

APPENDIX II-G

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2022-36 Rule Number Rea 300 various

<p>1. Agency Name & Address: NH Real Estate Commission c/o Office of Professional Licensure & Certification 7 Eagle Square Concord, NH 03301</p>	<p>2. RSA Authority: RSA 331-A:25, II, III, IV, V, VII, and VIII and RSA 541- A:16, I(b)</p> <p>3. Federal Authority: <u>n/a</u></p> <p>4. Type of Action:</p> <p><input type="checkbox"/> Adopt</p> <p><input type="checkbox"/> Amendment (only if Initial Proposal was filed before 9/27/20.)</p> <p><input checked="" type="checkbox"/> Repeal</p> <p><input type="checkbox"/> Readoption</p> <p><input checked="" type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: **Licensing Requirements**

6. Contact person for copies and questions:

Name:	Tina M. Kelley	Title:	Program Specialist IV
Address:	Office of Professional Licensure and Certification 7 Eagle Square Concord, NH 03301	Phone #:	(603) 271-5247

7. The rulemaking notice appeared in the Rulemaking Register on November 24, 2021.

**SEE THE INSTRUCTIONS--PLEASE SUBMIT ONE COPY OF THIS COVER SHEET
AND ONE COPY OF THE FOLLOWING:
(optional to number correspondingly)**

8. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

9. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

10. Yes N/A The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(d).

11. Yes N/A The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

Notice Number 2022-36

Rule Number Rea 300 various

<p>1. Agency Name & Address:</p> <p>NH Real Estate Commission c/o Office of Professional Licensure & Certification 7 Eagle Square Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 331-A:25, II, III, IV, V, VII, and VIII and RSA 541- A:16, I(b)</u></p> <p>3. Federal Authority: <u>n/a</u></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Repeal <u>X</u></p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: **Licensing Requirements**

6. (a) Summary of what the rule says and of any proposed amendments:

Rea 301.01 describes the application for licensure form for all applicants and is being readopted with amendment as follows:

- **Make various editorial changes;**
- **Correct the names of the forms and revising existing forms;**
- **Change the wording of the requirement to obtain a criminal history record report;**
- **Add the provision that the commission will issue one license type per person as either a salesperson, associate broker, managing broker, or principal broker at any one time;**
- **State that a salesperson, associate broker or managing broker will be affiliated with only one principal broker at a time; and**
- **When a licensee changes a license for a salesperson to a broker, one broker designation to another, or broker to a salesperson the previous license is voided and must be returned to the commission within 5 business days.**

Rea 301.02 describes fees and is being readopted with amendment to change the \$110 application fee to \$155, remove the fees for a duplicate license, letter of good standing, bank fees, late fee, course accreditation or reaccreditation fee, copying fee, fee for audio files or rosters, remove the exam fee requiring it be paid directly to the exam company, make all fees non-refundable, and various editorial changes.

Rea 301.03 describes the examination filing requirements and is being readopted with amendment to:

- **Change the requirement for an applicant who wishes to take the examination by requiring that applicant to apply directly to the exam company contracted through a State of NH RFP process and pay the examination fee by the exam company directly to the exam company;**
- **Add a description of the content of the exam registration form to be used by the exam company;**
- **Candidates who are licensed in another state who wish to take the exam;**
- **Exam applicants' education requirements before applying to the exam company to take the exam;**
- **Procedure to retake an exam after having failed the exam;**
- **Correct the names of forms and revising existing forms; and**
- **Remove the breakdown of the education programs**

Repeal Rea 301.04 that describes dishonored checks, drafts or money orders.

Rea 301.05 describes computerized lists for distribution and is being readopted with amendment to remove the fee required to obtain the list.

PART Rea 302.02 is being readopted with amendment to change the part name from “Qualifications” to “Education Accreditation Qualifications and Requirements”

Rea 302.01 describes programs of study and accreditation and re-accreditation of instruction in real estate pre-licensing and continuing education courses and is being readopted with amendment to:

- **Require that accredited individual providing the pre-licensing course submit a prescribed list of information to the real estate exam company within 2 business days;**
- **That an instructor applicant has held a license continuously for the immediately preceding 3 years;**
- **Describe the notification that the Board sends to the applicant describing any additional documents needed and mandate that the notification will be sent to the applicant within 60 days of the receipt of the application; and**
- **Require that the continuing education providers maintain an active license while instructing the course.**

Adopt Rea 302.04 to describe the education requirements for all license types.

Repeal Rea 303.01 which describes the examination schedule.

Repeal Rea 303.02 which describes examination response records.

Rea 303.03 describes candidates for broker or salesperson examination who took and failed the examination and is being readopted with amendment renumbering as Rea 303.01 to require that the applicant follow protocols set forth by the exam provider if they wish to retake the examination.

Rea 303.03 describes candidates for broker or salesperson examination who failed to take the exam and is being readopted with amendment and renumbered as Rea 303.02 to require that the applicant follow protocols set forth by the exam provider if they wish to reschedule.

Repeal Rea 303.05 that describes a passing only one portion of the examination.

Rea 305.01 describes corporation organized under the laws of another state and is being readopted with amendment to update form names and require use of revised forms.

Rea 305.02 describes the types of license certificates and cards to be issued to licensees and is being readopted with amendment to clearly state how the license and card will be issued, requirements for providing the license to the principal broker, when the license must be signed and dated by the principal broker, and require the principal broker to maintain custody of all licenses affiliated with him or her.

Rea 305.05 describes a letter of good standing and is being readopted with amendment to require the licensee requesting the letter of good standing go through the process promulgated by OPLC.

