

HB 3092-1  
(LC 3299)  
3/6/23 (HE/ps)

Requested by Representative BREESE-IVERSON

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3092**

1 On page 1 of the printed bill, line 2, after “696.010” insert “, 696.581 and  
2 696.730”.

3 Delete lines 4 through 31 and delete pages 2 through 6 and insert:

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

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

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

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

13 **“(4) ‘Residential property wholesaling’ means to market residential**  
14 **property for which the marketer has only an equitable interest or an**  
15 **option to purchase and, at the time of 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**  
18 **costs associated with the residential property.**

19 **“SECTION 2. Registration requirement; exemptions. (1) Except as**  
20 **provided in subsections (4) and (6) of this section, a person may not**  
21 **engage in residential property wholesaling unless that person, or, if**

1 that person is an entity, the individual conducting residential property  
2 wholesaling activity on that person's behalf, is registered as a resi-  
3 dential property wholesaler under section 3 of this 2023 Act.

4 “(2) This section applies to every person who conducts residential  
5 property wholesaling related to property located in this state.

6 “(3) One act or transaction of residential property wholesaling is  
7 sufficient to constitute engaging in residential property wholesaling  
8 within the meaning of this section.

9 “(4) An individual licensed under ORS 696.022 may engage in resi-  
10 dential property wholesaling without registering as a residential prop-  
11 erty wholesaler only if that individual provides proper written  
12 disclosure to any potential buyers or sellers of all residential property  
13 wholesale transactions.

14 “(5) For purposes of this section, the Real Estate Agency shall es-  
15 tablish the standards for proper written disclosure requirements for  
16 individuals licensed under ORS 696.022 who engage in residential  
17 property wholesaling.

18 “(6) The requirement to register as a residential property wholesaler  
19 does not apply to a person:

20 “(a) Who is licensed under ORS 696.022 and is engaging in profes-  
21 sional real estate activity;

22 “(b) Who is an attorney at law rendering services in the perform-  
23 ance of duties as an attorney at law;

24 “(c) Who acts in the person's official capacity as a receiver, a  
25 conservator, a trustee in bankruptcy, a personal representative or a  
26 trustee, or a regular salaried employee of the trustee, acting under a  
27 deed of trust, will or trust agreement, provided that the trustee does  
28 not use the trust agreement as a device to engage in residential prop-  
29 erty wholesaling without obtaining the necessary registration;

30 “(d) Who acts as attorney in fact under a duly executed power of

1 attorney in which the authorized agent is the spouse of the principal,  
2 or the child, grandchild, parent, grandparent, sibling, aunt, uncle,  
3 niece or nephew of the principal or of the spouse of the principal, au-  
4 thORIZING real estate activity if the power of attorney is recorded in the  
5 office of the recording officer for the county in which the real estate  
6 to be sold, leased or exchanged is located; or

7 “(e) Who acts as attorney in fact under a duly executed power of  
8 attorney from the owner or purchaser authorizing the supervision of  
9 the closing of or supervision of the performance of a contract for the  
10 sale, lease or exchange of real estate if the power of attorney was ex-  
11 ecuted prior to July 1, 2002, in compliance with the requirements of  
12 law at the time of execution or if:

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

15 “(B) The power of attorney specifically describes the real estate;  
16 and

17 “(C) The person does not use the power of attorney as a device to  
18 engage in residential property wholesaling without obtaining the nec-  
19 essary registration.

20 “SECTION 3. Residential property wholesaler registration; require-  
21 ments; rules. (1) The Real Estate Agency may issue a residential  
22 property wholesaler registration only to an individual.

23 “(2) In accordance with any applicable provisions of ORS chapter  
24 183, the Real Estate Commissioner shall establish by rule a system to  
25 register residential property wholesalers. Such a system shall include  
26 but need not be limited to prescribing:

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

29 “(b) The term of the registration and the fee for the initial issuance  
30 and renewal in an amount that does not exceed the maximum amount

1 described in section 4 of this 2023 Act.

2 “(c) Those actions or circumstances that constitute failure to  
3 achieve or maintain registration or competency or that otherwise  
4 constitute a danger to the public interest and for which the commis-  
5 sioner may refuse to issue or renew or may suspend or revoke a reg-  
6 istration or may impose a penalty.

