



Oregon Real Estate News-Journal

Official Publication of the Oregon Real Estate Agency

Vol.57

MARCH 2003, SALEM, OREGON

No. 1

LICENSED ASSISTANTS

Scott W. Taylor, Real Estate Commissioner

Recently, I have received several phone calls indicating some confusion over who could and who could not use licensed personal assistants. The following is an effort to clarify some of the confusion.

In simple terms, a "licensed personal assistant" is a real estate licensee hired by another licensee as an assistant. Statute gives the Commissioner the authority to address the conditions for using licensed assistants through rulemaking at ORS 696.028. The Agency's administrative rules pertaining to licensed assistants can be found at OAR 863-015-0195 (the laws and rules can be accessed at www.rea.state.or.us). ORS 696.022 provides that only a principal broker "... may employ, engage, and otherwise supervise the professional activities of [other broker categories]." See ORS 696.022(2)(a) and (3)(a). Therefore, because a licensed assistant is subordinate to the individual employing the assistant, the licensee employing the assistant must be a principal broker under current law.

Because of the changes to the license law July 1, 2002, there are three groups of individuals who are affected differently. These are: persons who were li-

censed as brokers prior to July 1, 2002 and had licensed assistants as of July 2, 2002; those licensed as salespersons prior to July 1, 2002 and had licensed assistants as of July 2, 2002; and those who have been licensed since July 1, 2002 and wish to use licensed assistants.

Those who were prior licensed *and who had a licensed assistant on July 2, 2002*, could continue to have a licensed assistant under a grandfather provision, subject to OAR 863-015-0195, but the following applies.

If the person who had the licensed assistant on July 2 received a real estate broker's license before the law changed,

"...because a licensed assistant is subordinate to the individual employing them, the licensee employing the assistant must be a principal broker under current law."

that individual was qualified to be a principal broker and must have activated a principal broker's license no later than September 30, 2002. If you



Commissioner Scott Taylor

missed the date, you should do it now.

If the person who had the licensed assistant on July 2 received a (temporary) associate broker's license when the law changed, that individual must activate a principal broker's license no later than January 2, 2004. In order to qualify for a principal broker's license these individuals must complete the Associate Broker Transition Course, must complete the required principal broker course Brokerage Administra-

LICENSED ASSISTANTS: continued on page 2

IN THIS ISSUE

Upcoming Deadlines	3	Agency Staff Changes	7
Where to Find Classes (Updated)	3	Q&A, Manual Revision Update	7
Simple Yes/No Questions Explain Complex Contractor Issue	4	Administrative Actions	8
Volunteers Sought for "ABC's of Homebuying"	4	Associate Broker Transition Course, Advance Practices Certificates	13
Preparing the Client for a Home Inspection	5	Conducting Real Estate Activity in Other States	14
The 50-40-10 Rule	6	Temporary Administrative Rules	14

LICENSED ASSISTANTS: *continued from page 1*
 tion and Sales Supervision, must pass the new broker licensing exam, and must have three years active licensed experience. The above can be found in OAR 863-015-0195(4).

Those licensed after June 30, 2002, in order to be eligible to have a licensed assistant, must be eligible for and activate a principal broker's license.

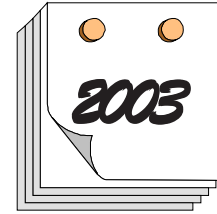
Most of the answers to questions asked about licensed assistants are addressed in OAR 863-015-0195. Briefly, the broker employing an assistant activates a principal broker's license and enters into a written agreement with his or her principal broker. The agreement must comply with the requirements of OAR 863-015-0195(1)(a), (b), and (c). The assistant and the principal broker employing the assistant must enter into a written agreement that conforms to the requirements of

OAR 863-015-0195(2)(a) through (g). In any event, licensed assistants shall, in all instances, have the same agency relationships with clients as the principal brokers with whom they have a licensed assistant agreement. The rules are intentionally minimal in order to give licensees the maximum flexibility in setting up these relationships. The answers to many of the specific questions I have been asked depend upon what these agreements include.

Two or more licensees who are co-equal but each agreeing to perform certain elements of a transaction or marketing effort for a client or clients, or acting as partners, each performing all of the elements of a transaction or marketing effort are not subject to the provisions of licensed personal assistants as there is no superior/subordinate relationship. This presumes written office policies permit this practice. In any event, the individual responsibilities between these licensees should be clearly set out and agreed to in writing. Also, these individuals should not be referred to as "leader", "employer", "assistant", etc.

In the event of a complaint, the Real Estate Agency will look to the above agreements as well as the written company policies as set out in OAR 863-015-0220 in assessing responsibility for license law infractions, if any, as a result of an investigation.

Initially, this may seem terribly complicated, because our law is not as restrictive as before. However, it is designed to give brokers maximum flexibility in determining how they want to organize and run their businesses with minimal Agency interference. Because options abound, a solution seems complex. I compare it to modern computer software versus old software. The new software is more complicated because it allows the user to customize it to the user's situation. Before, the user had to fit into the same box as everyone else. However, it is ultimately up to the user to decide whether to keep it simple or make it complex. Real estate licensees now enjoy much the same versatility under Real Estate License Law.



2003 CALENDAR

March 22	License Exams
April 19	License Exams
May 17	License Exams
June 21	License Exams
June 30	See "Upcoming Deadlines" article (page 3) for information
July 19	License Exams
August 23	License Exams
September 20	License Exams
October 18	License Exams
November 22	License Exams
December 20	License Exams

Exam applications must be postmarked by the 5th day of the month to register for that month's examination. Please refer to the Real Estate License and Examination Information booklet, available from the Agency, for instructions on applying for a licensing examination.

OREGON REAL ESTATE
 NEWS-JOURNAL
 (USPS 905-220)

Official Publication
 Oregon Real Estate Agency
 1177 Center St. N.E. - Salem, Oregon 97301-2505
 Telephone: (503) 378-4170
 Web Page: <http://www.rea.state.or.us>

OREGON REAL ESTATE AGENCY
 Theodore R. Kulongoski., Governor
 Scott W. Taylor, Commissioner

REAL ESTATE BOARD

Victor Kee, Chairperson	Astoria
Troy Costales	Salem
Ann Elgin	Pendleton
Michael Graeper	Keizer
Robert La Du	Portland
Maxine Ribera	Bend
James Sibbald	Roseburg
Marianne Wood	Eugene
John Zupan	Medford

The *Oregon Real Estate News-Journal* is published four times a year by the Oregon Real Estate Agency as an educational service to all real estate licensees in the state under the provisions of Section 696.445 of the Oregon Revised Statutes. \$4.00/biennium subscription fee included in real estate license fee. All other subscriptions \$2.00 per year. POSTMASTER: Send address changes to *Oregon Real Estate News-Journal*, 1177 Center St. N.E., Salem, OR 97301-2505.

