Chapter 696

1963 REPLACEMENT PART

Real Estate and Business Brokers; Escrow Agents

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DEFINITIONS

696.005 Definitions. As used in ORS 696.005 to 696.490 and 696.610 to 696.730:

(1) "Board" means the Real Estate Board.

(2) "Commissioner" means the Real Estate Commissioner, who is the administrator of the Real Estate Division.

(3) "Division" means the Real Estate Division of the Department of Commerce.

[1963 c.580 §39]

696.010 Definitions. As used in ORS 696.005 to 696.490 and 696.610 to 696.730, unless the context requires otherwise:

(1) "Associate real estate broker" is a person who has qualified as a real estate broker and who works with a designated broker and whose license states that he is associated with a designated broker.

(2) "Board" means the Real Estate Board.

(3) "Commissioner" means the Oregon Real Estate Commissioner.

(4) "Compensation" means any fee, commission, salary, money or valuable consideration for services rendered or to be rendered as well as the promise thereof and whether contingent or otherwise.

(5) "Division" means the Real Estate Division or the commissioner as the context may require.

(6) "Inactive license" means a license which has been returned to the commissioner and is being held by the commissioner on an inactive status.

(7) "Real estate" includes leaseholds as well as any and every interest or estate in land, whether corporeal or incorporeal, whether freehold or nonfreehold and whether the land is situated in this state or elsewhere.

(8) "Real estate broker" means any person who, for another and for compensation or with the intention or in the expectation or upon the promise of receiving or collecting compensation:

(a) Sells, exchanges, purchases, rents or leases real estate.

(b) Offers to sell, exchange, purchase, rent or lease real estate.

(c) Negotiates, offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate.

(d) Lists, offers, attempts or agrees to list real estate for sale.

(e) Appraises, offers, attempts or agrees to appraise real estate.

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

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

(h) Collects, offers, attempts or agrees to collect rental for the use of real estate.

(i) Advertises or holds himself out as being engaged in the business of buying, selling, exchanging, renting or leasing real estate.

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

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

(9) "Real estate broker" also means any person employed by or on behalf of the owner of real estate at a stated salary or upon a commission or upon a salary and commission basis or other compensation to sell, exchange or offer for sale such real estate, or any part thereof, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange of any lot or parcel of real estate.

(10) "Real estate salesman" means any person, who, for compensation or in the expectation or upon the promise thereof, is employed or engaged by a licensed real estate broker to do any act or deals in any transaction set out in subsection (8) of this section for or on behalf of such licensed real estate broker.

[Amended by 1953 c.166 §5; 1955 c.322 §6]

REAL ESTATE BROKERS AND SALESMEN

696.020 Real estate brokers and salesmen required to be licensed. No person shall engage in or carry on or advertise or hold himself out as engaging in or carrying on the business, or act in the capacity of, a real estate broker or a real estate salesman within this state without first obtaining a license as a real estate broker or a real estate salesman as provided for in this chapter.

696.030 Certain persons exempted. ORS 696.010 to 696.375, 696.395 to 696.490, 696.710 to 696.730 and 696.990 do not apply to, and the terms "real estate broker" and "real estate salesman" do not include:

(1) Any person, partnership, association or corporation who, as owner, lessor or lessee, performs any acts with reference to

property owned or leased by him or it; or any regular employe of any person, partnership, association or corporation who performs any acts with reference to property owned or leased by such person, partnership, association or corporation which are incidental to other principal activities or business of a nonreal estate nature of the employer.

(2) Any person acting as attorney in fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing or exchanging of real estate, if the power of attorney is recorded in the office of the recording officer for the county in which the property to be sold, leased or exchanged is located.

(3) Any attorney at law rendering services in the performance of his duties as an attorney at law.

(4) While acting as such, any receiver, trustee in bankruptcy, administrator or executor; or any trustee, or the regular salaried employes thereof, acting under a trust agreement, deed of trust or will.

(5) Any person doing any of the acts specified in subsection (8) or (9) of ORS 696.010 under order of any court.

(6) Any person engaged in the management, but not sale, of commercial properties.
[Amended by 1955 c.322 §7; 1963 c.593 §1]

696.040 Single act sufficient to constitute actor broker or salesman. One act or transaction in consideration of compensation, by fee, commission, salary or otherwise, or with the intention or in the expectation or upon the promise of receiving or collecting a fee of the kind or nature described in the definition of a real estate broker in subsection (8) or (9) of ORS 696.010, whether the act is an incidental part of a transaction, or the entire transaction, shall constitute the person offering or attempting to perform the act or transaction a real estate broker or a real estate salesman within the meaning of this chapter.
[Amended by 1955 c.322 §8]

696.050 Qualifications of applicants for licenses. (1) Licenses shall be granted only to persons who are trustworthy and competent to transact the business of a real estate broker or real estate salesman in such manner as to safeguard the interests of the public and only after satisfactory proof has been presented to the commissioner. Every applicant for a license as a real estate broker or salesman shall:

(a) Be of the age of 21 years or over;

(b) Be a citizen of the United States;

(c) Have established his residence in Oregon prior to filing his application, with the exception that a licensed broker or salesman who is currently licensed by a state, and who is a resident of that state, may file his application for a broker's or salesman's license as a nonresident licensee, providing that the state by which he is currently licensed has a law which meets the requirements of ORS 696.250.

(2) In order to qualify for a broker's license, the applicant must also furnish proof satisfactory to the commissioner that:

(a) He was engaged in business and duly licensed as a real estate salesman for a period of at least two years prior to the date of his application;

(b) He has taken and successfully completed a course of instruction in real estate principles, practices and procedures, which in the opinion of the commissioner is the equivalent of two years' experience as a real estate salesman; or

(c) At the discretion of the board, he has had other experience in the selling or management of real estate equivalent to two years' experience as a real estate salesman, and evidences such experience by detailed explanatory affidavit to establish the nature of such experience.

(3) Brokers licensed under the laws of the state on August 2, 1951, are not required to meet the requirement of subsection (2) of this section.

(4) No broker's license shall be issued to a partnership, association or corporation unless all the members of the partnership, association or corporation who will actively engage in the real estate business and all the officers and directors of the corporation who will actively engage in the business of real estate are 21 years of age or over and citizens of the United States. The commissioner, at his discretion, may issue a license to any person not a citizen of the United States who may be eligible for a license if due proof is made to the commissioner that he has declared his intention to become a citizen of the United States.

(5) If an applicant has been convicted of any crime enumerated in paragraph (m) of subsection (1) of ORS 696.300, such conviction may be accepted as conclusive evidence of the untrustworthiness of the appli-

cant, and such conviction may, in and of itself, be sufficient grounds for refusal of license.

[Amended by 1955 c.322 §9; 1961 c.471 §1; 1963 c.412 §1]

696.060 Form and contents of application for real estate broker's license. Every applicant for a real estate broker's license shall apply therefor in writing upon blanks prepared or furnished by the division. The application for a broker's license shall be verified by the applicant. If the application is made by a partnership or an association, it shall be verified by at least two members thereof. If the application is by a corporation, it shall be verified by the president and secretary thereof. The application shall be in such form as the commissioner may prescribe and shall set forth:

(1) The name and address of the applicant. If the applicant is a partnership or an association, the name and address of each member shall be set forth. If the applicant is a corporation, the name and address of each officer and director shall be set forth.

(2) The name under which the business is to be conducted.

(3) The place or places, including the street number, town, village or city, and county where the business is to be conducted.

(4) The business or occupation theretofore engaged in by the applicant for a period of at least two years immediately preceding the date of such application, and the location thereof; if the applicant is a partnership or an association, by each member thereof, or if a corporation by each officer thereof.

(5) The time and place of the applicant's previous experience in the real estate business, as broker or salesman; if the applicant is a partnership or an association, by each member thereof, or if a corporation, by each officer thereof.

(6) Whether the applicant has ever been convicted of or is under indictment for forgery, embezzlement, obtaining money under false pretense, larceny, extortion, a crime involving moral turpitude, conspiracy to defraud or other like offense or offenses or has been disbarred from the practice of law; if the applicant is a partnership or an association, whether any member thereof has been so convicted, indicted or disbarred; if the applicant is a corporation, whether any officer or director has been so convicted, indicted or disbarred.

(7) Whether the applicant has been refused a real estate broker's or salesman's license or any other occupational or professional license in any other state or whether his license as a broker or salesman or in any other occupational or professional capacity has been revoked or suspended in any other state; if the applicant is a partnership or an association, whether any member thereof has had a license as a broker or salesman or in any other occupational or professional capacity which has been revoked or suspended in any other state; if the applicant is a partnership or an association, whether any member thereof has had a license as a broker or a salesman or in any other occupational or professional capacity refused, suspended or revoked in any other state; if the applicant is a corporation, whether any officer thereof has had a license as a broker or a salesman or in any other occupational or professional capacity refused, suspended or revoked in any other state.

(8) If the applicant is a partnership, association or corporation, the name of the designated member or officer thereof who is to receive his license by virtue of the issuing of a license to the partnership, association or corporation as is provided for in ORS 696.080.