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

9 “(a) Certification that the applicant has a high school diploma or  
10 a certificate for passing an approved high school equivalency test such  
11 as the General Educational Development (GED) test or the interna-  
12 tional equivalent, or other equivalent education acceptable to the  
13 commissioner; and

14 “(b) Certification that the applicant is at least 18 years of age.

15 “(c) A list of all entities, business names and assumed business  
16 names under which the applicant has conducted or will conduct resi-  
17 dential property wholesaling activity, along with evidence that all  
18 business names and assumed business names are registered with the  
19 Secretary of State and all entities, including foreign entities, are au-  
20 thorized by the Secretary of State to transact business in this state.

21 “(4) Registration for residential property wholesalers shall be  
22 granted only if the applicant is trustworthy and competent to conduct  
23 residential property wholesaling in such manner as to safeguard the  
24 interests of the public and only after satisfactory proof has been pre-  
25 sented to the commissioner. As used in this subsection, ‘satisfactory  
26 proof’ includes but is not limited to a criminal records check of the  
27 applicant under ORS 181A.195. For the purpose of requesting a state  
28 or nationwide criminal records check under ORS 181A.195, the com-  
29 missioner may require the fingerprints of the applicant.

30 “SECTION 4. The Real Estate Commissioner, with the approval of

1 the Oregon Department of Administrative Services, may prescribe the  
2 fees that the Real Estate Agency may charge for activities listed under  
3 this section, subject to the following maximum amounts:

4 “(1) For initial issuance of residential property wholesaler registra-  
5 tion under section 3 of this 2023 Act, \$300; and

6 “(2) For renewal of residential property wholesaler registration un-  
7 der section 3 of this 2023 Act, \$300.

8 **“SECTION 5. Disclosure requirements. (1) Residential property**  
9 **wholesalers shall provide a residential property wholesaler written**  
10 **disclosure:**

11 “(a) To any potential buyers and sellers before entering into a  
12 written contract for a residential property wholesale transaction;

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

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

18 “(d) In all advertising related to the residential property that is the  
19 subject of a residential property wholesale transaction.

20 “(2) For purposes of this section, the Real Estate Agency shall es-  
21 tablish the standards for proper residential property wholesaler writ-  
22 ten disclosure requirements under this section. The disclosure must  
23 be in at least 10-point bold type, must contain information prescribed  
24 by the Real Estate Commissioner and at a minimum must state that  
25 the residential property wholesaler or, if applicable, the entity on be-  
26 half of which the residential property wholesaler is conducting resi-  
27 dential property wholesaling:

28 “(a) Is a residential property wholesaler;

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

30 “(c) Does not have legal title to the property and therefore might

1 be unable to directly transfer title to the buyer;

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

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

7 “(3) A seller or buyer who enters into a written contract for a res-  
8 idential property wholesale transaction may cancel the contract with-  
9 out penalty by delivery of a written notice of cancellation any time  
10 before 12 a.m. at the end of the third business day after the receipt  
11 of the residential property wholesaler written disclosure. The right of  
12 cancellation granted by this subsection may not be waived. Upon  
13 cancellation, all earnest money or deposits shall be returned to the  
14 person who provided the earnest money or deposit.

15 “(4) If the residential property wholesaler fails to provide a resi-  
16 dential property wholesaler written disclosure to the seller before en-  
17 tering into a written contract for a residential property wholesale  
18 transaction, the seller may terminate the contract at any time without  
19 penalty and retain any earnest money or deposit paid to the seller or  
20 deposited in escrow by the residential property wholesaler. An escrow  
21 agent may disburse the earnest money or deposit to the seller without  
22 the need for separate written instructions from the residential prop-  
23 erty wholesaler if:

24 “(a) The seller in writing asserts that the residential property  
25 wholesaler written disclosure was not provided to the seller before  
26 entering into the written contract for the residential property whole-  
27 sale transaction and demands disbursement to the seller of all deposits  
28 held by the escrow agent; and

29 “(b) The seller has provided the escrow agent with a written release  
30 and indemnification against all liability arising from the disbursement

1 of the earnest money and deposits to the seller.

