

Secretary of State  
Certificate and Order for Filing  
**TEMPORARY ADMINISTRATIVE RULES**  
A Statement of Need and Justification accompanies this form..

I certify that the attached copies\* are true, full and correct copies of the TEMPORARY Rule(s) adopted on January 18, 2008 by the  
Date prior to or same as filing date

Real Estate Agency \_\_\_\_\_ OAR Chapter 863  
Agency and Division \_\_\_\_\_ Administrative Rules Chapter Number

Laurie Skillman laurie.a.skillman@state.or.us \_\_\_\_\_ (503) 378-4170 x 237  
Rules Coordinator \_\_\_\_\_ Telephone

1177 Center St. NE Salem, OR 97301-2505 (503) 378-4170 x237 Fax: (503) 378-2491  
Address \_\_\_\_\_

To become effective January 18, 2008 through July 16, 2008  
Date upon filing or later A maximum of 180 days including the effective date.

**RULE CAPTION**

Advertising rules for real estate licensees

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

**RULEMAKING ACTION**

List each rule number separately, 000-000-0000.

**ADOPT:** Secure approval of rule numbers with the Administrative Rules Unit prior to filing.  
None

**AMEND:**  
863-015-0125

**SUSPEND:**  
None

**ORS 696.385** \_\_\_\_\_  
Stat. Auth. \_\_\_\_\_ Other Authority \_\_\_\_\_

**ORS 696.020 & 696.301(1), (4)**  
Stats. Implemented

**RULE SUMMARY**

The licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker, or property manager must be prominently displayed, immediately noticeable, and conspicuous in all advertising related to professional real estate activity. If advertising includes the licensee's name, the licensee's licensed name must be used or a common derivative of the licensee's first name may be used. A real estate broker must submit all advertising to the principal real estate broker for review and approval prior to releasing advertising to the public. A principal real estate broker is responsible for advertising that states the principal real estate broker's licensed name of registered business name. Advertising in electronic media has specific requirements. Advertising using the term "team" or group" has specific requirements.

\_\_\_\_\_  
Authorized Signer Gene Bentley, January 18, 2008  
Printed name Date

\*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. ARC 940-2005

Secretary of State  
**STATEMENT OF NEED AND JUSTIFICATION**  
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Real Estate Agency  
Agency and Division

OAR Chapter 863  
Administrative Rules Chapter Number

**In the Matter of:** Amending OAR 863-015-0125

**Rule Caption:** Advertising

**Statutory Authority:** ORS 696.385

**Other Authority:**

**Stats. Implemented:** ORS 696.020 & ORS 696.301(1), (4)

**Need for the Temporary Rule(s):**

The temporary rule is a result of a large rules working group composed of members of the real estate industry, members of the Real Estate Board and the Agency. The permanent rule states: “(6) Effective March 1, 2008, if a licensee’s name is used in advertising, the name of the licensee may not be in a larger type size than the licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker or property manager.” This provision would require a significant number of licensees to make major changes to their existing advertising, which would result in significant costs to the licensees. The rule was also confusing because many registered business names are contained in a logo and it was unclear what “type size” would be required. The temporary rule states that The licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker, or property manager must be “prominently displayed, immediately noticeable, and conspicuous” in all advertising related to professional real estate activity.

**Documents Relied Upon, and where they are available:**

Letters from real estate licensees; minutes of the Brokerage Rules Working Group of October 10, 2007 October 24, 2007, November 20, 2007, November 27, 2007, December 14, 2007; and minutes from Real Estate Agency Board special meeting of January 14, 2008. Temporary rules are available from the Agency’s Rules Coordinator and are posted on the agency’s website at [www.rea.state.or.us](http://www.rea.state.or.us).

**Justification of Temporary Rule(s):**

This temporary rule is revenue neutral for the Real Estate Agency. This amendment will allow real estate licensees to advertise in a less costly manner. Currently, there are 23,500 real estate licensees that will be impacted by this rule. The Real Estate Agency has used all available information to project any significant economic effect on businesses.

The agency adopts these rules under the provisions of ORS 183.335(4) and (5) because its failure to act promptly will result in serious prejudice to the public interest. If the agency did not adopt these rules, this serious prejudice would result because real estate licensees will continue to be burdened by costs of complying with the current rule.