6. (b) Brief description of the groups affected:

The groups affected by the rules changes are:

- **Applicants for licensure as a principal broker, associate broker, managing broker, salesperson license, firm, or firm branch;**
- **Candidates who wish to sit for the licensing exam for brokers or salespersons; and**
- **Individual or firms seeking accreditation to instruct a real seated pre-licensing or continuing education course.**

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Specific State Statute the Rule Implements
Rea 301.01	RSA 331-A:10; 10-a; 12; 14; 16, I; 25, V
Rea 301.02	RSA 331-A:7, II, IV; 11; 15, I; 17, II; 18, I, II; 19, II; 20, IV; 24; 25, IV
Rea 301.03	RSA 331-A:10; 25, II, III, IV, XIV
Rea 301.03 (a)-(f), (h), (i), (l), (n), (q), (r)	RSA 331-A:10; 25, II, III, IV
Rea 301.03 (j), (m)	RSA 331-A:10, II(b); 25, XIV
Rea 301.03 (g), (k), (o), (p), and (s)	RSA 331-A:10; 11-a; 25, II, III
Rea 301.04 (Repealed)	RSA 331-A:11; 19, II; 24; 25, IV
Rea 301.04 (a) (Repealed)	RSA 331-A:11; 19, II; 24; 25, IV
Rea 301.04(b) (Repealed)	RSA 331-A:7, II, IV; 11-a; 15, I; 17, II; 18, I; 19, II; 20, IV; 21; 24; 25, IV; 28, I (b)
Rea 301.05	RSA 91-A:4
Rea 302.01	RSA 331-A:20; 25, VIII
Rea 302.04	RSA 331-A:25, VIII
Rea 303.01 (Repealed)	RSA 331-A:25, II
Rea 303.02 (Repealed)	RSA 331-A:11; 25, II
Rea 303.01 formerly Rea 303.03	RSA 331-A:11; 25, II, III
Rea 303.02 formerly Rea 303.04	RSA 331-A:11, 25, II
Rea 303.05 (Repealed)	RSA 331-A:11; 25, II, III
Rea 305.01	RSA 331-A:12, IV; 15, II; 17, II; 22; 25, XIII
Rea 305.03	RSA 331-A:15; 17, IV, V; 25, VII
Rea 305.05	RSA 331-A:11-a, RSA 331-A:25, XIV

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Tina Kelley** Title: **Program Specialist IV**
 Address: **Office of Professional Licensure and Certification** Phone #: **(603) 271-5247**
7 Eagle Square Fax#: **None**
Concord, NH 03301 E-mail: **OPLC-Rules@oplcnh.gov**

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, April 19, 2022 at the conclusion of the public hearing.**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, April 19, 2022 at 9:00 a.m.**

Place: **Office of Professional Licensure and Certification**
7 Eagle Square
Concord NH 03301

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 22:026, dated 3/3/2022

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rules, the proposed rules will increase State revenues and increase costs to certain State citizens and employers including independently owned businesses.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

The proposed rules include the following changes:

- The cost of a broker's license is increased from \$110 per an application or renewal fee to \$155, an increase of \$45 per fee. Based 4,658 broker's licenses. This change would increase State revenue by \$209,610.
- The fee for the salesperson license and renewal is increased from \$90 to \$155 a \$65 increase. Based on 8,755 salesperson licenses. The changes would increase State revenue by \$569,075.
- Fees are removed for duplicate licenses, letters of good standing, bank fees, late fees, course accreditation or reaccreditation fees, copying fees and the fees for audio files or rosters. There is no reduction to State revenue from the removal of these fees as the Office of Professional Licensure and Certification (OPLC) has already stopped charging those fees and is aligning the Board's rules with the rules adopted by OPLC in Plc 1000.
- Lastly, the proposed rule makes the examination fee payable to the examination company and not directly to OPLC. This has no impact as currently the OPLC receives the examination fee and transfers the funds to the examination company.

A. To State general or State special funds:

There will be no direct impact on the State general fund, however after paying all costs and salaries associated with the Office, any remaining balance in the fund lapses to the general fund at the close of each biennium. There will be additional revenue to the office of professional licensure and certification fund from the proposed application and renewal fees.

B. To State citizens and political subdivisions:

There would be an increase in costs to State citizens to the extent they are subject to a broker's license fee or salespersons license fee. There is no impact to political subdivisions. To independently owned businesses:

C. To independently owned businesses:

There would be a cost to independently owned businesses who pay for their employee's broker's license fee or salespersons license fee.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

These rules do not violate Part I, Article 28-a of the New Hampshire Constitution. These rules do not mandate or assign this program to any political subdivision in any way.

Unclear/Edit. The form requires the submission of a social security number. RSA 541-A:22, III(h) requires authority for an agency to require an applicant submit a SSN. Is it being required pursuant to RSA 161-B:11, V-a? If so, either amend the form or the rule text so that the authority is indicated.

Unclear. The form requires the payment of a fee in the amount of \$155. The rule here does not indicate that. A citation to Rea 301.02 may be needed.

Readopt with amendment Rea 301.01, effective 1/23/2020 (Document #12977-B),

Rea 301.01 Application Form.

(a) All applicants for licenses under RSA 331-A as brokers shall complete and submit the following:

(1) A “Real Estate Commission Broker Application Form”, revised 6/2022, which includes the following:

Edit. Move this to be a separate paragraph (b) as it is a requirement that exists after the application has been filed. and "The applicant shall report any criminal..."

