

A-Engrossed
House Bill 2910

Ordered by the House May 6
Including House Amendments dated May 6

Sponsored by Representative SCHAUFLEER (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.

Excludes sole practitioners from conducting professional real estate activity that is licensed by Real Estate Agency. Permits individuals who engaged in professional real estate activity as of specified date to continue to engage in professional real estate activity as professional real estate broker. **Prohibits agency from charging individuals licensing fee.**

Authorizes real estate broker with three years of active experience to temporarily supervise professional real estate activity of another real estate licensee under certain circumstances for period of up to 90 days.

Repeals provision of law that authorizes Real Estate Commissioner to prescribe terms and conditions for licensed personal assistant agreements.

A BILL FOR AN ACT

1
2 Relating to professional real estate activity conducted by a real estate licensee; creating new pro-
3 visions; amending ORS 696.010, 696.022, 696.174, 696.205, 696.241, 696.245, 696.280 and 296.290;
4 and repealing ORS 696.028.

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

6 **SECTION 1.** ORS 696.010 is amended to read:

7 696.010. As used in ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870, 696.990 and
8 696.995, unless the context requires otherwise:

9 (1) "Agency" means the Real Estate Agency.

10 (2) "Associated with" means to be employed, engaged or otherwise supervised by, with respect
11 to the relationship between a real estate broker and a principal real estate broker.

12 (3) "Bank" includes any bank or trust company, savings bank, mutual savings bank, savings and
13 loan association or credit union that maintains a head office or a branch in this state in the capacity
14 of a bank or trust company, savings bank, mutual savings bank, savings and loan association or
15 credit union.

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

19 (b) Model units or temporary structures used solely for the dissemination of information and
20 distribution of lawfully required public reports shall not be considered branch offices. A model unit
21 means a permanent residential structure located in a subdivision or development used for such dis-
22 semination and distribution, so long as the unit is at all times available for sale, lease, lease option
23 or exchange.

24 (5) "Commissioner" means the Real Estate Commissioner.

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 (6) "Compensation" means any fee, commission, salary, money or valuable consideration for
2 services rendered or to be rendered as well as the promise thereof and whether contingent or oth-
3 erwise.

4 (7) "Competitive market analysis" means a method or process used by a real estate licensee in
5 pursuing a listing agreement or in formulating an offer to acquire real estate in a transaction for
6 the sale, lease, lease-option or exchange of real estate. The objective of competitive market analysis
7 is a recommended listing, selling or purchase price or a lease or rental consideration. A competitive
8 market analysis may be expressed as an opinion of the value of the real estate in a contemplated
9 transaction. Competitive market analysis may include but is not limited to an analysis of market
10 conditions, public records, past transactions and current listings of real estate.

11 (8) "Expired" means, in the context of a real estate licensee, that the license has not been re-
12 newed in a timely manner, but may still be renewed.

13 (9) "Inactive" means, in the context of a real estate licensee, that the license has been returned
14 to the agency to be held until the licensee reactivates the license or the license expires or lapses.

15 (10) "Lapsed" means, in the context of a real estate licensee, that the license has not been re-
16 newed in a timely manner and is not eligible for renewal.

17 (11) "Letter opinion" has the meaning given that term in ORS 696.294.

18 (12) "Management of rental real estate" means:

19 (a) Representing the owner of real estate in the rental or lease of the real estate and includes
20 but is not limited to:

21 (A) Advertising the real estate for rent or lease;

22 (B) Procuring prospective tenants to rent or lease the real estate;

23 (C) Negotiating with prospective tenants;

24 (D) Accepting deposits from prospective tenants;

25 (E) Checking the qualifications and creditworthiness of prospective tenants;

26 (F) Charging and collecting rent or lease payments;

27 (G) Representing the owner in inspection or repair of the real estate;

28 (H) Contracting for repair or remodeling of the real estate;

29 (I) Holding trust funds or property received in managing the real estate and accounting to the
30 owner for the funds or property;

31 (J) Advising the owner regarding renting or leasing the real estate;

32 (K) Providing staff and services to accommodate the tax reporting and other financial or ac-
33 counting needs of the real estate;

34 (L) Providing copies of records of acts performed on behalf of the owner of the real estate; and

35 (M) Offering or attempting to do any of the acts described in this paragraph for the owner of
36 the real estate; or

37 (b) Representing a tenant or prospective tenant when renting or leasing real estate and includes
38 but is not limited to:

39 (A) Consulting with tenants or prospective tenants about renting or leasing real estate;

40 (B) Assisting prospective tenants in renting or leasing real estate;

41 (C) Assisting prospective tenants in qualifying for renting or leasing real estate;

42 (D) Accepting deposits or other funds from prospective tenants for renting or leasing real estate
43 and holding the funds in trust for the prospective tenants;

44 (E) Representing tenants or prospective tenants renting or leasing real estate; and

45 (F) Offering or attempting to do any of the acts described in this paragraph for a tenant or

1 prospective tenant.

