

Oregon Real Estate News-Journal

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Commissioner
Gene Bentley

With Multiple Principal Brokers, a Business Needs Written Agreement, Policy

Gene Bentley, Real Estate Commissioner

When two or more principal brokers work in the same real estate company, each principal broker must be a party to a written agreement that specifies the principal broker's supervisory control and responsibility.

Additionally, there must be a written office policy that explains the supervision and responsibility divisions. This allows other licensees and employees in the company to know who is responsible for what and for whom.

These requirements, found in [Oregon Revised Statute \(ORS\) 696.310](#), include every principal broker licensee in a company, even those who only operate as an agent.

Supervision responsibilities can be as-

signed in **any** way that meets the needs of the business. This can include, but is not limited to:

- All the principal brokers having equal supervisory control and responsibility for all the professional real estate activity in the business.
- Each principal broker supervising a different group of licensees or a specific function of the company.
- Some principal brokers in a business

not having any supervisory control or responsibility. (They can either be responsible for their own activity or be supervised by another principal broker.)

However supervision responsibilities are assigned, they must be spelled out in a written agreement signed by all the principal brokers and in a written office policy. ■

"...all the principal brokers must be a party to a written agreement that specifies supervisory control and responsibility."



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Principal Broker Responsibilities

Oregon Real Estate License Law gives a principal broker responsibility for the professional real estate activity conducted in the name of the principal broker's business.

When two or more principal brokers are in the same company, the principal brokers can either be equally responsible or the principal brokers can divide responsibilities. In either case, a written agreement detailing the supervision and control responsibilities of each principal broker must be signed by the principal brokers who are a party to the agreement. A written office policy must then explain the agreement or agreements in the company. (ORS 696.310)

This only highlights a principal broker's requirements; for more information, [please read Oregon Revised Statutes \(ORS\) chapter 696 and Oregon Administrative Rules \(OAR\) chapter 863](#).

eLicense

These responsibilities are met by using the Agency's [eLicense](#) system.

- Keep the Agency updated on any changes to the **main office address** and contact information of the registered business name. *Note: Failure to update a main office address in eLicense before the change occurs is grounds for revocation of a real estate license.* (ORS 696.200)
- Keep the **address of all branch offices** up-to-date. *Note: Failure to update a branch office address in eLicense before the change occurs is grounds for revocation of a real estate license.* (ORS 696.200)
- **Open and close branch offices.** (ORS 696.200)
- **Close a registered business.** (ORS 696.200)
- **Transfer licensees** into a registered business. (OAR 863-014-0063)

Real Estate Transactions

- **Review, initial, and date all documents of agreement** generated as part of a transaction within seven days of the documents acceptance, rejection, or withdrawal.

(OAR 863-015-0140)

- **Review and approve all advertising** prior to being made public. This includes websites and social media postings. *Note: The licensee using the advertising is responsible for keeping a record of each approval and making it available to the Agency upon request.* (OAR 863-015-0125)
- **Keep and maintain records.** (ORS 696.280, OAR 863-015-0250, OAR 863-015-0260)

Clients' Trust Accounts – Real Estate Transactions

- **Open and close clients' trust accounts, and enter them in eLicense.** *Note: Law requires that principal brokers enter each clients' trust account into eLicense within 10 days after opening or closing.* (ORS 696.241)
- **Deposit all funds received into a clients' trust account**, if not deposited into escrow, as required by rule. (ORS 696.241, OAR 863-015-0255)
- **Submit the [Notice of Clients' Trust Account](#)** to the bank when the account is opened, and maintain a copy of the notice signed by a bank representative. (ORS 696.245)
- Ensure completion of **monthly three-way reconciliations**, including signing and dating each one. (OAR 863-015-0275)
- **Keep and maintain records.** (ORS 696.280, OAR 863-015-0255, OAR 863-015-0260)

Property Management

- **Negotiate and sign property management agreements.** (OAR 863-025-0020)
- **Develop and maintain a written office policy and written delegation of authority** if the principal broker will be delegating certain property management duties. (OAR 863-025-0015)
- **Open and close clients' trust accounts and security deposit accounts, and enter them in eLicense.** The name on the bank
*Please see **Principal Broker** on page 3*

What about continuing education records?

Real estate licensees have been responsible for maintaining their own continuing education records since 2011.

Principal brokers may make a business decision to keep copies of the continuing education of associated licensees, but it is not required. The legal responsibility for maintaining continuing education records rests with the individual licensee.

