans with Disabilities Act in the offering of approved courses.

(k) A sponsor that is a corporation, company or partnership shall maintain good legal standing with the State of California Office of the Secretary of State during any term of course approval.

(l) Prior to the start of the course, the sponsor shall provide participants with the following disclaimer statement: "This course is approved for continuing education credit by the California Department of Real Estate. However, this approval does not constitute an endorsement of the views or opinions which are expressed by the course sponsor, instructors, authors or lecturers."

(m) All offerings shall require completion within one year from the date of registration.

(n) Every participant who successfully completes the course shall be provided with a course completion certificate within 15 days from date of completion.

(o) A correspondence course offered via the internet in one or more aspects of the course offering must have a method of control in place to protect the integrity of the exam, ensure by written statement signed under penalty of perjury that the participant enrolled is the person completing the course and ensure the course cannot be completed in less time than the approved credit hours by controlling the participant's navigation through the course content.

(p) Incremental assessments shall be required that are designed to properly measure a participant's mastery of the course content after each logical unit of instruction or chapter within a correspondence course, i.e. case studies, quizzes or other form of exercises. Remediation to the participant shall be provided after each assessment has been completed.

(q) A sponsor or course instructor is prohibited from marketing, selling or displaying any product or service during a continuing education offering including during breaks between instructional periods. The foregoing shall not prohibit marketing activities conducted outside of the instruction room before or after the course of instruction, or outside of the instruction room during breaks in the course of instruction.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

AMEND SECTION 3007 TO READ:

Section 3007. Application for Offering Approval.

An application for approval of a continuing education offering shall be made on a ~~form~~ prescribed by the Department RE 315 (Rev. 2/06) "C.E. Offering Approval Application" form, herein incorporated by reference, not less than 90 days before the proposed commencement date of the offering. The completed application shall be accompanied by the fee and include at least the following supporting documents when applicable:

~~(a) The name, address and telephone number of the applicant.~~

~~(b) Summary of the offering including:~~

~~(1) Title.~~

~~(2) Textbook(s) and student materials prescribed.~~

~~(3) Outline or syllabus.~~

~~(4) A statement whether the offering is intended to comply with Business and Professions Code section 10170.5(a)(1), (2), (3), (4), (5) or (6).~~

~~(5) Disclosure of the method of offering presentation.~~

(a) Upon initial application and as updates to the information specified in this subsection occur, a Sponsor is required to submit the following:

(1) If sponsoring entity is a corporation, company, or partnership:

(A) From a Domestic Corporation - the filed Articles of Incorporation endorsed by the California Secretary of State.

(B) From a Foreign Corporation - a Certificate of Qualification executed by the California Secretary of State.

(C) From a Company or Partnership (whether Domestic or Foreign) – one of the following documents, issued by the California Secretary of State: Certificate of Qualification, Certificate of Registration, or Certificate of Good Standing.

(2) If the Sponsor is operating under a “doing business as” (“DBA”) name, include a Fictitious Business Name Statement that has been filed with the county recorder in the county where the Sponsor maintains their principal place of business or in Sacramento County if the Sponsor does not maintain a place of business in California.

(b) A copyright authorization from the copyright holder specifying the material that may be used and to whom the authorization has been granted if copyrighted material will be used in a manner that would be in violation of the copyright laws.

(c) A RE 304 (Rev. 3/09) “Consent to Service of Process” form, herein incorporated by reference, if the applicant is a non-resident of California.

(d) A RE 335 (Rev. 5/05) “C.E. Instructor Certification” form, herein incorporated by reference, must be submitted for each live course offering.

(e) All instruction materials, student materials, textbooks, CDs, DVDs, audio/video cassettes, case studies, sample forms, incremental assessments, etc., to be used as part of the offering.

- (1) If CDs are utilized during the course of instruction the following shall be submitted with a copy of each CD:
- (A) A Table of Contents for each CD.
 - (B) If the CD contains a textbook, copies of the text cover, publication page and table of contents.
- (2) If DVDs or audio/visual cassettes are utilized during the course of instruction, provide a course outline as defined in Section 3006(c) that has been keyed to the elapsed time for each topic and subtopic.
- (f) A General Information Page that will be provided to the participant prior to registration for the course that sets forth all requirements and policies that affect the participant's enrollment and completion of the course, i.e., fees, cancellation, refund; attendance and dismissal; final exam criteria, etc.†
- (g) A Course Outline as defined in Section 3006(c) with each topic and subtopic annotated with its allocated time in minutes.
- (h) Detailed statement(s) addressing and/or copies of the following if applicable for a correspondence course offering:
- (1) Method of control to protect the integrity of an exam administered via the internet.
 - (2) When the course is delivered via the internet, procedures controlling the participant's navigation through the course content to ensure the completion time is appropriate for the number of clock hours for which the course is approved.
 - (3) A copy of the incremental assessments to be utilized and a statement detailing the method of providing remediation to the participant.
 - (4) A copy of the signed written statement, required by Section 3006(o), to be executed by the participant.
 - (5) Final Exam Instructions provided to the participant and the proctor.
 - (6) A Certification to be executed by the proctor in accordance with Section 3007.3(h).
- (i) The Final Exam or bank of questions with answer key that has been keyed to the course material. If re-examinations are allowed for participants that fail the initial examination two final examinations must be submitted or the item bank must contain a sufficient number of questions to compile two separate examinations.
- (j) A Sample Course Completion Certificate containing at least:

