

A-Engrossed
House Bill 2418

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

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon State Bar Real Estate and Land Use Section)

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.

Adds certain legal entities and persons affiliated with certain legal entities to list of parties exempt from real estate licensing law.

A BILL FOR AN ACT

1
2 Relating to persons exempt from real estate licensing law; amending ORS 696.030.

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

4 **SECTION 1.** ORS 696.030 is amended to read:

5 696.030. (1) ORS 696.010 to 696.375, 696.392, 696.395 to 696.430, 696.490, 696.600 to 696.785,
6 696.990 and 696.995 do not apply to:

7 (a) A nonlicensed individual who is a full-time employee of a single owner of real estate whose
8 real estate activity involves the real estate of the employer and:

9 (A) Is incidental to the employee's normal, nonreal estate activities; or

10 (B) Is the employee's principal activity, but the employer's principal activity or business is not
11 the sale, exchange, lease option or acquisition of real estate.

12 (b) A nonlicensed individual who acts as attorney in fact under a duly executed power of at-
13 torney from the owner or purchaser authorizing the supervision of the closing of or supervision of
14 the performance of a contract for the sale, leasing or exchanging of real estate if the power of at-
15 torney was executed prior to July 1, 2002, in compliance with the requirements of law at the time
16 of execution or if:

17 (A) The power of attorney is recorded in the office of the recording officer for the county in
18 which the real estate is located;

19 (B) The power of attorney specifically describes the real estate; and

20 (C) The individual does not use the power of attorney as a device to engage in professional real
21 estate activity without obtaining the necessary real estate license.

22 (c) A nonlicensed individual who acts as attorney in fact under a duly executed power of at-
23 torney in which the authorized agent is the spouse of the principal, or the child, grandchild, parent,
24 grandparent, sibling, aunt, uncle, niece or nephew of the principal or of the spouse of the principal,
25 authorizing real estate activity if the power of attorney is recorded in the office of the recording
26 officer for the county in which the real estate to be sold, leased or exchanged is located.

27 (d) A nonlicensed individual who is an attorney at law rendering services in the performance
28 of duties as an attorney at law.

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 (e) A nonlicensed individual who acts in the individual's official capacity as a receiver, a
2 conservator, a trustee in bankruptcy, a personal representative or a trustee, or a regular salaried
3 employee of the trustee, acting under a trust agreement, deed of trust or will.

4 (f) A nonlicensed individual who performs an act of professional real estate activity under order
5 of a court.

6 (g) A nonlicensed individual who is a regular full-time employee of a single corporation, part-
7 nership, association, **limited liability company** or nonlicensed individual owner of real property
8 acting for the corporation, partnership, association, **limited liability company** or nonlicensed indi-
9 vidual owner in the rental or management of the real property, but not in the sale, exchange, lease
10 option or purchase of the real property.

11 (h) An individual who is a registered professional engineer or architect rendering services in
12 performance of duties as a professional engineer or architect.

13 (i) A nonlicensed individual who is employed by a real estate broker or principal real estate
14 broker and who acts as a manager for real estate if the real estate activity of the nonlicensed in-
15 dividual is limited to negotiating rental or lease agreements, checking tenant and credit references,
16 physically maintaining the real estate, conducting tenant relations, collecting the rent, supervising
17 the premises' managers and discussing financial matters relating to management of the real estate
18 with the owner.

19 (j) An individual who sells or leases cemetery lots, parcels or units while engaged in the dispo-
20 sition of human bodies under ORS 97.010 to 97.040, 97.110 to 97.450, 97.510 to 97.730, 97.810 to 97.920
21 and 97.990 or an employee of the nonlicensed individual performing similar activities.

22 (k) An individual who is a salaried employee of the State of Oregon, or any of its political sub-
23 divisions, engaging in professional real estate activity as a part of such employment.

24 (L) A nonlicensed individual who analyzes or provides advice regarding permissible land use
25 alternatives, environmental impact, building and use permit procedures or demographic market
26 studies, or a regular full-time employee of the nonlicensed individual performing similar activities.
27 This exclusion does not apply to the handling of transactional negotiations for transfer of an interest
28 in real estate.

