



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: February 20, 2024

TO: Chair Jama, Vice-Chair Anderson, and Members of the
Senate Committee On Housing and Development

FROM: Kimberly McCullough, Legislative Director
Oregon Department of Justice

SUBJECT: Support for HB 4058 – Real Estate Regulation

This testimony is presented in support of HB 4058, which will regulate residential property wholesaling, prohibit long-term predatory “future right to list” contracts, and require real estate agents to use written representation agreements for their services.

At the Oregon Department of Justice, we are committed to ensuring a safe and fair marketplace in Oregon. We help consumers with complaints, we prevent fraud, we enforce consumer protection laws and we invest in consumer education. And we view the provisions of this bill as commonsense consumer protections within the real estate industry.

Future Right to List Contracts

Our office—along with Attorney General offices across the country—has been closely monitoring a recent predatory scheme by some real estate firms to lock vulnerable homeowners into complicated, 40-year exclusive listing agreements that homeowners do not understand in exchange for a small one-time payment. These “future right to list” contracts allow the firms to charge a significant financial penalty to unwary homeowners who sell their homes without using the firm or to collect from heirs if the homeowner passes away. The right-to-list agreements can also impede or delay a homeowner from refinancing. This bill would protect homeowners against these kinds of practices by creating reasonable time limits on future right-to-list agreements and ensuring that licensees in Oregon cannot accept compensation for agreements that violate the law.

Written Representation Agreements

Buying or selling a home can be an intimidating and confusing endeavor for many consumers. Requiring written representation agreements between real estate agents and both buyers and sellers of real estate will help inform consumers about what services they can expect to receive, how their real estate agent will be compensated, and the duties and responsibilities the agent owes to the

consumer. These agreements will also promote up-front and honest conversations, facilitating the crucial communication that consumers need to fully understand the process of buying or selling a home. Additionally, prohibiting real estate agents from obtaining compensation that wasn't disclosed in writing will protect consumers from surprise expenses.

Wholesaling Regulation

Under Oregon law, real estate agents must follow an important set of licensing and regulatory requirements, which are designed to provide crucial consumer protections and to promote a healthy real estate market. Yet real estate wholesalers are not subject to Oregon's real estate licensing laws because they are not representing clients in a transaction. This bill will ensure wholesalers are subject to the same commonsense consumer protections that are applicable to real estate agents generally.