



# Oregon

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## Real Estate Agency

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## Statute Change Summary and Explanation

For Law and Rule Required Course 2018-2019

### ORS 696.010

**Subsection (4)** Added a definition for “business Day” at the request of the stakeholder work group. This was made after surveying other versions in Oregon law and verifying no conflicts with the rules of Civil Procedure or Uniform Trial Court Rules.

**Subsection (5)** Defined “commingling” because it was not explicitly defined before.

**Subsection (9)** Changed the definition of “inactive” to address the fact that the status no longer depends on a physical license being returned to the Agency.

**Subsection (13)** Defined “main office” because it was not explicitly defined before.

**Subsection (14)** Changed definition of “management of rental real estate.” This change will affect licensed real estate property managers. As of January 1, 2018, the definition will only include the representation of tenants when renting or leasing real estate if the property manager has a property management agreement with the owner of the real estate. This means that only brokers and principal broker will be allowed to represent a tenant if the licensee does not have a property management agreement with the property owner.

**Subsection (16)** Changed to remove reference to sole practitioners and mirror the definitional style used in describing “Licensed Real Estate Property Manager.”

**Subsection (20)** Changed to stylistically match language used for “Licensed Real Estate Property Manager.”

**Subsection (21)** For old subsection (21), deleted entire subsection because we longer have a sole practitioner license type.

For the new subsection (21), changed definition of “real estate licensee” to include “active limited licenses” to create a renewal structure for limited licenses. Corrected omission of the word “licensed” before “real estate property manager.”

### ORS 696.022

Changed language at multiple locations to reflect the fact that some items, such as exam results, are furnished to the agency by a third party instead of applicant.

**Subsection (21)** For old subsection (21), deleted entire subsection because we longer have a sole practitioner license type.

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## ORS 696.022

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**Subsection (1)** Added limited licenses to paragraph (c) as part of the changes necessary to create a renewal structure for limited licenses.

Deleted paragraph (e) to reflect that licenses are no longer returned to the Agency.

**Subsection (3)** Deleted old statutory references and clarified “in this state or another state” in subparagraph (3)(c)(B).

**Subsection (4)** Clarified that a licensed real estate property manager can only manage rental real estate under a property management agreement.

**Subsection (6)** Clarified by adding language regarding the requirement for out-of-state principal brokers and property managers to complete course work and take an exam, just like a broker.

## ORS 696.026

**Subsection (1)** Added language to establish registered business name renewals.

**Subsection (2)** Clarified and added requirements for the registration of business names, including identifying a principal broker or property manager responsible for renewing the registered business name and maintaining the clients’ trust accounts for the registered business name.

**Subsection (3)** Established the registered business name renewal system.

**Subsection (4)** Listed the consequences of the failure to renew a registered business name.

**Subsection (6)** Deleted old subsection (6) because professional real estate activity must now be done exclusively under a registered business name.

**Subsection (9)** Moved old subsection (9) to new subsection (14), rewritten for easier reading.

Clarified in new (9) that professional real estate activity must be done under a registered business name.

**Subsection (12)** Moved old subsection (12) to ORS 696.310 because it related more closely to the subject of that section.

Created new subsection (12) by separating old subsection (10) into new subsections (11) and (12) to deal with the different scenarios.

**Subsection (13)** Moved old subsection (13) to ORS 696.290 because it was more closely related to compensation than to the regulation of register business names.

**Subsection (15)** Added at the request of a workgroup for the Agency to write rules allowing a licensee to continue to work on a transaction started at one registered business name after the licensee transfers to a different registered business name.

## ORS 696.030

Added “nonlicensed” throughout section where needed.

**Subsection (1)** Changed “individual” to “person” in (1)(b)(A) to allow owners to be entities as requested by workgroup.

**Subsection (12)** Added “development alternative” and “development management” to the exemption on analyzing and providing advice regarding specific land-use issues at the request of workgroup.

**Subsection (27)** Changed to reflect that a member of a member-managed LLC receives this exemption. “Sole member” was removed as it is not a legally significant category. (One or more members of a member-managed LLC have the same authority.)

*Note: Chapter 234, Oregon Laws 2017, Section 7 was made law but not part of ORS chapter 696. It clarified that an individual exempted by ORS 696.030 cannot make commission demands. Most anyone exempted in ORS 696.030 should get compensated for services in another manner.*

## ORS 696.125(2)

Revised to remove language denying a property right in the privileges associated with a limited license and add language that specifically allows for renewal of such licenses.

## ORS 696.130

Changed to allow a limited license to renew.

Revised to remove language denying a property right in the privileges associated with a limited license.

