



Oregon

Kate Brown, Governor

AGENDA ITEM NO.

I.C.

Real Estate Agency
Equitable Center
530 Center St. NE, Suite 100
Salem, Oregon 97301-2505
Phone: (503) 378-4170
Regulations Fax: (503) 373-7153
Admin. Fax: (503) 378-2491
www.oregon.gov/rea

OREGON REAL ESTATE BOARD

Regular Meeting **Amended** Agenda
Oregon Real Estate Agency
Equitable Center
530 Center St. NE, Suite 100
Salem, OR 97301
Monday, February 6, 2017

NOTE: *The board plans to meet from 10 a.m. until 1:30 p.m., including a "working lunch" period.*

I. BOARD BUSINESS – Chair Edwards

- A. Call to Order
- B. Chair Edwards comments/Roll Call
- C. Approval of the Agenda and Order of Business
- D. Approval of 12.5.16, regular meeting minutes
- E. Date of the Next Meeting: 4.3.17 at the Oregon Real Estate Agency, Equitable Center, 530 Center St. NE, Suite 100, Salem, OR 97301 to begin at 10am.

II. PUBLIC COMMENT – Chair Edwards

- This time is set aside for persons wishing to address the Board on matters not on the agenda. Speakers will be limited to five minutes.
- The Board Chair reserves the right to further limit or exclude repetitious or irrelevant presentations. If written material is included, 12 copies of all information to be distributed to board members should be given to the Board Liaison prior to the meeting.
- Action will not be taken at this meeting on citizen comments. The Board, however, after hearing from interested citizens, may place items on a future agenda so proper notice may be given to all interested parties.
- If no one wishes to comment, the next scheduled agenda item will be considered.

III. REQUESTS FOR WAIVERS – Chair Edwards. Log. No change.

IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER– Chair Edwards. Log.

- A. Systems Effect L.L.C. dba Training Cove, Steven Jordan to appear.
- B. American Dream Real Estate School. LLC, Herbert Nagamatsu to appear.
- C. Asset Preservation, Inc., Elisa Mas to appear by phone.
- D. Military Mortgage Boot Camp, Jay McMaken to appear by phone.

V. NEW BUSINESS – Chair Edwards

VI. COMMUNICATIONS – Administrative Actions Summary – Chair Edwards

VII. REPORTS – Chair Edwards

- A. Commissioner Gene Bentley
- B. Agency division reports-Deputy Commissioner Dean Owens
 1. Regulation Division – Selina Barnes
 2. Land Development Division – Michael Hanifin
 3. Education, Business and Technical Services Division – Anna Higley and Maddy Alvarado

VIII. ANNOUNCEMENTS – Chair Edwards. Next board meeting: 4.3.17 at the Oregon Real Estate Agency, Equitable Center, 530 Center St. NE, Suite 100, Salem, OR 97301 to begin at 10am.

IX. ADJOURNMENT – Chair Edwards

Interpreter services or auxiliary aids for persons with disabilities are available upon advance request.



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AGENDA ITEM NO.

I.D.

State of Oregon Real Estate Agency

REAL ESTATE BOARD

Regular Meeting Minutes

MEMBERS PRESENT:

Chris Hermanski, Chair
Coni Rathbone, Vice-Chair
Marcia Edwards
Joann Hansen
Pat Ihnat
Dave Koch
Alex MacLean

STAFF PRESENT:

Lawnae Hunter, excused
Jef Farley, excused

GUESTS PRESENT:

Stacey Harrison, Superior A1 Schools
Josh Fuhrer, Citizen Development
Michelle Diester, Legislative Fiscal
John Wallace, OAR
Lane Mueller, Keller Williams

I. BOARD BUSINESS-Chair Hermanski

- A. **Call to Order.** Chair Hermanski called the meeting to order at 10am
- B. **Chair Hermanski comment/Roll Call.** Chair Hermanski asked board liaison to take roll call and board members to introduce themselves
- C. **Approval of Agenda and Order of Business.** Agenda and Order of Business were approved as submitted.

MOTION TO APPROVE AGENDA AND ORDER OF BUSINESS AS SUBMITTED BY DAVE KOCH

SECOND BY MARCIA EDWARDS

MOTION CARRIED BY UNANIMOUS VOTE

- D. **Approval of 10.03.16, regular meeting minutes.** 10.03.16 regular meeting minutes were approved as submitted.

MOTION TO APPROVE 10.03.16 REGULAR MEETING MINUTES BY DAVE KOCH

SECOND BY PAT IHNAT

MOTION CARRIED BY UNANIMOUS VOTE

- E. **Date of next meeting: 2.6.17 at the Oregon Real Estate Agency, Equitable Center, 530 Center St. NE, Suite 100, Salem, OR 97301 to begin at 10am**

II. PUBLIC COMMENT. None

III. REQUESTS FOR WAIVER-Chair Hermanski

- A. **Joshua L. Fuhrer requests experience waiver for principal broker license.** Mr. Fuhrer appeared before the board and explained that he has been in the real estate industry on the commercial side for 13

years as developer and wanted to provide brokerage services in addition to what he currently provides to his clients. He also explained that he currently has 3 partners, he being the primary developer, and he would not be supervising anyone or managing any client trust accounts. Mr. Fuhrer stated although he currently was not a licensed broker, he has passed the exam. Discussion: Alex MacLean asked Vice-Chair Rathbone if she suggested that Mr. Fuhrer hang his license with a principal broker and then reapply for waiver and she responded that she did feel that would be appropriate.

MOTION TO DENY REQUEST FOR EXPERIENCE WAIVER SUBMITTED BY JOSHUA FUHRER BY MARCIA EDWARDS

SECOND BY DAVE KOCH

MOTION CARRIED BY UNANIMIOUS VOTE

IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER-Chair Hermanski. CEP Log

- A. Brix Law LLP, to appear by phone.** Laura Craska Cooper and Brad Miller appeared by phone and Mr. Miller explained Brix Law LP specializes in real estate and land use transactions and both he and Ms. Craska Cooper had an extensive amount of experience in the following areas: real estate leasing, acquisitions, development, financing, general business, and negotiations. Chair Hermanski asked Mr. Miller and Ms. Craska Cooper if they were familiar with the record keeping requirements as a certified education instructor and Mr. Miller responded that they were familiar this requirement.

MOTION TO APPROVE PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER SUBMITTED BY BRIX LAW LLP BY CONI RATHBONE

SECOND BY DAVE KOCH

MOTION CARRIED BY UNANIMOUS VOTE

V. BOARD ADVICE/ACTION-Commissioner Bentley

A. 2017 Meeting Schedule:

- February 6-Salem
- April 3-Salem
- June 5-Lincoln City
- August 7-Klamath Falls
- October 2-Springfield
- December 4-Gresham

MOTION TO APPROVE THE PROPOSED 2017 MEETING SCHEDULE BY JOANN HANSEN

SECOND BY MARCIA EDWARDS

MOTION CARRIED BY UNANIMOUS VOTE

VI. COMMUNICATIONS-Administrative Actions Summary – Chair Hermanski.

VII. REPORTS-Chair Hermanski

A. Commissioner Gene Bentley

- Agency Budget-summary of proposed fee increases
- License counts-Commissioner Bentley summarized licensing statistics/counts
- OAR professionalism-OAR is exploring the concepts of requiring licensees to complete an AP course and also adjusting the BASS course. Chair Hermanski stated that he would support and endorse the process for property managers to be licensed. Commissioner Bentley responded that OAR has addressed the issue of a license requirement for property managers. Joann Hansen responded that she would like to see brokers and principal brokers be required to take property management education. Commissioner Bentley explained that the Agency has expanded education for property managers and the process continues.
- OAR discussion-Commissioner Bentley reported that he has heard small firms are not inclined to have E & O insurance. Dave Koch responded that he was not particularly supportive of that. Joann Hansen responded that this should be a business decision that each firm should make.

-Farwell to Chair Hermanski-Commissioner Bentley presented Chair Hermanski with a letter of recognition from Governor Brown and also a certificate of appreciation from the Agency for his dedicated service as a board member. Chair Hermanski responded that he enjoyed his time as a board member and also appreciated all the contacts and friendships he has developed over the years.

B. Agency division reports-Deputy Commissioner Dean Owens

1. **Regulation Division-Selina Barnes.** Ms. Barnes reported the division was conducting as usual and announced the completion of two Financial Investigator recruitments have been completed resulting in Lisa Montello and Lindsey Nunes filling both positions.
2. **Land Development Division-Michael Hanifin.** No report
3. **Education, Business and Technical Services Division-Dean Owens, Anna Higley, and Maddy Alvarado.** Ms. Higley announced that Liz Hayes will be joining the Agency as the new receptionist filling in for Sue Davenhill, who has been assigned Compliance Specialist duties. Ms. Higley provided a budget summary. Deputy Commissioner Owens reported there were issues with the timing of education courses and Agency is exploring the possibility of implementing timer mechanisms.

VIII. ANNOUNCEMENTS-Chair Hermanski. Next board meeting: 2.6.17 at the Oregon Real Estate Agency, Equitable Center, 530 Center St NE, Salem, OR 97301

IX. ADJOURNMENT

Respectfully submitted:

Respectfully submitted:

GENE BENTLEY, COMMISSIONER

MARCIA EDWARDS, CHAIR

**AGENDA ITEM NO.
IV.**

**OREGON REAL ESTATE BOARD
CEP LOG – 2016/2017**

4.4.16	Brian Greer	APPROVED	<p>FACTS: Mr. Geer explained that he owned 3 service master companies and has been in the disaster industry for many years. He also explained that he provides education on the following topics: disaster restoration, water damage, risk management, business ethics, and property management, which are considered acceptable course topics.</p> <p>DISCUSSION: None</p> <p>MOTION TO APPROVE BRIAN GREER'S PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER BY DAVE KOCH</p> <p>SECOND BY CONI RATHBONE</p> <p>MOTION CARRIED BY UNANIMOUS VOTE</p>
4.4.16	John Estrem	APPROVED	<p>FACTS: Mr. Estrem appeared by phone and reviewed his qualifications which included providing education for approximately 15 years. He also explained he provides education on the topic of risk management, which is considered an acceptable course topic. Chair Hermanski asked Mr. Estrem if he was aware of the record keeping requirements for continuing education providers and he responded that he was aware of the record keeping requirements.</p> <p>DISCUSSION: None.</p> <p>MOTION TO APPROVE JOHN ESTREM'S PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER BY CONIE RATHBONE</p> <p>SECOND BY PAT IHNAT</p> <p>MOTION CARRIED BY UNANIMOUS VOTE</p>
6.6.16	CMPS Institute (Gibran Nicholas)	APPROVED	<p>FACTS: Chair Hermanski asked CMPS to summarize the basis of their petition. Gibran Nicholas explained that CMPS Institute has provided education across the country and is approved in 10 states to provide CE to real estate agents. Mr. Nicholas also explained CMPS Institute offers the following acceptable course topics: advertising; regulation; consumer protection; real estate taxation; and finance. Chair Hermanski asked if they were familiar with the record keeping requirements and Ms. Nicholas responded that they are familiar with the record keeping requirements</p> <p>DISCUSSION: None.</p> <p>MOTION TO APPROVE CMPS INSTITUTE'S PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER BY MARCIA EDWARDS</p> <p>SECOND BY LAWNAE HUNTER</p> <p>MOTION CARRIED BY UNANIMOUS VOTE</p>
10.3.16	Michelle Moore	APPROVED	<p>FACTS: Ms. Moore explained that she had nine years of experience in providing continuing education courses covering the following topics: real estate consumer protection, risk management, dispute resolution, and negotiation, which are considered acceptable course topics. Dave Koch asked Ms. Moore if she was familiar with the record keeping requirements involved with being a provider and she responded that she was aware of the requirements.</p> <p>DISCUSSION: None</p> <p>MOTION TO APPROVE BY DAVE KOCH</p> <p>SECOND BY LAWNAE HUNTER</p> <p>MOTION CARRIED BY UNANIMOUS VOTE</p>
12.05.16	Brix Law LLP	APPROVED	<p>FACTS: Laura Craska Cooper and Brad Miller appeared by phone and Mr. Miller explained Brix Law LP specializes in real estate and land use transactions and both he and Ms. Craska Cooper had an extensive amount of experience in the following areas: real estate leasing, acquisitions, development, financing, general business, and negotiations. Chair Hermanski asked Mr. Miller and Ms. Craska Cooper if they were familiar with the record keeping requirements as a certified education instructor and Mr. Miller responded that they were familiar this requirement.</p> <p>MOTION TO APPROVE PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER SUBMITTED BY BRIX LAW LLP BY CONI RATHBONE</p> <p>SECOND BY DAVE KOCH</p> <p>MOTION CARRIED BY UNANIMOUS VOTE</p>
2.6.17	Systems Effect LLC dba Training Cove		

2.6.17	American Dream Real Estate School		
2.6.17	Asset Preservation, Inc.		
2.6.17	Military Mortgage Boot Camp		



**PETITION TO QUALIFY AS A
CONTINUING EDUCATION PROVIDER**

Rev. 5/2016

Real Estate Agency
530 Center St NE Ste 100
Salem OR 97301
Phone: 503-378-4170

INSTRUCTIONS

To petition the Real Estate Board for approval of qualifications to become an applicant for certification as a continuing education provider, the petitioner must complete this form and submit it by e-mail to leandra.hagedorn@state.or.us a least 21 days before the next scheduled Board meeting at which the applicant wishes the Board to act.

IMPORTANT:

- ▶ If the petitioner is an entity, the information provided must pertain to that entity. If the petitioner is an individual, the information provided must pertain to that individual.
- ▶ All information and documents submitted as part of this petition become part of the Board Packet, and therefore, public record.
- ▶ Petitioners will need to appear before the Board. This may be done in person or by phone. Once the Agency receives this completed petition, a letter will be sent to the petitioner with the date of the Board meeting the petitioner will need to attend.

If the Board approves this petition, the Agency will mail a letter to the petitioner, at the mailing address provided, confirming the Board's approval. The petitioner may then apply for certification as a continuing education provider under OAR 863-020-0030.

PETITIONER

Name Systems Effect L.L.C. dba Training Cove Phone Number 480-517-1000

Physical Address 14301 N 87th St #106 Address Cont. _____

City Scottsdale State AZ Zip Code 85260 County Maricopa

E-mail help@trainingcove.com

Mailing Address (if different) _____ Address Cont. _____

City _____ State _____ Zip Code _____ County _____

AUTHORIZED CONTACT PERSON

Prefix Mr. First Name Steven Last Name Jordan

Phone Number 480-517-1000 E-mail help@trainingcove.com

Indicate who will appear before the board on behalf of the Petitioner: Steven Jordan

AGENCY USE ONLY	
Approved by Board	YES NO
Review Date	_____

PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER, Continued

QUALIFICATION INFORMATION

Provide below sufficient information about the petitioner to allow the Board to determine whether the petitioner qualifies for certification. If the petitioner is an entity, the information provided must pertain to that entity. If the petitioner is an individual, the information provided must pertain to that individual.

Information **MUST** include one or both of the following:

- ▶ Petitioner's demonstrated expertise and experience in providing educational courses to real estate licensees.
- ▶ Petitioner's demonstrated experience and expertise in two or more course topics eligible for continuing education credit under OAR 863-020-0035.

You may attach up to **three (3)** additional pages if necessary.

The Petitioner is a distance learning company that has been in business since 2008. It is currently approved to deliver real estate continuing education courses in 5 states (Arizona, Kansas, Minnesota, Missouri, Ohio). It has successfully served over 5000 real estate licensees and currently delivers over 40 continuing education courses on a wide variety of real estate topics including topics eligible for continuing education credit under Oregon Administrative Rules. Some of these topics include: Principal broker record keeping and supervision, trust accounts, agency relationships, misrepresentation, disclosure, contracts, appraisal, fair housing, risk management, water rights, environmental protection, land use, real estate law, negotiation, and others. The Petitioner provides a secure website, excellent record keeping, and uses student surveys after every course to continually monitor and improve the quality of the educational programs it delivers.

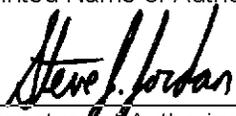
AUTHORIZATION AND ATTESTATION

- ▶ I hereby certify that I am authorized to submit this form on behalf of the petitioner and that the information is true and accurate, to the best of my knowledge.
- ▶ I acknowledge that petitioner, or authorized individual on petitioner's behalf, has read, understands and is ready to comply with the statutory and administrative rule provisions applicable to certified continuing education providers.
- ▶ I attest that petitioner knows and understands the responsibilities of a certified continuing education provider under OAR 863-020-0050.
- ▶ I attest that petitioner knows and understands the requirements of an instructor under ORS 696.186 and the information required on a continuing education instructor qualification form under OAR 863-020-0060.

Steven Jordan

Date 1/13/2017

Printed Name of Authorized Individual



Signature of Authorized Individual



**PETITION TO QUALIFY AS A
CONTINUING EDUCATION PROVIDER**

Rev. 5/2016

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530 Center St NE Ste 100
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If the Board approves this petition, the Agency will mail a letter to the petitioner, at the mailing address provided, confirming the Board's approval. The petitioner may then apply for certification as a continuing education provider under OAR 863-020-0030.

PETITIONER

Name American Dream Real Estate School, LLC Phone Number 844-223-7326

Physical Address 795 Midland Street Address Cont. _____

City Brighton State CO Zip Code 80601 County Adams

E-mail States@AmericanDreamRESchool.com

Mailing Address (if different) _____ Address Cont. _____

City _____ State _____ Zip Code _____ County _____

AUTHORIZED CONTACT PERSON

Prefix Mr. First Name Todd Last Name Cordrey

Phone Number 844-223-7326 E-mail States@AmericanDreamRESchool.com

Indicate who will appear before the board on behalf of the Petitioner: Herbert Nagamatsu, COO Herbert@AmericanDreamRESchool.com

AGENCY USE ONLY	
Approved by Board	YES NO
Review Date	_____

PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER, Continued

QUALIFICATION INFORMATION

Provide below sufficient information about the petitioner to allow the Board to determine whether the petitioner qualifies for certification. **If the petitioner is an entity, the information provided must pertain to that entity. If the petitioner is an individual, the information provided must pertain to that individual.**

Information **MUST** include one or both of the following:

- ▶ Petitioner's demonstrated expertise and experience in providing educational courses to real estate licensees.
- ▶ Petitioner's demonstrated experience and expertise in two or more course topics eligible for continuing education credit under OAR 863-020-0035.

You may attach up to **three (3)** additional pages if necessary.

American Dream Real Estate School is a company dedicated to educating realtors and providing reliable, accurate and easy to use online courses to help individuals develop skills and knowledge necessary to be successful entrepreneurs. Whether our students are beginning a new career or continuing their pursuit of professional excellence through continuing education, American Dream Real Estate School offers the courses to advance careers, expand horizons, and prepare students to successfully implement consumer protection practices.

Since 2005, American Dream Real Estate School has created, administered and delivered online courses and training programs to thousands of students in multiple states throughout the country. Through Online Learning Management Systems, hundreds of courses have been built that have complied with all individual state requirements and standards while uniformly ensuring content mastery by all students.

Please see attached Continuing Education Course Catalog

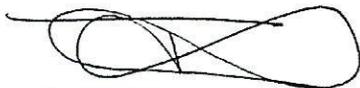
AUTHORIZATION AND ATTESTATION

- ▶ I hereby certify that I am authorized to submit this form on behalf of the petitioner and that the information is true and accurate, to the best of my knowledge.
- ▶ I acknowledge that petitioner, or authorized individual on petitioner's behalf, has read, understands and is ready to comply with the statutory and administrative rule provisions applicable to certified continuing education providers.
- ▶ I attest that petitioner knows and understands the responsibilities of a certified continuing education provider under OAR 863-020-0050.
- ▶ I attest that petitioner knows and understands the requirements of an instructor under ORS 696.186 and the information required on a continuing education instructor qualification form under OAR 863-020-0060.

Todd Cordrey

Date January 12, 2017

Printed Name of Authorized Individual



Signature of Authorized Individual

Continuing Education Course Catalog

Powered by American Dream Real Estate School

Advanced CFPB: How to Avoid Being Embarrassed at Closing – 3 CE Hours

TILA-RESPA INTEGRATED DISCLOSURE

Guide to the Loan Estimate and Closing Disclosure forms

What is the purpose of this guide?

Who should read this guide?

Where can I find additional resources that will help me understand the TILA-RESPA rule?

Common Mistakes Made by Real Estate Rookies and the Rest of Us – 3 CE Hours

This course is designed to bring awareness to the real estate professional of the common pitfalls/mistakes that are made by many licensees. The course is practical in nature and discussion is based on introduction of the subject, case studies and examples of mistakes that are commonly made in many areas.

In any business, it's common that mistakes will be made. Let's explore some of the more common mistakes made by new real estate licensees and those who have been in the real estate business for many years. We'll discuss resources that are available to help you avoid these mistakes.

This course uses the terms licensee and representative interchangeably to mean an agent that is affiliated with a broker. The term broker is used to specify a designated broker, principal broker or sponsoring broker who has affiliated licensees working for them.

Contracts and Risk Management – 3 CE Hours

How to Keep You and Your Broker Out of Court

The purpose of this course is to explore some sound risk management procedures which can minimize your exposure and reduce your risk of being threatened with a suit. During this course, there will also be an emphasis on shifting the risk to those professionals who specialize in a particular field within the real estate industry. In doing so, you'll also reduce the risk to your brokerage and to your client as well.

With the increase in lawsuits over the last few decades, it's safe to state that we, in the United States, have become a litigious nation. Lawsuits, or the threat thereof, within the real estate industry, are certainly not an exception. One of the causes, perhaps, is that a party does not have to prove that they were wronged before filing for a suit. To complicate this even further, is that in most jurisdictions, the filing fee is very nominal. So, it becomes quite easy and inexpensive to threaten litigation.

Today's consumers, often times, have increased expectations about the services that we provide as real estate professionals. Mastering some basic risk reduction procedures will assist you in meeting, or perhaps exceeding, these expectations and reduce your threat of litigation.

Finance Basics "Know your Numbers" – 3 CE Hours

This course will provide the student with an introduction to real estate finance. The course begins with an overview of real estate as an asset class including the legal, tax and accounting conventions as well as the nature of cash flow generated and how they are valued.

Listing Agreements That Work – 3 CE Hours

The Listing Agreement and the attached addenda is the contract between the brokerage and the seller. There are many important terms and conditions stated within this contract such as the commission rate, the length or duration of the listing, the consequences of a breach by the seller, the terms under which dual agency is handled, seller's disclosures, cancellation of a listing, ownership of a listing, and other terms which are of extreme importance.

The Listing Agreement is the first contract in what can be a long process to the sale and closing of a property. This course will explore the many intricacies of this agreement as well as explore some case studies to understand listing agreements as they are used throughout your real estate career.

Multiple Offers, Escalation Clauses and Hot Markets – 3 CE Hours

This course will explore Multiple Offers, Escalation Clauses and Hot Markets. This course covers real estate market dynamics in hot, stable and cold markets, appraisals in hot markets and the importance of local markets. The complexities of Multiple Offer situations, cash buyers and contingencies. How to present and respond to offers and escalation clauses. How to prepare a buyer in a seller's market. How to coach sellers in a hot market.

Recognizing Discrimination in Fair Housing – 3 CE Hours

Course will cover how to recognize discrimination in Fair Housing.

Fair Housing is a topic involving principles. Generally, from real estate professionals who begin Fair Housing study, they are looking for rules and want to know what the rules are for each and every situation they may encounter. Unfortunately, we do not have those kinds of answers for you. But what we do have are the Fair Housing guidelines, established by the federal Fair Housing Law, which will give us the basis for our professional conduct involving equal access to affordable housing for all people regardless of their race, color, religion, sex, national origin, familial status, or whether or not they are disabled. Our goal is to help clarify some of these basic principles and guidelines for you.

Safety for Brokers While Showing Properties and Staging – 3 CE Hours

This course will cover Safety for Brokers While Showing Properties and Staging.

Short Sales for Success – 3 CE Hours

This course will cover the challenges with Short Sales, providing Real Estate Services and the Unauthorized Practice of Law and Services that a Licensee is allowed to perform in reference to Short Sales. Referring Unlicensed Individuals and Foreclosures Other Information on Short Sales and Foreclosures Red Flags on Short Sale or Foreclosure Scams and MARS

Sound Practices for the Preparation and Presentation of Effective Contracts – 3 CE Hours

Contracts are an essential part of the transfer of real estate. It is important that you, as the real estate professional, are familiar with these contracts, know how to use them and have the ability to explain the terms contained within these forms.

These forms aid in the development of a legally binding contract between the parties and express the terms, conditions, timeline and promises of the seller and the purchaser. Should an issue or dispute ever arise between the parties to a contract, these forms and their content will be of the utmost importance in arbitration or in a court of law. In this course, we will be referring to the contract between the buyer and the seller for the purchase of real property as a Purchase and Sale Agreement (PSA).

Successful Buyer Systems: How to Deliver the Best to Today's Buyer – 3 CE Hours

The return on investment when working with buyers in a non-equity housing market tends to create larger income than just managing listings. Learn the real buyer secrets to improve your productivity and to manage the process of working with buyers to generate a higher return on your invested time. Today's buyer needs, wants and expects more from today's real estate professional. The expertise, experience and eloquence to work with buyers set the more successful agents apart from the rest.

Knowing how to help buyers navigate the complexities of a real estate transaction are critical skills as people make, what will be for most, the largest purchase of their life. While many buyers are fearful of purchasing homes in today's state of the market; agents with the proper training, tools and systems can create a steady pipeline of buyers to help grow and sustain their business long term.

Successful Seller Systems: How to Deliver the Best to Today's Seller – 3 CE Hours

Today's most successful Realtors® know how to help sellers maneuver the complexities of the transaction as well as help buyers pursue listed property opportunities. These are not merely good skills to have in today's market — they are critical.

Valuation, Marketing, Negotiations & Closing the Sale – 3 CE Hours

This 3-hour course is a comprehensive outline on obtaining and managing listings, determining value through a comparative market analysis, pricing, negotiating offers and determining the strongest offer for a seller. The student will learn about market conditions and how they affect pricing, financing and marketability and environmental conditions. And finally, tips on the successful closing of a transaction and how to avoid pitfalls are addressed.

Working with Fix and Flip Real Estate Investors – 3 CE Hours

Learn the Tricks of the Trade! How to have more clients with fewer appointments, better service and protection for satisfied clients.



**PETITION TO QUALIFY AS A
CONTINUING EDUCATION PROVIDER**

Rev. 5/2016

Real Estate Agency
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PETITIONER

Name Asset Preservation, Inc. Phone Number (916) 791-5991

Physical Address 1420 Rocky Ridge Dr., Suite 100 Address Cont. _____

City Roseville State CA Zip Code 95661 County Placer

E-mail elisa@apiexchange.com

Mailing Address (if different) _____ Address Cont. _____

City _____ State Zip Code _____ County _____

AUTHORIZED CONTACT PERSON

Prefix Mrs. First Name Elisa Last Name Mas

Phone Number (916) 945-3934 E-mail elisa@apiexchange.com

Indicate who will appear before the board on behalf of the Petitioner: Elisa Mas

AGENCY USE ONLY	
Approved by Board	YES NO
Review Date	_____

PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER, Continued

QUALIFICATION INFORMATION

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- ▶ Petitioner's demonstrated expertise and experience in providing educational courses to real estate licensees.
- ▶ Petitioner's demonstrated experience and expertise in two or more course topics eligible for continuing education credit under OAR 863-020-0035.

You may attach up to **three (3)** additional pages if necessary.

PLEASE SEE (3) ADDITIONAL PAGES

COURSE TOPICS INCLUDE:

1) REAL ESTATE TAXATION

2) REAL ESTATE FINANCE

AUTHORIZATION AND ATTESTATION

- ▶ I hereby certify that I am authorized to submit this form on behalf of the petitioner and that the information is true and accurate, to the best of my knowledge.
- ▶ I acknowledge that petitioner, or authorized individual on petitioner's behalf, has read, understands and is ready to comply with the statutory and administrative rule provisions applicable to certified continuing education providers.
- ▶ I attest that petitioner knows and understands the responsibilities of a certified continuing education provider under OAR 863-020-0050.
- ▶ I attest that petitioner knows and understands the requirements of an instructor under ORS 696.186 and the information required on a continuing education instructor qualification form under OAR 863-020-0060.

ELISA MAS
Printed Name of Authorized Individual

Date 1/4/16

Elisa Mas
Signature of Authorized Individual



December 5, 2016

State of Oregon,
Real Estate Agency
530 Center St NE Ste 100
Salem, OR 97301

We are including this letter of petition to qualify as a continuing education provider in the state of Oregon, along with resumes of both instructors. These should sufficiently demonstrate our expertise and extensive experience in providing educational courses to real estate licensees.

