

Oregon principal real estate brokers must maintain adequate records of all professional real estate activity conducted by themselves and their associated licensees. This includes **all records, written and electronic, generated or received by a licensee in the course of professional real estate activity.** The following lists are based upon the requirements found in Oregon Revised Statutes (ORS) chapter 696 and Oregon Administrative Rules (OAR) chapter 863.

*Note: This brochure does not discuss record keeping requirements for clients' trust accounts. See ORS 696.241 and OAR 863-015-0255 through 863-015-0259 for more information.*

## Brokers' Contracts

### Seller Representation - Listings

Oregon real estate license law places affirmative duties on sellers' agents (ORS 696.805). A complete listing file helps agents fulfill those duties. It should include the following records as applicable:

- A completed and signed copy of the listing agreement, with an expiration date.
- A completed and signed copy of Seller's Property Disclosure Statement, with a record that the parties' obligations and rights were explained, or an exemption notation.
- Disclosed Limited Agency agreement, if needed.
- Evidence of ownership or right to sign the listing. This might be title information, last deed, a land sale contract, or tax records, or other evidence of signing authority.
- Verification of building and lot size (for example, actual measurements, tax assessor's record, appraisal, plat map, or metes & bounds legal description).
- Zoning and flood zone information, if applicable.
- Tenant and lease or rental information.
- Record of how pricing was established and reasons for any subsequent price changes (for example, CMA, appraisal, assessed value, or owner's input).
- A written record of promises, pledges, or agreements made by the listing licensee as part of the effort to obtain the listing.
- Marketing activity (for example, ad copy, publica-

tion dates, copies of actual ads, MLS sheet, flyers, media scripts, MLS tours, office tours, open house activity; copies of web and social media activity). *Note: Brokers must keep record of their principal brokers' approval of all advertising.*

- Listing modifications (signed extensions or price changes).
- Evidence of timely supervision by principal broker (dated initials on all documents of agreement, including modifications and extensions).
- Any estimates of net sales proceeds provided to seller that the broker may choose to provide.
- CC&Rs, by-laws, special assessments and any other specialized information, if applicable.
- Licensee's diary notes generated as part of listing.
- Copies of correspondence, e-mail, and faxes to and from the seller or seller's representative.

### Buyer Representation

Representation of a buyer can occur by a written, signed agreement (known as a buyer representation agreement, buyer's broker agreement, or buyer listing), or by an oral agreement. Oregon real estate license law places affirmative duties on buyers' agents (ORS 696.810). Complete records can assist an agent in meeting those affirmative duties.

#### Buyer's Broker's Files - Service Agreement

Files should include the following records as applicable:

- The buyers representation agreement, including fee arrangements.
- Any document, acknowledged by the buyer, containing the buyer's "want list."
- Financial qualifications of the buyer, with documentation.
- Pre-qualification letters obtained by the buyer from a lender.
- Disclosed Limited Agency agreement, if needed.
- CMAs prepared for the buyer in connection with any actual or proposed purchase.
- Records of promises, pledges, or agreements made by the agent as part of the effort to obtain the buyer representation agreement.
- Marketing activity (for example, ad copy, publication dates, copies of the actual ads, MLS sheet,

flyers, media scripts, MLS tours, office tours, open house activity; copies of web and social media activity). *Note: Brokers must keep record of their principal brokers' approval of all advertising.*

- Record of properties shown to buyer.
- Modifications to, and extensions of, the buyer's representation agreement.
- Evidence of timely supervision by principal broker (dated initials on all documents of agreement, including modifications and extensions).
- Estimates of buyer's down payment and closing costs, if provided.
- Licensee's diary notes generated in representing the buyer.
- Copies of correspondence, e-mail, and faxes to or from the buyer or buyer's representative.