(9) If the applicant is a member of a partnership or association, or an officer of a corporation, the name and office address of the partnership, or association, or corporation of which the applicant is a member or officer.

696.070 Recommendations to accompany application. The application for a real estate broker's or salesman's license shall be accompanied by the recommendation of at least three resident citizens, not related to the applicant, who have owned real estate for a period of three years or more in the county in which the applicant resides or has or intends to establish his place of business, and who have known the applicant for a period of three years or more. The recommendation shall certify that the applicant bears a good reputation for honesty, truthfulness, fair dealing and competency, and shall recommend that a license be granted to the applicant. If the applicant cannot procure such recommendations for the reason that he has not resided within the county for a period of three years, he may furnish similar recommendations from three persons with like qualifications from any locality within or

without the state where the applicant has resided within the three years prior to the filing of his application.
[Amended by 1963 c.412 §2]

696.080 Partnerships, associations and corporations; designating person to make application and pass examination. Every partnership and association, in its application for a license, shall designate and appoint one of its members, and every corporation in its application for a license shall designate and appoint one of its officers to submit an application for a broker's license. The application of the partnership, association or corporation, and the application of member or officer so designated, shall be filed with the commissioner together. No license shall be issued to any partnership, association or corporation unless and until the person or officer so designated by the partnership, association or corporation submits to and passes the examination required by ORS 696.005 to 696.490 and 696.610 to 696.730, on behalf of the partnership, association or corporation. Upon such member's or officer's successfully passing the examination and upon compliance with all other requirements of law by the partnership, association or corporation, as well as by the designated member or officer, the commissioner shall issue a broker's license to the partnership, association or corporation, which shall bear the name of such member or officer, and, thereupon, the member or officer so designated shall act as a real estate broker only as officer or agent of the partnership, association, or corporation, and not on his own behalf. If, in any case, the person so designated is refused a license by the commissioner or in case the person ceases to be connected with such partnership, association or corporation, the partnership, association or corporation shall have the right to designate another person who shall make application and qualify as in the first instance.

696.090 Certain firm members required to obtain broker's license. Each and every member or officer of a partnership, association or corporation who will perform or engage in any of the acts specified in subsection (8) of ORS 696.010, other than the designated member or officer of the partnership, association or corporation in the manner provided in ORS 696.080, shall be required to make application for and take out a separate broker's license in his own name individually; but the license issued to any such member or officer of a partnership, association or corporation shall entitle such member or officer to act as real estate broker only as officer or agent of the partnership, association or corporation, and not on his own behalf.
[Amended by 1955 c.322 §10]

696.100 Application for salesman's license. Every application for a salesman's license shall be made in writing upon a form prescribed by the commissioner and shall contain such information as is required in a broker's application, and also shall set forth the period of time, if any, during which the applicant has been engaged in the real estate business, stating the name and address of his last employer. Every application for a salesman's license shall be verified by the applicant.
[Amended by 1963 c.412 §3]

696.110 Application and examination fees. (1) Every application for a license and any examination under ORS 696.005 to 696.490 and 696.610 to 696.730 shall be accompanied by the license fee and examination fee prescribed in ORS 696.270. If the commissioner does not issue the license, the license fee shall be returned to the applicant. The fee for all licenses issued shall, at all periods of the year, be the same as prescribed in ORS 696.270.

(2) No other license or fee shall be required of such licensee by any city, county, town or other political subdivision thereof.
[Amended by 1955 c.322 §11; 1961 c.309 §3]

696.120 Commissioner may require additional information from applicants; rules and regulations. (1) Applications for a broker's or salesman's license shall contain such other information as to the applicant, in addition to that described in ORS 696.060 to 696.100, as the commissioner shall require. The commissioner may require such other proof, through the application, or otherwise, as he shall deem desirable, with due regard to the paramount interests of the public, as to the honesty, truthfulness, integrity and competency of the applicant.

(2) The commissioner expressly is vested with the power and authority to make and enforce any and all such reasonable rules and regulations connected with the application for any license as shall be deemed necessary to administer and enforce the provisions of ORS 696.005 to 696.490 and 696.610 to 696.730.

696.130 Examination of applicants; waiver of examination for person licensed in another state; person passing broker's examination may request salesman's license. (1) In addition to proof of honesty, truthfulness and good reputation of any applicant for a license, the applicant shall be required to pass a written examination to be conducted by the Real Estate Board. The examination shall include reading, writing, spelling, arithmetic and computation, salesmanship, appraising, accounts, real estate ethics, real estate taxation, problems in real estate and a general knowledge of the provisions of ORS 696.010 to 696.375, 696.395 to 696.490, 696.710 to 696.730 and 696.990.

(2) The board shall hold examinations at such times and places as it may determine, except that the board shall hold the examinations no less frequently than every 60 days. The examination for a broker's license shall differ from the examination for a salesman's license in that it shall be of a more exacting nature and require higher standards of knowledge of real estate. If the license of any real estate broker or salesman is revoked by the commissioner, no new license shall be issued to such person unless he complies with the provisions of ORS 696.005 to 696.490 and 696.610 to 696.730.

(3) The commissioner may waive the requirement of examination in the case of an application from a:

(a) Nonresident broker licensed in another state; or

(b) Resident of this state who has been a licensed real estate broker in another state for a period of two or more years

if such resident or nonresident is or was, as the case may be, licensed in a state having similar requirements, under the laws of which similar recognition and courtesies are extended to licensed real estate brokers and real estate salesmen of this state.

(4) If an applicant for a license successfully passes an examination for a broker's license, he may on request and upon compliance with the other provisions of ORS 696.005 to 696.490 and 696.610 to 696.730 have issued to him a real estate salesman's license.
[Amended by 1955 c.322 §12]

696.140 Reexamination. Any individual who fails to pass an examination conducted by the board pursuant to ORS 696.130 is ineligible for a similar examination until after the expiration of 60 days from the time he took the last examination, and then only upon making application and payment of the examination fee. An applicant who has failed two successive examinations shall be ineligible to take another examination until the expiration of one year from the date of the last examination taken. Any person who fails to take or pass the examination shall not be entitled to the return of any examination fees previously paid.
[Amended by 1961 c.471 §2; 1963 c.412 §4]

696.150 Examination where applicant is a partnership, association or corporation. If the applicant is a partnership, association or corporation, the examination shall be submitted to on behalf of the partnership, association or corporation by the member or officer thereof who is designated in the application as the person to receive a license by virtue of the issuing of a license to the partnership, or association, or corporation, as provided for in ORS 696.080.

696.160 Issuance of broker's and salesman's licenses. Upon satisfactorily passing the examination and upon complying with all other provisions of law and conditions of ORS 696.005 to 696.490 and 696.610 to 696.730, a license shall thereupon be granted by the commissioner to the successful applicant therefor as a real estate broker or a real estate salesman. The applicant, upon receiving his license, is authorized to conduct the business of a real estate broker or real estate salesman, as the case may be, between the date of his license and the following June 30, unless sooner revoked or suspended. Not more than one license shall be issued and outstanding to or in favor of any licensee at any one time except that one person may hold a license authorizing him to transact the real estate business on behalf of a partnership, association or corporation and a further license authorizing him to transact such business on his own behalf.

696.165 Issuance of associate broker's license and pocket card; application of chapter to associate brokers. (1) A real estate broker may act as a salesman for another broker if he obtains an associate broker's license. An associate broker's license may be obtained by a broker, without examination, by subscribing to an agreement that he will not engage in any act in the capacity of a broker other than as an employe of the employing broker, while associated with the

employing broker. The form of this agreement is subject to the approval of the commissioner. Signed copies of the agreement shall be filed with the employing broker and the commissioner. Before an associate broker's license may be issued, the applicant must also surrender to the commissioner his real estate broker's license and pocket card for suspension, which license and card shall stand suspended as long as his associate broker's license is outstanding and effective, and shall be reissued upon cancellation of his associate broker's license and compliance with the other provisions of ORS 696.005 to 696.490 and 696.610 to 696.730 relating to brokers.

