

Senate Bill 640

Sponsored by Senator COURTNEY

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**.

Requires all real estate broker applicants to have high school diploma or General Educational Development (GED) certificate. Requires all principal real estate broker applicants to complete minimum number of real estate transactions.

Establishes new continuing education requirements for real estate licensees. Establishes requirements for certifying real estate continuing education providers. Establishes requirements for persons teaching real estate continuing education courses.

Requires Real Estate Agency to develop learning objectives and curriculum requirements for real estate continuing education courses.

A BILL FOR AN ACT

1
2 Relating to the licensing of real estate professionals; creating new provisions; and amending ORS
3 696.022, 696.174, 696.265 and 696.280.

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

5 **SECTION 1.** ORS 696.022 is amended to read:

6 696.022. (1) The Real Estate Agency shall establish by rule a system for licensing real estate
7 brokers, principal real estate brokers and real estate property managers. The system shall establish,
8 at a minimum:

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

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

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

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

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

17 (2)(a) A real estate broker may engage in professional real estate activity. A real estate broker
18 may not employ, engage or supervise the professional real estate activity of another real estate
19 licensee.

20 (b) In order to qualify for a real estate broker's license, an applicant must furnish proof [*satis-*
21 *factory*] to the commissioner that the applicant has [*successfully completed*]:

22 **(A) Obtained a high school diploma or a General Educational Development (GED) certifi-**
23 **cate;**

24 **(B) Successfully completed at the time that the applicant applies for the license the basic**
25 **real estate broker's educational courses required by rule of the agency; and**

26 **(C) Passed the real estate broker's** [*the*] **examination required by rule of the agency.** [*Proof*
27 *of completion of all required courses must be provided at the time of applying for the license.*]

28 (c) A real estate broker may conduct professional real estate activity as a sole practitioner af-

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 ter:

2 (A) The individual has acquired three years of active experience as a real estate broker; or

3 (B) The individual has acquired three years of active experience as a real estate salesperson as
4 defined in ORS 696.025 (1999 Edition) and has successfully completed the real estate broker's ex-
5 amination required by rule of the agency.

6 (3)(a) A principal real estate broker may engage in professional real estate activity. A principal
7 real estate broker may conduct professional real estate activity in conjunction with other real estate
8 brokers or principal real estate brokers. In addition, a principal real estate broker must employ,
9 engage or supervise the professional real estate activity of another real estate licensee.

10 (b) In order to qualify for a principal real estate broker's license, an applicant must meet the
11 requirements of subsection (2)(b) of this section and must furnish proof [*satisfactory*] to the commis-
12 sioner that the applicant has [*successfully completed the brokerage administration and sales super-
13 vision course, as required by agency rule, and has*]:

14 (A) Three years of active experience as a licensed real estate broker **or a licensed real estate**
15 **salesperson as defined in ORS 696.025 (1999 Edition)**; [*or*]

16 (B) [*Three years of active experience as a real estate salesperson as defined in ORS 696.025 (1999*
17 *Edition) and has*] Successfully completed **the brokerage administration and sales supervision**
18 **course required by rule of the agency**;

19 (C) **Passed** the real estate broker's examination required by rule of the agency; **and**

20 (D) **Completed the minimum number of real estate transactions required by rule of the**
21 **agency**.

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

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

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

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

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

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

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

4 **SECTION 2.** ORS 696.174 is amended to read:

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

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

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

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

23 *[(4) The commissioner may waive the continuing education requirements of subsection (1) of this
 24 section for any licensee who submits satisfactory evidence of inability to attend such courses because
 25 of health or other circumstances beyond the licensee's control.]*

26 **(1) To renew a license, a real estate licensee must present evidence that the licensee
 27 attended 30 hours of real estate continuing education courses during the preceding two
 28 years. Of those 30 hours:**

29 **(a) Three hours must be in courses that provide instruction on recent changes in real
 30 estate law; and**

31 **(b) One hour must be in a course that provides instruction in advanced real estate
 32 practices.**

33 **(2) The Real Estate Agency, with advice from real estate professionals and educators,
 34 shall develop a form to ensure that licensees have completed the number of hours required
 35 by subsection (1) of this section. A completed form must contain:**

36 **(a) The date, name and length of time of each course attended;**

37 **(b) The name of the real estate continuing education provider that offered the course;**

38 **(c) The name of the instructor who taught the course; and**

39 **(d) Any other information that the agency requires by rule.**

40 **(3) The agency may waive any portion of the requirements of this section for a licensee
 41 who submits satisfactory evidence that poor health or other circumstances beyond the
 42 licensee's control prevented the licensee from attending part or all of the continuing educa-
 43 tion courses required by subsection (1) of this section.**

44 **SECTION 3.** Sections 4, 5 and 6 of this 2009 Act are added to and made a part of ORS
 45 **696.010 to 696.375.**

1 **SECTION 4.** (1) The Real Estate Agency, with advice from real estate professionals and
2 educators, shall prescribe rules for certifying real estate continuing education providers.

