



Janet T. Mills
Governor

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION
OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION
REAL ESTATE COMMISSION

35 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0035



Joan F. Cohen
Commissioner

Public Board Meeting
April 4, 2025
AGENDA

Location: 76 Northern Ave. Gardiner, ME 04345

Room: Central Conference Room

Information regarding virtual attendance to this meeting will be posted on the Board's website at:

<https://www.maine.gov/pfr/professionallicensing/professions/real-estate-commission/home/board-meeting-information>

Time: 10:00 a.m.

Contact: Shara Chesley, (207) 624-8521
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- I. CALL TO ORDER**
- II. PROPOSED RULEMAKING**
Chapter 410 Section 2 Acting in Self-Interest
- III. MEETING SCHEDULE**
Next meeting scheduled for April 17, 2025.
- IV. ADJOURNMENT**



Office of Professional & Occupational Regulation

Real Estate Commission
Catherine E. Pendergast, Director

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MEMORANDUM

To: Real Estate Commission Member
From: Catherine E. Pendergast, Director
Date: March 31, 2025
Subject: Proposed Rulemaking – Chapter 410 Section 2 Acting in Self-Interest

Review of a proposed rule Chapter 410 Section 2 revealed potential unintentional consequences and possible conflict with the statute. Applicable statutes attached.

The proposed rule is:

SECTION 2. Acting in Self-Interest

1. A licensee holding an active real estate license shall disclose, in the offer to purchase, that the licensee is a real estate licensee:
 - A. When buying or selling real estate not listed with a real estate brokerage agency;
 - B. When buying or selling real estate listed with the licensee's real estate brokerage agency; or
 - C. When buying or selling real estate and sharing in the brokerage fee resulting from the sale of such real estate.
2. When acting in the capacity of paragraph 1(B) or 1(C) of this section, and the licensee has, or would have an ownership interest, licensee must abide by all applicable statutes and Commission rules throughout the transaction.

Issue #1

SubSection 1. Adding “selling real estate” in section 1 would require a counter-offer for offers made to licensee sellers as the offer is generated by the buyer. The general public buyer would most likely not know that the disclosure must be included in an offer so the seller licensee would have to counter -offer to have it included in the offer. We suggest that the seller disclose as part of the property disclosures.

Issue #2

SubSection 2 re 1(B). Would a seller licensee, selling their own property through their agency pay themselves a commission? If not, it is not considered brokerage as set forth in 32 M.R.S. §

13001 and the rule may be in conflict with the statute. We suggest deleting 1(B) from subsection 2.

Issue #3

Adding “selling” to this section: What if, for example, a licensee living in one part of the state refers a property they own in another part of the state to be listed by an agent in that area. Should the licensee/owner be required to disclose that they are a licensee? What is the potential harm to the public?

Suggested revision to Chapter 410 Section 2:

SECTION 2. Acting in Self-Interest

1. A licensee holding an active real estate license shall disclose, in the offer to purchase as a buyer or as part of property disclosure information as a seller, that the licensee is a real estate licensee:
 - A. When buying or selling real estate not listed with a real estate brokerage agency;
 - B. When buying or selling real estate listed with the licensee's real estate brokerage agency; or
 - C. When buying or selling real estate and sharing in the brokerage fee resulting from the sale of such real estate.
2. When acting as a buyer, or a seller who is not an owner or lessor, and in the capacity of paragraph ~~4(B) or 1(C)~~ of this subsection, ~~and the licensee has, or would have an ownership interest,~~ licensee must abide by all applicable statutes and Commission rules throughout the transaction.

*Please note that a seller who is not an owner or lessor includes, but is not limited to trustees, personal representatives, receivers, etc.

32 MRS 13001 Definitions:

2. Real estate brokerage. "Real estate brokerage" means a single instance of offering, attempting to conduct or conducting services on behalf of another for compensation, or with the expectation of receiving compensation, calculated to result in the transfer of an interest in real estate. Real estate brokerage includes, but is not limited to, the following activities conducted in behalf of another:

- A. Listing real estate for sale or exchange; [PL 1987, c. 395, Pt. A, §212 (NEW).]
- B. Promoting the purchase, sale or exchange of real estate; [PL 1987, c. 395, Pt. A, §212 (NEW).]
- C. Procuring of prospects calculated to result in the purchase, sale or exchange of real estate; [PL 1987, c. 395, Pt. A, §212 (NEW).]
- D. Advertising or holding oneself out as offering any services described in this subsection; [PL 1987, c. 395, Pt. A, §212 (NEW).]
- E. Negotiating the purchase, sale or exchange of real estate; [PL 1987, c. 395, Pt. A, §212 (NEW).]
- F. Buying options on real estate or selling real estate options or the real estate under option; [PL 1987, c. 395, Pt. A, §212 (NEW).]
- G. Acting as a finder to facilitate the purchase, sale or exchange of real estate; and [PL 1987, c. 395, Pt. A, §212 (NEW).]
- H. Buying, selling or exchanging real estate. [PL 1987, c. 395, Pt. A, §212 (NEW).]

[PL 1987, c. 395, Pt. A, §212 (NEW).]

13002. Exceptions to brokerage

Real estate brokerage does not include the following: [PL 1991, c. 53, §1 (AMD).]

- 1. Transactions by owner or lessor.** Transactions conducted by any person who is the owner or lessor of the real estate, or to their regular employees with regard to the employer's real estate, provided that:
(provisions are related to employees)

Can you cover licensees buying or selling property for themselves?

	Buyer self-agent	Seller self-agent
13001	Yes if fee	Yes if fee
13002	Yes	No, if owner or lessor
Can cover	Yes if fee	Yes if fee and not owner or lessor, i.e., trustee, personal representative