

Oregon Real Estate News-Journal

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Commissioner
Gene Bentley

In Case You Missed It: License Renewal, Late Fees Go Up in 2018

Gene Bentley, Real Estate Commissioner

The Oregon Real Estate Agency has worked to get the message out that many fees are increasing in 2018. This includes active real estate license renewal fees for brokers, principal brokers, and property managers, as well as late renewal fees.

What Are the Fees to Renew a Real Estate License?

You will pay **\$300** to renew your active real estate license on or after January 1, 2018

If your active real estate license expires and you renew late on or after January 1, 2018, you will pay the active renewal fee

of \$300 plus the \$150 late fee; that's a total of **\$450**.

My License Expires in 2018. Can I Renew Now?

No, you cannot renew your license now to avoid the increased license renewal fee.

Why Are My Fees Going Up?

The Agency cut costs in a variety of ways so it could weather the last economic downturn, including:

- Offering online license applications, renewals, and other services.

*Please see **Renewal Fee Increase** on page 2*



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2018 Board Chair, Vice Chair Elected



James E. "Jef" Farley



Lawnae Hunter

James E. "Jef" Farley and Lawnae Hunter were elected chairperson and vice-chairperson respectively of the Oregon Real Estate Board at its October meeting.

Mr. Farley is co-owner of Coldwell Banker Whitney and Associates in Pendleton. He specializes in residential and commercial real estate sales in Eastern Oregon. He has been a full-time real estate professional since 1991. Mr. Farley served as vice-chairperson for 2017.

Ms. Hunter is principal broker and owner of PLUS Property Management LLC in Bend. She has over 35 years of experience in general real estate brokerage, including land development, commercial and industrial land sales, new construction, property management, and general resale. She started her real estate career in California in 1968 at the age of 19.

The Oregon Real Estate Agency congratulates Mr. Farley and Ms. Hunter on their new positions.

Renewal Fee Increase

Continued from page 1

- Switching to email delivery of the *Oregon Real Estate News-Journal*.
 - Moving to a less expensive office.
 - Making our website more user-friendly.
- However, costs continued to increase. So the Agency asked the Oregon Legislature for the first increase in fees for real estate and escrow licenses in 20 years.

What Other Fees Are Increasing?

These are the other fees increasing on January 1, 2018:

- Broker, principal broker, or property manager license application: \$300
- Inactive broker, principal broker, or property manager license renewal: \$150
- License reactivation: \$150
- Business name registration: \$300
- Branch office registration: \$50
- Escrow agent license application: \$450
- Escrow agent license renewal: \$450
- Escrow branch office registration: \$225

What Are the New Fees?

New fees effective January 1, 2018:

- Registered business name renewal: \$50
- Registered business name change: \$300
- Continuing education provider certification application: \$300
- Continuing education provider certification renewal: \$50

Real Estate Board Meeting

February 6, 2018, 10:00 a.m.
at the [Oregon Real Estate Agency](#)

- OPEN TO THE PUBLIC
- MEET THE OREGON REAL ESTATE BOARD
- TALK WITH OREGON REAL ESTATE AGENCY STAFF.

Registered Business Name Renewal Frequently Asked Questions

The Oregon Real Estate Agency sent letters to the responsible licensees of all registered business names (RBNs). A "responsible licensee" is the principal broker or property manager identified as responsible for the annual renewal of an RBN. The letter explained the renewal process starting in 2018.

For some responsible licensees, the letter brought up some questions. We thought the answers might be helpful to others.

Q: Can I renew the RBN now?

A: No. The law does not go into effect until 2018, and then you must wait until the first day of the month in which your RBN expires. The expiration date was on the letter, and the Agency will send out reminders in the month of the expiration for your RBN.

Q. When do I renew the RBN?

A. You can renew starting the first day of the month in which your RBN expires.

Q. Can I pay for the RBN renewal now?

A. No, you have to wait until you can renew online in eLicense. The renewal application will be available on the first day of the month in which your RBN expires.

Q. My license usually expires in _____, Why does the RBN expire in _____?

A. Your license and your RBN are two separate things. The license allows you personally to conduct professional real estate activity. The RBN is the business name you conduct that activity under.

Your license expiration is determined by your birth month. The RBN expiration date was determined by the month the original RBN application was processed. It's possible the expiration dates are the same, but most likely they will be different.

