74th OREGON LEGISLATIVE ASSEMBLY - 2007 Regular Session **MEASURE:** **HB 2490 A**
STAFF MEASURE SUMMARY **CARRIER:** **Sen. Starr**
Senate Committee on Business, Transportation, and Workforce Development

REVENUE: No revenue impact
FISCAL: No fiscal impact

Action:		Do Pass the A-Engrossed Measure
Vote:		5 - 0 - 0
	Yeas:	Deckert, George L., Monnes Anderson, Starr, Metsger
	Nays:	0
	Exc.:	0
Prepared By:		Janet Adkins, Administrator
Meeting Dates:		5/7

WHAT THE MEASURE DOES: Allows escrow agents to disburse deposited earnest money based on an agreement of the principals of a real estate transaction that is executed after the initial sales agreement. Prohibits escrow agents from imposing additional requirements, including a requirement that the principals sign a liability release in favor of the agent.

ISSUES DISCUSSED:
- Examples of situations that arise when a real estate sales transaction is terminated and earnest money is involved
- Examples of forms used by title companies for closing an escrow
- Delay that can result from failure to sign additional agreement

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: A prospective buyer often places “earnest money” in escrow as evidence of good faith in conjunction with a purchase offer. Earnest money includes items such as closing costs, lender’s fees, and recording fees, and is managed by an escrow agent, a neutral third party responsible for holding earnest money in trust for the principals of the transaction (buyer and seller) until all of the conditions of the sales contract have been met. Under current statute, an escrow agent cannot close an escrow or disburse any earnest money without the buyer and seller signing separate forms, which adequately administer and close the transaction; or, in the case of disbursement, to disburse the funds and property. There are different interpretations as to handling earnest money when the escrow is canceled and variation in the forms that title companies use to cancel an escrow. Some forms include language that releases the title company from any liability.

House Bill 2490-A clarifies that a termination agreement of the parties after the initial sales agreement may authorize disbursement of earnest money. The measure prohibits escrow agents from imposing additional requirements on the transaction’s principals, including requiring the transaction’s principals to sign a liability release form.