(2) Upon approval of the agreement mentioned in this section, and the tender of the broker's license and pocket card to the commissioner, the commissioner shall issue, in the applicant's name, an associate broker's license and pocket card, the license to be delivered by the commissioner to the employing broker in accordance with ORS 696.180. The license shall designate the applicant as an associate real estate broker and he shall be known by that title. The pocket card shall be the same as that provided in ORS 696.190 for salesmen except that the designation "associate real estate broker" shall be substituted for "real estate salesman." The provisions of ORS 696.005 to 696.490 and 696.610 to 696.730, other than ORS 696.130 to 696.150 that relate to and govern real estate salesmen shall also apply to and govern associate real estate brokers.
[1953 c.166 §4]

696.170 Annual renewal of licenses; effect of failure to renew. Each license as a real estate broker or real estate salesman may be renewed by the commissioner for the ensuing fiscal year upon the payment by the licensee of the registration or renewal fee specified in ORS 696.270, provided that the registration or renewal fee is paid promptly and on or before July 1 of the fiscal year. Upon the payment of the registration or renewal fee the commissioner shall register and renew the license for a further period, expiring the following June 30. If the licensee fails to pay the registration or renewal fee promptly on or before June 30, the commissioner may, in his discretion, accept a later payment, subject to such conditions as he may require; but between June 30 and the date of such renewal of the license the rights of the licensee under such license shall be suspended, and during such suspension it is unlawful for any licensee to do or attempt or offer to do any of the acts of the kind or nature described in the definition of a real estate broker in subsection (8) of ORS 696.010 in consideration of compensation of any kind or expectation thereof.
[Amended by 1955 c.322 §13]

696.180 Form and content of license. The commissioner shall issue to each licensee a license in such form and size as shall be prescribed by the commissioner. The license shall show the name and address of the licensee and, in case of a real estate salesman's license, shall show the name of the real estate broker by whom he is employed. Each license shall have imprinted thereon the seal of the division and shall contain such other matter as shall be prescribed by the commissioner. The license of each real estate salesman shall be delivered or mailed to the real estate broker by whom such real estate salesman is employed and shall be kept in the custody and control of such broker.

696.190 Pocket cards to be issued. The commissioner shall prepare and deliver to each licensee a pocket card, which card, among other things, shall contain an imprint of the seal of the division and shall certify that the person whose name appears thereon is a licensed real estate broker or real estate salesman, as the case may be. If it is a real estate salesman's card it shall also contain the name and address of his employer. The matter to be printed on such pocket card, except as above set forth in this section, shall be prescribed by the commissioner.

696.200 Real estate broker to maintain place of business; branch offices; removal from state; change of business location. (1) Every real estate broker shall maintain in this state a place of business to be designated as his main office and designate such place of business by a sign which shall contain the name under which he conducts his business, together with the words "Real Estate," or if a member of the National Association of Real Estate Boards he may use the word "Realtor." Such sign shall be written in letters not less than one inch in height and placed so that it can easily be observed and read by anyone entering the place of business.

(2) The place of business shall be specified in the application for license, and designated in the license. No license issued under ORS 696.005 to 696.490 and 696.610 to 696.730 authorizes the licensee to transact business from any office other than that designated in the license, unless notice in writing is given to the commissioner prior to any such change of business location, designating the new location of such office, at which time the broker shall send in his license and pocket card and the licenses and pocket cards of the salesmen in his employ with the fee required by ORS 696.270 for each new license. The commissioner forthwith shall issue a new license for the new location for the unexpired period. The change of a business location without notification to the commissioner is grounds for cancellation of licenses previously issued.

(3) If a broker desires to establish one or more branch offices, he shall notify the commissioner, giving the location thereof, and pay the fee required by ORS 696.270 for each branch office to be established, whereupon the commissioner may issue a license therefor. The branch office license shall be issued in the same name that the main office license is issued, and the license must be posted in such place of business. Branch office signs shall conform with the provisions of subsection (1) of this section and the designation "Branch Office" shall be included. Each branch office shall be in charge of an associate real estate broker or a licensed real estate salesman, the license of which broker or salesman states that he is associated with or employed by, as the case may be, the broker licensed to establish the branch office.

(4) When a broker currently licensed in Oregon (other than the holder of a nonresident license issued upon application as provided in the exception set forth in paragraph (c) of subsection (1) of ORS 696.050) terminates his Oregon residence he shall immediately surrender his broker's license to the commissioner. The commissioner shall hold the license as inactive until residency is reestablished by the broker or the license expires. Failure to surrender the license to the commissioner upon the termination of residency is grounds for cancellation of the license. All salesman's licenses in the custody of the broker at the time his residency is terminated shall be surrendered to the commissioner to be held as an inactive license or may be transferred to a qualified broker upon the payment of the fee specified in ORS 696.270. Absence from the state for a period in excess of 90 days is to be considered prima facie evidence of a termination of residency for the purpose of this section unless evidence satisfactory to the commissioner is furnished that such broker has not, in fact, changed his residence, and that such absence from the state is temporary only.

(5) Upon removal from any location it shall be his duty to see that his name or the name under which he has operated is removed from the location which he has vacated. A broker shall not display any name as such at the designated places of business named in his license or licenses other than the name under which he is licensed.

[Amended by 1955 c.322 §14; 1961 c.471 §3]

696.210 Display of licenses at place of business. Each real estate broker shall display prominently in his principal place of business his own license as well as the licenses of all real estate salesmen employed by him therein or in connection therewith.

696.220 [Repealed by 1955 c.322 §15]

696.221 Return of salesman's license to commissioner. (1) A real estate broker at any time may, and at the request of the salesman shall without delay, return the license of a real estate salesman to the commissioner. When, and only when, the license of a salesman is returned to the commissioner, the relationship of the broker returning the license and the salesman whose license is returned, is, for the purposes of ORS 696.005 to 696.490 and 696.610 to 696.730, terminated. Before the broker returns the license of a salesman to the commissioner he shall make a reasonable attempt to give the salesman notice of his intent so to do.

(2) After the license of a salesman has been returned to the commissioner under subsection (1) of this section by the employing broker it may:

(a) Become an inactive license.

(b) Be reissued to the same broker.

(c) Be reissued to a different broker.

(d) Be canceled.

[1955 c.322 §4]

696.224 Inactive real estate salesman's license; reissuance or cancellation. (1) The license of a real estate salesman becomes an inactive license if it is not reissued, revoked or suspended within 10 days after his employment with a broker is terminated.

(2) The license of a real estate salesman shall be reissued to the same broker when,

within 10 days after termination of his employment with a broker:

(a) Notice of his return to the employment of the broker is given to the commissioner by the real estate salesman; and

(b) The fee prescribed by ORS 696.270 for the transfer of licenses has been paid to the commissioner.

(3) The license of a real estate salesman shall be reissued to a different broker when, within 10 days after termination of his employment with a broker:

(a) Notice of the change of employment and the name of the new employer of the real estate salesman is given to the commissioner by the real estate salesman; and

(b) The fee prescribed by ORS 696.270 for the transfer of licenses has been paid to the commissioner.

(4) The license of a real estate salesman shall be canceled when his license has been returned to the commissioner and the real estate salesman has failed to meet the requirements of subsection (2) or (3) of this section, and has failed to renew or reactivate his license. When the license of a salesman is canceled, he shall not engage in or carry on, or advertise or hold himself out as engaging in or carrying on the business of a real estate salesman within this state.
[1955 c. 322 §5]

696.226 Surrender of broker's license to commissioner; inactive licensee not to engage in business; renewal, reactivation, revocation or suspension of inactive licenses. (1) When a broker ceases to maintain a place of business he shall surrender his license to the commissioner, who shall keep such license on record as an inactive license. The license of a salesman becomes inactive as provided in subsection (1) of ORS 696.224.

(2) While his license is being held by the commissioner as an inactive license, the licensee shall not engage in, or carry on, or advertise or hold himself out as engaging in or carrying on the business of a real estate broker or a real estate salesman within this state.

(3) Inactive licenses may be:

(a) Renewed upon the payment of the renewal fee specified in ORS 696.270.

(b) Reactivated upon application to the commissioner and the payment of the reactivation fee specified in ORS 696.270.

(c) Revoked or suspended by the commissioner when conditions exist under which the commissioner would have been authorized to revoke or suspend the license if it were active.
[1955 c322 §2]

696.230 Notice to employing broker upon salesman's application for broker's license. Whenever a real estate salesman makes application to the commissioner for a real estate broker's license the commissioner shall forthwith give written notice to the broker under whose license the salesman is licensed that the application has been made for the broker's examination.

696.240 Disposition of funds received by brokers. Every person, partnership or corporation licensed as a real estate broker, who does not immediately place all funds entrusted to him in his capacity as a real estate broker by his principal or others in a neutral escrow depository in this state, shall maintain a trust fund account with some bank or recognized depository located in this state and place all such entrusted funds therein upon receipt. The Real Estate Division shall establish rules and regulations to provide for records to be maintained and the manner in which such deposits shall be made.
[Amended by 1957 c.383 §1; 1963 c.580 §49]

696.250 Licensing of nonresidents. (1) A nonresident of this state who is a licensed broker in another state may obtain a license as a broker in this state by complying with all provisions of ORS 696.005 to 696.490 and 696.610 to 696.730, provided that the nonresident broker is regularly engaged in the real estate business and maintains a place of business in the other state, and provided that that state offers the same privileges to the licensed brokers of this state. Such nonresident licensee need not maintain a place of business within this state. The commissioner may license such nonresident broker without examination, provided that he has qualified for a broker's license in the state in which he resides by written examination, and also that his state of residence permits licenses to be issued without written examination to brokers resident in and licensed by this state. The commissioner may, in his discretion, refuse to issue a broker's license to an applicant who is not a resident of this state.

