

Chapter 696

1979 REPLACEMENT PART

Real Estate and Escrow Activities; Business Brokers

| REAL ESTATE LICENSEES | |
|-----------------------|--|
| | (Generally) |
| 696.010 | Definitions for ORS 696.010 to 696.490 and 696.610 to 696.730 |
| 696.015 | Legislative finding; short title |
| | (Licensing) |
| 696.020 | Persons engaged in professional real estate activity required to be licensed |
| 696.025 | Categories of real estate licenses |
| 696.030 | Certain persons exempted |
| 696.040 | Single act sufficient to constitute professional real estate activity |
| 696.050 | Qualifications of applicants for licenses |
| 696.060 | Form and contents of application for real estate broker license |
| 696.080 | Real estate organizations; designating person to make application and pass examination |
| 696.100 | Application for salesperson license |
| 696.110 | Application and examination fee |
| 696.120 | Commissioner may require additional information from applicants; rules |
| 696.130 | Examination of applicants; issuance of license upon revocation of broker or salesperson license; limited license |
| 696.141 | Effect of examination failures |
| 696.150 | Examination where applicant is real estate organization |
| 696.160 | Issuance of broker, salesperson or appraiser license |
| 696.162 | Real estate appraiser license |
| 696.165 | Issuance of associate broker license and pocket card; application of chapter to associate brokers |
| 696.167 | Issuance of broker license to registered Oregon Securities Law broker-dealer; issuance of salesperson license to registered Oregon Securities Law salesperson; conditions; regulation of real estate securities salespersons |
| 696.169 | Assistant broker and salesperson not authorized to control broker or organization |
| 696.174 | License renewal date; effect of failure to make timely renewal; continued education required |
| 696.176 | Terms of licenses |
| 696.180 | Form and content of license |
| 696.190 | Pocket cards to be issued |
| 696.200 | Real estate broker or organization to maintain place of business; branch offices; removal from state; change of business location |
| 696.205 | Death of sole proprietor broker; temporary license |
| 696.210 | Display of licenses at place of business |
| 696.221 | Return of salesperson license to commissioner |
| 696.224 | Inactive real estate salesperson license |
| 696.226 | Surrender of broker license to commissioner; inactive licensee not to engage in business; renewal, reactivation, revocation or suspension of inactive licenses |
| 696.228 | Surrender of associate broker license; inactive licensee not to engage in business; renewal, reactivation, revocation or suspension of inactive license |
| 696.232 | Surrender of license by employe of division; reissuance upon termination of employment |
| 696.235 | Renewal of inactive license; termination; effect; reactivation of inactive license |
| 696.241 | Clients trust accounts; funds to be deposited; notice to division; authority to examine account; branch trust account; when broker entitled to earnest money; rules |
| 696.250 | Licensing of nonresidents; commissioner as attorney |
| 696.270 | Fees |
| 696.275 | Prorating of license fee |
| 696.280 | Real estate brokers and appraisers to keep records |
| 696.290 | Sharing commission with or paying finder's fee to unlicensed person prohibited |
| 696.301 | Grounds for revocation or suspension of license, reprimand, or denial of license |
| 696.310 | Intracompany supervision and control; effect of revocation on licensed associates |
| 696.315 | Licensee not to permit person whose license suspended or revoked to engage in activity on behalf of licensee |
| 696.320 | Effect of suspension or revocation of broker license on salesperson employe |
| 696.325 | Rules for regulation of home finders |
| 696.345 | Form of compensated appraisal; when appraisal may be compensated |
| 696.355 | Advance fee as trust fund; deposit; regulation of advance fees |
| | (Administration) |
| 696.375 | Real Estate Division; Real Estate Commissioner; salary and bond of commissioner |
| 696.385 | Power of division |
| 696.395 | Power of commissioner |
| 696.398 | Delegation by commissioner to employes; requirements |
| 696.405 | Real Estate Board; appointment; term; qualifications; compensation; expenses |
| 696.415 | Officers; meetings; quorum |
| 696.425 | Powers and duties of board |
| 696.430 | Records of commissioner as evidence; records open to inspection |
| 696.435 | Printed matter to be furnished licensees |
| 696.445 | Advancement of education and research; Oregon Real Estate News-Journal |
| 696.480 | Publication of directory by commissioner |

OCCUPATIONS AND PROFESSIONS

- 696.490 Real Estate Account; disposition of receipts
696.495 Revolving account; amount; use; procedure for repayment

ESCROWS AND ESCROW AGENTS

(Generally)

- 696.505 Definitions for ORS 696.505 to 696.585
696.508 Legislative finding; short title

(Licensing)

- 696.511 License required; application; issuance
696.515 Foreign corporations required to have certificate of authority to act as escrow agents
696.520 Application of ORS 696.505 to 696.585
696.523 Application of ORS 696.505 to 696.585 to title insurance activities
696.525 Bond for escrow agents
696.527 Deposits in lieu of bond; waiver
696.530 Renewal of license; fees
696.535 Refusal, suspension or revocation of licenses; records and reports
696.541 Authority of commissioner over escrow agents

(Enforcement)

- 696.545 Investigation; injunction; jurisdiction
696.555 Commissioner to take possession of property and assets of escrow agent when assets or capital impaired; receiver may be appointed
696.560 Deposit and designation of money held in escrow

- 696.565 Funds exempt from execution or attachment; designation of funds
696.570 Hearings procedure under ORS 696.505 to 696.585; subpoena; witness fees; depositions
696.575 Civil or criminal actions not limited by ORS 696.505 to 696.585
696.585 Civil penalties

BUSINESS CHANCE BROKERS

- 696.610 "Business chance broker" defined
696.620 License or registration required
696.630 Powers and duties of commissioner in relation to business chance brokers
696.640 Law applicable to business chance brokers

ACTIONS AND REMEDIES

- 696.710 Necessity of alleging license in action to collect compensation
696.720 Remedies are concurrent
696.730 Jurisdiction of courts for violations; revoking license upon conviction
696.740 License, certificate denial procedure; review of orders
696.745 Hearings
696.775 Authority of commissioner when license lapsed, suspended or surrendered
696.785 Commissioner duties when illegal commingling of funds found; receivership procedure

PENALTIES

- 696.990 Penalties

CROSS REFERENCES

Administrative procedures and rules of state agencies, 183.310 to 183.500

Legislative review of need for agency, 182.615

Licensing of occupations and professions by agencies in Department of Commerce, 670.300 to 670.350

Subdivision Control Law, 91.530, 92.305 to 92.495, 92.990

Transferring interests in realty, 93.020

Water rights for irrigation purposes; disclosure required in certain transactions, 537.330

When agreements are void by statute of frauds, 41.580

696.270

Military or naval service, persons relieved from payment of fees, 408.450

696.301

Denial, suspension or revocation of license prohibited solely because of criminal conviction, 670.280

Unlawful business and trade practices; Attorney General's rules, 646.608

696.375

Administrative agencies generally, Ch. 182
Subsistence and mileage allowance for travel, reimburse-

ment, 292.210 to 292.250
Unit ownership, 91.500 to 91.671

696.395

Commissioner authority over collection and debt consolidation agencies, Ch. 697

696.405

Administrative agencies generally, Ch. 182
Board under Department of Commerce, 184.520
Director of Department of Commerce as ex officio board member, 184.545

696.490

Expenditures without allotment prohibited in certain cases, 291.238

696.505 to 696.585

Applicability of Insurance Code to escrow activities, 731.450

696.535

Denial, suspension or revocation of license prohibited solely because of criminal conviction, 670.280

Note: Section 17, chapter 842, Oregon Laws 1977, is operative July 1, 1982, and provides:

Sec. 17. ORS 696.010, 696.020, 696.030, 696.040, 696.050, 696.060, 696.070, 696.080, 696.090, 696.100, 696.110, 696.120, 696.130, 696.141, 696.150, 696.160, 696.162, 696.165, 696.167, 696.174, 696.176, 696.180, 696.190, 696.200, 696.205, 696.210, 696.221, 696.224, 696.226, 696.228, 696.232, 696.235, 696.241, 696.250, 696.260, 696.270, 696.280, 696.290, 696.301, 696.310, 696.320, 696.325, 696.375, 696.385, 696.395, 696.398, 696.405, 696.415, 696.425, 696.430, 696.435, 696.445, 696.480, 696.490, 696.495, 696.505, 696.511, 696.515, 696.520, 696.523, 696.525, 696.530, 696.535, 696.540, 696.545, 696.555, 696.560, 696.565, 696.570, 696.575, 696.585, 696.610, 696.620, 696.630, 696.640, 696.710, 696.720, 696.730, 696.740, 696.745 and 696.990 relating to real estate and business brokers and escrow agents are repealed.

**REAL ESTATE LICENSEES
(Generally)**

696.005 [1963 c.580 §39; repealed by 1965 c.617 §8]

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

(1) "Advance fee" means a fee received before the professional real estate activity involved is completed, where such activity involves:

(a) The advertising for sale, lease or exchange of any real estate or any existing business through the sale or circulation of a publication or reference list caused to be prepared by such licensee, or

(b) The listing of any real estate or any existing business for sale, lease or exchange, or

(c) The soliciting or negotiation of loans on any real estate or business.

The term "advance fee" shall not include a retainer fee paid to a real estate broker or organization to secure the availability of such broker or organization for future services, or a consulting fee paid to a real estate licensee engaged to provide consultation or advice concerning the valuation, marketability or acquisition potential of real estate.

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

(3) (a) "Branch office" means a business location other than the main office designated under subsection (1) of ORS 696.200, where professional real estate activity is regularly conducted or which is advertised to the public as a place where such business may be regularly conducted.

(b) Model units or temporary structures used solely for the dissemination of information, distribution of lawfully required public reports, or the general promotion of any interest in real property shall not be considered branch offices. A model unit means a permanent residential structure located in a subdivision or development used for the promotion of any interest in the development, so long as the unit is at all times available for sale, lease, lease option or exchange.