Asset Preservation, Inc. is a leading national qualified intermediary and have successfully completed over 160,000 Section 1031 tax-deferred exchanges since our establishment in 1990. For over 25 years we have been teaching 1031 exchange courses for continuing education to real estate professionals all over the nation. Asset Preservation is currently approved to teach continuing education courses in the following states: Texas, New York, Florida, Colorado, Washington, Oklahoma, New Jersey & Arizona. We have previously been an approved provider in the state of Oregon.

Our instructors have completed a rigorous 40+ hours of training under Scott Saunders (Senior Vice President of Asset Preservation), additional monthly meetings, and annual week long meetings to stay current on all recent developments under IRC §1031.

Sincerely,

Elisa Mas (Authorized Contact Person)
National Marketing Assistant
Asset Preservation, Inc.

IRC §1031 "Qualified Intermediary"

1420 Rocky Ridge Dr, Ste 100 ▪ Roseville, CA 95661
503.348.9577 ▪ 877.909.1031 ▪ FAX 503.961.1293
www.apixchange.com



Scott R. Saunders Senior Vice President

Scott R. Saunders is Senior Vice President with Asset Preservation, Inc. (API), a subsidiary of Stewart Information Services Corporation (NYSE: STC). Scott has an extensive background in Internal Revenue Code §1031 tax-deferred exchanges, having been involved in structuring thousands and thousands of 1031 exchanges during his twenty-eight years in the exchange industry. He holds a Business Economics degree from the University of California at Santa Barbara. Asset Preservation is a leading national IRC §1031 qualified intermediary and has successfully completed over 160,000 1031 exchanges throughout the nation.

Mr. Saunders dedicates a significant portion of his time presenting classes on intermediate and advanced 1031 exchange strategies to accountants, attorneys, financial advisors, real estate brokers and principals nationwide. He has spoken at the annual National Bar Association Conference, National Society of Accountants (NSA) Annual Conference, National Association of Realtors® Annual Conference, GMAC Real Estate's Annual Convention, Annual Conference for the American Society of Cost Segregation Professionals, Building Owners and Management Association International (BOMA) Annual Conference, American Land Title Association (ALTA), Colorado Society of Certified Public Accountants Annual Convention, Colorado Association of Realtors Annual State Convention, Ohio Bar Association, the Certified Commercial Investment Member (CCIM) and Institute of Real Estate Management (IREM) Success Series, Tenant-in-Common Association (TICA), the University of Denver and Washington D.C. Bar Association and many other state and local financial, real estate, accounting, and legal associations. In addition, he has been a regular presenter of 8-hour C.L.E. and C.P.E. approved classes on advanced 1031 exchange issues to accountants, attorneys, commercial developers, and CFO's arranged by Lorman Education and the National Business Institute. Scott regularly provides webinars for continuing education credit on 1031 exchanges for many organizations including the CPA Leadership Institute and CPAAcademy.org.

In addition to being an accredited speaker in numerous states, Mr. Saunders was a contributing author to the book Real Estate Exchanges: Using the Tax-Deferred Exchange in Real Estate Investment Management and was featured in The Wall Street Journal article High-Impact Tax Breaks in July, 2013. He has written over 180 articles on various aspects of 1031 exchanges, capital gain taxation and investment real estate. His articles have been featured in many investment publications such as the New York Real Estate Journal, Mid Atlantic Real Estate Journal, Inman News, REBusiness Online, Heartland Real Estate Business, Western Real Estate Business, Realtors® Land Institute Terra Firma, ALTA's Title News, HousingWire, and many other publications. Mr. Saunders also is a Board Member of the Federation of Exchange Accommodators (www.1031.org), the national 1031 exchange industry trade association.

Contact Information:
84 Highway 105, Suite A
P. O. Box 467 Palmer Lake, CO 80133
888-531-1031 | D 719-481-9788 | F 704-943-5675
scott@apiexchange.com



National Headquarters 800-282-1031 • 916-791-5991
Eastern Regional Office 866-394-1031 • 631-369-3617
apiexchange.com info@apiexchange.com



Annamarie Kooning Northwest Division Manager

Annamarie Kooning is the Northwest Division Manager with Asset Preservation, Inc. Prior to joining Asset Preservation, Annamarie was in the financial services and title services industries. During her career she has worked with many financial advisors by referral and is licensed in Oregon and Washington.

She has an extensive background in IRC Section 1031 tax-deferred exchanges and every aspect of real estate transactions, having participated in thousands of closings during her many years working in the title industry.

Asset Preservation, a subsidiary of Stewart Title Company, is a leading national IRC §1031 qualified intermediary and is efficiently handling exchanges in every state. Combining a national title company as a partner has proven to be the approach of choice by astute investors. Asset Preservation is one of the most respected national qualified intermediaries in the United States and has successfully completed over 160,000 1031 exchanges throughout the nation.

In addition to completing Master level Real Estate Finance courses at Portland State University, Annamarie also holds a Bachelor of Business Administration-Economics from Gonzaga University-Spokane, WA.

Contact Information:
1000 SW Broadway, Suite 1600
Portland, OR 97205
877.909.1031 | M 503.348.9577 | F 503.961.1293
annamarie@apiexchange.com



National Headquarters 800-282-1031 • 916-791-5991
Eastern Regional Office 866-394-1031 • 631-369-3617
apiexchange.com info@apiexchange.com



**PETITION TO QUALIFY AS A
CONTINUING EDUCATION PROVIDER**

Rev. 5/2016

Real Estate Agency
530 Center St NE Ste 100
Salem OR 97301
Phone: 503-378-4170

INSTRUCTIONS

To petition the Real Estate Board for approval of qualifications to become an applicant for certification as a continuing education provider, the petitioner must complete this form and submit it by e-mail to leandra.hagedorn@state.or.us a least 21 days before the next scheduled Board meeting at which the applicant wishes the Board to act.

IMPORTANT:

- ▶ If the petitioner is an entity, the information provided must pertain to that entity. If the petitioner is an individual, the information provided must pertain to that individual.
- ▶ All information and documents submitted as part of this petition become part of the Board Packet, and therefore, public record.
- ▶ Petitioners will need to appear before the Board. This may be done in person or by phone. Once the Agency receives this completed petition, a letter will be sent to the petitioner with the date of the Board meeting the petitioner will need to attend.

If the Board approves this petition, the Agency will mail a letter to the petitioner, at the mailing address provided, confirming the Board's approval. The petitioner may then apply for certification as a continuing education provider under OAR 863-020-0030.

PETITIONER

Name military Mortgage Boot Camp Phone Number 734-395-7797

Physical Address 42705 Grand River Ave Address Cont. _____

City Novi State mi Zip Code 48375 County Oakland

E-mail militarymortgagebootcamp@gmail.com

Mailing Address (if different) _____ Address Cont. _____

City _____ State _____ Zip Code _____ County _____

AUTHORIZED CONTACT PERSON

Prefix First Name Jay or Mike Last Name McMaken / Fischer

Phone Number 734-395-7797 E-mail militarymortgagebootcamp@gmail.com

Indicate who will appear before the board on behalf of the Petitioner: JASON McMACKEN

AGENCY USE ONLY

Approved by Board YES NO

Review Date _____

IMPORTANT - PLEASE READ

You must be able to comply with the requirements of a Certified Continuing Education Provider if the Board approves your or your company's qualifications.

When offering a course eligible for real estate continuing education credit, a Certified Continuing Education Provider **MUST** comply with **ALL** of the following requirements:

- Ensure the course is within the scope of one or more course topics listed in OAR 863-020-0035(3) or is the three-hour Law and Rule Required Course "LARRC" approved by the Board pursuant to OAR 863-022-0055. The Agency will not determine whether individual courses or classes are within the scope of an eligible course topic.
- Identify to real estate licensees which course topic(s) the offered course covers, or if the course is the three-hour Law and Rule Required Course "LARRC" under 863-022-0055, the Broker Advanced Practices course under OAR 863-022-0020, the Property Manager Advanced Practices course under 863-022-0055, or the Brokerage Administration and Sales Supervision course under OAR 863-022-0025.
- Ensure the minimum length of the course is one hour as required under OAR 863-020-0007.
- Assign a four-digit identifying course number to the course. (Any assignment of four numbers is acceptable. Each course must have its own number. Letters are not to be included in a course "number.")
- Ensure the course meets the learning objective requirements contained in OAR 863-020-0045. The Agency does not review or approve learning objectives.
- Ensure that the instructor who teaches a continuing education course offered for credit:
 - Meets the requirements set forth in ORS 696.186, and
 - Has completed and signed the Continuing Education Instructor Qualifications Form as required by OAR 863-020-0060.
- Obtain a copy of the completed and signed Continuing Education Instructor Qualifications Form for each instructor for your records per OAR 863-020-0050 and OAR 863-020-0060.
- Maintain records of each offered course as required by ORS 696.184(c) and OAR 863-020-0055 for three years from the date the course was provided.
- Upon completion of an eligible course, provide each licensee who attends the course a completed Certificate of Attendance that includes all of the information required under OAR 863-020-0050(5), including licensee name and license number.

If petitioner is not able to comply with any of the above requirements, you may wish to consider being an instructor for an already certified provider. Visit the Agency's website for further information on instructor qualifications.



CONTINUING EDUCATION INSTRUCTOR QUALIFICATIONS FORM

Rev. 5/2016

RECEIVED
JAN 03 2019
REAL ESTATE AGENCY
SALEM OREGON

Real Estate Agency
Center St NE Ste 100
Salem OR 97301
Phone: 503-378-4170
www.oregon.gov/rea

INSTRUCTIONS

Before offering a real estate continuing education course that is eligible for credit required under ORS 696.174, the Certified Continuing Education Provider must ensure that the instructor who teaches a continuing education course offered for credit meets the instructor requirements contained in ORS 696.186.

The Certified Continuing Education Provider must ensure that the instructor completes and signs this form, and must maintain the form as part of their record-keeping. OAR 863-020-0060 and 863-020-0050

The Agency does not certify instructors. **DO NOT** send this form to the Agency unless requested by the Agency.

CERTIFIED CONTINUING EDUCATION PROVIDER

Name of Provider _____ Provider No. _____

INSTRUCTOR INFORMATION

Name of Instructor Michael J Eiden Title Loan Officer

Address 10260 SW Greenburg Rd Suite 830 Phone Number 503-517-2422

City Portland State OR Zip Code 97223

E-mail meiden@mtgxps.com

INSTRUCTOR QUALIFICATIONS

Check the box(es) below that describes your qualifications for teaching a real estate continuing education course. ORS 696.186

- A bachelor's degree and two years of experience working in a field related to the topic of the course
- Six years of experience working in a field related to the topic of the course
- A total of six years of any combination of college-level coursework and experience working in a field related to the topic of the course
- A designation by a professional real estate organization, as defined in OAR 863-020-0060(5), and two years of college level coursework
- A designation as a Distinguished Real Estate Instructor by the Real Estate Educators' Association
- Certification or approval in good standing as a real estate instructor for the same or a similar course topic in any other state or jurisdiction

Continue on page 2

CONTINUING EDUCATION INSTRUCTOR QUALIFICATIONS FORM - continued

INSTRUCTOR QUALIFICATIONS- continued

REQUIRED: Describe below in sufficient detail how you have met the above qualifications. You may attach additional pages if needed.

Please see attached resume.

INSTRUCTOR ATTESTATION

I hereby attest and affirm that the above information is true and accurate, and that:

- I have not had a professional or occupational license related to the topic of the course revoked for disciplinary reasons;
- I do not have a professional or occupational license related to the topic of the course that is currently suspended for disciplinary reasons; and
- I have not been determined by a state court, an administrative law judge, or a final agency order to have violated any statute, rule, regulation, or order pertaining to real estate activity in this or any other state in the preceding five years.

Printed Name of Instructor Michael J Eiden

Date 12/21/2016

Signature of Instructor



DO NOT send this form to the Real Estate Agency unless requested by the Agency.

Reset Form

Print Form

MICHAEL EIDEN

14011 Cessna Street Northeast, Aurora, OR 97002 • Home: 503-453-3052 • Cell: 503-453-3052 •
michael.eiden@gmail.com

Professional Summary

Seasoned Loan Officer offering a vast knowledge of originating, structuring, and advising customers on all their mortgage options and dedicated to maintaining professionalism and integrity.

Skills

- Proficient with VA Home Loans
- Proficient with FHA Home Loans
- Proficient with USDA Homes Loans
- Proficient with Conventional Home Loans

My financial planning background also allows me to analyze my borrower's entire financial picture and how the structure of their mortgage affects all areas of their financial life.

Work History

E5 Logistics Officer, 04/1993 to 04/1997

United State Marine Corps – 29 Palms California

- Reported directly to Unit Commanding Officer
- Responsible for Unit's budget quarterly for all equipment repairs, ordering etc.
- Liaison between Supply Unit, Motor Transport, and the Airfield Operations.
- Ran various reports to track all budgets and all equipment.

Leasing Manager, 04/1997 to 11/1998

Trammel Crow Residential – Beaverton, OR

- Trained and motivated leasing staff during bi-monthly trainings.
- Oversaw daily office operations for 5 leasing employees.
- Composed and drafted all outgoing correspondence for property manager.
- Ran various financial reports and directly reported to property manager.

Financial Advisor, 11/1998 to 06/2005

American Express – Portland, OR

- Interviewed clients to determine current income, expenses, insurance coverage, tax status, financial objectives, risk tolerance and other information needed to develop a financial plan.
- Profiled and analyzed investment products to develop customized financial strategies for clients' financial needs.
- Sold financial products including stocks, bonds and mutual funds.
- Answered clients' questions about the purposes and details of financial plans and strategies.

Loan Officer, 06/2000 to 06/2005

Portland Financial Group – Beaverton, OR

- Originated, reviewed, processed, closed and administered customer loan proposals.
- Recommended loan approvals and denials based on customer loan application reviews.
- Submitted loan applications to the underwriter for verification and recommendations.

Loan Officer, 06/2005 to 09/2008

World Family Financial – Keizer, OR

- Originated, reviewed, processed, closed and administered customer loan proposals.
- Recommended loan approvals and denials based on customer loan application reviews.

- Submitted loan applications to the underwriter for verification and recommendations.

Loan Officer, 09/2008 to 08/2010

Mortgage Express – Portland, OR

- Originated, reviewed, processed, closed and administered customer loan proposals.
- Recommended loan approvals and denials based on customer loan application reviews.
- Submitted loan applications to the underwriter for verification and recommendations.

Loan Officer, 08/2010 to 05/2011

Wells Fargo – Oregon City, OR

- In-house lender for John L Scott Real Estate Office in Oregon City, OR.
- Originated, reviewed, processed, closed and administered customer loan proposals.
- Recommended loan approvals and denials based on customer loan application reviews.
- Submitted loan applications to the underwriter for verification and recommendations.

Loan Officer, 05/2011 to 01/2015

Pacific Residential Mortgage – Lake Oswego, OR

- In-house lender for John L Scott Real Estate Office in Oregon City, OR.
- Originated, reviewed, processed, closed and administered customer loan proposals.
- Recommended loan approvals and denials based on customer loan application reviews.
- Submitted loan applications to the underwriter for verification and recommendations.

Loan Officer, 01/2015 to Current

Mortgage Express – Portland, OR

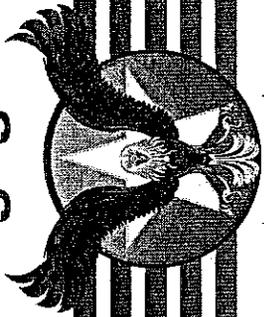
- Originated, reviewed, processed, closed and administered customer loan proposals.
- Recommended loan approvals and denials based on customer loan application reviews.
- Submitted loan applications to the underwriter for verification and recommendations.

Education

High School Diploma: 1992

Forest Grover High School - Forest Gove, OR

Military Mortgage Boot Camp

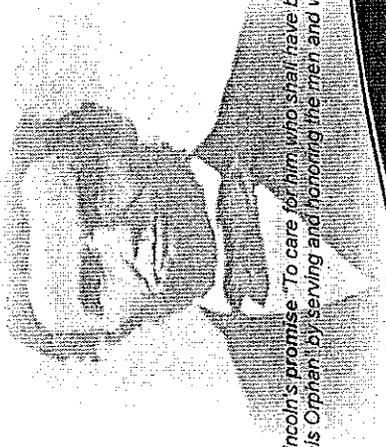


Jay McMaken

Founder and CEO -
Military mortgage Boot Camp
Certified Instructor National Association of
Realtors - Military Relocation Professional
(MRP) Certification
Educational Director -
The VET Program/Suits for Soldiers
High School Football Coach -
Plymouth High School
Father of 4 Awesome Kids -
Makyla 19, Marissa 17, Nicholas 14, Morgan 10



Always Do What is Best For the Veteran



Our Mission

To fulfill President Lincoln's promise "To care for him who shall have borne the battle, and for his Widow, and his Orphan" by serving and honoring the men and women who are America's Veterans.

Opportunity!

The Military is the USA's Largest Employer With Over

3.1 million Employees worldwide.

Over **\$178 Trillion** in Purchasing Power!

788,283 Mortgage Transactions YTD - 2016

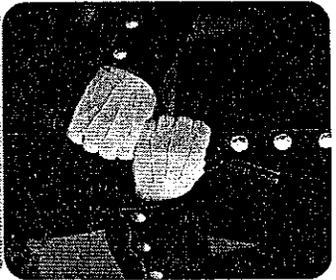
Veteran Homeownership **Exceeds The National Average By 10%**

Military Personnel Continue To be Relocated Every **2-5 Years**

Career Service-Members Move Numerous Times, **Repeat Purchase Business!**

683,623 Veterans in Oregon

459,931 - Wartime - 70%



Sources: US Department of Defense, Department of Veterans Affairs

Oregon 2016

Total Units = 30,050

Total Volume = \$8,486,794,150

Avg. Loan Amount = \$282,422

Purchase Units = 14,246

Purchase Volume = \$4,217,348,

Avg. Loan Amount = \$296,037

List of Top Veteran Organizations



Collin Powell
Amvets Post

Vietnam Veterans of America

National Association of Realtors "MRP Certification"

Benefits:

- Training on how to best counsel U.S. service members and their families to find housing solutions that best suit their needs in a military relocation called a permanent change of station (PCS)
- Education on how eligible active-duty service members and veterans can leverage VA financing benefits in the purchase of their home
- Differentiation as an MRP at REALTOR.org and realtor.com
- Access to an exclusive online network to locate other Military Relocation Professionals for referrals and to share ideas
- Use of the MRP logo and marketing materials to promote to consumers and peers
- Quarterly e-Newsletter

3 Mandatory Questions!

1. Are You or Your Spouse a Veteran?
2. Are You Entitled to Disability From The VA
3. Do You Have Your Certificate Of Eligibility Yet!!!



Median Fico Score – 738

Median Liquid Assets – \$16,989

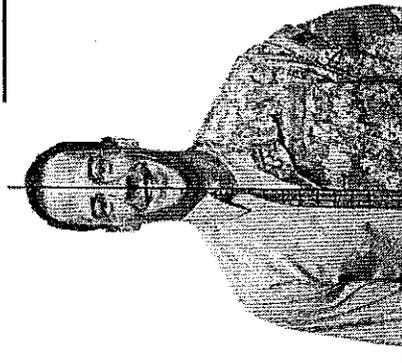
Median Household Income - \$73,769

Average Loan Amount - \$253,261

Veterans That Made A Down Payment – 28%

The VA Borrower of 2016!

VA BUYER OF 2016



- **83% of Veterans Use Their VA Benefit AFTER Active Duty**
- **28% of Veterans 25 and Older have at least a Bachelor's Degree in 2016**
- **29% of The Total Population had a Bachelor's Degree**
- **Median Household Income for Oregon Veterans \$73,769 vs Civilians \$38,993**
- **335,576 Oregon Veterans with a Service-Connected Disability Rating**

Source: <http://www.va.gov/va2016/veterans.html>
<http://www.census.gov/ipeds/data/rankings.html>

Why Do Lenders Want To Do VA Loans More Than Conventional and FHA?

Portfolio Performance/ Default %

VA – Excellent – 1.98%

CONV – OK – 2.47%

FHA – Poor – 9.10%

Lender Protection for Borrower Default

Fannie Mae & Freddie Mac – None

Ginnie Mae - FHA – Possible Payout On Claim

Ginnie Mae - VA – Guaranteed Coverage

Public Image

Looks Good For Lenders To Help Veterans

Surviving Spouse Eligibility

Un-Married surviving spouses are eligible for the VA home loan benefit just because Veteran died, benefit does not automatically transfer to spouse. Veteran's death must have been caused by injuries sustained while on active duty. Injuries could have been immediate or they could have resulted in physical disability that ultimately led to Veteran's death many years later.

- Determination cannot be done in ACE
- Must send Eligibility Center VA Form 26-1817
- Determination could take 4 – 6 weeks (do not process VA loan until you have actual COE)
- Entitlement code would always be '6' if spouse was deemed eligible

Restoration of Entitlement

VA loan can be used more than once. Full restoration of entitlement requires payoff of existing VA loan and transfer of title. Veteran must obtain new COE. Entitlement code for restoration would always be '5'. In order to obtain, send the following documents to the Atlanta Regional Loan Center:

- * Fully completed VA Form 26-1880
- * Proof of discharge, points statement or statement of service
- * Proof of payoff/transfer of title (HUD-1)

One Time Restoration

If Veteran no longer has a VA loan, but still owns the same home, Veteran can obtain a one time restoration.

- Veteran must certify they will occupy house to be guaranteed by new VA loan.
- Veteran needs to complete VA Form 26-1880 and document that they still own home.
- Typical discharge documentation and 26-1880 must be sent to Eligibility Center.

You Can Have Multiple VA Loans!!

Basic Entitlement
Veterans get **\$36,000**
This is 25% of **\$144,000**
\$0-\$144,000 will always
be \$36,000

Bonus Entitlement
Veterans also get **Bonus \$70,025**
This is 25% of County Max or Loan Amount whichever is less
\$144,001 – County Max
[\$424,100]

Entitlement Calculation

County Maximum - \$424,100
\$106,025
 - \$36,000
\$70,025

To Find Max Loan Amount Multiply by 4

\$70,025
 x 4
\$280,100

Source: Department of Veteran Affairs - VA Pamphlet 26-7

Calculation for Exceeding Max Entitlement

Mortgage on Previously Owner Occupied Home - \$130,000
 Purchase Price - \$387,000
 Max Loan Amount - \$287,000 (50 Down)
 Difference In PP an MIA = \$100,000
 Veteran Only Pays 25% of Difference
 Other 75% Rolled into loan
 Veteran Responsibility = \$75,000
 Total Loan Amount = \$362,000

Exceeding Max Entitlement On A Refinance

Lender needs 25% Guaranty of the Loan Amount on VA Loans
 VA Max Guaranty = \$106,025
 Loan Amount = \$1,000,000
 25% Guaranty = \$250,000
 VA Contribution = -\$106,025
 Borrower Required Equity = \$143,975
 Minimum Appraised Value = \$1,143,975

Source: - Department of Veteran Affairs

VA Funding Fee

Purchase or Type of Veteran	CONSTRUCTION Down Payment	First Time Use	Subsequent Use for loans from
Regular Military	None 5% or more (up to 10%) 10% or more	2.15% 1.50% 1.25%	3.30% 1.50% 1.25%
Reserves/ National Guard	None 5% or more (up to 10%) 10% or more	2.4% 1.75% 1.5%	3.30% 1.75% 1.50%

Cash Out Refinances

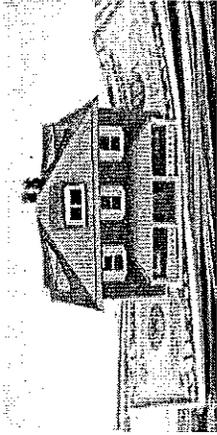
Type of Veteran	Percentage for First Time Use	Percentage for Subsequent Use
Regular Military	2.15%	3.30% *
Reserves/National Guard	2.40%	3.30% *

* Always is 3.30% on subsequent use regardless of Equity

Other Types Of

LOANS	Percentage for Either Type of Veteran Whether First Time or Subsequent Use
Interest Rate Reduction Refinancing Loans	.50%
Manufactured Home Loans	1.00%
Loan Assumptions	.50%

Closing Costs and Guaranty



Unallowable and Allowable Fees

The following fees are always un-allowed if a 1% origination fee is charged:

- Lender's appraisal – the veteran can only be charged for 1 appraisal unless VA deemed a second appraisal mandatory
- Lender's inspection – if it is not required on the appraisal/NOV, it can not be charged to the veteran
- Settlement fee, escrow fee, closing fee
- Document preparation fee
- Underwriting fee
- Processing fee
- Application fee – a veteran can be charged up front the cost of the appraisal and credit report to ensure the loan officer is not stuck with those fees if the veteran walks away from the deal.
- Pest inspection fee
- Attorney fees if for something other than title work
- Assignment fee
- Copying fee
- E-mail fee

VA Seller Concession Rule



- A seller concession is anything of value added to the transaction by the builder or seller for which the buyer pays nothing additional, and which is not considered customary
- VA's Seller Concession rule is not the same as that directed by HUD
- The maximum seller concession for VA loans is **4%** of the established reasonable value
- The **4%** only limits seller contribution toward the items in the following slide, closing costs and discount points are not included in this calculation.

Items Limited By VA Seller Concession Rule

- VA's Seller Concession rule only limits payment of
- the following amounts to 4% of the value:
- Payment of the Veteran's VA funding fee
- Prepayment of the Veteran's taxes and/or insurance
- Gifts such as TV's or appliances
- Payment of extra points that is beyond what current market conditions dictate
- Provision of escrowed funds to provide temporary interest rate buy-downs
- Payoff of credit balances or judgments on behalf of the buyer



Seller Contributions Toward Closing Costs

In addition to the 4% seller concessions, sellers/lenders can assist with:

- Payment of VA allowable closing costs above 4% seller concession amounts (appraisal, credit report, recording fees and taxes, title work, origination fee, etc.)
- Payment of points as appropriate to the market

What Types Of Homes Can A Veteran Buy?

- Single Family Residence 1-4 Units
- Condo (Site Condo Is A Condo To VA) – All Condos Must Be VA Approved
- Townhouse
- Manufactured Home

Primary Benefits Of A VA Home Loan

- 100% Financing up to the Conforming Loan Limit
- Gift Funds Allowed
- Lower FICO Score Requirements
- Lower Interest Rates
- Lower Fees
- Flexible Underwriting
- Energy Efficient Improvements Can Be Added to 100% Financing
- Fully Assumable By Any Qualified Person (Does Not Have To Be a Veteran)
- No Pre-Payment Penalty
- No Mortgage Insurance
- VA Funding Fee Can Be Financed
- 100% Cash Out Refinance
- Streamline VA (IRRL)
- Seller Concessions 4% Plus Closing Costs

Energy Efficient Mortgages

EEM's are loans to cover the cost of making energy efficiency improvements to a dwelling. Funds for Energy Efficiency Improvements are considered part of the total loan they can be made in conjunction with:

- A VA Loan for the Purchase of a Primary Residence
- A VA Refinance of the Veteran's Existing Dwelling

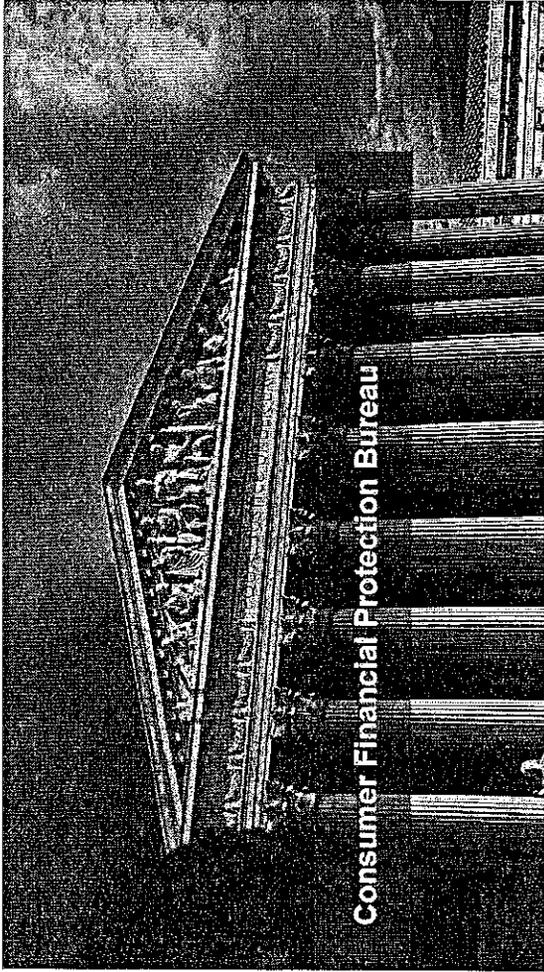
Examples of Allowable and Unallowable EEM Improvements

Allowable Improvements

- Solar Heating or Cooling Systems
- Furnace Replacement or Efficiency Modifications
- Clock Thermostats
- New or Additional Insulation
- Storm Windows and Doors
- Heat Pumps
- Insulated Garage Doors on attached Garages

Unallowable Improvements

- New Roof or Shingles
- Vinyl Siding
- Air Conditioning Units (Unless Veteran has Medical Certification that Requires a Controlled Environment within the Home).
- Glass Block Windows



Consumer Financial Protection Bureau

CFPB "Informed Choice"

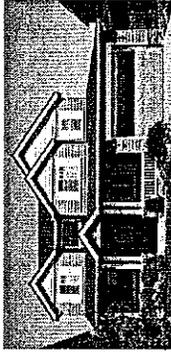
We **ALL** (Mortgage Lenders **AND** Real Estate Agents/Brokers) have a "Responsibility to our Customers" ...to inform them of the Options Available to them, and Help Each Customer Make an Educated Decision.