(2) A nonresident of this state may be licensed as a real estate salesman upon complying with all the requirements of the law and with all the provisions and conditions of ORS 696.005 to 696.490 and 696.610 to

696.730 relative to resident brokers and salesmen, if he is employed by a real estate broker who has complied with all the requirements of ORS 696.005 to 696.490 and 696.610 to 696.730 and is duly licensed as a real estate broker by this state.
[Amended by 1953 c.202 §2; 1961 c.675 §1]

696.260 Acceptance of license by nonresident as appointment of commissioner as agent for service; service of process on nonresident broker. The acceptance, by a nonresident, of a license as a real estate broker under this section and ORS 696.250, shall be deemed equivalent to an appointment by such nonresident of the Real Estate Commissioner of this state as his true and lawful attorney, upon whom may be served any lawful summons, process or pleading in any action or suit against him, in any court of this state, arising out of any business done by him as a real estate broker in this state, and such acceptance shall be deemed equivalent to an agreement by such nonresident that any summons, process or pleading so served shall be of the same legal force and validity as if served on him personally in this state. If it appears by the certificate of the sheriff of the county in which an action or suit has been filed against such a nonresident broker, that the defendant cannot be found in this state, service of any summons, process or pleading in the action or suit may be made by leaving a copy thereof, with a fee of $2, in the hands of the commissioner or in his office. Such service shall be sufficient and valid personal service upon the defendant; provided that notice of such service and a copy of the summons, process or pleading is sent forthwith by registered mail by the plaintiff or his attorney to the defendant, at the most recent address furnished to the commissioner by the nonresident broker or to his last-known address, and the affidavit of the plaintiff or his attorney of such mailing is appended to the summons, process or pleading and entered as a part of the return thereof. However, personal service outside of the state in accordance with the statutes relating to personal service of summons outside of the state shall relieve the plaintiff from such mailing requirement. Any summons served as provided in this section shall require the defendant to appear and answer the complaint within four weeks after receipt thereof by the commissioner. The court in which the action or suit is brought may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action. The fee of $2 paid by the plaintiff to the commissioner shall be taxed as costs in favor of the plaintiff if he prevails in the action. The commissioner shall keep a record of each summons, process or pleading served upon him under this section, showing the day and hour of service.

696.270 Fees. The following fees shall be charged by and paid to the Real Estate Division:

(1) For each examination applied for, $10.

(2) For each real estate broker's license, $25; and for each annual registration or renewal of a real estate broker's license thereafter, $25.

(3) For each license as real estate broker issued to a member of a partnership, association, or officer of a corporation other than the member of the partnership or association, or officer of the corporation named in the license issued to such partnership, association or corporation, $25; and for each annual registration or renewal of such license thereafter, $25.

(4) For each associate broker's license a fee of $5 and for each annual registration or renewal a fee of $25.

(5) For each real estate salesman's license, $15; and for each annual registration or renewal of such license thereafter, $15.

(6) For each additional office or place of business, an annual fee of $5.

(7) For each change of name or address of a broker on the records of the department, $5.

(8) For each duplicate license, where the original license is lost or destroyed and affidavit made thereof, $2.

(9) For each salesman's or associate broker's license issued when change of business location or change of name, $1.

(10) For each transfer of salesman's license, $5.

(11) For each duplicate registration, where the original card is lost or destroyed and affidavit made thereof, $1.

(12) For certified copies of any record in the office of the commissioner, $2 for each certificate, and 25 cents per folio for matter certified; for uncertified copies, 25 cents per folio.

(13) For the renewal of a broker's inactive license, $10.

(14) For the renewal of a salesman's inactive license, $7.50.

(15) For the reactivation of a broker's inactive license, $25, and for the reactivation of a salesman's inactive license, $15.
[Amended by 1953 c.166 §5; 1955 c.457 §1; subsections (13), (14) and (15) enacted as 1955 c.322 §3; 1957 c.383 §2; 1961 c.670 §1]

696.280 Real estate brokers to keep records. Every person licensed as a real estate broker shall keep records of all real estate transactions handled by or through him, which records shall include copies of earnest money receipts and closing statements showing all receipts, disbursements and adjustments, also copies of listing contracts, if any. Such records shall at all times be open for inspection by the commissioner or his duly authorized representatives. The records of each transaction shall be kept by the broker for a period of not less than six years after the date of the transaction. Violation by a real estate broker of any of the provisions of this section is grounds for revocation or suspension of licenses issued to such broker.

696.290 Sharing commission with unlicensed person prohibited. No licensed broker or salesman shall offer, promise, allow, give, pay or rebate, directly or indirectly, any part or share of his commission or compensation arising or accruing from any real estate transaction to any person who is not a licensed broker or licensed real estate salesman licensed under ORS 696.005 to 696.490 and 696.610 to 696.730. However, a licensed broker may pay a finder's fee or a share of his commission on a cooperative sale where such payment is made to a licensed broker in another state provided that the state in which he is licensed has a law permitting brokers to cooperate with brokers in this state and that such nonresident broker does not conduct in this state any of the negotiations for which a fee, compensation or commission is paid. No real estate salesman shall be employed by, or accept compensation from, any person other than the broker under whom he is licensed at the time, and no licensed real estate salesman shall pay a commission to any person except through the broker under whom he is at the time licensed.
[Amended by 1953 c.42 §2; 1961 c.670 §2]

696.300 Grounds for revocation or suspension of licenses. (1) The commissioner may, upon his own motion, and shall upon the verified complaint in writing of any person, provided such complaint, or such complaint together with evidence, documentary or otherwise, presented in connection therewith, shall make a prima facie case, investigate the actions of any real estate broker or real estate salesman, or any unlicensed person who assumes to act in either such capacity within this state, and has the power to suspend or revoke any license issued under ORS 696.005 to 696.490 and 696.610 to 696.730 at any time where the licensee has by false or fraudulent representation obtained a license, or where the licensee, in performing or attempting to perform any of the acts mentioned in ORS 696.005 to 696.490 and 696.610 to 696.730 is deemed to be guilty of:

(a) Making any substantial misrepresentations.

(b) Making any false promises of a character likely to influence, persuade or induce.

(c) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through agents or salesmen or advertising or otherwise.

(d) Using the term "Realtor" by one not a member of the National Association of Real Estate Boards, or using any other trade name or insignia of membership in any real estate organization of which the licensee is not a member.

(e) Acting for more than one party in the transaction without the knowledge of all parties for whom he acts.

(f) Accepting a commission or valuable consideration as a real estate salesman for the performance of any of the acts specified in ORS 696.005 to 696.490 and 696.610 to 696.730, from any person, except his employer, who must be a licensed real estate broker.

(g) Representing or attempting to represent a real estate broker other than the employer, without the express knowledge and consent of the employer.

(h) Failing, within a reasonable time, to account for or to remit any moneys or to surrender to the rightful owner any documents or other valuable property coming into his possession which belong to others; or issuing an appraisal report on real property in which he has an interest, unless the nature and extent of such interest is fully disclosed in the report.

(i) Disregarding or violating any provisions of ORS 696.005 to 696.490 and 696.610 to 696.730.

(j) Making, printing, distributing or in any manner publishing misleading or untruthful advertising, descriptions or promises, of such character as reasonably to induce any person to act to his damage or injury.

(k) Paying or receiving any rebate, profit, compensation or commission in violation of ORS 696.005 to 696.490 and 696.610 to 696.730.

(L) Inducing any party to a contract, sale or lease to break such contract, for the purpose of substituting in lieu thereof a new contract with the same principal or a different principal, where such substitution is motivated by the personal gain of the licensee.

(m) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, a crime of moral turpitude, or other like offense or offenses, and who had been convicted thereof in a court of competent jurisdiction of this or any other state.

(n) Guaranteeing or having authorized or permitted any person to guarantee future profits which may result from the resale of real property.

(o) Placing a sign on any property offering it for sale or for rent without the authority of the owner or his authorized agent.

(p) Soliciting, selling or offering for sale real property by offering "free lots," or conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property.

(q) Any act or conduct, whether of the same or a different character than specified above in this section, which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealings.

(r) Failing for any reason to pay to the commissioner the annual registration or renewal fee as specified in ORS 696.170, promptly and before the time specified in that section.

(s) Commingling the money or other property of his principal or client with his own.

(t) Failing or refusing upon demand to produce any document, book or record in his possession concerning any real estate business transacted by him, for inspection of the Real Estate Commissioner or his authorized representative.

(u) Failing to maintain at all times in his principal place of business a complete record of every transaction which comes within the provisions of ORS 696.005 to 696.490 and 696.610 to 696.730.

(v) Violating ORS 659.033.

(2) The commissioner shall, in addition, have power to revoke or suspend any license issued under the provisions of ORS 696.005 to 696.490 and 696.610 to 696.730, at any time, where the licensee performs any act or offers, attempts or agrees to do any act, for which the commissioner lawfully may refuse to issue a license to any applicant.