Betty Reynolds, Editor

UPCOMING DEADLINES

Many revisions made to the Oregon Real Estate License Law, ORS 696, by the 2001 Legislature became effective July 1, 2002. However, some of the changes are phased in, giving licensees additional time to meet new requirements. Licensees affected by the changes should be aware of the following deadlines and take the steps necessary to satisfy requirements before the effective dates. Contact the Agency at (503) 378-4170 for questions concerning any of the following deadlines.

DEADLINE	FOR LICENSE CATEGORY	ACTION NECESSARY
June 30, 2003	Property Managers licensed <i>after</i> July 1, 2002	Submit verification of approved pre-license course completion. Failure to submit verification results in termination of license. (ORS 696.022, OAR 863-15-046)
January 2, 2004	Associate Brokers (formerly known as salespersons <i>prior</i> to July 1, 2002) who supervise licensed personal assistants	Meet qualifications and submit application for principal broker license. Licensed personal assistants may no longer be employed by anyone in any other license category after this date. (ORS 696.028, OAR 863-015-0195)
June 30, 2004	Temporary Property Managers (those licensed <i>prior</i> to July 1, 2002)	Submit verification for completion of "Property Manager Transition Course." Failure to submit verification results in termination of license. (Oregon Laws 2001, Chapter 300, Section 3)
June 30, 2005	Associate Brokers (formerly known as salespersons licensed <i>prior</i> to July 1, 2002)	Submit verification for completion of "Associate Broker Transition Course." Failure to submit verification results in termination of license. Applies to inactive as well as active associate brokers. (Oregon Laws 2001, Chapter 300, Section 2)
First renewal of active broker license	Brokers (those originally licensed <i>after</i> July 1, 2002)	Complete "Advanced Real Estate Practice" course. Failure to complete the course results in the inability to renew the license. (ORS 696.174 (3) and OAR 863-015-0055 (4))

WHERE TO FIND CLASSES (UPDATED)

New courses are approved and added to the Agency's list of approved classes nearly every week. Check out the Agency's web site at www.rea.state.or.us for the latest list of providers offering approved pre-license, post-license, and transition courses. You may also receive the list by mail by calling the Agency at (503) 378-4170, selection 2 from the menu.

The following is a list of approved schools currently offering or scheduled to offer hard-to-find required courses:

- Brokerage Administration and Sales Supervision*
American College of Real Estate (503) 247-9311
- Advanced Real Estate Practices*
Real Estate Institute of Greater Portland
(503) 665-6780
- Property Manager Transitions Course*
American College of Real Estate (503) 247-9311
Portland Community College (503) 977-4393
- Real Estate Property Manager*
Portland Community College (503) 977-4393
Lane Community College (541) 463-5906

SIMPLE YES/NO QUESTIONS EXPLAIN COMPLEX CONTRACTOR ISSUE

Do you buy, develop and sell property and want to make sure you're on the right side of ORS 701 by not acting as a contractor?

Oregon law defines a contractor as the following: "Contractor" means a person who, **for compensation or with the intent to sell, arranges or undertakes** or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, **for another**, any building, highway, road, railroad, excavation or other structure, project, development or **improvement attached to real estate or to do any part thereof.**

All contractors must be licensed with the State of Oregon Construction Contractors Board (CCB). Three questions, according to the CCB, will help you determine whether you may be operating as a contractor.

1. Yes No Is the work you're doing **construction-related**? (It doesn't matter if it's new home construction, remodeling, upgrades or repairs. It's also irrelevant whether you do the work yourself or arrange for others—licensed or unlicensed contractors—to improve the property.)

2. Yes No Are you **offering the property for sale**?

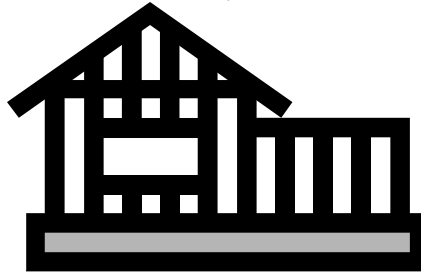
3. Yes No Are you the **direct beneficiary of the sale** (because you are not acting as an agent for the owner)?

If you answered yes to all three questions, you are probably violating the law and working as a contractor without a license—*unless* you meet the following exemption in ORS 701.010:

If you own and either occupy or rent the property, you are NOT

acting as a contractor by doing the above work. If you own and live in the home or if you own the property and have renters, you are not a construction business and need no CCB license.

Realtors who buy and move into



existing homes, fix them up and sell them fit this exemption because they own and either occupy or rent the home.

Realtors, however, who build new homes to live in and then sell them on a regular basis should be aware of an Oregon law that may affect them. ORS 701.055(8) says that the CCB has prima facie evidence that some-

one is operating as a contractor and needs a CCB license if the person sells two or more new homes within a three-year period. In other words, individuals are considered contractors if they arrange for or do construction work on two or more newly-built properties for compensation and with the intent to sell them within any 36-month period. In any three-year period, the law says you can build one new home, live in it and sell it. More than that and you're a contractor who needs a CCB license.

For more information about Realtors acting as contractors, contact Jerry Walton in the CCB's Enforcement Section at (503) 378-4621, ext. 4049.

For information about how to get licensed, go to www.ccb.state.or.us or call the CCB at (503) 378-4621.

Editor's Note: The article was provided by the State of Oregon, Construction Contractors Board.

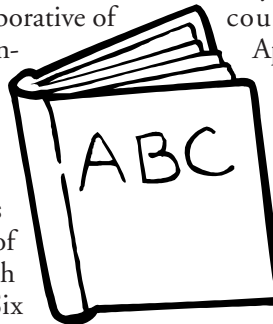
VOLUNTEERS SOUGHT FOR "ABC'S OF HOMEBUYING"

A number of tools are available for the first time homebuyer, one of which is training. The Homeowner Education Collaborative of Oregon (HECO) is a non-profit organization created to develop uniform homebuyer training classes statewide. HECO regularly offers the course "The ABC's of Homebuying" through thirty organizations. Six hundred volunteer instructors have educated 5,000 Oregonian families throughout the state.