2 (13) "Nonlicensed individual" means an individual:

3 (a) Who has not obtained a real estate license; or

4 (b) Whose real estate license is lapsed, expired, inactive, suspended, surrendered or revoked.

5 (14) "Principal real estate broker" means:

6 (a) An individual who holds an active license as a principal real estate broker [*and who employs,*
7 *engages or supervises the professional real estate activity of another real estate licensee.*]; **or**

8 **(b) A sole practitioner who conducted professional real estate activity as a sole practi-**
9 **tioner prior to January 1, 2010.**

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

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

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

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

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

18 (e) Offers, attempts or agrees to perform or provide a competitive market analysis or letter
19 opinion, to represent a taxpayer under ORS 305.230 or 309.100 or to give an opinion in any admin-
20 istrative or judicial proceeding regarding the value of real estate for taxation, except when the ac-
21 tivity is performed by a state certified appraiser or state licensed appraiser;

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

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

24 (h) Engages in management of rental real estate;

25 (i) Purports to be engaged in the business of buying, selling, exchanging, renting or leasing real
26 estate;

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

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

31 (L) Except as otherwise provided in ORS 696.030 (1)(L), advises, counsels, consults or analyzes
32 in connection with real estate values, sales or dispositions, including dispositions through eminent
33 domain procedures;

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

36 (n) Performs real estate marketing activity as described in ORS 696.600.

37 (16) "Real estate" includes leaseholds and licenses to use including, but not limited to, timeshare
38 estates and timeshare licenses as defined in ORS 94.803, as well as any and every interest or estate
39 in real property, whether corporeal or incorporeal, whether freehold or nonfreehold, whether held
40 separately or in common with others and whether the real property is situated in this state or
41 elsewhere.

42 (17) "Real estate broker" means an individual who engages in professional real estate activity
43 and who holds an active license as a real estate broker.

44 (18) "Real estate licensee" means an individual who holds an active license as a real estate
45 broker, principal real estate broker or real estate property manager.

1 (19) "Real estate property manager" means a real estate licensee who is authorized to engage
2 in management of rental real estate.

3 (20) "Registered business name" means a name registered with the Real Estate Agency under
4 which the individual registering the name engages in professional real estate activity.

5 (21) "Sole practitioner" means a real estate broker conducting professional real estate activity
6 not in conjunction with other real estate brokers or principal real estate brokers **and who, prior**
7 **to January 1, 2010:**

8 (a) **Acquired three years of active experience as a real estate broker; or**

9 (b) **Acquired three years of active experience as a real estate salesperson as defined in**
10 **ORS 696.025 (1999 Edition) and successfully completed the real estate broker's examination**
11 **required by rule of the agency.**

12 **SECTION 2.** ORS 696.022 is amended to read:

13 696.022. (1) The Real Estate Agency shall establish by rule a system for licensing real estate
14 brokers, principal real estate brokers and real estate property managers. The system shall establish,
15 at a minimum:

16 (a) The form and content of applications for licensing under each category of real estate pro-
17 fessional licensed by the agency;

18 (b) A licensing examination for each category of license;

19 (c) Schedules and procedures for issuing and renewing licenses;

20 (d) The term of a license in each category; and

21 (e) Terms and conditions under which the license of a real estate licensee must be returned or
22 transferred to the Real Estate Commissioner for purposes including, but not limited to, inactivation,
23 suspension or termination of the license.

24 (2)(a) A real estate broker may engage in professional real estate activity. **Except as provided**
25 **in paragraph (c) of this subsection,** a real estate broker may not employ, engage or supervise the
26 professional real estate activity of another real estate licensee.

27 (b) In order to qualify for a real estate broker's license, an applicant must furnish proof satis-
28 factory to the commissioner that the applicant has successfully completed the basic real estate
29 broker's educational courses and the examination required by rule of the agency. Proof of com-
30 pletion of all required courses must be provided at the time of applying for the license.

