

**HB 4058 A STAFF MEASURE SUMMARY**  
**House Committee On Housing and Homelessness**

**Carrier:** Rep. Breese-Iverson

**Action Date:** 02/13/24

**Action:** Do pass with amendments. (Printed A-Eng.)

**Vote:** 11-0-0-0

**Yeas:** 11 - Boice, Breese-Iverson, Cate, Dexter, Fahey, Gamba, Hartman, Helm, Javadi, Levy E, Wright

**Fiscal:** Has minimal fiscal impact

**Revenue:** No revenue impact

**Prepared By:** Claire Adamsick, LPRO Analyst

**Meeting Dates:** 2/6, 2/13

**WHAT THE MEASURE DOES:**

The measure prohibits residential property wholesaling without registration, with certain exceptions. Directs the Real Estate Commissioner to implement the registration system, establish fees and standards for disclosure requirements, and impose certain penalties for noncompliance. Requires that a real estate licensee enter into a listing agreement with a seller, or a representation agreement with a buyer, and prohibits real estate agents from entering into a long-term agreement with a buyer or seller that requires the use of the agent’s services in the future.

Detailed Summary:

**Prohibits residential property wholesaling without registration**, with certain exceptions. Defines “residential property wholesaling” as marketing for sale the purchase of residential property for which the wholesaler has only equitable interest or an option to purchase for fewer than 90 days and has invested less than \$10,000 in the property’s land development or improvement costs. Clarifies that the registration requirement does not apply to real estate brokers and property managers licensed under ORS 696.022; individuals acting as attorneys under power of attorney; or individuals acting under a will or trust agreement.

Directs the Real Estate Commissioner to establish a **registration system for residential property wholesalers** including specific provisions. Describes the educational and background check requirements necessary for commissioner approval of an applicant’s registration. Allows the Real Estate Agency to charge a fee of no more than \$300 for an initial residential property wholesaler registration and no more than \$300 for registration renewal.

Directs the Real Estate Agency to establish standards for **disclosure requirements** of real estate licensees who engage in residential property wholesaling. Requires a residential property wholesaler to provide written disclosure to potential buyers or sellers before entering into a contract for residential property wholesale transaction; provides grounds under which buyer or seller may terminate a contract. Allows the Real Estate Commissioner to **suspend, revoke, or deny issuance or renewal of registration** of a residential property wholesaler for misrepresentation, fraud, or acting in bad faith. Describes the criminal or civil penalties the Real Estate Commissioner may impose if an applicant knowingly violates registration or disclosure requirements.

Applies the provisions related to residential property wholesaling to contracts entered into on or after July 1, 2025.

Requires a real estate licensee representing a seller to act under a **listing agreement** with the seller, authorizing the agent to act on behalf of the seller in offering the real property for sale. Requires a real estate licensee representing a buyer to act under a **representation agreement** with the buyer in purchasing or identifying real property for purchase. Transactions for properties that are commercial structures or have five or more residential

## **HB 4058 A STAFF MEASURE SUMMARY**

dwelling units are exempt from representation and listing agreement requirements. Prohibits real estate licensees from entering into a **future right to list** agreement or contract that requires the buyer or seller to use the agent's services in the future, 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.

### **ISSUES DISCUSSED:**

- Lack of regulation on wholesaling in Oregon
- Current ability of wholesalers to operate outside of real estate licensing laws
- Avoids long-term listing contracts
- Impacts of wholesaling practice on older Oregonians who own homes

### **EFFECT OF AMENDMENT:**

The amendment clarifies penalties for a person or entity that knowingly violates registration or disclosure requirements. It expands restrictions on future right to list contracts.

#### Detailed Summary:

Clarifies that a violation of registration disclosure requirements is a Class A misdemeanor when a party knowingly violates those provisions as prescribed by the Act. Expands restrictions on a future right to list contract to contracts that are: binding on the land or future property owners; create a lien, encumbrance or other real property security interest; or give the right to provide service without notice to or consent of a residential property owner. Adds a reference to “contract” to clarify that real estate licensees are prohibited from entering into either a representation agreement or contract with a buyer that requires the buyer to use the agent’s services in the future.

### **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 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 on [investor-purchased homes](#) in Philadelphia found that homes sold through a wholesaler in that market yielded a lower home sale price – averaging up to a \$126,000 difference per home.