

A-Engrossed
House Bill 2490

Ordered by the House April 6
Including House Amendments dated April 6

Sponsored by Representative ESQUIVEL; Representatives BOONE, BUCKLEY, GARRARD, KOMP, LIM, OLSON, READ, RILEY, THATCHER

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.

[Prohibits escrow agents from imposing requirements that delay disbursement of funds and property.]

Allows escrow agents to disburse deposited earnest money based on agreement of parties that is executed after initial sales agreement. Prohibits escrow agents from imposing additional requirements on principals to transaction.

A BILL FOR AN ACT

1
2 Relating to escrow agents; creating new provisions; and amending ORS 696.581.

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

4 **SECTION 1.** ORS 696.581 is amended to read:

5 696.581. (1) An escrow agent may not accept funds, property or documents in any escrow
6 transaction without dated, written escrow instructions from the principals to the transaction or a
7 dated executed agreement in writing between the principals to the transaction.

8 (2) An escrow agent may not close an escrow or disburse any funds or property in an escrow
9 without obtaining dated, separate escrow instructions in writing from the principals to the trans-
10 action adequate to administer and close the transaction or, in the case of disbursement, to disburse
11 the funds and property.

12 (3) The following statement or its substantial equivalent shall appear on or be attached to all
13 written escrow instructions prepared by an escrow agent for signature of the principals to a trans-
14 action. The statement shall be in at least 10-point bold type. The statement shall either appear im-
15 mediately above the signatures of the principals or be separately initialed by the principals:
16

17
18 It is understood by the parties signing the above or attached instructions that the instructions
19 are the complete instructions between this firm as an escrow agent and you as a principal to the
20 escrow transaction. These instructions may not include all the terms of the agreement which is the
21 subject of this escrow. Read these instructions carefully, and do not sign them unless they are ac-
22 ceptable to you.
23

24
25 (4) An escrow agent may not solicit or accept any original, amended or supplemental escrow
26 instructions containing any blank to be filled in after signing. An escrow agent shall not allow any

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 alteration of original, amended or supplemental escrow instructions, unless the alteration is signed
2 or initialed by all principals who signed or initialed the instructions before the alteration.

3 (5) An escrow agent may accept client funds, in excess of earnest money required in transaction
4 documents to be held, as individual funds of the principal who has paid them into escrow. Such
5 individual funds may be disbursed with only the separate written instructions of the principal who
6 deposited the funds into escrow.

7 (6) An escrow agent may open a one-sided escrow, as defined by rule by the Real Estate Com-
8 missioner. Such escrow funds may be disbursed with only the separate written instructions of the
9 principal who deposited the funds into escrow.

10 (7) **Except as authorized in ORS 105.475, notwithstanding the requirement for dated,
11 separate escrow instructions to close an escrow or disburse funds or property in an escrow,
12 an escrow agent:**

13 (a) **May disburse earnest money deposited based on an agreement of the parties executed
14 after the initial sales agreement; and**

15 (b) **May not impose additional requirements on the principals to the transaction, includ-
16 ing a requirement that the principals sign a release of liability in favor of the escrow agent.**

17 **SECTION 2. The amendments to ORS 696.581 by section 1 of this 2007 Act apply to escrow
18 transactions entered into on or after the effective date of this 2007 Act.**

19