3 (2) The agency shall include in the rules that an applicant for certification under this
4 section must be:

5 (a) A principal real estate broker licensed in this state;

6 (b) A title or escrow company whose principal place of business is in this state;

7 (c) A real estate association;

8 (d) A real estate multiple listing service whose principal place of business is in this state;

9 (e) A private career school located in this state;

10 (f) A community college or state institution of higher education located in this state; or

11 (g) A distance learning provider.

12 (3) The agency may not:

13 (a) Certify a continuing education provider for more than two years; or

14 (b) Require a fee of more than \$100 for processing applications.

15 (4) The agency, with advice from real estate professionals and educators, shall annually
16 develop:

17 (a) A list of courses that certified continuing education providers may offer;

18 (b) Learning objectives for each course;

19 (c) Curriculum requirements for any course that provides instruction on recent changes
20 in real estate law; and

21 (d) Curriculum requirements for any course that provides instruction on advanced real
22 estate practices.

23 (5) The minimum length of each course is one hour. A continuing education provider or
24 course instructor may allow a break of no more than 10 minutes for each hour of instruc-
25 tion.

26 **SECTION 5.** (1) A real estate continuing education provider:

27 (a) May offer only courses listed by the Real Estate Agency pursuant to section 4 of this
28 2009 Act;

29 (b) Shall ensure that offered courses meet the agency's learning objectives and comply
30 with the agency's curriculum requirements;

31 (c) Shall ensure that all instructors that the continuing education provider employs for
32 the purpose of teaching a real estate continuing education course meet the requirements set
33 forth in section 6 of this 2009 Act; and

34 (d) Shall keep and maintain records of each course that the continuing education pro-
35 vider offered, the length of time of each course, the instructor who taught each course and
36 all other information required by the agency. The continuing education provider shall keep
37 the records for not less than three years.

38 (2) The agency may inspect records kept and maintained pursuant to subsection (1) of
39 this section. The agency may require continuing education providers to keep records in a
40 prescribed format or maintain records in a prescribed manner.

41 **SECTION 6.** (1) A person must have one of the following qualifications to teach a real
42 estate continuing education course:

43 (a) A bachelor's degree and two years of experience working in a field related to the
44 subject matter of the course;

45 (b) Six years of experience working in a field related to the subject matter of the course;

1 (c) Any combination of college-level course work and experience working in a field related
 2 to the subject matter of the course that equals six years;

3 (d) A designation by a professional real estate organization as determined by rule of the
 4 Real Estate Agency;

5 (e) A designation by an association of real estate educators of competency as an in-
 6 structor; or

7 (f) Successful completion of an instructor training course approved by the agency and
 8 two years of experience working in a field related to the subject matter of the course.

9 (2) Notwithstanding subsection (1) of this section, a person may not teach a real estate
 10 continuing education course if the person:

11 (a) Has had a professional or occupational license suspended or revoked for disciplinary
 12 reasons; or

13 (b) Has been determined by a state court or an administrative law judge to have violated
 14 any statute, rule, regulation or order pertaining to real estate activity in this or any other
 15 state in the preceding five years.

16 (3) Before employing a person to teach a course, a real estate continuing education pro-
 17 vider shall require the person to sign a form by which the person attests to:

18 (a) Meeting one of the qualifications described in subsection (1) of this section; and

19 (b) Not being disqualified from teaching a course for reasons described in subsection (2)
 20 of this section.

21 (4) The agency by rule shall prescribe the content of the form described in subsection (3)
 22 of this section and, with the advice of real estate professionals and educators, other proce-
 23 dures for certifying instructors.

24 **SECTION 7.** ORS 696.265 is amended to read:

25 696.265. Notwithstanding ORS 696.040 to 696.232 and 696.255 and sections 4, 5 and 6 of this
 26 2009 Act, the Real Estate Commissioner may prescribe by rule the terms and conditions for license
 27 recognition of a nonresident real estate broker or salesperson and for reciprocity agreements with
 28 other states and countries, including but not limited to application procedures, license qualifications,
 29 license maintenance, limitations on activities and license renewal requirements.

30 **SECTION 8.** ORS 696.280 is amended to read:

31 696.280. (1) A real estate broker or principal real estate broker shall maintain within this state,
 32 except as provided in subsection (4) of this section, complete and adequate records of all professional
 33 real estate activity conducted by or through the broker. The Real Estate Agency shall specify by
 34 rule the records required to establish complete and adequate records of a broker's professional real
 35 estate activity. The only documents the agency may require by rule a real estate broker or principal
 36 real estate broker to use or generate are documents that are otherwise required by law or are vol-
 37 untarily generated during a real estate transaction.

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

42 (b) A principal real estate broker's records shall include records of attendance in continuing
 43 education courses by real estate licensees associated with the principal broker. The record of at-
 44 tendance shall state the name of the licensee and the date of the licensee's attendance[, and shall
 45 be the basis for the certificate of attendance submitted under ORS 696.174].

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

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

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