

# **REAL ESTATE AGENCY**

## **DIVISION 22**

### **LICENSE APPLICANT COURSE REQUIREMENTS AND COURSE APPROVAL**

#### **Definitions**

#### **863-022-0010**

#### **Course Requirements for Real Estate Broker License Applicants**

(1) The real estate broker license applicant course of study required by OAR 863-014-0035 must include 150 clock-hours in the seven courses listed in section (2) of this rule.

(a) Courses offered by private career schools must be approved by the Agency under OAR 863-022-0030.

(b) Courses offered by community colleges, colleges, and universities must be approved by the Agency under OAR 863-022-0035.

(c) To be eligible for credit, all courses must be presented for the designated number of hours and according to the percentages allocated for each topic.

(2) The courses required for real estate broker license applicants are:

(a) Real Estate Law (30 hours).

(b) Oregon Real Estate Practice (30 hours).

(c) Real Estate Finance (30 hours).

(d) Contracts (15 hours).

(e) Agency Law (15 hours).

(f) Property Management (10 hours).

(g) Real Estate Brokerage (20 hours).

(3) The seven required courses must include the following number of hours and percentages allocated for the topics within each course:

(a) Real Estate Law Course (30 hours). This course covers general real estate law with an emphasis on Oregon real property law and includes the following topics:

(A) (20% or 6 hours) Basic real property law, types of estates and forms of ownership, such as fee simple absolute, severalty, various concurrent estates, trust, by business organizations; the nature of real property versus the nature of personal property; fixtures, emblements, water rights (riparian rights, natural drainage rights, state ownership of navigable riverbed), estoppel, condemnation, and severance.

(B) (10% or 3 hours) Ways to legally describe real property, including the proper and complete writing of legal descriptions for real estate transaction documents commonly used in Oregon.

(C) (10% or 3 hours) Transfer of title, including voluntary and involuntary transfers and proper deed conveyance (types and their requirements, statutory deed forms, recording requirements, acknowledgment).

(D) (15% or 4.5 hours) Encumbrances, including easements, such as easement appurtenant, easements in gross, easement by necessity, easements by prescription, as well as how easements are created and terminated; voluntary and involuntary encumbrances, especially statutory liens, such as mechanic's liens, tax liens, judgment liens, and federal income tax liens.

(E) (10% or 3 hours) Title insurance and escrow recording, including types of coverage and exclusions in title insurance policies; escrow procedures; requirements for recording documents.

(F) (10% or 3 hours) Taxes and assessments, especially the levy and collection process; foreclosure and redemption rights, exemptions, special assessments, and the Bancroft Bonding Act.

(G) (25% or 7.5 hours) Land use control, including private controls such as covenants, conditions and restrictions; public controls such as planning, zoning, city and county subdivision platting, building regulations, implied warranties on new homes, consumer protection in land sales through recording land sales contracts, public reporting under Oregon Subdivision Control Law; and condominiums, including their creation and statutory obligations of condominium developers.

(b) Oregon Real Estate Practice Course (30 hours). This course covers the requirements for Oregon real estate licensees contained in the Oregon Revised Statutes chapter 696 and the Oregon Administrative Rules chapter 863 and includes the following topics:

(A) (5% or 1.5 hours) The basic business relationships between principal brokers and associated brokers including, for example, the agency relationship and the principal broker's supervisory responsibilities, duties, and liabilities to third parties.

(B) (25% or 7.5 hours) The Oregon real estate license requirements and the limitations on licensing as set forth in the Oregon Real Estate License Law; also the rules and regulations, especially their applications to real estate transactional documents, advertising, competitive market analyses, property management, and licensees.

(C) (20% or 6 hours) Listing agreements, specifically the Oregon administrative rules concerning marketing and advertising listed properties.

(D) (20% or 6 hours) Sale agreements, such as offers to purchase and seller's counter offers, earnest money agreements, options to buy real property, the statutes and rules affecting sale agreements.

(E) (15% or 4.5 hours) The Civil Rights Act and real estate-related provisions of the Americans with Disabilities Act and their administration and enforcement.

(F) (15% or 4.5 hours) The basic roles of the real estate broker, including additional requirements, liabilities, and needs for advanced training in related activities, such as competitive market analyses, property management (including renting and leasing), exchanging, securities, business opportunities (i.e., business chance brokering.); auctions, farms, vacation homes, and campgrounds.

(c) Real Estate Finance Course (30 hours). This course covers real estate finance and appraisal methods, including the methods for performing mathematical computations commonly required of real estate licensees, and includes the following topics:

(A) (10% or 3 hours) Lending laws, including federal laws and regulations such as Regulation Z, the Federal Equal Credit Opportunity Act, and the Real Estate Settlement Procedures Act.