Q. The letter said that I need to renew

the RBN in eLicense. What is eLicense?

A. eLicense is the Agency's online licensing system. It is the same online system you use to renew your own real estate license. You can access eLicense from the homepage of the Agency's website at www.oregon.gov/rea.

Q. I'm confused about what an RBN is. Is this what I register with the Secretary of State's Corporation Division?

A. It is different, but related.

If you had to register your business with the Secretary of State, you must also register that business name with the Agency. All real estate licensees associated with the business must conduct professional real estate activity under that name exactly as it is registered with the Agency and the Secretary of State, including in all advertising.

If you are not required to register your business with the Secretary of State, *you are still required* to have an RBN with the Agency. If the name meets the Secretary of State's guidelines for not being registered with the Secretary of State, all real estate licensees associated with the business must conduct professional real estate activity under the name exactly as it is registered with the Agency. This includes all advertising.

Contact the office of the Secretary of State if you have questions about the need to register your business.

Q. The Agency has the incorrect name for the RBN. How do I fix it?

A. Before January 1, you must close the old RBN, register the correct RBN, then transfer all associated licensees to the new RBN. This is done in eLicense. On or after January 1, you will complete an RBN Name Change application in eLicense. ■

Brokers Must Turn in Records in 3 Banking Days

Principal brokers must maintain complete, adequate, and legible records of all professional real estate activity conducted by brokers and principal brokers associated to the business for a minimum of 6 years per Oregon Revised Statutes (ORS) 696.280.

Since principal brokers must review and initial many of these documents within 7 banking days of acceptance, rejection or withdrawal (OAR 863-015-0140), they need time to do this. Therefore real estate brokers must submit each document to their principal broker within 3 banking days from when it was received. (The requirement is currently in OAR 863-015-0255, but will move to OAR 863-015-0250 on January 1, 2018).

Is This a New Requirement?

No. This requirement has been in OAR 863-015-0255 for many years. Many licensees missed the requirement because it was in with clients' trust account record requirements. It will move to OAR 863-015-0250 on January 1, 2018.

Which Records Are Included?

This includes all documents required by law or voluntarily generated during a real estate

transaction, including failed transactions. This includes, but is not limited to:

- Offers (whether accepted or rejected) received by or through a broker to the client.
- Written agreements creating agency relationships between a broker and their client, signed by all parties.
- Written acknowledgements of agency relationships between a broker and their client, signed by all parties.
- Written agreements for the listing, sale, purchase, rental, lease, lease option, or exchange of real property generated by a brokers while engaging in professional real estate activity, signed by all parties to such agreement.
- Copies of any receipts issued by a broker to evidence acceptance of funds or documents.
- Copies of any vouchers or bills or obligations paid by a broker for the account of a client or customer.
- Copies of any other documents within the scope of the agency relationship provided to or received by a clients through a licensee during the term of an agency relationship.
- Clients' trust account records as required in OAR 863-015-0255 and 863-015-0275. ■



Late License Renewal Warning

If you renew an expired license after January 1, you will be subject to the increased license renewal fee (\$300) and late renewal fee (\$150). This means the cost of renewing your active license late after January 1 will be \$450.

[Check your license status/expiration date now in eLicense.](#)

Please note: If your license expiration date is after January 1, 2018, you cannot renew your license early to avoid the new license renewal fee.

Property Management Law, Rule Changes Effective January 1, 2018

Tenant Representation Limited for Property Manager Licensees [Senate Bill 67, Section 3](#)

A property manager license allows a licensee to perform the activities listed under the definition of management of rental real estate in Oregon Revised Statute (ORS) 696.010. The definition of the management of rental real estate was changed by Senate Bill 67.

Starting January 1, 2018, a licensed real estate property manager will only be able to represent tenants in the renting or leasing of rental real estate if the property manager has a signed property management agreement with the owner of the rental real estate.

Additional Requirements for Tenant, Lease Agreements [OAR 863-025-0045](#)

Oregon Administrative Rule (OAR) 863-025-0045 requires that a licensee preparing a tenant rental or lease agreement:

- Include in the agreement who will hold

refundable security deposits.

- Make sure it is signed by the licensee, or other person authorized by OAR 863-025-0015, and the tenant.
- Deliver a legible copy of the signed agreement to the tenant.

