

863-015-0125

Advertising

(1) As used in this rule, "advertising" and "advertisement" include all forms of representation, promotion and solicitation disseminated in any manner and by any means for any purpose related to professional real estate activity, including, without limitation, advertising by mail; telephone, cellular telephone, and telephonic advertising; the Internet, E-mail, electronic bulletin board and other similar electronic systems; and business cards, signs, lawn signs, and billboards.

(2) Advertising by a licensee, in process and in substance, must:

(a) Be identifiable as advertising of a real estate licensee;

(b) Be truthful and not deceptive or misleading;

(c) Not state or imply that the real estate broker or property manager associated with a principal real estate broker is the person responsible for operating the real estate brokerage or is a sole practitioner or principal broker;

(d) Not state or imply that the licensee is qualified or has a level of expertise other than as currently maintained by the licensee; and

(e) Be done only with the written permission of the property owner(s) or owner(s)' authorized agent.

(3) Advertising that includes the licensee's name must:

(a) Use the licensee's licensed name; or

(b) Use a common derivative of the licensee's first name and the licensee's licensed last name.

(4) The licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker, or property manager must be prominently displayed, immediately noticeable, and conspicuous in all advertising.

(5) Except as provided in section (8) of this rule, a real estate broker must:

(a) Submit proposed advertising to the licensee's principal broker for review and receive the principal broker's approval before publicly releasing any advertisement; and

(b) Keep a record of the principal broker's approval and make it available to the agency upon request.

(6) Except as provided in section (8) of this rule, a principal real estate broker:

(a) Is responsible for all advertising approved by the principal broker that states the principal real estate broker's licensed name or registered business name; and

(b) Must review all advertising of a real estate broker or a property manager who is associated with the principal real estate broker.

(7) A principal real estate broker may delegate direct supervisory authority and responsibility for advertising originating in a branch office to the principal broker who manages the branch office if such delegation is in writing.

(8) A licensee associated with a principal real estate broker may advertise property owned by the licensee for sale, exchange, or lease option without approval of the principal real estate broker, if:

(a) The property is not listed for sale, exchange, or lease option with the principal broker;

(b) The advertising states that the property owner is a real estate licensee; and

(c) The advertising complies with all applicable other applicable provisions of ORS chapter 696 and its implementing rules.

(9) Advertising in electronic media and by electronic communication, including but not limited to the Internet, web pages, E-mail, E-mail discussion groups, blogs, and bulletin boards is subject to the following requirements:

(a) Advertising must comply with all other requirements of this rule;

(b) Advertising by a licensee must include on its first page:

(A) The licensee's licensed name as required in section (3) of this rule;

(B) The licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker, or property manager; and

(C) A statement that the licensee is licensed in the State of Oregon.

(c) Sponsored links, which are paid advertisements located on a search engine results page, are exempt from the requirements contained in subsection (b) of this section if the first page following the link complies with subsection (b).

(d) E-mail from a licensee is exempt from the requirements of subsection (b) of this section if the licensee's initial communication contained the information required by subsection (a).

(10) No advertising may guarantee future profits from any real estate activity.

(11) A licensee may use the term "team" or "group" to advertise if:

(a) The use of the term does not constitute the unlawful use of a trade name and is not deceptively similar to a name under which any other person is lawfully doing business;

(b) The team or group includes at least one real estate licensee;

(c) The licensee members of the team or group are associated with the same principal broker or property manager;

(d) The licensee members of the team or group use each licensee's licensed name as required under section (3) of this rule;

(e) If any non-licensed individuals are named in the advertising, the advertising must clearly state which individuals are real estate licensees and which ones are not; and

(f) The advertising complies with all other applicable provisions of ORS chapter 696 and its implementing rules.

Stat. Auth.: ORS 696.385

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

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 3-2006(Temp), f. 12-28-06, cert. ef. 1-1-07 thru 6-29-07; REA 3-2007, f. & cert. ef. 6-29-07; REA 1-2008(Temp), f. & cert. eff. 1-18-08 thru 7-16-08; f. 6-12-08, cert. ef. 7-1-08