

A-Engrossed
House Bill 3092

Ordered by the House March 13
Including House Amendments dated March 13

Sponsored by Representative BREESE-IVERSON; Representatives DEXTER, WRIGHT

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 residential property wholesaler registration. Prohibits residential property wholesaling without registration. Provides exceptions.

A BILL FOR AN ACT

1
2 Relating to residential property wholesaling; creating new provisions; and amending ORS 696.010,
3 696.581 and 696.730.

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

5 **SECTION 1. Definitions. As used in sections 1 to 9 of this 2023 Act:**

6 (1) **"Market" means to advertise, or contract with another person or entity to advertise,**
7 **or to solicit purchasers for the purchase of property either publicly or privately.**

8 (2) **"Residential property" means real property zoned for residential use, or an existing**
9 **condominium unit as defined in ORS 100.005.**

10 (3) **"Residential property wholesaler" means any individual who engages in residential**
11 **property wholesaling and is registered as a residential property wholesaler under section 3**
12 **of this 2023 Act.**

13 (4) **"Residential property wholesaling" means to market residential property for which**
14 **the marketer has only an equitable interest or an option to purchase and, at the time of**
15 **marketing, the marketer has:**

16 (a) **Held such interest or option for fewer than 90 days; and**

17 (b) **Invested less than \$10,000 in land development or improvement costs associated with**
18 **the residential property.**

19 **SECTION 2. Registration requirement; exemptions. (1) Except as provided in subsections**
20 **(4) and (6) of this section, a person may not engage in residential property wholesaling unless**
21 **that person, or, if that person is an entity, the individual conducting residential property**
22 **wholesaling activity on that person's behalf, is registered as a residential property wholesaler**
23 **under section 3 of this 2023 Act.**

24 (2) **This section applies to every person who conducts residential property wholesaling**
25 **related to property located in this state.**

26 (3) **One act or transaction of residential property wholesaling is sufficient to constitute**
27 **engaging in residential property wholesaling within the meaning of this section.**

28 (4) **An individual licensed under ORS 696.022 may engage in residential property whole-**

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 saling without registering as a residential property wholesaler only if that individual provides
2 proper written disclosure to any potential buyers or sellers of all residential property
3 wholesale transactions.

4 (5) For purposes of this section, the Real Estate Agency shall establish the standards for
5 proper written disclosure requirements for individuals licensed under ORS 696.022 who en-
6 gage in residential property wholesaling.

7 (6) The requirement to register as a residential property wholesaler does not apply to a
8 person:

9 (a) Who is licensed under ORS 696.022 and is engaging in professional real estate activity;

10 (b) Who is an attorney at law rendering services in the performance of duties as an at-
11 torney at law;

12 (c) Who acts in the person's official capacity as a receiver, a conservator, a trustee in
13 bankruptcy, a personal representative or a trustee, or a regular salaried employee of the
14 trustee, acting under a deed of trust, will or trust agreement, provided that the trustee does
15 not use the trust agreement as a device to engage in residential property wholesaling without
16 obtaining the necessary registration;

17 (d) Who acts as attorney in fact under a duly executed power of attorney in which the
18 authorized agent is the spouse of the principal, or the child, grandchild, parent, grandparent,
19 sibling, aunt, uncle, niece or nephew of the principal or of the spouse of the principal, au-
20 thORIZING real estate activity if the power of attorney is recorded in the office of the re-
21 cording officer for the county in which the real estate to be sold, leased or exchanged is
22 located; or

23 (e) Who acts as attorney in fact under a duly executed power of attorney from the owner
24 or purchaser authorizing the supervision of the closing of or supervision of the performance
25 of a contract for the sale, lease or exchange of real estate if the power of attorney was ex-
26 ecuted prior to July 1, 2002, in compliance with the requirements of law at the time of exe-
27 cution or if:

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

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

31 (C) The person does not use the power of attorney as a device to engage in residential
32 property wholesaling without obtaining the necessary registration.