Delegation Of Authority Requires Signature of Individual Receiving Authority [OAR 863-025-0015](#)

A property manager or principal broker is allowed to delegate some of the property manager or principal broker's authority pertaining to the management of rental real estate. This delegation must be in writing.

The rule now requires that the person receiving the authority for the following activities must sign the written document:

- Negotiate and sign property management agreements.
- Review and approve reconciliations and receive and disburse funds.
- Review, approve, and accept tenant rental and lease agreements. ■

Compensation Cannot Be Shared with Nonlicensed Individuals

Senate Bill 67, Section 7, passed by the 2017 Oregon Legislature, prohibits nonlicensed individuals exempt from real estate licensing under Oregon Revised Statutes (ORS) 696.030 from making a demand for a share of compensation from a real estate transaction, including commission, of a real estate licensee. This includes attorneys at law who do not have a real estate license.

Senate Bill 67, Section 19, amends ORS 696.290 to make it clear that a real estate licensee cannot offer, promise, or pay, directly or indirectly, any part of their compensation from a real estate transaction, or pay a finder's fee, to an individual listed in ORS 696.030. Doing so is a violation of real estate license law and may result in disciplinary action against the license.

The new law becomes effective January 1, 2018. ■

Process for Brokers, Principal Brokers to Continue Transactions after Changing Businesses

The new law (Senate Bill 67, Section 5) and rule (OAR 863-014-0063) now set out criteria and a process that will allow a broker or principal broker changing real estate businesses to continue to work on a sale, exchange, purchase, or lease transaction that was started while with the previous business. The law and rule are effective January 1, 2018.

Transferring Brokers

A broker moving from one business to another business can continue working on a transaction that was started at the first company only:

- If there is a fully executed contract, an active written offer or counter-offer, or a letter of intent.
- With the client's documented approval.
- With a written agreement between the sending principal broker with the old business and receiving principal broker with the new business. The agreement must:
 - Identify which principal broker is responsible for supervision, including record retention.
 - Identify the transaction or transactions included.
 - State the effective date.
 - Address agency relationships.
 - Specify how compensation will be handled.
 - Be signed by both principal brokers and the transferring broker.

Transferring Principal Broker

A principal broker moving from one business to another business can continue working on a transaction that was started at the first company only:

- If there is a fully executed contract, an active written offer or counter-offer, or a letter of intent.
- With the client's documented approval.
- With a written agreement between the transferring principal broker and the sending principal broker from the old business. The agreement must:
 - Identify responsibilities for supervision, as appropriate
 - Identify responsibilities for record retention.
 - Identify the transaction or transactions included.
 - State the effective date.
 - Address agency relationships.
 - Specify how compensation will be handled.
 - Be signed by the transferring principal broker and the sending principal broker.

Clients' Trust Account Law, Rule Changes

Senate Bill 67, along with new and amended rules, are effective on January 1, 2018. Implementation brings some changes to clients' trust accounts.

Delivering Checks to Sellers, Property Owners

Under current law, any funds received by a real estate licensee on behalf of another must be deposited into a clients' trust account, including checks made out to a seller or property owner.

The new law and rules (ORS 696.241, OAR 863-015-0257, 863-025-0065.) allow a licensee to deliver a check made out to a seller or property owner without depositing into a clients' trust account as long as the licensee follows timeframe and documentation requirements.

Earnest money checks

If the earnest money is a check made out to the seller:

- The check may be held by the broker or principal broker until the offer or counter offer is accepted or rejected.
- Upon acceptance of the offer or counter-offer, the check being held must be delivered to the seller within 3 banking days.
- The principal broker must keep the following information about the check:
 - Date received.
 - Name of payor.
 - Purpose of payment.
 - File reference assigned to the offer or transaction.
 - Date delivered to seller.
 - Documentation of delivery to the seller.

Other checks in a sale

For any other check made out to the seller:

- The check must be delivered to seller

within 5 banking days.

- The principal broker must keep the following information about the check:
 - Date received.
 - Name of payor.
 - Purpose of payment.
 - File reference assigned to the offer or transaction.
 - Date delivered to seller.
 - Documentation of delivery to the seller.

Property management checks

If security deposit funds or any other funds are presented as a check made out to the property owner:

- Deliver to the property owner within 5 banking days.
- Keep the following information:
 - Date received.
 - Name of payor.
 - Purpose of payment.
 - Identifying code.
 - Date delivered to owner.
 - Documentation of delivery to owner.

