

HB 4058 A STAFF MEASURE SUMMARY

Senate Committee On Housing and Development

Prepared By: Kevin Rancik, LPRO Analyst

Meeting Dates: 2/20, 2/22

WHAT THE MEASURE DOES:

The measure defines residential property wholesaling, and requires individuals engaging in it to register with a system created by the Real Estate Commissioner. It requires real estate licensees representing sellers to act under listing agreements, and those representing buyers to act under representation agreements. It defines a “future right to list contract” and prohibits real estate licensees from participating in them in specified conditions.

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact

House Vote: Ayes, 60; Nays, 0

Detailed Summary:

Directs the Real Estate Commissioner to establish a system for registering residential property wholesalers, and directs the Real Estate Agency to issue registrations, collect fees, and establish standards for and use of written disclosures. Defines the act of “residential property wholesaling” as marketing residential property for which the wholesaler has held only an equitable interest or option to purchase for fewer than 90 days, and has invested less than \$10,000 in improvements. Sets minimum qualifications for registration. Provides conditions for seller or buyer right of cancellation and awarding of attorney fees. Sets penalties for noncompliance and allows the Commissioner to revoke a registration. Specifies exceptions. Sets an operative date of July 1, 2025, and applies measure’s provisions to contracts entered into on or after that date.

Requires a real estate licensee representing a seller to act under a written listing agreement with the seller, and those representing a buyer to act under a written representation agreement with the buyer. Exempts improved properties and those available for improvement by commercial structures or five or more residential dwelling units. Defines “future right to list contract” as a contract granting a right to list, or refer to another for listing, residential real estate for sale in the future. Prohibits real estate licensees from entering into a future right to list agreement or contract if the contract: exceeds 24 months; is binding on the land or future property owners; creates a lien, encumbrance or other real property security interest; or gives the right to provide service without notice to or consent of a residential property owner. Exempts contracts between licensees and corporations, limited liability companies, or partnerships.

ISSUES DISCUSSED:

- Prevalence and impact of long-term right to list contracts
- Retroactive applicability of provisions
- Clarification between real estate agents and wholesalers

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Real estate wholesaling is the process in which a wholesaler obtains a temporary contract on a property from the property’s seller, and then identifies an investor to whom to sell the contract. In a wholesaling transaction, the wholesaler does not assume ownership of the property in question. Residential property wholesaling in Oregon is

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legal, and is not currently regulated by the state’s Real Estate Licensing Laws (ORS Chapter 696).

Distressed properties or homes in disrepair are often sought after by wholesalers due to a seller’s desire to sell quickly. A March 2023 [report](#) from Drexel University found that in the Philadelphia market, homes sold through wholesalers, and transactions not first listed on the Multiple Listing Service, yielded lower home sale prices – averaging up to a \$126,000 difference per home. In its [Regulatory Trends Update](#) from Spring 2022, the Oregon Real Estate Agency notes they receive complaints from home sellers who enter into contracts but later see their properties listed at a higher price, and that there is consumer confusion about the practice.