

**A-Engrossed**  
**House Bill 2855**

Ordered by the House March 28  
Including House Amendments dated March 28

Sponsored by COMMITTEE ON BUSINESS AND LABOR

**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.

Creates procedure for purchaser of real property to enforce contractual requirement for delivery of deed of conveyance without instituting suit or action.

**A BILL FOR AN ACT**

1  
2 Relating to enforcement of the contractual requirement for delivery of a deed of conveyance.

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

4 **SECTION 1. Sections 2 and 3 of this 2017 Act are added to and made a part of ORS**  
5 **chapter 93.**

6 **SECTION 2. (1) As used in this section and section 3 of this 2017 Act, "contract for**  
7 **transfer or conveyance of an interest in real property," "purchaser" and "seller" have the**  
8 **meanings given those terms in ORS 93.905.**

9 **(2) If a seller has received full payment and performance of a contract for transfer or**  
10 **conveyance of an interest in real property, but fails or refuses to provide the purchaser with**  
11 **a proper deed of conveyance, the contract is deemed complete and the title held by the seller**  
12 **is conveyed to the purchaser, provided the purchaser:**

13 **(a) Has not instituted a suit or action to enforce the contract;**

14 **(b) Has fulfilled all requirements of the purchaser under the contract; and**

15 **(c) Has given the seller written notice of the purchaser's wish to enforce a contractual**  
16 **requirement for delivery of a deed of conveyance, as required by this section.**

17 **(3) A purchaser who wishes to enforce a contractual requirement for delivery of a deed**  
18 **of conveyance from the seller shall:**

19 **(a) Record a notice of intent to enforce the contractual requirement for delivery of a**  
20 **deed of conveyance in each county where the property is located; and**

21 **(b) After recording the notice required by paragraph (a) of this subsection, give written**  
22 **notice by service pursuant to ORCP 7 D(2) and 7 D(3), or by both first class and certified**  
23 **mail with return receipt requested, to the last-known address of the following persons or**  
24 **their legal representatives:**

25 **(A) The seller.**

26 **(B) An occupant of the property.**

27 **(C) Any person holding title or other interest through the seller that was recorded prior**  
28 **to the recording of the notice required by paragraph (a) of this subsection.**

**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       **(4) The notice required by subsection (3)(b) of this section must specify:**  
2       **(a) The name of the seller, as shown of record;**  
3       **(b) A reference to the instrument creating the original contract of sale, and any assign-**  
4 **ments of the contract, including where it is recorded;**  
5       **(c) The date of final payment or other final performance of the contract, whichever is**  
6 **applicable;**  
7       **(d) That the purchaser wishes to enforce a contractual requirement for delivery of a deed**  
8 **of conveyance from the seller;**  
9       **(e) The date by which the seller or the seller's successors in interest or assignees must**  
10 **submit an objection to the purchaser, which must be within 60 days after the final date of**  
11 **publication of the notice required by subsection (7)(a) of this section or within 120 days after**  
12 **the date of recording of the notice required by subsection (3)(b) of this section, whichever is**  
13 **later, or the seller's interest in the property may be conveyed to the purchaser;**  
14       **(f) A description of the property; and**  
15       **(g) The name and address of the person to whom the seller must object to the demand**  
16 **contained in the notice.**  
17       **(5)(a) A seller may submit an objection to the enforcement of a contractual requirement**  
18 **for delivery of a deed of conveyance to a purchaser that gives notice to the seller under**  
19 **subsection (3)(b) or (7)(a) of this section, provided the seller serves or mails the objection to**  
20 **the purchaser within the deadline described in subsection (4)(e) of this section.**  
21       **(b) A purchaser that receives an objection from a seller under this subsection may initi-**  
22 **ate a suit or action to challenge the objection and to enforce the contract.**  
23       **(c) Upon initiation of a suit or action under this subsection, no title or interest to the**  
24 **property may be transferred until the earlier of the date the seller delivers a fulfillment deed**  
25 **of conveyance or the date of entry of final judgment in the suit or action.**  
26       **(d) The prevailing party in a suit or action initiated under this subsection is entitled to**  
27 **recover actual damages or \$5,000, whichever is greater, together with costs and reasonable**  
28 **attorney fees incurred at trial and on appeal.**  
29       **(6) The purchaser shall cause to be recorded in the real property records of each county**  
30 **in which the property is located an affidavit of service or mailing of the notice, including:**  
31       **(a) The date the notice was served or mailed;**  
32       **(b) The name and address of each person to whom the notice was given; and**  
33       **(c) If the seller does not acknowledge the notice, a detailed description of the efforts**  
34 **made, along with the date each effort is made, to determine with due diligence the address**  
35 **of the seller or the seller's assignees or successors in interest.**  
36       **(7) If, after notice is given and recorded as required under subsections (3) to (6) of this**  
37 **section, a seller does not provide the purchaser with the deed of conveyance within 30 days**  
38 **of service or mailing, the purchaser may acquire the seller's interest in the property by:**  
39       **(a) Publishing a notice that meets the requirements described in subsection (8) of this**  
40 **section, at least one time per week for three consecutive weeks in a newspaper of general**  
41 **circulation in each county in which the property is located, that the purchaser wishes to**  
42 **enforce a contractual requirement for delivery of a deed of conveyance from the seller; and**  
43       **(b) Recording an affidavit of compliance with the requirements of paragraph (a) of this**  
44 **subsection within 15 days of the date of the last publication.**  
45       **(8) The notice described in subsection (7)(a) of this section must include:**