[Amended by 1959 c.585 §1; 1961 c.670 §3]

696.310 Effect of revocation on licensed associates. Any unlawful act or violation of any of the provisions of ORS 696.005 to 696.490 and 696.610 to 696.730 by any licensee is not cause for the suspension or revocation of a license of any employer, employe, salesman, partner, member or officer associated with or employed by such licensee, unless it appears to the satisfaction of the commissioner that such employer, employe, salesman, partner, member or officer, had guilty knowledge thereof. A course of dealing shown to have been persistently and consistently followed by any real estate salesman, employe, partner, associate or officer shall constitute prima facie evidence of such knowledge upon the part of the employer, partner, associate or officer. In the event of the revocation or suspension of the license issued to any member of a partnership or to any officer of an association or corporation, the license issued to such partnership, association or corporation shall be revoked by the commissioner, unless, within a time fixed by the commissioner, where a partnership, the connection therewith of the member whose license has been revoked is severed and his interests in the partnership and his share in its activities brought to an end, or, where an association or corporation, the offending officer is discharged and has no further participation in its activities. However, the discharged or withdrawing member or officer of such partnership, association or corporation may reassume his connection with, or be reengaged by such partnership, association or corporation upon termination of the suspension or reinstatement of his license.

696.320 Effect of revocation of employing broker's license on salesman. The suspension, cancellation or revocation of a broker's license shall suspend automatically every salesman's license pending a change of employer or the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which the original license was granted, upon the receipt of the salesman's original license and pocket card.

696.330 Hearing by commissioner prior to refusing or revoking license. The commissioner shall, before denying the application for a license or before canceling or revoking any license, set the matter down for a hearing and, at least 10 days prior to the date set for the hearing, shall notify the applicant or licensee in writing, which notice shall contain an exact statement of the charges made and the date and place of the hearing and shall afford the applicant or licensee an opportunity to be heard in person or by attorney in reference thereto. At the time of giving the notice, the commissioner shall furnish the applicant or licensee with copies of any and all communications, reports, affidavits and depositions in the possession of the department touching or relating to the matter in question. The written notice may be served by delivering it personally to the applicant or licensee, or by mailing it by registered mail to the last-known business address of the applicant or licensee. If the applicant or licensee is a salesman the commissioner also shall notify the broker employing him or in whose employ he is about to enter by mailing notice by registered mail to the broker's last-known business address. The hearing on such charges shall be held before the commissioner at such time and place as the commissioner shall prescribe, and the hearing may be continued from time to time.

696.340 Powers of commissioner in relation to hearings. The commissioner shall have the power:

(1) To administer oaths.

(2) To certify to all official acts.

(3) To subpena and bring before him any person in the state as witness.

(4) To require the production of books and papers.

(5) To swear witnesses.

(6) To take testimony of any person by deposition.

696.350 Subpenas and witnesses; decision of commissioner. Subpenas issued pursuant to the provisions of ORS 696.005 to 696.490 and 696.610 to 696.730 shall be served in the same manner as subpenas may be served in any civil action in this state and the same fees and mileage shall be allowed in all such cases as are allowed by law in the trial of civil cases in a justice court. Any party to any such hearing shall have the right to the attendance of witnesses in his behalf at such hearing, upon making request therefor to the commissioner, designating the person sought to be subpenaed and advancing the witness fees and mileage for each such witness, and shall have the right to examine and cross-examine witnesses for and against him, either in person or by legal counsel. In all cases where the commissioner deems it necessary and proper to subpena witnesses at the expense of the division, he may do so, and such fees and expenses of any hearing may be paid out of the funds specified in ORS 696.490. The circuit court in the county in which the hearing may be held shall have the power to compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpena issued by the commissioner. In case of the refusal of any witness to attend or testify or produce any books or papers required by such subpena, the commissioner may report to the circuit court in the county in which the hearing is pending by petition, setting forth that due notice has been given of the time and place of attendance of the witness or the production of books and papers and that the witness has been summoned in the manner prescribed in the subpena or has refused to answer questions propounded to him in the course of such hearing, and ask an order of the court compelling the witness to attend and testify or produce the books or papers before the commissioner in charge of any such hearing. The court thereupon shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, and then and there to show cause why he has not attended or testified or produced the books and papers at the hearing. A copy of the order shall be served upon the witness. If it appears to the court that the subpena was regularly issued the court thereupon shall enter an order that the witness appear before the commissioner at the time and place fixed in the order and testify or produce the required books and

papers, and, upon the failure to obey the order, the witness shall be dealt with as for contempt of court. In each case a decision shall be rendered by the commissioner in writing and filed in the proceeding. If, after the hearing, the commissioner determines that an applicant is not qualified to receive a license, a license shall not be granted to the applicant, and, if the commissioner determines that any licensee is guilty of a violation of any of the provisions of ORS 696.005 to 696.490 and 696.610 to 696.730, his license shall be canceled or revoked.

696.360 Appeal from commissioner's decision. In case of the refusal or revocation of a license by the commissioner under the provisions of ORS 696.005 to 696.490 and 696.610 to 696.730, the applicant whose application is so refused, and the licensee whose license is revoked by the commissioner, shall have the right to appeal from the decision of the commissioner so refusing or revoking such license within 30 days after the filing of the decision in the office of the commissioner. The appeal shall be to the circuit court in the county in which the hearing was held. If a person desires to take an appeal, he shall serve, or cause to be served, upon the commissioner a written notice of appeal, which shall contain a statement of the grounds of the appeal, and shall file in the office of the commissioner an appeal bond in the sum of $1,000, with good and sufficient surety, to be approved by the commissioner, running to the State of Oregon, conditioned on the speedy prosecution of the appeal and of any appeal he may take from the decision of the circuit court and payment of such cost as may be adjudged against him upon such appeals. The commissioner shall, within 10 days after the service of the notice of appeal and the filing and approval of the appeal bond, transmit to the clerk of the circuit court to which the appeal is taken a transcript of the entire proceedings in the commissioner's office from which the appeal is taken. The clerk of such court thereupon shall docket the appeal and it shall stand for trial in all respects as ordinary civil actions, and like proceedings shall be had thereon. Upon appeal the cause shall be tried de novo, with a jury if demanded by either the appellant or respondent. Either party may appeal from the judgment of the circuit court to the Supreme Court of the State of Oregon in like manner as a civil action, within 60 days after the rendition and entry of judgment in the circuit court. In case the order of the commissioner appealed from is one revoking an existing license the order of revocation shall be stayed during the period of the pendency of appeal proceedings under the provisions of this section. If judgment is in favor of the party appealing from the decision of the commissioner, and if the commissioner does not appeal from the judgment within 60 days from its date, the commissioner shall, at the end of 60 days, and immediately upon the expiration thereof, issue to the successful party the license applied for or reinstate the license revoked. In case of an appeal to the Supreme Court by the commissioner no license shall be issued nor reinstatement granted until the final determination of the cause.

696.370 [Reserved for expansion]

ADMINISTRATION

696.375 Real Estate Division; Real Estate Commissioner; salary and bond of commissioner. (1) The Real Estate Division is established within the Department of Commerce.

(2) The Real Estate Division shall be under the supervision and control of an administrator who shall be known as the Real Estate Commissioner. The Director of Commerce shall, with the approval of the Governor, appoint the Real Estate Commissioner who shall have been, before the date of his appointment, for five years a real estate broker actively engaged in business as such in this state or actively connected with the administration of the Real Estate Division or its predecessor, the Oregon Real Estate Department. The commissioner shall hold his office at the pleasure of the Director of Commerce and shall be responsible for the performance of the duties imposed upon the division. The Real Estate Commissioner shall receive such salary as may be provided by law.

(3) Twenty percent of the annual salary of the Real Estate Commissioner shall be paid from the Collection Agency Account, to be paid monthly out of the State Treasury upon warrant from the Secretary of State.

(4) Before entering upon the duties of his office the commissioner shall give to the state a fidelity bond with one or more corporate sureties authorized to do business in this state in the sum fixed by the Director of Commerce. The premium for the bond shall be paid by the division.

[1963 c.580 §§40, 41]

Note: Chapter 580, Oregon Laws 1963, establishing the Department of Commerce, becomes operative not later than July 1, 1964, and stands repealed July 1, 1967. Section 37, chapter 580, Oregon Laws 1963, is set forth below for the convenience of the user:

Sec. 37. (1) The Real Estate Division of the Department of Commerce succeeds to and is vested with all the duties, functions and powers vested in the Oregon Real Estate Department; and, except as otherwise provided by law, there hereby are transferred to, imposed upon and vested in the Real Estate Division all the duties, functions and powers of the Oregon Real Estate Department and the Real Estate Commissioner. After the operative date of this Act the Real Estate Division shall exercise such duties, functions and powers.

(2) The Legislative Counsel, for the purpose of harmonizing and clarifying the provisions of statute sections published in the Oregon Revised Statutes, may substitute for words designating the Oregon Real Estate Department and the Real Estate Commissioner, wherever such words occur in the statute sections to be published in the Oregon Revised Statutes, words designating the Real Estate Division of the Department of Commerce. The Legislative Counsel shall also substitute for words designating the Collection Agencies Board, words designating the Real Estate Division in ORS 697.041, 697.146, 697.235, 697.270 and 697.450.

696.380 [Repealed by 1963 c.580 §103]

696.385 Power of Real Estate Division. The Real Estate Division shall have the power to:

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

(2) From time to time, prepare and cause to be printed and circulated among the real estate licensees of Oregon such printed matter as it may deem helpful or educational or proper for the guidance and welfare of such licensees.