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

(5) "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.

(6) "Controlling shareholder" means:

(a) Any individual who owns or controls, directly or indirectly, a majority of the outstanding shares of a corporate real estate organization.

(b) Any real estate salesperson who owns shares of stock of a corporate real estate organization, the majority of shares of which are owned or controlled, directly or indirectly, by real estate salespersons.

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

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

(9) "Professional real estate activity" means any of the following actions, when engaged in for another and for compensation or with the intention or in the expectation or upon the promise of receiving or collecting compensation, by any person who:

(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.

(L) Engages in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of a fee or other compensation from a prospective tenant or purchaser in connection with locating, assistance in locating or furnishing information concerning the location or availability of real property that may be leased, rented or purchased by the prospective tenant or purchaser.

(m) Engages in the business of charging an advance fee in connection with any contract whereby he undertakes to promote the sale of real estate either through its listing in a publication issued for that purpose or for referral of information concerning the real estate to brokers or both.

(n) Advises, counsels, consults or analyzes in connection with real estate values, sales or dispositions, including dispositions through eminent domain procedures.

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

(10) "Real estate" includes leaseholds and licenses to use as well as any and every interest or estate in land, whether corporeal or incorporeal, whether freehold or nonfreehold, whether held separately or in common with others and whether the land is situated in this state or elsewhere.

(11) "Real estate appraisal" means a statement setting forth an estimate of value of an adequately described property as of a specified date and supported by the analysis and presentation of relevant factual basis. An estimate of sales price, done for the purpose of obtaining an employment contract (listing) to market the property involved, when no specific fee is charged for such estimate, shall not

be termed or considered a real estate appraisal.

(12) "Real estate licensee" means a person licensed by the commissioner in one of the following categories:

(a) "Real estate broker" as described in subsection (1) of ORS 696.025.

(b) "Real estate organization" as described in subsection (2) of ORS 696.025.

(c) "Designated real estate broker" as described in subsection (3) of ORS 696.025.

(d) "Associate real estate broker" as described in subsection (4) of ORS 696.025.

(e) "Real estate salesperson" as described in subsection (5) of ORS 696.025.

(f) "Real estate appraiser" as described in subsection (6) of ORS 696.025.

(13) "Real estate security" means any security, as defined in subsection (13) of ORS 59.015, which also constitutes real estate.

[Amended by 1953 c.166 §5; 1955 c.322 §6; 1965 c.617 §1; 1973 c.416 §1; 1975 c.746 §1; 1977 c.649 §9]

696.015 Legislative finding; short title. (1) The Legislative Assembly finds the activity of persons seeking to assist others, for compensation, to deal in real estate in this state to be a matter of public concern. The provisions of ORS 696.010 to 696.495 and 696.610 to 696.990 are enacted to assist in creating for the public a healthy real estate market atmosphere and to assure that professional real estate activity is conducted with high fiduciary standards.

(2) ORS 696.010 to 696.495 and 696.610 to 696.990 may be cited as the Oregon Real Estate License Law. [1977 c.649 §2]

(Licensing)

696.020 Persons engaged in professional real estate activity required to be licensed. (1) No person shall engage in or carry on or advertise or hold himself out as engaging in or carrying on professional real estate activity, or act in the capacity of, a real estate licensee within this state without first obtaining a license as provided for in this chapter.

(2) A real estate licensee shall be bound by and subject to the requirements of ORS 696.010 to 696.490, 696.610 to 696.730 and 696.990 in engaging in any professional real estate activity or while acting in his own behalf in the offer to, negotiations for, or sale,

exchange, lease option or purchase of real estate. The fact that a real estate licensee has gained a profit in a real estate transaction while acting in his own behalf shall not alone be considered evidence of a breach of any fiduciary duty, nor grounds for license discipline. [Amended by 1969 c.674 §1; 1975 c.746 §1a; 1977 c.649 §10]

696.025 Categories of real estate licenses. The commissioner may issue a real estate license to a real estate licensee in any one of the following categories, which authorizes the licensee to perform only the duties described for that category:

(1) Real estate broker, which authorizes such person to engage in professional real estate activity directly with others as a sole proprietor of a business operated under the name of such person, or under an assumed business name filed in accordance with ORS chapter 648.

(2) Real estate organization, which authorizes such partnership, association or corporation to engage in professional real estate activity directly with others only in the name of such partnership, association or corporation.

(3) Designated real estate broker, which authorizes such person or persons to engage in professional real estate activity directly with others, but limited to activity in the name of a real estate organization designating such person to be a designated real estate broker, and not otherwise.

(4) Associate real estate broker, which authorizes a person otherwise eligible as a real estate broker to engage in professional real estate activity only as an agent of a real estate broker or real estate organization, and to manage a branch office of the real estate broker or real estate organization as authorized by subsection (3) of ORS 696.200.

(5) Real estate salesperson, which authorizes such person to engage in professional real estate activity only as an agent of a real estate broker or real estate organization, and not otherwise.

(6) Real estate appraiser, which authorizes such person to offer, attempt, agree to, or perform a real estate appraisal directly for anyone and for compensation, or with the intention or in the expectation or upon the promise of receiving or collecting compensation. [1977 c.649 §8a]

696.030 Certain persons exempted. (1) ORS 696.010 to 696.375, 696.395 to 696.435, 696.480, 696.490, 696.710 to 696.730 and 696.990 do not apply to, and the term "real estate licensee" does not include:

(a) A nonlicensed regular employe of a single owner of real estate whose activities involve the real estate of his employer and are incidental to his normal, nonreal estate activities; or a nonlicensed regular employe whose activity involving such real estate is his principal activity, but his employer's principal activity or business is not the sale, exchange, lease option or acquisition of real estate.

(b) 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. This exclusion does not apply to the activities as attorney in fact of any real estate licensee.

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

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

(e) Any person doing any of the acts of professional real estate activity under order of any court.

(f) Any unlicensed person employed by and acting for a single nonlicensed corporation, partnership, association or individual owner in the rental or management, but not sale, exchange, lease option or purchase of the real property of his employer.

(g) Any registered professional engineer or architect rendering services in performance of his duties as a professional engineer or architect.

(h) Any person employed by a real estate broker or a real estate organization and acting as a manager for any residential property whose activities are limited to negotiating rental or lease agreements, the checking of tenant and credit references, the physical maintenance of such property, tenant relations and the collection of rent, and the supervision of premises' managers.

(i) Any person, partnership, association or corporation or any employe of any such person while engaging in the disposition of human bodies under the provisions of ORS 97.010 to 97.990, and engaged in the sale or leasing of cemetery lots, parcels or units in Oregon.

(j) Any salaried employe of the State of Oregon, or any of its political subdivisions, while engaged in professional real estate activity as a part of said employment.

(k) Any person, organization, or any regular employe thereof, as to the activities of such person, organization, or employe in analyzing or advising of permissible land use alternatives, environmental impact, building and use permit procedures, or demographic market studies.

(L) Any hotelkeeper or innkeeper as defined by ORS 699.005 while in the course of business as a hotelkeeper or innkeeper.

(m) Any travel agent while in the course of business as a travel agent in arranging for compensation the rental of transient lodging at a hotel or inn as defined in ORS 699.005. For the purpose of this paragraph, "travel agent" means a person, including employes thereof, regularly engaged in the business of representing and selling travel services to the public either directly or indirectly through other travel agents, or both.

(n) Any common carrier while in the course of business as a common carrier in arranging for compensation the rental of transient lodging at a hotel or inn as defined in ORS 699.005. For the purpose of this paragraph, "common carrier" means a person who transports, or holds himself out to the public as willing to transport persons, for hire, compensation or consideration by rail, motor vehicle, boat or aircraft from place to place.

(o) Any hotel representative while in the course of business as a hotel representative in arranging for compensation the rental of transient lodging at a hotel or inn as defined in ORS 699.005. For the purpose of this paragraph, "hotel representative" means a person who provides reservations or sale services to independent hotels, airlines, steamship companies and government tourist agencies.

(p) Any professional forester appraising or valuing timber, timberland or both as part of services performed as a private consultant in forest management, but only if, in the case of timberland, the appraisal or valuation is limited to the use of the land as forest land as defined in ORS 321.257 and 321.805.

(2) The vesting of title to real estate in more than one person by tenancy by the entirety, tenancy in common or by survivorship shall be construed as that of a single owner for the purposes of this section. [Amended by 1955 c.322 §7; 1963 c.593 §1; 1967 c.277 §1; 1969 c.674 §2; 1975 c.746 §2; 1977 c.649 §11; 1979 c.125 §3; 1979 c.289 §1a]

696.040 Single act sufficient to constitute professional real estate activity. One act or transaction of professional real estate activity is sufficient to constitute engaging in professional real estate activity, within the meaning of this chapter. [Amended by 1955 c.322 §8; 1977 c 649 §12]

696.050 Qualifications of applicants for licenses. (1) Licenses shall be granted only to persons who are trustworthy and competent to transact professional real estate activity 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 licensee except as a real estate organization shall:

(a) Be of the age of 18 years or over;

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

(c) Demonstrate satisfactory evidence of competence in Legal Aspects of Real Estate (Real Estate Law), Real Estate Practice and Real Estate Finance. The completion of a course of study approved by the commissioner with a final examination score acceptable to the commissioner, or the successful passing of an examination prescribed by the commissioner shall be considered evidence of competence as to any of the three areas of required real estate knowledge. Such demonstration of competence in each of the three areas of required real estate knowledge shall take place prior to the date of the application.