Volunteers are needed to teach upcoming courses. Volunteer in-

structors first complete the course, "The ABC's of Teaching Homebuyer Education." The next course for instructors is April 3 in Mosier, with reservations due March 31. Upcoming instructor courses will be held in Lincoln City or Newport in May, and Salem in June.

If you want to volunteer as an instructor or want more information about the course, contact Teri Duffy, HECO's Executive Director, by e-mail at orhome@easystreet.com or call her at (503) 284-5569.



PREPARING THE CLIENT FOR A HOME INSPECTION

Dan Matthews, Certified Home Inspector

Whether you represent the buyer or the seller, a home inspection is often one of the real “hurdles” of the transaction. A smart homebuyer will request a home inspection, but may not be aware of what to expect. For a seller, the home inspection can be a traumatic experience, and produce some misunderstanding. Here are a few tips to help make the home inspection experience easier for the seller, and more informative for the buyer.

IF YOU REPRESENT THE SELLER:

- **Set aside the time.** Let the homeowner know that the inspection will be thorough, and may take two to three hours (more if the house is complex, old or large).
- **Don't be upset by all the writing.** Not everything the inspector writes down is negative. A good inspector will make comments about many things related to the house, both positive and negative. Everything needs to be documented, and the list of items that a certified inspector must observe is very long.
- **Clear the way.** The inspection will go more smoothly if personal items are cleared away from components the inspector must observe like the electric panel, water heater, or piping under the sink.
- **Look for the obvious.** A certified inspector will recommend that defects or safety issues be corrected. Bare wires, rotted stairs or windowsills, and obvious leaks in plumbing are a few conditions which will need to be corrected anyway. If obvious conditions are corrected before the inspection, the report will look much more appealing to the buyer.
- **Let the inspector do his or her work.** It is not usually helpful for the homeowner to guide the inspector around and tell her or

him how nice the house is. On the other hand, it is helpful for the homeowner to describe what a mysterious switch controls. The homeowner makes a good information resource, but usually not a very good tour guide.

- **Make sure the utilities are on.** A complete inspection cannot be performed when the water, fuel or electricity has been turned off. If there is no supply, a return visit may need to be scheduled to finish the inspection. The inspector is only allowed to operate the normal valves and switches; the homeowner can help by making sure the home has all the utilities turned on prior to the inspection.

IF YOU REPRESENT THE BUYER:

- **Don't be upset by all the writing.** A good report will list items which are not considered to be failures, but may be cosmetic, due to normal aging, or issues related to changing construction codes. Many items in the report will be listed as minor maintenance issues, and not patent defects. The buyer can use the report as an excellent reference tool or a “to do” list for routine future maintenance.
- **Let the inspector follow his or her routine.** The buyer may be very interested in the upstairs bathroom. Be assured the inspector will get there, and will discuss bathroom issues with the buyer at that time. It is very distracting to drag the inspector upstairs in the middle of the kitchen inspection, and may result in something being missed due to the distraction.
- **Remember: The inspector is not a psychic.** Items which are hidden are just that. The inspector is not allowed to dismantle anything, or to do anything other

than minor sounding and probing that does to damage finished surfaces. The inspection is by definition a “visual” inspection, and this does not include x-ray vision. In addition, the inspector must describe items as they are on the day of the inspection, and cannot predict the future. No one knows when the water heater will fail or when the dishwasher will start leaking.

- **The inspection is a general inspection.** This means it is not technically exhaustive in any single area. A technically exhaustive inspection may be conducted in each area of the inspection by a specialist like a structural engineer, electrical contractor, plumber, roofer, brick mason, and so on. The cost of technically exhaustive inspections is usually prohibitive. The buyer should expect a general report which points out conditions which may need repair or further examination by a licensed expert.

As a real estate professional, you can do your clients a service by informing them about what to expect during a home inspection, and what to expect in the report. Remember that the home inspector is one of your best allies when it comes to consumer protection. When you inform the buyer or the seller about the home inspection process, you will improve your credibility, and present yourself to both buyer and homeowner as a true professional.

For more information about home inspections and standards of practice, visit the CCB website at www.ccb.state.or.us.

Editor's note: Dan Matthews is a member of the Construction Contractors Board, Home Inspector Advisory Committee. He lives in Coos Bay, where he is a Certified Home Inspector, General Contractor, and Licensed Structural Inspector. He holds a BS in Physics/English, and a MS in Science.

THE 50-40-10 RULE

Deborah Long

Issues of ethics and etiquette are commonly confused, particularly when describing the behavior of professionals. Ethics has to do with following the morality of a society or group. Etiquette deals with behaving in accordance with prescribed social standards. So there's no question that issues of ethics and etiquette can be very similar.

However, do ethical individuals always follow the best etiquette? No. We can all think of examples of brusque, abrasive, ill-mannered people who have nevertheless acted morally. Do people who behave in accordance with prescribed social standards always act ethically? No again. Very polite people can act immorally. The Nazis, as an example, were very mannered individuals who emphasized protocol and social standards. Yet their actions were immoral.

As professionals, we strive to follow standards of both ethics and etiquette. Early in our careers, we are introduced to concepts and models of professional conduct and practice. However, it is assumed that we don't need any courses in professional etiquette, since these matters are largely common sense and were taught and modeled for us in the home and at school.

It's this assumption that professionals are familiar with common-sense etiquette that is apparently getting licensees into more trouble with their licensing boards than we might expect. A recent study of complaints filed against real estate licensees provides some surprising insights.

The Georgia Real Estate Commission staff conducts from 1,500 to 2,000 investigations annually. Year after year, executive director Charles Clark reports, approximately 50% of its investigations of complaints result in a finding of no violation of the license law. Approximately 40% of investigations of complaints result in the discovery of minor technical violations of the law

that result in no harm to the public and require only warning letters. Only about 10% of its investigations of complaints result in a need for the Commission to take some form of formal disciplinary action.

