



# Oregon

Theodore R. Kulongoski, Governor

## Real Estate Agency

1177 Center Street NE

Salem, OR 97301-2505

Phone: (503) 378-4170

Regulations Fax: (503) 373-7153

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[www.rea.state.or.us](http://www.rea.state.or.us)

**Notice of Agenda**  
**OREGON REAL ESTATE BOARD**  
**Special Meeting Agenda**  
**Monday, January 14, 2008, 10 a.m.**  
**Oregon Real Estate Agency**  
**1177 Center Street NE**  
**Salem, Oregon 97301**

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

### **I. BOARD BUSINESS**

- A. Call to Order
- B. Roll Call
- C. Approval of the Agenda and Order of Business
- D. Approval of the December 17, 2007, regular meeting minutes
- E. Date of the Next Meeting: February 4, 2008, in Salem

### **II. PUBLIC COMMENT**

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. BOARD ADVICE/ACTION**

- A. Legislative concepts resulting from rule review work groups
- B. Board review and recommendations on proposed temporary advertising rule OAR 863-015-0125. **Board action required.**

### **IV. REPORTS**

Discussion of the board's recommendations and proposals for legislative concepts for education. Chair Graeper.

### **V. NEW BUSINESS - None**

### **VI. COMMUNICATIONS - None**

### **VII. ANNOUNCEMENTS**

- A. Governor's Food Drive the month of February
- B. Next regular board meeting February 4, 2008, in Salem, Oregon.

### **VIII. ADJOURNMENT**

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



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## State of Oregon Real Estate Agency

### REAL ESTATE BOARD

#### Regular Meeting Minutes December 17, 2007

**MEMBERS PRESENT:** Mike Graeper, Chair  
Troy Costales, Vice-Chair  
Warren (Lee) Dunn  
Byron Hendricks  
Chris Hermanski  
Arthur Kegler (arr. 10:15 a.m.)  
Robert LeFeber  
Kimberly Medford  
Marianne Wood

**MEMBERS ABSENT:** None

**STAFF PRESENT:** Gene Bentley, Commissioner  
Dean Owens, Deputy Commissioner  
Leandra Cooley, Administrative Specialist  
Louann Rahmig, Board Liaison

**GUESTS PRESENT:** Kelly Freels, Budget Analyst  
Andrea Bushnell, Oregon Association of Realtors  
Bob Keith, Appraiser Certification and Licensure Board

### I. BOARD BUSINESS

**A. Call to Order.** Chair Mike Graeper called the meeting to order at 10 a.m. at the Real Estate Agency, 1177 Center Street NE, Salem, Oregon.

**B. Welcome to new board members.** Chair Graeper provided a brief history of his background and invited all of the board members to do the same, as well as the Deputy Commissioner, Dean Owens and Commissioner, Gene Bentley. Commissioner Bentley introduced Kelly Freels, who is with the Governor's Budget Office. Mr. Freels provided his background, which includes more than 30 years state service. This is his first assignment with the Real Estate Agency.

**C. Roll Call.** All board members were present.

**D. Approval of the Agenda and Order of Business.** Chair Graeper suggested that he run part of the meeting and the other chair nominee, Art Kegler, run part of it. The agenda was approved as submitted.

**E. Approval of the October 15, 2007, regular meeting minutes.** A question was raised by Mr. Kegler, whether or not adjournment of the meeting by departing members is appropriate. After discussion, no change was made and the minutes were approved as submitted.

**F. Election of Chair and Vice-chair for 2008.** Delayed until later in the meeting. Following the election, Mike Graeper was re-elected chair and Troy Costales as vice-chair for 2008.

**G. Meeting Procedures.** For the board's information.

**H. Date of the Next Meeting.** January 14, 2008, in Salem, Oregon (special meeting).

**II. PUBLIC COMMENT.** None.

**III. REQUESTS FOR WAIVERS**

**Waiver request log.** The log was included in the board packet. There were no waiver requests.

**IV. BOARD ADVICE/ACTION**

**V. A. Legislative concepts resulting from rule review work groups.** Commissioner Bentley requested feedback from board members on concepts developed to date. Several board members are participating on the various work groups. Mr. Kegler reported on the possibility of increasing the requirements for a principal broker and perhaps not requiring them to supervise. The intent is to upgrade the quality of the profession. Lee Dunn commented that in today's market, brokers may complete only two or three transactions during the three-year experience period. Chair Graeper explained the legislative concepts in the packet and the proposed rules will go hand in hand. The concepts are those statute changes needed to accomplish additional changes identified. Mr. Costales explained the concept submission schedule. Ms. Medford asked what is expected from the board in developing the concepts. Chair Graeper advised that at the January 14 meeting the board will be asked to "approve" the concepts developed by the licensing/brokerage work group. Commissioner Bentley stated there will also be some concepts from the property management work group. The Oregon Association of Realtors is being asked to consider carrying some of the concepts on behalf of the industry.

**B. Tenants in common/securities issue.** Ms. Medford gave a brief background of the tenants in common issues. The Securities Exchange Commission proposed some rules that are out for public comment. The National Association of Realtors will be responding. Assuming the rules take effect, if Oregon wants its licensees to be able to engage in sales in tenancies in common, there will need to be rule changes and

probably some educational requirements. Commissioner Bentley asked Ms. Medford to advise the agency if rule changes are adopted. Mr. LeFeber offered to assist.

Ms. Medford stated that she is not sure if the board should take a position on this issue. Mr. Hendricks thought this would be an industry issue rather than a board issue. The board agreed.

**C. Discuss and take action on proposed Board by-laws.** Mr. Hendricks appreciated the fact that the by-laws are short.

**MOTION BY BOB LEFEBER TO ACCEPT THE BY-LAWS AS SUBMITTED.** No discussion.

**MOTION CARRIED UNANIMOUSLY.**

**VI. NEW BUSINESS.** Mr. Kegler conducted the balance of the meeting.

**Feedback from board member participants on rule review work groups.**

- 1. Licensing/brokerage.** No further comments from Chair Graeper. Mr. Dunn believes there needs to be a way to test for the “practical” part of a transaction. Ms. Wood indicated that it is a very active group and it has made some great progress. It appears the “bar” is going to be raised to include concept thinking and situational testing. There was discussion about different types of testing (simulator, virtual). Mr. Dunn pointed out that accountability will shift back to the broker for submission of documents to principal brokers in specific time frames. Mr. Costales asked if the groups are thinking about how existing sole practitioners will be handled if a change occurs. Chair Graeper responded that elimination of the sole practitioner would require a statutory change. Commissioner Bentley stated there would probably be an additional educational requirement for current sole practitioners during a transition period (about one year). Mr. LeFeber stated that there is no differentiation between residential and commercial and asked if there should be some commercial components included. Mr. Dunn stated that one of the concepts discussed was an “endorsement” for commercial and possibly an endorsement for property management. Mr. Kegler stated both “endorsements” would require additional education. Mr. Graeper expanded on discussions on advertising. Commissioner Bentley stated there will be a temporary rule on advertising. The rule draft will be shared with the board. Mr. Hendricks encouraged the board members to keep in mind that when advising the commissioner, that we are a consumer protection agency.
- 2. Property management.** Mr. Hermanski provided the background of the Property Management Work Group membership. Last year’s property management work group developed some rules that are being revisited for clarification. There has been a huge issue involving records storage. Current rule requires that all of the records involving property management be within the state. This work group is interested in “raising the bar” for property managers. Ms. Medford asked who provides brokers with the contract forms they use. Chair Graeper and Commissioner Bentley provided additional clarification about the types of forms used.
- 3. Background checks.** Commissioner Bentley reported on behalf of Chair Graeper. This is a single subject group. Generally speaking, the industry believes that when the agency performs a background check and issues a license to an individual, they

have a clean record. That is not accurate as the agency is somewhat limited on the kinds of offenses that would prevent issuing a license. There are jurisdictions that deny licenses if a person has ever been a convicted felon. We are looking at different review periods for various categories of crimes.