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

(a) The applicant was actively engaged in professional real estate activity as a real

estate salesperson licensee for a period of at least three years, in the five-year period immediately prior to the date of his application; and

(b) The applicant has demonstrated satisfactory evidence of competence in Legal Aspects of Real Estate (Real Estate Law), Real Estate Practice, Real Estate Finance, Real Estate Office Management and Supervision of Sales Personnel. The completion of a course of study approved by the commissioner with a final examination score acceptable to the commissioner or the successful passing of an examination prescribed by the commissioner shall be considered evidence of competency in the five required areas of real estate. Such demonstration of competence shall take place prior to the date of the application; or

(c) At the discretion of the board, the applicant has real estate related experience equivalent to the requirements of paragraph (a) or (b) of this subsection, and evidences such experience by detailed explanatory affidavit to establish the nature of such experience; or

(d) The applicant has a combination of partial fulfillment of the qualifications described by paragraphs (a), (b) and (c) of this subsection which in the opinion of the board is also the equivalent to the requirements of paragraphs (a) and (b) of this subsection; and

(e) Notwithstanding paragraphs (a) to (d) of this subsection, an applicant for a real estate broker's license who has graduated from a four-year college or university course with a degree in real estate, in a curriculum approved by the commissioner and who has been actively engaged in business and duly licensed as a real estate salesperson for a period of at least one year may, upon petition to the board, and approval by the board, be issued a real estate broker's license immediately upon passing the real estate brokers' examination.

(f) Notwithstanding paragraphs (a) to (e) of this subsection, an applicant for a real estate broker's license who has a two-year community college associate degree in real estate technology in a curriculum approved by the commissioner, who has been actively engaged in business and duly licensed as a real estate salesperson for a period of at least two years, who has completed courses in Real Estate Management and Real Estate Accounting and Record Keeping approved by the division, upon petition to and approval by the

board, may be issued a real estate broker's license immediately upon passing the real estate broker's examination. [Amended by 1955 c.322 §9; 1961 c.471 §1; 1963 c.412 §1; 1969 c.515 §1; 1969 c.674 §3; 1971 c.671 §1; 1973 c.416 §3; 1973 c.827 §78; 1974 s.s. c.36 §21; 1975 c.746 §3; 1977 c.191 §1; 1977 c.649 §13]

Note: Section 2, chapter 528, Oregon Laws 1979, provides:

Sec. 2. The successful completion on or after July 1, 1973, and prior to July 1, 1978, of a course previously approved by the commissioner in Legal Aspects of Real Estate (Real Estate Law), Real Estate Practice and Real Estate Finance shall be considered evidence of competence in that one of the five required areas of real estate knowledge for purposes of the licensing requirements of ORS 696.050.

696.060 Form and contents of application for real estate broker 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, controlling shareholder 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 salesperson; if the applicant is a partnership or an association, by each member thereof, or if a corporation, by each officer or director 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, controlling shareholder or director has been so convicted, indicted or disbarred.

(7) Whether the applicant has been refused a real estate broker's or salesperson's license or any other occupational or professional license in any other state or whether his license as a broker or salesperson 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 a salesperson or in any other occupational or professional capacity refused, suspended or revoked in any other state; if the applicant is a corporation, whether any controlling shareholder, director or officer thereof has had a license as a broker or a salesperson or in any other occupational or professional capacity refused, suspended or revoked in any other state.

(8) If the applicant is a real estate organization, the name of the designated real estate broker or brokers who will receive his license by virtue of the issuing of a license to the real estate organization as is provided for in ORS 696.080.

(9) If the applicant is a designated real estate broker for a real estate organization, the name and office address of the real estate organization.

(10) Any information that is necessary for evaluation of an application under ORS 696.301. [Amended by 1975 c.746 §4; 1977 c.649 §14]

696.070 [Amended by 1963 c.412 §2; repealed by 1977 c.649 §53 and 1977 c.842 §17]

696.080 Real estate organizations; designating person to make application and pass examination. (1) No license shall be issued to any real estate organization unless and until such real estate organization designates one or more real estate licensees holding or qualified to hold a real estate broker's license as its designated real estate broker or brokers.

(2) Upon compliance with all other requirements of law by the real estate organization, the commissioner shall issue a broker's license to the real estate organization.

(3) The real estate organization shall have the right to revoke the corporate authority of any designated real estate broker at any time and to designate other persons holding or qualified to hold a real estate broker's license as its designated real estate broker or brokers. Such change shall be valid upon the filing with the commissioner of appropriate forms or applications approved by the commissioner and the payment of the prescribed fees. The real estate organization must at all times have at least one qualified designated real estate broker in order to engage in professional real estate activity.

(4) The designated real estate broker or brokers shall engage in professional real estate activity in the name of the real estate organization, and not otherwise.

(5) (a) A corporate real estate organization may create one or more affiliated or subsidiary real estate corporations. Any such related corporations may use the same designated broker provided that such corporations using the same designated broker operate solely from the main office of the principal corporate real estate organization and provided further that proof is submitted satisfactory to the commissioner that the designated real estate broker or brokers involved actually manages and controls each affiliated and subsidiary corporation for which he is designated.

(b) In any real estate transaction in which one of the parties is an unlicensed subsidiary or affiliated corporation of a licensed corporate real estate organization, the parties to the transaction must be given a full disclosure of the actual ownership of said subsidiary or affiliated corporation and the licensee status of the parent or affiliated corporate real estate organization. [Amended by 1975 c.746 §5; 1977 c.649 §15]

696.090 [Amended by 1955 c.322 §10; repealed by 1977 c.649 §16 and 1977 c.842 §17 (694.169 enacted in lieu of 696.090)]

696.100 Application for salesperson license. Every application for a salesperson'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 principal real estate broker or organization. Every application for a salesperson's license shall be verified by the applicant.

[Amended by 1963 c.412 §3; 1977 c.649 §17]

696.110 Application and examination fee. (1) Every application for a license and any examination under ORS 696.010 to 696.490 and 696.610 to 696.730 shall be accompanied by the examination fee prescribed in ORS 696.270. The fee for all licenses issued shall, at all periods of the year, be the same as prescribed in ORS 696.270.

(2) The provisions of ORS 696.010 to 696.490 and 696.610 to 696.730 shall be exclusive and no political subdivision or agency of this state shall require or issue any license or charge any fee for licensing or regulation of persons duly licensed under ORS 696.010 to 696.490 and 696.610 to 696.730. Nothing in this subsection shall limit the authority of a county, city or town to levy and collect a general and nondiscriminatory license fee upon all businesses in the county, city or town or to levy a tax based upon the business conducted by any licensee or firm within the county, city or town. [Amended by 1955 c.322 §11; 1961 c.309 §3; 1965 c.617 §2; 1975 c.746 §1b]

696.120 Commissioner may require additional information from applicants; rules. (1) Applications for a broker's or salesperson'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 connected with the application for any license as shall be deemed necessary to administer and enforce the provisions of ORS 696.010 to 696.490 and 696.610 to 696.730. [Amended by 1977 c.649 §18]

696.130 Examination of applicants; issuance of license upon revocation of broker or salesperson license; limited license. (1) All applicants for a real estate license, other than for an unrestricted real estate broker's license shall be required to

pass a basic written real estate examination to be conducted by the Real Estate Board. The examination shall include arithmetic and computation related to real estate, property descriptions, contracts and conveyances, real estate sales practices and instruments, problems generally encountered in real estate, appraising, real estate ethics, real estate taxation, and a general knowledge of the provisions of this chapter.

(2) The examination for an unrestricted real estate broker's license shall be on problems and matters affecting and involving a real estate broker including, but not limited to, business law, escrows, real estate office administration, property management, appraisals, real estate contracts, deposit receipts, earnest money receipts, deeds, mortgages, deeds of trust, leases, principles of business, land economics, real estate finance, business ethics and Oregon laws relating to real estate.

(3) The board shall hold licensing examinations at such times and places as it may determine, except that the board shall hold the examinations no less frequently than every 120 days and shall hold not less than four examinations in each calendar year.

(4) The successful passing of an examination prescribed by the commissioner to demonstrate competence in the areas of Legal Aspects of Real Estate (Real Estate Law), Real Estate Practice and Real Estate Finance may be accepted by the board in lieu of the examination required by subsection (1) of this section for a salesperson's license provided that the prescribed examinations are all successfully passed within the period of two years.

(5) If the license of any real estate broker or salesperson is revoked by the commissioner, no new license shall be issued until the person complies with the provisions of ORS 696.010 to 696.490 and 696.610 to 696.730 unless at the time the order authorizes the issuance of a limited license or if a broker's license is revoked, the order authorizes the issuance of a salesperson's license.

(6) The limited license issued under this section as the commissioner in his discretion finds advisable in the public interest may be limited:

- (a) By term;
- (b) To serve as the agent of a particular real estate broker, if a salesperson; or
- (c) By conditions to be observed in the exercise and the privileges granted.

(7) A limited license issued under this section does not confer any property right in the privileges to be exercised thereunder, and the holder of a limited license does not have the right to renewal of such license. A limited license may be suspended or revoked, or the licensee may be reprimanded, by the commissioner on the grounds set out in ORS 696.301.

[Amended by 1955 c.322 §12; 1969 c.674 §4; 1973 c.416 §4; 1975 c.746 §6; 1977 c.191 §2; 1977 c.649 §19]

696.140 [Amended by 1961 c.471 §2; 1963 c.412 §4; 1973 c.416 §5; repealed by 1975 c.746 §10 (696.141 enacted in lieu of 696.140)]

696.141 Effect of examination failures. A person who fails to take or pass an examination is not entitled to the return of any examination fees previously paid. [1975 c.746 §11 (enacted in lieu of 696.140); 1977 c.649 §51; 1979 c.243 §1]

696.150 Examination where applicant is real estate organization. If the applicant is a real estate organization, the examination requirements of ORS 696.130 shall be satisfied when the designated real estate broker or brokers are qualified for the issuance of such real estate broker's license. [Amended by 1977 c.649 §20]

696.160 Issuance of broker, salesperson or appraiser license. Upon satisfactorily passing the examination and upon complying with all other provisions of law and conditions of ORS 696.010 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 licensee of the appropriate category. The applicant, upon approval of his completed application for his license by the Real Estate Division, is authorized to conduct the business of a real estate broker or real estate salesperson or real estate appraiser, as the case may be, between the date of his license and the renewal date of his license, 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. [Amended by 1969 c.674 §5; 1975 c.746 §12; 1977 c.649 §21]

696.162 Real estate appraiser license. (1) An applicant shall be issued a real estate appraiser's license if the board determines he has had sufficient appraisal experience or appraisal education or a combination of both, and the applicant successfully completes the basic real estate examination and an exami-

nation on the principles and fundamentals of real estate appraising to be conducted by the Real Estate Board.