2 “(5) If the residential property wholesaler fails to provide a resi-  
3 dential property wholesaler written disclosure to the seller or buyer,  
4 and if the purchase and sale agreement is terminated as a result, the  
5 wholesaler shall be liable for damages incurred by seller and buyer.

6 “(6) In any mediation or arbitration proceeding or civil action be-  
7 tween buyer and seller, between buyer and residential property  
8 wholesaler or between seller and residential property wholesaler that  
9 arises due to the residential property wholesaler’s failure to provide a  
10 residential property wholesaler written disclosure before entering into  
11 a written contract for a residential property wholesale transaction as  
12 prescribed under this section, the prevailing party is entitled to re-  
13 cover all reasonable attorney fees, costs and expenses incurred at trial,  
14 on appeal, at mediation and at arbitration from the residential prop-  
15 erty wholesaler.

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

23 “(1) Knowingly or negligently pursued a course of material misrep-  
24 resentation in matters related to residential property wholesaling,  
25 whether or not damage or injury resulted, or knowingly or negligently  
26 made any material misrepresentation or material false promise in a  
27 matter related to residential property wholesaling if the material  
28 misrepresentation or material false promise created a reasonable  
29 probability of damage or injury, whether or not damage or injury ac-  
30 tually resulted.

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

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

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

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

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

19       **“SECTION 8. Penalties. (1) Violation of any of the provisions of**  
20 **sections 2, 5 or 6 of this 2023 Act is a Class A misdemeanor.**

21       **“(2) Any officer, director, shareholder, member, manager or agent**  
22 **of a corporation, limited liability company, partnership or association,**  
23 **who personally participates in or is an accessory to any violation of**  
24 **sections 2, 5 or 6 of this 2023 Act by the corporation, limited liability**  
25 **company, partnership or association, is subject to the penalties pre-**  
26 **scribed in subsection (1) of this section.**

27       **“(3) Any person that violates section 2 of this 2023 Act may be re-**  
28 **quired by the Real Estate Commissioner to forfeit and pay to the**  
29 **General Fund of the State Treasury a civil penalty in an amount de-**  
30 **termined by the commissioner of:**



1       “(a) Not less than \$1,000 nor more than \$2,500 for the first offense  
2 of unregistered residential property wholesaling activity; and

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

6       “(4) In addition to the civil penalty set forth in subsection (3) of this  
7 section, any person that violates section 2 of this 2023 Act may be re-  
8 quired by the commissioner to forfeit and pay to the General Fund of  
9 the State Treasury a civil penalty in an amount determined by the  
10 commissioner, but not to exceed the amount by which such person  
11 profited in any transaction that violates section 2 of this 2023 Act.

12       “(5) No person engaging in residential property wholesaling activity  
13 may maintain any suit or action in any of the courts of this state to  
14 enforce any claim arising out of residential property wholesaling ac-  
15 tivity without alleging and proving that the person was registered, or  
16 exempt from registering, under section 3 of this 2023 Act.

17       “(6) The civil penalty provisions of subsections (3) and (4) of this  
18 section are in addition to and not in lieu of the criminal penalties for  
19 unregistered residential property wholesaling activity provided by  
20 subsections (1) and (2) of this section.

21       “(7) For the purposes of subsection (3) of this section, any violation  
22 of section 2 of this 2023 Act that results from a failure of a residential  
23 property wholesaler to renew their registration within the time al-  
24 lowed by law constitutes a single offense of residential property  
25 wholesaling activity without registration for each 30-day period after  
26 the lapse of registration during which the individual engages in resi-  
27 dential property wholesaling activity. A civil penalty imposed for a  
28 violation of section 2 of this 2023 Act that results from a failure of a  
29 residential property wholesaler to renew their registration within the  
30 time allowed by law is not subject to the minimum dollar amounts

1 specified in subsection (3) of this section.

2 “(8) Subsection (4) of this section does not apply to a violation of  
3 section 2 of this 2023 Act that results from a failure of a residential  
4 property wholesaler to renew their registration within the time al-  
5 lowed by law.