- (1) The name and license number of participant;
- (2) A statement regarding meeting attendance and/or examination criteria;
- (3) The name of the offering as approved by the Department;
- (4) The number of credit hours;
- (5) The date of registration if a correspondence course;
- (6) The date of successful completion;
- (7) The category of the offering;
- (8) The eight-digit DRE approval number;
- (9) The name, address and telephone number of the sponsor; and
- (10) The printed name, signature and telephone number of the individual verifying the participant's completion of the course.

(k) If a course is a live educational seminar, conference or symposium that will not be offered more than annually in two (2) locations covering subject material dealing with new or changing trends, concepts or innovations in areas relevant to the real estate industry, a cover letter shall be submitted identifying the course as a one-time offering and the first date it is to be offered.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

AMEND SECTION 3007.05 TO READ:

Section 3007.05. Forms of Identification Accepted.

A participant shall present one of the following forms of identification immediately before admittance to a live presentation of an offering or, immediately before the administration of the final examination for a correspondence offering.

- (a) A current California drivers license.
- (b) A current identification card described in Section 13000 of the California Vehicle Code.
- (c) Any identification of the participant issued by a governmental agency or a recognized real estate related trade organization within the immediately preceding five years which bears a photograph, signature and identification number of the participant.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Section 10170.4, Business and Professions Code.

AMEND SECTION 3007.2 TO READ:

Section 3007.2. Material Change in Course Offering.

(a) Any proposed ~~material~~ change to an approved course offering that is a significant deviation, in one or more aspects, from the offering as approved by the Department including a change in curriculum, course length, method of presentation, workbooks, texts, or syllabi, but not including changes designed exclusively to reflect recent changes in statutes, regulations or decisional law, shall be deemed to be material and shall be submitted by the sponsor to the Department for consideration and approval prior to use.

(b) A material change ~~as defined in Section 3005(d)~~ shall require a new application and fee.

(c) If a course was approved under the regulations in effect from 2008 through January 1, 2011, and the sponsor continues to offer the course after January 1, 2011, the sponsor must change the course by January 1, 2011, to meet the new standard.

(d) A course that is changed as described in (c), above, to come into compliance with the regulatory changes adopted to go into effect on January 1, 2011, does not need to be submitted to the Department for review until the course is renewed.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

AMEND SECTION 3007.3 TO READ:

Section 3007.3. Final Examination Rules.

~~(a)~~ A final examination is required for all continuing education courses. Sponsors shall establish and participants shall observe the following final examination rules for approved offerings that are to be observed by all offering participants:

~~(1)~~ (a) The final examination shall provide the means by which a sponsor determines whether a participant has successfully completed the offering. The final examination shall provide for the testing, examination or evaluation of participants. The sponsor shall take steps to protect the integrity of the examination by controlling access to the exam by the participant and to prevent cheating in an examination.

~~(2)~~ (b) The examination shall not be taken by participants until completion of the instructional portion of the offering to which the examination applies.

~~(3)~~ (c) Participants taking a correspondence offering or package of offerings shall be limited to completion of final examinations for the offering for a maximum of fifteen (15) credit hours during any one 24 hour period. A participant shall not be granted access to additional segments of the final examination for offerings or a package of offerings that exceed fifteen (15) credit hours until the appropriate 24-hour period has lapsed.

(d) The minimum number of questions required on a final examination consisting only of multiple choice, true/false and/or fill-in the blank questions shall be:

- (1) 1 credit hour – 5 questions
- (2) 2 credit hours – 10 questions
- (3) 3-5 credit hours – 15 questions
- (4) 6-8 credit hours – 20 questions
- (5) 9-11 credit hours – 25 questions
- (6) 12-14 credit hours – 30 questions
- (7) 15-18 credit hours – 40 questions
- (8) 19-23 credit hours – 50 questions
- (9) 24-27 credit hours – 60 questions
- (10) 28-31 credit hours – 70 questions
- (11) 32-35 credit hours – 80 questions
- (12) 36-39 credit hours – 90 questions
- (13) 40 credit hours and over – 100 questions

(e) A final examination consisting only of multiple choice, true/false and/or fill-in the blank questions shall be limited to a maximum of 10% true/false questions.