(2) A real estate organization may be licensed as a real estate appraiser if it designates a person who qualifies for a real estate appraiser's license as designated appraiser. The designated real estate appraiser shall engage in appropriate professional real estate activity in the name of the organization and not otherwise.

(3) No real estate salesperson shall perform a real estate appraisal until such person has passed an examination on the principles and fundamentals of real estate appraising to be conducted by the Real Estate Board.

(4) (a) A licensed real estate appraiser may be licensed to conduct real estate appraisals on behalf of a real estate broker, a real estate organization or another real estate appraiser, by subscribing to an agreement that he will not conduct real estate appraisals other than as an agent of and while associated with such broker, organization or appraiser. The form of this agreement is subject to the approval of the commissioner. Signed copies of such agreement shall be filed with the broker, organization or other appraiser involved and with the commissioner.

(b) Upon the filing of such agreement and the surrender of the individual real estate appraiser's license and pocket card, and payment of the prescribed fee, the commissioner shall issue to such appraiser a license and pocket card which shall designate such appraiser as being licensed as a real estate appraiser to act on behalf of the broker, organization or other appraiser.

(c) If such agreement is terminated, evidence of such shall be filed with such broker, organization or other appraiser and the commissioner which shall entitle the real estate appraiser to reapply for his individual license or to enter into such agreement with another broker, organization or appraiser. So far as applicable the provisions of this chapter relating to real estate brokers shall apply to a real estate appraiser.

(5) Upon written application, the commissioner shall issue a written waiver of license to any person, as to the real estate appraisal activity of such person in the State of Oregon done in order to give an opinion concerning taxation in any administrative hearing or court proceeding. [1975 c.746 §8; 1977 c.190 §1; 1977 c.649 §22]

696.165 Issuance of associate broker license and pocket card; application of chapter to associate brokers. (1) A real estate broker may engage in professional real estate activity 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 agent of the broker or organization, while associated with the said broker or organization. The form of this agreement is subject to the approval of the commissioner. Signed copies of the agreement shall be filed with the said broker or organization 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 inactivation, which license and card shall remain inactive as long as his associate broker's license is outstanding and effective, and shall be reissued upon inactivation of his associate broker's license and compliance with the other provisions of ORS 696.010 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 said broker or organization in accordance with ORS 696.180. An associate broker's 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 salespersons except that the designation "associate real estate broker" shall be substituted for "real estate salesperson." The provisions of ORS 696.010 to 696.490 and 696.610 to 696.730, other than ORS 696.130 to 696.150 and 696.162 that relate to and govern real estate salespersons shall also apply to and govern associate real estate brokers. [1953 c.166 §4; 1969 c.674 §6; 1977 c.649 §23]

696.167 Issuance of broker license to registered Oregon Securities Law broker-dealer; issuance of salesperson license to registered Oregon Securities Law salesperson; conditions; regulation of real estate securities salespersons. (1) If he successfully passes the basic real estate examination or a special examination prescribed by

the commissioner under subsection (2) of this section, a broker-dealer registered under the Oregon Securities Law shall be issued a real estate broker's license and a salesperson registered under the Oregon Securities Law shall be issued a real estate salesperson's license, in each case restricted to the sale of real estate securities.

(2) The commissioner may, from time to time, make, amend and rescind such rules, forms and orders as are necessary and appropriate to carry out the provisions of subsection (1) of this section, including but not limited to rules defining any terms whether or not such terms are used in this chapter. The commissioner may classify real estate securities, real estate securities salespersons and real estate securities brokers and prescribe different requirements for different classes, including but not limited to prescribing a special examination for real estate securities salespersons and brokers as an alternative to the basic real estate examination. In prescribing rules, forms and orders the commissioner may cooperate with the securities and real estate administrators of this and other states and of the United States with a view to achieving uniformity in the form and content of applications, reports, office procedures and business practices wherever practicable. [1975 c.746 §9; 1977 c.649 §24]

696.169 Assistant broker and salesperson not authorized to control broker or organization. No associate real estate broker or real estate salesperson shall control or supervise the professional real estate activities of any real estate broker or organization. [1977 c.649 §16a (enacted in lieu of 696.090)]

696.170 [Amended by 1955 c.322 §13; repealed by 1969 c.674 §20]

696.172 [1969 c.674 §9; repealed by 1975 c.746 §34]

696.174 License renewal date; effect of failure to make timely renewal; continued education required. (1) Each license as a real estate broker, or real estate salesperson may be renewed by the commissioner upon the payment by the licensee of the registration or renewal fee specified in ORS 696.270, with a complete renewal application and evidence of completion of educational requirements as provided in subsection (4) of this section. Said completed application, fee, and evidence of educational requirements shall be delivered to the commissioner on or before the expiration date of the license.

(2) If the licensee fails to renew his license in the manner set forth in subsection (1) of this section on or before the expiration date of the license, the commissioner may accept a late payment, subject to such conditions as he may require; but between the day following the expiration date of the license and the date of renewal of the license the rights of the licensee under such license and the rights of each associate broker and salesperson engaged shall be suspended, and during such suspension it is unlawful for any of such licensees to do or attempt or offer to engage in any professional real estate activity.

(3) The license of an associate broker or salesperson suspended as provided for in subsection (2) of this section may be reissued to the same broker or a new broker without fee if reissued during the same license year in which it was granted and on receipt of the associate broker's or salesperson's original license and pocket card.

(4) To qualify an active license for renewal, the real estate licensee must present evidence of attendance during the preceding two license years of 24 clock-hours of real estate oriented educational sessions approved by the Real Estate Division. The division shall maintain a list of approved sessions. The commissioner may waive these requirements for any licensee who submits satisfactory evidence of inability to attend such sessions because of health or other circumstances beyond the licensee's control. [1969 c.674 §11; 1973 c.416 §6; 1977 c.649 §25]

696.176 Terms of licenses. (1) A new license or renewal issued on or after July 1, 1975, shall be for the term of not more than 24 months up to and including the month of the birthdate of the licensee.

(2) Real estate organizations shall have established as the equivalent of a birthdate, that date upon which the license is issued.

(3) Branch offices shall have established as the equivalent of a birthdate, the expiration date of the license of the real estate broker or real estate organization establishing the branch office. [1969 c.674 §10; 1975 c.746 §13; 1977 c.649 §26]

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 salesperson's

license, shall show the name of the real estate broker by whom he is engaged. 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 salesperson shall be delivered or mailed to the real estate broker by whom such real estate salesperson is engaged and shall be kept in the custody and control of such broker. [Amended by 1977 c.649 §27]

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 salesperson, as the case may be. If it is a real estate salesperson's card it shall also contain the name and address of his principal broker. The matter to be printed on such pocket card, except as above set forth in this section, shall be prescribed by the commissioner. [Amended by 1977 c.649 §28]

696.200 Real estate broker or organization to maintain place of business; branch offices; removal from state; change of business location. (1) Except for nonresident brokers licensed pursuant to ORS 696.250 and associate brokers licensed pursuant to ORS 696.165, every real estate broker and real estate organization shall maintain in this state a place of business to be designated as his or its main office and designate such place of business by a sign which shall contain the name under which such broker is licensed, together with the words "Real Estate," or "Realty," or if a member of the National Association of Realtors he may use the word "Realtor."

(2) The place of business shall be specified in the application for license, and designated in the license. No license issued under ORS 696.010 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 licensee agents 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 under the management of a designated real estate broker or an associate real estate broker who shall conduct and supervise the business of the branch office. The license of such broker shall state that he is associated with or the agent of as the case may be, the broker licensed to establish the branch office. Salespersons who are authorized to and who are managing a "Branch Office" for a broker on October 5, 1973, may be continued in such management.

(4) Except for nonresident licensees licensed pursuant to ORS 696.250, when a licensee currently licensed in Oregon terminates his Oregon residence he shall immediately surrender his license to the commissioner. The commissioner shall hold the license as inactive until residency is reestablished by the licensee or the license expires. Failure to surrender the license to the commissioner upon the termination of residency is grounds for revocation of the license. Each salesperson's license in the custody of the broker at the time the broker's 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. Each license of a salesperson who terminates his residency shall be surrendered by his broker to the commissioner to be held as an inactive license. 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 licensee 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 a broker's 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; 1965 c.367 §1; 1973 c.416 §7; 1975 c.746 §14; 1977 c.649 §29; 1979 c.823 §1]

696.205 Death of sole proprietor broker; temporary license. In the event of the death of a licensed broker who is the sole proprietor of a real estate business, the commissioner may issue a temporary license to the executor, administrator or personal representative of the estate of the deceased broker, or to some other person designated by the commissioner, to continue to transact said business for the sole purpose of winding up the affairs of the deceased broker. Unless the commissioner, in his discretion, extends the term of the temporary license upon sufficient cause being furnished to him by the temporary licensee, the term of a temporary license shall not exceed one year from the date of issuance. [1975 c.746 §7]

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 salespersons who are agents for him. [Amended by 1977 c.649 §30]

696.220 [Repealed by 1955 c.322 §15]

696.221 Return of salesperson license to commissioner. (1) A real estate broker at any time may, and at the request of the salesperson shall without delay, return the license of a real estate salesperson to the commissioner. When, and only when, the license of a salesperson is returned to the commissioner, the relationship of the broker returning the license and the salesperson whose license is returned, is, for the purposes of ORS 696.010 to 696.490 and 696.610 to 696.730, terminated. Before the broker returns the license of a salesperson to the commissioner he shall make a reasonable attempt to give the salesperson notice of his intent to do so.

