

**A-Engrossed**  
**House Bill 2740**

Ordered by the House April 15  
Including House Amendments dated April 15

Sponsored by COMMITTEE ON TRANSPORTATION

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Prohibits motor vehicle broker from collecting nonrefundable earnest money deposit without written contract with buyer. Modifies definition of broker.]*

**Requires that motor vehicle broker, upon entering into brokerage services agreement with buyer or lessee, provide specified information regarding fees, deposits and responsibility for warranty service work.**

**Prohibits broker from collecting fee for services from both buyer and seller or both lessor and lessee for same transaction. Requires broker, if broker maintains dealer inventory, to inform buyer or lessee whether broker is acting as broker or dealer for transaction.**

**A BILL FOR AN ACT**

1  
2 Relating to motor vehicle brokers; creating new provisions; and amending ORS 822.047.

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

4 **SECTION 1.** ORS 822.047 is amended to read:

5 822.047. *[(1) A broker may not collect a nonrefundable fee from a buyer unless the broker has a*  
6 *written contract with the buyer that includes:]*

7 *[(a) A description of the specific services to be provided by the broker;]*

8 *[(b) A description of the fees the broker will charge, including any fee that is required to be paid*  
9 *before the motor vehicle is delivered to the buyer; and]*

10 *[(c) A statement of whether or not the broker is responsible for warranty service work on the motor*  
11 *vehicle.]*

12 *[(2) A broker may not calculate any fee charged to the buyer as a percentage of the savings*  
13 *achieved by the broker for the buyer on the purchase of the motor vehicle.]*

14 *[(3) When representing a buyer, a broker must act only as an agent for the buyer but may receive*  
15 *a fee in connection with the transaction.]*

16 *[(4) As used in this section, "broker" means any person who, for commercial purposes, negotiates*  
17 *on behalf of a buyer the purchase of a motor vehicle from another motor vehicle dealer.]*

18 **(1) As used in this section:**

19 **(a) "Brokerage services" means the arrangements or negotiations conducted by a motor**  
20 **vehicle broker for the purpose of obtaining a motor vehicle for a buyer or lessee from a seller**  
21 **or lessor through a method that does not include:**

22 **(A) Accepting the motor vehicle on consignment;**

23 **(B) If the motor vehicle broker has a franchise as defined in ORS 650.120, exchanging new**  
24 **motor vehicles with another motor vehicle dealer who has a franchise that is with the same**  
25 **franchisor as the motor vehicle broker; or**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (C) Receiving a referral fee from another motor vehicle dealer for referring a buyer or  
2 lessee when the motor vehicle broker did not participate in the arrangement or negotiation  
3 for the sale or lease of the motor vehicle.

4 (b) "Motor vehicle broker" means a person who holds a valid, current vehicle dealer  
5 certificate issued under ORS 822.020 and who receives a fee for acting on behalf of a buyer  
6 or lessee to arrange or negotiate the purchase or sale of a motor vehicle between a buyer  
7 and a seller, or the lease of a motor vehicle between a lessee and a lessor.

8 (2) At the time of entering into an agreement to provide brokerage services, a motor  
9 vehicle broker shall provide the buyer or lessee with a written disclosure that includes:

10 (a) A description of the specific brokerage services to be provided by the motor vehicle  
11 broker;

12 (b) A description of the fees the motor vehicle broker will charge for the brokerage ser-  
13 vices and a description of any deposits that are required to be paid before the motor vehicle  
14 is delivered to the buyer or lessee;

15 (c) A description of how the motor vehicle broker will charge and collect the fees and  
16 deposits described in paragraph (b) of this subsection; and

17 (d) A statement of whether or not the motor vehicle broker is responsible for warranty  
18 service work on the motor vehicle.

19 (3) In addition to the written disclosure required under subsection (2) of this section, a  
20 motor vehicle broker shall provide a statement to the buyer or lessee if the motor vehicle  
21 broker adds a fee for brokerage services to the purchase price or capitalized cost of the  
22 motor vehicle and the fee was negotiated with the seller or lessor on behalf of the buyer or  
23 lessee. The statement required under this subsection must:

24 (a) Inform the buyer or lessee that fees for brokerage services have been added to the  
25 purchase price or capitalized cost;

26 (b) State that the fees for brokerage services will be paid to the motor vehicle broker by  
27 the seller or lessor; and

28 (c) Be clear and conspicuous in not less than 14-point bold type.

29 (4) A motor vehicle broker may not:

30 (a) Calculate any fee charged to the buyer or lessee as a percentage of the savings  
31 achieved by the motor vehicle broker for the buyer or lessee on the purchase or lease of the  
32 motor vehicle;

33 (b) Collect from both the buyer and seller or both the lessee and lessor a fee for bro-  
34 kerage services that are for the same transaction;

35 (c) Represent that the motor vehicle broker is providing a free service to the buyer or  
36 lessee, unless the motor vehicle broker has not received and will not receive any compen-  
37 sation from the transaction; or

38 (d) If the fee for the brokerage services will be paid out of the proceeds of the purchase  
39 or lease, make any representation that could cause a buyer or lessee to believe that the  
40 motor vehicle broker will be compensated by the seller or lessor for the transaction.

41 (5) When representing a buyer or lessee, a motor vehicle broker shall act only as an  
42 agent for the buyer or lessee.

43 (6) If a motor vehicle broker maintains a dealer inventory, the motor vehicle broker:

44 (a) Shall inform the buyer or lessee whether or not the broker is acting as a broker or  
45 dealer for the transaction; and

1       **(b) May not do any of the following if the motor vehicle broker entered into an agreement**  
2 **to act as a broker on behalf of the buyer or lessee and later negotiated to sell or lease a**  
3 **motor vehicle from the broker's dealer inventory to the buyer or lessee:**

4       **(A) Act as an agent for or represent the buyer or lessee;**

5       **(B) Charge the buyer or lessee a fee for brokerage services;**

6       **(C) Purchase or lease a motor vehicle on behalf of a buyer or lessee and then sell or lease**  
7 **that vehicle to the buyer or lessee as a motor vehicle dealer; or**

8       **(D) Sell a motor vehicle to a buyer or lease a motor vehicle to a lessee, unless the motor**  
9 **vehicle broker provides the buyer or lessee with a clear and conspicuous written disclosure**  
10 **that is signed by the buyer or lessee and that states the following:**

11       **(i) The motor vehicle broker is no longer acting as the agent for the buyer or lessee for**  
12 **the purposes of the sale or lease; and**

13       **(ii) The motor vehicle broker is acting as a motor vehicle dealer with whom the buyer**  
14 **or lessee is free to negotiate the purchase price or lease terms of the motor vehicle.**

15       **SECTION 2. The amendments to ORS 822.047 by section 1 of this 2005 Act apply to broker**  
16 **transactions on or after the effective date of this 2005 Act.**

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