33 **SECTION 3. Residential property wholesaler registration; requirements; rules.** (1) The
34 Real Estate Agency may issue a residential property wholesaler registration only to an indi-
35 vidual.

36 (2) In accordance with any applicable provisions of ORS chapter 183, the Real Estate
37 Commissioner shall establish by rule a system to register residential property wholesalers.
38 Such a system shall include but need not be limited to prescribing:

39 (a) The form and content of and the times and procedures for submitting an application
40 for the issuance or renewal of registration.

41 (b) The term of the registration and the fee for the initial issuance and renewal in an
42 amount that does not exceed the maximum amount described in section 4 of this 2023 Act.

43 (c) Those actions or circumstances that constitute failure to achieve or maintain regis-
44 tration or competency or that otherwise constitute a danger to the public interest and for
45 which the commissioner may refuse to issue or renew or may suspend or revoke a registra-

1 tion or may impose a penalty.

2 (3) For an applicant to qualify for registration, the commissioner must receive:

3 (a) Certification that the applicant has a high school diploma or a certificate for passing
4 an approved high school equivalency test such as the General Educational Development
5 (GED) test or the international equivalent, or other equivalent education acceptable to the
6 commissioner;

7 (b) Certification that the applicant is at least 18 years of age; and

8 (c) A list of all entities, business names and assumed business names under which the
9 applicant has conducted or will conduct residential property wholesaling activity, along with
10 evidence that all business names and assumed business names are registered with the Sec-
11 retary of State and all entities, including foreign entities, are authorized by the Secretary
12 of State to transact business in this state.

13 (4) Registration for residential property wholesalers shall be granted only if the applicant
14 is trustworthy and competent to conduct residential property wholesaling in such manner
15 as to safeguard the interests of the public and only after satisfactory proof has been pre-
16 sented to the commissioner. As used in this subsection, "satisfactory proof" includes but is
17 not limited to a criminal records check of the applicant under ORS 181A.195. For the purpose
18 of requesting a state or nationwide criminal records check under ORS 181A.195, the com-
19 missioner may require the fingerprints of the applicant.

20 **SECTION 4.** The Real Estate Commissioner, with the approval of the Oregon Department
21 of Administrative Services, may prescribe the fees that the Real Estate Agency may charge
22 for activities listed under this section, subject to the following maximum amounts:

23 (1) For initial issuance of residential property wholesaler registration under section 3 of
24 this 2023 Act, \$300; and

25 (2) For renewal of residential property wholesaler registration under section 3 of this 2023
26 Act, \$300.

27 **SECTION 5. Disclosure requirements.** (1) Residential property wholesalers shall provide
28 a residential property wholesaler written disclosure:

29 (a) To any potential buyers and sellers before entering into a written contract for a res-
30 idential property wholesale transaction;

31 (b) To any individual licensed under ORS 696.022 who is engaged to assist the residential
32 property wholesaler in marketing or listing the property;

33 (c) To any individual licensed under ORS 696.022 who is assisting a potential buyer in
34 purchasing the property; and

35 (d) In all advertising related to the residential property that is the subject of a residential
36 property wholesale transaction.

37 (2) For purposes of this section, the Real Estate Agency shall establish the standards for
38 proper residential property wholesaler written disclosure requirements under this section.
39 The disclosure must be in at least 10-point bold type, must contain information prescribed
40 by the Real Estate Commissioner and at a minimum must state that the residential property
41 wholesaler or, if applicable, the entity on behalf of which the residential property wholesaler
42 is conducting residential property wholesaling:

43 (a) Is a residential property wholesaler;

44 (b) Has only an equitable interest in the property being sold;

45 (c) Does not have legal title to the property and therefore might be unable to directly

1 transfer title to the buyer;

2 (d) Might not be a licensed real estate broker or principal broker and therefore might
3 not be permitted to engage in professional real estate activity; and

4 (e) Might not be a licensed appraisal specialist and therefore might not be permitted to
5 provide an opinion as to the value of the property.