Mr. Clark's analysis of these complaints is incisive. He



suggests that the 50-40-10 numbers tell us that the vast majority of complaints reveal no substantive violations of the license law. Why? The vast majority of all licensees want to be in business tomorrow. Even if only minimally competent, they are all smart enough to know that violating the law or deliberately harming a consumer means that business is likely to dry up tomorrow. Thus, very, very few of them deliberately set out to violate the law or to harm someone.

Moreover, he adds, "...almost all of the people we regulate want to do right. The morally and ethically corrupt are the rare exception, not the rule. Therefore, almost all of them will do right, if they know what right is.... Most violations are the result of simple, unintentional error."

Considering the fact that only 50% of all complaints were investigated, Mr. Clark's staff decided to determine what actions really caused consumers to

lodge a complaint. Here is what they found:

Most of the complaints were filled with such statements as:

1. He wouldn't return my telephone calls.
2. She didn't address us as Mr. and Mrs.
3. She stopped by our house unannounced.
4. I don't know why she waited two days to present our offer.
5. He showed up in a running suit.
6. She talked down to me.
7. He was late for every appointment.
8. She turned me over to someone else for everything.
9. He didn't explain what that meant.
10. She was rude about everything.
11. He wasted our time showing houses that we had no interest in.
12. We never could reach her.
13. He never seemed to care about the problem.

In other words, these complaints were initiated because of a problem with etiquette not with a breach of ethics or of law. While instructors spend countless classroom hours reviewing licensing law and lecturing on practices and principles of the profession, Clark concludes, "What may be more help in reducing the number of complaints is an instructional module on manners, dress, and communication." (Ironically, few regulatory agencies would provide continuing education credit for such a course.)

In a telephone call to a number of other licensing boards in my own state of North Carolina, regulators not only agreed that their experiences with complaints fits the Georgia Real Estate Commission's 50-40-10 profile, many concurred that most of the complaints are initiated or deal with matters of rudeness, poor manners and poor communication rather than with violations of the law.

Assuming this profile is widespread

among regulatory agencies complaints, imagine the tremendous waste of taxpayer dollars and licensing board time spent on dealing with matters of etiquette rather than more serious issues of misrepresentation and consumer fraud. Real estate commissions in the U.S. alone report over 25,000 complaints a year.

What is the solution? Managers, employers, and educators should integrate discussions of professional or business etiquette into their staff meetings and classrooms. Punctuality, appropriate dress and language, sensitiv-

ity to cultural differences in business customs, and listening skills would be a good place to start. And it would probably be a good idea to remind everyone not to chew with their mouths open and to keep their elbows off the table, too!

Emily Post, the foremost authority on etiquette and manners, once wrote: "Best Society is not a fellowship of the wealthy, nor does it seek to exclude those who are not of exalted birth; but it is an association of gentle-folk, of which good form in speech, charm of manner, knowledge of the social

amenities, and instinctive consideration for the feelings of others, are the credentials by which society the world over recognizes its chosen members. Etiquette must, if it is to be of more than trifling use, include ethics as well as manners.

Editor's note: The article, which is reprinted by permission, first appeared in the Iowa Licensing Newsletter in October 2001. Deborah Long, Ed. D., DREI, provides workshops on ethics and other topics to licensed professionals. She can be reached at d_long@mindspring.com. Her website is at www.deborahlong.com.

AGENCY STAFF CHANGES

The Oregon Real Estate Agency is pleased to announce the following additions to its staff.

- Eric Austin was selected in January to fill the Agency's vacant Information Systems Specialist position. Eric previously served as Information Technology Director for Imark Communications, and as Network Administrator for Jostens Learning Corporation. He holds a BS in Business Administration from San Diego State University. His duties include assistance with the operation, planning, acquisition, design and maintenance of the Agency's information systems.
- Christine Chambers was selected in February to replace retiring Rae McFarland as Land Development Support Specialist. Christine previously worked for the Oregon Department of Administrative Services as a Real Property Assistant, and an Assistant Property Manager. Her duties include overall support for the Agency's land development and escrow programs.
- Carmen Twenge was hired in December as Education Coordinator. She will work 2/3 time, and her duties include education program representation, examination administration, pre-license education, and Agency publications and continuing education. Carmen was previously employed in the Agency's Education Division from 1988 to

1996. Carmen holds a BS in Technical Journalism from Oregon State University. She shares Education Coordinator duties with Mesheal Heyman, who was promoted to the full time position upon the retirement of Ann Kyman.

The Agency welcomes Eric, Christine, and Carmen, and wishes Ann and Rae well in their retirements.

In Memoriam

Walter Huston, who was employed as an investigator by the Oregon Real Estate Agency from 1974 until 1995, died February 10, 2003. Mr. Huston was born in Eugene and was a Salem resident since 1968. He served in the U.S. Air Force and as a Deputy Sheriff in Linn County from 1956 to 1961. Prior to his employment with the Agency, he also served as a mortgage loan officer, insurance adjuster, and cattle buyer. He earned an AS degree in Real Estate.

Mr. Huston received an award from the Agency for his special investigations, provided education on behalf of the Agency, and received many letters of commendation from work associates and from the public.

The Agency extends its sympathy to the family and friends of Mr. Huston.

Q & A, MANUAL REVISION UPDATE

Senate Bill 446 made significant changes to Oregon's real estate Licensing Laws – ORS Chapter 696. The changes resulted in extensive changes to the related administrative rules (OAR 863), and to the Agency's systems, procedures, examinations, and publications. The two largest publications, *Questions and Answers in Real Estate* and the *Oregon Real Estate Manual* have required extensive revision to accurately reflect the new licensing law and rules.

Agency staff is completing its revisions, and it is anticipated the revised *Manual* will be available no earlier than the end of May. *Manual Update* subscribers will receive a copy of the revised edition when it is available. To become a subscriber, please use the Agency's "Publication and Videocassette Order Form" on page 15. Others may purchase the *Manual* the Agency has it available.

The Agency has contracted with a real estate education expert to assist in the reviewing of the *Q & A* for changes based on the new law. It is estimated the revised *Q & A* will be available for distribution in June.

Detailed information about distribution of the *Manual* and the *Q & A* will be provided in the June edition of the *OREN-J*.

sented, ORS 696.301(28); and failed to pay attention to the transaction documents and closely supervise her agent in a transaction where her agent was the seller and also representing the buyers, ORS 696.301(29) (1999 Editions).

