

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 973

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to certain disclosures by a real estate wholesaler.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.3600, to read as follows:

407.3600. 1. For purposes of this section, the following terms mean:

(1) "Residential real property", real property that is improved by a building or other structure that has one to four dwelling units;

(2) "Wholesaler", a person or entity that for a fee, commission, or other valuable consideration, or with the intention, expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, enters into a purchase contract for residential real property either:

(a) As the grantee, and assigns or novates the contract to another person or entity; or

(b) As the grantor, and, without holding legal title to the real property, assigns or novates the contract to another person or entity.

"Wholesaler" shall not include:

a. An individual who assigns or novates the contract to another individual who is related by blood; or

b. A person or entity that assigns or novates the contract to a parent, affiliate, subsidiary, or affiliated group under common control with the person or entity.

2. Not less than fourteen calendar days before entering into a contract that transfers an interest in residential real property, a wholesaler acting as a grantee or a wholesaler's representative, if applicable, shall provide to the record owner a written disclosure statement, separate from the purchase contract or agreement, printed in boldface type font size not less than twelve points, that contains the following disclosure:

"Missouri law requires a wholesaler acting as a grantee, before entering into a contract or agreement that conveys an interest in residential real property, to provide certain information to the record owner in a conspicuous manner printed in boldface type font size not less than twelve points. Failure by a wholesaler to present or complete this form shall be considered an unlawful and unfair practice under the Missouri Merchandising Practices Act. Any person who enters into an agreement that conveys an interest in residential real property to a wholesaler acting as a grantee without receiving this disclosure has a cause of action against the wholesaler. A wholesaler acting as a grantee is prohibited from entering into a binding contract to acquire an interest in residential real property unless this statement is signed and dated by the record owner of the property.

The owner acknowledges that the person presenting this document is a wholesaler, as defined in section 407.3600 of the Revised Statutes of Missouri, and that the owner is advised to seek legal advice before entering into any agreement or contract with the wholesaler. A wholesaler is acting on the wholesaler's own behalf and does not represent the owner in this transaction. A

wholesaler enters assignable contracts with owners and seeks to sell or assign the wholesaler's interest for a profit. The wholesaler may assign the wholesaler's interest in the purchase contract to a third party without the owner's consent before closing. The wholesaler may charge a fee to the third-party buyer separately for profit. The agreed purchase price between the owner and wholesaler may be below market value and is conveyed voluntarily.

The owner acknowledges disclosure of the information provided in this form by signing and dating below:

(Property owner signature) (date)  
(Wholesaler signature) (date)."

3. A wholesaler acting as the grantee shall not enter into a binding contract that transfers an interest in residential real property until both the wholesaler and the record owner of the property sign and date the disclosure statement required under subsection 2 of this section.

4. If a wholesaler acting as the grantee fails to make the disclosures required under subsection 2 of this section before entering into a binding contract that transfers an interest in residential real property, the record owner of the residential real property may cancel the contract at any time prior to the close of escrow without penalty and the escrow or closing agent shall disburse any earnest money paid by the wholesaler to the record owner within thirty days after such cancellation.

5. Provisions of this section shall not be modified or waived by any oral or written agreement. Any portion of an agreement that is executed, modified, or extended after the

effective date of this section that modifies or waives any provision of this section shall be null and void.

6. Any violation of this section shall be considered an unlawful practice under the Missouri merchandising practices act under this chapter. A party that enters into an agreement without receiving the disclosures required under subsection 2 of this section may bring a private action against a wholesaler.

7. The attorney general shall have the authority to enforce the provisions of this section. If the attorney general finds that a violation occurred, the attorney general may commence a civil action in a court of competent jurisdiction. If the court finds that a violation occurred, the court may grant damages, injunctive relief, attorney fees, and any such other relief the court finds appropriate.