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

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

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

14 **“SECTION 9. Commissioner’s order against unregistered residential**  
15 **property wholesaler.** (1) Whenever the Real Estate Commissioner finds  
16 that a person is offering to engage in residential property wholesaling  
17 activity without registering as a residential property wholesaler and  
18 the person is required to register under section 2 of this 2023 Act, the  
19 commissioner may, subject to ORS chapter 183, issue an order direct-  
20 ing the person to cease and desist from offering to engage in or en-  
21 gaging in residential property wholesaling activity.

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

24 “(a) A statement of the facts constituting the violation.

25 “(b) A provision requiring the person named in the order to cease  
26 and desist from the violation.

27 “(c) The effective date of the order.

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

30 “(3) A cease and desist order issued under subsection (1) of this

1 **section becomes effective 30 days after the date of the order unless the**  
2 **person named in the order requests a hearing on the order.**

3 **“SECTION 10.** ORS 696.010 is amended to read:

4 “696.010. As used in ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to  
5 696.870, 696.990 and 696.995 **and sections 1 to 9 of this 2023 Act**, unless the  
6 context requires otherwise:

7 “(1) ‘Associated with’ means to be employed, engaged or otherwise super-  
8 vised by, with respect to the relationship between:

9 “(a) A real estate broker and a principal real estate broker;

10 “(b) A licensed real estate property manager and a principal real estate  
11 broker; or

12 “(c) A licensed real estate property manager and another licensed real  
13 estate property manager.

14 “(2) ‘Bank’ includes any bank or trust company, savings bank, mutual  
15 savings bank, savings and loan association or credit union that maintains a  
16 head office or a branch in this state in the capacity of a bank or trust  
17 company, savings bank, mutual savings bank, savings and loan association  
18 or credit union.

19 “(3)(a) ‘Branch office’ means a business location, other than the main of-  
20 fice designated under ORS 696.200, where professional real estate activity is  
21 regularly conducted or that is advertised to the public as a place where  
22 professional real estate activity may be regularly conducted.

23 “(b) Model units or temporary structures used solely for the dissemination  
24 of information and distribution of lawfully required public reports shall not  
25 be considered branch offices. A model unit means a permanent residential  
26 structure located in a subdivision or development used for such dissem-  
27 ination and distribution, so long as the unit is at all times available for sale,  
28 lease, lease option or exchange.

29 “(4) ‘Business day’ means a day other than Saturday or Sunday or a fed-  
30 eral or State of Oregon legal holiday.

1 “(5) ‘Commingle’ means the mixing of funds from any source, including  
2 personal funds, with trust funds as defined in ORS 696.241, by a licensed real  
3 estate property manager or principal real estate broker, except as specifically  
4 authorized by this chapter.

5 “(6) ‘Compensation’ means valuable consideration for services rendered  
6 or to be rendered, whether contingent or otherwise.

7 “(7) ‘Competitive market analysis’ means a method or process used by a  
8 real estate licensee in pursuing a listing agreement or in formulating an of-  
9 fer to acquire real estate in a transaction for the sale, lease, lease-option or  
10 exchange of real estate. The objective of competitive market analysis is a  
11 recommended listing, selling or purchase price or a lease or rental consid-  
12 eration. A competitive market analysis may be expressed as an opinion of the  
13 value of the real estate in a contemplated transaction. Competitive market  
14 analysis may include but is not limited to an analysis of market conditions,  
15 public records, past transactions and current listings of real estate.

16 “(8) ‘Expired’ means, in the context of a real estate licensee, that the li-  
17 cense has not been renewed in a timely manner, but may still be renewed.

18 “(9) ‘Inactive’ means, in the context of a real estate licensee, that the  
19 licensee is not authorized to engage in professional real estate activity. The  
20 inactive status of a license continues until the license is reactivated or the  
21 license expires or lapses.

22 “(10) ‘Lapsed’ means, in the context of a real estate licensee, that the li-  
23 cense has not been renewed in a timely manner and is not eligible for re-  
24 newal.

25 “(11) ‘Letter opinion’ has the meaning given that term in ORS 696.294.