Godard, Teresa (West Linn) Broker #780900063

Stipulated order dated February 6, 2003 issuing a 90 day suspension effective March 1, 2003; informed buyers that certain improvements on a property she owned and was selling could be made including a fence when she knew or should have known that these improvements could not be made because of the conservation easement, ORS 696.301(1) (1999 Edition).

Kolesar, Thomas W. (Florence) Temporary Associate Broker #990500103

Stipulated order dated December 12, 2002 issuing a 30 day suspension effective December 15, 2002; in a personal transaction where he was the buyer; failed to transmit an earnest money check to his broker, OAR 863-010-025(2)(6); directed buyers to make the earnest money check payable to himself, OAR 863-010-025(1); failed to provide his broker with an addendum that contained the rental agreement, OAR 863-010-025(2); and deposited the earnest money check into his own account, failed to deliver the application for a home warranty to escrow or to confirm whether or not the buyer wished to purchase the plan, failed to disclose to the buyers the damage and repairs that had been made to the bathroom floor while he was renting the property, and altered his copy of the earnest money agreement without assuring the buyers' copy contained the same alterations, ORS 696.301(28) (1999 Editions).

Linares, Edgar A. (Beaverton) Temporary Associate Broker #980800145

Stipulated order dated February 13,

2003 issuing a 30 day suspension; after sale fail, Linares returned earnest money to the buyers contrary to a fully executed release instructing the earnest money be disbursed to the sellers, ORS 696.810(3) and ORS 696.301(31); and did not provide his broker with earnest money, OAR 863-010-025(2).

Newmark, Miles R. (Portland) Broker #840700096

Stipulated order dated January 30, 2003 issuing a 30 day suspension with education; as designated broker, allowed his clients' trust account to be charged for check printing, ORS 696.241(7); allowed an owner's clients' trust account to be overdrawn, ORS 696.301(20); multiple accounting, posting and trust account closing errors, ORS 696.301(28); failed to assure that his licensees were conducting property management activity including reconciliations and other accounting functions in compliance with Oregon statutes and rules, ORS 696.301(29); failed to obtain adequate property management agreements, OAR 863-010-210(1); allowed the accounting department to post the owner ledger/receipts and disbursements journal with all entries and required information as well as a running chronological balance, OAR 863-010-215(2); failed to insure the accounting department had prepared and maintained receipts and disbursements journals for seven different trust accounts, OAR 863-010-215(5)(6); allowed the accounting department to pay funds from an owner's account in excess of the actual credit balance, OAR 863-010-220(3)(a)(d); failed to insure the accounting department had maintained account detail showing the amount and nature of each receipt and disbursement for aggregated receipts and disbursements, OAR 863-010-220(3)(f); and failed to insure the accounting department had posted receipt and disbursement of funds by wire or electronic transfer in the same manner as other re-

ceipts and disbursements, OAR 863-010-220(3) (1999 Editions).

Peters, Donna M. (Portland) Temporary Associate Broker #830700019

Stipulated order dated December 10, 2002 issuing a 30 day suspension effective December 20, 2002; wrote on only the seller's copy of the listing that the seller could withdraw the listing at any time and failed to deliver a copy to her broker showing the modification, ORS 696.301(28); failed to promptly present all offers and/or counter offers she received on a listing, OAR 863-010-020(1)(2)(3); advised other agents to leave the expiration dates blank on offers they were preparing, ORS 696.301(28); and failed to promptly transmit all documents received to her broker, OAR 863-010-025(2) (1999 Editions).

Quimby, William C. (Beaverton) Broker #780102957

Stipulated order dated January 3, 2003 issuing a 60 day suspension effective January 13, 2003; allowed the unlicensed owner of the brokerage to use his broker's license for a fee and control the real estate activity, OAR 863-010-043(1); failed to deposit earnest money timely, OAR 863-010-025(1); failed to maintain a record of funds received in a transaction in his principal place of business, ORS 696.301(12); and failed to adequately supervise his employees, ORS 696.301(29) (1999 Editions).

Sanchez, Mark T. (Portland) Broker #850200022

Stipulated order dated December 2, 2002 issuing a 30 day suspension effective December 16, 2002; (a) failed to procure an extension to closing when escrow did not close as specified in four transactions, (b) failed to make earnest money notes due before closing so as to give the seller actual earnest money to pursue in three transactions, and (c) failed to

ADMINISTRATIVE. . . : continued on page 10

ADMINISTRATIVE. . . *continued from page 9*
get the signatures of all sellers on a sale agreement in one transaction, ORS 696.301(28) (1999 Edition).

REPRIMANDS

Abbott, Diana L. (Newport)
Principal Broker #800406237
Stipulated order dated December 5, 2002; indicated to a seller that an addendum would stand as written leading the seller to reasonably believe that it was not possible to further amend the agreement, ORS 696.301(28) (1999 Edition).

Ballenger, Rex D. (Eugene)
Principal Broker #860200118
Stipulated order dated January 23, 2003; failed to assure that his licensees were turning in all transaction documentation for review in a timely manner, ORS 696.301(29); failed to adequately review transaction documents to assure they are properly handled and failed to advise an agent that he could not adequately represent himself as one party while representing the other party to the transaction, ORS 696.301(29) (1999 Edition).

Baltes, Susan M. (West Linn)
Temporary Associate Broker #200005121
Stipulated order dated February 11, 2003; failed to advise either her broker or Fannie Mae that the buyer and the contractor were arranging for the buyer to receive some of the repair money for work the contractor did not have to do, ORS 696.301(28) (1999 Edition).

Baughman, Pamela G. (Lebanon)
Temporary Associate Broker #920800090
Stipulated order dated January 14, 2003; failed to inquire of the parties as to whether the earnest money agreement reflected their complete agreement regarding the transaction and failed to advise that for the seller to agree with the buyer prior to closing to make a payment to the buyer after closing that was not disclosed

to the lender could have serious consequences for the parties, ORS 696.815. (1999 Edition).

Bradley, Teresa G. "Tari" (Aumsville)
Principal Broker #921100138
Stipulated order dated January 3, 2003, which also requires the successful completion of certain education; failed to reconcile her clients' trust account, OAR 863-010-220(6); withdrew funds in excess of the owner's ledger balance a number of times and allowed the operating clients' trust account to become negative, OAR 863-010-220(3)(a)(d); allowed the operating clients' trust account to be debited for overdraft charges, ORS 696.301(20); failed to accurately post to tenant ledgers, OAR 863-010-215(3)(c); failed to send monthly reports to owners, failed to keep copies of the owner reports, and reported to an owner on an accrual basis rather than reporting changes in the owner's ledger account, OAR 863-010-220(7); and failed to bill and collect late fees, improperly posted amounts received, and failed to attempt to collect the balance of a security deposit due in installments, ORS 696.301(28) (1999 Editions).