## VI. COMMUNICATIONS

**Administrative Actions Summary.** Provided in the board packet. Mr. Costales offered that there has been discussion in the past about changing the board's authority on these actions. Right now the information is provided and board action is not required. Chair Graeper believes there is more consistency in actions taken now. Mr. Kegler explained how the dollar amounts are determined.

## VII. REPORTS

**A. Chair Graeper report on the Board's Education Work Group.** Chair Graeper talked about critical decision testing. Simulator testing is being considered as a method of testing in combination with multiple choice questions. There have been several joint meetings of the board's education work group and the OAR education work group. Chair Graeper and Deputy Commissioner Owens are inviting a PSI representative to meet with the education work group to discuss exam format alternatives. The education work group feels that the elective hours should be eliminated and all hours be related to either ORS chapter 696 or the administrative rules in OAR chapter 863. The group also feels that a certification process should be required for all distance learning classes. The Association of Real Estate License Law Officials (ARELLO) has a certification process for all distance learning classes that would be a requirement. Property management should not be a part of advanced real estate practices but be placed in its own category. Based on certain criteria established by the work group, the agency would register instructors and courses. Registration of instructors would eliminate the need for principal brokers to certify licensee continuing education at time of renewal as the instructors would be required to keep track of the students who took their course. Courses would be assigned numbers. As computerization at the agency improves, those numbers could be posted for licensees on their license. There are inconsistencies in the industry as to what principal brokers are approving. The license renewal form could be modified so that the licensee can list the courses taken.

Mr. LeFeber asked if this process would be for continuing education or initial licensing. Chair Graeper responded that it would be for pre-license, continuing education and advanced practices. Mr. LeFeber expressed concern about eliminating "electives" because real estate practice is not just about legal requirements. Education is essential in order to be a good commercial or residential practitioner. Chair Graeper responded that reading ORS chapter 696 and OAR chapter 863 would probably cover every subject and added that the agency could develop a core class requirement for all licensees to take during the two-year renewal period. Ms. Medford reported on the automated Oregon State Bar continuing education reporting method as a comparison for tracking and program development for the agency. Commissioner Bentley responded that the agency is exploring software that will meet all the agency's needs. Mr. LeFeber asked if industry expert speakers would typically qualify. The chair responded that the certification process for instructors would take

these qualifications into consideration and explained that there is a submission/accreditation process for approval of an instructor of that caliber.

**B. Commissioner Gene Bentley.**

**1. Status report on Agency rule reviews (schedule/actions for the future).**

Commissioner Bentley explained the rule review process and involvement of the advisory committee as well as the expected legislative activity. Draft rules should be available for board review at the January 14, 2008, special meeting.

**2. Administrative Law Judge training in Reno.** Mr. Bentley explained that one of his responsibilities as the commissioner is to be the final authority in all sanctions imposed on licensees so felt a need to understand the process of being an administrative law judge. The National Judicial College headquartered at the University of Nevada in Reno has an extensive program for administrative law judges and others in the judicial field. Mr. Bentley reported that the conference dealt with a wide range of subject matter, including licensing much like what the agency deals with.

**3. Conversation with Sen. Betsy Johnson.** Commissioner Bentley indicated that when this item was put on the agenda there was a teleconference with Sen. Johnson scheduled for December 4. However, there was a rule review work group meeting in Lake Oswego also on that date so the teleconference did not occur. Michele Deister (LFO) had requested the teleconference to discuss the agency's budget note on reconvening the task force that discussed changing the authority of the board and the commissioner. Commissioner Bentley later had a brief conversation with Sen. Johnson and they agreed to get together shortly after January 1. The commissioner explained that the 2007 SB 324 (which did not pass) proposed moving some authority from the commissioner to the board. OAR has the issue on their legislative agenda for reconsideration. Peter Cogswell has resigned from the Governor's office and a new policy analyst (Tim McCabe) was just appointed.

**4. DOJ appraiser opinion.** (taken out of order) The chair reopened the public comment period to allow Bob Keith, Appraiser Certification and Licensure Board (ACLB), to speak. Commissioner Bentley stated the issue raised was regarding one of the ACLB members having difficulty obtaining information from individual brokers about sales concessions in a transaction. The concern was that they wanted to be able to make sure that every broker or principal broker provided them with sales concessions that occurred in a transaction so they could include them in their appraisals. The ACLB sought an opinion from the Attorney General (Agenda Item No. VII.B.4. in packet) on confidentiality of information between a broker and the buyer or seller, and whether or not that information that is confidential to the transaction could be shared with an appraiser or any other third party. Commissioner Bentley read the opinion to say that basically the information can be shared, because as an individual principal instructs their agent to share information with the other party, either buyer to seller or seller to buyer, that bridges the area of confidentiality and then the individual broker can share that information with a third party if the broker so chooses. It does not make it mandatory that they share the information but they have the option without violating the confidentiality standard. It is good practice for individual brokers to check with their principals to make sure they are in fact adhering to their desires.

Chair Graeper quoted the question and short answer from the AG opinion. Mr. Costales commented that comparables used in an appraisal are from completed transactions, not deals in progress. Commissioner Bentley stated that currently statute says that price and terms in the transaction are confidential and extend beyond the closing and do not have any term. The point that the appraisers were after was that the agency is not going to sanction an individual for disclosing that information based on the DOJ ruling. Chair Graeper expressed appreciation for the shield that the DOJ ruling has given licensees and suggested to ACLB to consider changing ORS chapter 95 to modify the definition of “true and actual considerations.”

Mr. Keith expressed that ACLB in no way intended seeking the AG opinion to be construed as an unfriendly act. In the past, sales concessions were not prohibited from disclosure by real estate law. Licensees were counseled not to disclose such information, that it was not allowed by ORS chapter 696, which conflicted with their previous understanding. ACLB wanted to get clarification on what licensees can and cannot do. There may still be some other legal reasons not to disclose. Mr. Kegler thanked the ACLB for obtaining the AG opinion to clarify the whole issue. Mr. Keith indicated that their board is willing to work with this board on resolution. Chair Graeper asked if the ACLB has looked at changing statute. Mr. Keith responded that the first move was to get the AG opinion and then work with those who are developing the forms to see if some resolution could be reached on that level.

