

Enrolled
House Bill 4103

Sponsored by Representatives BREESE-IVERSON, ZIKA, MEEK; Representatives GOODWIN, HAYDEN, HIEB, HOLVEY, LEVY, MOORE-GREEN, MORGAN, NOSSE, WEBER (Pre-session filed.)

CHAPTER

AN ACT

Relating to real estate activity; creating new provisions; and amending ORS 696.990.

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

SECTION 1. ORS 696.990 is amended to read:

696.990. (1) Violation of any provision of ORS 696.010 to 696.130, 696.200, 696.205, 696.241 to 696.375, 696.392, 696.395 to 696.430, 696.490, 696.600 to 696.785 and 696.995 is a Class A misdemeanor.

(2) Any officer, director or shareholder or agent of a corporation, or member or agent of a partnership or association, who personally participates in or is an accessory to any violation of ORS 696.010 to 696.130, 696.200, 696.205, 696.241 to 696.375, 696.392, 696.395 to 696.430, 696.490, 696.600 to 696.785 and 696.995 by the partnership, association or corporation, is subject to the penalties prescribed in subsection (1) of this section.

(3) A violation of any one of the provisions of ORS 696.505 to 696.590 is a Class A misdemeanor.

(4) Any person that violates ORS 696.020 (2) may be required by the Real Estate Commissioner to forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the commissioner of:

(a) Not less than [~~\$100~~] **\$1,000** nor more than [~~\$500~~] **\$2,500** for the first offense of unlicensed professional real estate activity; and

(b) Not less than [~~\$500~~] **\$2,500** nor more than [~~\$1,000~~] **\$5,000** for the second and subsequent offenses of unlicensed professional real estate activity.

(5) In addition to the civil penalty set forth in subsection (4) of this section, any person that violates ORS 696.020 may be required by the commissioner to forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the commissioner but not to exceed the amount by which such person profited in any transaction that violates ORS 696.020.

(6)(a) Except as provided in paragraph (b) of this subsection, a real estate licensee who is a real estate property manager or principal real estate broker and who is engaging in or who has engaged in the management of rental real estate may be required to forfeit and pay to the General Fund of the State Treasury a civil penalty of up to \$1,000 per day of violation, or a lesser penalty in an amount determined by the commissioner, if the licensee fails to comply with rules that require the licensee to produce for inspection records related to the management of rental real estate that are maintained by the licensee as provided by ORS 696.280.

(b) A civil penalty imposed under this subsection may not exceed \$10,000.

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

(8) The civil penalty provisions of subsections (4) to (6) of this section are in addition to and not in lieu of the criminal penalties for unlicensed professional real estate activity in subsections (1) and (2) of this section.

(9) For the purposes of subsection (4) of this section, any violation of ORS 696.020 (2) that results from a failure of a real estate licensee to renew a license within the time allowed by law constitutes a single offense of unlicensed professional real estate activity for each 30-day period after expiration of the license during which the individual engages in professional real estate activity. A civil penalty imposed for a violation of ORS 696.020 (2) that results from a failure of a real estate licensee to renew a license within the time allowed by law is not subject to the minimum dollar amounts specified in subsection (4) of this section.

(10) Subsection (5) of this section does not apply to a violation of ORS 696.020 (2) that results from a failure of a real estate licensee to renew a license within the time allowed by law.

SECTION 2. The amendments to ORS 696.990 by section 1 of this 2022 Act apply to offenses committed on or after the effective date of this 2022 Act.

Passed by House February 17, 2022

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate February 25, 2022

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2022

Approved:

.....M.,....., 2022

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2022

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Shemia Fagan, Secretary of State