This may lead us to refer our Clients to a "Trusted Partner" that we **KNOW**will Inform the Customer, and **NOT** put them in a Program or Product that is not in their best interest.

We never want to STEER a Customer in a Specific Direction (EVEN IF WE HAVE YEARS OF EXPERIENCE IN A FIELD)

We (Mortgage Lenders and Real Estate Agents/Brokers) always want to mitigate these Risks and help each and every Customer reach their Financial Goals by ultimately ensuring they make an Informed Choice.

Veteran Home Ownership Statistics



- 66 % of Veterans who had a home reported they used the VA Home Loan Guaranty Program.
- 33% of Veterans that have a Mortgage indicated they **DID NOT KNOW ABOUT THE VA PROGRAM.**
- 46% of Veterans reported their Lender **HAD NOT** discussed the option of a VA Loan.

Appraisals

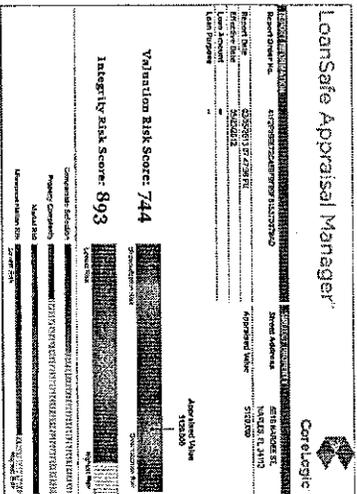
Appraisal Management System

1. On November 2013 CoreLogic was awarded a five year contract to provide C&V section with Appraisal Management Services (AMS).
2. The primary objective is transition to a risk-based analysis of appraisals to improve the quality of oversight of the fee appraiser panel and SARs.
3. With the implementation of AMS, SARs will have automated risk-based reviews from one reliable source that will provide them with additional information regarding the property in an effort to evaluate the accuracy and credibility of the appraisal.

Process for Value Corrections

1. The VA Appraiser Must initiate "TIDEWATER" if the cannot reach Value on a Purchase.
2. "TIDEWATER" allows the Lender 48 hours to collect additional Comps from the both Real Estate Agents.
3. The Appraiser "MUST" comment on every Comp given for "TIDEWATER".
4. If still unsatisfied with Value, the Lender can request an Official "Reconsideration of Value" from the VA. Turn Time is 3 weeks.

Complete Appraisal Risk Analysis



- Valuation Risk - Is the appraised value reasonable and supported?
- Integrity Risk - Are there fundamental issues with the construction of the appraisal?
- Comparable Selection - Were the most similar comparables used?
- Subject Contiguity - Does the subject property lie in the same, or is it very unique?
- Market Risk - Is the subject located in a high risk area?
- Adaptation Risk - Are there issues within the subject chain of title posing risk?

Oregon Property Tax Exemptions for 100% Disabled Veterans

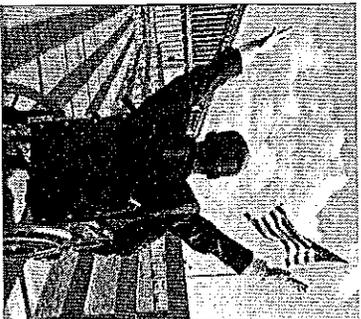
A disabled veteran in Washington may receive a property tax exemption on his/her primary residence if the veteran is 100 percent disabled as a result of service. The exemption amount is based on income, as determined by the Washington State Department of Veterans Affairs. Veterans with less than a 100% disability rating may receive a partial exemption.



Specially Adapted Housing (SAH)

SAH is a Government Grant for Specific Connected Disabilities for 100% Disabled Veterans to construct and adapted dwelling or modify an existing one to meet their needs. An "Eligible Veteran" may receive up to 50% of the cost not exceeding the maximum amount determined by Congress the current amount in 2016 is \$73,768. "Eligible Veterans" can receive up to 3 Grants as long as they do not exceed the maximum total amount. Also comes with \$200,000 of Mortgage Death Insurance for the surviving spouse

- Purchase Price - \$100,000
- VA Loan Amount - \$100,00
- Contractor Costs - \$30,000
- Total Loan Amount - \$130,000
- Multiply by 50% for SAH Grant
- Total Amount given to Veteran for Down Payment = \$65,000



Why Should A Seller Accept A VA Offer?

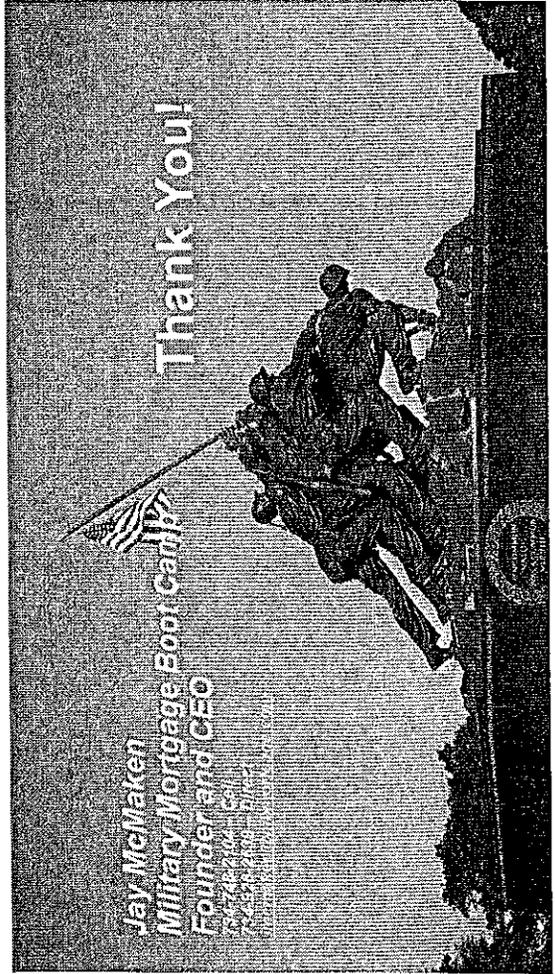
- Easier Underwriting and Have Little to No Lender Overlays
- Zero Down doesn't = Inferior Buyer like FHA – it's a Veteran Right
- VA Appraisal have 2 Additional Options when Value is not reached by the Appraiser – Conventional and FHA do not
- VA Loan are more Valuable to Lenders for Portfolio Performance, Guaranteed Default Protection, as well as Public Image
- It is one of the greatest ways to Honor a Veteran and say "Thank You For Your Service" for a Seller to participate in their Home Ownership Dream, they will be the best neighbors your neighbors will ever have

VA Regional Loan Center

Denver Colorado

888-349-7541

Opt 3 – Appraisals
Option 6 - Underwriting





Military Mortgage Boot Camp

Presents

Name

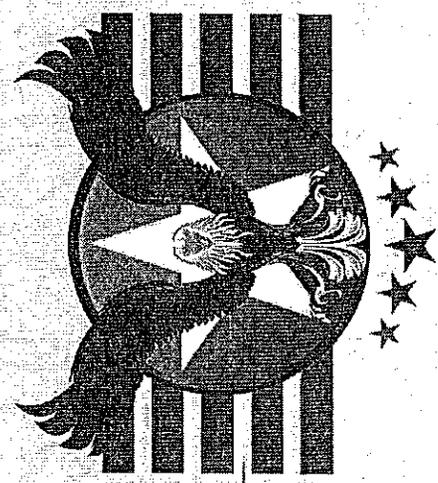
Agent ID#

With Certificate of Completion

Course Coordinator

A handwritten signature in black ink, appearing to read "J. L. Smith".

NMLS#436608



Course Credit Hours - 2

Military Mortgage Boot Camp Course Timeline

Time:	DETAILED CONTENT OUTLINE – Break into segments no longer than 15-20 minutes. Also indicate length of break(s).	LEARNING OBJECTIVES – Identify at least 3 learning objectives per hour. A learning objective defines: "WHAT WILL THE STUDENT BE ABLE TO DO UPON COMPLETION OF EACH SEGMENT?"
15 min		Registration
5 min	Students will learn the Mission of the VA and	Course Overview and History
10 min	Students will learn the number of Veterans and will be better able to identify opportunity to offer VA Providers	Opportunity for New Business
10 min	Students can dispel the myth that VA buyers are unqualified buyers	The VA Buyer of Today
10 min	Students will understand the lending community's dedication and preference for the VA financed offers	Why Lenders Prefer VA over Conv and FHA
5 min	Students will have a list of questions to ask Veterans and Identify veteran eligibility more effectively	Who is Eligible
10 min	Students will understand when, where and how to determine a Veterans eligibility	Certificate of Eligibility
10 min	Students will learn options for veterans and retain and Refinance an existing home	Restoration of Entitlement
20 min	Students will understand purchase price calculations for Eligible Veterans	Entitlement Calculation
10 min	Students will be able to explain the funding fee to eligible Veteran	VA Funding Fee
10 min	Students will understand what veteran and seller contract obligations are when using VA	Unallowable Fees to Veteran
10 min	Students will be able to properly structure offers with Sellers contributions and Concessions	Seller Concessions
5 min	Students will be able to clearly identify which properties are VA financeable	Allowable Property Types
5 min	Sellers will be able to explain the benefits to buyers and sellers	Primary Benefits of a VA Loan
5 min	Students will understand what the EEM Program allows and helps veterans find EEM Lenders	Energy Efficient Mortgages
5 min	Students will be able to understand fair negotiating and fair lending components of VA lending and VA offers	Consumer Financial Protection Bureau(CFPB)

Time:	DETAILED CONTENT OUTLINE -- Break into segments no longer than 15-20 minutes. Also indicate length of break(s).	LEARNING OBJECTIVES -- Identify at least 3 learning objectives per hour. A learning objective defines: "WHAT WILL THE STUDENT BE ABLE TO DO UPON COMPLETION OF EACH SEGMENT?"
20 min	Students will learn about the 2 common methods to challenge value and turn time expectations	Appraisals
5 min	Students will learn how to identify eligible veterans and explain the application to them	Property Tax Exemption for 100% Disabled Veterans
5 min	Students will learn where to send eligible veterans	Specialty Adapted Housing Grant
5 min	Students will learn how to present and explain the efforts of VA buyers to other agents	Why Should a Seller Accept a VA Offer
15 min	Open question dialog for students	Questions and Answers

ADMINISTRATIVE ACTIONS
Reported
11/15/16 through 1/24/17

REVOCATIONS

Hillendahl, Lane (Cottage Grove) Principal Broker 200506313, Stipulated Order dated December 2, 2016, revoking her license.

Dugas, Stephanie (Cottage Grove) Broker 200601098, Default Order dated December 20, 2016, revoking her license.

Buckley, Charles (Toledo) Principal Broker 811100166, Default Order dated January 3, 2017, revoking his license.

Gregg, Richard (Newport Beach, CA) Principal Broker 201208284, Default Order dated January 18, 2017, revoking his license.

McIver, Benjamin (Eugene) Property Manager 990800144, Default Order dated January 20, 2017, revoking his license.

SUSPENSIONS**REPRIMANDS****CIVIL PENALTIES**

Expired — Late Renewal civil penalties are computed using each 30-day period as a single offense. The civil penalty for the first 30-day period can range from \$100-\$500, with each subsequent 30-day period ranging from \$500-\$1,000. ORS 696.990

Forhan, Anthony (Portland) Property Manager 200805072, Stipulated Order dated November 29, 2016, issuing a civil penalty of \$1,600 for a late renewal.

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of

5
6 LANE ELIZABETH HILLENDAHL

7
8 } STIPULATED FINAL ORDER
9

10 The Real Estate Agency (OREA) and Lane Elizabeth Hillendahl (Hillendahl) do hereby
11 agree and stipulate to the following:

12 FINDINGS OF FACT

13 &

14 CONCLUSIONS OF LAW

15 1.

16 1.1 Hillendahl was licensed as a principal broker with Rain Country Realty Inc. On
17 June 8, 2016, Hillendahl voluntarily disassociated her license with Rain Country Realty Inc.,
18 and as a result, Hillendahl's license is inactive.

19 1.2 In a letter dated June 9, 2016, Hillendahl self-reported to OREA that she
20 doctored well test results in a transaction. OREA also received additional information from
21 several sources regarding details of what occurred in the transaction.

22 1.3 In her letter, Hillendahl provided the details of the transaction, "When the first
23 acceptable offer came in the Buyers were USDA approved. I told my Seller that to the best of
24 my knowledge USDA will not accept a home that has any arsenic in a well."

25 1.4 According to Hillendahl's letter, the seller failed to believe her and wanted to
26 proceed. Hillendahl stated the arsenic was disclosed to the buyers and the buyer's agent. She
27 stated that several water tests were done, and during this time, the buyers were working on the
28 house, billing improvements they made to escrow. Hillendahl wrote, "Also I was accused of
29 not telling the Seller the true reason for the water samples being done over and over again and
30 all along. The buyer told her it was for more bacteria tests and so again I became, in her mind

1 the bad guy as I told her the lender and other agent were trying to find a way around the
2 arsenic. That was the truth."

3 1.5 In her letter Hillendahl wrote the following, "Lender says it will be at least another
4 month after they get a clean water sample and the Buyer's agent says the water sample will
5 come back "clean after treatment" which the USDA will not accept. At this point under
6 pressure from all sides, I flipped. I doctored the well test and gave them all a copy. I believe I
7 said at the time "See if this gets you out of you [sic] predicament."

8 1.6 OREA received two copies of the water test performed by Analytical Laboratory
9 Group. The first copy contained the notation "ORIGINAL" in handwritten text in the right hand
10 corner. On the "Original" document, the Arsenic Result was .0155 mg/L and was marked by
11 an asterisk. At the bottom of the page, the asterisk corresponded to "Value exceeds Maximum
12 Contaminant Level (MCL)."

13 1.7 The second copy contained the notation "Doctored" in handwritten text in the
14 right hand corner. On the "Doctored" document, the Arsenic Result was .0015 mg/L and the
15 asterisk was absent.

16 **Violation:** By changing the arsenic levels on the water report, Hillendahl committed an
17 act of fraud or engaged in dishonest conduct in violation of ORS 696.301(14) (2015 Edition),
18 which states that a licensee's real estate license may be disciplined if the licensee committed
19 an act of fraud or engaged in dishonest conduct substantially related to the fitness of the
20 applicant or license to conduct professional real estate activity, without regard to whether the
21 act or conduct occurred in the course of professional real estate activity.

22 2.

23 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.
24 Based on these violations a revocation is appropriate under ORS 696.396(2)(c)(C) (2015
25 Edition). According to ORS 696.396, OREA may revoke a real estate license if the material
26 facts establish a violation of a ground for discipline under ORS 696.301 that exhibits
27 dishonesty or fraudulent conduct.

28 2.2 OREA reserves the right to investigate and pursue additional complaints that
29 may be received in the future regarding this licensee.

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STIPULATION & WAIVER

I have read and reviewed the above findings of fact and conclusions of law which have been submitted to me by OREA and further, the order which follows hereafter. I understand that the findings of fact, conclusions of law and this stipulation and waiver embody the full and complete agreement and stipulation between OREA and me. I further understand that if I do not agree with this stipulation I have the right to request a hearing on this matter and to be represented by legal counsel at such a hearing. Hearings are conducted in accordance with the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily waive my rights to a hearing, to representation by legal counsel at such a hearing, and to judicial review of this matter.

I hereby agree and stipulate to the above findings of fact and conclusions of law and understand that the order which follows hereafter may be completed and signed by the Real Estate Commissioner or may be rejected by the Real Estate Commissioner. I understand that, in accordance with the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real Estate News Journal.

ORDER

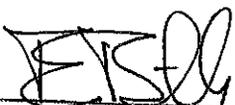
IT IS HEREBY ORDERED Hillendahl's principal broker license is revoked.

IT IS SO STIPULATED:

IT IS SO ORDERED:



LANE ELIZABETH HILLENDAHL



GENE BENTLEY

Real Estate Commissioner

Date 12-1-16

Date 12.2.16

Date of service: 12/2/2016

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of)
5)
6 STEPHANIE L. DUGAS) ORDER ON DEFAULT
7)
8)

9 1.

10 1.1 On November 9, 2016, the Real Estate Commissioner issued, by certified mail, a
11 notice of intent to revoke the real estate broker's license of Stephanie L. Dugas (Dugas). The
12 Real Estate Agency (OREA) sent the notice of intent to Dugas' last known address of record
13 with the OREA. The notice of intent was also mailed to Dugas by regular first class mail in a
14 handwritten envelope.

15 1.2 The certified mailing and the first class mailing of the notice of intent were sent to
16 Dugas at 1150 Greer Ave, Cottage Grove, OR 97424.

17 1.3 Over twenty (20) days have elapsed since the mailing of the notice issued in this
18 matter and no written request for hearing has been received.

19 1.4 Copies of the entire investigation file are designated as the record for purposes
20 of default, including any submission from respondent and all information in the administrative
21 file relating to the mailing of notices and any responses received.

22 2.

23 Based upon the foregoing and upon a review of the above described investigation
24 reports, documents and files, the Real Estate Commissioner finds:

25 2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is
26 properly served when deposited in the United States mail, registered or certified mail,
27 addressed to the real estate licensee or to any other person having an interest in a proceeding
28 before the Commissioner at the licensee's or other person's last known address of record with
29 OREA.

30 2.2 Dugas' last known address of record with OREA was 1150 Greer Ave, Cottage
Grove, OR 97424.

1 3.4 Freddie Mac provided two exhibits with their complaint. The first exhibit
2 contained the following:

- 3 • Invoices from Kent Frey Construction (KFC) for alleged work at:
4 1. 262 Pine St, Sutherlin OR 97479 (Sutherlin property)
5 2. 38483 Hwy 228, Sweet Home OR 87386 (Sweet Home property)
6 3. 404 W Bishop Way, Brownsville, OR 97327 (Brownsville property)
7 • Yard maintenance and property cleaning expenses (without invoices) at:
8 1. 150 E. 48th Ave, Eugene, Or (Eugene property) and
9 2. 134-136 W 2nd St, Lowell OR, (Lowell Property).
10 • An email to Wessler from the owner of KFC, Frey dated February 13, 2013, regarding the
11 validity of the above expenses billed to Freddie Mac.

12 3.5 The second exhibit provided was an email exchange between Megan Reese
13 (Reese), of Freddie Mac, and Dugas, from November 2012.

14 3.6 On November 1, 2012, Dugas emailed Reese. Dugas stated she heard from
15 Beatty that Reese was sending an email regarding issues on several properties. Reese
16 replied to Dugas a couple days later and stated she provided all the information to Beatty for a
17 response. Reese stated she ran a few accounting reports and found Sundance had not
18 submitted any utility bills on Dugas' properties and "only yard maintenance expenses from May
19 to July of this year. All of these issues are violations of our Master Listing & Services
20 Agreement signed by Farris every year."

21 3.7 Reese indicated she was taking Sundance to Freddie Mac's Disciplinary
22 Committee on November 8, 2012 and invited Dugas to provide any information to her no later
23 than Tuesday, November 6, 2012. On November 6, 2012, Dugas stated to Reese she went to
24 the properties to make sure they were up to Freddie Mac's standards. Dugas claimed to put
25 utilities in her name because Beatty would not. She stated, "I haven't submitted for
26 reimbursement because they say it has to be in the company name. I've been turning them on
27 for inspections, appraisals, rehab, etc. I carry all of the expense of the capital repairs, so it is
28 no problem to carry utilities regularly if I am able to submit for reimbursements."

29 ///

30 ///

1 3.8 Freddie Mac's investigation report included the following details:

- 2 • Freddie Mac identified six houses being maintained by Dugas that failed
- 3 inspections by a third-party, hired by Freddie Mac.
- 4 • Frey confirmed by email that Dugas falsely billed Freddie Mac for work on at
- 5 least five properties.
- 6 • A Freddie Mac disciplinary committee held a hearing on November 2012. Dugas
- 7 offered no explanation except to say she had corrected the problem.
- 8 • On November 18, 2012, Sundance was terminated as a Freddie Mac vendor

9 3.9 Freddie Mac found Dugas fraudulently billed them expenses of \$6,455 from April
10 4, 2012 to November 6, 2012 related to:

- 11 • The Sutherlin Property: Two invoices from KFC totaling \$1,035.00 for work
- 12 allegedly done. Frey indicated these invoices were fraudulent.
- 13 • Sweet Home Property: Two invoices from KFC totaling \$600.00 for work
- 14 allegedly done. Frey indicated these invoices were fraudulent.
- 15 • Brownsville Property: Two invoices from KFC totaling \$4,170.00 for work
- 16 allegedly done. Frey indicated these invoices were fraudulent.
- 17 • Lowell and Eugene Properties: Four separate occurrences of yard maintenance
- 18 of \$50.00 per occurrence were billed from KFC. Frey wrote, "I did a one time
- 19 removal of wood debris in the backyard but did not do regular yard maintenance."
- 20 Additionally, four separate occurrences were billed for yard maintenance and
- 21 interior cleaning expenses, of \$75.00 per occurrence were allegedly billed from
- 22 KFC. Frey indicated these billings were fraudulent.

23 3.10 Wessler interviewed Frey during her investigation. Frey said he did mostly rehab
24 work for Dugas. Wessler asked whether Frey did yard maintenance for Dugas, and Frey said
25 he did yard work on one or two properties but never regular maintenance.

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ORDER

IT IS HEREBY ORDERED that Dugas' broker license is revoked.

Dated this 20th day of DECEMBER, 2016.

OREGON REAL ESTATE AGENCY



GENE BENTLEY
Real Estate Commissioner

Date of Service: 12-20-2010

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of)
5)
6 CHARLES S. BUCKLEY) ORDER ON DEFAULT
7)
8)
9)

1.

10 1.1 On November 30, 2016, the Real Estate Commissioner issued, by certified mail,
11 a notice of intent to revoke the real estate principal broker license of Charles S. Buckley
12 (Buckley). The Oregon Real Estate Agency (OREA) sent the notice of intent to Buckley's last
13 known address of record with the OREA. The notice of intent was also mailed to Buckley by
14 regular first class mail in a handwritten envelope.

15 1.2 The certified mailing and the first class mailing of the notice of intent were sent to
16 Buckley at 610 NE 1st St, Toledo, OR 97391.

17 1.3 Over twenty (20) days have elapsed since the mailing of the notice issued in this
18 matter and no written request for hearing has been received.

19 1.4 Copies of the entire investigation file are designated as the record for purposes
20 of default, including any submission from respondent and all information in the administrative
21 file relating to the mailing of notices and any responses received.

22 2.

23 Based upon the foregoing and upon a review of the above described investigation
24 reports, documents and files, the Real Estate Commissioner finds:

25 2.2 Buckley's last known address of record with OREA was 610 NE 1st St, Toledo,
26 OR, 97391.

27 2.3 A certified mailing of the notice of intent was mailed to Buckley at his last known
28 address of record on November 30, 2016. Buckley signed for the certified mailing of the notice
29 of intent on December 2, 2016.

30 ///

2.4 The mailing in the handwritten envelope has not been returned to OREA. In
accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed

1 and placed with the U.S. Postal Service was delivered. That presumption has not been
2 overcome by any evidence.

3 2.5 Over twenty (20) days have elapsed since the mailing of the notice and no
4 written request for a hearing has been received.

5 FINDINGS OF FACT

6 &

7 CONCLUSIONS OF LAW

8 3.

9 3.1 Buckley was licensed as a principal broker with Oregon Coast Properties until
10 February 11, 2016, at which time his license was disassociated with Oregon Coast Properties,
11 causing Buckley's license to become inactive.

12 3.2 On February 22, 2016, Buckley self-reported to OREA that he pled guilty to five
13 counts of Encouraging Child Sexual Abuse in the First Degree on February 10, 2016.

14 3.3 A cyber tip from the National Center for Missing and Exploited Children (NCMEC)
15 involving sexually explicit images of prepubescent children was sent to a special agent at the
16 Department of Justice and was then forwarded on to local law enforcement in the area to
17 investigate. The report from NCMEC stated that on April 28, 2015, 37 images of
18 prepubescent children were downloaded to Buckley's IP address. Detectives determined that
19 10 of the 37 images were of prepubescent children displaying their genitals.

20 3.4 On December 16, 2015, Buckley was arrested by the Toledo Police Department
21 (Case # TOP15000239).

22 3.5 On February 10, 2016, Buckley pled guilty to 5 counts of Encouraging Child
23 Sexual Abuse in the First Degree (Lincoln County Circuit Court, Case # 15CR57643). Buckley
24 was sentenced to 56 days of jail time, and given three years of supervised probation.

25 3.6 Buckley's supervised probation included, but not limited to, the following
26 requirements:

- 27
- 28 • Attend sex offender counseling
 - 29 • "Regardless of whether or not sex offender treatment is recommended by the
30 evaluator, the defendant shall not be in the immediate presence of any female or
male under the age of 18 years, unless that male or female's parent or legal
guardian is in the same room, car or location with the defendant and that male or
female. This condition does not apply to a public setting such as a grocery store,

1 variety store or bowling alley where adults, not including friends or associates of
2 the defendant are actually present in the immediate vicinity of the defendant and
3 any male or female under the age of 18 years. This condition does apply to the
4 above locations if such other adults are not actually present in the immediate
5 vicinity of the defendant and the minor male or female and to any private
6 residence and vehicle and also to any public or private setting (such as yard,
7 field, public park or forest) where an opportunity for privacy with such male or
8 female might arise.”

- 9 • “The Defendant shall not own, control, use or possess any computer or other
10 electronic device capable of accessing the Internet, except for the multiple-listing
11 of real property for sale in Lincoln County, Oregon. If it is not possible to restrict
12 the Defendant’s internet access to a multiple-listing real estate site, the
13 Defendant may not use a computer or other electronic device capable of
14 connecting to the Internet unless there is a non-relative adult who works in real
15 estate and who is simultaneously viewing the same material that is being viewed
16 by the Defendant.”

17 **Violation:** By being convicted of five counts of Encouraging Child Sexual Abuse in the
18 First Degree (Class B Felony) Buckley violated ORS 696.301(11) (2015 Edition), which states
19 a licensee’s real estate license may be disciplined if they have been convicted of a felony or
20 misdemeanor substantially related to the licensee’s trustworthiness or competence to engage
21 in professional real estate activity.

22 **Violation:** By being engaging in conduct which resulted in his conviction of five counts
23 of Encouraging Child Sexual Abuse in the First Degree (Class B Felony) Buckley violated ORS
24 696.301(15) (2015 Edition) which states a licensee’s real estate license may be disciplined if
25 they have engaged in any conduct that is below the standard of care for the practice of
26 professional real estate activity in Oregon as established by the community of individuals
27 engaged in the practice of professional real estate activity in Oregon.

28 3.7 On May 19, 2016, through Lincoln County Circuit Court (Case # 16CR30065) a
29 Secret Indictment was entered charging Buckley with 16 counts of Encouraging Child Sexual
30 Abuse in the First Degree.

1
2 REAL ESTATE AGENCY
3 BEFORE THE REAL ESTATE COMMISSIONER

4 In the Matter of the Real Estate License of)
5)
6 RICHARD ERNEST GREGG) ORDER ON DEFAULT
7)
8)

9 1.

10 1.1 On November 14, 2016, the Real Estate Commissioner issued, by certified mail,
11 a notice of intent to levy a civil penalty and revoke the real estate principal broker license of
12 Richard Ernest Gregg (Gregg). The Oregon Real Estate Agency (OREA) sent the notice of
13 intent to Gregg's last known address of record with the OREA on November 15, 2016. On
14 November 15, 2016, the notice of intent was also mailed to Gregg by regular first class mail in
15 a handwritten envelope.