Mr. Bentley stated that the agency had received a request for additional information on brokers’ price opinions. An article will be published in the *OREN-J*.

*Public comment period was closed.*

5. **Board member orientation, visits to Agency sections.** Commissioner Bentley asked if new board members wanted to spend some time in the agency sections to become better acquainted with staff and their functions. Most of the board members felt it would be helpful. The commissioner indicated that this would be set up for the future.
6. **Governor’s Toy Drive.** Commissioner Bentley indicated that typically in the past the Governor has a toy drive. Normally the board members would be asked to be involved in some way. Unfortunately, today was the deadline. Deputy Commissioner Owens reported that the agency was able to make a significant donation to the toy drive.

### **C. Deputy Commissioner Dean Owens**

1. **2005-07 budget report.** The agency managers were introduced. Kate Nass presented the report explaining the agency’s spending limitation (**EXHIBIT A**). Commissioner Bentley provided the reason for the original 15-month budget and process the agency had to follow for full biennial funding. Mr. Hendricks asked about the board’s role in this budget. Mr. Bentley responded that it is mostly informational for the board at this stage. Deputy Commissioner Owens added

that the board will be more involved and informed with the current budget. Chair Graeper offered that historically the board had not been given the agency's budget information.

2. **Presentation on agency travel policies.** Ms. Nass distributed **EXHIBIT B** and briefly explained the types of expenses that are reimbursable.
3. **2008 legislative session update.** Commissioner Bentley explained that the session will begin February 4 with a planned adjournment date of February 29.
4. **2009 legislative session concept submission schedule.** Information provided in the board packet.

#### **D. Agency section/division reports**

1. **Land Development Section.** Laurie Skillman distributed information on 2007 legislation that made some changes affecting condominium filings (**EXHIBIT C**). She also reported on the number of filings received per month. The low was in June (29) and high (91) in May. Since 2004 there has been a 154 percent increase in condo filings. The workload has increased due to revisions needed based on new statutes effective September 27, 2007. Chair Graeper asked if there is a way to communicate through the Oregon State Bar about all the statute changes. Ms. Skillman responded that it is incumbent on attorneys to know the current statutes. The agency is creating a land development data base to replace the current one that will provide information for statistical reports. The new database will automate preparation of various letters to filers. All condo filings are reviewed at \$46 per hour beyond the initial \$100 filing fee. We review and approve out-of-state subdivisions and manufactured park conversions to subdivisions at a \$100 flat fee.
2. **Licensing Section.** Laurie Hall reported for Selina Barnes and described the duties of the section. As of October 31, 2007, there were just under 25,000 licensees (active and inactive), a reduction of about 1,000 from the end of 2005. Online renewals were launched in March. The agency's goal was to have 20 percent renew online and are already at 40 percent. There are about 20 open files on background checks. The section is working with the rule review work groups on licensing rules and background check rules. A major project that needs to be addressed is to delete all past and current credit card information on file to deal with security issues. The agency is looking into a new phone system to help better manage workload, gather statistical information and provide more functionality. Mr. Hendricks asked about the turnaround time on state police processing of fingerprint cards. Ms. Hall responded that the initial background investigations are taking about four to six weeks. The agency recommends that applicants deal with the background check portion of the licensing process first. Mr. Hendricks asked what percent of the checks go to review. Ms. Hall responded that maybe seven percent. Chair Graeper inquired if the problem with changing addresses online had been improved and how the agency was doing in collecting licensee e-mail addresses. Deputy Commissioner Owens clarified that current software won't allow changes to be made other than at the time of renewal. E-mail addresses are being collected as people are renewing online. Commissioner Bentley commented that the agency wants a new software package that will provide ability to make changes at any time.

3. **Education Section.** Deputy Commissioner Owens distributed **EXHIBIT E** on behalf of Mesheal Heyman. The section also produces the *OREN-J* and the Commissioner's Bulletin. Mr. Bentley was approached to contribute to the Salem Business Journal on a monthly basis. Since the board didn't think this would be necessary, Commissioner Bentley will decline.
4. **Regulation Division.** Becky Osborne distributed **EXHIBIT D** reflecting the section's statistics. There were 33 opened investigations based on 62 complaints received in November. The Regulations Division also issues "educational letters of advice" to licensees. Ms. Osborne reviewed the report and answered questions. The performance measure goal is to close cases within 100 days. Closure of very old cases skews the numbers. Chair Graeper asked how many investigators are on staff now. Ms. Osborne responded that there are 11 positions, two of which are vacant. Ms. Wood asked if there are any recurring issues in complaints received. Ms. Osborne answered that they are seeing quite a few in unlicensed activity. Chair Graeper asked if the agency keeps a list of the types of complaints received in the phone room. Ms. Osborne offered that the agency hopes to be able to capture that information through a new data base on the new phone system. Discussion took place regarding the recent auction in the Portland area and the issues that had to be dealt with regarding proper licensing for the activity.
5. **Administration/Information Systems Sections.** Deputy Commissioner Owens reported for Rick Leventhal and distributed **EXHIBIT F**. The agency is updating the phone system that will be linked to the computer system. The Department of Administrative Services is paying the bulk of the cost. Discussion took place regarding the software package that will capture information

### VIII. ANNOUNCEMENTS

Special board meeting 10 a.m., January 14, 2008, in Salem, Oregon to discuss proposed legislative concepts for the 2009 session.

### IX. ADJOURNMENT

Respectfully submitted:

GENE BENTLEY  
COMMISSIONER

Respectfully submitted:

MICHAEL R. GRAEPER  
BOARD CHAIR

Exhibits distributed:

- A. OREA Limitation and Expenditures, 2005-2007, *Agenda Item No. VII.C.1.*
- B. Board Member Travel, *Agenda Item No. VII.C.2.*
- C. Land Development Section Report, *Agenda Item No. VII.D.1.*
- D. Statistical Reporting – Regs, *Agenda Item No. VII.D.4.*
- E. Education Section Report, *Agenda Item No. VII.D.3.*
- F. Information Technology Report, *Agenda Item No. VII. D.5.*

