



Real Estate Agency

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June 29, 2007

Notice of Permanent Rule

Agency Adopts Permanent Rule for Real Estate Brokers Relating to Advertising Effective June 29, 2007

Citation:

OAR 863-015-0125 (Advertising)

This permanent rule is effective June 29, 2007.

Certificate and Order for Filing Permanent Rule

Attached to this document are the Certificate and Order for Filing Permanent Administrative Rules filed with the Secretary of State on June 29, 2007.

Where to find the temporary rules:

A copy of the rule is attached to this document as page two. You may also go the Real Estate Agency website: www.rea.state.or.us Click "Advertising Rule 6-29-07." If you need a paper copy of the rules, call (503) 378-4170 x260 and a copy will be mailed to you.

Background:

The existing rule was confusing to real estate licensees and contained a scrivener's error that negatively impacted licensees. The Oregon Real Estate Agency convened a Real Estate Advertising Rule Working Group that included industry and Agency representatives. The working group came to consensus and made several changes to the rule. A draft of the permanent rules was circulated to the working group, the Real Estate Board and industry members. The Board reviewed the rule on June 16, 2007 and voted to approve the rule. The Agency requested comments and held a public hearing on June 21, 2007 at 10:00 am at the Agency.

Purpose of the rules:

The amendments provide the following:

- Allows real estate licensees to advertise in a less costly manner
- Clears up existing confusion and scrivener's error
- Limits delegation of the authority of a principal broker for advertising that "originates in a branch office" to a principal broker who manages that branch office. Therefore, a real estate broker who is not a principal broker cannot be delegated authority for advertising. Delegation of authority must be in written policy.
- Effective March 1, 2008, if the name of an associated broker is used in advertising, it may not be in larger type size than the name of the firm. The purpose of this amendment is to provide appropriate disclosure to the public.
- Allows associated real estate broker to advertise property owned by the broker for rent or lease; however, if the property has more than four residential units or is a commercial property, such advertising must state that the property owner is a licensed real estate broker.
- Rule did not change requirements for advertising a broker's own property for sale, exchange, or lease option.

PERMANENT RULE

OAR 863-015-0125

Advertising

- (1) As used in this rule, "advertising" and "advertisement" includes all forms of representation, promotion and solicitation disseminated in any manner and by any means for any purpose related to professional real estate activity, including, without limitation, advertising by mail, telephone, the Internet, E-mail, electronic bulletin board or other similar electronic systems, business cards, signs, lawn signs, billboards and telephonic greetings or answering machine messages.
- (2) Advertising by a licensee, in process and in substance, shall:
 - (a) Be identifiable as advertising of a real estate licensee;
 - (b) Be truthful and not deceptive or misleading;
 - (c) Not imply that the real estate broker or property manager associated with the principal real estate broker is the person responsible for the operation of the real estate brokerage;
 - (d) Not use words that state or imply that the licensee is qualified or has a level of expertise other than as currently maintained by the licensee; and
 - (e) Be done only with the written permission of the property owner(s) or owner(s') authorized agent.
- (3) Except as provided in sections (7) and (8) of this rule, all advertising must state the principal real estate broker's, sole practitioner real estate broker's or property manager's licensed name or registered business name.
- (4) A principal real estate broker is responsible for:
 - (a) All advertising that states the principal real estate broker's licensed name or registered business name; and
 - (b) Except as provided in section (7) and (8) of this rule, all advertising of a real estate broker or a property manager who is associated with the principal real estate broker.
- (5) A principal real estate broker may delegate direct supervisory authority and responsibility for advertising originating in a branch office to the principal broker who manages the branch office if the delegation of such authority is contained in written policies as described in OAR 863-015- 0220.
- (6) Effective March 1, 2008, if a licensee's name is used in advertising, the name of the licensee may not be in a larger type size than the licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker or property manager.
- (7) A licensee associated with a principal real estate broker may advertise property owned by the licensee for sale, exchange or lease option, if:
 - (a) The property is not listed for sale, exchange or lease option with the principal broker;
 - (b) The advertising states that the owner of the property is a real estate licensee; and
 - (c) The advertising complies with section (2)(a), (b) and (d) of this rule.
- (8) A licensee associated with a principal real estate broker may advertise property owned by the licensee for rent or lease; and
 - (a) If the property has one to four residential units, the advertising is not required to state that the owner of the property is a real estate licensee; and
 - (b) If the property has more than four residential units or is a commercial property, the advertising must state that the owner of the property is a real estate licensee and comply with section (2)(a), (b) and (c) of this rule.

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on June 29, 2007 by the
Oregon Real Estate Agency Date prior to or same as filing date
863

Agency and Division	Administrative Rules Chapter Number	
Laurie Skillman	1177 Center St NE Salem, OR 97301	(503) 378-4170 x 237
Rules Coordinator	Address	Telephone

to become effective June 29, 2007. Rulemaking Notice was published in the June 2007 Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

Real Estate Advertising
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

AMEND: 863-015-0125 Advertising

Stat. Auth.: ORS 696.385

Other Auth.:

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

RULE SUMMARY

The amendments limit the delegation of the authority of a principal broker for advertising that “originates in a branch office” to a principal broker who manages that branch office. Therefore, a real estate broker who is not a principal broker cannot be delegated authority for advertising. Delegation of authority must be in written policy. The amendments provide that if the name of an associated broker is used in advertising, it may not be larger than the name of the firm in order to provide good disclosure to the public, with an effective date of March 1, 2008 for this section of the rule. The amendments allow associated real estate broker to advertise property owned by the broker for rent or lease and requires advertising to state that the property owner is a licensed real estate broker only if the property has more than four residential units or is a commercial property.

Authorized Signer	Gene Bentley, Commissioner	June 29, 2007
	Printed name	Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005