26 “(12) ‘Licensed real estate property manager’ means an individual who  
27 holds an active real estate property manager’s license issued under ORS  
28 696.022.

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

1 “(14) ‘Management of rental real estate’ means:

2 “(a) Representing the owner of real estate under a property management

3 agreement in the rental or lease of the real estate and includes but is not

4 limited to:

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

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

7 “(C) Negotiating with prospective tenants;

8 “(D) Accepting deposits from prospective tenants;

9 “(E) Checking the qualifications and creditworthiness of prospective ten-

10 ants;

11 “(F) Charging and collecting rent or lease payments;

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

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

14 “(I) Holding trust funds or property received in managing the real estate

15 and accounting to the owner for the funds or property;

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

17 “(K) Providing staff and services to accommodate the tax reporting and

18 other financial or accounting needs of the real estate;

19 “(L) Providing copies of records of acts performed on behalf of the owner

20 of the real estate; and

21 “(M) Offering or attempting to do any of the acts described in this para-

22 graph for the owner of the real estate; or

23 “(b) Representing a tenant or prospective tenant when renting or leasing

24 real estate for which a real estate property manager has a property man-

25 agement agreement with the owner of the real estate and includes but is not

26 limited to:

27 “(A) Consulting with tenants or prospective tenants about renting or

28 leasing real estate;

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

30 “(C) Assisting prospective tenants in qualifying for renting or leasing real

1 estate;

2 “(D) Accepting deposits or other funds from prospective tenants for rent-  
3 ing or leasing real estate and holding the funds in trust for the prospective  
4 tenants;

5 “(E) Representing tenants or prospective tenants renting or leasing real  
6 estate; and

7 “(F) Offering or attempting to do any of the acts described in this para-  
8 graph for a tenant or prospective tenant.

9 “(15) ‘Nonlicensed individual’ means an individual:

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

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

13 “(16) ‘Principal real estate broker’ means an individual who holds an ac-  
14 tive license as a principal real estate broker issued under ORS 696.022.

15 “(17) ‘Professional real estate activity’ means any of the following actions,  
16 when engaged in for another and for compensation or with the intention or  
17 in the expectation or upon the promise of receiving or collecting compen-  
18 sation, by any person who:

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

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

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

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

24 “(e) Offers, attempts or agrees to perform or provide a competitive market  
25 analysis or letter opinion, to represent a taxpayer under ORS 305.239 or  
26 309.100 or to give an opinion in any administrative or judicial proceeding  
27 regarding the value of real estate for taxation, except when the activity is  
28 performed by a state certified appraiser or state licensed appraiser;

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

30 “(g) Buys, sells, offers to buy or sell or otherwise deals in options on real

1 estate;

2 “(h) Engages in management of rental real estate;

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

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

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

10 “(L) Except as otherwise provided in ORS 696.030 (12), advises, counsels,  
11 consults or analyzes in connection with real estate values, sales or dispo-  
12 sitions, including dispositions through eminent domain procedures;

13 “(m) Advises, counsels, consults or analyzes in connection with the ac-  
14 quisition or sale of real estate by an entity if the purpose of the entity is  
15 investment in real estate; or

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

17 “(18) ‘Property management agreement’ means a written contract for the  
18 management of rental real estate between a real estate property manager and  
19 the owner of the rental real estate.

20 “(19) ‘Real estate’ includes leaseholds and licenses to use including, but  
21 not limited to, timeshare estates and timeshare licenses as defined in ORS  
22 94.803, as well as any and every interest or estate in real property, whether  
23 corporeal or incorporeal, whether freehold or nonfreehold, whether held  
24 separately or in common with others and whether the real property is situ-  
25 ated in this state or elsewhere.

26 “(20) ‘Real estate broker’ means an individual who holds an active license  
27 as a real estate broker issued under ORS 696.022.

28 “(21) ‘Real estate licensee’ means an individual who holds an active li-  
29 cense or an active limited license as a real estate broker, principal real es-  
30 tate broker or licensed real estate property manager.