6 (3) A seller or buyer who enters into a written contract for a residential property
7 wholesale transaction may cancel the contract without penalty by delivery of a written no-
8 tice of cancellation any time before 12 midnight at the end of the third business day after
9 the receipt of the residential property wholesaler written disclosure. The right of cancella-
10 tion granted by this subsection may not be waived. Upon cancellation, all earnest money or
11 deposits shall be returned to the person who provided the earnest money or deposit.

12 (4) If the residential property wholesaler fails to provide a residential property wholesaler
13 written disclosure to the seller before entering into a written contract for a residential
14 property wholesale transaction, the seller may terminate the contract at any time without
15 penalty and retain any earnest money or deposit paid to the seller or deposited in escrow by
16 the residential property wholesaler. An escrow agent may disburse the earnest money or
17 deposit to the seller without the need for separate written instructions from the residential
18 property wholesaler if:

19 (a) The seller in writing asserts that the residential property wholesaler written disclo-
20 sure was not provided to the seller before entering into the written contract for the resi-
21 dential property wholesale transaction and demands disbursement to the seller of all deposits
22 held by the escrow agent; and

23 (b) The seller has provided the escrow agent with a written release and indemnification
24 against all liability arising from the disbursement of the earnest money and deposits to the
25 seller.

26 (5) If the residential property wholesaler fails to provide a residential property wholesaler
27 written disclosure to the seller or buyer, and if the purchase and sale agreement is termi-
28 nated as a result, the wholesaler shall be liable for damages incurred by seller and buyer.

29 (6) In any mediation or arbitration proceeding or civil action between buyer and seller,
30 between buyer and residential property wholesaler or between seller and residential property
31 wholesaler that arises due to the residential property wholesaler's failure to provide a resi-
32 dential property wholesaler written disclosure before entering into a written contract for a
33 residential property wholesale transaction as prescribed under this section, the prevailing
34 party is entitled to recover all reasonable attorney fees, costs and expenses incurred at trial,
35 on appeal, at mediation and at arbitration from the residential property wholesaler.

36 **SECTION 6. Grounds for disciplinary action.** The Real Estate Commissioner may suspend
37 or revoke registration of any residential property wholesaler, deny the issuance or renewal
38 of registration to an applicant, or prohibit an individual licensed under ORS 696.022 from
39 engaging in residential property wholesaling as otherwise provided in section 2 (4) of this 2023
40 Act if the wholesaler, applicant or individual has done any of the following:

41 (1) Knowingly or negligently pursued a course of material misrepresentation in matters
42 related to residential property wholesaling, whether or not damage or injury resulted, or
43 knowingly or negligently made any material misrepresentation or material false promise in
44 a matter related to residential property wholesaling if the material misrepresentation or
45 material false promise created a reasonable probability of damage or injury, whether or not

1 **damage or injury actually resulted.**

2 **(2) Procured or attempted to procure a residential property wholesaler registration by**
3 **fraud, misrepresentation or deceit or by making any material misstatement of fact in an**
4 **application for a residential property wholesaler registration.**

5 **(3) Violated a provision of section 2 or 5 of this 2023 Act.**

6 **(4) Engaged in any act or conduct, whether of the same or of a different character**
7 **specified in this subsection, that constitutes or demonstrates bad faith, incompetence,**
8 **untrustworthiness or dishonest, fraudulent or improper dealings.**

9 **SECTION 7. Investigation. (1) The Real Estate Commissioner may investigate either upon**
10 **complaint or otherwise whenever it appears that a person has conducted residential property**
11 **wholesaling in violation of sections 2 to 6 of this 2023 Act.**

12 **(2) If upon investigation it appears that the person has violated a provision of sections 2**
13 **to 6 of this 2023 Act, the commissioner may, in addition to any other remedies, bring action**
14 **in the name and on behalf of the State of Oregon against such person to enjoin such person**
15 **from continuing any act in violation of sections 2 to 6 of this 2023 Act.**