Edit. "commission's"

a. A criminal history report, as required by RSA 331-A:10-a, issued by the department of safety, division of state police, and dated no more than 6 months from the receipt of the license application. This requirement includes the applicant’s duty to report any criminal conviction issued after the date of submission of the application through the date the license is issued;

b. A criminal history report, as required by RSA 331-A:10-a, from any other jurisdiction in which the applicant has been convicted of a misdemeanor or felony offense that has not been annulled by a court;

c. Signed attestation from three character references, as required by RSA 331-A:12, II, which states the following:

Edit. "3"

“I, the undersigned, on oath depose and say that I am in no way related to the applicant by either blood or marriage, and that said applicant for a real estate license is a person of good repute, trustworthy and entitled to public confidence and that I know of no circumstance or dealing by the applicant which would disqualify him/her for the license applied for.”

d. The applicant’s attestation after the following statement:

“I have read and understand the state statutes 331-A and the administrative rules. I attest that the information contained in this form is true and correct to the best of my knowledge and belief and I further acknowledge that the provision of materially false information in the application knowingly provided is a basis for denial and if it is discovered after the license is issued, is a basis for disciplinary action by the board.”;

e. If the applicant is a non-resident, a signed “Real Estate Commission Irrevocable Uniform Consent to Service of Process” revised 6/2022, as required by RSA 331-A:22, II.

f. A signed statement from the employing broker, listing the principal broker’s license number, certifying that the applicant was employed by him or her as a real estate salesperson, listing the dates and the number of hours per week of that employ and whether the applicant was employed full time or part time.

g. A “Real Estate Commission Transaction/Activation Form” revised 6/2022 containing at least 6 real estate transactions and accompanying MLS sheets, or similar documents, that show the applicant’s name as either the listing or buyer agent for each transaction.

Unclear. The form contains a broker's attestation, under #6, and an attestation by the licensee at #4 that do not appear here in the rule text.

Unclear/Edit. The form and the large attestation that cannot be incorporated is part of NN 2022-28, Rea 401.01(h). A citation to that rule is needed here or the large attestation needs to be inserted.

Unclear. This form does not indicate that these items must be submitted with it. Also, the form requires a \$20 amendment fee, 12 hours of elective education, if applicable, a \$25K surety bond, and that the person contact the broker to ask that the wall license be submitted. This form is also referenced in NN 2022-28 and a citation to the rule could be used.

Unclear. The form requires different types of documents for each question. For example, an affirmative response to question 1 means the applicant has to submit a letter of good standing, and an affirmative response to question 2 requires a letter of explanation. This should be split out into different paragraphs or rewritten to indicate that are different requirements.

(2) If the applicant answered “yes” to questions 1-3 on the “Real Estate Commission Broker Application Form” revised 6/2022, a separate document shall be submitted with the application giving full details and an explanation of each “yes” answer;

(b) Applicants for licenses under (a) above and (c) below shall have their prospective principal broker complete the applicable sections indicated by the principal broker’s signature under the following certification:

Unclear. The form requires the payment of a fee in the amount of \$155. The rule here does not indicate that. A citation to Rea 301.02 may be needed.

“Upon receipt of the license herein applied for, the above named applicant will be employed by me or will otherwise be under contract with me to perform services as a real estate licensee, and will work under my supervision. I will display his/her license prominently at my place of business, and when he/she leaves my employ I will notify the New Hampshire Real Estate Commission within 5 days, as required by RSA 331-A:17, IV.

(c) All applicants for licenses under RSA 331-A as salespersons shall complete and submit a “Real Estate Commission Salesperson Application Form”, revised 6/2022, which includes the following:

Unclear/Edit. The form requires the submission of a social security number. RSA 541-A:22, III(h) requires authority for an agency to require an applicant submit a SSN. Is it being required pursuant to RSA 161-B:11, V-a? If so, either amend the form or the rule text so that the authority is indicated.

(1) A criminal history record report, as required by RSA 331-A:10-a, issued by the department of safety, division of state police, and dated no more than 6 months from the commissions receipt of the license application. This requirement includes the applicant’s duty to report any criminal conviction issued after the date of submission of the application through the date the license is issued;

Edit. This should be a separate paragraph.

(2) A criminal history record report, as required by RSA 331-A:10-a, from any other jurisdiction in which the applicant has been convicted of a misdemeanor or felony offense that has not been annulled by a court;

(3) Signed attestation from three character references, as required by RSA 331-A:12, II, which states the following:

“I, the undersigned, on oath depose and say that I am in no way related to the applicant by either blood or marriage, and that said applicant for a real estate license is a person of good repute, trustworthy and entitled to public confidence and that I know of no circumstance or dealing by the applicant which would disqualify him/her for the license applied for.”

(4) The applicant’s signature after the following certification:

Edit. The form uses "commission". Also, "commission."; and

“I have read and understand the provisions of the New Hampshire revised statutes, 331-A and the N.H. Real Estate administrative rules, Rea 100 through 700. I attest that the information contained in this form is true and correct to the best of my knowledge and belief and I further acknowledge that the provision of materially false information in the application knowingly provided is a basis for denial and if it is discovered after the license is issued, is a basis for disciplinary action by the board.”; and

Unclear/Edit. The form and the large attestation that cannot be incorporated is part of NN 2022-28, Rea 401.01(h). A citation to that rule is needed here or the large attestation needs to be inserted.

(5) If the applicant is a non-resident, a signed “Real Estate Commission Irrevocable Uniform Consent to Service of Process” dated 6/2022, as required by RSA 331-A:22, II.

(6) If the applicant answered “yes” to question 1 through 3 on the “Real Estate Commission Salesperson Application Form” revised 6/2022, a separate document shall be submitted with the application giving full details and an explanation of each “yes” answer;

Unclear/Edit. Each affirmative question requires different type of documentation. Consider: "6/2022, either a letter of good standing or website printout, a letter of explanation, or written documentation shall be submitted, as applicable."

Unclear. The form requires the payment of a fee in the amount of \$155. The rule here does not indicate that. A citation to Rea 301.02 may be needed.