New Legislative Concept #	Original LC#	Concept
<b>Legislative Concepts to be Carried by the Real Estate Industry - Developed by the Brokerage Working Group</b>		
Real Estate Industry Concept	LC-1	Increase education, experience and testing requirements for principal real estate broker
Real Estate Industry Concept	LC-5	Require a high school diploma or GED for real estate license.
Real Estate Industry Concept	LC-11	Amend ORS 696.280 to delete responsibility of records retention for "sole practitioner."
Real Estate Industry Concept	LC-14	Repeal all references to "sole practitioner" in ORS Chapter 696. Require principal broker status to operate sole real estate practice.
Real Estate Industry Concept	LC-15	Repeal ORS 696.028 relating to "licensed personal assistants."
Real Estate Industry Concept	LC-18	Allow a principal real estate broker (Broker A) doing business under one registered business name to take over another principal real estate broker's professional real estate activity (Broker B) in the absence of the principal real estate broker (Broker B) for a period of time.
<b>Legislative Concepts to be Carried by the Real Estate Agency - Developed by the Brokerage Working Group</b>		
<b>NOTE: The Agency may combine several of these concepts into one legislative concept.</b>		
Agency LC-101	LC-6	Amend ORS 696.026(8) to allow principal real estate broker to create business entity solely for the purpose of receiving commission payments. Currently real estate brokers have this capability.
Agency LC-102	LC-7	Amend ORS 696.030 to allow certain persons in "companies" and limited liability" companies to be exempt from licensing requirement. Clarify exemptions for "on-site" managers of property. Clarify "bona fide officer of corporation."
Agency LC-103	LC-8	Amend ORS 696.130 to authorize commissioner to issue a limited license to an applicant.
Agency LC-104	LC-9	Clarify that real estate brokers cannot establish branch offices or designate registered business names.
Agency LC-105	LC-10	Clarify that funds placed in a clients' trust account be placed in a "licensed" escrow depository.
Agency LC-106	LC-13	Amend ORS 696.445 to delete requirement to publish names and addresses of applicants whose licenses were refused in OREN-J. Amend ORS 696.445 to delete requirement to publish addresses of disciplined licensees and require only city and state.
Agency LC-107	LC-19	Amend ORS 696.805, 696.810 and 696.815 to clarify requirements for real estate brokers who provide limited real estate services to specify the services provided.

<b>Legislative Concepts to be Discussed with Brokerage and Property Manager Work Groups Combined</b>		
Developed by the Brokerage Working Group	LC-20	Allow individuals to hold a broker license and a property manager license and each license may be associated with different registered business names.
Developed by the Property Manager Working Group	LC-PM1	Allow commissioner to assess civil penalty up to \$1,000 per day against a property manager for failure to produce records. Group consensus.
Developed by the Property Manager Working Group	LC-PM2	Amend ORS Chapter 696 so that real estate broker/principal real estate broker must have a specific "endorsement" to engage in property management. Group consensus.
Developed by the Property Manager Working Group	LC-PM3	Consider supervision of newly licensed property managers. Consider use of experience for license rather than mentoring/apprenticeship by a supervisor. Group wants discussion.
<b>Legislative Concepts Deleted - Developed by the Brokerage Working Group</b>		
Define in rule.	LC-2	Clarify the term "compensation" in ORS 696.
Deleted.	LC-3	Use of term "fiduciary" in ORS 696.015(1) is out-of-date
Agency is working with Atty General to determine whether need statutory change or if can clarify by rule.	LC-4	Clarify "within this state" in ORS 696.020(2) applies to property located within the state.
Deleted.	LC-16	Authorize licenses for real estate companies/firms.
Define by rule.	Discussion	Limit number of times applicant may take examinations.
<b>Other Concepts to Consider</b>		
Consideration.	LC-17	Authorize commissioner to issue temporary license for nonlicensed owner of real estate firm to take over principal real estate broker business and conduct professional real estate activity if principal real estate broker is terminated or leaves the company.
Agency would carry.	LC-12	Amend 696.301 to clarify that a grounds for discipline is failure of a principal real estate broker to supervise a real estate broker because 696.301(15) does not provide such authority.
Oregon Association of Realtors will prepare a "white paper" on errors and omissions insurance and surety bonds for real estate brokers.		Errors and omissions insurance/surety bonds as a requirement for principal real estate brokers. Discussed as part of LC-1. Tabled for further information from Oregon Association of Realtors.

Legislative Concepts  
Arranged According to Excel Spreadsheet

January 9, 2008

# Legislative Concepts to be Carried by the Real Estate Brokerage Industry January 8, 2008

## **Background**

The Oregon Real Estate Agency and a group of members of the real estate industry (the “Licensing Rules Working Group”) met in a series of meetings during the fall of 2007 and in January 2008 to discuss changes to administrative rules and statutes. As a result of those meetings, a number of legislative concepts were proposed. The working group decided that the members of the real estate industry are responsible for carrying several of those concepts forward to the 2009 Legislature. These concepts are outlined below. This document was prepared by the Agency.

## **Legislative Concepts**

*Note: “(LC-#)” refers to the number assigned to a legislative concept for purposes of the brokerage working group.*

1. Increase education, experience and testing requirements for real estate brokers and principal real estate brokers. (LC-1)
  - Amend ORS 696.022 (licensing requirements) to require the Agency to issue a real estate broker or principal real estate broker license only to an individual who submits proof of a high school diploma or GED. (LC-5)
  - Amend ORS 696.022(3)(b)(A) (licensing requirements) to require a principal real estate broker to have completed 10 real estate sales transactions, in addition to the existing requirement of “three years of active experience as a licensed real estate broker.” (LC-1)
  - Amend ORS 696.022(3) to clarify that experience as a licensed property manager does not qualify for experience under the existing requirement that a principal real estate broker must have “three years of active experience as a licensed real estate broker.” (LC-1)
  - Amend ORS 696.022(3) to require an applicant for principal real estate broker to pass a principal real estate broker examination. (LC-1)
2. Change the scope of the principal real estate broker’s responsibilities.
  - Amend provisions in ORS Chapter 696 (*see ORS 696.010(14) and ORS 696.022(3)*) to eliminate the requirement that a principal real estate broker must employ, engage or supervise another real estate licensee and state that a principal real estate broker “may employ, engage or supervise another real estate licensee.” (LC-1)
  - Place responsibility for supervision of real estate broker on a “responsible” principal real estate broker. If a “responsible” principal real estate broker is not identified, all principal real estate broker’s conducting professional real estate activity under the same name (*see ORS 696.026(1)*) are responsible for the supervision of such real estate broker. (LC-1)

3. Clarify that a principal real estate broker (and not “sole practitioner”) is responsible for retaining records.
  - Amend ORS 696.280 (LC-1 and LC-11)
4. Eliminate “sole practitioner.” ORS 696.010(21) reads: *'Sole practitioner' means a real estate broker conducting professional real estate activity not in conjunction with other real estate brokers or principal real estate brokers.* New concept: only principal real estate brokers may conduct professional real estate activity not in conjunction with other real estate brokers or principal real estate brokers. (LC-14)
  - Repeal ORS 696.010(21)
  - This will require a significant number of other changes to ORS chapter 696.
  - This will require some process for transition period of existing sole practitioners.
5. Repeal ORS 696.028 for “licensed personal assistants.” (LC-15)
6. Allow a principal real estate broker (Broker A) doing business under one registered business name to take over another principal real estate broker's professional real estate activity (Broker B) in the absence of the principal real estate broker (Broker B) for a period of time. (LC-18)

# LEGISLATIVE CONCEPT

Agency No./Concept No. **LC-101**

Date 01/09/2008

- ◆ Attach a Fiscal Impact Estimate.
- ◆ Attach draft language.
- ◆ Deliver **original and five copies** including draft language and attachments to the Department of Administrative Services, 155 Cottage Street NE, Salem OR 97301-3965 **on or before April 4, 2008.**

Agency: Real Estate Agency

Division/Program

Concept Subject/Title

Contact Person

Phone No.

