

REVENUE: No revenue impact

FISCAL: No fiscal impact

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Action: Do Pass as Amended and Be Printed Engrossed

Vote: 5 - 0 - 0

Yeas: Beyer, Kruse, Prozanski, Walker, Burdick

Nays: 0

Exc.: 0

Prepared By: Matt Kalmanson, Counsel

Meeting Dates: 4/24

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**WHAT THE MEASURE DOES:** Extends to binding arbitration proceedings the attorney certification requirements for claims against real estate brokers or property managers.

**ISSUES DISCUSSED:**

- Certification requirements for claims against real estate licensees
- Intent of 2005 legislation
- Nature of claims against real estate licensees
- Nature of real estate agreements and provisions regarding binding arbitration

**EFFECT OF COMMITTEE AMENDMENT:** Amendments replace the bill.

**BACKGROUND:** In 2005, the legislature enacted pleading requirements for lawsuits brought against real estate licensees, such as real estate brokers and property managers. ORS 31.350 provides that a complaint against a real estate licensee must be accompanied by a certification that the attorney had consulted a real estate licensee who is qualified, available and willing to testify to admissible facts and opinions sufficient to create a question of fact as to the liability of the defendant. The certification must also state that the expert will testify that the conduct of the defendant failed to meet the standard of professional care applicable to the real estate licensee and the conduct was a cause of the claimed damages. A court must dismiss claims for failure to comply with the certification requirements. SB 659 A would extend this requirement to binding arbitration proceedings. Many real estate agreement forms require claimants to bring claims in binding arbitration.