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

- (a) Become an inactive license.
- (b) Be reissued to the same broker.

(c) Be reissued to a different broker. [1955 c.322 §4; 1969 c.674 §12; 1977 c.649 §31]

696.224 Inactive real estate salesperson license. (1) The license of a real estate salesperson becomes an inactive license if it is not reissued, revoked or suspended within 10 days after his agency relationship with a broker is terminated.

(2) The license of a real estate salesperson shall be reissued to the same or a different broker when, within 10 days after termination of his agency relationship with a broker:

(a) Notice of his agency relationship by the broker and the name of the agency relationship broker is given to the commissioner by the real estate salesperson; and

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

(c) Where the agency relationship between a real estate broker and associate broker or salesperson is terminated by reason of death of the real estate broker, a 30-day period shall apply in lieu of the 10-day period mentioned in this section. [1955 c.322 §5; 1969 c.674 §13; 1977 c.649 §32]

696.226 Surrender of broker 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 salesperson 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 professional real estate activity 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 c.322 §2; 1977 c.649 §33]

696.228 Surrender of associate broker license; inactive licensee not to engage in business; renewal, reactivation, revocation or suspension of inactive license. (1) When an associate real estate broker ceases to act as an agent for another broker he shall surrender his associate broker's license to the commissioner who shall keep such license on record as an inactive license.

(2) While his associate broker's license is being held by the commissioner as an inactive license, the licensee shall not engage in professional real estate activity or carry on, or advertise or hold himself out as being authorized to do so.

(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. [1969 c.674 §8; 1977 c.649 §34]

696.230 [Repealed by 1969 c 674 §21]

696.232 Surrender of license by employe of division; reissuance upon termination of employment. (1) An employe or officer of the Real Estate Division licensed as a real estate licensee under this chapter shall surrender his license to the division at the time of commencement of his employment. The division shall hold the license as a suspended license. At the termination of his employment, the license may be reissued as an active or inactive license. The license shall be reissued without payment of further fee and shall expire on the date on which it would have expired if the license had not been suspended.

(2) Except as stated in subsection (1) of this section, the reissuance of the license and all renewals shall be subject to the provisions of ORS 696.010 to 696.490 and 696.610 to 696.730. [1975 c.746 §16; 1977 c.649 §35]

696.235 Renewal of inactive license; termination; effect; reactivation of inactive license. (1) On or after July 1, 1975, an inactive license may be renewed as an inactive license for a period of two years.

(2) To activate an inactive license which has been renewed as an inactive license, the

licensee, during the year in which he wishes to activate the license and prior to the issuance of the active license, must:

(a) Complete the education requirements of subsection (4) of ORS 696.174; and

(b) Complete successfully an examination to be conducted by the Real Estate Division to exhibit knowledge on current real estate matters.

(3) This section shall not apply to a broker whose license becomes inactive on account of the issuance and retention of an active associate broker license. [1975 c.746 §15; 1977 c.649 §36]

696.240 [Amended by 1957 c.383 §1; 1963 c.580 §49; repealed by 1975 c.746 §17 (696.241 enacted in lieu of 696.240)]

696.241 Clients trust accounts; funds to be deposited; notice to division; authority to examine account; branch trust account; when broker entitled to earnest money; rules. (1) Each real estate broker shall maintain in this state one or more separate bank checking accounts that shall be designated a "Clients' Trust Account" in which all trust funds received or handled by him, his associate brokers, or his salespersons, on behalf of any other person shall be deposited.

(2) If all parties having an interest in the trust funds agree in writing, the trust funds may be immediately placed in a neutral escrow depository in this state.

(3) Each real estate broker shall file with the Real Estate Division, on forms approved by the commissioner, a statement identifying the name of the bank or banks, account number or account numbers, and name of account or accounts for each "Clients' Trust Account" maintained.

(4) Each real estate broker shall authorize the Real Estate Division, by a form approved by the commissioner, to examine any "Clients' Trust Account," by a duly authorized representative of the division. The examination shall be made at such times as the commissioner may direct.

(5) If a branch office maintains a separate "Clients' Trust Account" a separate bookkeeping system shall be maintained in the branch office, provided a copy of each document required by the provisions of ORS 696.280 is maintained in the main office of the real estate broker.

(6) Trust funds received by a real estate broker may be placed in a federally insured

interest-bearing savings account, designated a "Clients' Trust Account," but only with the written approval of all parties having an interest in said fund. The earnings of such interest-bearing account shall not inure to the benefit of the real estate broker unless expressly approved by all interested parties.

(7) A real estate broker is not entitled to any part of the earnest money or other money paid to him in connection with any real estate transaction as part or all of his commission or fee until the transaction has been completed or terminated. The question of the disposition of forfeited earnest money shall be negotiated between a real estate broker or organization and seller at the time of executing any listing agreement or earnest money agreement. The result of such negotiation shall be filled in on the agreement form at the time of signing by the seller and either separately initialed by the seller or placed immediately above the signature of the seller.

(8) The Real Estate Division may provide by rules for other records to be maintained and for the manner in which trust funds are deposited, held and disbursed. [1975 c.746 §18 (enacted in lieu of 696.240); 1977 c.649 §39]

696.250 Licensing of nonresidents; commissioner as attorney. (1) Nonresident real estate licensees shall only be licensed in this state by written reciprocal agreement between this state and the state of residence of each nonresident real estate licensee. Each nonresident licensee shall be limited and subject to the terms of the written reciprocal agreement. Such nonresident licensee may not maintain a place of business within this state. The commissioner may, in his discretion, refuse to issue a real estate license to an applicant who is not a resident of this state.

(2) When a nonresident licensee no longer regularly engages in the real estate business in the state of his resident real estate license, his nonresident license and the nonresident licenses of licensees in his employ shall be surrendered to the commissioner.

(3) The acceptance, by a nonresident, of a license as a real estate licensee under this section, 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 licensee 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 licensee, 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 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 licensee 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 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. [Amended by 1953 c.202 §2; 1961 c.675 §1; 1965 c.367 §2; 1969 c.674 §14; 1975 c.746 §19; 1977 c.649 §37]

696.260 [Repealed by 1977 c.649 §53 and 1977 c.842 §17]

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

(1) For each licensing examination described in subsection (1) or (2) of ORS 696.130, ORS 696.162 or 696.167 applied for, \$25. For each prescribed examination to show competence in a required area of real estate knowledge or each licensing examination prescribed in ORS 696.235 applied for, \$15.

(2) For each real estate broker's, real estate organization or real estate appraiser's

license, \$75; and for each biennial registration or renewal of a real estate license thereafter, \$75.

(3) For each license as real estate broker issued to a designated real estate broker in a real estate corporation, \$75; and for each biennial registration or renewal of such license thereafter, \$75.

(4) For each associate broker's license a fee of \$75 and for each biennial registration or renewal a fee of \$75.

(5) For each real estate salesperson's license, \$60; and for each biennial registration or renewal of such license thereafter, \$60.

(6) For each additional office or place of business, a biennial fee of \$75.

(7) For each change of name or address of a broker on the records of the division, \$10.

(8) For each duplicate license, where the original license is lost or destroyed and affidavit made thereof, \$5.

(9) For each salesperson's or associate broker's license issued when change of business location or change of name, \$5.

(10) For each transfer of salesperson's license, \$10.

(11) For each duplicate registration, where the original card is lost or destroyed and affidavit made thereof, \$5.

(12) For certified copies of any record in the office of the commissioner, \$5 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, \$75.

(14) For the renewal of a salesperson's inactive license, \$60.

(15) For the reactivation of a broker's inactive license, \$75, for the reactivation of an associate broker's inactive license, \$75, and for the reactivation of a salesperson's inactive license, \$60.

(16) In addition to the biennial renewal or registration fee, for late renewal or late biennial registration, \$25.

(17) For a temporary license issued under ORS 696.205, \$30, and for an extension thereof, \$30. [Amended by 1953 c.166 §5; 1955 c.457 §1; subsections (13), (14), (15) enacted as 1955 c.322 §3; 1957 c.383 §2; 1961 c.670 §1; 1965 c.617 §3; 1969 c.674 §15; 1971 c.293 §1; 1975 c.746 §20; 1977 c.191 §3; 1977 c.649 §52]

696.275 Prorating of license fee. If the effective period of a license specified in ORS 696.270 is to be less than 24 months by reason of the statutorily required expiration date, the required license fee shall be prorated to represent the larger of:

(1) One twenty-fourth of the full fee for each month of the license period to the expiration date, rounded to the nearest dollar; or

(2) 25 percent of the full fee, rounded to the nearest dollar. [1977 c.873 §18]

696.280 Real estate brokers and appraisers to keep records. (1) 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 a consecutively numbered file for each offer or transaction which involves the prospective or actual sale, purchase, lease option or exchange of real property, which file shall contain, where applicable:

(a) A copy of any listing agreement, which shall evidence the signatures of the parties;

(b) A copy of any earnest money agreement, whether accepted by the seller or not, which shall evidence the signature of the party or parties;

(c) A copy of any receipt issued by the broker to evidence acceptance of funds or documents;

(d) A copy of any closing statements showing all receipts, disbursements and adjustments, which shall evidence the signature of the seller or sellers, the buyer or buyers. In lieu of such signatures, a certification of the closing escrow agent that such copy is a true and correct copy may be substituted; and

(e) A copy of any vouchers of bills or obligations paid by the broker for the account of the seller(s) or buyer(s).

(2) Every person licensed as a real estate broker, when engaged in professional real estate activity other than that described in subsection (1) of this section, and every person licensed as a real estate appraiser shall keep adequate records of all professional real estate activity.