Property Manager Responsibilities

A licensed real estate property manager is accountable for all activity associated with managing rental real estate within the property manager's business. The following is only an outline; for more information, please read [Oregon Revised Statutes \(ORS\) chapter 696 and Oregon Administrative Rules \(OAR\) chapter 863](#).

eLicense

The following responsibilities are fulfilled in the Agency's [eLicense](#) system.

- Keep the Agency updated of any changes to the **main office address** or contact information of the registered business name. *Note: Failure to update a main office address in eLicense before the change occurs is grounds for revocation of a real estate license.* (ORS 696.200)
- Keep the **address of all branch offices** up-to-date. *Note: Failure to update a branch office address in eLicense before the change occurs is grounds for revocation of a real estate license.* (ORS 696.200)
- **Open and close branch offices.**(ORS 696.200)
- **Close a registered business.** (ORS 696.200)
- **Transfer licensees** into a registered business. (OAR 863-024-0063)

Property Management

- **Negotiate and sign property management agreements.** (OAR 863-025-0020)
- **Develop and maintain a written office policy and written delegation of authority** if the property manager wants to delegate certain property management duties. (OAR 863-025-0015)
- **Open and close clients' trust accounts and security deposit accounts, and enter them in eLicense.** The name on the bank account must include the words "clients' trust account" or "clients' trust account – security deposits." *Note: The law requires that principal brokers enter each clients' trust account and security deposit account into eLicense within 10 days after the opening or closing.* (ORS 696.241, OAR 863-025-0025)
- **Submit the [Notice of Clients' Trust Account](#)** to the bank when the account is opened, and maintain a copy of the notice signed by a bank representative. (ORS 696.245)
- Ensure completion of **monthly three-way reconciliations**, including signing and dating each one. (OAR 863-025-0025)
- **Maintain records.** (ORS 696.280, OAR 863-025-0035)
- **Deposit all funds received into a clients' trust account and security deposit accounts** as required by rule. (OAR 863-025-0025, OAR 863-025-0030) ■

Principal Broker

Continued from page 2

account must include the words "clients' trust account" or "clients' trust account – security deposits." *Note: The law requires that principal brokers enter each clients' trust account and security deposit account into eLicense within 10 days after the opening or closing.* (ORS 696.241, OAR 863-025-0025)

- **Submit the [Notice of Clients' Trust Account](#)** to the bank when the account is opened, and maintain a copy of the

notice signed by a bank representative. (ORS 696.245)

- Ensure completion of **monthly three-way reconciliations**, including signing and dating. (OAR 863-025-0025)
- **Maintain records.** (ORS 696.280, OAR 863-025-0035)
- **Deposit all funds received into a clients' trust account or security deposit accounts** as required by rule. (OAR 863-025-0025, OAR 863-025-0030) ■

'Hold Harmless' Notation May Not Prevent Discipline

The Oregon Real Estate Agency is seeing notations in sales agreements and addendums that state:

"The undersigned (buyer & seller) will hold the licensees harmless from any adverse consequences of the sale."

Such a statement may be misleading. As a licensed real estate broker or principal broker, you are governed by Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) and have affirmative duties to the buyer and seller as outlined in ORS 696.805 through 696.815. If, due to your actions, there is an adverse consequence of the sale and the buyer or seller is harmed, a complaint can be filed with the Agency.

As a result of an investigation, you may be held accountable and face disciplinary action against your license.

Additionally, any negotiations during a transaction that are not between the buyer and seller should not be written into the sales agreement or addendum. Negotiations pertaining to licensees, such as "hold harmless" clauses or commission splits, must be in a separate document so as not to interfere with the contract between the buyer and seller [ORS 696.301(6)].

The Oregon Real Estate Agency urges you to use caution when adding notations or clauses to established contract forms. Seek legal advice for more information and guidance. ■

Public Meeting

Oregon Real Estate Board Meeting in Florence

Monday, April 4, 2016, 10:00 a.m.

[Florence Events Center](#)
715 Quince Street

EARN 3 HOURS OF CONTINUING EDUCATION if you pre-register with the Oregon Association of Realtors (OAR). *The Board meeting is open to the public, but you must pre-register with [OAR](#) to receive continuing education hours.*

ADDITIONAL CONTINUING EDUCATION OPPORTUNITY: Following the Board Meeting, [OAR](#) will sponsor **Tips for Staying Out of Trouble with the Agency**, a 3-hour class featuring Selina Barnes, the Agency's Regulation Division Manager. *Pre-registration is required to attend.*

Repair Work on Rental Properties: When You Need Additional Licensing, Certification

Editor's Note: This message is brought to you by the Oregon Construction Contractor's Board.