(d) All applicants for a broker license as a firm under RSA 331-A shall submit the following:

(1) A completed “Real Estate Commission Firm Application Form”, revised 6/2022;

(2) A current certificate for the firm name from the New Hampshire secretary of state’s office;

(3) If the applicant is a non-resident, a signed “Real Estate Commission Irrevocable Consent to Service of Process” dated 6/2022, as required by RSA 331-A:22, II; and

(4) A completed “Real Estate Commission Tradename Application” revised 6/2022.

Unclear. The form requires the payment of a fee in the amount of \$155. The rule does not indicate that. A citation to Rea 301.02 may be needed.

(e) All applicants for a broker license as a firm branch shall complete and submit a “Real Estate Commission Firm Branch Application Form”, revised 6/2022; and

(1) If the applicant is a non-resident, the applicant must submit a signed “Real Estate Commission Irrevocable Uniform Consent to Service of Process” dated 6/2022, as required by RSA 331-A:22, II; and

(2) A completed “Real Estate Commission Tradename Application” revised 6/2022.

(f) Principal broker and managing broker applicants shall submit to the commission a surety bond in the sum of not less than \$25,000 to run concurrently with the dates of licensure, executed by the applicant and by a surety company authorized to do business in the state of New Hampshire.

(g) The commission shall issue only one of the following to any licensee at any one time:

- (1) A salesperson license;
- (2) An associate broker license;
- (3) A managing broker license; or
- (4) A principal broker license.

(h) A salesperson associate broker or managing broker shall be affiliated with only one principal broker at any one time.

(i) Upon commission approval an application to change a license as listed in (1) through (3) below, the previous license shall immediately be deemed void and the licensee’s principal broker shall return the voided license to the commission within 5 business days:

- (1) Salesperson to a broker designation;
- (2) One broker designation to another broker designation; or
- (3) Broker designation to a salesperson.

Readopt with amendment Rea 301.02, effective 1/23/2020 (Document #12977-B), to read as follows:

Unclear/Edit. The form and the large attestation that cannot be incorporated is part of NN 2022-28, Rea 401.01(h). A citation to that rule is needed here or the large attestation needs to be inserted.

Note to the JLCAR. The JLCAR on 11-19-20 voted, when reviewing board rules, to support the Executive Director of the OPLC in possessing sole fee authority pursuant to RSA 310-A:1-d, II(h)(1) and RSA 310-A:1-e, I and II. SB 576, 2020, was to address the authority of the OPLC to establish fees for the licensing boards but it was tabled. The agency has been seeking a legislative fix the past few sessions to remove fee authority that still remains in boards' statutes, and SB 330, 2022, establishes a study committee to study the issue. Pursuant RSA 310-A:1-e, I. (a) the Executive Director of the OPLC has authority to assess certification, renewal fees, and any necessary administrative fees associated with licensing or certifications. However, it appears that the Real Estate Commission still has fee authority pursuant to several sections of RSA 331-A (generally at RSA 331-A:7, II; for renewals RSA 331-A:19; capped at 125% of estimated reviewed RSA 331-A:24; fees for exams, CLEs, etc. RSA 331-A:25. See the appendix for the full list of authority for fees.)

(a) The applicant for each original individual, firm, or firm branch broker license and renewal thereof shall pay a fee of \$155.00.

(b) The applicant for each original salesperson license and renewal thereof shall pay a fee of \$155.00.

The broker, salesperson, firm, or firm branch shall pay a fee of \$20 for each of the following:

(1) Change of Managing Broker of Firm or Branch Office;

(2) Change of Principal Broker of Firm or Trade Name;

(3) Transfer or Activation of license; or

(4) Broker Status Change.

Edit. Delete the caps except at the start of each sentence.

(c) The applicant for each qualifying examination shall pay directly to the real estate examination company contracted through the RFP process with the real estate commission the fee required to take the examination.

(e) Any broker or salesperson whose license has lapsed who has appeared before the commission pursuant to a request under RSA 331-A:18, II, and who has been granted reinstatement shall pay a lapsed fee of \$200 for each 4 week period or part thereof after the date of lapse. Such fee shall be in addition to the regular renewal fee, for reinstatement of a lapsed license after the license is deemed expired. The foregoing lapsed fee may be waived upon good cause shown. Good cause shall include serious accident, illness, or other circumstances beyond the control of the candidate.

(f) All fees shall be non-transferable and non-refundable.

Readopt with amendment Rea 301.03, effective 1/23/2020 (Document #12977-B), to read as follows:

Rea 301.03 Examination Filing Requirements.

(a) All salesperson examination candidates who completed the educational requirements of Rea 302.04(g) shall register and pay for the salesperson examination directly to the real estate examination company contracted through the State of New Hampshire RFP process with the real estate commission.

(b) The salesperson examination candidate shall register with the real estate examination company contracted through the State of New Hampshire RFP process with the real estate commission.

(c) Any salesperson examination candidate who is requesting based on being licensed in another state, shall file a completed "New Hampshire Real Estate Examination Registration Form" provided by the real estate examination company contracted through the State of New Hampshire RFP process with the office of the commission's office prior to paying and scheduling to take the real estate salesperson examination.

Edit. Use low case.

(d) The candidate shall supply on such registration form the following:

Unclear. This form has not been submitted to OLS for review. Also, there's no edition date.

Legis. Intent This does not indicate what that amount is for the examination. RSA 331-A:25 requires the board to have the fees for examinations in the rules. While the Board may contract out the administration of the tests, it sets the fees and must do so in compliance with the statute.