29 (m) An individual who is a hotelkeeper or innkeeper as defined by ORS 699.005 arranging the
30 rental of transient lodging at a hotel or inn in the course of business as a hotelkeeper or innkeeper.

31 (n) An individual who is a travel agent arranging the rental of transient lodging at a hotel or
32 inn as defined in ORS 699.005 in the course of business as a travel agent for compensation. For the
33 purpose of this paragraph, "travel agent" means a person, and employees of the person, regularly
34 representing and selling travel services to the public directly or indirectly through other travel
35 agents.

36 (o) An individual who is a common carrier arranging the rental of transient lodging at a hotel
37 or inn as defined in ORS 699.005 in the course of business as a common carrier. For the purpose
38 of this paragraph, "common carrier" means a person that transports or purports to be willing to
39 transport individuals from place to place by rail, motor vehicle, boat or aircraft for hire, compen-
40 sation or consideration.

41 (p) An individual who is a hotel representative arranging the rental of transient lodging at a
42 hotel or inn as defined in ORS 699.005 in the course of business as a hotel representative. For the
43 purpose of this paragraph, "hotel representative" means a person that provides reservations or sale
44 services to independent hotels, airlines, steamship companies and government tourist agencies.

45 (q) A nonlicensed individual transferring or acquiring an interest in real estate owned or to be

1 owned by the individual.

2 (r) An individual who is a general partner for a domestic or foreign limited partnership duly
3 registered and operating within this state under ORS chapter 70 engaging in the sale of limited
4 partnership interests and the acquisition, sale, exchange, lease, transfer or management of the real
5 estate of the limited partnership.

6 (s) An individual who is a membership camping contract broker or salesperson registered with
7 the Real Estate Agency selling membership camping contracts.

8 (t) An individual who is a professional forester or farm manager engaging in property manage-
9 ment activity on forestland or farmland when the activity is incidental to the nonreal estate duties
10 involving overall management of forest or farm resources.

11 (u) An individual who is a registered investment adviser under the Investment Advisers Act of
12 1940, 15 U.S.C. §80b-1 et seq., rendering real estate investment services for the office of the State
13 Treasurer or the Oregon Investment Council.

14 (v) A nonlicensed individual who refers a new tenant for compensation to a real estate licensee
15 acting as the property manager for a residential building or facility while the individual resides in
16 the building or facility or within six months after termination of the individual's tenancy.

17 (w) A nonlicensed individual who gives an opinion in an administrative or judicial proceeding
18 regarding the value of real estate for taxation or representing a taxpayer under ORS 305.230 or
19 309.100.

20 (x) A nonlicensed individual acting as a paid fiduciary whose real estate activity is limited to
21 negotiating or closing a transaction to obtain the services of a real estate licensee.

22 (y) A nonlicensed individual who is a fiduciary under a court order, without regard to whether
23 the court order specifically authorizes real estate activity.

24 (z) An individual who is a representative of a financial institution or trust company, as those
25 terms are defined in ORS 706.008, that is attorney in fact under a duly executed power of attorney
26 from the owner or purchaser authorizing real estate activity, if the power of attorney is recorded
27 in the office of the county clerk for the county in which the real estate to be sold, leased or ex-
28 changed is located.

29 **(aa) An individual who is the sole member or a managing member of a domestic or for-**
30 **ign limited liability company duly registered and operating within this state under ORS**
31 **chapter 63 and who is engaging in the acquisition, sale, exchange, lease, transfer or man-**
32 **agement of the real estate of the limited liability company.**

33 **(bb) An individual who is a partner in a partnership as defined in ORS 67.005 and who is**
34 **engaging in the acquisition, sale, exchange, lease, transfer or management of the real estate**
35 **of the partnership.**

36 **(cc) An individual who is an officer or director of a domestic or foreign corporation duly**
37 **registered and operating within this state under ORS chapter 60 and who is engaging in the**
38 **acquisition, sale, exchange, lease, transfer or management of the real estate of the corpo-**
39 **ration.**

40 (2) The vesting of title to real estate in more than one person by tenancy by the entirety,
41 tenancy in common or by survivorship shall be construed as that of a single owner for the purposes
42 of this section.

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