

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 973

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

4981S.04P

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapters 407 and 442, RSMo, by adding thereto three new sections relating to certain written disclosures for real estate transactions, with penalty provisions.

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

Section A. Chapters 407 and 442, RSMo, are amended by  
2 adding thereto three new sections, to be known as sections  
3 407.3600, 442.920, and 1, to read as 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 a relative within the third  
20 degree of consanguinity or affinity; or

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

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

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

48 acting as a grantee is prohibited from  
49 entering into a binding contract to acquire an  
50 interest in residential real property unless  
51 this statement is signed and dated by the  
52 record owner of the property.

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

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

76 \_\_\_\_\_ (Property owner signature)

77 \_\_\_\_\_ (date)

78 \_\_\_\_\_ (Wholesaler signature) \_\_\_\_\_ (date)."

79 3. A wholesaler acting as the grantee shall not enter  
80 into a binding contract that transfers an interest in  
81 residential real property until both the wholesaler and the

82 record owner of the property sign and date the disclosure  
83 statement required under subsection 2 of this section.

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

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

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

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

442.920. 1. This section shall be known and may be  
2 cited as the "Missouri Residential Sale Leaseback Protection  
3 Act".

4           2. For purposes of this section, the following terms  
5 mean:

6           (1) "Buyer", any person or entity that acquires an  
7 ownership interest in residential real estate in a sale  
8 leaseback transaction;

9           (2) "Residential real estate", real property that is  
10 improved by a building or other structure that has one to  
11 four dwelling units;

12           (3) "Sale leaseback", a transaction or series of  
13 transactions in which a seller sells residential real estate  
14 that is or was the seller's residence to another party and,  
15 as a condition of the sale, or as part of the same or a  
16 related transaction, enters into a lease or rental agreement  
17 to remain in or re-occupy the property;

18           (4) "Seller", any natural person who transfers an  
19 ownership interest in residential real estate in a sale  
20 leaseback transaction.

21           3. (1) In any sale leaseback transaction, the buyer  
22 shall provide the seller with the following disclosure on a  
23 single page in a clear and conspicuous manner, printed in  
24 boldface type:

25           If you sign a sale leaseback agreement, you  
26 are entering into a contract to sell your  
27 home. This means you will no longer own your  
28 home.

29           You may be subject to eviction if you do not  
30 follow the lease terms.

31           You may lose the right to buy back your home.

32           This may affect your credit, taxes, and legal  
33 rights.

34 You are encouraged to speak with:

- 35 (1) An attorney;
- 36 (2) A real estate agent;
- 37 (3) A housing counselor;
- 38 (4) A tax advisor; and
- 39 (5) A real estate appraiser.

40 No sale leaseback can be closed for at least  
41 thirty (30) days after signing an agreement.

42 Do not sign unless you fully understand the  
43 terms.

44 (2) The disclosure required by subdivision (1) of this  
45 subsection shall be provided to the seller not less than  
46 fourteen calendar days prior to execution of any sale  
47 leaseback agreement, and the disclosures shall be signed by  
48 both the seller and the buyer concurrently with the  
49 execution of the sale leaseback agreement.

50 (3) A copy of the signed disclosure required by  
51 subdivision (1) of this subsection shall be provided to the  
52 seller within five days of the execution of the sale  
53 leaseback agreement.

54 4. There shall be no delivery, recording, or other  
55 transfer of title from seller to buyer until thirty days  
56 after the execution of any sale leaseback agreement.

57 5. (1) Any violation of the provisions of this  
58 section shall be subject to a civil penalty not to exceed  
59 ten thousand dollars per violation.

60           (2) The attorney general may bring an action to  
61 enforce this section, including actions for injunctive  
62 relief, civil penalties, and restitution.

63           (3) Any seller harmed by a violation of this section  
64 may bring a civil action to recover:

65           (a) Actual damages;

66           (b) Statutory damages of ten thousand dollars, which  
67 shall be in addition to any actual damages proven;

68           (c) Attorneys' fees and costs; and

69           (d) Equitable or injunctive relief.

70           6. No provision of this section shall be modified or  
71 waived by any agreement. Any portion of an agreement that  
72 is executed, modified, or extended after the effective date  
73 of this section that modifies or waives a duty or remedy  
74 under this section is void ab initio and unenforceable.

          Section 1. In the event that any section, provision,  
2 clause, phrase, or word of this act or the application  
3 thereof is declared invalid under the Constitution of the  
4 United States or the Constitution of the State of Missouri,  
5 it is the intent of the general assembly that the remaining  
6 sections of this act remain in force and effect as far as  
7 they are capable of being carried into execution as intended  
8 by the general assembly. The general assembly hereby  
9 declares that it would have passed each section, provision,  
10 clause, phrase, or word thereof, irrespective of the fact  
11 that any one or more sections, provisions, clauses, phrases,  
12 or words of this act or the application of this act would be  
13 declared unenforceable, unconstitutional, or invalid.

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