Frost, Michael T. (Eugene) Broker #860700016
Stipulated order dated January 23, 2003; signed a seller's name to an earnest money agreement, promissory note, agency disclosure and termination agreement without written authority to do so, failed to get the seller initialed documents to his broker promptly, failed to turn in a termination agreement to his broker as required by OAR 863-010-025(2), and prepared and signed for a seller a promissory note that was due and payable within 72 hours of final partition instead of within a specifically stated time as required by OAR 863-010-020(5), ORS 696.301(28) (1999 Edition).

Hafeman, George B., Jr. (St. Helens)
Principal Broker #780501422
Stipulated order dated January 14, 2003; failed to obtain a signed and dated property management agreement with the actual owner of the property prior to engaging in property management activity, OAR 863-010-210(1); failed to initial and date a property management agreement and tenant agreement, OAR 863-010-210(3)(7); and allowed a salesperson to act on behalf of the subsidiary property management company when she was licensed to the main company, ORS 696.301(29) (1999 Editions).

Hafeman, Michael P. (St. Helens)
Principal Broker #780403897
Stipulated order dated January 14, 2003; failed to obtain a signed and dated property management agreement with the actual owner of the property prior to engaging in property management activity, OAR 863-010-210(1); failed to initial and date a property management agreement and tenant agreement, OAR 863-010-210(3)(7); and allowed a salesperson to act on behalf of the subsidiary property management company when she was licensed to the main company, ORS 696.301(29) (1999 Editions).

Horning, David C. (Roseburg)
Temporary Associate Broker #960500206
Stipulated order dated January 28, 2003; failed to submit all documents from various transactions to his broker promptly as required by OAR 863-010-025(2), failed to put his personal transaction involving a lease option through his broker as required by OAR 863-010-046(3), failed to have a seller sign a multiple listing service change order reducing the listing price failing in his affirmative obligation as required by ORS 696.805(3), failed to explain to the other parties, in the transactions where he himself was acting as either the buyer or seller, the inherent conflict of interest created,

ORS 696.301(28); failed to give a seller an initial agency disclosure, ORS 696.820.

Lamb, Lori Shepard (Salem) Broker #950400264

Stipulated order dated February 10, 2003; failed to assure inspections were obtained timely, failed to have the buyer state in writing that he chose to waive the inspections, signed a document herself that included the limits of liability given to her by the inspector instead of referring the inspector to the buyer who was present, and failed to provide the second buyer with a copy of the seller's property disclosure statement, ORS 696.810(2).

Locker, Todd O. (Portland) Temporary Property Manager #950700006
Stipulated order dated January 30, 2003, with education; allowed several clients' trust accounts to be overdrawn, ORS 696.301(20) (1999 Edition).

McReynolds, Patrick A. (Newport) Temporary Associate Broker #961000007

Stipulated order dated November 25, 2002; prepared an earnest money note payable at the close of escrow, and failed to use more complete language in the earnest money agreement in describing the seller's obligation to AmeriDream and the payment of other fees by the seller, ORS 696.301(28) (1999 Edition).

Nelson, Joanne C. (Lebanon) Principal Broker #900200324

Stipulated order dated January 14, 2003; failed to inquire of the parties as to whether the earnest money agreement reflected their complete agreement regarding the transaction and failed to advise that for the seller to agree with the buyer prior to closing to make a payment to the buyer after closing that was not disclosed to the lender could have serious consequences for the parties, ORS 696.815. (1999 Edition).

Peterson, Russell E. (Portland) Principal Broker #880800228
Stipulated order dated January 30, 2003, with education; allowed several of his clients' trust accounts to be overdrawn, ORS 696.301(20) (1999 Edition).

Rhoten, D. Alex (Salem) Principal Broker #841000042

Stipulated order dated December 30, 2002; failed to initial and date a listing, property disclaimer and initial agency acknowledgment until one month after the listing was executed, OAR 863-010-040(1); failed to follow a transaction closely and assure that his salesperson was conducting her professional real estate activity in a manner that did not violate ORS and OAR, ORS 696.301(29) (1999 Editions).

Sanchez, Fred A. (Portland) Principal Broker #780502160

Stipulated order dated December 2, 2002; failed to conduct his property management business in accordance with Oregon Administrative Rules regarding property management, ORS 696.301(28) (1999 Edition).

Simonson, Randall D. (Medford) Broker #970400178

Stipulated order dated December 30, 2002; transmitted real estate documents executed in December 1998 to his broker in May of 1999, OAR 863-010-025(2); altered the name of the company the commission was to be paid to from the brokerage he had been licensed with to his new brokerage, ORS 696.301(16); received a commission check directly from a principal and deposited it into his personal bank account, ORS 696.301(2) (1999 Editions).

Tafoya, Jamie S. (St. Helens) Temporary Property Manager #990400142

Stipulated order dated January 21, 2003; representing a subsidiary property management company while licensed to the main company,

ORS 696.301(3); failed to obtain a dated and signed property management agreement with the actual property owner prior to engaging in property management activity, OAR 863-010-210(1); accepted a signature on the property management agreement from someone other than the actual owner and showed that individual as "agent to owner" when she had no proof of such agency relationship, ORS 696.301(28); and sent rental funds to someone other than the actual property owner, ORS 696.301(28) (1999 Editions).

Wright, Larry J. (Stayton) Principal Broker #780301597

Stipulated order dated January 16, 2003; failed to define the term "per rented door" in the management agreement, OAR 863-010-210(1); failed to properly post tenant ledgers and used clients' trust account security deposit checks that were not pre-printed or prenumbered, OAR 863-010-215; failed to properly reconcile his clients' trust account, withdrew funds in excess of the owner's ledger balance, and failed to properly account to owners, OAR 863-010-220; failed to provide an owner with unobligated funds within 45 days of the termination of the management agreement, OAR 863-010-225(3); allowed his clients' trust account to be debited for overdraft charges, ORS 696.301(20); failed to bill and collect late fees, improperly posted amounts received, and failed to attempt to collect the balance of a security deposit due in installments, ORS 696.301(28).