Shorter Name Allowed on Clients' Trust Accounts

Principal brokers and property managers must make sure that clients' trust account records and checks be labelled with a specific phrase designating it as a clients' trust account. The new rules (OAR 863-015-0255, 863-025-0025) offer a shortened version to use.

Clients' Trust Accounts:

Either "Clients' Trust Account" or "Client Trust Account" must appear on the accounts.

Security Deposit Accounts:

Either "Clients' Trust Account – Security
Please see CTA Law Changes on page 8

Notify Agency of Opened, Closed Clients' Trust Accounts in 10 Business Days or Face Possible Discipline

If you are a property manager or principal broker who opens a clients' trust account, the law, Oregon Revised Statutes (ORS) 696.241, requires you to notify the Oregon Real Estate Agency within 10 business days. You must also notify the Agency when you close an account within 10 business days.

Starting in January 2018, if the Agency finds that a responsible principal broker or property manager has not notified the Agency of the opening or closing of a clients' trust account, the Agency may seek disciplinary action against the licensee's license. This could include a reprimand, suspension, or revocation on the license. Disciplinary actions, also known as Administrative Actions, are required to be published in the *Oregon Real Estate News-Journal*.

A principal broker or property manager can check the current clients' trust accounts reported to the Agency for the registered business name (RBN) by logging in to their personal account in the Agency's online licensing system, [eLicense](#).

CTA Law Changes

Continued from page 7

Deposit" or "Client Trust Account SD" must appear on accounts.

Revised Notice of Clients' Trust Account Form

The new form is called the "Notice of Clients' Trust Account and Authorization to Examine." Within 10 business days of opening a clients' trust account, the principal broker or property manager must:

- Fill out the [Notice of Clients' Trust Account and Authorization to Examine](#)

form for each account per ORS 696.245.

- Have a bank representative acknowledge receipt of the form.
- Notify the Agency of the new account by:
 - Logging in to eLicense.
 - Adding the account to the Registered Business Name's inventory
 - Uploading a copy of the completed and signed Notice of Clients' Trust Account and Authorization to Examine form.

Administrative Actions

The Oregon Real Estate Agency is required by law to publish disciplinary actions. The Agency has not processed any actions since the publication of the October issue of the

Oregon Real Estate News-Journal.

The Agency anticipates that there will be disciplinary actions to publish in the next issue.

Written Supervisory Agreements: Content Clarified In New Law

Written supervisory agreements are required for businesses with any combination of two or more principal brokers or licensed property managers. Senate Bill 67, which becomes effective on January 1, 2018, amends Oregon Revised Statute (ORS) 696.310 to specify the content of these agreements

Two or More Principal Brokers

If there are two or more principal brokers who work for the same business, the principal brokers must execute one or more written supervisory agreements that:

- Assign supervisory control and responsibility of the professional real estate activity of each broker in the business.
- Includes default supervisory control and responsibility for brokers who will come to the company in the future.
- Includes default supervisory control and responsibility for brokers who are omitted from the agreement.
- Includes any supervisory control and responsibility for one principal broker over another principal broker.

Additionally, the principal brokers must:

- Update the written supervisory agreement if a principal broker leaves and it affects the supervisory control and responsibility assignments.
- Share equal supervisory control and responsibility for any brokers with the business who are not otherwise covered by the written supervisory agreement.

A Licensed Property Manager with Other Property Managers or Principal Brokers

When a licensed property manager works with any combination of licensed property managers and principal brokers in a business, they must execute one or more written supervisory agreements that:

- Assigns supervisory control and responsibility for management of rental real estate conducted by all principal brokers and property managers in the business.
- Includes any arrangement for supervisory control and responsibility over the management of rental real estate conducted by the property managers and principal brokers.

Additionally, the licensed property managers and principal brokers must:

- Update the written supervisory agreement if another property manager or principal broker joins the business.
- Update the written supervisory agreement if a property manager or principal broker leaves and it affects the allocation of supervisory control or responsibilities.

Property managers and principal brokers who do not exercise administrative or supervisory control over each other are responsible for their own management of rental real estate. ■

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The Oregon Real Estate News-Journal is published by the Oregon Real Estate Agency as an educational service to all real estate licensees in the state under the provisions of Section 696.445 of the Oregon Revised Statutes.

Mesheal Heyman, Editor

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