(3) 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 licensee for a period of not less than six years after the date of the transaction. [Amended by 1977 c.649 §38]

696.290 Sharing commission with or paying finder's fee to unlicensed person prohibited. No real estate licensee 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 or pay a finder's fee to any person who is not a real estate licensee licensed under ORS 696.010 to 696.490 and 696.610 to 696.730. However, a licensed real estate 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 real estate broker in another state provided that the state in which he is licensed has a law permitting real estate brokers to cooperate with real estate brokers in this state and that such nonresident real estate broker does not conduct in this state any of the negotiations for which a fee, compensation or commission is paid. No real estate salesperson shall be engaged by, or accept compensation from, any person other than the real estate broker under whom he is licensed at the time, and no real estate broker shall make payment to the salesperson of another real estate broker except through the real estate broker with which or with whom such real estate salesperson is licensed. Nothing in this section prevents payment of a commission or fee earned by such real estate salesperson while licensed, because of change of affiliation or inactivation of his license. [Amended by 1953 c.42 §2; 1961 c.670 §2; 1969 c.674 §16; 1975 c.746 s. 21; 1977 c.649 §40]

696.300 [Amended by 1959 c.585 §1; 1961 c.670 §3; 1969 c.674 §17; 1971 c.743 §409; 1973 c.421 §50; 1974 s.s. c.1 §25; repealed by 1975 c.746 §22 (696.301 enacted in lieu of 696.300)]

696.301 Grounds for revocation or suspension of license, reprimand, or denial of license. The commissioner may suspend or revoke the real estate license of any real estate licensee or reprimand any licensee, or may deny the issuance of a license to an applicant, who has done any of the following:

(1) Pursued a continued course of misrepresentation, or made any harmful misrepresentation or false promise in a matter related to professional real estate activity.

(2) Accepted a commission or other valuable consideration as a real estate salesperson for the performance of any professional real estate activity from any person, except the real estate broker with which the real estate salesperson is licensed.

(3) Represented or attempted to represent a real estate broker other than the real estate broker with which the real estate salesperson is licensed.

(4) Failed, 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 belongs to others.

(5) Disregarded or violated any provisions of ORS 696.010 to 696.490 and 696.610 to 696.730.

(6) Made, printed, distributed or in any manner published misleading or untruthful advertising, descriptions or promises, of such character as reasonably to induce any person to act to his damage or injury.

(7) Guaranteed or having authorized or permitted any person to guarantee future profits which may result in the resale of real property.

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

(9) Solicited, sold or offered for sale real property by offering "free lots" or conducted lotteries or contests, or offered prizes or other inducements for the purpose of influencing a seller or purchaser or prospective seller or purchaser of real property.

(10) Failed for any reason to pay to the commissioner his license registration or renewal fee as specified in ORS 696.270 promptly and before the time specified in that section.

(11) Commingled the money or other property of his principal or client with his own.

(12) Failed or refused upon demand to produce or to supply true copies of any document, book or record in his possession or under his control, or required by the provisions of ORS 696.280 concerning any real estate business transacted by him, for inspection by the Real Estate Commissioner or his authorized representative.

(13) Failed to maintain at all times in his principal place of business a complete record of every transaction which comes within the provisions of ORS 696.010 to 696.490 and 696.610 to 696.730.

(14) Violated ORS 659.033.

(15) Acted for more than one party in a transaction without the knowledge and written permission of all parties for whom he acts.

(16) Acted in the dual capacity of agent and undisclosed principal in any transaction.

(17) Induced 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 different principal, where such substitution is motivated by the personal gain of the licensee.

(18) Offered real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.

(19) Negotiated a sale, exchange, or lease of real estate directly with an owner or lessor knowing that such owner had a written outstanding contract in connection with such property, granting an exclusive agency or an exclusive right to sell to another real estate broker.

(20) Accepted employment or compensation for appraising real estate contingent upon the reporting of a predetermined value or issued an appraisal report on real estate in which he had an undisclosed interest.

(21) Failed to maintain a deposit in a bank account or neutral escrow depository funds entrusted to him as a real estate broker by his principal or other as required by ORS 696.241 and the rules of the Real Estate Division.

(22) Paid a commission or compensation to any person, performing professional real estate activity who has not first secured his license under this chapter or is a nonresident real estate broker not licensed in this state, except as permitted by ORS 696.290.

(23) Failed to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser and to the seller.

(24) Failed to assure, in any real estate transaction, in which such real estate broker participated, that the buyer and seller each received a complete detailed closing statement showing the amount and purpose of all receipts, adjustments and disbursements.

(25) If, as an associate real estate broker or real estate salesperson, failed to place, as soon after receipt as practicable, in the custody of the real estate broker with which he is licensed, any deposit money or other money or funds entrusted to him by any person dealing

with him as a representative of such licensed broker.

(26) Procured or attempted to procure, a real estate license for himself or any salesperson by fraud, misrepresentation, or deceit or by making any material misstatement of fact in an application for a real estate license.

(27) Entered a plea of nolo contendere, or has been found guilty of, or been convicted of, a felony or any crime involving forgery, theft, theft by extortion, conspiracy to defraud, or moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal.

(28) Knowingly authorized, directed or aided in the publication, advertisement, distribution or circulation of any material false statement or misrepresentation concerning his business or any business opportunity or any land or subdivision offered for sale.

(29) Demonstrated negligence or incompetence in performing any act for which he is required to hold a license.

(30) If, as a broker licensee, failed to exercise reasonable supervision over the activities of his real estate salespersons or employees.

(31) Violated any of the terms, conditions, restrictions and limitations contained in any order granting a limited license.

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

[1975 c.746 §23 (enacted in lieu of 696.300); 1977 c.649 §41]

696.310 Intracompany supervision and control; effect of revocation on licensed associates. (1) All designated real estate brokers of a real estate organization shall have equal supervisory control over and shall be equally responsible for the conduct of other designated real estate brokers, or the associate real estate brokers or real estate salespersons licensed with such real estate organization, or other employees employed by such real estate organization.

(2) The real estate organization may, by appropriate internal action or agreement, provide for the management and control over the activities of the real estate organization and delegate the area of management functions or responsibilities as among the designated brokers of such real estate organization. Such internal action or agreement shall not,

however, dilute the equal responsibility of each designated broker under subsection (1) of this section.

(3) Any unlawful act or violation of any of the provisions of ORS 696.010 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 real estate licensee associated with or engaged by such licensee, unless it appears to the satisfaction of the commissioner that such associated or engaged real estate licensee had guilty knowledge thereof. A course of dealing shown to have been persistently and consistently followed by any real estate licensee shall constitute prima facie evidence of such knowledge upon the part of any real estate licensee associated with or engaged by that licensee. 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. [Amended by 1977 c.649 §42]

696.315 Licensee not to permit person whose license suspended or revoked to engage in activity on behalf of licensee.

No real estate licensee shall knowingly permit any person whose license has been revoked or suspended to engage in professional real estate activity on behalf of the licensee. [1977 c.649 §7]

696.320 Effect of suspension or revocation of broker license on salesperson employe. The suspension or revocation of a broker's license shall suspend automatically every salesperson's license pending a change of principal real estate broker or the issuance of a new license. Such new license shall be issued without charge, if granted during the same license term in which the original li-

cense was granted, upon the receipt of the salesperson's original license and pocket card.

[Amended by 1969 c.674 §18; 1975 c.746 §24; 1977 c.649 §43]

696.325 Rules for regulation of home finders. The commissioner shall prescribe rules for the conduct of business described in paragraph (L) of subsection (9) of ORS 696.010. The rules shall include, but are not limited to provisions for:

(1) Written agreements and the terms of agreements entered into by a real estate broker and a prospective tenant; and

(2) The charges made for the rental referral services performed and the method of collection of the charges from the prospective tenant or property owner; and

(3) The records to be kept by any real estate broker engaged in the business of providing a rental referral service; and

(4) Any other rule deemed necessary by the commissioner to protect the interests of prospective tenants in their dealings with persons performing rental referral services.

[1975 c.746 §36; 1977 c.649 §44]

696.330 [Amended by 1967 c.206 §1; repealed by 1971 c.734 §21]

696.340 [Repealed by 1971 c.734 §21]

696.345 Form of compensated appraisal; when appraisal may be compensated. (1) Where a specific fee is solicited, charged or collected for a real estate appraisal by any real estate licensee authorized by the Oregon Real Estate License Law to provide such, the real estate appraisal so furnished must either be in narrative report form disclosing the supporting analysis and factual data, or the real estate licensee must have the supporting data and form of analysis within his office file for the particular appraisal assignment.

(2) Notwithstanding any provisions of the Oregon Real Estate License Law to the contrary, an associate real estate broker or real estate salesperson licensed to make real estate appraisals may receive compensation directly from clients for a real estate appraisal, if:

(a) The real estate broker with whom, or real estate organization with which such real estate licensee is licensed has filed with the commissioner written approval of such practice; and

(b) The licensee in each instance notifies the subject real estate broker or real estate

organization in writing of all such activity engaged in, and fees charged and collected.

[1977 c.649 §4]

696.350 [Repealed by 1971 c.734 §21]

696.355 Advance fee as trust fund; deposit; regulation of advance fees. (1) Any real estate broker who contracts for or collects an advance fee from any other person, referred to in this section as the "principal," shall deposit any such amount or amounts, when collected in a trust account with a bank or other recognized depository. Such funds are trust funds and not the funds of the agent. Amounts may be withdrawn therefrom for the benefit of the agent only when actually expended for the benefit of the principal or five days after the verified accounts mentioned in this section have been mailed to the principal.

(2) The commissioner may issue such rules as he deems necessary to regulate the method of accounting, and to accomplish the purpose of the provisions of this subsection relating to advance fees including, but not limited to, establishing forms for and determining information to be included in such accountings. Each principal shall be furnished a verified copy of such accountings not less frequently than once each calendar quarter and when the contract has been completely performed by the licensee. The Real Estate Commissioner shall be furnished a verified copy of any account or all accounts on his demand therefor. [1977 c.649 §6]

696.360 [Amended by 1967 c.206 §2; repealed by 1971 c.734 §21]

(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 a person who has been actively connected with the administration of the Real Estate Division or its predecessor, the Oregon Real Estate Department for at least one year.