(3) Make and enforce any and all such reasonable rules and regulations as shall be deemed necessary to administer and enforce the provisions of this chapter.

(4) Enforce and discharge the duties defined in ORS 697.010 to 697.041, 697.061 to 697.270, 697.290 and 697.440 to 697.470.

[1963 c.580 §48]

Note: ORS 696.385 was not added to and made a part of ORS chapter 696. The Legislative Counsel has made no substitution pursuant to ORS 173.160 for the words "this chapter" as they appear in 1963 c.580 §48.

696.390 [Repealed by 1963 c.580 §103]

696.395 Power of Real Estate Commissioner. The Real Estate Commissioner shall have the power to:

(1) For the purpose of administration, with the approval of the Director of Commerce, organize and reorganize, as necessary, the division in the manner that he deems necessary to properly conduct the work of the division.

(2) Appoint all subordinate officers and employes of the division and prescribe their duties and fix their compensation, subject to the applicable provisions of the State Civil Service Law. Subject to any other applicable law regulating travel expenses, the officers and employes of the division shall be allowed such reasonable and necessary travel and other expenses as may be incurred in the performance of their duties.

(3) Require a fidelity bond of any officer or employe of the division who has charge of, handles or has access to any state money or property, and who is not otherwise required by law to give a bond. The amounts of the bonds shall be fixed by the commissioner, except as otherwise provided by law, and the sureties shall be approved by him. The division shall pay the premium on the bonds.

[1963 c.580 §42]

696.400 [Repealed by 1963 c.580 §103]

696.405 Real Estate Board; appointment; term; qualifications; compensation; expenses. (1) The Real Estate Board is established within the Department of Commerce. The board shall consist of five members, one of whom shall be the Real Estate Commissioner, and the other four members shall be appointed by the Director of Commerce with the approval of the Governor to hold office for a period of four years, but to serve at the pleasure of the Director of Commerce. The members of the board must have been, before the date of their appointment, for five years real estate brokers actively engaged in business as such in this state or actively connected with the administration of the Real Estate Division or its predecessor, the Oregon Real Estate Department. In case of a vacancy for any cause the Director of Commerce, with the approval of the Governor, shall make an appointment to become immediately effective for the unexpired term.

(2) A member of the Real Estate Board other than the Real Estate Commissioner shall receive a $15 per diem compensation each day during which he is actually engaged in the performance of his official duties, and subject to any other applicable law regulating travel and other expenses for state officers, each member shall receive his reasonable and necessary travel and other expenses incurred in performing the duties of his office.

[1963 c.580 §43]

696.410 [Repealed by 1963 c.580 §103]

696.415 Officers; meetings; quorum. (1) The Real Estate Board shall annually select one of its members as chairman, who shall preside at the meetings of the board. In the absence of the chairman some other member of the board may serve as chairman. The board shall meet at such times and places as determined by the board and may also meet upon call of the chairman.

(2) A majority of the board shall constitute a quorum for the transaction of business. A vacancy on the board shall not impair the right of the remaining members to perform all the duties and exercise all the functions and authority of the board.
[1963 c.580 §45]

696.420 [Repealed by 1963 c.580 §103]

696.425 Powers and duties of board. (1) The Real Estate Board is authorized to inquire into the needs of the real estate licensees of Oregon, the functions of the Real Estate Division and the matter of the business policy thereof, to confer with and advise the Director of Commerce as to how the division may best serve the state and the licensees, and to make recommendations and suggestions of policy to the Real Estate Division as the board may deem beneficial and proper for the welfare and progress of the licensees and of the public and of the real estate business in Oregon.

(2) The board shall conduct all examinations for applicants for both broker's and salesman's licenses, prepare the questions to be asked in the examinations and grade the papers of each applicant after the completion of the examination and file a written report with the Real Estate Division as to applicants taking the examination who have passed and who have failed to pass the examination. The board shall provide the manner and methods for conducting examinations.

(3) The expenses of the Real Estate Board shall be paid from moneys available to the Real Estate Division for payment of administrative expenses relating to the real estate and business broker activities of the division.
[1963 c.580 §46]

696.430 Records of commissioner as evidence; records open to inspection. Copies of all records and papers in the office of the commissioner duly certified and authenticated by the seal of the commissioner shall be received in evidence in all courts equally and with like effect as the original. All records kept in the office of the commissioner under authority of ORS 696.005 to 696.490 and 696.610 to 696.730 shall be open to public inspection under such reasonable rules and regulations as shall be prescribed by the commissioner.

696.435 Printed matter to be furnished licensees. (1) Single copies of matter printed and circulated as authorized by subsection (3) of ORS 696.420, except replacement pages or parts therefor, may be furnished free of charge to each licensee. Additional copies and any replacement pages or parts furnished to licensees or any copy furnished to any other person, except one required by law to be furnished, are to be sold for a charge set by the commissioner. The charge is to be set at a level reasonably estimated to be sufficient to recover the cost of printing and distributing copies to be sold.

(2) Notwithstanding subsection (1) of ORS 696.490, charges collected under this section, except the portion subject to transfer to the General Fund under ORS 293.145, shall be deposited to the credit of the Real Estate Educational Account.
[1963 c 546 §5]

696.440 [Repealed by 1963 c.580 §103]

696.450 [Repealed by 1963 c.580 §103]

696.460 [Repealed by 1963 c.580 §103]

696.470 [Repealed by 1963 c.580 §103]

696.480 Publication of directory by commissioner. (1) The commissioner shall, at least annually, publish a directory or a list of the names and addresses of all currently licensed brokers and salesmen and all applicants whose licenses have been refused, and licensees whose licenses have been suspended or revoked within one year, a copy of the provisions of ORS 696.010 to 696.375, 696.395 to 696.490, 696.710 to 696.730 and 696.990, the code of ethics as adopted by the National Association of Real Estate Boards and a list of all local real estate boards, their officers and directors.

(2) The directory shall contain a financial statement of the receipts and disbursements of the department for the previous fiscal year and shall also contain a general report of its activities. One such directory shall be mailed without charge to each licensed broker. One such directory shall be mailed to the county clerk in each county of the state and shall be held by the county clerk as a public record. One directory also

shall be mailed to the district attorney in each county of the state for his files, and one copy shall be mailed or furnished to any person upon request and the payment of $1 therefor except that copies requested may be furnished without charge to any state department.

696.490 Disposition of receipts; Real Estate Educational Account. (1) Except as provided in subsection (2) of this section, the net amount of all fees and charges collected under ORS 696.005 to 696.490 and 696.610 to 696.730 shall be paid by the division, at least once each month, into the State Treasury and after deduction of refunds be deposited to the credit of the General Fund and become available for general governmental expenses.

(2) Three dollars and fifty cents of each license fee collected under subsections (2), (3) and (5) of ORS 696.270 shall be deposited by the division in the General Fund in the State Treasury to the credit of an account to be known as the Real Estate Educational Account. The moneys in the Real Estate Educational Account hereby are appropriated continuously to the division, and may be expended by the division for the purpose of distributing printed matter of an educational nature and conducting educational meetings for the benefit of licensed real estate brokers and salesmen.
[Amended by 1955 c.457 §2; 1961 c.309 §4; 1963 c.440 §16; 1963 c.580 §50]

696.500 [Amended by 1959 c.27 §1; repealed by 1961 c.309 §5]

ESCROWS AND ESCROW AGENTS

696.505 Definitions for ORS 696.505 to 696.580. As used in ORS 696.505 to 696.580, unless the context requires otherwise:

(1) "Commissioner" means the Real Estate Commissioner.

(2) "Escrow" means any transaction wherein any written instrument, money, evidence of title to real or personal property or other thing of value is delivered to a person not otherwise having any right, title or interest therein for the purpose of effecting the sale, transfer, encumbrance or lease of real or personal property, to be held by that person until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by such person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor, or any agent or employe of any of them.

(3) "Escrow agent" means any person engaged in the business of receiving escrows for deposit or delivery for compensation.
[1963 c.440 §1]

696.510 [Repealed by 1961 c.309 §6]

696.511 License required; application; issuance. (1) No person shall engage in or carry on, or hold himself out as engaging in or carrying on the business or act in the capacity of an escrow agent without first obtaining a license as an escrow agent under the provisions of ORS 696.505 to 696.580.

(2) Every escrow agency before engaging in the escrow business shall file in the office of the commissioner an application for a license, in writing, verified by oath and in the form prescribed by the commissioner. It shall state the location of the agent's principal office and all branch offices in this state, the name or style of doing business, the names, resident and business addresses of all persons interested in the business as principals, partners, officers, trustees and directors, specifying as to each his capacity and title, the general plan and character of business and the length of time the agent has been engaged in business.

(3) The commissioner may require additional information he considers necessary in connection with any application for a license under this section.

(4) The commissioner shall examine the application for a license and if he is satisfied that the applicant should not be refused a license under ORS 696.535, he shall issue the license.