(B) (10% or 3 hours) The money market and sources of financing; private versus government sources, the primary and secondary mortgage market, the federal money market, and federal monetary controls.

(C) (10% or 3 hours) Financing documents, including mortgages, trust deeds, and land sale contracts.

(D) (10% or 3 hours) Foreclosure; terms, methods, procedures and remedies.

(E) (10% or 3 hours) Governmental loan programs; FHA, federal VA, Oregon DVA.

(F) (10% or 3 hours) Non-governmental loan programs, such as conventional loans, construction loans, and mobile home loans.

(G) (10% or 3 hours) Competitive market analyses; principles, terminology, processes, and approaches commonly used.

(H) (15% or 4.5 hours) Mathematical calculations used in financing real estate transactions.

(I) (10% or 3 hours) Other methods of financing, including wraparound mortgages, second mortgages, sale-leasebacks, collateral assignments, and use of personal property.

(J) (5% or 1.5 hours) Taxation and its impact in financing arrangements.

(d) Contracts Course (15 hours). This course covers the basic requirements for common real estate contracts, including listings, offers to purchase, leases, and land sales contracts. The course highlights Oregon-specific contract requirements and includes the following topics:

(A) (40% or 6 hours) Basic contract law, including the elements necessary to form a contract, breaches, and interference with an existing contract.

(B) (40% or 6 hours) Real estate contracts, especially required provisions and suggested language for listing agreements, earnest money/sale agreements, options land sales contracts, leases, and escrow agreements.

(C) (20% or 3 hours) Special requirements and limitations on contracts for the sale of subdivided lands, condominiums, and planned developments under Oregon law.

(e) Agency Law Course (15 hours). This course covers agency law, both its common law aspects and Oregon's statutory requirements for real estate licensees and includes the following topics:

(A) (40% or 6 hours) The common law of agency, including an in-depth study of the fiduciary requirements and its application to real estate brokerage.

(B) (60% or 9 hours) ORS 696.800 to 696.880 generally, with an emphasis on the obligations and duties of an agent to clients and others, as set out in ORS 696.805 to 696.815.

(f) Property Management Course (10 hours). This course covers basic property management law and includes the following topics:

(A) (35% or 3.5 hours) Oregon real estate license statutes and administrative rules as applied to property management activity.

(B) (10% or 1 hour) Oregon Residential Landlord and Tenant Act, including tenants' and landlords' rights and obligations; evictions, forcible entry, and detainer procedures.

(C) (10% or 1 hour) Economics of property management, including analysis of markets, properties, and evaluating the owner's objectives.

(D) (5% or .5 hours) Leases, including leaseholds, types of leases, and common lease clauses.

(E) (10% or 1 hour) Agency relationship between property owner and property manager.

(F) (5% or .5 hours) Tenant relations, including maintenance.

(G) (20% or 2 hours) Property management recordkeeping, including operating reports, budgets, income tax records, types of insurance, trust accounts, and trust account reconciliation.

(H) (5% or .5 hours) Anti-discrimination statutes, federal and state, that apply to tenant selection and advertising; Fair Credit Reporting Act and its application to tenant selection.

(g) Real Estate Brokerage Course (20 hours). This covers basic real estate brokerage, including the legal requirements for record-keeping and clients' trust account reconciliation and includes the following topics:

(A) (10% or 2 hours) Advertising, including supervising content, format, and layout; public relations, image development, the Internet, and relations between competitors; office policy on private transactions of licensees; effect of disciplinary action on licensees.

(B) (20% or 4 hours) Financial records, such as general checking account and its use for paying commissions; receipt of competitive market analysis fees; legal requirements for the clients' trust account, including documentation required, reconciliation, use of interest-bearing accounts, commingling of funds, the trust account's use in cooperative transactions, earnest money, advance fees, and rental fees.

(C) (10% or 2 hours) Office facilities and the regulatory requirement for real estate offices, including site selection, space and office layout, furniture and equipment; broker license requirements; regulations affecting the office, such as signs; requirements for branch offices, limitations on licenses, effect of actions on licenses, and reporting of adverse litigation.

(D) (15% or 3 hours) The legal requirements for neutral escrows and co-op transactions; the mathematics of a real estate closing, such as tax pro-rations, computing commission splits, and making closing estimates; closing procedures, such as title insurance, recording, and acknowledging documents.

(E) (10% or 2 hours) Financial reports, such as income statements, balance sheets, tax returns, and payroll records.