16 **SECTION 8. Penalties. (1) Violation of any of the provisions of section 2, 5 or 6 of this**
17 **2023 Act is a Class A misdemeanor.**

18 **(2) Any officer, director, shareholder, member, manager or agent of a corporation, lim-**
19 **ited liability company, partnership or association, who personally participates in or is an**
20 **accessory to any violation of section 2, 5 or 6 of this 2023 Act by the corporation, limited li-**
21 **ability company, partnership or association, is subject to the penalties prescribed in sub-**
22 **section (1) of this section.**

23 **(3) Any person that violates section 2 of this 2023 Act may be required by the Real Estate**
24 **Commissioner to forfeit and pay to the General Fund of the State Treasury a civil penalty**
25 **in an amount determined by the commissioner of:**

26 **(a) Not less than \$1,000 nor more than \$2,500 for the first offense of unregistered resi-**
27 **dential property wholesaling activity; and**

28 **(b) Not less than \$2,500 nor more than \$5,000 for the second and subsequent offenses of**
29 **unregistered residential property wholesaling activity.**

30 **(4) In addition to the civil penalty set forth in subsection (3) of this section, any person**
31 **that violates section 2 of this 2023 Act may be required by the commissioner to forfeit and**
32 **pay to the General Fund of the State Treasury a civil penalty in an amount determined by**
33 **the commissioner, but not to exceed the amount by which such person profited in any**
34 **transaction that violates section 2 of this 2023 Act.**

35 **(5) No person engaging in residential property wholesaling activity may maintain any suit**
36 **or action in any of the courts of this state to enforce any claim arising out of residential**
37 **property wholesaling activity without alleging and proving that the person was registered,**
38 **or exempt from registering, under section 3 of this 2023 Act.**

39 **(6) The civil penalty provisions of subsections (3) and (4) of this section are in addition**
40 **to and not in lieu of the criminal penalties for unregistered residential property wholesaling**
41 **activity provided by subsections (1) and (2) of this section.**

42 **(7) For the purposes of subsection (3) of this section, any violation of section 2 of this**
43 **2023 Act that results from a failure of a residential property wholesaler to renew their reg-**
44 **istration within the time allowed by law constitutes a single offense of residential property**
45 **wholesaling activity without registration for each 30-day period after the lapse of registration**

1 during which the individual engages in residential property wholesaling activity. A civil pen-
2 alty imposed for a violation of section 2 of this 2023 Act that results from a failure of a
3 residential property wholesaler to renew their registration within the time allowed by law is
4 not subject to the minimum dollar amounts specified in subsection (3) of this section.

5 (8) Subsection (4) of this section does not apply to a violation of section 2 of this 2023
6 Act that results from a failure of a residential property wholesaler to renew their registra-
7 tion within the time allowed by law.

8 (9) Subsection (4) of this section does not apply to a violation of section 2 of this 2023
9 Act that results from a failure of a residential property wholesaler to renew a license within
10 the time allowed by law.

11 (10) This section does not apply to escrow agents licensed under ORS 696.511 or to their
12 employees engaged in rendering escrow services in the performance of duties as an escrow
13 agent.

14 (11) Civil penalties under this section shall be imposed as provided in ORS 183.745.

15 **SECTION 9. Commissioner's order against unregistered residential property wholesaler.**

16 (1) Whenever the Real Estate Commissioner finds that a person is offering to engage in
17 residential property wholesaling activity without registering as a residential property whole-
18 saler and the person is required to register under section 2 of this 2023 Act, the commis-
19 sioner may, subject to ORS chapter 183, issue an order directing the person to cease and
20 desist from offering to engage in or engaging in residential property wholesaling activity.

21 (2) A cease and desist order issued under subsection (1) of this section must include:

22 (a) A statement of the facts constituting the violation.