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) 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; 1974 s.s. c.25 §1; 1975 c.746 §25]

696.380 [Repealed by 1963 c.580 §103]

696.385 Power of 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, and enforce and discharge the duties defined in, any law with the administration or enforcement of which the division is charged. [1963 c.580 §48; 1965 c.617 §5]

696.390 [Repealed by 1963 c.580 §103]

696.395 Power of 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, or such other agents or representatives, and prescribe their duties and fix their compensation, subject to the applicable provisions of the State Merit System Law. Subject to any other applicable law regulating travel expenses, the officers, employes, agents or representatives 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; 1977 c.649 §45]

696.398 Delegation by commissioner to employes; requirements. (1) The commissioner may delegate to any of the officers and employes of the Real Estate Division to exercise or discharge in the commissioner's name any power, duty or function vested in or imposed upon the commissioner under this chapter. The power to administer oaths and affirmations, subpoena witnesses, take evidence and require the production of books, papers, correspondence, memoranda, agreements or other documents or records, and to sign notices and orders may be exercised by an officer or employe of the division only when specified in writing by the commissioner and filed in the records of the Real Estate Division.

(2) An official act of a person acting in the commissioner's name and by his authority shall be deemed to be an official act of the commissioner. [1975 c.746 §26]

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 seven members, one of whom shall be the Real Estate Commissioner, and the other six 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. Four members of the board appointed by the Director of Commerce must have been, before the date of their appointment, real estate brokers actively engaged for five years 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. Two members to be appointed by the Director of Commerce shall not be licensed real estate brokers or salespersons or have been connected with, or employed by, 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 is entitled to compensation or expenses as provided in ORS 292.495. [1963 c.580 §43; 1969 c.314 §97; 1975 c.746 §27; 1977 c.649 §46]

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 real estate licenses, prepare or cause to be prepared the questions to be asked in the examinations and grade or cause to be graded 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 adminis-

trative expenses relating to the real estate and business broker activities of the division.

[1963 c.580 §46; 1969 c.674 §19; 1977 c.649 §47]

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 696.010 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. Single copies of matter printed and circulated as authorized by ORS 696.385, 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. [1963 c.546 §5; 1965 c.617 §6]

696.440 [Repealed by 1963 c.580 §103]

696.445 Advancement of education and research; Oregon Real Estate News-Journal. (1) Pursuant to subsection (2) of ORS 696.385, the division shall provide for the advancement of education and research in connection with the educational requirements for the securing and maintaining of licenses for real estate licensees under ORS 696.010 to 696.490.

(2) The commissioner may assign and reassign staff in the division to perform such duties as he considers necessary to carry out subsection (1) of this section, including but not limited to the preparation and distribution of a periodic publication to be known as the Oregon Real Estate News Journal and the preparation and publication of other printed matter of an educational nature for the benefit of real estate licensees. [1974 s.s. c.26 §5; 1975 c.746 §28; 1977 c.649 §48]

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 real estate licensees 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 this section and ORS 696.010 to 696.375, 696.395 to 696.435, 696.490, 696.710 to 696.730 and 696.990, the code of ethics as adopted by the National Association of Realtors 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 real estate 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 \$2 therefor except that copies requested may be furnished without charge to any state department. [Amended by 1977 c.649 §49]

696.490 Real Estate Account; disposition of receipts. (1) There is established in the General Fund of the State Treasury the Real Estate Account. All moneys, fees and charges collected or received by the division shall be deposited in the account.

(2) The moneys in the Real Estate Account are continuously appropriated for the payment of the expenses of the division in carrying out the provisions of ORS 91.500 to 91.671, 91.990, 92.305 to 92.495, 696.010 to 696.745 and 697.010 to 697.990. [Amended by 1955 c.457 §2; 1961 c.309 §4; 1963 c.440 §16; 1963 c.580 §50; 1965 c.617 §7; 1971 c.293 §2; 1974 s.s. c.26 §1; 1977 c.41 §2]

696.495 Revolving account; amount; use; procedure for repayment. (1) Upon written request by the Real Estate Division, the Executive Department shall draw a warrant on the Real Estate Account, established by ORS 696.490, for use as a revolving fund. Warrants drawn to establish or increase the revolving fund, rather than to reimburse the revolving fund, may not exceed the aggregate sum of \$1,500. The State Treasurer shall hold

the revolving fund in a special account against which the Real Estate Division may draw checks.

(2) The Real Estate Division may use the revolving fund for the purpose of paying witness fees and other administrative expenses.

(3) All claims for reimbursement of moneys paid from the revolving fund are subject to approval by the Director of the Executive Department and by the Real Estate Commissioner. When such claims have been approved, a warrant covering them shall be drawn in favor of the Real Estate Division and used to reimburse the revolving fund. Such warrants shall be charged against the Real Estate Account established by ORS 696.490. [1974 s.s. c.26 §3; 1977 c.41 §3]

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

ESCROWS AND ESCROW AGENTS (Generally)

696.505 Definitions for ORS 696.505 to 696.585. As used in ORS 696.505 to 696.585, 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.

(4) "Real estate closing escrow" means an escrow where the escrow fee is paid in whole or in part by a seller of real property and wherein the unpaid purchase price is delivered to an escrow agent for disbursal at the seller's direction simultaneously on the transfer by the seller of specified title to the real property. [1963 c.440 §1; 1977 c.351 §4]

696.508 Legislative finding; short title. (1) The Legislative Assembly finds the activity of escrow agents in handling large sums of money and important rights of clients to be of public concern. In order to permit uniform and equitable regulation of all escrow agents and to improve the standards of escrow conduct, the provisions of ORS 696.505 to 696.585 shall be construed to grant the commissioner authority to protect the public.

(2) ORS 696.505 to 696.585 may be cited as the Oregon Escrow Law. [1977 c.351 §2]

696.510 [Repealed by 1961 c.309 §6]

(Licensing)

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 696.585.

(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, elected 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. Notification of changes in the information contained in the application or in the ownership of the business must be immediately filed with the commissioner. If there are changes in elected corporation officers serving the corporation principally within this state, notification of those changes together with certified copies of the minutes of the directors' meeting at which the new officers were elected shall be filed with the commissioner.

(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 696.585. [1963 c.440 §§4, 17; 1975 c.746 §29; 1977 c.351 §5]

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 696.585. The provisions of ORS 696.505 to 696.585 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, consumer finance companies, or insurance companies except to the extent that the person provides real estate closing escrow services other than those permitted under subsection (3) of this section.

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

(3) 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 but only to the extent of closing a loan transaction between such firm or corporation and a borrower, and seller, if a fee for escrow services is not charged to the seller.

(4) Any person doing any of the acts specified in subsection (2) of ORS 696.505 under order of any court. [1963 c.440 §2; 1967 c.359 §701; 1971 c.398 §1; 1977 c.351 §6]

696.523 Application of ORS 696.505 to 696.585 to title insurance activities. The provisions of ORS 696.505 to 696.585 apply to those escrow activities of a title insurance company, or an agent of a title insurance company which prepares abstracts or makes searches of title which are used as a basis for the insurance of titles by a title insurance company. [1971 c.398 §3; 1977 c.351 §7]

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:

hereto is affixed and attested by its duly authorized officers at _____, Oregon, this ____ day of _____, 19____.

(Seal)

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.

Principal

(Seal)

Surety

By _____

The condition of the above obligation is such that: Whereas the above-named principal has made application for registration as an escrow agent within the meaning of ORS 696.505 to 696.585 and is required by the provisions of ORS 696.505 to 696.585 to furnish a bond in the sum above named, conditioned as herein set forth:

(2) The surety bond required in subsection (1) of this section, or deposit required in ORS 696.527, shall entitle the escrow agent, when properly licensed, to operate from one business location. In order to operate from additional office locations, a branch office license shall first be obtained. The escrow agent shall accompany each application for a branch office license with evidence that the liability amount of the required surety bond, or the amount of deposit or combination thereof has been increased in a sum equal to \$10,000 for each additional business location. However, no escrow agent shall be required to furnish a surety bond, deposit or combination thereof greater than \$200,000. [1963 c.440 §5; 1971 c.398 §4; 1977 c.351 §8]

Now, therefore, if the principal, his agents and employes, shall strictly, honestly and faithfully comply with the provisions of ORS 696.505 to 696.585, and shall pay all damages suffered by any person by reason of the violation of any of the provisions of ORS 696.505 to 696.585, 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 696.585, then this obligation shall be void; otherwise to remain in full force and effect.

696.527 Deposits in lieu of bond; waiver. (1) Any escrow agent may satisfy the requirements of ORS 696.525 by depositing with the State Treasurer, in an amount equal to the surety bond required, a deposit consisting only of the following:

This bond shall become effective on the ____ day of _____, 19____, and shall remain in force until the surety is released from liability by the 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 commissioner.

(a) Cash; or

(b) Ample secured obligations of the United States, a state or a political subdivision thereof; or

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.

(c) Certificates of deposit or other investments described in subsection (4) of ORS 733.650, to the extent that such investments are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; or

(d) Any combination of paragraphs (a), (b) or (c) of this subsection.

In witness whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety

(2) The deposit shall be accepted and held by the State Treasurer for the faithful performance of escrow activity by the escrow agent. No claimant or judgment creditor or the escrow agent shall have the right to attach or levy upon any of the assets or securities held on deposit.

(3) The commissioner, by order, shall have discretion to authorize the State Treasurer to use such deposit, as follows:

(a) To satisfy any final judgment entered against the escrow agent for damages suffered by any person by reason of the violation of any of the provisions of ORS 696.505 to 696.585, now or hereafter enacted, or by reason of any fraud, dishonesty, misrepresentation or concealment of material fact growing out of any escrow transaction;

(b) For use in the liquidation of the escrow agent under the provisions of ORS 696.555; or

(c) To release any or all of such deposit to the escrow agent when, in the opinion of the commissioner, such deposit is no longer necessary to protect the public.

