



## **RESIDENTIAL PROPERTY WHOLESALER WRITTEN DISCLOSURE**

*The person providing this disclosure is a real estate licensee (Real Estate Broker, Principal Broker, or Property Manager) engaging in residential property wholesaling.*

Residential Property Wholesaling means marketing residential property for which the real estate licensee has only an equitable interest or an option to purchase and, at the time of marketing, has held such interest or option for fewer than 90 days and invested less than \$10,000 in land development or improvement costs associated with the residential property.

A real estate licensee engaging in Residential Property Wholesaling shall provide this disclosure:

- To any potential buyers and sellers before entering into a written contract for a residential property wholesale transaction;
- To any Broker or Principal Broker who is engaged to assist the property wholesaler in marketing or listing the property;
- To any Broker or Principal Broker who is assisting a potential buyer in purchasing the property; and
- In all advertising related to the property that is the subject of a residential property wholesale transaction.

### **The real estate licensee:**

- **Will only have or only has an equitable interest in the property being sold.**
- **Will not have or does not have legal title to the property and therefore may not be able to directly transfer title to the buyer.**
- **Might not be a licensed appraisal specialist and therefore might not be permitted to provide an opinion as to the value of the property.**

**DEFINITION OF EQUITABLE INTEREST** A person who has an "Equitable interest" in a property means someone that has contracted with the current owner for the right to buy the property at a later date even though they don't have legal title. The contract may allow the equitable interest holder to sell or transfer the right to purchase the property to someone else prior to close of escrow.

**ASSIGNMENT OF INTEREST** A real estate licensee engaging in wholesaling may assign equitable interest to another party prior to closing for profit.

**RIGHT OF CANCELLATION** A seller or buyer who enters into a written contract for a residential property wholesale transaction may cancel the contract without penalty by delivery of a written notice of cancellation any time before 12 midnight at the end of the third business day after the receipt of the Residential Property Wholesaler Written Disclosure. The right of cancellation may not be waived. Upon cancellation, all earnest money or deposits shall be returned to the person who provided the earnest money or deposit.

**CONSEQUENCES OF NON-DISCLOSURE TO SELLER** If the real estate licensee fails to provide a Residential Property Wholesaler Written Disclosure to the seller before entering into a written contract for a residential property wholesale transaction, the seller may terminate the contract at any time without penalty and retain any earnest money or deposit paid to the seller or deposited in escrow by the real estate licensee.

An escrow agent may disburse the earnest money or deposit to the seller without the need for separate written instructions from the real estate licensee if:

- The seller in writing asserts that the Residential Property Wholesaler Written Disclosure was not provided to the seller before entering into the written contract for the residential property wholesale transaction and demands disbursement to the seller of all deposits held by the escrow agent; and
- The seller has provided the escrow agent with a written release and indemnification against all liability arising from the disbursement of the earnest money and deposits to the seller.

**LIABILITY FOR DAMAGES** If the real estate licensee fails to provide a Residential Property Wholesaler Written Disclosure to the seller or buyer, and if the purchase and sale agreement is terminated as a result, the real estate licensee shall be liable for damages incurred by seller and buyer.

**LEGAL PROCEEDINGS AND RECOVERY OF COSTS** In any mediation or arbitration proceeding or civil action between buyer and seller, between buyer and real estate licensee or between seller and real estate licensee that arises due to the real estate licensee's failure to provide a Residential Property Wholesaler Written Disclosure before entering into a written contract for a residential property wholesale transaction as prescribed under this section, the prevailing party is entitled to recover all reasonable attorney fees, costs and expenses incurred at trial, on appeal, at mediation and at arbitration from the real estate licensee.

**How to file a complaint.** If you believe a real estate licensee or residential property wholesaler has violated any governing statute or rule, you may file a complaint with the Oregon Real Estate Agency (OREA). OREA will review the complaint. In most cases, other people involved in the case, including the respondent, will be contacted. Based on the information received, OREA will determine whether to start an investigation.

Oregon Real Estate Agency  
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