(f) Time calculations for a final examination consisting of multiple choice, true/false and/or fill-in the blank questions will be allowed a maximum amount of one (1) minute per each such question.

(g) Final examinations may be administered as open or closed book but must be consistent for all participants. If open book examinations are administered, the participant may only refer to the instructional material approved for the course.

(h) Final examinations for a correspondence course may be administered by a proctor designated by the Sponsor who is not related by blood, marriage, domestic partnership, or any other relationship, i.e. future employing broker, to the participant taking the examination which might reasonably influence them from properly administering the exam. The proctor must certify in writing that they have complied with all examination rules during the administration of the examination.

(i) Final examinations for a correspondence course may be administered via the internet provided the integrity of the final examination is protected by restricting access to one-time, cannot be printable or downloadable, and must time-out after the maximum amount of time authorized for completion has lapsed.

(j) Participants taking a correspondence course must have access to the course materials for the approved number of credit hours for that correspondence course prior to completion of the final examination.

(1) For a correspondence course that uses static print or static print delivered in electronic media, such as CD, DVD, audio/video cassette or internet download when not administered via the internet, a maximum of eight (8) hours reading time per day shall be utilized in calculating the number of days that must lapse from the time the participant has had access to the course material until the examination can be accessed.

(2) For a correspondence course administered via the internet, a participant must spend the requisite number of hours navigating through the content and completing the incremental assessments prior to being granted access to the final examination.

(k) An offering may include a provision for one retaking of the final examination by a participant who failed the original examination provided the questions in the re-examination are different questions than those asked in the original final examination. A participant who fails the re-examination has failed the course and receives no credit from that course. Such a participant is not barred from re-enrolling and attempting completion of the same course, but must re-complete the credit hours and pass the final examination to receive credit for the course.

(l) Questions used in a final examination shall not duplicate any more than 10% of questions used in any other quiz or examination utilized during the presentation of the course.

(m) Participants shall not take possession of the final examination outside of the controlled environment under which the examination is administered.

~~(b)(n)~~ A violation of a final examination rule by the sponsor or the sponsor's representative administering the examination shall constitute grounds for denial or withdrawal of approval of the offering.

~~(e)(o)~~ To pass the examination, a participant must achieve a percentage score of 70 percent or more.

~~(d)(p)~~ Time involved in the final examination process may be included in establishing "clock-hours" for the offering.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Section 10170.4, Business and Professions Code.

AMEND SECTION 3007.6 TO READ:

Section 3007.6. Advertising and Promotional Material.

(a) All advertising and promotional material for a continuing education offering shall:

(1) Not include false or misleading statements or representations.

(2) Classify the offering in accordance with Section 10170.5(a) of the Code.

(3) Contain only the four-digit identification number assigned by the Department immediately following the words "DRE Sponsor No." The full eight (8) digit course approval number shall not be included in any advertisement.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

AMEND SECTION 3008 TO READ:

Section 3008. Offerings Not to Be Approved.

The ~~commissioner~~ Commissioner shall not approve a proposed continuing education offering that includes any of the following subject matter or conditions:

(a) Offerings which do not address the subject matter areas set forth in ~~Business and Professions Code section 10170.5~~ Section 10170.5(a) of the Code.

(b) Sales promotion.

(c) That portion of any offering devoted to the consuming of meals or to transporting participants to and from sites to be viewed or inspected as part of the offering.

(d) Any offering for which approval has been denied or withdrawn pursuant to ~~section~~ Section 3010.

(e) Any offering substantially similar to and offered by the sponsor of an offering for which approval has been denied or withdrawn pursuant to ~~section~~ Section 3010.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

AMEND SECTION 3010 TO READ:

Section 3010. Denial or Withdrawal of Approval.

(a) If the ~~commissioner~~ Commissioner determines that a previously-approved continuing education offering no longer meets the prescribed statutory and regulatory standards for approval, or if the ~~commissioner~~ Commissioner determines that an instructor or lecturer for the course is no longer qualified, or that the course sponsor has engaged in activity violating the provisions of Article 25 (commencing with Section 3005) of these regulations or has engaged in conduct which would have warranted the denial of an application for approval or withdrawal of approval of a continuing education offering, or the course differs materially from that which was previously approved, the ~~commissioner~~ Commissioner shall give written notice of withdrawal of approval setting forth the reasons for the determination. If the ~~commissioner~~ Commissioner determines, following an application for course approval, that the course will not meet the prescribed statutory and regulatory standards for approval or if the ~~commissioner~~ Commissioner determines that the instructor for the course is unqualified, the ~~commissioner~~ Commissioner shall give written notice of denial of approval setting forth the reasons for the determination. Withdrawal or denial of approval will be effective 30 days after the notice of withdrawal or denial is received by the sponsor unless the sponsor earlier files a written request for hearing on the withdrawal or denial action. If the request for hearing is received by the ~~commissioner~~ Commissioner before 30 days after the date of receipt of notice of withdrawal by the sponsor, the withdrawal or denial of approval shall not be effective unless and until ordered by the ~~commissioner~~ Commissioner pursuant to findings and conclusions reached after hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The hearing shall be commenced within 30 days after receipt of the request for hearing unless continued to a later date by order of the ~~commissioner~~ Commissioner or by agreement of the parties. In a hearing on an order of withdrawal issued by the ~~commissioner~~ Commissioner, the burden of proving that the course does not meet the prescribed statutory and regulatory standards for approval shall be on the ~~commissioner~~ Commissioner. In a hearing on