31 *[(c) A real estate broker may conduct professional real estate activity as a sole practitioner after:]*

32 *[(A) The individual has acquired three years of active experience as a real estate broker; or]*

33 *[(B) The individual has acquired three years of active experience as a real estate salesperson as*
34 *defined in ORS 696.025 (1999 Edition) and has successfully completed the real estate broker's exam-*
35 *ination required by rule of the agency.]*

36 (c) **A real estate broker who has acquired three years of active experience as a real es-**
37 **tate broker may temporarily supervise the professional real estate activity of another real**
38 **estate licensee due to unforeseen circumstances or the temporary absence of a sole principal**
39 **real estate broker, as provided by rule of the agency. The temporary supervision of profes-**
40 **sional real estate activity allowed under this paragraph may not exceed 90 days.**

41 (3)(a) A principal real estate broker may engage in professional real estate activity. A principal
42 real estate broker may conduct professional real estate activity in conjunction with other real estate
43 brokers or principal real estate brokers. In addition, a principal real estate broker *[must]* **may** em-
44 ploy, engage or supervise the professional real estate activity of another real estate licensee.

45 (b) In order to qualify for a principal real estate broker's license, an applicant must meet the

1 requirements of subsection (2)(b) of this section and must furnish proof satisfactory to the commis-
2 sioner that the applicant has successfully completed the brokerage administration and sales super-
3 vision course, as required by agency rule, and has:

4 (A) Three years of active experience as a licensed real estate broker; or

5 (B) Three years of active experience as a real estate salesperson as defined in ORS 696.025 (1999
6 Edition) and has successfully completed the real estate broker's examination required by rule of the
7 agency.

8 (4) In order to qualify for a real estate property manager's license, an applicant must furnish
9 proof satisfactory to the commissioner that the applicant has successfully completed courses in the
10 legal aspects of real estate, real estate property management and accounting, bookkeeping and trust
11 accounting practices. The applicant also must have successfully completed a real estate property
12 manager's license examination prescribed by rule of the agency. Proof of completion of all required
13 courses must be provided at the time of applying for the license.

14 (5)(a) A license for a real estate broker, principal real estate broker or real estate property
15 manager shall be granted only to an individual who is trustworthy and competent to conduct pro-
16 fessional real estate activity in a manner that protects the public interest. As a condition of li-
17 censing, the commissioner may require proof of competence and trustworthiness that the
18 commissioner deems necessary to protect the public interest.

19 (b) In implementing this subsection, the commissioner shall require fingerprints and criminal
20 offender information of an applicant for initial licensing and may require fingerprints and criminal
21 offender information of an applicant for license renewal. Fingerprints acquired under this sub-
22 section may be used for the purpose of requesting a state or nationwide criminal records check
23 under ORS 181.534.

24 (6) A license may be issued under this section only to an individual who is 18 years of age or
25 older.

26 (7) In order to qualify for a real estate broker's license, a real estate salesperson licensed in
27 another state or country must successfully complete a course of study and pass a real estate bro-
28 ker's license examination, both as prescribed by agency rule.

29 (8) In order to satisfy the educational requirements under subsections (2) to (4) and (7) of this
30 section, a course must be approved by the commissioner. The commissioner shall determine the final
31 examination score acceptable as evidence of successful completion for each required course.

32 (9) The Real Estate Board may determine that an applicant for a principal real estate broker's
33 license or a real estate broker's license has experience related to professional real estate activity
34 that is equivalent to the experience required under subsection (2) or (3) of this section.

35 **SECTION 3.** ORS 696.205 is amended to read:

36 696.205. (1) If a real estate licensee [*who is a sole practitioner or*] who is the sole principal real
37 estate broker of a real estate business dies or becomes incapacitated, the Real Estate Commissioner
38 may issue a temporary license to the executor, administrator or personal representative of the estate
39 of the deceased real estate licensee or to the court-appointed fiduciary of the incapacitated real
40 estate licensee, or to some other individual designated by the commissioner, in order to continue to
41 transact the real estate business in the case of the incapacitated real estate licensee or to wind up
42 the affairs of the deceased or incapacitated real estate licensee. The term of a temporary license
43 issued under this section may not exceed one year from the date of issuance unless the commis-
44 sioner, in the discretion of the commissioner, extends the term of the temporary license based on
45 sufficient cause provided by the temporary licensee to the commissioner.