CIVIL PENALTIES

Andrews, Marilyn P. (Eugene) Temporary Associate Broker #200010059

Stipulated order dated January 14, 2003, failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, ORS 696.174(2) (1999 Edition) and OAR 863-015-0050(2) (2001 Edition).

ADMINISTRATIVE. . . continued on page 12

ADMINISTRATIVE. . . : continued from page 11
Bradley, Glenn, (Aumsville)
Unlicensed #200211126
Stipulated order dated January 3, 2003; conducted professional real estate activity without benefit of a license, ORS 696.020(1) (1999 Edition).

Chicago Title Ins Co of Oregon
(Portland) Escrow Agent
#850600304
Stipulated order dated December 5, 2002 for a \$9,000 civil penalty; failed to report trust account figures accurately in its annual report to the agency, OAR 863-50-150(1)(c); failed to adequately disclose the nature of benefits received from the bank for the deposit of trust funds in non-interest bearing accounts and failed to give a good faith estimate of the benefits received to principals in escrow transactions, OAR 863-50-065(2); held funds in escrow for extended periods of time thereby failing to deliver money to persons entitled thereto timely, ORS 696.535(1)(g)(h); and did not promptly place funds in the escrow trust account, ORS 696.578(1).

Christensen, Lisa A. (Portland)
Temporary Associate Broker
#950600171
Stipulated order dated January 21, 2003 for a \$100 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, ORS 696.174(2) (1999 Edition) and OAR 863-015-0050(2) (2001 Edition).

Crawford, Allan B. (Tigard)
Temporary Associate Broker
#200102125
Stipulated order dated November 26, 2002 for a \$250 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-015-0050(2) (2001 Edition).

Deignan, Kirk K. (Silverton)
Temporary Associate Broker
#200002151
Stipulated order dated December 13, 2002 for a \$750 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-015-0050(2) (2001 Edition).

Duckett, Terry J. (McMinnville)
Principal Broker #781200206
Stipulated order dated January 21, 2003 for a \$250 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-015-0050(2) (2001 Edition).

Fidelity Natl Title Co of Or,
(Portland) Escrow Agent
#850600354
Stipulated order dated January 27, 2003 for a \$1,000 civil penalty; failed to account to a seller for a returned check, ORS 696.535(1)(g), OAR 863-50-065(3); failed to remit returned funds timely, ORS 696.535(1)(h), OAR 863-50-065(3); prepared an inaccurate settlement statement, OAR 863-50-025; and failed to disclose to the seller, buyer or lender that a trust deed was not paid at closing as called for in the escrow instructions, ORS 696.535(1)(e).

Gilliam, Eugenie L. (Genie)
(Brookings) Temporary Property
Manager #200107058
Stipulated order dated February 6, 2003 for a \$250 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-015-0050(2) (2001 Edition).

Guardian Contract Services, Inc.
(Tigard) Escrow Agent #870200172
Stipulated order dated December 16, 2002 for a \$200 civil penalty; accepted payments and made disbursements without adequate escrow in-

structions, ORS 696.581(1).

Guardian Contract Services, Inc.
(Tigard) Escrow Agent #870200172
Stipulated order dated January 13, 2003 for a \$150 civil penalty; charged a seller \$8.50 for the monthly payment fee instead of \$5.50 and charged the \$5.50 monthly payment fee for the payoff, which was not a monthly payment, ORS 696.581.

Lucas, Craig L. (Salem) Temporary
Associate Broker #961000191
Stipulated order dated February 20, 2003 for a \$250 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-015-0050(2) (2001 Edition).

Ostlund, Janice L. (Portland)
Temporary Associate Broker
#930200061
Stipulated order dated December 6, 2002 for a \$400 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-015-0050(2) (2001 Edition).

Spratt, Susann P. (Klamath Falls)
Temporary Associate Broker
#920700022
Stipulated order dated January 23, 2003 for a \$1,000 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, ORS 696.174(2) (1999 Edition) and OAR 863-015-0050(2) (2001 Edition).

Ticor Title Insurance Company
(Portland) Escrow Agent
#920900190
Stipulated order dated December 11, 2002 for a \$1,000 civil penalty; accepted a check for closing costs from a buyer, did not deposit it, and later returned the check to the buyer, ORS 696.578(1) and OAR 863-50-066(1); failed to record the account-

ing for the receipt of the buyer's check on the escrow ledger, OAR 863-50-050(1)(a).

Wigginton, Craig K. (Salem) Temporary Associate Broker #930500274

Stipulated order dated December 31, 2002 for a \$100 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-015-0050(2) (2001 Edition).

Woodbridge, Candace C. (Bend) Temporary Associate Broker #200006083

Stipulated order dated January 13, 2003 for a \$200 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, ORS 696.174(2) (1999 Edition) and OAR 863-015-0050(2) (2001 Edition).

Wyse, Donna L. (Woodburn) Temporary Associate Broker #950300159

Stipulated order dated November 22, 2002 for a \$750 civil penalty; failed

to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-015-0050(2) (2001 Edition).

Young, Eric M. (Lebanon) Temporary Property Manager #950400117 Stipulated order dated December 30, 2002 for a \$2,000 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-015-0050(2) (2001 Edition).

OTHER

Blackwell, Terry L. (Bend) Broker #780301684

Stipulated order dated February 3, 2003 modifying the June 24, 2002 order; allowing Blackwell to become a principal broker with limitations.

Dearborn, Harold W. (Klamath Falls) Broker #780203360

Hearing order dated March 3, 1998 resulting in a suspension to be effective March 3, 1998 and remain in effect during Mr. Dearborn's court ordered probation. When he is released from his court ordered pro-

bation, and upon review of pertinent information, Mr. Dearborn's license was to be revoked and a limited salesperson's license issued. On April 2, 1998, Mr. Dearborn filed an appeal. The hearing order was withdrawn from the appeal process and on November 13, 1998, a Final Order on Reconsideration was issued. On February 9, 2000, the Court of Appeals reversed and remanded the case to the Real Estate Agency. The Agency filed for review with the Supreme Court and on September 6, 2002, the Agency's order was reversed. On December 3, 2002, the Supreme Court denied reconsideration.