an order of denial issued by the ~~commissioner~~ Commissioner, the burden of proving that the course meets the prescribed statutory and regulatory standards for approval shall be on the applicant.

(b) Petition for Reinstatement.

(1) The sponsor of an offering for which approval has been withdrawn pursuant to subdivision (a) may, after a period of not less than one year has elapsed from the effective date of the withdrawal of approval, petition the ~~commissioner~~ Commissioner in writing for reinstatement of approval of the offering. The petitioner shall be given the opportunity to present in writing argument and other evidence, statements or matters in support of the petition. The ~~commissioner~~ Commissioner shall decide the petition and the decision shall include the reasons therefor.

(2) Upon a showing of good cause, the ~~commissioner~~ Commissioner may allow the filing of a petition for reinstatement prior to the expiration of one year from the effective date of the withdrawal of approval.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Section 10170.4, Business and Professions Code.

AMEND SECTION 3011.1 TO READ:

Section 3011.1. Petitions for Continuing Education Credit Equivalency for Course Instruction.

(a) ~~For~~ To receive continuing education credit for instruction of real estate related courses not approved for continuing education, the petitioner shall submit a statement under penalty of perjury which includes at least the following information:

- (1) The petitioner's qualifications to teach the course.
- (2) The title of the course.
- (3) The date(s) and location the instruction took place.
- (4) Clock hours of instruction.
- (5) Titles and description of instructional materials used including the author(s), date of publication, and ~~an outline or syllabus of the course~~ a copy of the Table of Contents, if applicable.
- (6) An outline or syllabus for the course.
- ~~(6)~~(7) Any other information useful in determining that the course will contribute to current knowledge as set forth in Business and Professions Code Section 10170.4.
- ~~(7)~~(8) A statement by the course sponsor or school that the petitioner taught the course.

(b) ~~Instructors~~ A sponsor of an approved continuing education course may issue a completion certificate to the instructor of an approved continuing education courses may receive a certificate of completion for the number of hours actually spent in instruction at for one presentation of the course during its approval period.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

AMEND SECTION 3011.2 TO READ:

Section 3011.2. Petitions for Continuing Education Credit Equivalency for Authorship of Articles or Books.

(a) To receive continuing education credit equivalency for authorship of articles or books, the applicant shall submit a petition under penalty of perjury that includes at least the following information:

- (1) The date of publication of the article or book.
- (2) An explanation of how the material published meets the criteria of Section 3011.
- (3) The number of hours the petitioner devoted to authorship of the article or book.
- (4) The period during which the article or book was written.

~~(a)(b) The applicant shall submit~~ ~~Submit~~ a copy of the published article or book.

~~(b) Submit a statement signed under penalty of perjury which includes at least:~~

~~(1) The date of publication of the article or book.~~

~~(2) An explanation of how the material published meets the criteria of Section 3011.~~

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

AMEND SECTION 3011.4 TO READ:

Section 3011.4. Petitions for Continuing Education Credit Equivalency for Attendance at Unapproved Programs.

(a) The Commissioner, when acting upon a petition for continuing education credit for completing a course that is not approved, shall apply the criteria set forth in Sections 3006 and 3007.3.

(b) The applicant shall submit a petition under penalty of perjury including at least the following information:

- (1) The name, address, and telephone number of the course sponsor or school.
- (2) The title of the course.
- (3) The title, publisher, and date of publication of any text or course material used.
- (4) The number of clock hours attended.
- (5) Any outline or syllabus.

(6) A ~~final grade report for the final examination(s) and~~ a list of reading assignments with page references.

(7) A final grade report for the final examination.

(8) A completion certificate.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

AMEND SECTION 3012.2 TO READ:

Section 3012.2. Record Keeping.

The sponsor shall maintain a record of attendance or registration and final examination grade of each participant, for a period of five years, sufficient to allow for the preparation of a duplicate certificate upon request by a participant.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.