(F) (15% or 3 hours) Non-financial records, such as listing files, transaction records, cooperative transaction records, advertising folders, showing reports, competitive market

analysis records and reports; legal requirements, such as management review of broker transactions.

(G) (10% or 2 hours) Office manuals that specify office policy and procedures; use of the manual in training and to set out grievance procedures.

(H) (10% or 2 hours) Office activity other than real estate sales; property management, competitive market analyses, investment counseling, construction and development, including supervisory requirements, as well as the nature of the activities in relation to real estate law and rules.

(4) Except for Real Estate Finance courses, as provided in section (7) of this rule, an applicant must complete the required courses through Agency-approved private career schools or in-state community colleges, colleges, or universities, as those terms are defined in OAR 863-022-0005.

(5) To receive credit for courses provided by private career schools, the following provisions apply:

(a) License applicants must complete the course of study and receive a passing score of at least 75% on a final examination for each course.

(b) Except for Real Estate Finance, only courses completed on or after July 1, 2002 are eligible for credit.

(c) Real Estate Finance courses must have been completed on or after July 1, 1978 to be eligible for credit.

(6) To receive credit for courses provided by in-state community colleges, colleges, and universities, the following provisions apply:

(a) License applicants must complete the course of study, including a final examination for each course and achieve a minimum grade of "C."

(b) Except for Real Estate Finance, only courses completed on or after July 1, 2002 are eligible for credit.

(c) Real Estate Finance courses must have been completed on or after July 1, 1973 to be eligible for credit.

(7) To receive credit for Real Estate Finance courses taken through out-of-state community colleges, colleges, and universities:

(a) The courses must have been completed on or after July 1, 1973,

(b) The applicant must have achieved a minimum grade of "C;" and

(c) The applicant must obtain a transcript and submit it to the Agency as part of the application process.

(8) The real estate broker license applicant course of study is not eligible for continuing education credit under OAR 863-020-0008 or 863-020-0010.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

## **863-022-0015**

### **Course Requirements for Property Manager License Applicants**

(1) The course required by OAR 863-024-0045 for real estate property manager license applicants consists of a 60-hour Agency-approved real estate property manager course. The property manager course covers the specialized area of the management of rental real estate, including Oregon's legal requirements.

(2) To be eligible for credit, the 60-hour course must include 60 clock-hours allocated among topics in the number of hours and percentages as follows:

(a) (30% or 18 hours) Oregon real estate license statutes and administrative rules applicable to the management of rental real estate.

(b) (15% or 9 hours) Clients' trust accounts and account reconciliation.

(c) (10% or 6 hours) Oregon Residential Landlord and Tenant Act, including tenants' and landlords' rights and obligations; evictions, forcible entry and detainer procedures.

(d) (5% or 3 hours) Economics of property management, including analysis of markets, properties, and evaluating the owner's objectives.

(e) (5% or 3 hours) Leases, including leaseholds, types of leases and common lease clauses.

(f) (5% or 3 hours) Agency relationship between property owner and property manager and tenant relations, including maintenance.

(g) (15% or 9 hours) Management recordkeeping, including operating reports, budgets, income tax records, insurance types.

(h) (5% or 3 hours) Federal and state anti-discrimination laws and their applicability to tenant selection and advertising; the Fair Credit Reporting Act and its applicability to tenant selection.

(i) (10% or 6 hours) General real estate law applicable to property management activity, including types of estates and forms of ownership; transfer of title; taxes and assessments, including the levy and collection process, foreclosure and redemption rights, exemptions, and special assessments; land use controls, including private controls such as covenants, conditions, and restrictions, and public controls such as planning and zoning.

(3) The course must be completed through either Agency-approved private career schools or in-state community colleges, colleges, and universities, as those terms are defined in OAR 863-022-0005.

(4) To receive credit for a course provided by a private career school, applicants must complete the course, including a final examination, and receive a passing score of at least 75% on a final exam.

(5) To receive credit for a course provided by an in-state community college, college, or university, applicants must complete the course, including a final examination and achieve a minimum grade of "C."

(6) Only courses completed on or after July 1, 2002 are eligible for credit.

(7) The property manager license applicant course is not eligible for continuing education credit under OAR 863-020-0008 or 863-020-0010.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

### **863-022-0025**

#### **Education Course Requirements for Principal Broker License Applicants**

(1) The course required by OAR 863-014-0040 for principal real estate broker license applicants is a 40-hour Agency-approved brokerage administration and sales supervision course.

(2) The brokerage administration and sales supervision course covers legal requirements unique to principal brokers and reviews the material introduced in the 150-hour real estate broker applicant course of study described in OAR 863-022-0010.