1 (2) The Real Estate Agency may adopt administrative rules to administer this section or to au-
2 thorize an individual to transact or wind up real estate business on behalf of the deceased or inca-
3 pacitated real estate licensee.

4 **SECTION 4.** ORS 696.174 is amended to read:

5 696.174. (1) To qualify an active license for renewal, the real estate licensee must present evi-
6 dence of attendance during the preceding two license years at 30 clock-hours of real estate oriented
7 continuing education courses, of which a minimum of 15 clock-hours shall be in required course
8 topics.

9 (2)(a) The Real Estate Commissioner, with advice from real estate professionals, educators and
10 the public, may accept a broad range of topics for real estate oriented continuing education courses.
11 Required course topics shall be flexible so as to allow for changes in the real estate profession.

12 (b) The minimum length of each course, required or elective, shall be one hour. A standard form,
13 created by the Real Estate Agency in consultation with real estate professionals, shall be developed
14 to ensure that licensees have completed the required number of hours. Certification of attendance
15 by the principal real estate broker with whom the real estate broker is associated, or self-
16 certification if the licensee is [*a sole practitioner,*] a principal real estate broker or a real estate
17 property manager, shall be considered evidence of attendance.

18 (3) The commissioner, with advice from real estate professionals, educators and the public, shall
19 prescribe rules for certifying continuing education courses. The rules shall provide for correspond-
20 ence courses and other distance learning alternatives, including but not limited to rules for minimum
21 course length, comprehension of written materials and tests for course completion. The rules shall
22 also provide that continuing education course topics contain an advanced course in real estate
23 practices that must be completed by a licensee prior to the licensee's first renewal of an active li-
24 cense.

25 (4) The commissioner may waive the continuing education requirements of subsection (1) of this
26 section for any licensee who submits satisfactory evidence of inability to attend such courses be-
27 cause of health or other circumstances beyond the licensee's control.

28 **SECTION 5.** ORS 696.241 is amended to read:

29 696.241. (1) Each [*sole practitioner and each*] principal real estate broker shall maintain in this
30 state one or more separate bank accounts that shall be designated a Clients' Trust Account in which
31 all trust funds received or handled by the [*sole practitioner or*] broker and the real estate licensees
32 subject to the supervision of the broker on behalf of any other person shall be deposited unless,
33 pursuant to written agreement of all parties having an interest in the trust funds, the trust funds
34 are immediately placed in a neutral escrow depository in this state.

35 (2) Each [*sole practitioner or*] principal real estate broker shall file with the Real Estate Agency,
36 on forms approved by the Real Estate Commissioner, a statement identifying the name of the bank
37 or banks, account number or account numbers, and name of account or accounts for each Clients'
38 Trust Account maintained.

39 (3) Each [*sole practitioner or*] principal real estate broker shall authorize the agency, by a form
40 approved by the commissioner, to examine any Clients' Trust Account, by a duly authorized repre-
41 sentative of the agency. The examination shall be made at such times as the commissioner may di-
42 rect.

43 (4) If a [*sole practitioner or*] principal real estate broker maintains a separate Clients' Trust
44 Account in a branch office, a separate bookkeeping system shall be maintained in the branch office,
45 provided a copy of the records required by the provisions of ORS 696.280 are maintained in the main

1 office of the [sole practitioner or] broker.

2 (5) Trust funds received by a [sole practitioner or] principal real estate broker may be placed by
3 the [sole practitioner or] broker in a federally insured interest-bearing bank account, designated a
4 Clients' Trust Account, but only with the prior written approval of all parties having an interest in
5 the trust funds. The earnings of such interest-bearing account shall not inure to the benefit of the
6 [sole practitioner or] principal real estate broker unless expressly approved in writing before deposit
7 of the trust funds by all parties having an interest in the trust funds.

8 (6) With prior written notice to all parties who have an interest in the trust funds, a [sole
9 practitioner or] principal real estate broker may place trust funds received by the [sole practitioner
10 or] principal real estate broker in a federally insured interest-bearing bank account that is desig-
11 nated a Clients' Trust Account and the earnings of which inure to the benefit of a public benefit
12 corporation, as defined in ORS 65.001, for distribution to organizations and individuals for first-time
13 homebuying assistance and for development of affordable housing. The [sole practitioner or] princi-
14 pal real estate broker shall select a qualified public benefit corporation to receive the interest
15 earnings.