(4) The commissioner shall waive the requirement of the surety bond or deposit for any escrow agent who demonstrated to the commissioner's satisfaction that the capital and surplus or net worth, of such escrow agent as of July 1 is equal to, or greater than, the average month-end balance of custodial funds held by such agent during the previous fiscal year. [1977 c.351 §3]

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 in writing, verified by oath and in the form prescribed by the commissioner 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, \$200 for the principal office and \$100 for each branch office.

(b) For filing an application for a duplicate copy of any license, upon satisfactory showing of such loss, the sum of \$25.

(3) If the effective period of the license applied for is less than 12 months by reason of the statutorily required expiration date, the required license fee shall be prorated to represent the larger of:

(a) One-twelfth of the full fee for each month of the license period to the expiration date, rounded to the nearest dollar; or

(b) 25 percent of the full fee, rounded to the nearest dollar. [1963 c.440 §6; 1977 c.351 §9; 1977 c.873 §19]

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) 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 696.585; 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 696.585; or

(f) Has made any misrepresentations or false statement of an essential or material fact 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 696.585; 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 696.585; or

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

(L) Does not demonstrate the knowledge or capacity to conduct escrow transactions.

(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. [1963 c.440 §7; 1971 c.734 §159; 1977 c.351 §10]

696.540 [1963 c.440 §8; repealed by 1977 c.351 §11 and 1977 c.842 §17 (696.541 enacted in lieu of 696.540)]

696.541 Authority of commissioner over escrow agents. (1) The commissioner shall have general supervision and control over all escrow agents doing business in this state. Subject to ORS 183.310 to 183.500, the commissioner may adopt such rules as reasonably necessary for the enforcement of ORS 696.505 to 696.585.

(2) All such escrow agents shall be subject to audits or examinations by the commissioner, or his authorized deputies at any time he considers advisable. The commissioner may collect from each escrow agent the reasonable expenses of such audit or examination.

(3) The provisions of this section and of any other section relating to the examination of the affairs of an escrow agent shall extend to an escrow 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 provisions of ORS 696.505 to 696.585, or has committed fraud or is insolvent.

(4) As to any such audit or examination, no person shall neglect or refuse to:

(a) Answer any lawful inquiry; or

(b) In obedience to the subpoena of the commissioner, attend and testify or produce books, papers, accounts, records, contracts or documents, if it is in his or her power to do so.

(5) (a) Each escrow agent shall, before charging or collecting escrow fees for services,

file with the commissioner a schedule of escrow fee rates, and shall thereafter file any modifications thereto.

(b) The escrow fee rate schedule may distinguish between rates charged for different classes of escrows or customers, but each escrow agent shall uniformly charge fees in accordance with such escrow agent's schedule of rates so filed. [1977 c.351 §12 (enacted in lieu of 696.540)]

(Enforcement)

696.545 Investigation; injunction; jurisdiction. (1) The commissioner may investigate either upon complaint or otherwise whenever it appears that an escrow agent is conducting 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 696.585.

(2) If upon investigation it appears that such agent is so conducting business or an unlicensed person is engaged in the escrow business the commissioner may, in addition to any other remedies, bring action 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 696.585, 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 696.585.

(3) The circuit court of any county of this state is vested with jurisdiction 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 696.585. 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 subpoena requiring forthwith the appearance of

any defendant and employes of the defendant 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; 1979 c.284 §194]

696.550 [1963 c.440 §10(1), (2); repealed by 1971 c.734 §21]

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 (1969 Replacement Part). 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 for a receiver to be appointed, other than the commissioner or

any officer or employe of the Real Estate Division, who shall 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. 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 court, and shall be paid out of the funds in his hands as receiver.

[1963 c.440 §10(3), (4); 1975 c.746 §30]

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 within this state 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; 1975 c.746 §31]

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 696.585; subpoena; witness fees; depositions. (1) All hearings before the commissioner or his authorized representative conducted under the authority of ORS 696.505 to 696.585 shall be conducted in accordance with the provisions of ORS 183.310 to 183.500 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 subpoena witnesses and administer oaths in connection

with the administration of ORS 696.505 to 696.585. Each witness who appears before the commissioner and who was subpoenaed 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 696.585. Nothing in ORS 696.505 to 696.585 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 [1963 c.440 §15; repealed by 1973 c.794 §34]

696.585 Civil penalties. (1) Any person who violates any provision of ORS 696.505 to 696.545, or any lawful rule, regulation or final order of the commissioner or any final judgment or decree made by any court upon application of the commissioner, shall forfeit and pay to the Real Estate Account of the General Fund of the State Treasury, a civil penalty in an amount determined by the commissioner of not more than \$500 for each offense. Each violation shall be deemed a separate offense.

(2) In addition to the civil penalty set forth in subsection (1) of this section, any person who violates any provision of ORS 696.505 to 696.585, any lawful rule or regulation or final order of the commissioner or any final judgment or decree made by a court upon application to the commissioner, may be required to forfeit and pay to the Real Estate Account of the General Fund of the State Treasury, a civil penalty in an amount determined by the commissioner but not to exceed the amount by which such person profited in any transaction which violates any such provision, rule, regulation, order, judgment or decree.

(3) Such civil penalty may be recovered by an action brought thereon in the name of the State of Oregon in any court of appropriate jurisdiction.

(4) In any court action with respect to a civil penalty, the court may review the penal-

ty as to both liability and reasonableness of amount.

(5) The provisions of this section are in addition to and not in lieu of any other enforcement provision contained in ORS 696.505 to 696.585. [1975 c.746 §32]

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 License or registration required. No person shall engage in the business of a business chance broker without having:

(1) A real estate broker's license or a real estate salesman's license as provided in this chapter; or

(2) A broker-dealer or salesman's registration under ORS 59.005 to 59.445 if the person is involved in effecting a merger or an acquisition involving securities or an issuer of securities. [Amended by 1975 c.491 §7]

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 696.010 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 696.010 to 696.490 and 696.610 to 696.730, except subsection (2) of ORS 696.110.

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 696.010 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 696.010 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 License, certificate denial procedure; review of orders. (1) Where the commissioner proposes to refuse to issue or renew a license or certificate of authority, or proposes to revoke or suspend a license or a certificate of authority, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500. Notice that the commissioner proposes to refuse to renew a license must be served not later than 10 days prior to the expiration of the license. Unless the licensee requests a hearing, cancellation or suspension of a license shall be effective 20 days after service of the commissioner's order.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS 183.310 to 183.500. [1971 c.734 §161]

696.745 Hearings. The commissioner shall, before denying any application for a license or before suspending or revoking any license or reprimanding any licensee in accordance with ORS 696.010 to 696.490, 696.505 to 696.585 or 696.610 to 696.730, grant opportunity for hearing pursuant to ORS 183.310 to 183.500. [1975 c.746 §33; 1977 c.649 §56]

696.775 Authority of commissioner when license lapsed, suspended or surrendered. The lapsing or suspension of a license by operation of law or by order of the commis-

sioner or decision of a court of law, or the voluntary surrender of a license by a licensee shall not deprive the commissioner of jurisdiction to proceed with any investigation of or any action or disciplinary proceedings against such licensee, or to render an order suspending or revoking such license null and void. [1977 c.649 §3]

696.785 Commissioner duties when illegal commingling of funds found; receivership procedure. (1) When the commissioner ascertains by audit, investigation or otherwise that a real estate licensee has commingled trust funds with personal funds or has embezzled trust funds and that such activity is likely to cause significant financial loss to others as a result of professional real estate activity engaged in by such licensee, the commissioner may communicate such fact to the Attorney General, whereupon it shall become the duty of the Attorney General to forthwith assist the commissioner in instituting such proceedings as may be necessary to carry out the purposes of this section.

(2) Pursuant to subsection (1) of this section, the commissioner may apply to the circuit court of the county in which such licensee has his or its principal place of business for an order directing such licensee to show cause why a receiver should not be appointed to take charge of and manage or liquidate if necessary the assets of the licensee utilized in his or its professional real estate activity in such a manner as to prevent or minimize such financial loss to others.

(3) If the court is satisfied from reading the commissioner's petition that the facts therein alleged, if established, warrant such receivership action, the court shall issue such order to show cause. The court may at such time, without notice, issue a temporary injunction restraining such licensee, or any of his or its officers, directors, stockholders, members, agents or employes, from the transaction of any professional real estate activity, or the waste or disposition of any such assets until further order of the court. Should such an injunction be issued, a hearing on whether the injunction shall be continued shall be held within five business days of its service.

(4) On return of the order to show cause, and after a full hearing, the court shall either deny the application or grant the same, together with such other relief as the court may deem necessary.

(5) Notwithstanding any other provision of law, no bond shall be required of the commissioner as a prerequisite for the issuance of any injunction or other order pursuant to this section.

(6) At any time during such proceedings, the licensee may satisfy the court that the activity which prompted such proceedings has been rectified or that financial loss to others no longer will likely occur, in which case the court may dismiss such proceedings.

(7) The expenses of the receiver, compensation of the legal counsel of the receiver, as well as all expenditures of the receiver required in such proceedings shall be fixed by the court and shall be paid out of funds in the hands of the receiver or entered as a judgment against such licensee. [1977 c.649 §8]

PENALTIES

696.990 Penalties. (1) Violation of any provision of ORS 696.010 to 696.165, 696.169, 696.180 to 696.226, 696.240 to 696.375, 696.395 to 696.435, 696.480, 696.490 and 696.610 to 696.730 is a Class A misdemeanor.

(2) Any officer, director or shareholder 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 696.010 to 696.165, 696.169, 696.180 to 696.226, 696.240 to 696.375, 696.395 to 696.435, 696.480, 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 696.585 is a Class A misdemeanor. [Subsection (3) enacted as 1963 c.440 §18; 1977 c.649 §50]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,
October 1, 1979

Thomas G. Clifford
Legislative Counsel