16 1.2 The certified mailing and first class mailing of the notice of intent were sent to
17 Gregg at the following addresses: 22061 Teresa, Mission Viejo, CA 92692 (OREA address of
18 record for Gregg) and 27093 Callado Mission Viejo, CA 92691 (address provided by
19 complainant for Gregg).

20 1.3 OREA received back both the certified mailing and regular mailing of the notice
21 of intent mailed to 22061 Teresa, Mission Viejo, CA 92692. The regular mail returned was
22 marked, "Return to Sender Not Deliverable As Addressed Unable to Forward." The certified
23 mailing was marked, "Return to Sender Not Deliverable As Addressed Unable to Forward."

24 1.4 OREA received back the certified mailing of the notice of intent mailed to 27093
25 Via Callado, Mission Viejo, CA 92691, it was marked, "Forward Time Exp Rtn to Send," and
26 provided a forwarding address for Richard E Gregg of 94 Hartford Dr #53, Newport Beach, CA
27 92660. The regular mailing of the notice of intent was not returned to OREA.

28 1.5 On November 21, 2016, a copy of the notice of intent was emailed to Gregg
29 using the email address OREA had on file, richard@oreoit.com.

30 ///

1 3.4 On October 2, 2013, Gregg and Gabriel discussed the vesting and financing of
2 the subject property purchase by email. Gregg asked Gabriel to sign the vesting agreement
3 attached to his email and Gabriel replied, "Please attach a copy of the contract along with this
4 assignment (no worry about the assignment fee :)." Gregg responded to the email, "I do not
5 have a copy of the contract, but attached is escrow instructions, which should do what you
6 need."

7 3.5 On October, 7, 2013, Gabriel emailed the lender and Gregg stating, "The Escrow
8 is in SRB Investment Properties name and not Princy Investment Group Inc? That is fine if we
9 are doing a double closing otherwise what is needed is the contract which shows that SRB
10 Investment Properties, Inc has the right to assign the contract and the assignment agreement
11 which stipulate the contract purchase price plus the assignment fee and ORIET marketing fee."

12 3.6 During the investigation OREA Investigator/Auditor Jeremy Brooks interviewed
13 Gabriel regarding the purchase of the subject property. Gabriel said the purchase contract
14 was informal, and Gregg listed himself as an investor, then charged a marketing fee. Gabriel
15 provided for the investigation copies of the vesting agreement between Princy Investment
16 Group, Inc (Gabriel was a real estate investor from the Princy Investment Group) and SRB
17 Investment Properties dated October 3, 2013, where SRB Investment Properties agreed to
18 purchase the subject property for \$78,836.00, pay all closing costs and pay a \$2,000
19 "Marketing Fee" to OREOIT LLC. (Gregg was the President of OREOIT according to the
20 Oregon Secretary of State Records.)

21 3.7 Regarding the marketing fee, Gabriel emailed Brooks the following, "Richard
22 received 2,000 from Princy Investment as per the vesting agreement through SRB Investment
23 Properties Inc."

24 3.8 When Brooks first spoke with Gregg about the purchase of the subject property,
25 Gregg said he received a small finder's fee. During Brooks' second interview with Gregg on
26 February 19, 2016, Gregg said, "I was never paid a finder's fee."

27 **Violation:** By receiving a \$2,000 commission in the form of a "marketing fee" for the
28 subject property, as the sole agent of OREOIT LLC, on October 3, 2013, without having an
29 active real estate license, Gregg violated ORS 696.020 (2013 Edition), which states, an
30 individual may not engage in, carry on, advertise or purport to engage in or carry on

1 professional real estate activity, or act in the capacity of a real estate licensee, within this state
2 unless the individual holds an active license.

3 3.9 On April 12, 2014, Gregg sent Gabriel a listing agreement for the subject
4 property. The listing agreement was between Princy Investments Group Inc. and California
5 Home Realty/Richard Gregg, with Gregg listed as, "(Agent)" for California Home
6 Realty/Richard Gregg. The listing agreement set the price at \$179,900. The listing agreement
7 stated under Section 4 Compensation to Broker, "Seller agrees to pay Broker," 6% percent of
8 the listing price. At the time of the listing agreement, Gregg did not have an Oregon real estate
9 license.

10 **Violation:** By entering into a listing agreement with Princy Investment Group on April 9,
11 2014, for the subject property, without having an active real estate license, Gregg violated
12 ORS 696.020 (2013 Edition), which states, an individual may not engage in, carry on,
13 advertise or purport to engage in or carry on professional real estate activity, or act in the
14 capacity of a real estate licensee, within this state unless the individual holds an active license.

15 3.10 On July 23, 2014, Gabriel emailed Gregg requesting a price reduction to either
16 \$174,900 or \$172,900. Gregg replied the following day and suggested lowering the price to
17 \$173,900. On August 14, 2014, Gabriel emailed Greg to point out the websites did not reflect
18 the new sales price and was still showing the \$179,000 price. Gabriel said he tried to contact
19 Gregg for a month and didn't receive a response until Gregg emailed Gabriel on September 9,
20 2014, with multiple reasons why he hadn't been in contact. Gregg stated he was going to take
21 the property off the market for seven days to reset the listing so it would show up as new.

22 3.11 On September 17, 2014, Gabriel emailed Gregg that the property was still
23 showing up on Zillow and Trulia.

24 **Violation:** By failing to lower the subject property listing price on a timely basis after the
25 seller requested the reduction, Gregg violated ORS 696.301(12) (2013 Edition), which states a
26 licensee's real estate license may be disciplined if they have demonstrated incompetence or
27 untrustworthiness in performing any act for which the licensee is required to hold a license.

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1 3.12 On November 16, 2014, Gregg emailed Gabriel an attachment titled, "Purchase
2 Offer Kastle. pdf." In his complaint Gabriel made several comments about the purchase
3 contract and the pre-approval letter, including the following:

4 "The contract looked unusual with no closing date or other dates in it. I had called that
5 [sic] alleged buyer after searching the name on the Internet, the buyer [sic] agent that
6 was on the contract and the mortgage company that was supposedly issued the letter
7 for the buyer. Found out that the person listed as buyer- Richard Castle- not in the
8 market to buy any property and he did not know or met [sic] Richard, that Blum Real
9 Estate named buyer agency do [sic] not have that buyer or the property in their records
10 and the mortgage company- LandMark and Associates Inc. – do [sic] not have that
11 named Loan Originator – Nelson Lomax – and the company is licensed only in Florida
12 and never done any business in Oregon. Richard fake and forged not only a Sales
13 Contract but also a Loan Pre-approval Letter. I sent the data to the Lender. And on 11-
14 21-2014 talked to Richard and he gave me names of the broker and the mortgage
15 company phone number and both were made up names and wrong phone numbers.
16 And that led to investigating the data in the contract and the letter."

17 On November 19, 2014, Gregg sent Gabriel an attachment titled "Preapproval.pdf."

18 3.13 A "Prequalification Letter" was also included with Gregg's November 16, 2014
19 email that indicates on November 7, 2014, borrower Chad Kastle was pre-qualified by Nelson
20 Lomax, Loan Originator of LandMark Mortgage & Associates, to purchase a home for up to
21 \$183,400.00 and referenced the subject property in the address line.

22 3.14 Brooks contacted Nelson Lomax and discussed the pre-qualification letter with
23 Lomax. Lomax told Brooks he had never heard of Chad Kastle, the alleged buyer. Brooks was
24 able to confirm the letterhead from the pre-qualification letter submitted by Gregg did not come
25 from LandMark Professional Mortgage. Brooks searched the National Mortgage System for
26 additional loan originators named Nelson Lomax nationwide. The only result was for Nelson
27 Lomax, who was registered with Landmark Professional Mortgage in Salem Oregon.

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1 3.15 By doing an online search, Brooks was able to locate LandMark Mortgage &
2 Associates, Inc., in Lakeland FL that appeared to have a similar logo to the prequalification
3 letter submitted by Gregg. Brooks contacted LandMark Mortgage & Associates, Inc., to find
4 out if Nelson Lomax had ever worked there or if Kastle had been a client in the past. Brooks
5 was told Lomax did not ever work there, and they did not have any record of any file for Chad
6 Kastle as a borrower.

7 3.16 Brooks met with Gladys Blum (Blum) of Blum Real Estate to verify the details of
8 the purchase offer Gregg submitted to Gabriel. The purchase contract appeared to have been
9 written by Patrick Livingston (Livingston) at Blum Real Estate. Blum stated she didn't have a
10 broker named Livingston and was not familiar with the offer. The transaction coordinator from
11 Blum Real Estate, verified they were not familiar with Kastle, Livingston or the transaction in
12 general.

13 3.17 Brooks contacted Chad Kastle (Kastle) in Salem Oregon using a phone number
14 he found on the internet. Kastle confirmed he had not made any offer on the subject property.
15 Brooks was unable to locate any other Chad Kastle located in Salem.

16 **Violation:** By making a material misrepresentation to the seller presenting a fictitious
17 mortgage pre-qualification letter associated with a purchase offer Gregg violated ORS
18 696.301(1), (12) and (14) (2013 Edition) which states, a licensee's real estate license may be
19 disciplined for the following reasons if they: (1) created a reasonable probability of damage or
20 injury to a person by making one or more material misrepresentations or false promises in a
21 matter related to professional real estate activity, (12) demonstrated incompetence or
22 untrustworthiness in performing any act for which the licensee is required to hold a license,
23 and (14) committed an act of fraud or engaged in dishonest conduct substantially related to the
24 fitness of the applicant or licensee to conduct professional real estate activity, without regard to
25 whether the act or conduct occurred in the course of professional real estate activity.

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ORDER

IT IS HEREBY ORDERED that Gregg's principal broker license is revoked.

IT IS FURTHER ORDERED that pursuant to ORS 696.990, Gregg pay a civil penalty in the sum of \$1,500, and said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA. ORS 696.990 allows for the imposition of a civil penalty in the range of \$100 to \$500.00 for the first occurrence of unlicensed professional real estate activity, and \$500 to \$1,000.00 for each subsequent occurrence. In this instance there were two occurrences of unlicensed activity.

Dated this 18th day of JANUARY, 2017.

OREGON REAL ESTATE AGENCY



GENE BENTLEY
Real Estate Commissioner

Date of service: 1/18/2017

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of
5
6 BENJAMIN F. MCIVER
7
8

}
} FINAL ORDER BY DEFAULT
}
}

9 1.

10 1.1 On June 1, 2016, the Real Estate Commissioner issued, by certified mail, a
11 notice of intent to levy a civil penalty and to revoke Benjamin F. McIver's (McIver) property
12 manager license. The Oregon Real Estate Agency (OREA) sent the notice of intent to
13 McIver's last known address of record with OREA and also mailed it to McIver's new address
14 (as determined from the investigation). The notice of intent was also mailed to McIver by
15 regular first class mail in a handwritten envelope to both the address of record and McIver's
16 new address. The certified mailings for both mailings was returned, marked "RETURN TO
17 SENDER UNCLAIMED UNABLE TO FORWARD." Neither of the first class mailings in the
18 handwritten envelopes were returned to OREA.

19 1.2 By letter dated June 19, 2016, McIver requested a hearing in this matter.

20 1.3 On August 17, 2016, the Real Estate Commissioner issued, by certified mail an
21 amended notice of intent. OREA mailed the amended notice of intent to McIver's new address
22 (determined from the investigation). The notice of intent was also mailed to McIver by regular
23 first class mail in a handwritten envelope to McIver's new address. The certified mailing was
24 returned marked, "RETURN TO SENDER UNCLAIMED UNABLE TO FORWARD." The first
25 class mailing in the handwritten envelope was not returned to OREA.

26 1.5 On September 28, 2016, OREA emailed a copy of the amended notice of intent
27 to McIver using the email address on record.

28 1.6 OREA file was forwarded to the Office of Administrative Hearings. A hearing
29 date was set for January 10, 2017 at 9:00 AM. McIver did not appear at the hearing, nor did
30 McIver notify OREA or the Office of Administrative Hearings that he would not appear at the
scheduled hearing.

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3.
FINDINGS OF FACT
&
CONCLUSIONS OF LAW

3.1 At all times mentioned herein, Mclver was licensed as a property manager doing business under the registered business name of Mclvers Property Management LLC.

3.2 In December 2015 OREA received a complaint from property owner Steve Robinson (Robinson)

3.3 OREA Investigator/Auditor Peter Bale (Bale) interviewed Robinson on December 22, 2015. Robinson said he had employed Mclver as his property manager since 2002 for his two rentals in Eugene. A tenant moved out of one of Robinson's rentals in August 2015, and Mclver failed to send Robinson the statements or his owner draws. Additionally, Robinson said he didn't receive any documentation or money for September 2015. Robinson confirmed, at the time of the interview, December 22, 2015, he had not heard from Mclver or received any money since July 2015. Robinson was able to access and view his owner statements from Mclver's website on November 13, 2015.

Violation: By failing to disburse owner payments to, or communicate with, property owner, Robinson, from July 2015 to December 22, 2015, Mclver violated ORS 696.890(4)(c), (d), (e) and (f) (2015 Edition) which states, a real estate property manager owes the property owner the following affirmative duties: (c) to exercise reasonable care and diligence; (d) to account in a timely manner for all funds received from or on behalf of the owner; (e) to act in a fiduciary manner in all matters relating to trust funds; and (f) to be loyal to the owner by not taking action that is adverse or detrimental to the owner's interest. Mclver's conduct is grounds for discipline under ORS 696.301(12) and (15).

3.4 In an email dated November 9, 2015, Robinson confirmed he was terminating the property management agreement with Mclver for both of his properties.

3.5 As of December 22, 2015, the OREA licensing database showed the following three Clients' Trust Accounts (CTA) held at US Bank registered by Mclver:

- Mclvers Property Management, LLC Pooled Clients Security Deposits ending in #0559 (CTA Sec 0559)

- 1 • Mclvers Property Management, LLC Pooled Clients' Trust Account Operating
- 2 ending in #0567 (CTA 0567) and
- 3 • Mclvers Property Management, LLC Pooled Clients' Trust Account Placement
- 4 ending in #0542 (CTA Placement 0542)

5 3.6 Mclver told Bale during his interview, that CTA Placement 0542 account was

6 closed on January 28, 2014.

7 **Violation:** By failing to notify OREA within 10 days after the date CTA Placement 0542

8 had closed, Mclver violated ORS 696.301(3) (2013 Edition) as it incorporates ORS 696.241(6)

9 (2013 Edition) which states, a property manager or principal broker who closes a clients' trust

10 account, shall notify the agency, within 10 business days after the date the account is closed

11 or transferred, on a form approved by the agency.

12 3.7 During Bale's interview with Mclver on December 24, 2015, Mclver said he

13 realized that he failed to update his address on the OREA licensing database. As of February

14 11, 2016, the OREA licensing database, showed Mclver's main office address as 3361 Marvin

15 Dr., Eugene OR, whereas it should have been 2571 Donegal St, Eugene, OR. Mclver was

16 using the 2571 Donegal St, Eugene location as his main office and was living there as well.

17 **Violation:** By failing to notify OREA prior to moving his business location, Mclver

18 violated ORS 696.301(3) (2015 Edition) as it incorporates ORS 696.200(1)(d) and (2) (2015

19 Edition) which states, a licensed real estate property manager or principal real estate broker

20 shall: (d) before changing a main office location, notify the Agency of the new location on a

21 form approved by the agency and (2) the change of a business location without notification to

22 the agency as required by subsections (1) and (5) of this section is grounds for revocation of a

23 real estate license.

24 3.8 Bale obtained bank statements for CTA Sec 0559 and CTA 0567 from US Bank

25 and reviewed supporting documentation. Within the copies of returned checks provided with

26 the November 2015 CTA 0567 bank statement was check number #3408, dated 10/9/15

27 payable to Eugene Water and Electric Board for \$225.00. The handwritten entry on the check

28 memo was, "2571 Donegal," Lane County records showed Mclver as the owner of this house.

29 Mclver paid for services from Eugene Water and Electric Board for the home/office he used

30 located at 2571 Donegal St, Eugene, out of the owners CTA 0567.

1 **Violation:** By using owner funds to pay for his own personal and/or business expense
2 Mclver violated ORS 696.301(12)(2015 Edition) which states a licensee may be subject to
3 discipline if they have demonstrated incompetence or untrustworthiness in performing any act
4 for which the licensee is required to hold a license. Additionally, Mclver committed an act of
5 fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or
6 licensee to conduct professional real estate activity in violation of ORS 696.301(14) (2015
7 Edition).

8 3.9 During his interview on December 24, 2015, Bale requested CTA reconciliations
9 from Mclver. Mclver was to produce the reconciliations by December 28, 2015, for both CTA
10 Sec 0559 and CTA 0567. Mclver failed to provide the reconciliations to OREA by the
11 December 2015 deadline. Requests for inspection of records were made by Bale and OREA
12 Regulations Manager, on January 6, 2016. Mclver was to produce the requested documents
13 no later than by 5pm on January 6, 2016. Mclver failed to produce the documents by the
14 January 6, 2016 deadline.

15 **Violation:** By failing to produce the requested documents by the deadline, Mclver
16 violated ORS 696.301(3) (2015 Edition) as it incorporates OAR 863-025-0035(2)(b) (5-15-14
17 Edition), which states a property manager must produce records for inspection of the Agency
18 as follows: (b) if the Agency has reasonable grounds to believe that funds of an owner or
19 tenant may be missing or misappropriated or that the property manager is engaging in
20 fraudulent activity, any records demanded or requested by the Agency must be produced
21 immediately.

22 3.10 On January 8, 2016, Mclver wrote to Bale and attached pdf files titled, "Clients'
23 trust account November 2015" and "Clients trust account reconciliation November 2015."

24 3.11 Bale reviewed the CTA documents provided by Mclver. The documents
25 submitted did not include the OREA required reconciliations for either account. The Owners'
26 Reconciliation report was for bank CTA 0567. Within this report were the following items:

- 27 • "Uncleared Money In" totaling \$27,246.00. There were 16 items in the
- 28 "Uncleared Money In" schedule dating as far back as March 12, 2014 and
- 29 • "Uncleared Money Out" totaling \$18,622.94. There were 38 items in the
- 30 "Uncleared Money Out" schedule dating as far back as January 5, 2014.

- 1 • Allowing for these entries the "Bank Ledger Balance as of 11/30/2015" was
2 \$11,766.71. The actual amount in the bank account at that date was \$3,143.65.

3 **Violation:** By allowing "Uncleared Money In" (outstanding deposits) transactions
4 totaling \$27,260.00 to remain in the bank reconciliation for owners' account for CTA 0567 from
5 as far back as March 12, 2014, Mclver violated ORS 696.890(4)(c) and (e) (2013 and 2015
6 Editions) which state a real estate property manager owes the property owner the following
7 affirmative duties: (c) to exercise reasonable care and diligence and (e) to act in a fiduciary
8 manner in all matters relating to trust funds. Mclver's conduct is grounds for discipline under
9 ORS 696.301(12) and (15).

10 **Violation:** By allowing, "Uncleared Money Out" (outstanding checks and payments)
11 transactions totaling \$18,622.94 to remain in the bank reconciliation for CTA 0567, from as far
12 back as January 5, 2014, Mclver violated ORS 696.890(4)(c) and (e) (2013 and 2015 Editions)
13 which state a real estate property manager owes the property owner the following affirmative
14 duties: (c) to exercise reasonable care and diligence and (e) to act in a fiduciary manner in all
15 matters relating to trust funds. Mclver's conduct is grounds for discipline under ORS
16 696.301(12) and (15).

17 3.12 On January 14, 2016, Mclver sent Bale reconciliation reports for September and
18 October 2015 for CTA Sec 0559 and CTA 0567. The reconciliation documents did not include
19 the following required supporting documentation: owners' ledgers, tenants' ledgers, and the
20 receipts and disbursement reports. The reconciliation report did not contain the required three
21 components and was not signed or dated.

22 **Violation:** By failing to properly complete the clients' trust account and security deposit
23 account reconciliation, containing the required three components, Mclver violated ORS
24 696.301(3) (2015 Edition) as it incorporates OAR 863-025-0025(20) and (21) (5-15-2014
25 Edition) which requires a property manager to reconcile each clients' trust account and security
26 deposit account within 30 calendar days of the date of the bank statement, and the
27 reconciliation document must contain the required three components and be signed and dated.

28 3.13 On January 21, 2016, Mclver met with Bale at OREA. During the meeting Mclver
29 printed out the ePayments Batch Report listing for November 2015, which listed the total for
30 the automated transfer of owners' draws paid. Mclver also printed out a list of owners'
balances for November 2015.

1 3.14 Bale created a spreadsheet from the list of owners' balances provided by Mclver.
2 The spreadsheets included the following four negative balances:

- 3 • Marilyn Nichols -\$2,752.25
- 4 • Mike Davis -\$1,075.00
- 5 • Randy and Karen Feldhaus -\$4,645.00
- 6 • Richard Wirkus -\$50.00

7 The spreadsheet included two owner accounts for Mclver, one of which was negative:

- 8 • Ben Mclver \$4,241.87
- 9 • Mclvers PM LLC -\$7,716.49

10 Mclver said the account with the positive balance was for the house he was living in, which he
11 owned, and had previously been a rental home.

12 **Violation:** By allowing negative balances in the November 2015 report of the property
13 owner's ledger accounts for Marilyn Nichols (-\$2,752.25), Mike Davis (-\$1,075.00), Randy and
14 Karen Feldhaus (-\$4,645.00), and Richard Wirkus (-\$50.00), Mclver violated ORS 696.301(3)
15 (2015 Edition) as it incorporates OAR 863-025-0025(12) (5-14-15 Edition), which states a
16 property manager may not disburse funds from a clients' trust account or security deposits
17 account unless there are sufficient funds in the ledger account against which the disbursement
18 is made.

19 **Violation:** By allowing his own funds to be commingled in the property owners clients'
20 trust account Mclver violated ORS 696.301(3)(2015 Edition) as it incorporates OAR 863-025-
21 0025(3)(a) (5-14-2015 Edition) which states, only funds received by the property manager on
22 behalf of an owner may be held in a clients' trust account. Mclver also violated ORS
23 696.301(3) (2015 Edition) as it incorporates ORS 696.241(7) (2015 Edition) which states a
24 property manager may not commingle any other funds with the trust funds held in a clients'
25 trust account, except for earned interest on a clients' trust account as provided in subsections
26 (9) and (10).

27 3.15 To calculate the estimated range of shortfall in the bank account two different
28 calculations were performed.

29 Comparing the bank statement to the total of positive owners' ledger balances:

- 30 • As of November 30, 2015, the balance at US Bank for CTA 0567 was \$3,143.65.
 The total from the spreadsheet created by Bale for positive owners' ledger

1 balances was \$24,139.39. In comparing the bank statement balance of
2 \$3,143.65 against the total of positive owners' ledger balances of \$24,139.39,
3 there is an estimated shortfall of \$20,995.74 in the bank account.

4 Comparing the check register to the total of positive owners' ledger balance:

- 5 • In comparing the total of positive owners' ledger balances of \$24,139.39 against
6 the check register balance as of November 30, 2015, which was \$11,766.71,
7 there is an estimated shortfall of \$12,372.68 in the bank account.

8 The estimated bank account shortfall ranges from \$12,372.68 to \$20,995.74.

9 **Violation:** By causing and/or allowing a short fall to exist in CTA 0567 Mclver
10 demonstrated incompetence or untrustworthiness in performing any act for which the licensee
11 is required to hold a license, in violation of ORS 696.301(12) (2015 Edition). Additionally,
12 Mclver committed an act of fraud or engaged in dishonest conduct substantially related to the
13 fitness of the applicant or licensee to conduct professional real estate activity, in violation of
14 ORS 696.301(14) (2015 Edition) Lastly, Mclver violated ORS 696.890(4)(c),(e), and (f) (2015
15 Edition) which states, a real estate property manager owes the property owner the following
16 affirmative duties: (c) to exercise reasonable care and diligence; (e) to act in a fiduciary
17 manner in all matters relating to trust funds; and (f) to be loyal to the owner by not taking action
18 that is adverse or detrimental to the owner's interest.. Mclver's conduct is grounds for
19 discipline under ORS 696.301(15).

20 3.16 All of the above demonstrate incompetence or untrustworthiness for which
21 Mclver is required to hold a license.

22 **Violation:** ORS 696.301(12) (2015 Edition), which states a licensee's real estate
23 license can be disciplined if they have demonstrated incompetence in performing any act for
24 which the licensee is required to hold a license.

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4.

4.1 The above violations are grounds for discipline pursuant to ORS 696.301. Based on these violations, OREA is revoking Mclver's property manager license. A revocation is appropriate under ORS 696.396(2)(c)(A), (B), and (C) (2015 Edition). According to ORS 696.396, OREA may revoke a real estate license if material facts establish a violation of a ground of discipline under ORS 696.301 that results in significant damage or injury, exhibits incompetence in the performance of professional real estate activity, or exhibits dishonesty or fraudulent conduct.

ORDER

IT IS HEREBY ORDERED that Mclver's property manager license is revoked.

IT IS FURTHER ORDERED that pursuant to ORS 696.990(6) and based upon the violation of Mclver failing to produce his property management records, Mclver pay a civil penalty in the sum of \$10,000, and said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA.

Dated this 20th day of JANUARY, 2017.

OREGON REAL ESTATE AGENCY



GENE BENTLEY

Real Estate Commissioner

Date of Service: 1/20/2017

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of)

5
6
7 ANTHONY MARK FORHAN)
8

STIPULATED FINAL ORDER

9
10 The Oregon Real Estate Agency (OREA) and Anthony Mark Forhan (Forhan) do hereby
11 agree and stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Forhan was licensed as a property manager doing
17 business under the registered business name of Bridge City Properties, LLC.

18 1.2 OREA received several complaints regarding Forhan, two of which were opened
19 into investigations. The first complaint was received on May 10, 2014, from Loel Laughlin
20 (Laughlin), the second was received on July 10, 2015, from Edwin Paul Newcomb (Newcomb).

21 **Details from Complaint/Investigation from Laughlin 2014 Complaint:**

22 1.3 Laughlin's complaint centered around Forhan's handling of security deposit
23 funds.

24 1.4 The investigation from the complaint from Laughlin revealed that Forhan allowed
25 his license to expire on two different occasions, while he continued to do property
26 management activity. The first incident was from February 1, 2012 to March 12, 2012. Forhan
27 stated he became aware of his expired license when he was contacted by OREA by email
28 about Bridge City Properties, LLC's lack of an associated licensee. During his interview with
29 OREA Investigator/Auditor Frances Hlawatsch (Hlawatsch) on October 3, 2014, Forhan readily
30 admitted to conducting professional real estate activity while his license was expired.

1 1.5 The second incident that Forhan's license expired was on February 1, 2014. His
2 license was not renewed until April 10, 2014. An online search of Bridge City Properties
3 resulted in rental advertisements which were posted during the unlicensed period. In his
4 interview, Forhan said it was, "business as usual," during this period.

5 **Violation:** By continuing to conduct management of rental real estate activity from
6 February 1, 2012 to March 14, 2012 (43 days), while his license was expired, Forhan violated
7 ORS 696.020(2011 Edition), which states an individual may not engage in, carry on, advertise
8 or purport to engage in or carry on professional real estate activity, or act in the capacity of a
9 real estate licensee, within this state unless the individual holds an active license.

10 **Violation:** By continuing to conduct management of rental real estate activity from
11 February 1, 2014 to April 9, 2014 (68) days, while his license was expired, Forhan violated
12 ORS 696.020(2013 Edition), which states an individual may not engage in, carry on, advertise
13 or purport to engage in or carry on professional real estate activity, or act in the capacity of a
14 real estate licensee, within this state unless the individual holds an active license.

15 1.6 A review of Forhan's April 10, 2014, renewal application showed Forhan
16 answered, "No" to question 14, which asks if the licensee had conducted professional property
17 management activity at any time while the license was expired.

18 **Violation:** By providing a false answer on the renewal application, Forhan violated ORS
19 696.301(12) (2013 Edition) which states a licensee's real estate license may be disciplined if
20 they have demonstrated incompetence or untrustworthiness in performing any act for which
21 the licensee is required to hold a license.

22 1.7 On October 3, 2014, Hlawatsch interviewed Forhan. Forhan's main office
23 address in OREA licensing records was 14 NE 17th Street, Portland Oregon, which was
24 Forhan's previous home address. During the interview, Forhan explained that he was
25 unaware there was an issue with the business address of record, since he had updated his
26 address for his license. He stated he would correct the problem immediately. Forhan followed
27 up with an email dated October 14, 2014, in which he stated the main office address had been
28 corrected.

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1 **Violation:** By failing to update the main office address, Forhan violated ORS 696.301(3)
2 as it incorporates ORS 696.200(1)(d)(2) (5-15-14 Edition), which requires a property manager
3 to notify the Agency prior to changing a main office location. Change of a business location
4 without notification to the agency as required is grounds for revocation of a real estate license.