Oregon law allows real estate property managers, or their employees, to work on buildings without a construction contractor's license. "Property managers" include brokers and principal brokers as well as property managers managing rental real estate.

The property manager must be licensed by the Oregon Real Estate Agency to manage rental real estate, and must be managing the building under a property management agreement. This exemption does not eliminate the need for:

1. Electrical or plumbing licenses.
2. Electrical, plumbing or mechanical permits.
3. Lead-based paint renovator's certification.

Often, property managers need to do routine maintenance on rentals. This might include replacing drywall, painting, installing carpets, replacing doors or windows or repairing a driveway. If the property manager is licensed by the Oregon Real Estate Agency, the manager or its employees may do this kind of work. There is no need for a construction contractor's license.

If the job involves electrical work, the work must be performed by a licensed electrician and be covered by an electrical permit. Examples of this type of work include installing new wiring, electrical outlets or lighting fixtures.

Similarly, if the job involves plumbing work, the work must be performed by a licensed plumber and be covered by a plumbing permit. Examples include installing or repairing piping, installing new plumbing fixtures (toilets, sinks, showers, tubs or dishwashers), or installing a new water heater.

The state Building Codes Division licenses electricians and plumbers. Local jurisdictions usually issue the permits.



If a property manager, or the property manager's employees, renovate homes or child-occupied facilities built before 1978, the property manager needs a special certification. Anytime repair work involves disturbing paint on more than 6 square feet (interior) or 20 square feet (exterior), this certification is required. If a property manager is not a licensed contractor, the property manager must obtain a renovation firm certification from the Oregon Health Authority (OHA).

To obtain the OHA certification, the property manager must have one or more employees who complete an approved renovation, repair and painting training class. The focus is on reducing exposure to lead-based paint. Lead-based paint dust and chips are harmful to humans, especially children and pregnant women. The OHA certification costs \$250 and is valid for five years.

Property managers need to carefully evaluate the type of work that they or their employees perform. If the work is very limited, they may not need any licenses. More involved work will likely require licensed tradespersons, permits, and/or an OHA license.

Find additional information on the [OHA website](http://public.health.oregon.gov/HealthyEnvironments/HealthyNeighborhoods/LeadPoisoning/PropertyOwnersManagersRealtors/Pages/index.aspx): <http://public.health.oregon.gov/HealthyEnvironments/HealthyNeighborhoods/LeadPoisoning/PropertyOwnersManagersRealtors/Pages/index.aspx>. ■

Look Up License and Business Numbers

Some residential sales agreements now require license and registered business numbers. Here is how to find those numbers. (You can also [watch a video](#) that explains the process.)

- Use the "[Licensee and Business Lookup](#)," available from the Oregon Real Estate Agency's website at www.oregon.gov/rea.
- **To look up a license number**, type in the licensee's name and click "Search." If the search results don't bring up the licensee you are looking for, you might try typing only part of the name to expand your search results. The licensee's license number will be located under the "License Number" column.

- **To look up the number of a registered business name**, type in the name of the company in the "Registered Business Name" box. Select "Registered Business Name" as the License Type, then click "Search." The business's number will be in the "License Number" column.

Hint: If you don't have success searching for the business name as explained above, try searching for an individual licensee who works for the company. Once you find the licensee, click the "Details" button next to the name. The business number will be next to the business name under the heading "Affiliated with." ■

Bale Named Investigator of the Year

The Oregon Real Estate Agency's **Peter Bale** was honored by the Association of Real Estate License Law Officials (ARELLO) with its 2015 ARELLO Investigator of the Year Award.

The Investigator of the Year Award is presented by ARELLO's Investigator/Auditor Resource Committee in recognition of the skills and accomplishments demonstrated by the year's most outstanding audit/investigation.

Mr. Bale won the award for his submission of a complex investigation consisting of 21 complainants and 30 alleged license law violations. He collected enough evidence to fill 21 notebooks that he was then able to synthesize into a succinct, well-written report.

Mr. Bale's investigation resulted in an administrative law judge making 14 conclusions of law, including that the licensee:

- Disbursed money from a security deposit account without sufficient funds in the ledger accounts.
 - Allowed a nonlicensed employee to sign property management agreements.
 - Transferred funds between different owners' ledgers without proper authorization.
 - Failed to register a business name with the Agency prior to conducting professional real estate activity.
 - Failed to complete monthly three-way reconciliations for security deposit accounts.
- The Agency issued a final order to revoke



Investigator/Auditor Peter Bale

the principal broker's license and assess a \$1,500 civil penalty.