23 (b) A provision requiring the person named in the order to cease and desist from the vi-
24 olation.

25 (c) The effective date of the order.

26 (d) A notice to the person named in the order of the right to a contested case hearing
27 under ORS chapter 183.

28 (3) A cease and desist order issued under subsection (1) of this section becomes effective
29 30 days after the date of the order unless the person named in the order requests a hearing
30 on the order.

31 **SECTION 10.** ORS 696.010 is amended to read:

32 696.010. As used in ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870, 696.990 and
33 696.995 and sections 1 to 9 of this 2023 Act, unless the context requires otherwise:

34 (1) "Associated with" means to be employed, engaged or otherwise supervised by, with respect
35 to the relationship between:

36 (a) A real estate broker and a principal real estate broker;

37 (b) A licensed real estate property manager and a principal real estate broker; or

38 (c) A licensed real estate property manager and another licensed real estate property manager.

39 (2) "Bank" includes any bank or trust company, savings bank, mutual savings bank, savings and
40 loan association or credit union that maintains a head office or a branch in this state in the capacity
41 of a bank or trust company, savings bank, mutual savings bank, savings and loan association or
42 credit union.

43 (3)(a) "Branch office" means a business location, other than the main office designated under
44 ORS 696.200, where professional real estate activity is regularly conducted or that is advertised to
45 the public as a place where professional real estate activity may be regularly conducted.

1 (b) Model units or temporary structures used solely for the dissemination of information and
2 distribution of lawfully required public reports shall not be considered branch offices. A model unit
3 means a permanent residential structure located in a subdivision or development used for such dis-
4 semination and distribution, so long as the unit is at all times available for sale, lease, lease option
5 or exchange.

6 (4) "Business day" means a day other than Saturday or Sunday or a federal or State of Oregon
7 legal holiday.

8 (5) "Commingle" means the mixing of funds from any source, including personal funds, with trust
9 funds as defined in ORS 696.241, by a licensed real estate property manager or principal real estate
10 broker, except as specifically authorized by this chapter.

11 (6) "Compensation" means valuable consideration for services rendered or to be rendered,
12 whether contingent or otherwise.

13 (7) "Competitive market analysis" means a method or process used by a real estate licensee in
14 pursuing a listing agreement or in formulating an offer to acquire real estate in a transaction for
15 the sale, lease, lease-option or exchange of real estate. The objective of competitive market analysis
16 is a recommended listing, selling or purchase price or a lease or rental consideration. A competitive
17 market analysis may be expressed as an opinion of the value of the real estate in a contemplated
18 transaction. Competitive market analysis may include but is not limited to an analysis of market
19 conditions, public records, past transactions and current listings of real estate.

20 (8) "Expired" means, in the context of a real estate licensee, that the license has not been re-
21 newed in a timely manner, but may still be renewed.

22 (9) "Inactive" means, in the context of a real estate licensee, that the licensee is not authorized
23 to engage in professional real estate activity. The inactive status of a license continues until the
24 license is reactivated or the license expires or lapses.

25 (10) "Lapsed" means, in the context of a real estate licensee, that the license has not been re-
26 newed in a timely manner and is not eligible for renewal.

27 (11) "Letter opinion" has the meaning given that term in ORS 696.294.

28 (12) "Licensed real estate property manager" means an individual who holds an active real es-
29 tate property manager's license issued under ORS 696.022.

30 (13) "Main office" means the office designated by a principal real estate broker or licensed real
31 estate property manager pursuant to ORS 696.200.

