

MONTANA

A. Actions Requiring Licensure

37-51-301. License required — limited to persons. (1) It is unlawful for a person to engage in or conduct, directly or indirectly, or to advertise or represent to the public as engaging in or conducting the business or acting in the capacity of a real estate broker or a real estate salesperson within this state without a license as a broker or salesperson or otherwise complying with this chapter. In this chapter, the following definitions apply:

(2) It is unlawful for a person to supervise licensed salespersons or to act in the capacity of a supervising broker unless the person has a valid and active Montana broker's license and a supervising broker endorsement.

(3) Corporations, partnerships, and associations may not be licensed under this chapter. A corporation or partnership may act as a licensee if every corporate officer and every partner performing the functions of a licensee is licensed under this chapter. All officers of a corporation or all members of a partnership acting as a licensee are in violation of this chapter unless there is full compliance with this subsection.

(4) (a) For purposes of this section and whether or not the person is physically located in Montana, "within this state" or similar terminology includes:

(i) marketing or dealing with any interest in real estate or a business opportunity involving an interest in real estate that is situated in the state of Montana; or

(ii) conducting or attempting to conduct or solicit real estate business with residents of the state of Montana.

(b) Unless exempted from this chapter, any single act described within the definitions of "broker" or "salesperson" is sufficient to constitute engaging in the business of a real estate broker or salesperson.

B. Exceptions

37-51-103. Exemptions. (1) An act performed for compensation of any kind in the buying, selling, exchanging, leasing, or renting of real estate or in negotiating a real estate transaction for others, except as specified in this section, must identify the person performing any of the acts as a real estate broker, a real estate salesperson, or a property manager. The licensing provisions of this chapter **do not**:

- (a) apply to any person who, as owner or lessor, performs any acts listed in subsection (1) with reference to property owned or leased by the person or to an auctioneer employed by the owner or lessor to aid and assist in conducting a public sale held by the owner or lessor;
- (b) apply to any person acting as attorney-in-fact under a special or general power of attorney from the owner of any real estate authorizing the purchase, sale, exchange, renting, or leasing of any real estate, unless the person acting as attorney-in-fact does so regularly or consistently for a person or persons, for or with the expectation of receiving a fee, commission, or other valuable consideration in conjunction with a business or for the purpose of avoiding license requirements;
- (c) include in any way the services rendered by any attorney at law in the performance of the attorney's duties;
- (d) apply to any person appointed by a court for the purpose of evaluating or appraising an estate in a probate matter;
- (e) include a receiver, a trustee in bankruptcy, an administrator or executor, any person selling real estate under order of any court, a trustee under a trust agreement, deed of trust, or will, or an auctioneer employed by a receiver, trustee in bankruptcy, administrator, executor, or trustee to aid and assist in conducting a public sale held by the officer;
- (f) apply to **public officials in the conduct of their official duties**;
- (g) apply to any person, partnership, association, or corporation, foreign or domestic, performing any act with respect to prospecting, leasing, drilling, or operating land for hydrocarbons and hard minerals or disposing of any

hydrocarbons, hard minerals, or mining rights, whether upon a royalty basis or otherwise;

(h) apply to persons acting as managers of housing complexes for low-income persons, which are subsidized, directly or indirectly, by Montana or an agency or subdivision of Montana or by the government of the United States or an agency of the United States; or

(i) apply to a person performing any act with respect to the following types of land transactions:

(i) **right-of-way transfers for roads, utilities, and other public purposes**, not including conservation easements or easements for recreational purposes;

(ii) condemnations; or

(iii) governmental or tribal permits.