- (1) Legal name and address of candidate registering to take the real estate licensing examination;
- (2) Contact phone number;
- (3) Contact email address;
- (4) Date of birth of candidate;
- (5) Date of previous real estate salesperson licensing examination taken in this state, if any;
- (6) The test type being requested, whether salesperson or broker;
- (7) The test portion being requested whether state, national, or both; and
- (8) Completed Registration submission date.

Edit. Use low case.

Edit Use low case.

Unclear. This form has not been submitted to OLS for review. Also, there's no edition date.

(e) All broker examination candidates who completed the licensing requirements of Rea 302.04(a) or (b), or based on being licensed in another state, shall file a completed “New Hampshire Real Estate Examination Registration Form”, provided by the real estate examination company contracted through the State of New Hampshire RFP process with the real estate commission’s office, a completed course affidavit(s), and other required education documents as applicable, with the office of the commission prior to paying and scheduling for a real estate broker exam.

(f) The candidate shall supply on such registration form the following:

- (1) Legal name and address of candidate registering to take the real estate licensing examination;
- (2) Contact phone number;
- (3) Salesperson license number issued by the commission;
- (4) Contact email address;
- (5) Date of birth of candidate;
- (6) Broker designation;
- (7) Date of previous real estate broker licensing examination taken in this state, if any;
- (8) The test type being requested, whether salesperson or broker;
- (9) The test portion being requested, whether state, national, or both; and
- (10) Completed Registration submission date.

Edit Use low case.

(g) Candidates who apply for the salesperson examination based on being licensed in another state, or a broker examination based on being licensed in another state shall submit the name of

each state in which the candidate is licensed, the license number from each state, and a certificate of good standing from the licensing authority of the state, dated within 6 months from the date of the examination registration submission, in which the person was licensed along with the examination registration.

(h) No notice to schedule an examination shall be sent to any salesperson candidate, or any broker candidate until a completed “New Hampshire Real Estate Examination Registration Form”, provided by the real estate examination company contracted through the State of New Hampshire RFP process, completed course affidavit(s) or other educational documents as applicable, and certificate of good standing if applicable been received and accepted in the office of the commission.

(i) Candidates for the broker or salesperson exam shall meet the following applicable requirements:

(1) Salesperson candidates who are required to first complete a pre-licensing course shall:

Edit Insert ";and"

- a. Obtain a minimum passing grade of 70 on both the uniform and state portions of the examination;
- b. Obtained the passing score of 70 on both the uniform and state portions of the examination within a 12-month period from the start date of the pre-licensing course in order to qualify for licensing as a real estate salesperson.

Edit Replace with a semicolon.

(2) Salesperson candidates who fail to attain a passing grade on both portions of the examination within a 12-month period from the start date of the pre-licensing course, or after 8 failed examinations within that time period, shall:

Edit Insert ";and"

- a. Complete an accredited pre-licensing course in addition to the one previously submitted;
- b. Re-take both the uniform and state portions of the examination.

Edit. Replace with a semicolon, and for (4)b. ";and"

(3) To qualify for licensing as a real estate broker by equivalency the applicant shall obtain a minimum passing grade of 70:

- a. On the state portion of the examination; and
- b. On the national portion of the examination.

(4) Broker candidates applying for licensure by meeting the broker education licensing requirements or by broker equivalency shall:

Edit. "6-month"

- a. Obtain within a 6 month period from the date of the original examination a passing grade of 70 for both the uniform and state portions of the examination; and
- b. Be required to re-take both the uniform and state portions of the examination if the candidate fails to attain a passing grade on both portions of the examination within a 6-month period from the date of the original examination, or after 8 failed examinations with that time period.

(5) Broker and salesperson candidates who took the examination and are notified by the exam company that they received a passing grade for only one portion of the examination, shall:

Unclear/Edit. The form requires the submission of additional documents not included here in the rule text. Also, it contains attestations that cannot be incorporated by reference. Also the form's edition date is incorrect on the form.

- a. Not be required to re-take the portion of the examination which they passed within the time period pursuant to Rea 301.03(i)(1) for salesperson, or Rea 301.03(i)(3) for broker; and
- b. Register with the exam company follow the protocols set forth by the examination company if they wish to be rescheduled.

(j) Candidates who fail to satisfy the education requirement pursuant to RSA 331-A:10 prior to the date of the examination, shall be required to re-take the exam in its entirety even if the candidate has passed one or both sections of the examination.

(k) Candidates who seek approval to take the broker examination based on equivalent experience pursuant to RSA 331-A:10, II(c) shall complete and submit an “Real Estate Commission Equivalency Application Form”, revised 6/2022.

(l) Examination applicants shall not submit the application for license and license fee to the commission until after they have received notification that they passed both the uniform and state portions of the written examination.

(m) Real estate applicants shall not complete the broker or salesperson application for a license, including all signatures, more than 30 days prior to submission to the commission office.

Repeal Rea 301.04, effective 6/18/2017 (Document #12213), as follows:

~~[Rea 301.04 Dishonored Checks, Drafts or Money Orders.~~

~~(a) No candidate for the real estate licensing examination shall be permitted to take the test for which he or she is registered if the commission is notified that the check, draft, or money order used to pay the examination fee has been dishonored. Such candidate shall be required to wait until the prescribed fee for his or her dishonored check, draft, or money order accompanies the new registration form and examination fee.~~

~~— (b) Any applicant or licensee who has paid a fee or fine to the commission with a check, draft or money order that has subsequently been dishonored, shall within 14 days after receiving notice from the commission that said check, draft or money order has been dishonored, remit to the commission the required original or renewal fee plus the fee prescribed by Rea 301.02(g) for a dishonored check, draft or money order.]~~

Readopt with amendment Rea 301.05, effective 6/18/2017 (Document #122134), to read as follows:

Rea 301.05 Computerized Lists Distribution. A computerized list of licensees who have agreed to share their name, business or personal email, and business or personal mailing address shall be furnished upon request.