#### Buyer's Broker's Files - No Service Agreement

Files documenting buyer representation without an agreement should include the following files as applicable:

- A record of properties shown to buyer.
- CMAs prepared for the buyer in connection with actual or proposed purchase.
- Good faith cost estimates provided to the buyer.
- Licensee's diary notes generated in representing the buyer.
- Copies of correspondence, e-mail, and faxes to or from the buyer or buyer's representative.
- Pre-qualification letters obtained by the buyer from a lender.
- Financial qualifications of the buyer, with documentation..
- Disclosed Limited Agency agreement, if needed.

## Transaction Files

Records should be entered in the file in a timely manner as they are produced. Some items, such as settlement statements and records relating to occupancy arrangements, may not be available until or after closing. Similarly, during the escrow period, certain documents

may be temporarily in the possession of the licensee or at a branch office location. However, principal brokers should keep track of such records.

Transaction (or deal) files should contain the following records as applicable:

## Accepted Offers and Sale Fails

- Full names and addresses of buyer(s) and seller(s), with complete contact information.
- Disclosed Limited Agency agreement, if needed.
- Complete signed copy of the initial earnest money agreement, including offer, acceptance or counteroffer, acknowledgment, and any addendum or other documents that make up the agreement between the parties. Signatures and initials should include date and time.
- Copy of final agency acknowledgment of existing agency relationship to both parties
- A record of who presented the offer (and any counteroffers), to whom, and any representations made by the licensee at the presentation (such as the financial ability of the buyer).
- Full legal description of the property.
- Zoning and flood zone information, if applicable.
- A completed and signed copy of Seller's Property Disclosure Statement, with a record that the parties' obligations and rights were explained, or an exemption notation.
- Copy of the earnest money tendered (check, money order, promissory note, cash, etc.). *Note: Do not color-copy, or same-size copy, cash.*
- Disposition of earnest money tendered (note redemption, deposit to trust account, receipt from escrow agent).
- Record of any checks made out to the seller delivered by licensee. Include date received, name of payor, purpose of payment, file reference, date delivered, and documentation of delivery.
- Copy of the listing or co-op office listing information. (The listing and sale files can be combined at close of escrow if it was your listing sold.)
- Evidence of timely supervision by the principal broker (dated initials on all documents of agreement, including modifications and extensions).
- Any addenda amending, or attempting to amend, the original agreement, including removal of contingencies.

- CMAs prepared for the buyer or seller related to this sale.
- Any estimates of buyer's downpayment, buyer's closing costs, or seller's net proceeds the agent may choose to provide.
- Copies of inspection reports, repair estimates, and clearances.
- Record of buyer's progress in getting financing.
- Preliminary title report, with evidence that licensee has reviewed it and discussed any significant issues raised by it with the represented party.
- Copies of correspondence, including e-mail and faxes, to or from the represented party or their authorized representatives.
- Licensee's diary notes taken during the transaction.
- A record of who attended closing and problems encountered.
- Settlement statement(s).
- Seller's forwarding address.
- Reason for fail-sale if it occurred and disposition of earnest money.

## Rejections: Offers & Counteroffers

- Disclosed Limited Agency agreement, if needed.
- Complete signed copy of the offer, rejection, or counteroffer(s). Signatures and initials should include dates and times.
- Copy of final agency acknowledgment of existing agency relationship to both parties
- Copy of the earnest money tendered (check, money order, promissory note, cash, etc.). *Note: Do not color-copy, or same-size copy, cash.*
- Disposition of earnest money tendered (deposit to trust account, returned to offeror, receipt from escrow agent).
- Evidence of timely supervision by the principal broker (dated initials on all documents of agreement or disagreement).
- CMAs prepared for the buyer or seller related to this sale.
- Estimates of buyer's downpayment, buyer's closing costs, or seller's net proceeds.
- Copies of correspondence, including e-mail and faxes, to or from the represented party or their authorized representatives.
- Licensee's diary notes generated during the proposed sale transaction.



# Principal Brokers' Guide to Records of Professional Real Estate Activity

Oregon Real Estate Agency  
530 Center St NE Ste 100  
Salem, Oregon 97301  
(503) 378-4170  
[www.oregon.gov/rea](http://www.oregon.gov/rea)  
[orea.info@state.or.us](mailto:orea.info@state.or.us)

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