

Senate Bill 482

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Association of Realtors)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies form requiring escrow agent to hold compensation due real estate broker.

A BILL FOR AN ACT

Relating to real estate broker compensation; amending ORS 696.026 and 696.582.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 696.582 is amended to read:

696.582. (1) An escrow agent shall hold, as provided in subsection (3) of this section, the amount of money or other property agreed to as [*a commission*] **compensation** in a written real estate broker's or principal real estate broker's [*commission*] **compensation** agreement, if the escrow agent has at the office at which the escrow is being closed, before the date of closing:

(a) A written notice of [*demand*] **compensation**, signed by the real estate broker or principal real estate broker who is authorized under rules adopted by the Real Estate Commissioner to enter into the [*commission*] **compensation** agreement and sign the written notice of [*demand*] **compensation**, in substantially the form set out in subsection (2) of this section; and

(b) The written closing instructions of the principals which do not honor the amount and terms of payment in the notice of [*demand*] **compensation**.

(2) The notice of [*demand*] **compensation** required by subsection (1) of this section may not be incorporated into any document of agreement between the principals or between the broker and a principal, and shall be in substantially the following form:

Notice of [*Demand for*]
Real Estate [*Commission*] **Compensation**
To: _____
(Name of Escrow Company)
Re: _____
(Names of Principals to
Transaction)
Your Escrow Number: _____

The undersigned real estate broker or principal real estate broker states that such broker has a valid written [*commission*] **compensation** agreement with _____ (Name of Principal), one of the principals to the transaction referred to above, and that such principal is obligated to pay the broker the [*commission*] **compensation** on account of that transaction. The [*commission*] **compensation**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **sation** amount is \$_____ and is to be paid on the following terms: _____. *[Demand]*
 2 **Request** is hereby made that the *[commission]* **compensation** be paid in that amount and on those
 3 terms, out of escrow and as a part of your closing of that transaction.

4 _____
 5 (Name and Signature of Real Estate Broker
 6 or Principal Real Estate Broker)
 7 _____

8
 9 (3) An escrow agent in a transaction described in subsection (1) of this section may only dis-
 10 burse the moneys or other property to:

11 (a) The broker and principal, based upon a written agreement between those parties and di-
 12 rected to the escrow agent as disbursement instructions;

13 (b) Any persons, as directed by order of a court of competent jurisdiction; or

14 (c) The court, upon filing by the escrow agent of an interpleader action for the moneys or
 15 property.

16 (4) *[At the time of filing a notice of demand]* **If the filing of a notice of compensation** with an
 17 escrow agent under subsection (1) of this section **is made more than 10 days prior to the**
 18 **scheduled closing date**, the real estate broker or principal real estate broker filing the notice shall
 19 deliver a copy of the notice to the principal identified in the notice. **If the notice is filed within**
 20 **10 days of the scheduled closing date, a copy of the notice shall be provided by the escrow**
 21 **agent to the principal identified in the notice at the time of closing.**

22 **SECTION 2.** ORS 696.026 is amended to read:

23 696.026. (1) A real estate broker or principal real estate broker may conduct professional real
 24 estate activity under the broker’s name, a registered business name or a name prescribed by agency
 25 rule. The business name under which a broker conducts professional real estate activity has no li-
 26 cense standing independent of the broker.

27 (2) The agency by rule shall adopt a registration system for business names. The system shall
 28 allow the registration of any branch office of either a sole practitioner or a principal real estate
 29 broker.

30 (3) A real estate broker or principal real estate broker operating under a business name regis-
 31 tered by the broker need not be an owner or officer of any organization otherwise lawfully entitled
 32 to use the registered business name or have an ownership interest in the registered name. However,
 33 all professional real estate activity conducted by or on behalf of the broker must be conducted under
 34 the business name registered by the broker.

35 (4) A real estate broker or principal real estate broker may register two or more business names
 36 if the business names are for affiliated or subsidiary business organizations. If a real estate broker
 37 or principal real estate broker registers the business names for two or more affiliated or subsidiary
 38 business organizations, the broker may conduct professional real estate activity separately under
 39 each business name. A real estate broker or principal real estate broker must supervise and control
 40 the professional real estate activity conducted under the broker’s name or registered business name.

41 (5) A real estate broker employed, engaged or supervised by a principal real estate broker for
 42 required training and supervision by the principal real estate broker may have an ownership interest
 43 in any business through which the principal broker conducts professional real estate activity, but
 44 may not control or supervise the professional real estate activity of the principal broker and may
 45 not interfere with or be responsible for the training and supervision of any other broker.

1 (6) A nonlicensed person may have an ownership interest in any business through which a real
2 estate broker or principal real estate broker engages in professional real estate activity, but may
3 not control or supervise the professional real estate activity of any real estate broker or principal
4 real estate broker licensed to control or supervise the professional real estate activity of such
5 business.

6 (7) Two or more real estate brokers operating under the same registered business name who do
7 not exercise any administrative or supervisory control over one another are solely responsible for
8 their own professional real estate activity.

9 (8) Notwithstanding any other provision of ORS 696.010 to 696.495, 696.600 to 696.785, 696.800
10 to 696.870, 696.990 and 696.995, a broker associated with a principal broker may create a corpo-
11 ration, limited liability company, limited liability partnership or any other lawfully constituted
12 business organization for the purpose of receiving [*commission payments*] **compensation** from the
13 principal broker. A business organization created under this subsection may not be licensed under
14 ORS 696.022 or conduct in its own name professional real estate activity requiring a real estate li-
15 cense.

16 _____