5 1.8 Forhan told Hlawatsch that Zack Hagar, who was the Client Services and Tenant
6 Relations Manager for Bridge Cities Properties, LLC completed the three way reconciliations
7 for the clients' trust accounts. All accounting transactions were prepared by Hagar and were
8 finalized by Forhan.

9 1.9 Forhan did not have a written delegation of authority on file for Zack Hagar.
10 Forhan described Hagar's main duties as tenant relations such as applicant screening,
11 maintenance request processing, and account processing.

12 **Violation:** By failing to have a written delegation of authority on file for Zack Hager,
13 Forhan violated ORS 696.301(3) as it incorporates OAR 863-025-0015(1)(3)(c)(D)(6)(b) (5-15-
14 14 Edition), which states each property manager must develop, maintain, and follow written
15 policies for persons and activities under this rule. Policies must specify the duties,
16 responsibilities, supervision and authority, including any authority to handle funds in a clients'
17 trust account or security deposit account for the following persons: (a) an employee of the
18 property manager, including any authority to: (D) conduct tenant relations. The following
19 delegations of the property manager's authority must be in writing, dated and signed by the
20 property manager, and kept with written policies: (b) review and approve reconciliations and
21 receive and disburse funds under OAR 863-025-0025(23).

22 1.10 On October 3, 2014, Hlawatsch requested copies of the clients' trust accounts
23 reconciliations at close of the interview. Multiple requests were made to Forhan requesting
24 him to provide the reconciliation documents. On January 15, 2015, Forhan emailed
25 Hlawatsch, "We will be putting together a current reconciliation for you at the end of this month.
26 This'll be the month we start doing monthly reconciliations moving forward. I'll be in touch
27 beginning of Feb when we have the one ready for you."

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1 1.11 Hlawatsch continued to make multiple requests to Forhan for reconciliation
2 documents. On February 25, 2015, a formal request for documents was mailed to Forhan and
3 also emailed. Forhan was directed to produce completed three way reconciliations for both
4 clients' trust accounts and security deposits accounts by March 4, 2015. Forhan missed the
5 March 4, 2016 deadline. On March 9, 2015, Forhan submitted a reconciliation form for the
6 security deposits account. There was no bank statement, check register or tenant ledger
7 information provided.

8 **Violation:** By failing to properly reconcile the clients' trust account and security deposits
9 account, Forhan violated ORS 696.301(3) as it incorporates OAR 863-025-0025(20) and (21)
10 (5-15-14 Editions) which require a property manager to reconcile each clients' trust account
11 and security deposits account within 30 calendar days of the date of the bank statement.
12 Additionally, by failing to properly reconcile the clients' trust account and security deposits
13 account, Forhan demonstrated incompetence or untrustworthiness in violation of ORS
14 696.301(12) (2013 and 2015 Edition), which states a licensee's real estate license may be
15 disciplined if they have demonstrated incompetence or untrustworthiness in performing any act
16 for which the licensee is required to hold a license.

17 1.12 Additional reconciliation documents were submitted by Forhan. Multiple
18 deficiencies were found in the documents. The account registers submitted lacked detail. The
19 record of receipts did not include the date funds were deposited, and the disbursement records
20 did not contain a running balance, check numbers or the purpose of all payments.

21 **Violation:** By failing to maintain a proper check register Forhan violated ORS
22 696.301(3) as it incorporates OAR 863-025-0040(2)(a)(C)(c)(e) (5-15-14 Edition), which states
23 a record of receipts and disbursements or check register must contain at least the following
24 information for each receipt and disbursement: (C) the purpose of the funds and the identity of
25 the person who tendered the funds, (c) if there is more than one property in a clients' trust
26 account, each entry for a receipt, deposit or disbursement must be identified with the
27 applicable identifying code; (e) the account balance after each entry.

28 1.13 Aside from multiple issues discovered surrounding the clients' trust accounts,
29 Forhan's reconciliation documents showed the clients' trust account and security deposit
30 account did not balance.

1 **Violation:** Forhan's inability to account for all clients' trust account funds demonstrated
2 incompetence in violation of ORS 696.301(12) (2013 and 2015 Editions), which states a
3 licensee's real estate license may be subject to discipline if they have demonstrated
4 incompetence or untrustworthiness in performing any act for which the licensee is required to
5 hold a license.

6 1.14 As of August 25, 2014, licensing records for Bridge City's, LLC included clients'
7 trust account information for three accounts with West Coast Bank ending in #1223, #2155,
8 and #3187, which all appeared to be open. During Hlawatsch' s October 2014 interview with
9 Forhan, he stated all of the clients' trust accounts are held with Bank of America and the West
10 Coast Bank accounts were closed a couple of years prior.

11 1.15 During the October 2014 interview, Forhan also acknowledged that he never
12 reported the clients' trust accounts he had opened with Bank of America in August 2011 to
13 OREA ending in #8861, #8687 and #8674 as required. On October 8, 2014, Forhan updated
14 the clients' trust account information in the OREA's licensing database.

15 **Violation:** By failing to update the bank account information in eLicense, Forhan
16 violated ORS 696.301(3) as it incorporates ORS 696.241(5) (2011 and 2013 Editions), which
17 states a licensed property manager who closes a clients' trust account shall notify the agency
18 within 10 business days after the account is closed or transferred on a form approved by the
19 agency.

20 **Violation:** By failing to notify OREA after opening the new clients' trust accounts with
21 Bank of America, Forhan violated ORS 696.301(3) as it incorporates ORS
22 696.241(4)(a)(b)(c)(d) and (e) (2013 Edition), which states within 10 business days after the
23 date a clients' trust account is opened a licensed property manager shall file with the agency,
24 on forms approved by the agency, the following information about the clients trust account: a)
25 the name of the bank, b) the account number, c) the name of the account, d) the date the
26 account was opened; and e) a statement by the licensed property manager authorizing the
27 Real Estate Commissioner or the commissioner's representative to examine the clients' trust
28 accounts at such time as the commissioner may direct.

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1 1.16 Per the OREA licensing database on January 8, 2015, the clients' trust accounts
2 held with Bank of America ending in #8661 and #8687 were titled "Client Trust Acct- Rental,"
3 and "Client Trust Account- Reserve."

4 **Violation:** By failing to have the clients' trust accounts properly named, Forhan violated
5 ORS 696.301(3) as it incorporates OAR 863-025-0025(2) (2015 Edition), which requires a
6 property manager to open and maintain at least one clients' trust account as defined in OAR
7 863-025-0010. Per OAR 863-025-0010(5): "Clients' Trust Account," means a federally insured
8 bank account labeled as "Clients' Trust Account," on all bank records and checks that is
9 established and maintained by a property manager.

10 1.17 Per OREA licensing database on January 8, 2015, the security deposit account
11 held with Bank of America ending in #8674 was named Client Trust Account- Security
12 Deposit."

13 **Violation:** By failing to have the security deposits account named properly Forhan
14 violated ORS 696.301(3) as it incorporates OAR 863-025-0025(4) (5-15-2014 Edition), which
15 requires a property manager who receives a security deposits on behalf of an owner must
16 open and maintain a security deposit account, as defined in OAR 863-025-0010. Per OAR
17 863-025-0010(15) "Security Deposits Account," means a federally insured clients' trust account
18 labeled as "Clients' Trust Account- Security Deposits," on all bank records and checks that is
19 established and maintained by a property manager, activity in fiduciary capacity on behalf of
20 an owner under a property management agreement for depositing, holding and disbursing
21 security deposit funds.

22 1.18 On March 26, 2015, OREA Auditors/ Financial Investigators Peter Bale and
23 Hlawatsch visited Bridge Cities Properties to address disparities in the account reconciliations.
24 The investigators noted there was no exterior sign indicating that Bridge Cities Properties, LLC
25 was operating out of Forhan's home. There was a sign present inside the building which was
26 visible only when the garage door was opened (this sign did not contain the entire registered
27 business name, see paragraph 1.19 below). Forhan stated that a sign had been ordered and
28 would be up soon.

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1 **Violation:** By not having an exterior sign at the main office, Forhan violated ORS
2 696.301(3) as it incorporates ORS 696.200(1)(c) (2015 Edition), which states a licensed
3 property manager shall designate the main office by a sign that contains the name under which
4 the licensee conducts professional real estate activity.

5 1.19 During the investigation, it was discovered that some of Forhan's advertising for
6 Bridge City Properties LLC, such as the sign at the office (in Forhan's garage), email signature
7 and Bridge City Properties Facebook account did not include the full registered business
8 name.

9 **Violation:** By not using the full registered business name in the advertising, Forhan
10 violated ORS 696.301(3) as it incorporates ORS 696.026(6)(b) (2013 and 2015 Edition), which
11 states all professional real estate activity conducted by the property manager must be
12 conducted under the registered business name.

13 1.20 On June 21, 2016, Forhan was directed to present the most recently completed
14 clients' trust account reconciliations for both trust accounts. Forhan timely submitted the
15 requested documents. Both the clients' trust account and security deposits account appeared
16 to be in balance. All three components were reconciled and in balance.

17 **Details from Complaint/Investigation from Newcomb 2015 Complaint:**

18 1.21 Newcomb's complaint alleged that Forhan failed to release all funds due to
19 Newcomb upon termination of the property management agreement. Newcomb's complaint
20 also alleged that Forhan delayed in making the utility payments causing the accounts to
21 become delinquent and additional fees to be added.

22 1.22 Forhan was hired by Newcomb to manage one of his two rental units located at
23 1545 SE Henry Street, Portland Oregon (subject property). Per the property management
24 agreement Forhan was responsible for utility payments, including water and gas bills.

25 1.23 Forhan procured tenants for the lower level rental unit and they entered into a
26 lease, effective March 1, 2015. There was already a tenant in the upper level of the unit,
27 placed by Newcomb and managed by Newcomb.

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1 1.24 Portland Water Bureau assessed charges and sent out a bill for \$317.90 on
2 February 19, 2015. A late fee of \$3.19 was added on March 19, 2015. Forhan paid \$317.90
3 on March 23, 2015. The late fee was left outstanding. A bill for \$321.71 was sent on May 18,
4 2015. This bill became past due on June 18, 2015, and a \$3.21 fee was added to the account.
5 On July 6, 2015, an additional \$5.00 late fee was accessed.

6 1.25 The water bill was brought current on July 10, 2015, when Newcomb remitted a
7 payment of \$333.10. Newcomb had expected Forhan to pay this bill as he had agreed to in
8 the property management agreement.

9 **Violation:** By failing to timely pay the water bill on multiple occasions, and failing to pay
10 the July 6, 2015 water bill, Forhan violated ORS 696.890(4)(c)(2015 Edition), which states a
11 property manager owes the property owner the following affirmative duties: (c) to exercise
12 reasonable care and diligence. Forhan's conduct is grounds for discipline under ORS
13 696.301(15).

14 1.26 On March 25, 2015, Northwest Natural added a \$73.94 charge to Newcomb's
15 gas bill. This bill was not paid on time. On April 23, 2015, a \$72.43 charge was added to the
16 account. On May 21, 2015, Forhan paid \$146.37, which included the March and April charges
17 and brought the account current. On May 22, 2015, a charge of \$52.49 was added. This bill
18 was not paid until June 25, 2015.

19 **Violation:** By failing to timely pay the utility bill on multiple occasions Forhan violated
20 ORS 696.890(4)(c)(2015 Edition), which states a property manager owes the property owner
21 the following affirmative duties: (c) to exercise reasonable care and diligence. Forhan's
22 conduct is grounds for discipline under ORS 696.301(15).

23 1.27 Forhan explained to Hlawatsch, that the reason the utilities had been paid late
24 was that the bills had most likely not made it to him in a timely manner and there were not
25 sufficient funds in the account when the bills did arrive.

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1 1.28 On June 26, 2015, Newcomb prepared a termination letter. On July 13, 2015,
2 Bridge City Properties, LLC issued a final disbursement of \$1,825.00 to Newcomb. Forhan
3 sent an accompanying owner ledger which incorrectly indicated that \$324.89 had been paid to
4 the Portland Water Bureau on June 23, 2015. Newcomb emailed Forhan on July 13, 2015, to
5 address the shortage in the refund payment. Newcomb informed Forhan that he had paid
6 \$324.89 directly to Portland Water Bureau on July 10, 2015, as the bill was still unpaid at the
7 time. Forhan initially indicated to Hlawatsch that he had paid \$324.89 to Portland Water
8 Bureau on June 25, 2015. In his response to the complaint, he included documentation of this
9 payment being scheduled through Bank of America's online system. Per the Portland Water
10 Bureau account history, there was no record of this payment being applied.

11 1.29 When Forhan researched the issue further at the time of the investigation, he
12 determined that one of the payments to Portland Water Bureau had been remitted on behalf of
13 another client. He said that when he learned of this error he immediately cut a refund check
14 for \$350.00 to Newcomb. Forhan submitted a copy of the check, dated October 26, 2015,
15 along with a copy of a letter for explanation, which he had sent to Newcomb.

16 **Violation:** By failing to pay the water and utility bills on time, failing to pay the \$324.89
17 bill to Portland Water Bureau, and failing to properly account for the \$324.89 to Newcomb,
18 Forhan demonstrated incompetence in violation of ORS 696.301(12) (2015 Edition) which
19 states a licensee may be subject to discipline if they have demonstrated incompetence or
20 untrustworthiness in performing any act for which the licensee is required to hold a license.

21 **Violation:** By failing to properly account for the \$324.90 Portland Water Bureau bill by
22 failing to provide Newcomb with the funds and correct final accounting of the owner's ledger
23 account within 60 days of the termination of the property management agreement Forhan
24 violated ORS 696.301(3) as it incorporates OAR 863-025-0070(2)(b)(A)(B) (5-15-14 Edition)
25 which states, not later than 60 days after the effective date of the termination, the property
26 manager must provide the owner with the following: (A) a final accounting of the owner's
27 ledger account; and (B) All funds belonging to the owner as shown on the owner's ledger,
28 unless the owner directs the property manager, in writing, to transfer the funds to another
29 property manager, escrow agent, or person.

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1 1.30 In May 2015, (prior to the property management agreement being terminated)
2 the dishwasher in the subject property's lower unit became inoperative. Multiple emails
3 between Forhan and Newcomb were sent regarding the purchase of the unit. Forhan indicated
4 he was waiting for rent funds to purchase the unit. On June 8, 2015, Forhan emailed
5 Newcomb stating that he, "fronted the money" for the dishwasher, and that only a portion of the
6 rent had been paid, and there was a "lag in deposits" due to the tenant making online rent
7 payments.

8 1.31 On June 10, 2015, Forhan emailed Newcomb stating the dishwasher would,
9 "cost under \$300, installation will be \$134."

10 1.32 The investigation showed that the unit Forhan had ordered on June 13, 2015,
11 was \$399.00 instead of, "under \$300.00," as Forhan had represented previously to Newcomb.
12 The total invoice amount was \$553.99, which included the machine, hose and installation fee.

13 1.33 On June 22, 2015, Forhan emailed Newcomb a copy of the owner statement.
14 The dishwasher was not accounted for on the statement. Forhan explained that this was due
15 to Bridge Cities Properties, LLC not having been billed for it yet.

16 1.34 On June 23, 2015, further disagreement arose regarding the dishwasher unit
17 Forhan ordered, and Newcomb asked Forhan to cancel the order. Forhan indicated to
18 Newcomb that the unit he had ordered cost \$279 and told Newcomb he had cancelled the
19 order.

20 **Violation:** By mishandling the payment arrangement for the dishwasher Forhan violated
21 ORS 696.890(4)(a) (2015 Edition) which states a property manager owes the property owner
22 the following affirmative duties: (a) to deal honestly and in good faith. Forhan's conduct is
23 grounds for discipline under ORS 696.301(15).

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ORDER

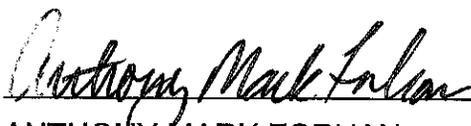
IT IS HEREBY ORDERED that Forhan's property manager license be, and hereby is, reprimanded.

IT IS FURTHER ORDERED that Forhan complete the 27-hour Property Manager Advanced Practices Course, (detailed in OAR 863-022-0022) no later than four (4) months from the effective date of this order. Forhan must submit documentation, such as a certificate to OREA showing completion of the 27-hour Property Manager Advanced Practices course. This documentation must be submitted to OREA no later than 10 days after the education has been completed.

IT IS FURTHER ORDERED that pursuant to ORES 696.990(1) to (9) and based upon the violations of conducting management of rental real estate activity when his license was expired, Forhan pay a civil penalty in the sum of \$ 1,600.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA. The civil penalty is computed in accordance with ORS 696.990(4) and (9), in that each 30 day period of unlicensed activity is considered one violation. In this instance, there was: a) one 30 day period (February 1, 2012-March 14, 2012), for which the civil penalty assessed is \$100.00, b) two 30-day periods of unlicensed activity (February 1, 2014 to April 9, 2014), for which the civil penalty assessed is \$1,500.00.

IT IS SO STIPULATED:

IT IS SO ORDERED:


ANTHONY MARK FORHAN


GENE BENTLEY
Real Estate Commissioner

Date 11-16-16

Date 11-29-16

Date of Service: 11/29/2016

79th OREGON LEGISLATIVE ASSEMBLY--2017 Regular Session

House Bill 5037

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Oregon Department of Administrative Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by Real Estate Agency. Declares emergency, effective July 1, 2017.

A BILL FOR AN ACT

1
2 Relating to the financial administration of the Real Estate Agency; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Notwithstanding any other law limiting expenditures, the amount of**
5 **\$7,844,653 is established for the biennium beginning July 1, 2017, as the maximum limit for**
6 **payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts,**
7 **but excluding lottery funds and federal funds, collected or received by the Real Estate**
8 **Agency.**

9 **SECTION 2. This 2017 Act being necessary for the immediate preservation of the public**
10 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
11 **July 1, 2017.**
12 _____

Note: For budget, see 2017-2019 Biennial Budget

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

Senate Bill 67

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Real Estate Agency)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Defines "business day," "commingle" and "main office" for purposes of certain real estate statutes. Clarifies system for registration and renewal of business names. Exempts certain checks from requirement to deposit funds into clients' trust accounts. Requires real estate licensees to notify Real Estate Agency of certain activities regarding clients' trust accounts. Prohibits certain individuals from sharing compensation of real estate licensee.

A BILL FOR AN ACT

1
2 Relating to activities regulated by the Real Estate Agency; creating new provisions; and amending
3 ORS 696.010, 696.022, 696.026, 696.030, 696.125, 696.130, 696.174, 696.182, 696.200, 696.205, 696.232,
4 696.241, 696.243, 696.245, 696.280, 696.290, 696.301, 696.310, 696.385, 696.505, 696.520, 696.582,
5 696.710 and 696.800.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1. Sections 2 and 7 of this 2017 Act are added to and made a part of ORS**
8 **chapter 696.**

9 **SECTION 2. (1) A violation of a provision of ORS 696.010 to 696.495, 696.600 to 696.785,**
10 **696.800 to 696.870 or 696.890, or a rule adopted pursuant to those sections, by a real estate**
11 **licensee is not cause for the suspension or revocation of the license of another real estate**
12 **licensee who is associated with the real estate licensee who committed the violation unless**
13 **the Real Estate Commissioner, in the commissioner's discretion, determines that the asso-**
14 **ciated real estate licensee had knowledge of the violation by the real estate licensee.**

15 **(2) For purposes of a contested case hearing under ORS chapter 183, a persistent course**
16 **of dealing by the real estate licensee who violated a provision of ORS 696.010 to 696.495,**
17 **696.600 to 696.785, 696.800 to 696.870 or 696.890, or a rule adopted pursuant to those sections,**
18 **constitutes prima facie evidence that an associated real estate licensee had knowledge of the**
19 **violation by the real estate licensee.**

20 **SECTION 3. ORS 696.010 is amended to read:**

21 696.010. As used in ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870, 696.990 and
22 696.995, unless the context requires otherwise:

23 (1) "Associated with" means to be employed, engaged or otherwise supervised by, with respect
24 to the relationship between:

25 (a) A real estate broker and a principal real estate broker;

26 (b) A licensed real estate property manager and a principal real estate broker; or

27 (c) A licensed real estate property manager and another licensed real estate property manager.

28 (2) "Bank" includes any bank or trust company, savings bank, mutual savings bank, savings and

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 loan association or credit union that maintains a head office or a branch in this state in the capacity
 2 of a bank or trust company, savings bank, mutual savings bank, savings and loan association or
 3 credit union.

4 (3)(a) “Branch office” means a business location, other than the main office designated under
 5 ORS 696.200 [(1)], where professional real estate activity is regularly conducted or that is advertised
 6 to the public as a place where [*such business*] **professional real estate activity** may be regularly
 7 conducted.

8 (b) Model units or temporary structures used solely for the dissemination of information and
 9 distribution of lawfully required public reports shall not be considered branch offices. A model unit
 10 means a permanent residential structure located in a subdivision or development used for such dis-
 11 semination and distribution, so long as the unit is at all times available for sale, lease, lease option
 12 or exchange.

13 (4) **“Business day” means a day other than Saturday or Sunday or a federal or State of**
 14 **Oregon legal holiday.**

15 (5) **“Commingle” means the mixing of funds from any source, including personal funds,**
 16 **with trust funds as defined in ORS 696.241, by a licensed real estate property manager or**
 17 **principal real estate broker, except as specifically authorized by this chapter.**

18 [(4)] (6) “Compensation” means [*any fee, commission, salary, money or*] valuable consideration for
 19 services rendered or to be rendered [*as well as the promise thereof and*], whether contingent or
 20 otherwise.

21 [(5)] (7) “Competitive market analysis” means a method or process used by a real estate licensee
 22 in pursuing a listing agreement or in formulating an offer to acquire real estate in a transaction for
 23 the sale, lease, lease-option or exchange of real estate. The objective of competitive market analysis
 24 is a recommended listing, selling or purchase price or a lease or rental consideration. A competitive
 25 market analysis may be expressed as an opinion of the value of the real estate in a contemplated
 26 transaction. Competitive market analysis may include but is not limited to an analysis of market
 27 conditions, public records, past transactions and current listings of real estate.

28 [(6)] (8) “Expired” means, in the context of a real estate licensee, that the license has not been
 29 renewed in a timely manner, but may still be renewed.

30 [(7)] (9) “Inactive” means, in the context of a real estate licensee, that the [*license has been re-*
 31 *turned to the agency to be held until the licensee reactivates the license or the license expires or*
 32 *lapses.*] **licensee is not authorized to engage in professional real estate activity. The inactive**
 33 **status of a license continues until the license is reactivated or the license expires or lapses.**

34 [(8)] (10) “Lapsed” means, in the context of a real estate licensee, that the license has not been
 35 renewed in a timely manner and is not eligible for renewal.

36 [(9)] (11) “Letter opinion” has the meaning given that term in ORS 696.294.

37 [(10)] (12) “Licensed real estate property manager” means an individual who holds an active real
 38 estate property manager’s license issued under ORS 696.022.

39 (13) **“Main office” means the office designated by a principal real estate broker or li-**
 40 **icensed real estate property manager pursuant to ORS 696.200.**

41 [(11)] (14) “Management of rental real estate” means:

42 (a) Representing the owner of real estate **under a property management agreement** in the
 43 rental or lease of the real estate and includes but is not limited to:

44 (A) Advertising the real estate for rent or lease;

45 (B) Procuring prospective tenants to rent or lease the real estate;

- 1 (C) Negotiating with prospective tenants;
- 2 (D) Accepting deposits from prospective tenants;
- 3 (E) Checking the qualifications and creditworthiness of prospective tenants;
- 4 (F) Charging and collecting rent or lease payments;
- 5 (G) Representing the owner in inspection or repair of the real estate;
- 6 (H) Contracting for repair or remodeling of the real estate;
- 7 (I) Holding trust funds or property received in managing the real estate and accounting to the
- 8 owner for the funds or property;
- 9 (J) Advising the owner regarding renting or leasing the real estate;
- 10 (K) Providing staff and services to accommodate the tax reporting and other financial or ac-
- 11 counting needs of the real estate;
- 12 (L) Providing copies of records of acts performed on behalf of the owner of the real estate; and
- 13 (M) Offering or attempting to do any of the acts described in this paragraph for the owner of
- 14 the real estate; or
- 15 (b) Representing a tenant or prospective tenant when renting or leasing real estate **for which**
- 16 **a real estate property manager has a property management agreement with the owner of the**
- 17 **real estate** and includes but is not limited to:
 - 18 (A) Consulting with tenants or prospective tenants about renting or leasing real estate;
 - 19 (B) Assisting prospective tenants in renting or leasing real estate;
 - 20 (C) Assisting prospective tenants in qualifying for renting or leasing real estate;
 - 21 (D) Accepting deposits or other funds from prospective tenants for renting or leasing real estate
 - 22 and holding the funds in trust for the prospective tenants;
 - 23 (E) Representing tenants or prospective tenants renting or leasing real estate; and
 - 24 (F) Offering or attempting to do any of the acts described in this paragraph for a tenant or
 - 25 prospective tenant.
- 26 [(12)] (15) “Nonlicensed individual” means an individual:
 - 27 (a) Who has not obtained a real estate license; or
 - 28 (b) Whose real estate license is lapsed, expired, inactive, suspended, surrendered or revoked.
- 29 [(13)] (16) “Principal real estate broker” means[:]
 - 30 [(a)] an individual who holds an active license as a principal real estate broker **issued under**
 - 31 **ORS 696.022.[: or]**
 - 32 [(b)] *A sole practitioner who conducted professional real estate activity as a sole practitioner prior*
 - 33 *to January 1, 2010.*]
- 34 [(14)] (17) “Professional real estate activity” means any of the following actions, when engaged
- 35 in for another and for compensation or with the intention or in the expectation or upon the promise
- 36 of receiving or collecting compensation, by any person who:
 - 37 (a) Sells, exchanges, purchases, rents or leases real estate;
 - 38 (b) Offers to sell, exchange, purchase, rent or lease real estate;
 - 39 (c) Negotiates, offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or
 - 40 leasing of real estate;
 - 41 (d) Lists, offers, attempts or agrees to list real estate for sale;
 - 42 (e) Offers, attempts or agrees to perform or provide a competitive market analysis or letter
 - 43 opinion, to represent a taxpayer under ORS 305.230 or 309.100 or to give an opinion in any admin-
 - 44 istrative or judicial proceeding regarding the value of real estate for taxation, except when the ac-
 - 45 tivity is performed by a state certified appraiser or state licensed appraiser;

1 (f) Auctions, offers, attempts or agrees to auction real estate;

2 (g) Buys, sells, offers to buy or sell or otherwise deals in options on real estate;

3 (h) Engages in management of rental real estate;

4 (i) Purports to be engaged in the business of buying, selling, exchanging, renting or leasing real
5 estate;

6 (j) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange,
7 leasing or rental of real estate;

8 (k) Assists or directs in the negotiation or closing of any transaction calculated or intended to
9 result in the sale, exchange, leasing or rental of real estate;

10 (L) Except as otherwise provided in ORS 696.030 (12), advises, counsels, consults or analyzes in
11 connection with real estate values, sales or dispositions, including dispositions through eminent do-
12 main procedures;

13 (m) Advises, counsels, consults or analyzes in connection with the acquisition or sale of real
14 estate by an entity if the purpose of the entity is investment in real estate; or

15 (n) Performs real estate marketing activity as described in ORS 696.600.

16 [(15)] (18) "Property management agreement" means a written contract for the management of
17 rental real estate between a real estate property manager and the owner of the rental real estate.

18 [(16)] (19) "Real estate" includes leaseholds and licenses to use including, but not limited to,
19 timeshare estates and timeshare licenses as defined in ORS 94.803, as well as any and every interest
20 or estate in real property, whether corporeal or incorporeal, whether freehold or nonfreehold,
21 whether held separately or in common with others and whether the real property is situated in this
22 state or elsewhere.

23 [(17)] (20) "Real estate broker" means an individual [*who engages in professional real estate ac-*
24 *tivity and*] who holds an active license as a real estate broker **issued under ORS 696.022.**

25 [(18)] (21) "Real estate licensee" means an individual who holds an active license **or an active**
26 **limited license** as a real estate broker, principal real estate broker or **licensed** real estate property
27 manager.

28 [(19)] (22) "Real estate property manager" means a real estate licensee who engages in the
29 management of rental real estate and is a licensed real estate property manager, a principal real
30 estate broker or a real estate broker who is associated with and supervised by a principal real es-
31 tate broker.

32 [(20)] (23) "Registered business name" means a name registered with the Real Estate Agency
33 under which the individual registering the name engages in professional real estate activity.

