

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 973

103RD GENERAL ASSEMBLY

4981S.03C

KRISTINA MARTIN, Secretary

AN ACT

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

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

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

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

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

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

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

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

17 "Wholesaler" shall not include:

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

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

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

31 "Missouri law requires a wholesaler acting as
32 a grantee, before entering into a contract or
33 agreement that conveys an interest in
34 residential real property, to provide certain
35 information to the record owner in a
36 conspicuous manner printed in boldface type
37 font size not less than twelve points.
38 Failure by a wholesaler to present or complete
39 this form shall be considered an unlawful and
40 unfair practice under the Missouri
41 Merchandising Practices Act. Any person who
42 enters into an agreement that conveys an
43 interest in residential real property to a
44 wholesaler acting as a grantee without
45 receiving this disclosure has a cause of
46 action against the wholesaler. A wholesaler
47 acting as a grantee is prohibited from
48 entering into a binding contract to acquire an
49 interest in residential real property unless
50 this statement is signed and dated by the
51 record owner of the property.

52 The owner acknowledges that the person
 53 presenting this document is a wholesaler, as
 54 defined in section 407.3600 of the Revised
 55 Statutes of Missouri, and that the owner is
 56 advised to seek legal advice before entering
 57 into any agreement or contract with the
 58 wholesaler. A wholesaler is acting on the
 59 wholesaler's own behalf and does not represent
 60 the owner in this transaction. A wholesaler
 61 enters assignable contracts with owners and
 62 seeks to sell or assign the wholesaler's
 63 interest for a profit. The wholesaler may
 64 assign the wholesaler's interest in the
 65 purchase contract to a third party without the
 66 owner's consent before closing. The
 67 wholesaler may charge a fee to the third-party
 68 buyer separately for profit. The agreed
 69 purchase price between the owner and
 70 wholesaler may be below market value and is
 71 conveyed voluntarily.

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

75 _____ (Property owner signature) ____
 76 (date)

77 _____ (Wholesaler signature) ____ (date)."

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

83 4. If a wholesaler acting as the grantee fails to make
 84 the disclosures required under subsection 2 of this section
 85 before entering into a binding contract that transfers an

86 interest in residential real property, the record owner of
87 the residential real property may cancel the contract at any
88 time prior to the close of escrow without penalty and the
89 escrow or closing agent shall disburse any earnest money
90 paid by the wholesaler to the record owner within thirty
91 days after such cancellation.

92 5. Provisions of this section shall not be modified or
93 waived by any oral or written agreement. Any portion of an
94 agreement that is executed, modified, or extended after the
95 effective date of this section that modifies or waives any
96 provision of this section shall be null and void.

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

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

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