(5) No person shall engage in business as an escrow agent without holding a license required by ORS 696.505 to 696.580.
[1963 c.440 §§4, 17]

696.515 Foreign corporations required to have certificate of authority to act as escrow agents. No foreign corporation without a valid certificate of authority under ORS 57.655 to 57.745 shall transact any escrow business in this state.
[1963 c.440 §3]

696.520 Application of ORS 696.505 to 696.580. The provisions of ORS 696.505 to 696.580 do not apply to and the term "escrow agent" does not include:

(1) Any person doing business under the laws of this state or the United States relating to banks, mutual savings banks, trust companies, savings and loan associations, common and consumer finance companies,

industrial loan companies, or insurance companies.

(2) An attorney at law rendering services in the performance of his duties as attorney at law.

(3) Any person whose principal business is that of preparing abstracts or making searches of title which are used as a basis for the insurance of titles by a company doing business under ORS 748.010 to 748.090.

(4) Any firm or corporation lending money on real or personal property and which firm or corporation is subject to licensing, supervision or auditing by a federal or state agency.

(5) Any person doing any of the acts specified in subsection (2) of ORS 696.505 under order of any court.

[1963 c.440 §2]

696.525 Bond for escrow agents. (1) At the time of filing an application for an escrow agent's license, the applicant shall deposit with the commissioner a corporate surety bond running to the State of Oregon, executed by a surety company satisfactory to the commissioner, in the sum of $25,000, the provisions to be in the form substantially as follows:

Know All Men by These Presents, That we, ———————— as principal, and ————————, a corporation, qualified and authorized to do business in the State of Oregon as surety, are held and firmly bound unto the State of Oregon for the use and benefit of any interested person, in the sum of $25,000, lawful money of the United States of America, to be paid to the State of Oregon for the use and benefit aforesaid, for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

The condition of the above obligation is such that: Whereas the above-named principal has made application to the Real Estate Commissioner of the State of Oregon for registration as an escrow agent within the meaning of ORS 696.505 to 696.580 and is required by the provisions of ORS 696.505 to 696.580 to furnish a bond in the sum above named, conditioned as herein set forth:

Now, therefore, if the principal, his agents and employes, shall strictly, honestly and faithfully comply with the provisions of ORS 696.505 to 696.580, and shall pay all damages suffered by any person by reason of the violation of any of the provisions of ORS 696.505 to 696.580, now or hereafter enacted, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of ORS 696.505 to 696.580, then this obligation shall be void; otherwise to remain in full force and effect.

This bond shall become effective on the———— day of————, 19——, and shall remain in force until the surety is released from liability by the Real Estate Commissioner, or until this bond is canceled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 30 days' written notice to the principal and to the Real Estate Commissioner of the State of Oregon.

This bond shall be one continuing obligation, and the liability of the surety for the aggregate of any and all claims which may arise hereunder shall in no event exceed the amount of the penalty hereof.

In witness whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its duly authorized officers at ————, Oregon, this —— day of————, 19——.

———————— (Seal)
Principal

———————— (Seal)
Surety

By————————

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(2) The commissioner may at any time require an escrow agent to deposit with the commissioner an additional bond when in the commissioner's opinion any bond then in force is insufficient to protect the public interest.

[1963 c.440 §5]

696.530 Renewal of license; fees. (1) The escrow agent's license shall expire June 30 next after the date of issuance if it is not renewed by July 1 of such year. A license may be renewed by filing a renewal application, submitting a satisfactory independent audit by a certified public accountant and paying the annual license fee for the next succeeding fiscal year.

(2) The filing fees shall be:

(a) For filing an original or a renewal application, $100 for the principal office and $35 for each branch office.

(b) For filing an application for a duplicate copy of any license, upon satisfactory showing of such loss, $10.
[1963 c.440 §6]

696.535 Refusal, suspension or revocation of licenses; records and reports. (1) The commissioner may refuse to license any escrow agent, or may suspend any license, by entering an order to that effect, with his findings in respect thereto, if upon examination into the affairs of the applicant or licensee, either in the performance of routine duties, or upon field examination, or upon hearing, it is determined that the applicant or licensee:

(a) Is insolvent; or

(b) Is of bad business repute or has demonstrated his unworthiness to transact the business of agent; or

(c) Does not conduct his business in accordance with law, or has violated any provisions of ORS 696.505 to 696.580; or

(d) Is in such financial condition that he cannot continue in business with safety to his customers; or

(e) Has been guilty of fraud in connection with any transaction governed by ORS 696.505 to 696.580; or

(f) Has made any misrepresentations or false statement to, or concealed any essential or material fact from, any person in the course of the escrow business; or

(g) Has knowingly made or caused to be made to the commissioner any false representation of a material fact, or has suppressed or withheld from the commissioner any information which the applicant or licensee possesses, and which if submitted by him would have rendered the applicant or licensee incompetent to be licensed under ORS 696.505 to 696.580; or

(h) Has failed to account to persons interested for all escrows received; or

(i) Has not delivered, after a reasonable time, to persons entitled thereto, escrows held or agreed to be delivered by the licensee, as and when paid for and due to be delivered; or

(j) Has refused to permit an examination by the commissioner of his books and affairs, or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the commissioner under the provisions of ORS 696.505 to 696.580; or

(k) Has been convicted of a felony or any misdemeanor of which an essential is fraud.

(2) It is sufficient cause for refusal or revocation of a license in case of a partnership or corporation or any unincorporated association, if any member of a partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for refusing or revoking the registration of an individual agent.

(3) All escrow agents shall keep and maintain at all times in their principal places of business, complete and suitable records of all escrow transactions made by them, together with books, papers and data clearly reflecting the financial condition of the business of such agents. Every agent shall, at the times required by the commissioner, make and file in the office of the commissioner a true and correct statement, in the form and containing the data the commissioner may require, of the business of the agent.

(4) Notice of the entry of any order of suspension or of refusing a license to any agent shall be given in writing, served personally or sent by certified mail or by telegraph to the agent affected. The agent shall, upon application, be entitled to a hearing; but if no such application is made within 20 days after the entry of an order of suspension or of refusing a license of any agent, the commissioner shall enter a final order in either case.
[1963 c.440 §7]

696.540 Authority of Real Estate Commissioner over escrow agents. (1) The commissioner shall have general supervision and control over all escrow agents residing in and doing business in this state. Subject to ORS chapter 183, the commissioner may adopt such rules and regulations as are reasonable and necessary for the enforcement of ORS 696 505 to 696.580. All such agents shall be subject to examination by the commissioner, or his authorized deputies, at any time he considers advisable. The provisions of this section and any other section relating to the examination of the affairs of an agent shall extend to an agent whose license has expired or been revoked or suspended, if in the judgment of the commissioner, such agent has violated any condition of his license or any provision of ORS 696.505 to 696.580 or has committed a fraud or is insolvent. The commissioner may collect from

each agent the actual expenses incurred in that examination.

(2) No person shall neglect or refuse to attend and testify or answer any lawful inquiry or to produce books, papers, accounts, records, contracts or documents, if in his power so to do, in obedience to the subpena of the commissioner.
[1963 c.440 §8]

696.545 Investigation; injunction; jurisdiction. (1) The commissioner may investigate either upon complaint or otherwise whenever it appears that an escrow agent is conducting his business in an unsafe and injurious manner or that any person is engaging in the escrow business without being licensed under the provisions of ORS 696.505 to 696.580.

(2) If upon investigation it appears that such agent is so conducting his business or an unlicensed person is engaged in the escrow business the commissioner may, in addition to any other remedies, bring suit in the name and on behalf of the State of Oregon against such person and any other person or persons concerned in or in any way participating in or about to participate in such unsafe or injurious practices or acting in violation of ORS 696.505 to 696.580, to enjoin such person and such other person or persons from continuing such practices or engaging therein or doing any act or acts in furtherance thereof or in violation of ORS 696.505 to 696.580.

(3) The circuit court of any county of this state hereby is vested with jurisdiction in equity to restrain unsafe, injurious or illegal practice or transactions and may grant injunctions to prevent and restrain such illegal practices or transactions, in addition to the penalties and other remedies provided in ORS 696.505 to 696.580. The court shall have power, during the pendency of the proceedings before it to issue such preliminary restraining orders as may appear to be just and proper; and the findings of the commissioner shall be deemed to be prima facie evidence and sufficient ground, in the discretion of the court, for the issue ex parte of a preliminary restraining order.