BRIEF DESCRIPTION OF THIS CONCEPT: Amend ORS 696.026(8) to allow principal real estate broker to create business entity solely for the purpose of receiving commission payments.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION): Amend ORS 696.026(8) to allow principal real estate broker to create business entity solely for the purpose of receiving commission payments. Currently real estate brokers have this capability. Amendment to include principal real estate brokers.

POLICY IMPLICATIONS:

- ◆ PARTNERS OR OTHER AGENCIES AFFECTED:

Agency:

Person you talked to about concept:

Phone:

- ◆ KNOWN SUPPORT

- ◆ KNOWN OPPOSITION:

- ◆ THIS CONCEPT: (Do not skip answers. Enter *none* or *N/A* as needed.)

Revises ORS 696.026

Adds new sections to ORS Chapter

Check one: Major program change  Minor program change  X Technical correction/housekeeping only

Was previously proposed in: Year as Bill No. N/A

Why are you proposing it again (what changed)? \_\_\_\_\_

Is a PLACEHOLDER? No  Yes  Expected date of completion: \_\_\_\_\_

Reason not completed: \_\_\_\_\_

Is due to legal decision: Case cite: \_\_\_\_\_ or AGO No./date \_\_\_\_\_ (attach copy)

Raises fees or assessments? No X Yes  (attach Fiscal Impact Estimate)

Imposes or adds to unfunded mandate on local governments? No X Yes  (attach Fiscal Impact Estimate)

Has other fiscal or position impacts? No X Yes  (attach Fiscal Impact Estimate)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

Department of Administrative Services

Date

Governor's Office

Date

# LEGISLATIVE CONCEPT

Agency No./Concept No. **LC-102**

Date: 01-09-2008

- ◆ Attach a Fiscal Impact Estimate.
- ◆ Attach draft language.
- ◆ Deliver **original and five copies** including draft language and attachments to the Department of Administrative Services, 155 Cottage Street NE, Salem OR 97301-3965 **on or before April 4, 2008.**

Agency: ~~Real Estate Agency~~

Division/Program

Concept Subject/Title

Contact Person

Phone No.

BRIEF DESCRIPTION OF THIS CONCEPT: Amend ORS 696.030 to allow certain persons in "companies" and limited liability" companies to be exempt from licensing requirement. Clarify exemptions for "on-site" managers of property. Clarify "bona fide officer of corporation."

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):  
ORS 696.030 lists exemptions from licensing requirements. Amend ORS 696.030 to allow certain persons in "companies" and limited liability" companies to be exempt from licensing requirement. Clarify exemptions for "on-site" managers of property. Clarify "bona fide officer of corporation."

POLICY IMPLICATIONS:

- ◆ PARTNERS OR OTHER AGENCIES AFFECTED:

Agency:

Person you talked to about concept:

Phone:

- ◆ KNOWN SUPPORT

- ◆ KNOWN OPPOSITION:

- 
- ◆ THIS CONCEPT: (Do not skip answers. Enter **none** or **N/A** as needed.)

Revises ORS 696.030

Adds new sections to ORS Chapter

Check one: Major program change  Minor program change  Technical correction/housekeeping only

Was previously proposed in: Year as Bill No. N/A

Why are you proposing it again (what changed)? \_\_\_\_\_

Is a PLACEHOLDER? No  Yes  Expected date of completion: \_\_\_\_\_

Reason not completed: \_\_\_\_\_

Is due to legal decision: Case cite: \_\_\_\_\_ or AGO No./date (attach copy)

Raises fees or assessments? No X Yes  (attach Fiscal Impact Estimate)

Imposes or adds to unfunded mandate on local governments? No X Yes  (attach Fiscal Impact Estimate)

Has other fiscal or position impacts? No X Yes  (attach Fiscal Impact Estimate)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

Department of Administrative Services

Date

Governor's Office

Date

# LEGISLATIVE CONCEPT

Agency No./Concept No. **LC 103**

Date: 01-09-2008

- ◆ Attach a Fiscal Impact Estimate.
- ◆ Attach draft language.
- ◆ Deliver **original and five copies** including draft language and attachments to the Department of Administrative Services, 155 Cottage Street NE, Salem OR 97301-3965 **on or before April 4, 2008.**

Agency: Real Estate Agency

Division/Program

Concept Subject/Title

Contact Person

Phone No.

BRIEF DESCRIPTION OF THIS CONCEPT: Amend ORS 696.130 to authorize commissioner to issue a limited license to an applicant.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):  
ORS 696.130(2) authorizes the commissioner to issue a limited license to a licensee who has had license revoked. Amend to allow commissioner to issue a limited license to an applicant.

POLICY IMPLICATIONS:

- ◆ PARTNERS OR OTHER AGENCIES AFFECTED:

Agency:

Person you talked to about concept:

Phone:

- ◆ KNOWN SUPPORT

- ◆ KNOWN OPPOSITION:

- ◆ THIS CONCEPT: (Do not skip answers. Enter *none* or *N/A* as needed.)

Revises ORS 696.130(2)

Adds new sections to ORS Chapter

Check one: Major program change    X Minor program change    Technical correction/housekeeping only

Was previously proposed in: Year as Bill No. N/A

Why are you proposing it again (what changed)? \_\_\_\_\_

Is a PLACEHOLDER? No  Yes  Expected date of completion: \_\_\_\_\_

Reason not completed: \_\_\_\_\_

Is due to legal decision:    Case cite:    or AGO No./date    (*attach copy*)

Raises fees or assessments? No X Yes  (*attach Fiscal Impact Estimate*)

Imposes or adds to unfunded mandate on local governments? No X Yes  (*attach Fiscal Impact Estimate*)

Has other fiscal or position impacts? No X Yes  (*attach Fiscal Impact Estimate*)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

Department of Administrative Services

Date

Governor's Office

Date

# LEGISLATIVE CONCEPT

Agency No./Concept No. **LC-104**

Date 01/09/2008

- ◆ Attach a Fiscal Impact Estimate.
- ◆ Attach draft language.
- ◆ Deliver **original and five copies** including draft language and attachments to the Department of Administrative Services, 155 Cottage Street NE, Salem OR 97301-3965 **on or before April 4, 2008.**

Agency: Real Estate Agency

Division/Program

Concept Subject/Title

Contact Person

Phone No.

BRIEF DESCRIPTION OF THIS CONCEPT: Clarify that real estate brokers cannot establish branch offices or designate registered business names.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):  
ORS 696.200 refers to real estate brokers. Clarify that real estate brokers cannot establish branch offices or designate registered business names.

POLICY IMPLICATIONS:

- ◆ PARTNERS OR OTHER AGENCIES AFFECTED:

Agency:

Person you talked to about concept:

Phone:

- ◆ KNOWN SUPPORT

- ◆ KNOWN OPPOSITION:

- ◆ THIS CONCEPT: (Do not skip answers. Enter *none* or *N/A* as needed.)