34 [(21) "*Sole practitioner*" means a real estate broker conducting professional real estate activity not
35 in conjunction with other real estate brokers or principal real estate brokers and who, prior to January
36 1, 2010:]

37 [(a) *Acquired three years of active experience as a real estate broker; or*]

38 [(b) *Acquired three years of active experience as a real estate salesperson as defined in ORS*
39 *696.025 (1999 Edition) and successfully completed the real estate broker's examination required by rule*
40 *of the agency.*]

41 **SECTION 4.** ORS 696.022 is amended to read:

42 696.022. (1) The Real Estate Agency shall establish by rule a system for licensing real estate
43 brokers, principal real estate brokers and **licensed** real estate property managers. The system shall
44 establish, at a minimum:

45 (a) The form and content of applications for licensing under each category of real estate pro-

1 fessional licensed by the agency;

2 (b) A licensing examination for each category of license;

3 (c) Schedules and procedures for issuing and renewing licenses[;], **including limited licenses**
4 **under ORS 696.125; and**

5 (d) The term of a license in each category[; and].

6 [(e) *Terms and conditions under which the license of a real estate licensee must be returned or*
7 *transferred to the Real Estate Commissioner for purposes including, but not limited to, inactivation,*
8 *suspension or termination of the license.*]

9 (2)(a) A real estate broker may engage in professional real estate activity only if the broker is
10 associated with and supervised by a principal real estate broker. Except as provided in paragraph
11 (c) of this subsection, a real estate broker may not employ, engage or supervise the professional real
12 estate activity of another real estate licensee.

13 (b) **For an applicant** to qualify for a real estate broker's license, [*an applicant must furnish to*]
14 **the Real Estate Commissioner** [*at the time of application for the license*] **must receive:**

15 (A) Certification by the applicant that the applicant has a high school diploma or a General
16 Educational Development (GED) certificate or the international equivalent, or other equivalent ed-
17 ucation acceptable to the commissioner;

18 (B) Proof that the applicant:

19 (i) Has successfully completed the basic real estate broker's educational courses required by **the**
20 **agency by rule** [*of the agency*]; and

21 (ii) Has passed the real estate broker's examination required by **the agency by rule** [*of the*
22 *agency*]; and

23 (C) Certification that the applicant is at least 18 years of age.

24 (c) A real estate broker who has acquired three years of active experience as a real estate
25 broker may [*temporarily*] supervise **for up to 90 days** the professional real estate activity of another
26 real estate licensee due to unforeseen circumstances or the temporary absence of a sole principal
27 real estate broker, as provided by **the agency by rule**. [*of the agency. The temporary supervision of*
28 *professional real estate activity allowed under this paragraph may not exceed 90 days.*]

29 (3)(a) A principal real estate broker may engage in professional real estate activity. [*A principal*
30 *real estate broker may conduct professional real estate activity in conjunction with other real estate*
31 *brokers or principal real estate brokers or licensed real estate property managers. In addition, a prin-*
32 *cipal real estate broker may employ, engage or supervise the professional real estate activity of another*
33 *real estate licensee.*]

34 (b) **A principal real estate broker may conduct professional real estate activity in con-**
35 **junction with other real estate brokers, principal real estate brokers or licensed real estate**
36 **property managers. A principal real estate broker may employ, engage or supervise the**
37 **professional real estate activity of another real estate licensee.**

38 [(b)] (c) **For an applicant** to qualify for a principal real estate broker's license, [*an applicant*
39 *must furnish to*] the commissioner [*at the time of application for the license*] **must receive:**

40 (A) Certification by the applicant that the applicant has a high school diploma or a General
41 Educational Development (GED) certificate or the international equivalent, or other equivalent ed-
42 ucation acceptable to the commissioner;

43 (B) Proof that the applicant:

44 (i) Has three years of active **licensed** experience as a licensed real estate broker or a licensed
45 real estate salesperson [*as defined in ORS 696.025 (1999 Edition)*] **in this state or another state;**

1 (ii) Has passed the principal real estate broker's examination required by **the agency** by rule
2 *[of the agency]*; and

3 (iii) Has successfully completed the brokerage administration and sales supervision course re-
4 quired by **the agency** by rule *[of the agency]*; and

5 (C) Certification that the applicant is at least 18 years of age.

6 (4)(a) An individual who holds a real estate property manager license may engage only in the
7 management of rental real estate **under a property management agreement with the owner of**
8 **the rental real estate.**

9 (b) A licensed real estate property manager may employ, engage or supervise the professional
10 real estate activity of another licensed real estate property manager.

11 (c) **For an applicant** to qualify for a real estate property manager's license, *[an applicant must*
12 *furnish to]* the commissioner *[at the time of application for the license]* **must receive:**

13 (A) Certification by the applicant that the applicant has a high school diploma or General Ed-
14 ucational Development (GED) certificate or the international equivalent, or other equivalent edu-
15 cation acceptable to the commissioner;

16 (B) Proof that the applicant:

17 (i) Has successfully completed the basic real estate property manager's educational courses re-
18 quired by **the agency** by rule *[of the agency]*; and

19 (ii) Has passed the real estate property manager's license examination required by **the agency**
20 **by** rule *[of the agency]*; and

21 (C) Certification that the applicant is at least 18 years of age.

22 (5)(a) A license for a real estate broker, principal real estate broker or **licensed** real estate
23 property manager may be granted only to an individual who is trustworthy and competent to con-
24 duct professional real estate activity in a manner that protects the public interest. As a condition
25 of licensing, the commissioner may require proof of competence and trustworthiness that the com-
26 missioner deems necessary to protect the public interest.

27 (b) In implementing this subsection, the commissioner shall require fingerprints and criminal
28 offender information of an applicant for initial licensing and may require fingerprints and criminal
29 offender information of an applicant for license renewal. Fingerprints acquired under this sub-
30 section may be used for the purpose of requesting a state or nationwide criminal records check
31 under ORS 181A.195.

32 (6) *[In order to qualify for a real estate broker's license, a real estate salesperson licensed in an-*
33 *other state or country must successfully complete a course of study and pass a real estate broker's li-*
34 *cence examination, both as prescribed by agency rule.]* **An individual licensed to engage in**
35 **professional real estate activity in another state or country may qualify for a principal real**
36 **estate broker license, real estate broker license or real estate property manager license if**
37 **the individual successfully completes the course of study for and passes the license exam-**
38 **ination corresponding to the license for which the individual applies, both as prescribed by**
39 **agency rule, and if the individual meets the other requirements for licensure in this chapter.**

40 (7) In order to satisfy the educational requirements under subsections (2) to (4) and (6) of this
41 section, a course must be approved by the commissioner. The commissioner shall determine the final
42 examination score acceptable as evidence of successful completion for each required course.

43 (8) The Real Estate Board may determine that an applicant for a principal real estate broker's
44 license has experience related to professional real estate activity that is equivalent to the experi-
45 ence required under subsection (3) of this section.

SECTION 5. ORS 696.026 is amended to read:

696.026. (1) The Real Estate Agency shall establish by rule *[a system]* **systems** for the registration **and renewal** of business names.

(2)*[(a)]* The **registration** system must *[require]*:

[(A)] **(a) Require** the physical address associated with a registered business name to be the main office of a principal real estate broker or licensed real estate property manager; *[and]*

[(B)] **(b) Require** the registered business name to be:

(A) The corporate name, professional corporate name, business corporate name, cooperative name, limited partnership name, business trust name, reserved name, registered corporate name or assumed business name of active record with the Office of the Secretary of State; **or**

(B) The name under which the principal real estate broker or licensed real estate property manager license was issued;

[(b) The agency may establish by rule that the registration system must:]

[(A) Identify the principal real estate broker or the licensed real estate property manager who is responsible for:]

[(i) Maintaining the registration of the business name, as described in subsection (2)(a) of this section;]

[(ii) Registering any branch offices of the registered business name; and]

[(iii) Registering any additional business names as described in subsection (9)(a) of this section.]

[(B) Maintain the information described in ORS 696.241 (4) and (6) for each clients' trust account opened, closed or transferred by a principal real estate broker or by a licensed real estate property manager who conducts professional real estate activity under the registered business name; and]

(c) [The system must] Allow a principal real estate broker or licensed real estate property manager to register one or more branch offices under the registered business name of the main office*[,]*; **and**

(d) Require the name of the principal real estate broker or licensed real estate property manager who is responsible for:

(A) Maintaining the registration of the business name;

(B) Registering any branch offices of the registered business name;

(C) Registering any additional business names, as described in subsection (14) of this section;

(D) Maintaining the information described in ORS 696.245 for each clients' trust account opened, closed or transferred by a principal real estate broker or licensed real estate property manager who conducts professional real estate activity under the registered business name;

(E) Renewing the registration of the business name;

(F) Changing the registered business name, including the associated branch offices;

(G) Maintaining the business address of the main office and any associated branch offices of the registered business name as required by ORS 696.200; and

(H) Inactivating or reactivating the registration of the business name and associated branch offices.

(3) The renewal system must establish:

(a) The form and content of the renewal application;

(b) The schedule for annual renewals of registered business names, including the date of the registered business name expiration; and

1 (c) **The procedures for renewing a registered business name.**

2 (4) **Failure to renew a registered business name and pay any required fees by the expi-**
 3 **ration date of the registration will result in:**

4 (a) **The expiration of the registered business name;**

5 (b) **The inactivation of all associated licensees; and**

6 (c) **The inactivation of all associated branch offices.**

7 (5) **The Real Estate Commissioner may by rule provide an opportunity for the late re-**
 8 **newal of an expired registered business name.**

9 [(3)] (6) Only a principal real estate broker or licensed real estate property manager may reg-
 10 ister a business name or register a branch office under the registered business name of the main
 11 office.

12 [(4)] (7) Only a principal real estate broker or licensed real estate property manager may control
 13 and supervise the professional real estate activity conducted under the registered business name.

14 [(5)] (8) A business name registered under this section has no license standing.

15 [(6) A principal real estate broker or licensed real estate property manager may conduct profes-
 16 sional real estate activity only under:]

17 [(a) The name under which the principal broker or property manager's license was issued; or]

18 [(b) A registered business name.]

19 [(7) If a principal real estate broker or licensed real estate property manager has a registered
 20 business name:]

21 [(a)] (9) All professional real estate activity conducted by the principal **real estate** broker
 22 [or], **licensed real estate** property manager or **real estate licensees associated with a principal**
 23 **real estate broker or licensed real estate property manager** must be conducted under [the] **an**
 24 **active** registered business name[; and].

25 [(b) All professional real estate activity conducted by a real estate licensee associated with the
 26 principal broker or property manager must be conducted under the registered business name.]

27 [(8)] (10) A principal real estate broker or licensed real estate property manager who registers
 28 a business name need not be an owner or officer of any entity lawfully entitled to use or have an
 29 ownership interest in the registered business name. However, only a principal real estate broker or
 30 licensed real estate property manager may control and supervise the professional real estate activity
 31 conducted under the registered business name.

32 [(9)(a) A principal real estate broker or licensed real estate property manager who registers a
 33 business name may register additional business names for business organizations that are affiliated
 34 with the business with the registered name, or business organizations that are subsidiaries of the
 35 business with the registered name.]

36 [(b) A principal real estate broker or licensed real estate property manager may conduct profes-
 37 sional real estate activity under two or more registered business names only if the business organiza-
 38 tions are affiliated with, or subsidiaries of, the business with the registered name.]

39 [(10)] (11) A real estate broker [or licensed real estate property manager] associated with a
 40 principal real estate broker may have an ownership interest in any business through which the
 41 principal real estate broker conducts professional real estate activity, but may not control or su-
 42 pervise the professional real estate activity of any other real estate licensee.

43 (12) **A licensed real estate property manager associated with a principal real estate bro-**
 44 **ker may have an ownership interest in any business through which the principal real estate**
 45 **broker conducts professional real estate activity, but may not control or supervise the pro-**

1 professional real estate activity of a real estate broker or principal real estate broker.

2 [(11)] **(13)** A nonlicensed individual may have an ownership interest in any business through
 3 which a licensed real estate property manager or principal real estate broker engages in profes-
 4 sional real estate activity, but may not control or supervise the professional real estate activity of
 5 any real estate licensee.

6 [(12) *Two or more principal real estate brokers operating under the same registered business name
 7 who do not exercise any administrative or supervisory control over one another are solely responsible
 8 for their own professional real estate activity.*]

9 [(13) *Notwithstanding any other provision of ORS 696.010 to 696.495, 696.600 to 696.785, 696.800
 10 to 696.870, 696.990 and 696.995, a principal real estate broker or real estate broker associated with a
 11 principal real estate broker may create a corporation, limited liability company, limited liability part-
 12 nership or any other lawfully constituted business organization for the purpose of receiving compen-
 13 sation. A real estate broker associated with a principal real estate broker may receive compensation
 14 only from a principal real estate broker. A business organization created under this subsection may
 15 not be licensed under ORS 696.022 or conduct in its own name professional real estate activity re-
 16 quiring a real estate license.*]

17 **(14)(a) A principal real estate broker or licensed real estate property manager who reg-
 18 isters a business name may register additional business names for business organizations
 19 that are affiliated with the registered business name, or business organizations that are
 20 subsidiaries of the business with the registered name.**

21 **(b) A principal real estate broker or licensed real estate property manager may conduct
 22 professional real estate activity under two or more registered business names only if the
 23 business organizations are affiliated with, or subsidiaries of, the business with the registered
 24 name.**

25 **(15) The agency shall establish by rule procedures to allow a real estate broker or prin-
 26 cipal real estate broker who becomes associated with a different registered business name
 27 to continue to engage in professional real estate activity on transactions that began while
 28 the real estate broker or principal real estate broker was associated with the original regis-
 29 tered business name.**

30 **SECTION 6.** ORS 696.030 is amended to read:

31 696.030. ORS 696.010 to 696.375, 696.392, 696.395 to 696.430, 696.490, 696.600 to 696.785, 696.990
 32 and 696.995 do not apply to:

33 (1)(a) A nonlicensed individual who is a full-time employee of an owner of real estate and whose
 34 real estate activity:

35 (A) Involves only the real estate of the employer; and

36 (B)(i) Is incidental to the employee’s normal, nonreal estate activities; or

37 (ii) Is the employee’s principal activity, but the employer’s principal activity or business is not
 38 the sale, exchange, lease option or acquisition of real estate.

39 (b) For the purpose of this subsection, “owner of real estate” means:

40 (A) [*An individual*] **A person** who has a sole ownership interest in the real estate; or

41 (B) More than one [*individual*] **person**, each of whom has an ownership interest in the real es-
 42 tate, if the ownership interest is by survivorship, tenancy in common or tenancy by the entirety.

43 (2) A nonlicensed individual who acts as attorney in fact under a duly executed power of at-
 44 torney from the owner or purchaser authorizing the supervision of the closing of or supervision of
 45 the performance of a contract for the sale, leasing or exchanging of real estate if the power of at-

1 torney was executed prior to July 1, 2002, in compliance with the requirements of law at the time
 2 of execution or if:

3 (a) The power of attorney is recorded in the office of the recording officer for the county in
 4 which the real estate is located;

5 (b) The power of attorney specifically describes the real estate; and

6 (c) The **nonlicensed** individual does not use the power of attorney as a device to engage in
 7 professional real estate activity without obtaining the necessary real estate license.

8 (3) A nonlicensed individual who acts as attorney in fact under a duly executed power of at-
 9 torney in which the authorized agent is the spouse of the principal, or the child, grandchild, parent,
 10 grandparent, sibling, aunt, uncle, niece or nephew of the principal or of the spouse of the principal,
 11 authorizing real estate activity if the power of attorney is recorded in the office of the recording
 12 officer for the county in which the real estate to be sold, leased or exchanged is located.

13 (4) A nonlicensed individual who is an attorney at law rendering services in the performance
 14 of duties as an attorney at law.

15 (5) A nonlicensed individual who acts in the **nonlicensed** individual's official capacity as a re-
 16 ceiver, a conservator, a trustee in bankruptcy, a personal representative or a trustee, or a regular
 17 salaried employee of the trustee, acting under a trust agreement, deed of trust or will.

18 (6) A nonlicensed individual who performs an act of professional real estate activity under order
 19 of a court.

20 (7) A nonlicensed individual who is a regular full-time employee of a single corporation, part-
 21 nership, association, limited liability company or nonlicensed individual owner of real property act-
 22 ing for the corporation, partnership, association, limited liability company or nonlicensed individual
 23 owner in the rental or management of the real property, but not in the sale, exchange, lease option
 24 or purchase of the real property.

25 (8) [An] **A nonlicensed** individual who is a registered professional engineer or architect ren-
 26 dering services in performance of duties as a professional engineer or architect.

27 (9) A nonlicensed individual who is employed by a principal real estate broker engaged in the
 28 management of rental real estate or by a licensed real estate property manager and who acts on
 29 behalf of the principal real estate broker or licensed real estate property manager pursuant to a
 30 written delegation of the principal real estate broker's or licensed real estate property manager's
 31 authority, as provided by the agency by rule, if the real estate activity of the nonlicensed individual
 32 is limited to:

33 (a) Negotiating rental or lease agreements;

34 (b) Checking tenant and credit references;

35 (c) Physically maintaining the real estate;

36 (d) Conducting tenant relations;

37 (e) Collecting the rent;

38 (f) Supervising the premises' managers;

39 (g) Discussing financial matters relating to the management of the real estate with the owner;
 40 and

41 (h) Receiving and disbursing trust funds in a clients' trust account under ORS 696.241.

42 (10) [An] **A nonlicensed** individual who sells or leases cemetery lots, parcels or units while
 43 engaged in the disposition of human bodies under ORS 97.010 to 97.040, 97.110 to 97.450, 97.510 to
 44 97.730, 97.810 to 97.920 and 97.990 or an employee of the nonlicensed individual performing similar
 45 activities.

1 (11) [An] **A nonlicensed** individual who is a salaried employee of the State of Oregon, or any
2 of its political subdivisions, engaging in professional real estate activity as a part of such employ-
3 ment.

4 (12) A nonlicensed individual who analyzes or provides advice regarding permissible land use
5 alternatives, environmental impact, building and use permit procedures, **development alternatives**
6 or demographic market studies **or who performs development management**, or a regular full-time
7 employee of the nonlicensed individual performing similar activities. This exclusion does not apply
8 to **marketing, procuring prospects, leasing or** the handling of transactional negotiations for
9 transfer of an interest in real estate.

10 (13) [An] **A nonlicensed** individual who is a hotelkeeper or innkeeper as defined by ORS 699.005
11 arranging the rental of transient lodging at a hotel or inn in the course of business as a hotelkeeper
12 or innkeeper.

13 (14) [An] **A nonlicensed** individual who is a travel agent arranging the rental of transient
14 lodging at a hotel or inn as defined in ORS 699.005 in the course of business as a travel agent for
15 compensation. For the purpose of this subsection, “travel agent” means a person, and employees of
16 the person, regularly representing and selling travel services to the public directly or [*indirectly*]
17 through other travel agents.

18 (15) [An] **A nonlicensed** individual who is a common carrier arranging the rental of transient
19 lodging at a hotel or inn as defined in ORS 699.005 in the course of business as a common carrier.
20 For the purpose of this subsection, “common carrier” means a person that transports or purports
21 to be willing to transport individuals from place to place by rail, motor vehicle, boat or aircraft for
22 hire, compensation or consideration.

23 (16) [An] **A nonlicensed** individual who is a hotel representative arranging the rental of tran-
24 sient lodging at a hotel or inn as defined in ORS 699.005 in the course of business as a hotel rep-
25 resentative. For the purpose of this subsection, “hotel representative” means a person that provides
26 reservations or sale services to independent hotels, airlines, steamship companies and government
27 tourist agencies.

28 (17) A nonlicensed individual transferring or acquiring an interest in real estate owned or to
29 be owned by the **nonlicensed** individual.

30 (18) [An] **A nonlicensed** individual who is a general partner for a domestic or foreign limited
31 partnership duly registered and operating within this state under ORS chapter 70 engaging in the
32 sale of limited partnership interests and the acquisition, sale, exchange, lease, transfer or manage-
33 ment of the real estate of the limited partnership.

34 (19) [An] **A nonlicensed** individual who is a membership camping contract broker or salesperson
35 registered with the Real Estate Agency selling membership camping contracts.

36 (20) [An] **A nonlicensed** individual who is a professional forester or farm manager engaging in
37 property management activity on forestland or farmland when the activity is incidental to the non-
38 real estate duties involving overall management of forest or farm resources.

39 (21) [An] **A nonlicensed** individual who is a registered investment adviser under the Investment
40 Advisers Act of 1940, 15 U.S.C. §80b-1 et seq., rendering real estate investment services for the office
41 of the State Treasurer or the Oregon Investment Council.

42 (22) A nonlicensed individual who refers a new tenant for compensation to a real estate licensee
43 acting as the property manager for a residential building or facility while the **nonlicensed** individ-
44 ual resides in the building or facility or within six months after termination of the **nonlicensed**
45 individual’s tenancy.

1 (23) A nonlicensed individual who gives an opinion in an administrative or judicial proceeding
 2 regarding the value of real estate for taxation or representing a taxpayer under ORS 305.230 or
 3 309.100.

4 (24) A nonlicensed individual acting as a paid fiduciary whose real estate activity is limited to
 5 negotiating a contract to obtain the services of a real estate licensee.

6 (25) A nonlicensed individual who is **acting as** a fiduciary under a court order, without regard
 7 to whether the court order specifically authorizes real estate activity.

8 (26) [An] **A nonlicensed** individual who is a representative of a financial institution or trust
 9 company, as those terms are defined in ORS 706.008, that is attorney in fact under a duly executed
 10 power of attorney from the owner or purchaser authorizing real estate activity, if the power of at-
 11 torney is recorded in the office of the county clerk for the county in which the real estate to be sold,
 12 leased or exchanged is located.

13 (27) [An] **A nonlicensed** individual who is [*the sole*] **a member** [*or a managing member*] of a do-
 14 mestic or foreign limited liability company duly registered and operating within this state under
 15 ORS chapter 63 and who is engaging in the acquisition, sale, exchange, lease, transfer or manage-
 16 ment of the real estate of the limited liability company **if:**

17 (a) **The limited liability company is member-managed; or**

18 (b) **The limited liability company is manager-managed, and the nonlicensed individual is**
 19 **a manager.**

20 (28) [An] **A nonlicensed** individual who is a partner in a partnership as defined in ORS 67.005
 21 and who is engaging in the acquisition, sale, exchange, lease, transfer or management of the real
 22 estate of the partnership.

23 (29) [An] **A nonlicensed** individual who is an officer or director of a domestic or foreign cor-
 24 poration duly registered and operating within this state under ORS chapter 60 and who is engaging
 25 in the acquisition, sale, exchange, lease, transfer or management of the real estate of the corpo-
 26 ration.

27 **SECTION 7. An individual listed in ORS 696.030 may not make a demand for the com-**
 28 **penetration of a real estate licensee under ORS 696.290.**

29 **SECTION 8.** ORS 696.125 is amended to read:

30 696.125. (1) The Real Estate Commissioner may issue a limited license to an applicant for a li-
 31 cense as a real estate broker, principal real estate broker or real estate property manager if the
 32 commissioner determines that the issuance is in the public interest. The commissioner may limit a
 33 license issued under this section:

34 (a) By term;

35 (b) To acts subject to the supervision of a specific principal real estate broker;

36 (c) By conditions to be observed in the exercise and the privileges granted; or

37 (d) In other ways determined by the commissioner as necessary or appropriate to protect the
 38 public.

39 (2) A limited license issued under this section [*does not confer any property right in the privileges*
 40 *to be exercised under the license, and the holder of a limited license does not have the right to renewal*
 41 *of the limited license.*] **may be renewed as provided by the commissioner by rule.** A limited li-
 42 cense may be suspended or revoked, or the real estate licensee may be reprimanded, by the com-
 43 missioner on the grounds set out in ORS 696.301 or for failure to comply with the limitations of the
 44 license.

45 **SECTION 9.** ORS 696.130 is amended to read:

1 696.130. (1)(a) If the license of a real estate broker or principal real estate broker is revoked
 2 by the Real Estate Commissioner on grounds related to professional real estate activity other than
 3 the management of rental real estate, the commissioner may not issue a new license until the indi-
 4 vidual complies with the provisions of ORS 696.010 to 696.495, 696.600 to 696.785 and 696.800 to
 5 696.870.

6 (b) If the license of a licensed real estate property manager is revoked by the commissioner, or
 7 if the license of a real estate broker or principal real estate broker is revoked by the commissioner,
 8 on grounds related to the management of rental real estate, the commissioner may not issue a new
 9 license until the individual complies with the provisions of ORS 696.010 to 696.495, 696.600 to 696.785
 10 and 696.890.

11 (2) Notwithstanding subsection (1) of this section, the commissioner may issue the individual a
 12 limited license if, in the discretion of the commissioner, it is in the public interest to do so. The
 13 commissioner may limit a license issued under this subsection:

14 (a) By term;

15 (b) To acts subject to the supervision of a specific principal real estate broker; or

16 (c) By conditions to be observed in the exercise and the privileges granted.

17 (3) A limited license issued under this section *[does not confer any property right in the privileges*
 18 *to be exercised thereunder, and the holder of a limited license does not have the right to renewal of*
 19 *such license]* **may be renewed as provided by the commissioner by rule.** A limited license may
 20 be suspended or revoked, or the licensee may be reprimanded, by the commissioner on the grounds
 21 set out in ORS 696.301.

22 **SECTION 10.** ORS 696.174 is amended to read:

23 696.174. (1) To renew an active license, a real estate licensee must complete 30 hours of real
 24 estate continuing education courses that are eligible for credit under ORS 696.182 during the two
 25 years preceding the renewal. The 30 hours must include:

26 (a) At least three hours in a course on recent changes in real estate rule and law approved by
 27 the Real Estate Board; and

28 (b)(A) If the real estate broker is renewing an active license for the first time, an advanced
 29 course in real estate practices approved by the Real Estate Agency; or

30 (B) If a licensed real estate property manager is renewing an active license for the first time,
 31 an advanced course in property management practices approved by the agency.

32 (2) The agency, in consultation with real estate professionals and educators, shall develop a
 33 *[form]* **reporting format** to ensure that a **real estate** licensee has completed the number of hours
 34 required by subsection (1) of this section. *[A completed form must contain]* **The reporting format**
 35 **must include:**

36 (a) The date, name and length of time of each course attended;

37 (b) The name of the real estate continuing education provider that offered the course;

38 (c) The name of the instructor who taught the course; and

39 (d) Any other information that the agency requires by rule.

40 (3) The agency may waive any portion of the requirements of this section for a **real estate**
 41 licensee who submits satisfactory evidence that poor health or other circumstances beyond the **real**
 42 **estate** licensee's control prevented the **real estate** licensee from attending part or all of the con-
 43 tinuing education courses required by subsection (1) of this section.

44 **SECTION 11.** ORS 696.182 is amended to read:

45 696.182. (1) The Real Estate Agency, with advice from real estate professionals and educators,

1 shall [*prescribe rules for certifying*] **establish by rule a system for certification and renewal of**
 2 real estate continuing education providers.

3 (2) The agency shall include in the rules that an applicant for certification under this section
 4 must be:

5 (a) A main **office** or branch office, with a registered business name as provided under ORS
 6 696.026, of a licensed real estate property manager or principal real estate broker;

7 (b) A licensed title or escrow company conducting business in this state;

8 (c) A real estate trade association or a trade association in a related field;

9 (d) A real estate multiple listing service;

10 (e) An attorney [*admitted to practice in this state*] **who is an active member of the Oregon**
 11 **State Bar;**

12 (f) **A law firm, in which at least one of the attorneys associated with the law firm is an**
 13 **active member of the Oregon State Bar;**

14 [*f*] (g) A private career school licensed by the Higher Education Coordinating Commission and
 15 approved by the agency to provide the basic real estate broker's or property manager's educational
 16 courses required under ORS 696.022;

17 [*g*] (h) An accredited community college, an accredited public university listed in ORS 352.002
 18 or a private and independent institution of higher education as defined in ORS 350.635;

19 [*h*] (i) A distance learning provider as provided by rule of the agency; or

20 [*i*] (j) Another provider approved by the Real Estate Board.

21 (3) The Real Estate Agency may provide continuing education without being certified under this
 22 section.

23 (4) The agency, in consultation with real estate professionals and educators, shall provide by
 24 rule:

25 (a) A broad list of course topics that are eligible for continuing education credit required by
 26 ORS 696.174; and

27 (b) Learning objectives for each course topic.

28 (5) The list of course topics developed by the agency under subsection (4) of this section must
 29 allow for changes in the real estate profession.

30 (6) The minimum length of each course is one hour. A continuing education provider or course
 31 instructor may allow a break of no more than 10 minutes for each hour of instruction.