(4) In any such court proceedings the commissioner may apply for and on due showing be entitled to have issued the court's subpena requiring forthwith the appearance of any defendant and his employes and the production of documents, books and records as may appear necessary for the hearing of such petition, to testify and give evidence concerning the acts or conduct or things complained of in such application for injunction.
[1963 c.440 §9]

696.550 Appeal procedure. (1) An appeal may be taken by any person interested from any final order of the commissioner to the circuit court of Marion County by serving upon the commissioner within 20 days after notice of the entry of the order a written notice of the appeal, stating the grounds upon which a reversal of the final order is sought and accompanied by a demand in writing for a certified transcript of the record and of all papers on file in his office affecting or relating to the order, and by executing a bond in the penal sum of $500 to the State of Oregon, with sufficient surety, to be approved by the court, conditioned upon the faithful prosecution of the appeal to final judgment and the payment of all costs adjudged against the appellant. Thereupon the commissioner shall within 10 days make, certify and deliver to the appellant the transcript, or in lieu thereof the original papers if the court so orders. The appellant shall within five days thereafter file the same and a copy of the notice of appeal with the clerk of the court, which notice of appeal shall stand as appellant's complaint. Thereupon the cause shall be entered on the trial calendar of the court for trial de novo and shall be given precedence by the court over other matters pending. The court shall receive and consider any pertinent evidence, oral or documentary, concerning the order of the commissioner from whom the appeal is taken.

(2) If the order of the commissioner is reversed the court shall by its mandate specifically direct the commissioner as to his further action in the matter, including the making and entering of any order in connection therewith, and the conditions, limitations or restrictions to be therein contained, provided that the commissioner shall not thereby be barred from thereafter revoking or altering the order for any proper cause which may thereafter accrue or be discovered. If the order is affirmed, the appellant shall not be barred after 30 days from filing a new application provided the application is not otherwise barred or limited. The appeal shall not in anywise suspend the operation of the order appealed from during the pendency of the appeal unless upon proper order of the

court. An appeal may be taken from the judgment of the circuit court on any such appeal on the same terms and conditions as an appeal is taken in civil actions. An appeal from an order of the commissioner shall be considered as a proceeding in equity. Any order of the commissioner which finally limits, or adversely determines, the rights of any interested person, shall be a final order as to such interested person, and be subject to appeal under this section and ORS 696.555.
[1963 c.440 §10(1), (2)]

696.555 Commissioner to take possession of property and assets of escrow agent when assets or capital impaired; receiver may be appointed. (1) When the commissioner ascertains by examination or otherwise that the assets or capital of any agent are impaired, or that the agent's affairs are in an unsafe condition, he may in either case immediately take possession of all the property, business and assets of the agent which are located in this state and retain possession of them pending the further proceedings specified in this section and ORS 696.550. Should the board of directors or any officer or person in charge of the offices of such agent refuse to permit the commissioner to take possession as aforesaid, the commissioner shall communicate such fact to the Attorney General, whereupon it shall become the duty of the Attorney General at once to institute such proceedings as may be necessary to place the commissioner in immediate possession of the property of the agent. The commissioner thereupon shall make or have made an inventory of the assets and known liabilities of the agent. The commissioner shall file one copy of the inventory in his office and one copy in the office of the clerk of the circuit court of the county in which the principal office of the agent is located, and shall mail one copy to each stockholder of the agent at his last-known address, if by the exercise of reasonable diligence it can be determined. The clerk of the court with whom the copy of the inventory is filed shall file it as any other case or proceeding pending in the court and shall give it a docket number.

(2) The officers, directors or stockholders of the agent may have 60 days from the date when the commissioner takes possession of the property, business and assets, to make good any deficit which may exist or to remedy the unsafe condition of its affairs. At the expiration of this time, if the deficiency in assets or capital has not been made good or the unsafe condition remedied, the commissioner may apply to the court to be appointed receiver and proceed to liquidate the assets of the agent which are located in this state in the same manner as now provided by law for liquidation of a private corporation in receivership. No other individual shall be appointed receiver by any court without first giving the commissioner ample notice thereof. The inventory made by the commissioner and all claims filed by creditors shall be open at all reasonable times for inspection and any action taken by the receiver upon any of the claims shall be subject to the approval of the court before whom the cause is pending. The expenses of the receiver and compensation of counsel, as well as all expenditures required in the liquidation proceedings, shall be fixed by the commissioner, subject to the approval of the court, and, upon certification of the commissioner, shall be paid out of the funds in his hands as such receiver.
[1963 c.440 §10(3),(4)]

696.560 Deposit and designation of money held in escrow. All money deposited in escrow to be delivered upon the close of the escrow or upon any other contingency shall be deposited in a bank and kept separate, distinct and apart from funds belonging to the escrow agent. Such funds, when deposited, are to be designated as "trust funds," "escrow accounts," or under some other appropriate name indicating that the funds are not the funds of the escrow agent.
[1963 c.440 §11]

696.565 Funds exempt from execution or attachment; designation of funds. (1) Escrow or trust funds are not subject to execution or attachment on any claim against the escrow agent.

(2) No person shall knowingly keep or cause to be kept any funds or money in any bank under the heading of "trust funds" or "escrow accounts" or any other name designating such funds or money as belonging to the clients of any escrow agency, except actual escrow or trust funds deposited with such agency.
[1963 c.440 §12]

696.570 Hearings procedure under ORS 696.505 to 696.580; subpena; witness fees; depositions. (1) All hearings before the commissioner or his authorized representative conducted under the authority of ORS

696.505 to 696.580 shall be conducted in accordance with the provisions of ORS chapter 183 and such rules and regulations made in conformity therewith as the commissioner shall consider necessary.

(2) The commissioner, or anyone authorized by him, shall have the power to subpena witnesses and administer oaths in connection with the administration of ORS 696.505 to 690.580. Each witness who appears before the commissioner and who was subpenaed in his behalf shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the court of record in the county where the hearing is held. The commissioner or any party may, in any investigation, cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed for depositions in civil actions in circuit courts.
[1963 c.440 §13]

696.575 Civil or criminal actions not limited by ORS 696.505 to 696.580. Nothing in ORS 696.505 to 696.580 shall limit any statutory or common law right of any person to bring any action in any court for any act involved in the transaction of the escrow business or the right of the state to punish any person for any violation of any law.
[1963 c.440 §14]

696.580 Documents filed with commissioner as public records; exception. All papers, documents, reports and other written instruments filed with the commissioner under ORS 696.505 to 696.580 shall be open to public inspection, except that the commissioner may withhold from public inspection for such time as he considers necessary any information which in his judgment the public welfare or the welfare of any escrow agent requires to be so withheld.
[1963 c.440 §15]

696.590 to 696.600 [Reserved for expansion]

BUSINESS CHANCE BROKERS

696.610 "Business chance broker" defined. As used in this chapter, "business chance broker" means and includes all persons, firms, corporations and associations that engage directly or indirectly in the business of buying, selling or dealing in any established business or business opportunity or good will or any interest therein, or who, for profit, compensation or commission engage in the business of offering to establish others in business or who declare to the public that they are engaged in the business of buying, selling or dealing in established businesses or business opportunities.

696.620 Real estate broker's or salesman's license required. No person shall engage in the business of a business chance broker without having a real estate broker's license or a real estate salesman's license as provided in this chapter.

696.630 Powers and duties of commissioner in relation to business chance brokers. The Real Estate Commissioner shall enforce the provisions of ORS 696.610 to 696.640, and he shall have full power to issue, deny, suspend and revoke licenses in the manner and under the terms and conditions as provided in ORS 696.005 to 696.490 and 696.610 to 696.730.

696.640 Law applicable to business chance brokers. Any person who engages in the business of a business chance broker is bound by and subject to all the provisions of ORS 696.005 to 696.490 and 696.610 to 696.730, except subsection (2) of ORS 696.110.

696.650 to 696.700 [Reserved for expansion]

ACTIONS AND REMEDIES

696.710 Necessity of alleging license in action to collect compensation. No person engaged in the business of, or acting in the capacity of, a real estate broker within this state shall bring or maintain any action in the courts for the collection of compensation without alleging and proving that such person was a duly licensed real estate broker at the time the alleged cause of action arose.

696.720 Remedies are concurrent. The remedies provided for in ORS 696.005 to 696.490 and 696.610 to 696.730 are in addition to and not exclusive of any other remedies provided by law.

696.730 Jurisdiction of courts for violations; revoking license upon conviction. Any court of competent jurisdiction, including justices of the peace, has full power to try any violation of ORS 696.005 to 696.490 and 696.610 to 696.730, and, upon conviction, the court may, at its discretion and in addition to the other penalties imposed, revoke the license of the person or persons convicted.

696.740 to 696.980 [Reserved for expansion]

PENALTIES

696.990 Penalties. (1) Violation of any provision of ORS 696.005 to 696.375, 696.395 to 696.490 and 696.610 to 696.730 is punishable, upon conviction of a first violation thereof, by a fine of not less than $200 nor more than $500 or by imprisonment for a term not to exceed 90 days, or by both, and, upon conviction of a second or subsequent violation, by a fine of not less than $500 nor more than $1,000 or by imprisonment for a term not to exceed two years, or by both.

(2) Any officer or agent of a corporation, or member or agent of a partnership or association, who personally participates in or is an accessory to any violation of ORS 696.005 to 696.375, 696.395 to 696.490 and 696.610 to 696.730 by the partnership, association or corporation, is subject to the penalties prescribed in subsection (1) of this section.

(3) A violation of any one of the provisions of ORS 696.505 to 696.580 is a misdemeanor.

[Subsection (3) enacted as 1963 c.440 §18]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1963.

Sam R. Haley
Legislative Counsel