Revises ORS 696.200

Adds new sections to ORS Chapter

Check one: Major program change      Minor program change      X Technical correction/housekeeping only

Was previously proposed in: Year as Bill No. N/A

Why are you proposing it again (what changed)? \_\_\_\_\_

Is a PLACEHOLDER? No  Yes  Expected date of completion: \_\_\_\_\_

Reason not completed: \_\_\_\_\_

Is due to legal decision:      Case cite:      or AGO No./date      (*attach copy*)

Raises fees or assessments? No X Yes  (*attach Fiscal Impact Estimate*)

Imposes or adds to unfunded mandate on local governments? No X Yes  (*attach Fiscal Impact Estimate*)

Has other fiscal or position impacts? No X Yes  (*attach Fiscal Impact Estimate*)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

Department of Administrative Services

Date

Governor's Office

Date

# LEGISLATIVE CONCEPT

Agency No./Concept No. **LC-105**

Date 01-08-2008

- ◆ Attach a Fiscal Impact Estimate.
- ◆ Attach draft language.
- ◆ Deliver **original and five copies** including draft language and attachments to the Department of Administrative Services, 155 Cottage Street NE, Salem OR 97301-3965 **on or before April 4, 2008.**

Agency: Real Estate Agency

Division/Program

Concept Subject/Title

Contact Person

Phone No.

BRIEF DESCRIPTION OF THIS CONCEPT: Amend ORS 696.241 to require use of a licensed escrow depository.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):  
ORS 696.241 sets out requirements for trust accounts. Section (1) does not require licensee to place funds in a **licensed** escrow depository. Amend to require a "licensed" escrow depository.

POLICY IMPLICATIONS:

- ◆ PARTNERS OR OTHER AGENCIES AFFECTED:

Agency:

Person you talked to about concept:

Phone:

- ◆ KNOWN SUPPORT

- ◆ KNOWN OPPOSITION:

- ◆ THIS CONCEPT: (Do not skip answers. Enter **none** or **N/A** as needed.)

Revises: ORS 696.241(1)

Adds new sections to ORS Chapter: NO

Check one: Major program change      Minor program change       Technical correction/housekeeping only

Was previously proposed in: Year as Bill No. N/A

Why are you proposing it again (what changed)? \_\_\_\_\_

Is a PLACEHOLDER? No  Yes  Expected date of completion: \_\_\_\_\_

Reason not completed: \_\_\_\_\_

Is due to legal decision:      Case cite:      or AGO No./date      (*attach copy*)

Raises fees or assessments? No  Yes  (*attach Fiscal Impact Estimate*)

Imposes or adds to unfunded mandate on local governments? No  Yes  (*attach Fiscal Impact Estimate*)

Has other fiscal or position impacts? No  Yes  (*attach Fiscal Impact Estimate*)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

\_\_\_\_\_  
Department of Administrative Services

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor's Office

\_\_\_\_\_  
Date

# LEGISLATIVE CONCEPT

Agency No./Concept No. **LC-106**

Date 01/09/2008

- ◆ Attach a Fiscal Impact Estimate.
- ◆ Attach draft language.
- ◆ Deliver **original and five copies** including draft language and attachments to the Department of Administrative Services, 155 Cottage Street NE, Salem OR 97301-3965 **on or before April 4, 2008.**

Agency: Real Estate Agency

Division/Program

Concept Subject/Title

Contact Person

Phone No.

BRIEF DESCRIPTION OF THIS CONCEPT: Delete requirement that the Agency publish names and addresses of applicants refused in OREN-J. Amend ORS 696.445 to publish only city and state of individual disciplinary actions and delete requirement to publish addresses.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):  
Amend ORS 696.445 to delete requirement that the Agency publish names and addresses of applicants whose licenses were refused in OREN-J. Amend ORS 696.445 to publish only city and state of individual disciplinary actions and delete requirement to publish addresses.

POLICY IMPLICATIONS:

- ◆ PARTNERS OR OTHER AGENCIES AFFECTED:

Agency:

Person you talked to about concept:

Phone:

- ◆ KNOWN SUPPORT

- ◆ KNOWN OPPOSITION:

- ◆ THIS CONCEPT: (Do not skip answers. Enter **none** or **N/A** as needed.)

Revises ORS 696.445

Adds new sections to ORS Chapter

Check one: Major program change    X Minor program change    Technical correction/housekeeping only

Was previously proposed in: Year as Bill No. N/A

Why are you proposing it again (what changed)? \_\_\_\_\_

Is a PLACEHOLDER? No  Yes  Expected date of completion: \_\_\_\_\_

Reason not completed: \_\_\_\_\_

Is due to legal decision:    Case cite:    or AGO No./date    (*attach copy*)

Raises fees or assessments? No X Yes  (*attach Fiscal Impact Estimate*)

Imposes or adds to unfunded mandate on local governments? No X Yes  (*attach Fiscal Impact Estimate*)

Has other fiscal or position impacts? No X Yes  (*attach Fiscal Impact Estimate*)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

\_\_\_\_\_  
Department of Administrative Services

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor's Office

\_\_\_\_\_  
Date

# LEGISLATIVE CONCEPT

Agency No./Concept No. **LC-107**

Date: 01/09/2008

- ◆ Attach a Fiscal Impact Estimate.
- ◆ Attach draft language.
- ◆ Deliver **original and five copies** including draft language and attachments to the Department of Administrative Services, 155 Cottage Street NE, Salem OR 97301-3965 **on or before April 4, 2008.**

Agency: Real Estate Agency

Division/Program

Concept Subject/Title

Contact Person

Phone No.

BRIEF DESCRIPTION OF THIS CONCEPT: Require disclosure of services provided to buyers and sellers.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):

Amend ORS 696.805, 696.810 and 696.815 to clarify requirements for real estate brokers who provide limited real estate services to specify the services provided. Define information required to be provided in seller service or listing agreements

POLICY IMPLICATIONS:

- ◆ PARTNERS OR OTHER AGENCIES AFFECTED:

Agency:

Person you talked to about concept:

Phone:

- ◆ KNOWN SUPPORT

- ◆ KNOWN OPPOSITION:

- ◆ THIS CONCEPT: (Do not skip answers. Enter **none** or **N/A** as needed.)

Revise ORS 696.805 and 696.810 and 696.815

Adds new sections to ORS Chapter

Check one: Major program change      X Minor program change      Technical correction/housekeeping only

Was previously proposed in: Year as Bill No. N/A

Why are you proposing it again (what changed)? \_\_\_\_\_

Is a PLACEHOLDER? No  Yes  Expected date of completion: \_\_\_\_\_

Reason not completed: \_\_\_\_\_

Is due to legal decision:      Case cite:      or AGO No./date      (*attach copy*)

Raises fees or assessments? No X Yes  (*attach Fiscal Impact Estimate*)

Imposes or adds to unfunded mandate on local governments? No X Yes  (*attach Fiscal Impact Estimate*)

Has other fiscal or position impacts? No X Yes  (*attach Fiscal Impact Estimate*)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

Department of Administrative Services

Date

Governor's Office

Date

# LEGISLATIVE CONCEPT

Legislative Concept LC-20  
January 9, 2008

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Agency: Real Estate Agency

BRIEF DESCRIPTION OF THIS CONCEPT: Allow individuals to hold a broker license and a property manager license and each license may be associated with different registered business names.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):  
Allow individuals to hold a broker license and a property manager license and each license may be associated with different registered business names.