Readopt with amendment Rea 302.01, effective 6/18/2017 (Document #12213), to read as follows:

PART Rea 302 EDUCATION ACCREDITATION QUALIFICATIONS AND REQUIREMENTS

Rea 302.01 Programs of Study Accreditation and Re-accreditation.

(a) Any individual applying for accreditation or any firm applying for accreditation to instruct a real estate pre-licensing or continuing education course shall submit to the commission documents substantiating the applicant's qualifications to instruct such course, including, but not limited to (b), (c), and (d) below. If the commission or its designee has any questions or needs further information prior to approving or denying the accreditation, it shall schedule the applicant to appear before the commission or its designee to address such questions or provide such information.

(b) All individuals applying for accreditation as a pre-licensing education instructor shall:

Edit. Delete.

~~(1) Have an active broker license that has been continuously active for at least 3 years prior to date of application to be an instructor; and~~

(2) Have teaching experience or other qualifications found by the commission to be equivalent to the following:

a. Documentation of at least 72 hours of teaching, speaking, or presentation experience; or

Edit. "Demonstrate" (to follow from the introductory language of (b).

b. Demonstration of teaching, speaking, or presentation skills, such as, but not limited to a one-hour unedited video recording which depicts the applicant teaching pre-licensing material that includes New Hampshire state-specific material;

Unclear/Edit. Does not follow from the intro language in that this is a requirement on licensees, not applicants. Can be fixed by making it a separate paragraph.

(3) **Demonstration of** subject matter knowledge before the commission as necessary to substantiate the qualifications or information submitted, pursuant to Rea 302.01(a); and

(4) All pre-licensing education instructors shall maintain an active N.H. broker license while instructing any pre-licensing course.

(c) Any individual applying for accreditation or any firm applying for accreditation to instruct a real estate pre-licensing course shall, at the completion of a pre-licensing course and within 2 business days thereafter, submit the following **information in the format** required to the real estate examination company contracted through an RFP process with the real estate commission:

Unclear. It is unclear whether this is a form or not. Since the person has to submit it in a specific format, it would appear to be a form, and it has not been submitted to OLS for review. See RSA 541-A:1, VII-a for the definition of "form".

(1) Exam candidate's legal name;

(2) Exam candidate's email address;

(3) A unique candidate number issued by the provider in accordance with the exam company's requirements;

(4) The beginning and ending dates of the course;

(5) The course number; and

Edit. "provider's"

(6) Education providers name.

(d) All individuals applying for accreditation as a core continuing education instructor shall:

(1) Have an active broker license that has been continuously active for at least 3 years prior to the date of application to become an instructor; and

(2) Have teaching experience qualifications or other qualifications found by the commission to be equivalent to the following:

Note. Annotations are not needed in a fixed text document.

a. Documentation of at least 72 hours of teaching, speaking, or presentation experience; or

b. Demonstration of teaching, speaking, or presentation skills, such as, but not limited to a one hour unedited video recording which depicts the applicant teaching New Hampshire core course material;

Edit. See comment to (b) (4) above. (3) and (4) are drafted as stand-alone requirements that should be lettered as paragraphs. They are not drafted as subparagraphs that follow the intro of (d).

(3) If the board, after receiving and reviewing a completed application and supporting documents, requires additional information or documents to determine the applicant's qualifications for licensure, the board shall:

a. So notify the applicant within 60 days; and

b. Specify the information or documents it requires; and

(4) All core continuing education instructors shall maintain an active N.H. broker license while instructing any core continuing education course.

(e) All individuals applying for accreditation as an elective continuing education instructor shall demonstrate the following:

(1) Experience qualifications or other qualifications found by the commission to be equivalent to one of the following:

a. A degree from an accredited institution with a major related to the subject matter of the course within 3 years prior to the date of application;

b. A certification from an accredited institution related to the subject matter of the course within 3 years prior to the date of application; or

c. Two years of on-going work experience or teaching experience or a combination of both within the previous 3 years of the date of application that is related to the subject matter of the course; and

(2) Either of the following:

a. Documentation of at least 15 hours of teaching, speaking, or presentation experience or other qualifications found by the commission to be equivalent; or

b. Demonstration of teaching, speaking or presentation skills, such as, but not limited to a one-hour unedited video recording which depicts the applicant teaching material on the subject matter of the course.

(f) All individuals or firms shall apply for re-accreditation of pre-licensing, core, and elective continuing education courses within 2 years from the date of original accreditation or re-accreditation.

(g) All education providers, institutions or organizations shall submit notice of any substantive changes to accredited courses to the commission during the 2-year accreditation or reaccreditation period.

Adopt Rea 302.04, to read as follows:

Edit Underline the title.

Edit Delete.

Rea 302.04 **Education Requirements for Licensure.**

(a) Candidates for the broker examination shall show proof of completion of 60 hours of approved study, pursuant to RSA 331-A:10, II, consisting of the following:

(1) A juris doctor degree from an accredited law school obtained by a licensed attorney who actively practices or practiced in real estate law within the last 5 years; **or**

(2) One of the following degrees within 5 years prior to the date of examination:

a. A bachelor's degree with a major in real estate from an accredited college, university, or institute of higher learning;

b. A bachelor's degree from an accredited college, university, or institute of higher learning, having completed coursework equivalent to a major in real estate; or

c. An associate degree in real estate from an accredited institution; or

(3) Successful completion of the education requirements and receipt of the designation for at least one of the following within 5 years prior to the date of examination:

a. Certified Commercial Investment Member (CCIM); or

b. Graduate, Realtor Institute (GRI).