32 (14) "Management of rental real estate" means:

33 (a) Representing the owner of real estate under a property management agreement in the rental
34 or lease of the real estate and includes but is not limited to:

35 (A) Advertising the real estate for rent or lease;

36 (B) Procuring prospective tenants to rent or lease the real estate;

37 (C) Negotiating with prospective tenants;

38 (D) Accepting deposits from prospective tenants;

39 (E) Checking the qualifications and creditworthiness of prospective tenants;

40 (F) Charging and collecting rent or lease payments;

41 (G) Representing the owner in inspection or repair of the real estate;

42 (H) Contracting for repair or remodeling of the real estate;

43 (I) Holding trust funds or property received in managing the real estate and accounting to the
44 owner for the funds or property;

45 (J) Advising the owner regarding renting or leasing the real estate;

1 (K) Providing staff and services to accommodate the tax reporting and other financial or ac-
2 counting needs of the real estate;

3 (L) Providing copies of records of acts performed on behalf of the owner of the real estate; and

4 (M) Offering or attempting to do any of the acts described in this paragraph for the owner of
5 the real estate; or

6 (b) Representing a tenant or prospective tenant when renting or leasing real estate for which
7 a real estate property manager has a property management agreement with the owner of the real
8 estate and includes but is not limited to:

9 (A) Consulting with tenants or prospective tenants about renting or leasing real estate;

10 (B) Assisting prospective tenants in renting or leasing real estate;

11 (C) Assisting prospective tenants in qualifying for renting or leasing real estate;

12 (D) Accepting deposits or other funds from prospective tenants for renting or leasing real estate
13 and holding the funds in trust for the prospective tenants;

14 (E) Representing tenants or prospective tenants renting or leasing real estate; and

15 (F) Offering or attempting to do any of the acts described in this paragraph for a tenant or
16 prospective tenant.

17 (15) "Nonlicensed individual" means an individual:

18 (a) Who has not obtained a real estate license; or

19 (b) Whose real estate license is lapsed, expired, inactive, suspended, surrendered or revoked.

20 (16) "Principal real estate broker" means an individual who holds an active license as a princi-
21 pal real estate broker issued under ORS 696.022.

22 (17) "Professional real estate activity" means any of the following actions, when engaged in for
23 another and for compensation or with the intention or in the expectation or upon the promise of
24 receiving or collecting compensation, by any person who:

25 (a) Sells, exchanges, purchases, rents or leases real estate;

26 (b) Offers to sell, exchange, purchase, rent or lease real estate;

27 (c) Negotiates, offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or
28 leasing of real estate;

29 (d) Lists, offers, attempts or agrees to list real estate for sale;

30 (e) Offers, attempts or agrees to perform or provide a competitive market analysis or letter
31 opinion, to represent a taxpayer under ORS 305.239 or 309.100 or to give an opinion in any admin-
32 istrative or judicial proceeding regarding the value of real estate for taxation, except when the ac-
33 tivity is performed by a state certified appraiser or state licensed appraiser;

34 (f) Auctions, offers, attempts or agrees to auction real estate;

35 (g) Buys, sells, offers to buy or sell or otherwise deals in options on real estate;

36 (h) Engages in management of rental real estate;

37 (i) Purports to be engaged in the business of buying, selling, exchanging, renting or leasing real
38 estate;

39 (j) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange,
40 leasing or rental of real estate;

41 (k) Assists or directs in the negotiation or closing of any transaction calculated or intended to
42 result in the sale, exchange, leasing or rental of real estate;

43 (L) Except as otherwise provided in ORS 696.030 (12), advises, counsels, consults or analyzes in
44 connection with real estate values, sales or dispositions, including dispositions through eminent do-
45 main procedures;

1 (m) Advises, counsels, consults or analyzes in connection with the acquisition or sale of real
2 estate by an entity if the purpose of the entity is investment in real estate; or

3 (n) Performs real estate marketing activity as described in ORS 696.600.

4 (18) "Property management agreement" means a written contract for the management of rental
5 real estate between a real estate property manager and the owner of the rental real estate.

6 (19) "Real estate" includes leaseholds and licenses to use including, but not limited to, timeshare
7 estates and timeshare licenses as defined in ORS 94.803, as well as any and every interest or estate
8 in real property, whether corporeal or incorporeal, whether freehold or nonfreehold, whether held
9 separately or in common with others and whether the real property is situated in this state or
10 elsewhere.