# LEGISLATIVE CONCEPT

## PROPERTY MANAGER WORK GROUP CONSENSUS CONCEPT

Agency No./Concept No. **PM-1**

Date 01/09/2008

- ◆ Attach a Fiscal Impact Estimate.
- ◆ Attach draft language.
- ◆ Deliver *original and five copies* including draft language and attachments to the Department of Administrative Services, 155 Cottage Street NE, Salem OR 97301-3965 *on or before April 4, 2008.*

Agency: Real Estate Agency

Division/Program

Concept Subject/Title

Contact Person

Phone No.

BRIEF DESCRIPTION OF THIS CONCEPT: Allow commissioner to assess civil penalty up to \$1,000 per day against a property manager for failure to produce records.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):

Currently civil penalties may be assessed for unlicensed real estate activity or, under ORS 696.020(2), against licensee transactions. There is no authority for the commissioner to assess a civil penalty against a property manager because the "transaction" concept does not apply. Failure to produce records is very serious. Allow commissioner to assess civil penalty up to \$1,000 per day against a property manager for failure to produce records.

POLICY IMPLICATIONS:

- ◆ PARTNERS OR OTHER AGENCIES AFFECTED:

Agency:

Person you talked to about concept:

Phone:

- ◆ KNOWN SUPPORT

- ◆ KNOWN OPPOSITION:

- ◆ THIS CONCEPT: (Do not skip answers. Enter *none* or *N/A* as needed.)

Revises ORS 696

Adds new sections to ORS Chapter

Check one: Major program change      X Minor program change      Technical correction/housekeeping only

Was previously proposed in: Year as Bill No. N/A

Why are you proposing it again (what changed)? \_\_\_\_\_

Is a PLACEHOLDER? No  Yes  Expected date of completion: \_\_\_\_\_

Reason not completed: \_\_\_\_\_

Is due to legal decision:      Case cite:      or AGO No./date      (*attach copy*)

Raises fees or assessments? No X Yes  (*attach Fiscal Impact Estimate*)

Imposes or adds to unfunded mandate on local governments? No X Yes  (*attach Fiscal Impact Estimate*)

Has other fiscal or position impacts? No X Yes  (*attach Fiscal Impact Estimate*)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

Department of Administrative Services

Date

Governor's Office

Date

# LEGISLATIVE CONCEPT

## PROPERTY MANAGER WORK GROUP CONSENSUS CONCEPT

Agency No./Concept No. **PM-2**  
Date 01/09/2008

- ◆ Attach a Fiscal Impact Estimate.
- ◆ Attach draft language.
- ◆ Deliver *original and five copies* including draft language and attachments to the Department of Administrative Services, 155 Cottage Street NE, Salem OR 97301-3965 *on or before April 4, 2008.*

Agency: Real Estate Agency  
Division/Program  
Concept Subject/Title  
Contact Person

Phone No.

BRIEF DESCRIPTION OF THIS CONCEPT: Amend ORS Chapter 696 so that real estate broker/principal real estate broker must have a specific "endorsement" with education, experience training requirements to engage in property management.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):  
Amend ORS Chapter 696 so that real estate broker/principal real estate broker must have a specific "endorsement" with education, experience training requirements to engage in property management.

POLICY IMPLICATIONS:

- ◆ PARTNERS OR OTHER AGENCIES AFFECTED:

Agency: \_\_\_\_\_ Person you talked to about concept: \_\_\_\_\_ Phone: \_\_\_\_\_

- ◆ KNOWN SUPPORT

- ◆ KNOWN OPPOSITION:

- ◆ THIS CONCEPT: (Do not skip answers. Enter *none* or *N/A* as needed.)

Revises ORS 696

Adds new sections to ORS Chapter

Check one: Major program change      X Minor program change      Technical correction/housekeeping only

Was previously proposed in: Year as Bill No. N/A

Why are you proposing it again (what changed)? \_\_\_\_\_

Is a PLACEHOLDER? No  Yes  Expected date of completion: \_\_\_\_\_

Reason not completed: \_\_\_\_\_

Is due to legal decision: \_\_\_\_\_ Case cite: \_\_\_\_\_ or AGO No./date \_\_\_\_\_ (attach copy)

Raises fees or assessments? No X Yes  (attach Fiscal Impact Estimate)

Imposes or adds to unfunded mandate on local governments? No X Yes  (attach Fiscal Impact Estimate)

Has other fiscal or position impacts? No X Yes  (attach Fiscal Impact Estimate)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

Department of Administrative Services

Date

Governor's Office

Date

# LEGISLATIVE CONCEPT

## PROPERTY MANAGER WORK GROUP FOR CONSIDERATION

Agency No./Concept No. **PM-3**

Date 01/09/2008

- ◆ Attach a Fiscal Impact Estimate.
- ◆ Attach draft language.
- ◆ Deliver *original and five copies* including draft language and attachments to the Department of Administrative Services, 155 Cottage Street NE, Salem OR 97301-3965 *on or before April 4, 2008*.

Agency: Real Estate Agency

Division/Program

Concept Subject/Title

Contact Person

Phone No.

BRIEF DESCRIPTION OF THIS CONCEPT: Consider supervision of newly licensed property managers. Consider use of experience for license rather than mentoring/apprenticeship by a supervisor. Group wants discussion.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):  
Consider supervision of newly licensed property managers. Consider use of experience for license rather than mentoring/apprenticeship by a supervisor. Group wants discussion.

POLICY IMPLICATIONS:

- ◆ PARTNERS OR OTHER AGENCIES AFFECTED:

Agency:

Person you talked to about concept:

Phone:

- ◆ KNOWN SUPPORT

- ◆ KNOWN OPPOSITION:

- ◆ THIS CONCEPT: (Do not skip answers. Enter *none* or *N/A* as needed.)

Revises ORS 696

Adds new sections to ORS Chapter

Check one: Major program change  X Minor program change  Technical correction/housekeeping only

Was previously proposed in: Year as Bill No. N/A

Why are you proposing it again (what changed)? \_\_\_\_\_

Is a PLACEHOLDER? No  Yes  Expected date of completion: \_\_\_\_\_

Reason not completed: \_\_\_\_\_

Is due to legal decision: \_\_\_\_\_ Case cite: \_\_\_\_\_ or AGO No./date \_\_\_\_\_ (attach copy)

Raises fees or assessments? No X Yes  (attach Fiscal Impact Estimate)

Imposes or adds to unfunded mandate on local governments? No X Yes  (attach Fiscal Impact Estimate)

Has other fiscal or position impacts? No X Yes  (attach Fiscal Impact Estimate)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

Department of Administrative Services

Date

Governor's Office

Date

# LEGISLATIVE CONCEPT FOR CONSIDERATION

Legislative Concept LC-17  
January 9, 2008

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Agency: Real Estate Agency

BRIEF DESCRIPTION OF THIS CONCEPT: Authorize commissioner to issue temporary license for nonlicensed owner of real estate firm to take over principal real estate broker business and conduct professional real estate activity if principal real estate broker is terminated or leaves the company.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):  
Authorize commissioner to issue temporary license for nonlicensed owner of real estate firm to take over principal real estate broker business and conduct professional real estate activity if principal real estate broker is terminated or leaves the company.