## ORS 696.174

Changed reference from “form” to “reporting format” to reflect that continuing education reporting is done online rather than by submission of a paper form.

## ORS 696.182

**Subsection (1)** Modified to clarify that the Agency not only certifies but renews certifications.

**Subsection (2)** Changed to include law firms as an eligible provider of continuing education. This addition tracks the practice of the Real Estate Board of accepting law firms who petition as being on par with individual attorneys.

## ORS 696.200

Removed reference to a “real estate licensee’s licensed name” throughout because professional real estate activity must now be conducted under a registered business name.

**Subsection (3)** Replaced reference to licensee with principal real estate broker and licensed real estate property manager to omit brokers, because brokers are not allowed to register a business name.

## ORS 696.205

Changed to include licensed real estate property managers.

Clarified the purpose of a temporary license.

Changed reference to “real estate business” in both (1) and (2) to “professional real estate activity” to make language consistent throughout the statutes.

## ORS 696.232

Updated to reflect that licenses are no longer returned to the agency.

Improved readability.

Clarified the expiration date of a license after the licensee is no longer employed by the Agency.

## ORS 696.241

Corrected use of apostrophe in the word “clients’” throughout.

Removed references to “forms” throughout since most .

**Subsection (4) and (6)** Moved old (4) and (6) to ORS 696.245 so that all clients’ trust account notifications are in the same section.

**Subsection (5)** Changed paragraph (b) in response to workgroup discussion to clarify that a licensee’s compensation held in a clients’ trust account per contract, because it is forfeited earnest money or interest earned on clients’ trust funds, is not considered commingling.

**Subsection (12)** Added language that allows the Agency to adopt rules on how interest or compensation held in a clients’ trust account per subsection (5) should be disbursed to the property manager or principal broker.

**Subsection (13)** Changed to allow a licensee to deliver a check made out in the name of a property owner or seller directly to the property owner or seller. Previous laws and rules required that if the licensee received the check, no matter who it was made out to, it had to either be deposited into a clients’ trust account or into escrow.

## ORS 696.243

Removed “real estate broker” because it is no longer relevant because it related back to sole practitioners.

Added “licensed” to “real estate property manager” because it is the technical term for the individual holding a property manager license.

## ORS 696.245

**Subsection (1)** Changed “Notice of Clients’ Trust Account” form to add authorization for the Agency to examine the accounts.

**Subsection (2) and (3)** Added new subsection (2) and (3) from ORS 696.245, and reworded for clarity.

**Subsection (4)** Added that Agency must be notified of the opening, closing, or changes to clients’ trust accounts as provided for in rule.

**Subsection (5)** Renumbered from (2) and modified to reference principal brokers and property managers instead of “real estate licensees” because the definition of “real estate licensee” includes brokers, who do not have authority to open or manage clients’ trust accounts.

## ORS 696.280

**Subsection (1)** Used the more technical license terms “licensed real estate property manager” and “principal real estate broker” for consistency and accuracy.

**Subsection (4)** Changed the “notice of clients’ trust account” to clarify that it also authorizes the Agency to examine the accounts.

## ORS 696.290

**Subsection (1)** Clarified that a licensee cannot give any part or share of the licensee’s compensation from a real estate transaction, or pay a finder’s fee, to a nonlicensed person exempt from licensing under ORS 696.

Removed reference to real estate brokers, because the reference was for sole practitioners, which no longer exist.

**Subsection (4)** Moved from ORS 696.026 to here, clarifying that a licensee may create an entity for purposes of receiving compensation.

## ORS 696.301

Added 696.890 in the statutory series referenced in subsection (3). When this statute was originally passed, 696.890 did not exist.

## ORS 696.310

Rewrote to clarify the relationships and responsibilities of principal brokers and licensed property managers when in business together.

**Subsection (1)** Removed discussion about responsibility for employees because it is not professional real estate activity.

**Subsection (2)** Old subsection (2) moved to 696.312 because the subject (effect of violations on others) is different enough to merit it’s own title.

## ORS 696.312

**Subsection (1)** Moved from subsection (2) of 696.310.

## ORS 696.385

“Printed matter” replaced with the word “material” in subsection (2), which leaves the Agency the flexibility to use either electronic or printed media as necessary to accomplish communications.

## ORS 696.710

**Subsection (1)** Rewrote for clarity.

**Subsection (2)** Changed to make it clear that the action discussed is regarding compensation between client and broker, and not broker and principal broker.

## ORS 696.800

Corrected to reflect the fact that a real estate broker must be associated with a principal real estate broker to engage in these activities, including redefining the term “agent” and using it throughout.