1 (a) The name of the seller, as shown of record;

2 (b) A reference to the instrument creating the original contract of sale, and any assign-  
3 ments of the contract, including where it is recorded;

4 (c) A description of the property;

5 (d) The name and address of the person giving the notice;

6 (e) The date of first publication of the notice;

7 (f) A statement that the seller or the seller's successors in interest or assignees must  
8 submit an objection to the purchaser within the deadline described in subsection (4)(e) of this  
9 section; and

10 (g) The name and address of the person to whom the seller must submit an objection  
11 under subsection (5) of this section.

12 (9)(a) If a seller fails or refuses to provide a proper deed of conveyance after the pur-  
13 chaser completes the notice and recording procedures set forth in this section, the notice  
14 provided to the seller under this section satisfies any notice required by the terms of the  
15 contract of sale.

16 (b) Notwithstanding paragraph (a) of this subsection, the purchaser must give written  
17 notice as required by the provisions of the contract if the contract requires that notice be  
18 provided to additional persons or sets forth a longer notice period than the period required  
19 by this section.

20 (10) A seller that submits an objection to the purchaser under subsection (5) of this  
21 section must record the objection in each county in which the property is located within 30  
22 days, along with an affidavit of the seller's objection that includes the name and contact in-  
23 formation of the objecting seller and a copy of the notice required by subsection (3)(b) or  
24 (7)(a) of this section.

25 (11)(a) If a seller does not submit an objection to the purchaser under subsection (5) of  
26 this section, and the contract for conveyance of real property has been fulfilled under the  
27 notice and recording procedures set forth in this section, the purchaser shall record a dec-  
28 laration of fulfillment in the deed records of each county in which the property is located,  
29 including:

30 (A) An affidavit setting forth that the seller did not provide a proper deed of conveyance  
31 before the deadline described in subsection (4)(e) of this section, that the contract has been  
32 fulfilled and that the title of the seller is hereby transferred to the purchaser;

33 (B) A description of the property; and

34 (C) Proof of mailing of a copy of the declaration to the seller.

35 (b) When the declaration is recorded, the recitals contained in the affidavit shall be:

36 (A) Prima facie evidence in any court of the truth of the matters set forth in the decla-  
37 ration; and

38 (B) Conclusive in favor of a purchaser for value in good faith relying upon them.

39 (12) Notices served by mail are effective when mailed.

40 **SECTION 3.** (1) Except as otherwise provided in this chapter and except to the extent  
41 otherwise provided in the contract or other agreement with the seller, fulfillment of a con-  
42 tract for sale under section 2 of this 2017 Act shall have the following effects:

43 (a) Except as provided in paragraph (c) of this subsection, the seller and all persons  
44 claiming through the seller that were given the required notices pursuant to section 2 of this  
45 2017 Act have no further rights in the contract or the property and no person has any right,

1 by statute or otherwise, to redeem the property.

2 (b) All rights, title and interest in the property held by the seller and any improvements  
3 made to the property at the time the declaration of fulfillment is recorded are transferred  
4 to the purchaser as though the seller had delivered a fulfillment of deed to the purchaser.

5 (c) Any claim of title or interest through the seller that was recorded prior to the re-  
6 cording of the contract for transfer or conveyance of an interest in real property or a  
7 memorandum of the contract shall maintain its priority and is not extinguished by the dec-  
8 laration of fulfillment.

9 (2) The failure to give notice to any person described in subsection (1) of this section does  
10 not affect the validity of the effects of fulfillment of a contract for sale as to persons so  
11 notified.

12 SECTION 4. Sections 2 and 3 of this 2017 Act apply to enforcements of contractual re-  
13 quirements for delivery of a deed of conveyance commenced on or after the effective date  
14 of this 2017 Act.