11 (20) "Real estate broker" means an individual who holds an active license as a real estate bro-
12 ker issued under ORS 696.022.

13 (21) "Real estate licensee" means an individual who holds an active license or an active limited
14 license as a real estate broker, principal real estate broker or licensed real estate property manager.

15 (22) "Real estate property manager" means a real estate licensee who engages in the manage-
16 ment of rental real estate and is a licensed real estate property manager, a principal real estate
17 broker or a real estate broker who is associated with and supervised by a principal real estate
18 broker.

19 (23) "Registered business name" means a name registered with the Real Estate Agency under
20 which the individual registering the name engages in professional real estate activity.

21 **SECTION 11.** ORS 696.581 is amended to read:

22 696.581. (1) An escrow agent may not accept funds, property or documents in any escrow
23 transaction without dated, written escrow instructions from the principals to the transaction or a
24 dated executed agreement in writing between the principals to the transaction.

25 (2) Except as provided in this section, an escrow agent must follow dated, written escrow in-
26 structions executed by the principals or a dated executed written agreement between the principals
27 to a transaction.

28 (3) Except as provided in ORS 314.258, an escrow agent may not close an escrow or disburse
29 any funds or property in an escrow without obtaining dated, separate escrow instructions in writing
30 from the principals to the transaction adequate to administer and close the transaction or, in the
31 case of disbursement, to disburse the funds and property.

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

36 _____
37
38 It is understood by the parties signing the above or attached instructions that the instructions
39 are the complete instructions between this firm as an escrow agent and you as a principal to the
40 escrow transaction. These instructions may not include all the terms of the agreement which is the
41 subject of this escrow. Read these instructions carefully, and do not sign them unless they are ac-
42 ceptable to you.

43 _____
44
45 (5) An escrow agent may not solicit or accept any original, amended or supplemental escrow

1 instructions containing any blank to be filled in after signing. An escrow agent may not allow any
2 alteration of original, amended or supplemental escrow instructions, unless the alteration is signed
3 or initialed by all principals who signed or initialed the instructions before the alteration.

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

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

12 (8) Except as authorized in ORS 105.475 **and section 5 (4) of this 2023 Act**, notwithstanding the
13 requirement for dated, separate escrow instructions to close an escrow or disburse funds or property
14 in an escrow, an escrow agent:

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

17 (b) May not impose additional requirements on the principals to the transaction, including a
18 requirement that the principals sign a release of liability in favor of the escrow agent.

19 (9) Notwithstanding any provision of this section, an escrow agent may disburse funds, property
20 or documents deposited in escrow in accordance with an order of a court of competent jurisdiction.

21 **SECTION 12.** ORS 696.730 is amended to read:

22 696.730. Any court of competent jurisdiction, including a justice court, has full power to hear
23 any violation of ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.995 by an in-
24 dividual licensed under ORS 696.022, **and sections 1 to 9 of this 2023 Act**, and, upon finding a vi-
25 olation, the court may, at its discretion and in addition to the other penalties imposed, revoke the
26 license of the individual found to have violated any provision of ORS 696.010 to 696.495, 696.600 to
27 696.785, 696.800 to 696.870 and 696.995 **and sections 1 to 9 of this 2023 Act**. The clerk of the court
28 shall forward a copy of any order revoking a real estate license to the Real Estate Commissioner.

29 **SECTION 13.** **Sections 1 to 9 of this 2023 Act and the amendments to ORS 696.010, 696.581**
30 **and 696.730 by sections 10 to 12 of this 2023 Act apply to contracts entered into on or after**
31 **the effective date of this 2023 Act.**

32 **SECTION 14.** **The section captions used in this 2023 Act are provided only for the con-**
33 **venience of the reader and do not become part of the statutory law of this state or express**
34 **any legislative intent in the enactment of this 2023 Act.**

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