1 “(22) ‘Real estate property manager’ means a real estate licensee who  
2 engages in the management of rental real estate and is a licensed real estate  
3 property manager, a principal real estate broker or a real estate broker who  
4 is associated with and supervised by a principal real estate broker.

5 “(23) ‘Registered business name’ means a name registered with the Real  
6 Estate Agency under which the individual registering the name engages in  
7 professional real estate activity.

8 **“SECTION 11.** ORS 696.581 is amended to read:

9 “696.581. (1) An escrow agent may not accept funds, property or docu-  
10 ments in any escrow transaction without dated, written escrow instructions  
11 from the principals to the transaction or a dated executed agreement in  
12 writing between the principals to the transaction.

13 “(2) Except as provided in this section, an escrow agent must follow  
14 dated, written escrow instructions executed by the principals or a dated ex-  
15 ecuted written agreement between the principals to a transaction.

16 “(3) Except as provided in ORS 314.258, an escrow agent may not close  
17 an escrow or disburse any funds or property in an escrow without obtaining  
18 dated, separate escrow instructions in writing from the principals to the  
19 transaction adequate to administer and close the transaction or, in the case  
20 of disbursement, to disburse the funds and property.

21 “(4) The following statement or its substantial equivalent shall appear on  
22 or be attached to all written escrow instructions prepared by an escrow  
23 agent for signature of the principals to a transaction. The statement shall  
24 be in at least 10-point bold type. The statement shall either appear imme-  
25 diately above the signatures of the principals or be separately initialed by  
26 the principals:

27 “ \_\_\_\_\_

28 It is understood by the parties signing the above or attached instructions  
29 that the instructions are the complete instructions between this firm as an  
30 escrow agent and you as a principal to the escrow transaction. These in-



1 instructions may not include all the terms of the agreement which is the sub-  
2 ject of this escrow. Read these instructions carefully, and do not sign them  
3 unless they are acceptable to you.

4 “ \_\_\_\_\_  
5 “(5) An escrow agent may not solicit or accept any original, amended or  
6 supplemental escrow instructions containing any blank to be filled in after  
7 signing. An escrow agent may not allow any alteration of original, amended  
8 or supplemental escrow instructions, unless the alteration is signed or ini-  
9 tialized by all principals who signed or initialed the instructions before the  
10 alteration.

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

16 “(7) An escrow agent may open a one-sided escrow, as defined by rule by  
17 the Real Estate Commissioner, by receiving the funds, property or documents  
18 for an escrow. Such escrow funds may be disbursed with only the separate  
19 written instructions of the principal who deposited the funds into escrow.

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

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

26 “(b) May not impose additional requirements on the principals to the  
27 transaction, including a requirement that the principals sign a release of li-  
28 ability in favor of the escrow agent.

29 “(9) Notwithstanding any provision of this section, an escrow agent may  
30 disburse funds, property or documents deposited in escrow in accordance

1 with an order of a court of competent jurisdiction.

2 **“SECTION 12.** ORS 696.730 is amended to read:

3 “696.730. Any court of competent jurisdiction, including a justice court,  
4 has full power to hear any violation of ORS 696.010 to 696.495, 696.600 to  
5 696.785, 696.800 to 696.870 and 696.995 by an individual licensed under ORS  
6 696.022, **and sections 1 to 9 of this 2023 Act**, and, upon finding a violation,  
7 the court may, at its discretion and in addition to the other penalties im-  
8 posed, revoke the license of the individual found to have violated any pro-  
9 vision of ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and  
10 696.995 **and sections 1 to 9 of this 2023 Act**. The clerk of the court shall  
11 forward a copy of any order revoking a real estate license to the Real Estate  
12 Commissioner.

13 **“SECTION 13. Sections 1 to 9 of this 2023 Act and the amendments**  
14 **to ORS 696.010, 696.581 and 696.730 by sections 10 to 12 of this 2023 Act**  
15 **apply to contracts entered into on or after the effective date of this**  
16 **2023 Act.**

17 **“SECTION 14. The section captions used in this 2023 Act are pro-**  
18 **vided only for the convenience of the reader and do not become part**  
19 **of the statutory law of this state or express any legislative intent in**  
20 **the enactment of this 2023 Act.”.**

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