Nickels, Leonard R. (Salem) Temporary Associate Broker #780800368

Stipulated order dated February 13, 2003 issuing a 30 day suspension which will be stayed for six months; failed to have the Seller's Disclosure Statement modified to reflect new information regarding dry rot, ORS 696.301(27); and failed to inform an associate that a previous sale fail was due to dry rot, ORS 696.805(3) (1999 Editions).

ASSOCIATE BROKER TRANSITION COURSE, ADVANCED PRACTICES CERTIFICATES

Oregon's laws and administrative rules require associate brokers (formerly known as salespersons prior to July 1, 2002) to complete the Associate Broker Transition Course (ABTC) by June 30, 2005 (see ORS 696.028 and OAR 863-015-0195). ORS 696.174(3) and OAR 863-015-055(4) require brokers newly licensed after July 1, 2002 to complete Advanced Real Estate Practices (AP) prior to the first renewal of their licenses.

There is some confusion about the completion certificate format for both the ABTC and AP courses. Both courses may be used to meet continuing education requirements. However, unlike other continuing education, educators planning to offer the courses must first obtain approval from the Agency, in the same process used for

pre-license courses.

As a result, the Agency has received ABTC certificates in both the continuing education course format (Certificate of Attendance) and the pre-license course format (Certificate of Completion). The major difference between these two certificate formats is the person responsible for certifying the document. The certifying licensee (principal broker) signs the Certificate of Attendance, and the school signs the Certificate of Completion.

The Agency recently informed real estate educators that the Certificate of Attendance format, signed by the principal broker, should be used for both courses. However, the Agency will continue to accept the Certificate of Completion form for the ABTC, if already issued to licensees who com-

pleted the course.

As a reminder, after completing the ABTC, a licensee should send in the certificate and their license to the Agency, and the Agency will issue a new broker's license at no cost to the licensee. The principal broker should maintain copies of the certificate as evidence of continuing education. The Agency recommends that licensees also maintain copies of all of continuing education certificates.

Principal brokers are reminded that certificates for AP courses are not sent to the Agency. As with other continuing education, principal brokers sign their licensees' renewal forms certifying that the course has been taken.

If you have any questions, please contact the Education Section at (503) 378-4170, ext. 251 or 260.

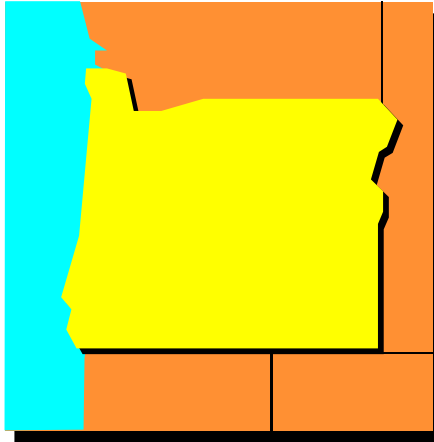
CONDUCTING REAL ESTATE ACTIVITY IN OTHER STATES

The Oregon Real Estate Agency receives questions about Oregon licensees conducting real estate activity in other states, and vice-versa. The situation is particularly true in the Portland metro area, where licensees might want to show clients properties within the region, including the Vancouver, Washington metropolitan area.

Within Oregon, anyone wishing to engage in real estate activity is required to obtain an Oregon license (See ORS 696.020(1). Note that ORS 696.290 provides an exception for sharing commissions on a cooperative non-residential real estate transaction with a person licensed in another state or country, provided certain conditions are met in which the out of state broker is subject to the supervision and control of the Oregon broker.)

Oregon laws and rules authorize the recognition of nonresident's real estate licenses. Individual licensees from other states or countries may become licensed in Oregon, if that state or country also allows Oregon licensees to obtain a license (See OAR 863-015-0080). The Agency has entered into agreements or filed memoranda for license recognition with ten other jurisdictions whose requirements are substantially the same as Oregon's for education, ex-

perience, accounting, transaction records, and enforcement. Those jurisdictions include Alabama, Colorado, Idaho, Georgia, Missouri, Montana, Nebraska, South Dakota,



Wyoming, and Alberta, Canada.

The Agency does not have a license recognition memorandum with Washington, although the Oregon Real Estate Commissioner has engaged in discussions with his counterpart in Washington about future "limited reciprocity" if the Oregon licensee passes the Washington portion of the broker's exam. So currently, unless an Oregon licensee also has a Washington license, the licensee may not engage in real estate activity in Washington.

Nor does the Agency have license recognition memoranda with California or Nevada. Because most jurisdictions require a license before engaging in real estate activity, it is advisable to obtain licensing information directly from the licensing entity where you might want to conduct real estate activity. License information for border states where Oregon licenses are not recognized, is:

Washington: (360) 664-6525

California: (916) 227-0900

Nevada: (702) 486-4033

Contact information in jurisdictions where Oregon licenses are recognized is:

Alabama: (334) 242-5544

Colorado: (303) 894-2166

Georgia: (404) 656-3916

Idaho: (208) 334-3285

Missouri: (573) 751-2628

Montana: (406) 444-2961

Nebraska: (402) 471-2004

South Dakota: ((605) 773-3600

Wyoming: (307) 777-7141

Alberta: (403) 228-2954

For more information about reciprocal licensing in Oregon, contact the Agency's Licensing Manager Marguerite Kenagy at (503) 378-4170, ext. 224. General information about real estate licensing in Oregon, and links to the laws and rules is available at www.rea.state.or.us.

TEMPORARY ADMINISTRATIVE RULES

The Real Estate Agency filed temporary administrative rules with the Secretary of State's (SOS) office for publication in its monthly *Oregon Bulletin*. The rules were effective February 28, 2003. The *Bulletin* will be available April 1 either in paper format by calling (503) 373-0701 or through the SOS website at <http://arcweb.sos.state.or.us>, and clicking on "administrative rules."

The Agency adopted the temporary administrative rules (1) to fix inconsistencies within the rules promulgated subsequent to the passage of Senate Bill 446, and (2) to further implement the policies and procedures

contemplated by the legislation. A copy of the text of the temporary rules may be obtained from the Agency by calling 503-378-4170, ext. 237 or from the Agency's website at <http://www.rea.state.or.us>.

The Agency plans to provide notice of its intent to permanently adopt the temporary rules in the July 1 edition of the *SOS Bulletin*. Comments on the proposed permanent rules may be submitted to the Agency after July 1, 2003. More information about the opportunity to comment will be provided in the June, 2003 edition of the Agency's *News-Journal*.