Mr. Bale said, "The Agency is an exceptional place to work. The emphasis placed on customer service and internal collaboration provides a great platform to grow. Every member of staff makes themselves available for support."

"Having attended ARELLO conferences, committees, and workshops, it is clear that our Agency is, without doubt, one of the best in the USA and Canada, protecting both the consumer and licensees, and helping foster a healthy real estate market."

Mr. Bale has been an Investigator/Auditor with the Agency since 2011. When not at work, he can often be found coaching the Salem Spartans Rugby Club or the Willamette University Men's Rugby Club, where he is head coach, or performing in local theater. ■

Continuing Education: When to Enter, How to View

You must enter at least 30 hours of continuing education into your eLicense account before you can renew an active license or reactivate a license after an inactive renewal.

When Can I Enter My Continuing Education?

Active Licensees

You can enter education at any time.

Prior to your renewal month (the month your license expires in), you enter continuing education through the "Add Continuing Education" option in the Online Services menu of your eLicense account. *Remember that you must click the "Finish" button to save and post the courses to your account.* Once you are done, you will receive a confirmation e-mail.

If you need to enter or edit continuing education during your renewal month, you will do so as part of the license renewal process.

Inactive Licensees Reactivating

You can only enter continuing education as part of the reactivation process.

What Happens at License Renewal?

If you entered continuing education before your renewal month, you will see those courses during renewal *as long as you clicked the "Finish" button at the time you entered them.*

You can also add or edit courses during the license renewal process

How Long Are Courses Good For?

Courses are good for two years from the date completed. For example, if you completed a course two years plus one day ago, you cannot use it to renew or reactivate your license today.

How Do I See my Entered Continuing Education Courses

A record of the courses entered can be viewed

from the "Continuing Education Record" tab of your eLicense account.

What Are My Continuing Education Requirements?

Renewing Active Broker, Property Manager License 1st Time

You must complete the appropriate 27-hour Advanced Practices course and the 3-hour Law and Rule Required Course from [approved providers](#).

Renewing an Inactive License

You are not required to take continuing education until you decide to reactivate.

Reactivating an Inactive Broker or Property Manager License

If you have never renewed an active license and have never completed an Advanced Practices course, you must complete the appropriate 27-hour Advanced Practices course and the 3-hour Law and Rule Required Course from approved providers.

If you have renewed an active license at least once and completed Advanced Practices, you need 27 hours of continuing education from educators and the 3-hour Law and Rule Required Course from approved providers.

Anyone Else Renewing an Active License

You need 27 hours of continuing education and the 3-hour Law and Rule Required Course from approved providers. ■

Note: Get more information about [continuing education requirements](#) on the Agency's website.

*Need a quick way to look up
your expiration date?
Use "[License Lookup](#)."*

Administrative Actions

November 24, 2015 through January 21, 2016

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Mesheal Heyman, Editor
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The Oregon Real Estate Agency is required by law to publish disciplinary actions. The final order for each action can be viewed by clicking on the individual names listed below.

Please note that there are individuals with real estate licenses that may have similar or the same names as those listed below, even in the same market area. If you are in doubt if an individual listed here is someone you know or with whom you are working, please contact the Agency for verification.

Stipulated settlements do not necessarily reflect all the factual violations initially alleged by the Agency. Sanctions may have been adjusted as part of the negotiation process. Such settlements may not, therefore, directly compare in severity/sanction with other cases.

REVOCATIONS

[Waddle, Douglas N.](#) (Portland) Broker
841100092. Final order dated January 21,
2016

REPRIMANDS

[Zamanizadeh, Lili](#) (Banks) Principal Broker
920900044, Stipulated final order dated De-
cember 2, 2015.

[Hyland, Lauren A.](#) (The Dalles) Property
Manager 200803067. Stipulated final order
dated December 3, 2015

CIVIL PENALTIES

Unlicensed Activity

Civil penalties for unlicensed activity are
computed as determined by the Commis-
sioner per ORS 696.990:

- For the first offense, not less than \$100
but no more than \$500.
- For the second and subsequent offenses,
not less than \$500 but not more than
\$1000.

[Cartwright, Leeanna R.](#) (North Bend) Unli-
censed. Stipulated final order dated Decem-
ber 16, 2015, issuing a \$100 Civil Penalty. ■