32 **SECTION 12.** ORS 696.200 is amended to read:

33 696.200. (1) A licensed real estate property manager or principal real estate broker shall:

34 (a) Establish and maintain in this state a place of business designated as the real estate
 35 licensee's main office;

36 (b) Register the main office with the Real Estate Agency under a registered business name as
 37 provided in ORS 696.026 [*or under the real estate licensee's licensed name*];

38 (c) Designate the main office by a sign that contains the name under which the real estate
 39 licensee conducts professional real estate activity as provided in ORS 696.026; and

40 (d) Before changing a main office location, notify the agency of the new location on a form ap-
 41 proved by the agency.

42 (2) The change of a business location without notification to the agency as required by sub-
 43 sections (1) and (5) of this section is grounds for revocation of a real estate license.

44 (3) The place of business of a **principal** real estate [*licensee*] **broker or licensed real estate**
 45 **property manager** must be specified in the application for a [*real estate license and stated on the*

1 *licensee*] **registered business name or branch office.**

2 (4) A principal real estate broker or licensed real estate property manager may:

3 (a) Establish and maintain one or more branch offices as separate business locations under the
4 control and supervision of a licensed real estate property manager or principal real estate broker;
5 and

6 (b) Conduct and supervise the professional real estate activity of more than one office, whether
7 a main office or a branch office.

8 (5) A licensed real estate property manager or principal real estate broker shall:

9 (a) Register each branch office with the agency under a registered business name as provided
10 in ORS 696.026 [*or the real estate licensee's licensed name*];

11 (b) Designate each branch office by a sign that contains the name under which the real estate
12 licensee conducts professional real estate activity as provided in ORS 696.026; and

13 (c) Before changing a branch office location, notify the agency of the new location on a form
14 approved by the agency.

15 (6) Upon vacating a main **office** or branch office location, the licensed real estate property
16 manager or principal real estate broker shall ensure that the sign containing [*the real estate*
17 *licensee's name or*] the registered business name is removed from the location.

18 (7) A licensed real estate property manager or principal real estate broker may not display any
19 name at a main **office** or branch office other than the **registered business** name under which the
20 real estate licensee conducts professional real estate activity.

21 **SECTION 13.** ORS 696.205 is amended to read:

22 696.205. (1) If a real estate licensee who is the sole principal real estate broker **or sole licensed**
23 **real estate property manager** of a [*real estate*] **registered business name** dies or becomes inca-
24 pacitated, the Real Estate Commissioner may issue a temporary license to the executor, adminis-
25 trator or personal representative of the estate of the deceased real estate licensee or to the
26 court-appointed fiduciary of the incapacitated real estate licensee, or to some other individual des-
27 ignated by the commissioner[, *in order to continue to transact the real estate business in the case of*
28 *the incapacitated real estate licensee or to wind up the affairs of the deceased or incapacitated real*
29 *estate licensee*]. **The commissioner shall determine whether the temporary licensee may con-**
30 **tinue to conduct the professional real estate activity of the real estate licensee or may wind**
31 **up the affairs of the real estate licensee.** The term of a temporary license issued under this sec-
32 tion may not exceed one year from the date of issuance unless the commissioner, in the discretion
33 of the commissioner, extends the term of the temporary license based on sufficient cause provided
34 by the temporary licensee to the commissioner.

35 (2) The Real Estate Agency may adopt administrative rules to administer this section or to au-
36 thorize an individual to [*transact*] **conduct** or wind up [*real estate business*] **the professional real**
37 **estate activity** on behalf of the deceased or incapacitated [*real estate licensee*] **principal real estate**
38 **broker or licensed real estate property manager.**

39 **SECTION 14.** ORS 696.232 is amended to read:

40 696.232. (1) [*An employee or officer of the Real Estate Agency licensed as a real estate licensee*
41 *under this chapter shall return the employee's or officer's license to the agency at the time of com-*
42 *mencing employment. The agency shall hold the license as an active license held in suspense.*] **The li-**
43 **cence status of a real estate licensee employed by the Real Estate Agency shall be placed on**
44 **hold at the time that the real estate licensee commences employment with the agency.** At
45 the termination of [*an employee's or officer's*] **the** employment, the license may be returned to the

1 **real estate** licensee as an active or inactive license. The agency shall activate a license [*held in*
2 *suspense*] **placed on hold** without payment of further fee, and the license expires on the date on
3 which it would have expired if the license had not been [*held in suspense*] **placed on hold**.

4 **(2) During the time of employment at the agency, the employee may not conduct pro-**
5 **fessional real estate activity.**

6 [(2)] **(3)** Except as stated in subsection (1) of this section, the [*return of the license to the licensee*
7 *and all renewals are*] **real estate licensee is** subject to the provisions of ORS 696.010 to 696.495,
8 696.600 to 696.785, 696.800 to 696.870 and 696.995.

9 **SECTION 15.** ORS 696.241 is amended to read:

10 696.241. (1) As used in this section, “trust funds” means money belonging to others that is re-
11 ceived or handled by a licensed real estate property manager or principal real estate broker in the
12 course of conducting professional real estate activity and in the real estate licensee’s fiduciary ca-
13 pacity.

14 (2) A licensed real estate property manager, or a principal real estate broker who engages in
15 the management of rental real estate, shall open and maintain in this state one or more separate
16 federally insured bank accounts that are designated clients’ trust accounts under ORS 696.245. A
17 principal real estate broker who engages in the management of rental real estate or a licensed real
18 estate property manager shall deposit in a [*client’s*] **clients’** trust account all trust funds received
19 or handled by the principal real estate broker, licensed real estate property manager or real estate
20 licensees subject to the supervision of the principal real estate broker.

21 (3)(a) A principal real estate broker who receives or handles trust funds and does not deposit
22 the trust funds in a licensed neutral escrow depository as described in paragraph (b) of this sub-
23 section shall open and maintain in this state one or more separate federally insured bank accounts
24 that are designated clients’ trust accounts under ORS 696.245. Pursuant to written agreement of all
25 parties to a real estate transaction having an interest in the trust funds, the principal real estate
26 broker shall immediately place the trust funds in a clients’ trust account.

27 (b) A principal real estate broker may deposit trust funds in a licensed neutral escrow deposi-
28 tory in this state.

29 [(4) *Within 10 business days after the date a clients’ trust account is opened, a licensed real estate*
30 *property manager or principal real estate broker shall file with the Real Estate Agency, on forms ap-*
31 *proved by the agency, the following information about the clients’ trust account:*]

32 [(a) *The name of the bank;*]

33 [(b) *The account number;*]

34 [(c) *The name of the account;*]

35 [(d) *The date the account was opened; and*]

36 [(e) *A statement by the licensed real estate property manager or principal real estate broker au-*
37 *thorizing the Real Estate Commissioner or the commissioner’s representative to examine the clients’*
38 *trust account at such times as the commissioner may direct.*]

39 [(5)] **(4)** A principal real estate broker or licensed real estate property manager who opens a
40 clients’ trust account under subsection (2) or (3) of this section, or to whom ownership of a clients’
41 trust account is transferred [*under subsection (6) of this section*], is liable for all deposits and dis-
42 bursements made using the clients’ trust account until the principal real estate broker or licensed
43 real estate property manager closes the account or transfers ownership of the account.

44 [(6) *A licensed real estate property manager or principal real estate broker who closes a clients’*
45 *trust account, or to whom ownership of a client’s trust account is transferred as authorized by the*

1 agency by rule, shall notify the agency, within 10 business days after the date the account is closed or
2 transferred, on a form approved by the agency.]

3 **(5) A principal real estate broker or licensed real estate property manager may not**
4 **commingle any other funds with the trust funds held in a clients' trust account, except for:**

5 [(7)] (a) [Except for] Earned interest on a clients' trust account as provided in subsections [(9)
6 and (10)] (7) and (8) of this section[, a licensed real estate property manager or principal real estate
7 broker may not commingle any other funds with the trust funds held in a clients' trust account.]; and

8 **(b) Earned compensation as provided in subsection (9) of this section.**

9 [(8)] (6) If a licensed real estate property manager or principal real estate broker maintains a
10 separate clients' trust account in a branch office, a separate bookkeeping system must be maintained
11 in the branch office and a copy of the records required under ORS 696.280 must be maintained in
12 the main office of the licensed real estate property manager or principal real estate broker.

13 [(9)] (7) Trust funds received by a licensed real estate property manager or principal real estate
14 broker may be deposited by the licensed real estate property manager or principal real estate broker
15 in a federally insured interest-bearing bank account that is designated a clients' trust account under
16 ORS 696.245, but only with the prior written approval of all parties [having] **who have** an interest
17 in the trust funds. The earnings of the interest-bearing account [do not] inure to the benefit of the
18 licensed real estate property manager or principal real estate broker [unless] **only if** expressly ap-
19 proved in writing by all parties [having] **who have** an interest in the trust funds before deposit of
20 the trust funds.

21 [(10)] (8) With prior written notice to all parties who have an interest in the trust funds, a
22 principal real estate broker may place trust funds received by the principal real estate broker in a
23 real estate sales, purchase or exchange transaction in a federally insured interest-bearing bank ac-
24 count that is designated a clients' trust account under ORS 696.245, the earnings of which inure to
25 the benefit of a public benefit corporation, as defined in ORS 65.001, for distribution to organizations
26 and individuals for first-time homebuying assistance and for development of affordable housing. The
27 principal real estate broker shall select a qualified public benefit corporation to receive the interest
28 earnings.

29 [(11)] (9) In connection with a real estate sales, purchase or exchange transaction, a principal
30 real estate broker is not entitled to any part of any interest earnings on trust funds deposited under
31 subsection [(9)] (7) of this section or to any part of the earnest money or other money paid to the
32 principal real estate broker as part or all of the principal real estate broker's compensation until
33 the transaction has been completed or terminated. The principal real estate broker and the seller
34 shall negotiate and agree in writing to the disposition of forfeited earnest money at the time of ex-
35 ecution by the seller of any listing agreement or earnest money agreement. An agreement about the
36 disposition of forfeited earnest money must be initialed by the seller or immediately precede the
37 seller's signature.

38 [(12)] (10) Trust funds in a clients' trust account are not subject to execution or attachment on
39 any claim against a licensed real estate property manager or principal real estate broker.

40 [(13)] (11) The **Real Estate** Agency by rule shall establish an optional procedure by which a
41 principal real estate broker may elect to disburse disputed funds held in relation to the sale, ex-
42 change or purchase of real estate from a clients' trust account to the person who delivered the funds
43 to the principal real estate broker. The procedure must allow disbursal not more than 20 days after
44 a request is made for the disbursal. A disbursal pursuant to the procedure does not affect the claim
45 of any other person to the funds.

1 [(14)] (12) The agency may provide by rule for other records to be maintained and for the man-
 2 ner in which trust funds are deposited, held and disbursed. **The rules adopted under this sub-**
 3 **section may include requirements for interest or compensation held in a clients' trust**
 4 **account pursuant to subsection (5) of this section to be disbursed from the clients' trust**
 5 **account to a licensed real estate property manager or principal real estate broker.**

6 (13) **A real estate licensee who, for the purpose of transmitting a check, receives the**
 7 **check from a buyer or tenant that is payable to a property owner or seller is exempt from**
 8 **the deposit requirements of subsections (2) and (3) of this section. The agency may deter-**
 9 **mine by rule the records that must be maintained for checks received as described in this**
 10 **subsection and the manner in which the checks must be transmitted.**

11 **SECTION 16.** ORS 696.243 is amended to read:

12 696.243. (1) Any [*real estate broker,*] principal real estate broker, **licensed** real estate property
 13 manager or escrow agent who is required by the Real Estate Commissioner to maintain the canceled
 14 checks used to disburse moneys from the **real estate** licensee's clients' trust account may substitute
 15 a copy of the original canceled check, if the copy is provided by a bank and is produced by optical
 16 imaging or other process that accurately reproduces the original or forms a durable medium for
 17 reproducing the original, and the copy is at least 300 dots per inch in quality.

18 (2) A [*real estate broker,*] principal real estate broker, **licensed** real estate property manager or
 19 escrow agent may use electronic fund transfers for the deposit into or for withdrawal from a clients'
 20 trust account established under ORS 696.241 or 696.578, if the bank [*furnishes*] **provides** to the **real**
 21 **estate** licensee an accurate paper record of the deposits and withdrawals.

22 (3) As used in subsection (2) of this section, "electronic fund transfer" has the meaning set forth
 23 in section 903 of the Electronic Transfer Act (P.L. 90-321, 15 U.S.C. §1693a).

24 **SECTION 17.** ORS 696.245 is amended to read:

25 696.245. (1) Each licensed real estate property manager and principal real estate broker, at the
 26 time a clients' trust account is opened as required under ORS 696.241, shall provide the bank in
 27 which the account is opened with a notice, acknowledged by the real estate licensee and the bank,
 28 in substantially the following form:

30
 31 **NOTICE OF CLIENTS' TRUST ACCOUNT AND AUTHORIZATION TO EXAMINE**

32
 33 To: _____ (name of bank)

34 Under the Oregon Real Estate License Law, I, _____ (licensed name), am a li-
 35 censed real estate property manager or **licensed** principal real estate broker for
 36 _____ ([*licensed name of principal real estate broker or real estate property manager,*
 37 *or a*] **registered** business name [*registered*] under ORS 696.026).

38 Under ORS 696.241, I am required to maintain in Oregon a clients' trust account for the purpose
 39 of holding funds belonging to others received in the course of conducting professional real estate
 40 activity.

41 [*The*] **An** account[(s)] numbered _____ in the name[(s)] of _____
 42 is[/are] hereby designated as a clients' trust account and the account[(s)] is[/are] maintained with
 43 you as a depository for money belonging to persons other than myself and in my fiduciary capacity
 44 as a licensed real estate property manager or **licensed** principal real estate broker established by
 45 client agreements in separate documents.

I hereby authorize you to furnish information requested by the Real Estate Commissioner and/or authorized representative concerning the account listed above as required by ORS 696.245.

Dated: _____ (insert date)

(signature of real estate licensee)

ACKNOWLEDGMENT OF RECEIPT

I, _____, a duly authorized representative of _____ (bank), do hereby acknowledge receipt of the above NOTICE OF CLIENTS' TRUST ACCOUNT AND AUTHORIZATION TO EXAMINE on _____ (date).

(signature)

(title)

(2) Within 10 business days from the date a clients' trust account is opened, a licensed real estate property manager or principal real estate broker shall notify the Real Estate Agency that the account has been opened. The notice must include information about the clients' trust account, including but not limited to:

- (a) The name of the bank where the account is located;
- (b) The account number;
- (c) The name of the account;
- (d) The date the account was opened; and
- (e) An acknowledged copy of the notice described in subsection (1) of this section.

(3) Within 10 business days from the date a clients' trust account is closed or transferred, a licensed real estate property manager or principal real estate broker shall notify the agency that the account has been closed or transferred and shall include in the notice the date on which the account was closed or transferred.

(4) Notification to the agency under subsections (2) and (3) of this section must be made in the manner established by the agency by rule.

[(2)] (5) The [real estate licensee] principal real estate broker or licensed real estate property manager shall retain the acknowledged copy of the notice described in subsection (1) of this section for at least six years following the closing of the account as provided in ORS 696.280.

SECTION 18. ORS 696.280 is amended to read:

696.280. (1) A licensed real estate property manager or principal real estate broker shall maintain within this state, except as provided in subsection (6) of this section, complete and adequate records of all professional real estate activity conducted by or through the licensed real estate property manager or principal real estate broker. The Real Estate Agency shall specify by rule the records required to establish complete and adequate records of a licensed real estate property manager's or principal real estate broker's professional real estate activity. The only documents the agency may require by rule a licensed real estate property manager or principal real estate broker

1 to use or generate are documents that are otherwise required by law or are voluntarily generated
2 in the course of conducting professional real estate activity.

3 (2) A real estate licensee shall maintain records of the licensee's attendance in continuing edu-
4 cation courses for a period of at least three years. The records of attendance must meet the re-
5 quirements of ORS 696.174.

6 (3) Records maintained under this section must at all times be open for inspection by the Real
7 Estate Commissioner or the commissioner's authorized representatives.

8 (4) Except as provided in subsection (2) of this section, records under this section must be
9 maintained by the real estate licensee for a period of not less than six years after the following date:

10 (a) For a notice of clients' trust account **and authorization to examine** under ORS 696.245, the
11 date the account was closed;

12 (b) For real estate transactions, the date a transaction closed or failed, whichever is later;

13 (c) For management of rental real estate, the date on which the record expired, was superseded
14 or terminated, or otherwise ceased to be in effect; and

15 (d) For all other records, the date the record was created or received, whichever is later.

16 (5) Records under this section may be maintained in any format that allows for inspection and
17 copying by the commissioner or the commissioner's representatives, as prescribed by rule of the
18 agency.

19 (6) The agency may prescribe by rule terms and conditions under which a licensed real estate
20 property manager or principal real estate broker may maintain records outside this state.

21 **SECTION 19.** ORS 696.290 is amended to read:

22 696.290. (1)(a) Except as provided in paragraph (b) of this subsection, a real estate licensee may
23 not offer, promise, allow, give, pay or rebate, directly or indirectly, any part or share of the
24 licensee's compensation arising or accruing from any real estate transaction or pay a finder's fee
25 to any person who is not a real estate licensee licensed under ORS 696.022, **including a nonli-**
26 **censed individual described in ORS 696.030.**

27 (b) A [*real estate broker or*] principal real estate broker may pay a finder's fee or a share of the
28 **real estate** licensee's compensation on a cooperative sale when the payment is made to a licensed
29 real estate broker in another state or country, provided that:

30 (A) The state or country in which the nonresident real estate broker is licensed has a law per-
31 mitting real estate brokers to cooperate with [*real estate brokers or*] principal real estate brokers in
32 this state; and

33 (B) The nonresident real estate broker does not conduct in this state any acts constituting
34 professional real estate activity and for which compensation is paid. If a country does not license
35 real estate brokers, the payee must be a citizen or resident of the country and represent that the
36 payee is in the business of real estate brokerage in the other country.

37 (2) A real estate broker associated with a principal real estate broker may not accept compen-
38 sation from any person other than the principal real estate broker with whom the real estate broker
39 is associated at the time.

40 (3) A principal real estate broker may not make payment to the real estate broker of another
41 principal real estate broker except through the principal real estate broker with whom the real es-
42 tate broker is associated.

43 (4) **Notwithstanding ORS 696.010 to 696.495, 696.600 to 696.785 and 696.800 to 696.870, a**
44 **principal real estate broker or a real estate broker associated with a principal real estate**
45 **broker may create a corporation, limited liability company, limited liability partnership or**

1 **other lawfully constituted business organization for the purpose of receiving compensation.**
 2 **The real estate licensee may not conduct professional real estate activity under a business**
 3 **organization created pursuant to this subsection.**

4 [(4)] (5) Nothing in this section prevents payment of compensation earned by a real estate bro-
 5 ker or principal real estate broker while licensed because of the real estate broker's or principal
 6 real estate broker's association with a different principal real estate broker or because of inacti-
 7 vation of the real estate broker's or principal real estate broker's license. **The compensation may**
 8 **be paid directly to the real estate licensee by the principal real estate broker with whom the**
 9 **real estate licensee was associated at the time the professional real estate activity for which**
 10 **the compensation was earned was conducted.**

11 [(5)] (6) Nothing in subsection (1) of this section prohibits a [*real estate licensee*] **principal real**
 12 **estate broker or licensed real estate property manager** who has a property management agree-
 13 ment with the owner of a residential building or facility from authorizing the payment of a referral
 14 fee, rent credit or other compensation to an existing tenant of the owner or **real estate** licensee,
 15 or a former tenant if the former tenant resided in the building or facility within the previous six
 16 months, as compensation for referring new tenants to the **real estate** licensee.

17 [(6)] (7)(a) Nothing in subsection (1) of this section prevents an Oregon [*real estate broker or*]
 18 principal real estate broker from sharing compensation on a cooperative nonresidential real estate
 19 transaction with a person who holds an active real estate license in another state or country, pro-
 20 vided:

21 (A) Before the out-of-state real estate licensee performs any act in this state that constitutes
 22 professional real estate activity, the **real estate** licensee and the cooperating Oregon [*real estate*
 23 *broker or*] principal real estate broker agree in writing that the acts constituting professional real
 24 estate activity conducted in this state will be under the supervision and control of the cooperating
 25 Oregon **principal real estate** broker and will comply with all applicable Oregon laws;

26 (B) The cooperating Oregon [*real estate broker or*] principal real estate broker **or a real estate**
 27 **broker associated with the principal real estate broker** accompanies the out-of-state real estate
 28 licensee and the client during any property showings or negotiations conducted in this state; and

29 (C) All property showings and negotiations regarding nonresidential real estate located in this
 30 state are conducted under the supervision and control of the cooperating Oregon [*real estate broker*
 31 *or*] principal real estate broker.

32 (b) As used in this subsection, "nonresidential real estate" means real property that is improved
 33 or available for improvement by commercial structures or five or more residential dwelling units.

34 **SECTION 20.** ORS 696.301 is amended to read:

35 696.301. Subject to ORS 696.396, the Real Estate Commissioner may suspend or revoke the real
 36 estate license of any real estate licensee, reprimand any **real estate** licensee or deny the issuance
 37 or renewal of a license to an applicant who has [*done any of the following*]:

38 (1) Created a reasonable probability of damage or injury to a person by making one or more
 39 material misrepresentations or false promises in a matter related to professional real estate activity.

40 (2) Represented, attempted to represent or accepted compensation from a principal real estate
 41 broker other than the principal real estate broker with whom the real estate broker is associated.

42 (3) Disregarded or violated any provision of ORS 659A.421, 696.010 to 696.495, 696.600 to 696.785
 43 [*and*], 696.800 to 696.870 **and 696.890** or any rule of the Real Estate Agency.

44 (4) Knowingly or recklessly published materially misleading or untruthful advertising.

45 (5) Acted as an agent and an undisclosed principal in any transaction.

1 (6) Intentionally interfered with the contractual relations of others concerning real estate or
 2 professional real estate activity.

3 (7) Intentionally interfered with the exclusive representation or exclusive brokerage relationship
 4 of another **real estate** licensee.

5 (8) Accepted employment or compensation for the preparation of a competitive market analysis
 6 or letter opinion that is contingent upon reporting a predetermined value or for real estate in which
 7 the **real estate** licensee had an undisclosed interest.

8 (9) Represented a taxpayer as described in ORS 305.230 or 309.100, contingent upon reporting
 9 a predetermined value or for real estate in which the **real estate** licensee had an undisclosed in-
 10 terest.

11 (10) Failed to ensure, in any real estate transaction in which the **real estate** licensee performed
 12 the closing, that the buyer and seller received a complete detailed closing statement showing the
 13 amount and purpose of all receipts, adjustments and disbursements.

14 (11) Has been convicted of a felony or misdemeanor substantially related to the **real estate**
 15 licensee's trustworthiness or competence to engage in professional real estate activity.

16 (12) Demonstrated incompetence or untrustworthiness in performing any act for which the **real**
 17 **estate** licensee is required to hold a license.

18 (13) Violated a term, condition, restriction or limitation contained in an order issued by the
 19 commissioner.

20 (14) Committed an act of fraud or engaged in dishonest conduct substantially related to the fit-
 21 ness of the applicant or **real estate** licensee to conduct professional real estate activity, without
 22 regard to whether the act or conduct occurred in the course of professional real estate activity.

23 (15) Engaged in any conduct that is below the standard of care for the practice of professional
 24 real estate activity in Oregon as established by the community of individuals engaged in the practice
 25 of professional real estate activity in Oregon.

26 **SECTION 21.** ORS 696.310 is amended to read:

27 696.310. *[(1) If two or more principal real estate brokers are in business together, the brokers may
 28 have equal supervisory control over and shall be equally responsible for the conduct of other principal
 29 real estate brokers or real estate brokers associated with the principal real estate brokers, or other
 30 employees employed by the principal real estate brokers. The principal real estate brokers shall execute
 31 a written agreement between them and establish office policies specifying the supervisory control and
 32 responsibility for each principal real estate broker who is a party to the agreement.]*

33 *[(2) An act constituting a violation of any of the provisions of ORS 696.010 to 696.495, 696.600 to
 34 696.785, 696.800 to 696.870 and 696.995 or of any rule adopted thereunder by any licensee is not cause
 35 for the suspension or revocation of a license of any real estate licensee associated with or engaged by
 36 such licensee, unless it appears to the satisfaction of the Real Estate Commissioner that such associated
 37 or engaged real estate licensee had guilty knowledge of the act. A course of dealing shown to have been
 38 persistently and consistently followed by any real estate licensee shall constitute prima facie evidence
 39 of such knowledge upon the part of any real estate licensee associated with or engaged by that
 40 licensee.]*

41 **(1) If two or more principal real estate brokers are associated with the same registered
 42 business name, the principal real estate brokers shall:**

43 **(a) Execute one or more written supervisory agreements between them that:**

44 **(A) Fully allocate the supervisory control and responsibility for the professional real es-
 45 tate activities of all real estate brokers associated with the registered business name;**

1 (B) Include a default allocation of supervisory control and responsibility for any real es-
 2 tate brokers who associate with the registered business name in the future or who are oth-
 3 erwise omitted from the written supervisory agreement; and

4 (C) Include any supervisory control and responsibility of one principal real estate broker
 5 over another principal real estate broker;

6 (b) Update the written supervisory agreement if the disassociation of a principal real
 7 estate broker occurs that affects the allocation of supervisory control or responsibility; and

8 (c) Share equal supervisory control and responsibility for any professional real estate
 9 activity conducted by real estate brokers associated with the registered business name that
 10 is not otherwise covered by the written supervisory agreement.

11 (2) If a licensed real estate property manager is associated with the same registered
 12 business name as any combination of licensed real estate property managers and principal
 13 real estate brokers, the licensed real estate property managers and principal real estate
 14 brokers shall:

15 (a) Execute one or more written supervisory agreements between them that:

16 (A) Fully allocates supervisory control and responsibility for management of rental real
 17 estate conducted by all principal real estate brokers and licensed real estate property man-
 18 agers associated with the registered business name; and

19 (B) Includes any arrangement for supervisory control and responsibility over the man-
 20 agement of rental real estate conducted by the licensed real estate property managers and
 21 principal real estate brokers;

22 (b) Update the written supervisory agreement if another licensed real estate property
 23 manager or principal real estate broker associates with the registered business name; and

24 (c) Update the written supervisory agreement if the disassociation of a licensed real es-
 25 tate property manager or principal real estate broker occurs that affects the allocation of
 26 supervisory control or responsibility over management of rental real estate.

27 (3) Licensed real estate property managers and principal real estate brokers who do not
 28 exercise administrative or supervisory control over one another are each responsible for
 29 their own management of rental real estate.

30 **SECTION 22.** ORS 696.385 is amended to read:

31 696.385. The Real Estate Agency shall have the power to:

32 (1) Adopt a seal by which it shall authenticate its proceedings.

33 (2) From time to time, [*prepare and cause to be printed and circulated*] **circulate** among the real
 34 estate licensees of Oregon [*such printed matter as it*] **any material that the agency** may deem
 35 helpful or educational or proper for the guidance and welfare of [*such*] **the real estate** licensees.

36 (3) Make and enforce [*any and all such reasonable*] rules as [*shall be deemed*] necessary to ad-
 37 minister and enforce the provisions of, and enforce and discharge the duties defined in, any law with
 38 the administration or enforcement of which the agency is charged.

39 (4) Except as provided in subsection (5) of this section, when the agency proposes to adopt,
 40 amend or repeal a rule concerning real estate licensees, the agency shall:

41 (a) Submit a copy of the proposed rule to the Real Estate Board at least 10 days prior to pub-
 42 lication of the notice of intended action required under ORS 183.335 for the rule.

43 (b) Consider any recommendations that the board, by majority vote, makes concerning the pro-
 44 posed rule.

45 (c) Publish as part of the statement of need in the matters any written comments submitted by

1 the board for publication under paragraph (b) of this subsection.

2 (5) Subsection (4) of this section does not apply to a temporary rule that is adopted, amended
3 or suspended pursuant to ORS 183.335 (5). However, the agency shall submit to the board a copy
4 of any proposed temporary rule as soon as practicable and, to the extent possible under the cir-
5 cumstances, consider any recommendations that the board may make by majority vote regarding the
6 temporary rule.

7 **SECTION 23.** ORS 696.505 is amended to read:

8 696.505. As used in ORS 696.505 to 696.590:

9 (1) **“Business day” means a day other than Saturday or Sunday or a federal or State of**
10 **Oregon legal holiday.**

11 [(1)] (2) “Close an escrow” means the final disbursement of all funds, property and documents
12 in an escrow as directed by written escrow instructions from the principals.

13 [(2)] (3) “Collection escrow” means an escrow in which the escrow agent:

14 (a) Receives:

15 (A) Installment payments;

16 (B) Instruments evidencing or securing an obligation; or

17 (C) Instruments discharging the security interest; and

18 (b) Disburses the payments or delivers the instruments upon specified conditions pursuant to the
19 written instructions of an obligor and obligee.

