

SENATE BILL NO. 973

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

4981S.02I

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

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

49 The owner acknowledges that the person presenting
50 this document is a wholesaler, as defined in
51 section 407.3600 of the Revised Statutes of
52 Missouri, and that the owner is advised to seek
53 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.

87 5. Provisions of this section shall not be modified or
88 waived by any oral or written agreement. Any portion of an
89 agreement that is executed, modified, or extended after the
90 effective date of this section that modifies or waives any
91 provision of this section shall be null and void.

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

98 7. The attorney general shall enforce provisions of
99 this section. If the attorney general finds that a
100 violation occurred, the attorney general shall commence a
101 civil action in a court of competent jurisdiction. If the
102 court finds that a violation occurred, the court may grant
103 damages, injunctive relief, attorney fees, and any such
104 other relief the court finds appropriate.

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