

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/House Bill No. 2636, Page 2, Section 379.135, Line 23,

2 by inserting after all of said line the following:

3 "407.3600. 1. For purposes of this section, the  
4 following terms mean:

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

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

14 a. As the grantee, and assigns or novates the contract  
15 to another person or entity; or

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

19 (b) "Wholesaler" shall not include:

20 a. An individual who assigns or novates the contract  
21 to another individual who is a relative within the third  
22 degree of consanguinity or affinity; or

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

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

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

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55           The owner acknowledges that the person presenting  
56 this document is a wholesaler, as defined in  
57 section 407.3600 of the Revised Statutes of  
58 Missouri, and that the owner is advised to seek  
59 legal advice before entering into any agreement or  
60 contract with the wholesaler. A wholesaler is  
61 acting on the wholesaler's own behalf and does not  
62 represent the owner in this transaction. A  
63 wholesaler enters assignable contracts with owners  
64 and seeks to sell or assign the wholesaler's

65 interest for a profit. The wholesaler may assign  
 66 the wholesaler's interest in the purchase contract  
 67 to a third party without the owner's consent before  
 68 closing. The wholesaler may charge a fee to the  
 69 third-party buyer separately for profit. The  
 70 agreed purchase price between the owner and  
 71 wholesaler may be below market value and is  
 72 conveyed voluntarily.

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

78 \_\_\_\_\_ (Property owner signature) (date)

79

80 \_\_\_\_\_ (Wholesaler signature) (date).

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

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

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

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

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

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

114 Further amend the title and enacting clause accordingly.