

863-015-0260

Records Retention

(1) Principal real estate brokers and sole practitioners must maintain and store complete and accurate records of professional real estate activity, including any items generated through e-mail or other electronic means, pursuant to ORS 696.280 and as follows:

(a) Records of professional real estate activity may be stored at the principal broker's main office, and records of professional real estate activity originating at a branch office may be maintained and stored at either that branch office or at the principal broker's main office.

(b) A principal real estate broker or sole practitioner may store records of professional real estate activity in a single location other than his or her office, main office, or branch office, in which the records are readily available for inspection, if the principal real estate broker or sole practitioner first:

(A) Notifies the commissioner in writing of the intended removal of such records, includes the address of the new location for such records, and

(B) Authorizes the commissioner in writing to inspect such records at the new location. Such authorization must include the name of any necessary contact and the means of gaining access to the records for an inspection. The principal real estate broker or sole practitioner must notify the commissioner of any change in the contact or means of access within ten days after such change occurs.

(2) A principal real estate broker or sole practitioner must maintain at the broker's office a means of viewing copies of documents or records. A principal real estate broker or sole practitioner must provide, at his or her expense, a paper copy of any document or record the Agency requests.

(3) A principal real estate broker or sole practitioner may use electronic image storage media to retain and store copies of all listings, deposit receipts, canceled checks, clients' trust account records, and other documents executed by him or her or obtained by him or her in connection with any professional real estate activity transaction under the following conditions:

(a) The electronic image storage must be nonerasable "write once, read many" ("WORM") that does not allow changes to the stored document or record;

(b) The stored document or record is made or preserved as part of and in the regular course of business;

(c) The original record from which the stored document or record was copied was made or prepared by the principal broker, sole practitioner, or their employees at or near the time of the act, condition, or event reflected in the record;

(d) The custodian of the record is able to identify the stored document or record, the mode of its preparation, and the mode of storing it on the electronic image storage;

(e) The electronic image storage media contains a reliable indexing system that provides ready access to a desired document or record, appropriate quality control of the storage process to ensure the quality of

imaged documents or records, and date-ordered arrangement of stored documents or records to ensure a consistent and logical flow of paperwork to preclude unnecessary search time; and

(f) At least once each month, the broker backs up any data that is stored in the computerized system necessary to produce the records. The back up data must be retained for no less than 60 days and must be made available to the commissioner or to the commissioner's authorized representatives on demand.

Stat. Auth.: ORS 696.385 & 183.335

Stats. Implemented: ORS 696.280

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 6-2008, f. 12-15-08, cert. ef. 1-1-09