16 (7) A [sole practitioner or] principal real estate broker is not entitled to any part of any interest
17 earnings on trust funds deposited under subsection (5) of this section or to any part of the earnest
18 money or other money paid to the [sole practitioner or] broker in connection with any real estate
19 transaction as part or all of the [sole practitioner's or] broker's compensation until the transaction
20 has been completed or terminated. The question of the disposition of forfeited earnest money shall
21 be negotiated between the [sole practitioner or] principal real estate broker and the seller at the time
22 of executing any listing agreement or earnest money agreement. The result of [such] **these** negoti-
23 ation shall be filled in on the agreement form at the time of signing by the seller and either sepa-
24 rately initialed by the seller or placed immediately above the signature of the seller.

25 (8) Clients' Trust Account funds are not subject to execution or attachment on any claim against
26 a [sole practitioner or] principal real estate broker.

27 (9) A [sole practitioner or] principal real estate broker may not knowingly keep or cause to be
28 kept any funds or money in any bank under the heading of Clients' Trust Account or any other name
29 designating such funds or money as belonging to the clients of any [sole practitioner or] principal
30 real estate broker, except actual trust funds deposited with the [sole practitioner or] broker.

31 (10) The agency by rule shall establish an optional procedure by which [a sole practitioner or]
32 a principal real estate broker may elect to disburse disputed funds held in relation to the sale, ex-
33 change or purchase of real estate from a Clients' Trust Account to the person who delivered the
34 funds to the [sole practitioner or] principal real estate broker. The procedure shall allow disbursal
35 not more than 20 days after a request is made for the disbursal. A disbursal pursuant to the proce-
36 dure does not affect the claim of any other person to the funds.

37 (11) The agency may provide by rule for other records to be maintained and for the manner in
38 which trust funds are deposited, held and disbursed.

39 **SECTION 6.** ORS 696.245 is amended to read:

40 696.245. (1) Each [sole practitioner and each] principal real estate broker, at the time a Clients'
41 Trust Account is opened under ORS 696.241, shall provide the bank in which the account is opened
42 with a notice in substantially the following form:
43 _____
44

45 NOTICE OF CLIENTS' TRUST ACCOUNT

To: (name of bank) _____

Under the Oregon Real Estate License Law, I am the [*sole practitioner*,] principal real estate broker or designated real estate appraiser for (licensed name of broker or business) _____.

Further, under ORS 696.241, I am required to maintain in Oregon a Clients' Trust Account for the purpose of holding funds belonging to others.

With regard to the account(s) numbered _____ which is/are designated as a Clients' Trust Account, the account(s) is/are maintained with you as a depository for money belonging to persons other than myself and in my fiduciary capacity as a [*sole practitioner or*] principal real estate broker established by client agreements in separate documents.

Dated: (insert date)

(signature of broker)

ACKNOWLEDGMENT OF RECEIPT

I, _____, a duly authorized representative of (bank) _____, do hereby acknowledge receipt of the above NOTICE OF CLIENTS' TRUST ACCOUNT on (date) _____.

(signature)

(title)

(2) The acknowledged copy of the notice described in subsection (1) of this section shall be retained by the [*sole practitioner or*] principal real estate broker as provided in ORS 696.241 for the retention of trust account records, subject to inspection by the Real Estate Commissioner or the commissioner's authorized representative.

SECTION 7. ORS 696.280 is amended to read:

696.280. (1) A real estate broker or principal real estate broker shall maintain within this state, except as provided in subsection (4) of this section, complete and adequate records of all professional real estate activity conducted by or through the broker. The Real Estate Agency shall specify by rule the records required to establish complete and adequate records of a broker's professional real estate activity. The only documents the agency may require by rule a real estate broker or principal real estate broker to use or generate are documents that are otherwise required by law or are voluntarily generated during a real estate transaction.

(2)(a) The records of a **real estate broker** or a principal real estate broker [*or a sole practitioner*] shall include records of attendance in continuing education courses by the **real estate broker** [*sole practitioner*] or **principal real estate** broker. The records of attendance shall state the name of the **real estate broker** [*sole practitioner*] or **principal real estate** broker and the date of [*the sole practitioner's or broker's*] attendance[,] and shall be the basis for self-certification under ORS 696.174.