(3) To be eligible for credit, the 40-hour course must include 40 clock-hours, allocated among topics in the number of hours and percentages as follows:

(a) (10% or 4 hours) Introduction to management theory, characteristics of successful management, the functions of management, organizational formats such as corporate, partnerships, and proprietorship, various problems associated with management, and types of licenses and their legal requirements.

(b) (10% or 4 hours) Planning, including management objectives, planning under the employer-employee relationship versus independent contractor relationship, individual and office planning, budget planning, market research, growth, and anticipation of expansion, and bottom line planning.

(c) (15% or 6 hours) Selecting, training, and supervising real estate personnel, including job descriptions, recruiting, interviewing, and characteristics of a successful real estate broker; training in Oregon real estate law, real estate documents; supervising transactions, performance evaluations, commission arrangements; major theories of human motivation, for example, those of Maslow, Herzberg, and McClelland; selecting, training, and evaluating office support personnel.

(d) (5% or 2 hours) Leadership, authority, discipline; office regulations, relationships between office personnel; office policy on private transactions of licensees; effect of disciplinary action on licensees.

(e) (5% or 2 hours) Communication methods; formal versus informal; verbal versus non-verbal; reading, writing, listening, speaking; office sales meetings.

(f) (5% or 2 hours) Advertising, including supervising content, format, and layout; public relations, image development, and relations between competitors.

(g) (5% or 2 hours) Office facilities, including legal requirements for real estate offices, such as site selection, space and office layout, furniture and equipment, signs; broker license requirements; legal requirements concerning branch offices; limitations on licenses, effect of actions on licenses, and reporting of adverse litigation.

(h) (20% or 8 hours) Financial records, such as general checking account and its use for paying commissions, receipt of competitive market analysis fees; the clients' trust account, legal requirements concerning its use, including required documentation, use of interest-bearing accounts, commingling of funds, the trust account's use in cooperative transactions, earnest money, advance fees, and rental fees.

(i) (5% or 2 hours) Financial reports, such as income statements, balance sheets, tax returns, and payroll records.

(j) (5% or 2 hours) Non-financial records, such as listing files, transaction records, cooperative transaction records, advertising folders, showing reports, competitive market analysis records and reports; legal requirements, such as broker review of salesperson transactions.

(k) (5% or 2 hours) Office manuals that specify office policy and procedures, use of the manual in training and to set out grievance procedures.

(l) (5% or 2 hours) Office activity other than real estate sales; competitive market analyses, investment counseling, construction, and development, including supervisory requirements, and the nature of the activities relative to real estate legal requirements.

(m) (5% or 2 hours) Property management: legal requirements for accounting and record keeping, Oregon Landlord Tenant Law.

(4) License applicants must complete the course, including a final examination, and receive a passing score of at least 75% on a final exam.

(5) An Agency-approved brokerage administration and sales supervision course is eligible for continuing education credit for licensees renewing under OAR 863-020-0008 or 863-020-0010 as follows:

(a) If the licensee completed the course on or before December 31, 2010; or

(b) If the licensee completed the course on or after January 1, 2011 and the course provider was a certified continuing education course provider.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

## **NEW RULE NEW RULE**

### **863-022-0060**

#### **Responsibilities of Providers of Real Estate Broker, Principal Broker and Property Manager License Application Courses**

(1) This rule is effective July 1, 2011.

(2) For purposes of this rule, a “course provider” is:

(a) A private career school, in-state community college, college, and university that provides the 150-hour real estate broker license applicant course of study under OAR 863-022-0010, the 60-hour property manager license applicant course under OAR 863-022-0015; or the 40-hour brokerage administration and sales supervision course under OAR 863-022-0025; and

(b) A continuing education provider who provides the 40-hour brokerage administration and sales supervision course under OAR 863-022-0025.

(3) For purposes of this rule, “examination provider” means the vendor, under a contract with the Agency, which provides licensing examination services and collects the fee for such services directly from a license applicant.

(4) A course provider must certify to the examination provider that an applicant for a real estate license has successfully completed the course or courses according to the requirements and instructions of the examination provider.

(5) Before certifying completion of a course as provided in (4) of this rule, a course provider must obtain proof from a license applicant that the applicant has submitted a license application to the Agency.

(6) A course provider must inform each student taking a course that:

(a) The course provider will certify to the examination provider that an applicant for a real estate license has successfully completed the course or courses; and

(b) Before a course provider may certify successful course completion, a student must provide proof to the provider that the student has made application to the Agency for a real estate broker, principal broker or property manager license.

(7) In addition to the requirements under this rule, a course provider must provide a certificate of completion to each student.