(b) The following items may be applied towards the 60 hours of approved study:

(1) Real estate continuing education courses previously approved by the commission for credit that have been successfully completed within 24 months prior to the date of examination may be submitted consisting of one or more of the following:

a. One 3-hour accredited core course; and

b. Accredited elective courses;

(2) Evidence of successfully completing 40 hours of accredited pre-licensing education may be submitted consisting of the following:

Unclear/Edit. If the following sub-paragraphs are meant just say: "distance education or a combination thereof, and no more..."

a. New Hampshire accredited pre-licensing education with a minimum of 32 hours of classroom attendance or real-time internet live-class distance education pursuant to Rea 302.04(b)(2), a., 2. or a combination thereof, and no more than 8 hours of distance education which began within 12 months prior to the date of examination in compliance with the following:

1. Pre-licensing distance education that is not real-time internet live-class shall only be allowed for acceptable absences, including:

- (i) Family emergencies;
- (ii) Illnesses;
- (iii) Technical issues during real-time internet live-class and
- (iv) Other unforeseen circumstances;

Edit. Insert a semicolon before "and"

2. Real-time internet live-class shall:

- (i) Have live video and audio feeds of all participants that will allow real time visualization, instructor monitoring, and communication among all participants;
- (ii) Be equal to one credit hour for each hour of real-time internet live-class for an attendee who was present by video and audio throughout the hour(s); and
- (iii) Allow the students to view a live video stream of the instructor unless the instructor is presenting instructional material through a shared screen presentation.

Edit. Replace with a semicolon.

3. All distance education that is not real-time internet live-class shall be provided through audio or visual recordings or correspondence delivery with a final examination consisting of a minimum of 25 questions; and

4. Pre-licensing distance education that is not real-time internet live-class shall not exceed 2 classes; or

b. A minimum of 32 hours of classroom attendance and no more than 8 hours of distance education which began within 12 months prior to the date of examination consisting of 34 hours of accredited national material completed in a minimum of 6 hours of New Hampshire accredited state material; or

(3) Real estate related credit courses successfully completed within the past 5 years at an accredited college, university, or institute of higher learning, and evidenced by a transcript, may be submitted to the commission for approval, including courses with topics such as, but not limited to:

- a. Accounting;
- b. Management;

- c. Real estate law;
- d. Finance;
- e. Real estate investment;
- f. Appraisal courses; and
- g. Paralegal courses.

(c) Each hour of the courses outlined in (b)(1) and (2), above, shall count towards one hour of credit toward the required 60 hours. All 3 credit or more courses submitted and approved under (b)(3) as real estate related education shall receive 12 credit hours.

(d) Schools or individuals may seek accreditation of education not included in (a)(3) and (b)(1) through (3) above or (e) below by submitting the course content outline, course materials, course hours, course accreditation fee, and certificate of completion to the New Hampshire commission.

(e) For purposes of (b)(2) above, proof of a pre-licensing course previously used to fulfill the salesperson's education requirement shall not be used to fulfill the broker education requirement.

(f) Candidates for the salesperson examination shall complete 40 hours of approved study prior to the date of examination, pursuant to RSA 331-A:10, I.

(g) Evidence of successfully completing 40 hours of accredited pre-licensing education shall be submitted consisting of the following:

Edit. Delete.

(1) New Hampshire accredited pre-licensing course with a minimum of 32 hours of classroom attendance or real-time internet live-class distance education pursuant to Rea 302.04(g)(1) or a combination thereof, and no more than 8 hours of distance education which began within 12 months prior to the date of examination in compliance with the following:

a. Real-time internet live-class shall:

Edit. "shall"

1. Have live video and audio feeds of all participants that will allow real time visualization, instructor monitoring, and communication among all participants:
2. Be equal to one credit hour for each hour of real-time internet live-class for an attendee who was present by video and audio throughout the hour(s); and
3. Allow the students to view a live video stream of the instructor unless the instructor is presenting instructional material through a shared screen presentation.

Edit. Replace with a semicolon.

b. Pre-licensing distance education that is not real-time internet live-class shall only be allowed for acceptable absences, including:

1. Family emergencies;
2. Illnesses;

Edit. Replace with a semicolon.

3. Technical issues during real-time internet live-class: and

4. Other unforeseen circumstances;

c. All distance education that is not real-time internet live-class shall be provided through audio or visual recordings or correspondence delivery with a final examination consisting of a minimum of 25 questions; and

d. Pre-licensing distance education that is not real-time internet live-class shall not exceed 2 classes; or

(2) A minimum of 32 hours of classroom attendance and no more than 8 hours of distance education which began within 12 months prior to the date of examination consisting of 34 hours of accredited national material comp minimum of 6 hours of New Hampshire accredited state material.

Repeal Rea 303.01, effective 8/1/2012 (Document #10147), to read as follows:

~~[Rea 303.01 Examination Schedule. Examinations for broker and salesperson candidates shall be scheduled a minimum of 4 times a year.]~~

Repeal Rea 303.02, effective 6/18/2017 (Document #12213), to read as follows:

~~[Rea 303.02 Examination Response Records. All records of candidate examination responses shall remain the property of the commission and shall be maintained for at least one year from the date of examination.]~~

Readopt with amendment Rea 303.03, effective 6/18/2017 (Document #12213) and renumbered as Rea 303.01, to read as follows:

Rea 303.01 Examination Failure. Candidates for the broker or salesperson examination who took the examination and are notified that they did not receive a passing grade for part, or all of the examination shall follow all protocols set for the by the examination provider if they wish to be rescheduled.