(b) A principal real estate broker's records shall include records of attendance in continuing edu-

1 *ation courses by real estate licensees associated with the principal broker. The record of attendance*
 2 *shall state the name of the licensee and the date of the licensee's attendance, and shall be the basis for*
 3 *the certificate of attendance submitted under ORS 696.174.]*

4 (3) The records shall at all times be open for inspection by the Real Estate Commissioner or the
 5 commissioner's authorized representatives. The records of each transaction shall be maintained by
 6 the licensee for a period of not less than six years after the date the transaction closed or failed.
 7 The records may be maintained in any format that allows for inspection and copying by the com-
 8 missioner or the commissioner's representatives, as determined by the commissioner by rule.

9 (4) The agency may prescribe by rule terms and conditions under which a real estate broker or
 10 principal real estate broker may maintain records outside this state.

11 **SECTION 8.** ORS 696.290 is amended to read:

12 696.290. (1) A real estate licensee [*shall*] **may** not offer, promise, allow, give, pay or rebate, di-
 13 rectly or indirectly, any part or share of the licensee's compensation arising or accruing from any
 14 real estate transaction or pay a finder's fee to any person who is not a real estate licensee licensed
 15 under ORS 696.022. However, a real estate broker or principal real estate broker may pay a finder's
 16 fee or a share of the licensee's compensation on a cooperative sale when the payment is made to a
 17 licensed real estate broker in another state or country, provided that the state or country in which
 18 that broker is licensed has a law permitting real estate brokers to cooperate with real estate bro-
 19 kers or principal real estate brokers in this state and that such nonresident real estate broker does
 20 not conduct in this state any acts constituting professional real estate activity and for which com-
 21 pensation is paid. If a country does not license real estate brokers, the payee must be a citizen or
 22 resident of the country and represent that the payee is in the business of real estate brokerage in
 23 the other country. A real estate broker associated with a principal real estate broker [*shall*] **may**
 24 not accept compensation from any person other than the principal real estate broker with whom the
 25 real estate broker is associated at the time. A principal real estate broker [*shall*] **may** not make
 26 payment to the real estate broker of another principal real estate broker except through the prin-
 27 cipal real estate broker with whom the real estate broker is associated. Nothing in this section
 28 prevents payment of compensation earned by a real estate broker or principal real estate broker
 29 while licensed, because of change of affiliation or inactivation of the broker's license.

30 (2) Nothing in subsection (1) of this section [*is intended to prohibit*] **prohibits** a real estate
 31 licensee who has a written property management agreement with the owner of a residential building
 32 or facility from authorizing the payment of a referral fee, rent credit or other compensation to an
 33 existing tenant of the owner or licensee, or a former tenant if the former tenant resided in the
 34 building or facility within the previous six months, as compensation for referring new tenants to the
 35 licensee.

36 (3)(a) Nothing in subsection (1) of this section [*is intended to prevent*] **prevents** an Oregon real
 37 estate broker or principal real estate broker from sharing compensation on a cooperative nonresi-
 38 dential real estate transaction with a person who holds an active real estate license in another state
 39 or country, provided:

40 [(a)] (A) Before the out-of-state real estate licensee performs any act in this state that consti-
 41 tutes professional real estate activity, the licensee and the cooperating Oregon real estate broker
 42 or principal real estate broker agree in writing that the acts constituting professional real estate
 43 activity conducted in this state will be under the supervision and control of the cooperating Oregon
 44 broker and will comply with all applicable Oregon laws;

45 [(b)] (B) The cooperating Oregon real estate broker or principal real estate broker accompanies

1 the out-of-state real estate licensee and the client during any property showings or negotiations
2 conducted in this state; and

3 [(c)] (C) All property showings and negotiations regarding nonresidential real estate located in
4 this state are conducted under the supervision and control of the cooperating Oregon real estate
5 broker or principal real estate broker.

6 [(4) *Nothing in subsection (1) of this section is intended to prohibit a real estate licensee from di-*
7 *rectly compensating a licensed personal assistant if permitted by the terms, conditions and requirements*
8 *of a licensed personal assistant agreement under ORS 696.028.*]

9 [(5)] (b) As used in **this** subsection [(3) *of this section*], “nonresidential real estate” means [any]
10 real property that is improved or available for improvement by commercial structures or five or
11 more residential dwelling units.

12 **SECTION 9. Notwithstanding ORS 696.270, the Real Estate Agency may not charge a fee**
13 **for the initial issuance of a principal real estate broker’s license to a sole practitioner who**
14 **conducted professional real estate activity as a sole practitioner prior to January 1, 2010.**

15 **SECTION 10. ORS 696.028 is repealed.**

16