20 [(3)] (4) “Compensation” means *[a fee, commission, salary, money or]* valuable consideration for
21 services rendered or to be rendered *[as well as the promise thereof and]*, whether contingent or
22 otherwise.

23 [(4)] (5) “Escrow” means a transaction in which any written instrument, money, evidence of title
24 to real or personal property or other thing of value is delivered, for the purpose of paying an obli-
25 gation or effecting the sale, transfer, encumbrance or lease of real or personal property, to a person
26 **who does** not otherwise *[having any]* **have a** right, title or interest *[therein]* **in the real or personal**
27 **property**, to be held by that person as a neutral third party until *[the happening of]* a specified event
28 **happens** or *[the performance of]* a prescribed condition **is performed**, when *[it]* **the written in-**
29 **strument, money, evidence of title or other thing of value** is *[then]* to be delivered by the neu-
30 tral third party to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor or any
31 agent or employee of any of them pursuant to the written instructions of the principals to the
32 transaction.

33 [(5)] (6) “Escrow agent” means a person who engages in the business of receiving escrows for
34 deposit or delivery and who receives or is promised compensation, whether contingent or otherwise,
35 for or in anticipation of performance.

36 [(6)] (7) “Escrow trust account” means a bank account that *[meets all of the following require-*
37 *ments]* **is:**

38 (a) *[Is]* Kept separate, distinct and apart from funds belonging to the escrow agent;

39 (b) *[Is]* Designated as an escrow trust account; and

40 (c) *[Is]* Used to deposit trust funds received by an escrow agent on behalf of a principal.

41 [(7)] (8) “Principal” means:

42 (a) The buyer, seller, lessor, lessee or exchanging party in an escrow transaction involving the
43 sale, lease, lease-option or exchange of real property or personal property;

44 (b) The borrower in an escrow transaction involving the refinancing of real property or personal
45 property, including but not limited to the refinancing of an obligation secured by a land sale con-

1 tract requiring a deed to be delivered as part of the refinancing;

2 (c) The buyer, seller, lender, borrower, vendor or vendee in a collection escrow;

3 (d) A person directing the escrow agent to hold back funds from a closing escrow for payment
4 of obligations related to the closing or the financing of real property or personal property;

5 (e) A person who deposits funds, property or documents in a one-sided escrow, as defined by rule
6 of the Real Estate Commissioner; or

7 (f) A subservicer.

8 [(8)] (9) “Real estate closing escrow” means an escrow in which:

9 (a) The escrow fee is paid in whole or in part by the principals to a real estate transaction; and

10 (b) The unpaid purchase price is delivered to an escrow agent for disbursement pursuant to the
11 written instructions of the principals to the transaction simultaneously on the transfer of specified
12 title to the real property.

13 [(9)] (10) “Subservicer” means an escrow agent, a financial institution or a trust company, as
14 those terms are defined in ORS 706.008, or a collection agency registered under ORS 697.015 when
15 providing, pursuant to written instructions, a portion of the escrow services for an escrow to an
16 escrow agent, or a person in the business of receiving escrows under the laws of another state, that
17 would otherwise provide the escrow services directly to the principals.

18 [(10)] (11) “Trust funds” means funds held by an escrow agent on behalf of a principal.

19 **SECTION 24.** ORS 696.520 is amended to read:

20 696.520. The provisions of ORS 696.505 to 696.590 do not apply to and the term “escrow agent”
21 does not include:

22 (1) Any person doing business under the laws of this state or the United States relating to
23 banks, mutual savings banks, trust companies, savings and loan associations, consumer finance
24 companies, or insurance companies except to the extent that the person provides real estate closing
25 escrow services other than those permitted under subsection (3) of this section.

26 (2) An attorney at law rendering services in the performance of duties as attorney at law.

27 (3) Any firm or corporation lending money on real or personal property and which firm or cor-
28 poration is subject to licensing, supervision or auditing by a federal or state agency but only to the
29 extent of closing a loan transaction between [*such*] **the** firm or corporation and a borrower, and
30 seller, if a fee for escrow services is not charged to the seller.

31 (4) Any person doing any of the acts specified in ORS 696.505 [(4)] (5) under order of any court.

32 (5) Any real estate broker or principal real estate broker licensed under ORS 696.022 who per-
33 forms the closing for the principals in a real estate transaction handled by the broker, if the prin-
34 cipals are not charged a separate fee for escrow services.

35 (6) Any collection agency registered under ORS 697.015 that is engaged in any collection or
36 billing activity without holding documents relating to the debt.

37 **SECTION 25.** ORS 696.582 is amended to read:

38 696.582. (1) An escrow agent shall hold, as provided in subsection (3) of this section, the amount
39 of money or other property agreed to as compensation in a written real estate broker’s or principal
40 real estate broker’s compensation agreement, if the escrow agent has at the office at which the
41 escrow is being closed, before the date of closing:

42 (a) A written notice of compensation, signed by the real estate broker or principal real estate
43 broker who is authorized under rules adopted by the Real Estate Commissioner to enter into the
44 compensation agreement and sign the written notice of compensation, in substantially the form set
45 out in subsection (2) of this section; and

1 (b) The written closing instructions of the principals which do not honor the amount and terms
2 of payment in the notice of compensation.

3 (2) The notice of compensation required by subsection (1) of this section may not be incorpo-
4 rated into any document of agreement between the principals or between the broker and a principal,
5 and [shall] **must** be in substantially the following form:

6 _____
7
8 Notice of
9 Real Estate Compensation
10 To: _____
11 (Name of Escrow Company)
12 Re: _____
13 (Names of Principals to
14 Transaction)
15 Your Escrow Number: _____
16

17 The undersigned real estate broker or principal real estate broker states that such broker has
18 a valid written compensation agreement with _____ (Name of Principal), one of the principals
19 to the transaction referred to above, and that such principal is obligated to pay the broker the
20 compensation on account of that transaction. The compensation amount is \$_____ and is to be
21 paid on the following terms: _____. Request is hereby made that the compensation be paid
22 in that amount and on those terms, out of escrow and as a part of your closing of that transaction.

23 _____
24 (Name and Signature of Real Estate Broker
25 or Principal Real Estate Broker)
26 _____

27
28 (3) An escrow agent in a transaction described in subsection (1) of this section may only dis-
29 burse the moneys or other property to:

30 (a) The **principal real estate** broker and principal, based upon a written agreement between
31 those parties and directed to the escrow agent as disbursement instructions;

32 (b) Any persons, as directed by order of a court of competent jurisdiction; or

33 (c) The court, upon filing by the escrow agent of an interpleader action for the moneys or
34 property.

35 (4) If the filing of a notice of compensation with an escrow agent under subsection (1) of this
36 section is made more than 10 days prior to the scheduled closing date, the real estate broker or
37 principal real estate broker filing the notice shall deliver a copy of the notice to the principal
38 identified in the notice. If the notice is filed within 10 days of the scheduled closing date, [*a copy*
39 *of the notice shall be provided by*] the escrow agent **shall provide a copy of the notice** to the
40 principal identified in the notice at the time of closing.

41 **SECTION 26.** ORS 696.710 is amended to read:

42 696.710. (1) [*An individual engaged in the business of, or acting in the capacity of,*] A real estate
43 broker or principal real estate broker **conducting professional real estate activity** within this
44 state may not bring or maintain any action [*in the courts*] for the collection of compensation without
45 alleging and proving that the individual was a [*licensed broker*] **real estate licensee** when the al-

1 leged cause of action arose.

2 (2) An action [*in the courts*] for collection of compensation **from a client** for [*an individual en-*
3 *gaged in the business of, or acting in the capacity of,*] **professional real estate activity conducted**
4 **by** a real estate broker associated with a principal real estate broker may not be brought or main-
5 tained except by the principal real estate broker with whom the real estate broker was associated
6 when the alleged cause of action arose.

7 **SECTION 27.** ORS 696.800 is amended to read:

8 696.800. As used in ORS 696.392, 696.600 to 696.785, 696.800 to 696.870 and 696.995, unless the
9 context requires otherwise:

10 (1) "Agent" means:

11 (a) A [*real estate broker or*] principal real estate broker who has entered into:

12 (A) A listing agreement with a seller;

13 (B) A service contract with a buyer to represent the buyer; or

14 (C) A disclosed limited agency agreement; or

15 (b) [*An individual licensed under ORS 696.022 who has entered into a written contract with*] A
16 real estate broker [*or*] **associated with a** principal real estate broker to act as the **principal real**
17 **estate** broker's agent in connection with acts requiring a real estate license and to function under
18 the **principal real estate** broker's supervision.

19 (2) "Buyer" means a potential transferee in a real property transaction, and includes a person
20 who:

21 (a) Executes an offer to purchase real property from a seller through an agent; or

22 (b) Enters into an exclusive representation contract or buyer's service agreement with [*a real*
23 *estate broker or principal real estate broker*] **an agent**, whether or not a sale or transfer of property
24 results.

25 (3) "Confidential information" means information communicated to [*a real estate licensee or the*
26 *licensee's*] **an** agent by the buyer or seller of one to four residential units regarding the real property
27 transaction, including but not limited to price, terms, financial qualifications or motivation to buy
28 or sell. "Confidential information" does not mean information that:

29 (a) The buyer instructs the [*licensee or the licensee's*] agent to disclose about the buyer to the
30 seller or the seller instructs the [*licensee or the licensee*] agent to disclose about the seller to the
31 buyer; and

32 (b) The [*licensee or the licensee's*] agent knows or should know failure to disclose would consti-
33 tute fraudulent representation.

34 (4) "Disclosed limited agency" means a real property transaction in which the representation
35 of a buyer and seller or the representation of two or more buyers occurs within the same real estate
36 business.

37 (5) "Listing agreement" means a contract between **an agent and** a seller of real property [*and*
38 *a real estate broker or principal real estate broker by which the broker has been authorized*] **that**
39 **authorizes the agent, in exchange for compensation,** to act [*as an agent*] **on behalf** of the seller
40 [*for compensation to offer*] **in offering** the real property for sale or [*to find and obtain*] **in finding**
41 **and obtaining** a buyer.

42 (6) "Listing price" means the amount expressed in dollars, specified in the listing agreement, for
43 which the seller is willing to sell the real property through the listing agent.

44 (7) "Offer" means a written proposal executed by a buyer for the sale or lease of real property.

45 (8) "Offering price" is the amount expressed in dollars specified in an offer to purchase for

1 which the buyer is willing to buy the real property.

2 (9) "Principal" means the person who has permitted or directed an agent to act on the
 3 principal's behalf. In a real property transaction, this generally means the buyer or the seller.

4 (10) "Real property" means any estate in real property, including a condominium as defined in
 5 ORS 100.005, a timeshare property as defined in ORS 94.803 and the granting of an option or right
 6 of first refusal. "Real property" also includes a manufactured structure, as defined in ORS 446.561,
 7 owned by the same person who owns the land upon which the manufactured structure is situated.
 8 "Real property" does not include a leasehold in real property.

9 (11) "Real property transaction" means a transaction regarding real property in which an agent
 10 is employed by one or more of the principals to act in that transaction and includes but is not lim-
 11 ited to listing agreements, buyer's service agreements, exclusive representation contracts and offers
 12 to purchase.

13 (12) "Sale" or "sold" refers to a transaction for the transfer of real property from the seller to
 14 the buyer and includes:

- 15 (a) Exchanges of real property between the seller and the buyer and third parties; and
- 16 (b) Land sales contracts.

17 (13) "Seller" means a potential transferor in a real property transaction and includes an owner:

18 (a) Who enters into a listing agreement with [*a real estate broker or principal real estate*
 19 *broker*] **an agent**, whether or not a transfer results; or

20 (b) Who receives an offer to purchase real property[, *of which the seller is the owner,*] **that the**
 21 **seller owns** from an agent acting on behalf of a buyer.

22

Senate Bill 68

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Real Estate Agency)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Changes fees related to real estate and escrow activities.

A BILL FOR AN ACT

Relating to fees administered by the Real Estate Commissioner; amending ORS 696.270 and 696.530.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 696.270 is amended to read:

696.270. *[The maximum fees described in this section may be charged by the Real Estate Agency. Actual fees shall be prescribed by the Real Estate Commissioner with approval of the Oregon Department of Administrative Services. This section applies to the following fees:]* **The Real Estate Commissioner, with the approval of the Oregon Department of Administrative Services, shall prescribe the fees that the Real Estate Agency may charge for activities listed under this section, subject to the following maximum amounts:**

(1) For each licensing examination applied for, \$75.

(2) For each **applicant for a** real estate *[broker's]* **broker**, principal real estate *[broker's]* **broker** or **licensed** real estate property *[manager's]* **manager** license[, \$230.]:

[(3) For each renewal of a real estate broker's, principal real estate broker's or real estate property manager's license, \$230.]

[(4) For each notification of the opening or closing of a registered branch office of a real estate broker or principal real estate broker, at times other than the time of issuing or renewing the broker's license, \$10.]

[(5) For each change of name or address of a broker on the records of the agency, \$10.]

[(6) For each duplicate license, when the original license is lost or destroyed and affidavit made thereof, \$20.]

[(7) For each transfer of a real estate broker's, principal real estate broker's or real estate property manager's license within the same license category, \$10.]

[(8) For the renewal of a real estate broker's, principal real estate broker's or real estate property manager's inactive license, \$110.]

[(9) For the reactivation of a real estate broker's, principal real estate broker's or real estate property manager's inactive license, \$75.]

[(10) In addition to the renewal fee, for late renewal, \$30.]

[(11) For a temporary license issued under ORS 696.205, \$40, and for an extension thereof, \$40.]

[(12) For initial registration of a business name, \$230.]

(a) Application for license, \$300; and

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) Change of name, \$10.

2 (3) For each real estate broker, principal real estate broker or licensed real estate prop-
3 erty manager licensee:

4 (a) Renewal of active license or active limited license, \$300;

5 (b) Renewal of inactive license or inactive limited license, \$150;

6 (c) Late fee for renewal of active or inactive license charged in addition to the renewal
7 fee, \$150;

8 (d) Change of name, \$10;

9 (e) Transfer of license between registered business names, \$10; and

10 (f) Reactivation of inactive license, \$150.

11 (4) For each registered business name:

12 (a) Initial registration, \$300;

13 (b) Renewal of active registration, \$50; and

14 (c) Change of name, \$300.

15 (5) For initial registration of each branch office, \$50.

16 (6) For each temporary license issued under ORS 696.205:

17 (a) Initial issuance, \$150; and

18 (b) Extension, \$150.

19 (7) For each continuing education provider certification:

20 (a) Initial application, \$300; and

21 (b) Renewal, \$50.

22 **SECTION 2.** ORS 696.530 is amended to read:

23 696.530. (1) The license of an escrow agent expires on the June 30 after the date of issuance or
24 on a date specified by rule of the Real Estate Commissioner. A license may be renewed as prescribed
25 by rule of the commissioner, which may include paying any required fees.

26 (2) The filing fees are:

27 (a) For filing an original or a renewal application, [~~\$300~~] **\$450** for the main office and [~~\$150~~] **\$225**
28 for each branch office.

29 *[(b) For filing an application for a duplicate copy of a license, upon satisfactory showing of loss*
30 *of the license, the sum of \$20.]*

31 *[(c)]* (b) For a name change *[or a change of address]* of an escrow agent, \$10 for the main office
32 plus \$10 for each affected branch office.

33 (3) The commissioner, by rule, may provide an opportunity for the late renewal of an expired
34 escrow agent license by an applicant who fails to renew the license by the date specified under
35 subsection (1) of this section.

36

**REAL ESTATE BOARD
REGULATION DIVISION REPORT
February 6, 2016**

Regulation Division Manager: Selina Barnes

Compliance Specialists 3 (Compliance Coordinator): Deanna Hewitt, Rob Pierce

Financial Investigators (Investigator-Auditor): Jeremy Brooks, Aaron Grimes,

Frances Hlawatsch, Philip Johnson, Meghan Lewis, Lisa Montellano, Lindsey Nunes

Compliance Specialist 2: Carolyn Kalb

Compliance Specialists 1: Sue Davenhill, Denise Lewis, Danette Rozell

Administrative Specialist: Janae Beaver

Division Overview

The Regulation Division receives complaints and determines validity and assignment for investigation. Investigators gather facts (from interviews and documents), prepare a detailed written report and submit to the Manager for review. The Manager determines whether the evidence supports charging a person with a violation of Agency statutes or administrative rules, as well the appropriate resolution. The Manager conducts settlement conferences to resolve cases without a contested case hearing. If a hearing is requested, the investigator works with the Assistant Attorney General in preparing for and presenting the case at hearing.

The Compliance Specialists are responsible for conducting: mail-in audits of licensee's clients' trust accounts (CTA), expired activity investigations, background checks and self-administered compliance reviews. They also respond to inquiries regarding regulations and filing complaints from the public, licensees, and other governmental agencies.

Workload and Activity Indicators

This is a report of the work processed through the stipulation and hearings processes of the Real Estate Agency during the calendar year 2016.

	Stipulation	Default	Hearing	Immediate	Total	Total %
Reprimand	6	1			7	13%
Rep w/ Edu	4				4	7%
Suspension	1			9	10	18%
Revocation	2	1	3		6	11%
Civil Penalty	11	2			13	24%
Dismissal					0	0%
Termination of Suspension				8	8	15%
Limited License	2				2	4%
Deny License		2	3		5	9%
Total	26	6	6	17	55	
Total %	47%	11%	11%	31%		100%

Lisa Montellano began work as a Financial Investigator (Investigator-Auditor) on 1/3/17. Lisa was an investigator at the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS).

Lindsey Nunes has been assigned the duties of Financial Investigator (Investigator-Auditor) through 6/30/17.

Sue Davenhill has been assigned the duties of Compliance Specialist 1 through 6/30/17.

For information on investigations resulting in administrative actions, please review the "Administrative Actions Summary" section of the Board packet.

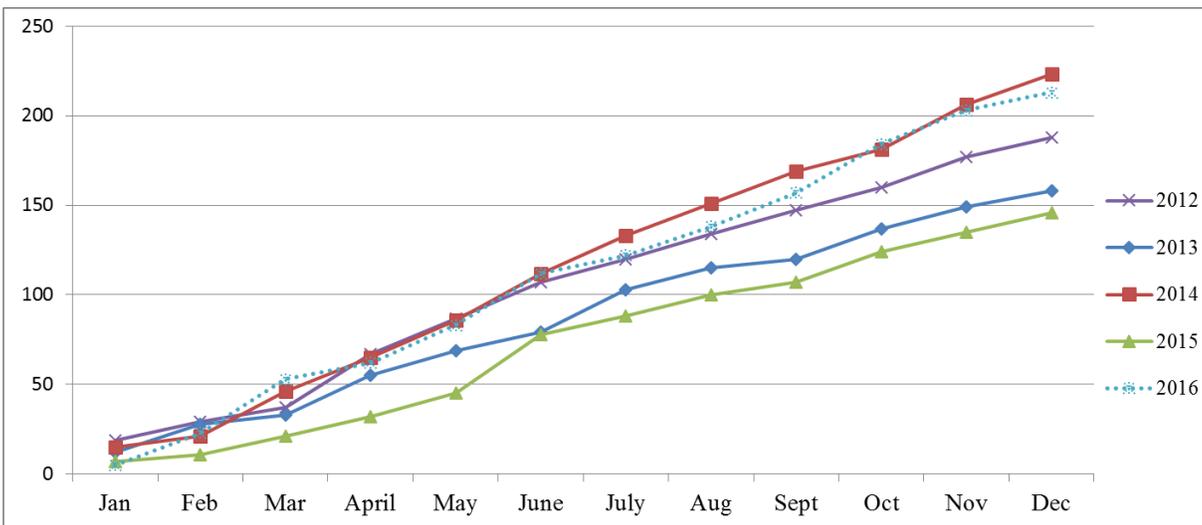
**REAL ESTATE BOARD
LAND DEVELOPMENT DIVISION
January 6th, 2017**

Division Manager: Michael Hanifin

Section Overview:

The Land Development Division reviews and approves filings related to condominiums, timeshares, subdivisions, manufactured home subdivisions, and membership campgrounds. The section reviews and approves the foundational documents creating these types of properties, as well as later amendments to those documents, to verify compliance with statutory requirements. We also issue the Disclosure Statement (sometimes referred to as a Public Report) required for sales of these interests to Oregonians. The Disclosure Statement summarizes key information about the condominium for the consumer, much like reading the window sticker when car shopping.

Workload and Activity Indicators



Filings in 2016 exceeded those in 2015 by 6. This past year is closely comparable to the number of filings seen in 2014. We continue to see quite a few smaller projects in the 2 to 6 unit range as infill continues, focused primarily in the Portland-Metro area. The majority of filings relate to condominiums. The largest filing type is timeshares.

Land Development Legislative Projects

Participate with public work group on redraft of provisions ORS Chapter 100. Essentially a housekeeping measure, this measure will restructure the condominium filing and approval process. The restructure will clarify for the public what is required for each of the various types of filings, close some gaps in the statutory filing process, and begin shaping the chapter to support an online filing process. This measure is based on a 2015 Legislative Counsel draft, and is sponsored by Representative Richard Vial. Currently in placeholder form, the text of this measure will be provided as an attachment to the next Board report if it moves forward.

Participate with public work group in discussion or revision of ORS 94.803 to exempt condominiums who take possession of a condo unit subject to a timeshare declaration from the requirement of filing for a Public Report on the timeshare before reselling the unit.

Agency Legislative Activity Summary

In addition to tracking the three agency measures, the agency also tracks other measures that can impact agency operations. The status of each the agency bills is summarized below, followed by a brief summary of the other types of measures the agency is watching. The full text of the agency measures are attached to this report for

reference. Please note, the status report below is current as of January 24, and will be updated at the Board meeting.

SB 67 - Housekeeping Measure

Status: First Reading, assigned to Senate Committee On Business and Transportation

Summary: SB 67 makes technical fixes to Chapter 696, including updates to language and references and reorganization of some material for readability. The measure also removes the requirement that a principal real estate broker or real estate broker create a client trust account when they act as a courier by taking a check made out to the seller or lessor from a purchaser or lessee for the purpose of conveying same to the seller or lessor. This measure also provides that a licensed real estate property manager may not solicit a potential tenant unless they have a written property management agreement with the lessor.

SB 68 – OREA Fee Increase

Status: First Reading, assigned to Senate Committee On Business and Transportation

- Subsequent Referral to Joint Committee On Ways and Means (“subsequent referral” is a legislative note on planned future action)

Summary: This bill updates fees paid to the Agency for professional licenses and other associated fees. It is linked to Policy Option Package 101.

HB 5037 - Governor’s Recommended Budget

Status: First Reading, assigned the Joint Committee on Ways and Means

Summary: The budget bill provides the biannual spending limitation for the Real Estate Agency. The effective date is July 1, 2017.

The agency is reviewing a wide variety of measures for potential impact on agency operations or on the regulated community. As the Session continues, the list will be refined. Right now we are reviewing multiple measures for impact. Without being exhaustive, the issues raised in these measures include:

- Tenants rights
- Affordable housing
- Strengthening solar access laws and rights to electric vehicle charging stations
- Changes to public records laws
- Creation of seller’s property disclosure of seismic risk
- Proposed changes to administrative rulemaking process
- Changes to Appraiser regulation
- Laws waiving irrigation provisions in HOA and condominium bylaws
- State information security
- Vertical housing development zones
- Changes to judicial standard of review of agency action
- Potential changes to PERS
- Constitutional changes to make rulemaking subject to closer legislative oversight
- Changes to employment law and collective bargaining

**REAL ESTATE BOARD
ADMINISTRATIVE SERVICES DIVISION REPORT
February 6, 2017**

Administrative Services Manager: Anna Higley
Communications Coordinator: Mesheal Heyman
Accountant: Caty Karayel
Systems Administrator: Tiffani Miller
Program Analyst: Rus Putintsev

Customer Service Manager: Madeline Alvarado
Compliance Specialist: Tami Schemmel
Licensing Specialist: Nenah Darville
Receptionist: Liz Hayes

Section Overview

The Administrative Services Division acts as support to the Agency as well as the first point of contact for the public. This division manages budget/allotment preparation, accounting, purchasing and contracting, inventory control, facilities, payroll, special projects, Information Technology (IT), licensing services and has recently incorporated communications and the education program.

Mesheal Heyman oversees communications for the Agency which includes development of all content for the Agency website, eLicense, OREN-J, and staff newsletter.

The education program is responsible for pre-license education requirements for all license types as well as course content, approving real estate schools and approving instructors. The program also is responsible for certifying continuing education providers. While this program is very new to this division and roles and processes are still being identified, our current priority is evaluating the annual renewal of CE Providers to validate that all online educators are using a mechanism to ensure that students are completing the full amount of time for which they are credited. Our Customer Service Manager is directly contacting each provider that has indicated otherwise on their renewal and ensuring that they are quickly coming in to compliance. Our intention is to next commit resources to an educator audit process.

Licensing services include assisting real estate brokers, principal brokers, property managers and escrow agencies as they manage their licenses using eLicense, assisting customers as they process registered business names and branch office registrations in eLicense, registering membership campground contract brokers, completing license applicant criminal background check investigations, processing escrow licensing and security/bonding files, maintaining all licensing history records, electronic processing of fees, and providing general reception services.

Nenah Darville has joined the licensing section as a Licensing Specialist on a temporary assignment as Sue Davenhill is currently working out of class in a Compliance Specialist role in Regulations. Nenah has most recently been an Office Support Specialist at Business Oregon and has a background in human resources.

The Agency is approaching the end of the term of the hosting and maintenance contract with the online licensing system vendor, MicroPact. MicroPact management has supplied the Agency with a new annual agreement for these services which is currently under review by DAS Procurement and DOJ. The new agreement includes a 35% increase in costs to approximately \$75,000 annually.

Budget Update

Revenue: Projected revenue for the 15-17 biennium is **\$6.37 million**, with projected expenses of **\$6.82 million**.

Budget Preparation 2017-19

Since the 2009-11 biennium operating costs have exceeded revenue. While the real estate market has experienced a recovery, licensure has not returned to pre-recession rates and is projected to remain flat over the next budget period. Though significant savings measures have been taken, at the current service level, we expect a **\$1.3 million deficient** in the 2017-19 biennium. To overcome the revenue shortfall, the Agency will seek the first licensing related fee increase since the 1997-99 budget in this legislative session.

Licensing Statistics

Total Licensee Counts by Month:

Individuals (Persons)	Nov-16	Dec-16
Broker – Total	14,045	14,038
Active	12,464	12,431
Inactive	1,581	1,607
Principal Broker - Total	6,373	6,365
Active	6,008	5,996
Inactive	365	369
ALL BROKERS Total	20,418	20,403
Active	18,472	18,427
Inactive	1,946	1,976
Property Manager - Total	890	886
Active	826	820
Inactive	64	66
MCC Salesperson	32	35
MCC Broker	2	2
TOTAL INDIVIDUALS	21,342	21,326
Active	19,332	19,284
Inactive	2,010	2,042
Facilities (Companies)		
REMO	6	6
Registered Business Name (RBN)	3,343	3,345
Registered Branch Office (RBO)	713	718
Escrow Organization	47	47
Escrow Branch	145	145
PBLN	647	643
PMLN	156	153
CEP	324	234
MCC Operator	25	25
TOTAL FACILITIES	5,406	5,316
TOTAL INDIVIDUALS & FACILITIES	26,748	26,642

New Licenses by Month:

Individuals (Persons)	Nov-16	Dec-16
Broker	134	127
Principal Broker	14	8
TOTAL BROKERS	148	135
Property Manager	7	8
MCC Salesperson	0	3
MCC Broker	0	0
TOTAL INDIVIDUALS	155	146
Facilities (Companies)		
Continuing Education Provider (CEP)	2	2
REMO		
Registered Business Name	20	25
Registered Branch Office	7	7
PBLN	6	4
PMLN	1	0
Escrow Organization	0	0
Escrow Branch	0	0
MCC Operator		
TOTAL FACILITIES	34	36
TOTAL INDIVIDUALS & FACILITIES	191	184

<u>December 2016</u>	<u>Total</u>
ALL LICENSING EXAMS	448
Broker	374
Property Manager	17
Principal Broker	57

Pass Rates

<u>First Time</u> <u>Pass Rate</u> <u>Percentage</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Broker State	76	65	72	69	64
Broker	78	77	78	78	74
National					
Principal	81	n/a	n/a	n/a	n/a
Broker (pre 1/1/13)					
Principal	n/a	46	61	62	59
Broker State (post 1/1/13)					
Principal	n/a	86	86	78	79
Broker					
National(post 1/1/13)					
Property Manager	72	55	61	59	64