\_\_\_\_\_  
Authorized Signer

Gene Bentley  
Printed name

January 18, 2008  
Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.  
ARC 945-2005

**TEMPORARY ADVERTISING RULE  
EFFECTIVE IN JANUARY 18, 2008 TO JULY 16, 2008**

**863-015-0125**

**Advertising**

(1) As used in this rule, "advertising" and "advertisement" include all forms of representation, promotion and solicitation disseminated in any manner and by any means for any purpose related to professional real estate activity, including, without limitation, advertising by mail; telephone, cellular telephone, and telephonic advertising; the Internet, E-mail, electronic bulletin board and other similar electronic systems; and business cards, signs, lawn signs, and billboards.

(2) Advertising by a licensee, in process and in substance, must:

- (a) Be identifiable as advertising of a real estate licensee;
- (b) Be truthful and not deceptive or misleading;
- (c) Not state or imply that the real estate broker or property manager associated with a principal real estate broker is the person responsible for operating the real estate brokerage or is a sole practitioner or principal broker;
- (d) Not state or imply that the licensee is qualified or has a level of expertise other than as currently maintained by the licensee; and
- (e) Be done only with the written permission of the property owner(s) or owner(s') authorized agent.

(3) Advertising that includes the licensee's name must:

- (a) Use the licensee's licensed name; or
- (b) Use a common derivative of the licensee's first name and the licensee's licensed last name.

(4) The licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker, or property manager must be prominently displayed, immediately noticeable, and conspicuous in all advertising.

(5) Except as provided in section (8) of this rule, a real estate broker must:

- (a) Submit proposed advertising to the licensee's principal broker for review and receive the principal broker's approval before publicly releasing any advertisement; and
- (b) Keep a record of the principal broker's approval and make it available to the Agency upon request.

(6) Except as provided in section (8) of this rule, a principal real estate broker:

- (a) Is responsible for all advertising approved by the principal broker that states the principal real estate broker's licensed name or registered business name; and
- (b) Must review all advertising of a real estate broker or a property manager who is associated with the principal real estate broker.

(7) A principal real estate broker may delegate direct supervisory authority and responsibility for advertising originating in a branch office to the principal broker who manages the branch office if such delegation is in writing.

(8) A licensee associated with a principal real estate broker may advertise property owned by the licensee for sale, exchange, or lease option without approval of the principal real estate broker, if:

- (a) The property is not listed for sale, exchange, or lease option with the principal broker;
- (b) The advertising states that the property owner is a real estate licensee; and
- (c) The advertising complies with all applicable other applicable provisions of ORS chapter 696 and its implementing rules.

(9) Advertising in electronic media and by electronic communication, including but not limited to the Internet, web pages, e-mail, e-mail discussion groups, blogs, and bulletin boards is subject to the following requirements:

- (a) Advertising must comply with all other requirements of this rule;
- (b) Advertising by a licensee must include on its first page:
  - (i) The licensee's licensed name as required in section (3) of this rule;
  - (ii) The licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker, or property manager; and
  - (iii) A statement that the licensee is licensed in the State of Oregon.
- (c) Sponsored links, which are paid advertisements located on a search engine results page, are exempt from the requirements contained in subsection (b) if the first page following the link complies with subsection (b).
- (d) E-mail from a licensee is exempt from the requirements of subsection (b) if the licensee's initial communication contained the information required by subsection (a).

(10) No advertising may guarantee future profits from any real estate activity.

(11) A licensee may use the term "team" or "group" to advertise if:

- (a) The use of the term does not constitute the unlawful use of a trade name and is not deceptively similar to a name under which any other person is lawfully doing business;
- (b) The team or group includes at least one real estate licensee;
- (c) The licensee members of the team or group are associated with the same principal broker or property manager;
- (d) The licensee members of the team or group use each licensee's licensed name as required under section (3) of this rule;
- (e) If any non-licensed individuals are named in the advertising, the advertising must clearly state which individuals are real estate licensees and which ones are not; and
- (f) The advertising complies with all other applicable provisions of ORS chapter 696 and its implementing rules. *[end of rule]*