# LEGISLATIVE CONCEPT

Agency No./Concept No. **LC-12**

Date: 01/09/2008

- ◆ Attach a Fiscal Impact Estimate.
- ◆ Attach draft language.
- ◆ Deliver **original and five copies** including draft language and attachments to the Department of Administrative Services, 155 Cottage Street NE, Salem OR 97301-3965 **on or before April 4, 2008.**

Agency Real Estate Agency

Division/Program

Concept Subject/Title

Contact Person

Phone No.

BRIEF DESCRIPTION OF THIS CONCEPT: Amend 696.301 to clarify that a grounds for discipline is failure of a principal real estate broker to supervise a real estate broker because 696.301(15) does not provide such authority.

PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):  
Language in ORS 696.301 former (29) was removed in 2005. "Standard of care" language in 696.301(15) does not provide authority because it applies only to professional real estate activity and not to supervision..

POLICY IMPLICATIONS:

- ◆ PARTNERS OR OTHER AGENCIES AFFECTED:

Agency:

Person you talked to about concept:

Phone:

- ◆ KNOWN SUPPORT

- ◆ KNOWN OPPOSITION:

- ◆ THIS CONCEPT: (Do not skip answers. Enter **none** or **N/A** as needed.)

Revises ORS 696.301

Adds new sections to ORS Chapter

Check one: Major program change      X Minor program change      Technical correction/housekeeping only

Was previously proposed in: Year as Bill No. N/A

Why are you proposing it again (what changed)? \_\_\_\_\_

Is a PLACEHOLDER? No  Yes  Expected date of completion: \_\_\_\_\_

Reason not completed: \_\_\_\_\_

Is due to legal decision:      Case cite:      or AGO No./date      (*attach copy*)

Raises fees or assessments? No X Yes  (*attach Fiscal Impact Estimate*)

Imposes or adds to unfunded mandate on local governments? No X Yes  (*attach Fiscal Impact Estimate*)

Has other fiscal or position impacts? No X Yes  (*attach Fiscal Impact Estimate*)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

Department of Administrative Services

Date

Governor's Office

Date

**DRAFT TEMPORARY ADVERTISING RULE  
TO BECOME EFFECTIVE IN JANUARY 2008  
Date of Draft: January 9, 2008**

**863-015-0125**

**Advertising**

(1) As used in this rule, "advertising" and "advertisement" include all forms of representation, promotion and solicitation disseminated in any manner and by any means for any purpose related to professional real estate activity, including, without limitation, advertising by mail; telephone, cellular telephone, and telephonic advertising; the Internet, E-mail, electronic bulletin board and other similar electronic systems; and business cards, signs, lawn signs, and billboards.

(2) Advertising by a licensee, in process and in substance, must:

- (a) Be identifiable as advertising of a real estate licensee;
- (b) Be truthful and not deceptive or misleading;
- (c) Not imply that the real estate broker or property manager associated with a principal real estate broker is the person responsible for operating the real estate brokerage or is a sole practitioner or principal broker;
- (d) Not use words that state or imply that the licensee is qualified or has a level of expertise other than as currently maintained by the licensee; and
- (e) Be done only with the written permission of the property owner(s) or owner(s)' authorized agent.

(3) Advertising that includes the licensee's name must:

- (a) Use the licensee's licensed name; or
  - (b) Use a common derivative of the licensee's first name and the licensee's licensed last name.
- (4) The licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker, or property manager must be prominently displayed, immediately noticeable, and conspicuous in all advertising.

(5) Except as provided in section (8) of this rule, a real estate broker must:

- (a) Submit proposed advertising to the licensee's principal broker for review and receive the principal broker's approval before publicly releasing any advertisement; and
- (b) Keep a record of the principal broker's approval and make it available to the Agency upon request.

(6) Except as provided in section (8) of this rule, a principal real estate broker:

- (a) Is responsible for all advertising approved by the principal broker that states the principal real estate broker's licensed name or registered business name; and
- (b) Must review all advertising of a real estate broker or a property manager who is associated with the principal real estate broker.

(7) A principal real estate broker may delegate direct supervisory authority and responsibility for advertising originating in a branch office to the principal broker who manages the branch office if such delegation is in writing.

- (8) A licensee associated with a principal real estate broker may advertise property owned by the licensee for sale, exchange, or lease option without approval of the principal real estate broker, if:
- (a) The property is not listed for sale, exchange, or lease option with the principal broker;
  - (b) The advertising states that the property owner is a real estate licensee; and
  - (c) The advertising complies with all applicable other applicable provisions of ORS chapter 696 and its implementing rules.
- (9) In addition to all other requirements of this rule, advertising in electronic media and by electronic communication, including but not limited to the Internet, web pages, e-mail, e-mail discussion groups, blogs, and bulletin boards is subject to the following requirements:
- (a) Advertising by a licensee must include on its first page:
    - (i) The licensee's licensed name as required in section (3) of this rule;
    - (ii) The licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker, or property manager; and
    - (iii) A statement that the licensee is licensed in the State of Oregon.
  - (b) Sponsored links, which are paid advertisements located on a search engine results page, are exempt from the requirements contained in subsection (a) if the first page following the link complies with subsection (a).
  - (c) E-mail from a licensee is exempt from the requirements of subsection (a) if the licensee's initial communication contained the information required by subsection (a).
- (10) No advertising may guarantee future profits from any real estate activity.
- (11) A licensee may use the term "team" or "group" to advertise if:
- (a) The use of the term does not constitute the unlawful use of a trade name and is not deceptively similar to a name under which any other person is lawfully doing business;
  - (b) The team or group includes at least one real estate licensee;
  - (c) The licensee members of the team or group are associated with the same principal broker or property manager;
  - (d) The licensee members of the team or group use each licensee's licensed name as required under section (3) of this rule;
  - (e) If any non-licensed individuals are named in the advertising, the advertising must clearly state which individuals are real estate licensees and which ones are not; and
  - (f) The advertising complies with all other applicable provisions of ORS chapter 696 and its implementing rules.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.301(1), (4)

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 3-2006(Temp), f. 12-28-06, cert. ef. 1-1-07 thru 6-29-07; REA 3-2007, f. & cert. ef. 6-29-07

**STATE OF OREGON  
REAL ESTATE AGENCY**

***PAY RECORD/ATTENDANCE VERIFICATION***

**Real Estate Board**

January 14, 2008  
Date

\_\_\_\_\_  
Signature of Board Liaison

<b>NAME</b>	<b>NO. OF DAYS</b>	<b>RATE OF PAY</b>	<b>TOTAL</b>
Troy E. Costales		Not Eligible (State Employee)	
Warren L. (Lee) Dunn	1	\$30.00	\$30.00
Michael R. Graeper	1	\$30.00	\$30.00
Byron R. Hendricks	1	\$30.00	\$30.00
Christopher S. Hermanski	1	\$30.00	\$30.00
Arthur T. Kegler	1	\$30.00	\$30.00
Robert L. LeFeber	1	\$30.00	\$30.00
Marianne Wood	1	\$30.00	\$30.00