Readopt with amendment Rea 303.04, effective 6/18/2017 (Document #12213) and renumbered as Rea 303.02, to read as follows:

Rea 303.02 Failure to Attend Examination. Any candidate who fails to attend an examination for which they are scheduled shall be required to follow applicable protocols set forth by the provider if they wish to be rescheduled.

Repeal Rea 303.05, effective 6/18/2017 (Document #12213), as follows:

~~[Rea 303.05 Partial Examinations.~~

~~— (a) Candidates for the broker and salesperson examination who took the examination and are notified by the testing service that they received a passing grade for only one portion, either the uniform portion or the state portion, of the examination, shall not be required to re-take the portion of the examination which they passed. Such candidates shall submit a new examination fee and the original passing and failing score report(s) if they desire to be rescheduled to take only the portion of the examination which they failed.~~

~~— (b) A minimum passing grade of 70 for both the uniform and state portions of the examination shall be obtained within a 6-month period from the date of the original examination in order to qualify for licensing as a real estate salesperson or broker. Candidates who fail to attain a passing grade on both portions of the examination within a 6-month period from the date of the original examination or after 8 examinations shall be required to complete an accredited pre-licensing course in addition to any pre-licensing course previously submitted to take the original examination and re-take the examination in its entirety.]~~

Readopt with amendment Rea 305.01, effective 6/18/2017 (Document #12213), to read as follows:

Rea 305.01 Foreign Corporation.

(a) A corporation organized under the laws of another state shall be registered with the New Hampshire secretary of state pursuant to RSA 293-A in order to do business in New Hampshire.

(b) A completed “Real Estate Commission Firm Application Form”, revised 6/2022, shall be filed with the commission by the principal broker to have its New Hampshire real estate license issued in its corporate name.

(c) “Real Estate Commission Firm Application Form” revised 6/2022 shall contain the signature of the principal broker, and “Real Estate Commission Irrevocable Uniform Consent to Service of Process”, dated 6/2022.

(d) The principal broker shall supply a current certificate from the NH secretary of state for the registered corporation, along with the completed “Real Estate Commission Firm Application Form” described in (b) above.

See the previous unclear/legis intent comments on the fees on the forms.

Readopt with amendment Rea 305.03, effective 6/18/2017 (Document #12213), to read as follows:

Rea 305.03 Types of License Certificates and Cards.

(a) Upon receiving the completed license application, the required fee, and evidence that the license applicant has met all other requirements and qualifications for licensure, the commission shall issue an appropriate license and card.

(b) Wall licenses and pocket cards issued by OPLC shall contain in part or in whole the following information:

(1) Whether the license is a broker, salesperson, firm, or firm branch license;

(2) The name, trade name, or both, city, and state of the broker, salesperson, firm, or firm branch;

- (3) The principal broker of the salesperson, associate broker, or firm license;
- (4) The managing broker of the firm branch license;
- (5) The beginning date and expiration date of the license;
- (6) The effective date of the license; and
- (7) The license number as issued by the commission.

Edit. Insert a

- (c) The commission shall send the license and card to the licensee's e-mail address on file.
- (d) The licensee shall send the license to the principal broker within 3 business days from receipt.
- (e) The principal broker shall immediately sign and date the license upon receipt.
- (f) Only a license signed, dated and maintained by the principal broker shall be considered a valid license.
- (g) The principal broker shall maintain custody of all licenses affiliated with him or her and return a license to the commission within the timeframe of Rea 404.02(c) when the licensee is no longer affiliated with the principal broker.

Readopt with amendment Rea 305.05, effective 1/23/2020 (Document #12977-B), to read as follows:

Rea 305.05 Letter of Good Standing.

- (a) A licensee seeking a letter of good standing shall submit a request through the process promulgated by the office of professional licensure and certification.

Unclear. A citation to the administrative rules outlining this process is needed.

APPENDIX

Rule	Specific State Statute the Rule Implements
Rea 301.01	RSA 331-A:10; 10-a; 12; 14; 16, I; 25, V
Rea 301.02	RSA 331-A:7, II, IV; 11; 15, I; 17, II; 18, I, II; 19, II; 20, IV; 24; 25, IV
Rea 301.03	RSA 331-A:10; 25, II, III, IV, XIV
Rea 301.03 (a)-(f), (h), (i), (l), (n), (q), (r)	RSA 331-A:10; 25, II, III, IV
Rea 301.03 (j), (m)	RSA 331-A:10, II(b); 25, XIV
Rea 301.03 (g), (k), (o), (p), and (s)	RSA 331-A:10; 11-a; 25, II, III
Rea 301.04 (Repealed)	RSA 331-A:11; 19, II; 24; 25, IV
Rea 301.04 (a) (Repealed)	RSA 331-A:11; 19, II; 24; 25, IV
Rea 301.04(b) (Repealed)	RSA 331-A:7, II, IV; 11-a; 15, I; 17, II; 18, I; 19, II; 20, IV; 21; 24; 25, IV; 28, I (b)
Rea 301.05	RSA 91-A:4
Rea 302.01	RSA 331-A:20; 25, VIII
Rea 302.04	RSA 331-A:25, VIII
Rea 303.01 (Repealed)	RSA 331-A:25, II
Rea 303.02 (Repealed)	RSA 331-A:11; 25, II
Rea 303.01 formerly Rea 303.03	RSA 331-A:11; 25, II, III
Rea 303.02 formerly Rea 303.04	RSA 331-A:11, 25, II
Rea 303.05 (Repealed)	RSA 331-A:11; 25, II, III
Rea 305.01	RSA 331-A:12, IV; 15, II; 17, II; 22; 25, XIII
Rea 305.03	RSA 331-A:15; 17, IV, V; 25, VII
Rea 305.05	RSA 331-A:11-a, RSA 331-A:25, XIV