

SENATE SUBSTITUTE
FOR
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.

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

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

56 legal advice before entering into any agreement or
57 contract with the wholesaler. A wholesaler is
58 acting on the wholesaler's own behalf and does not
59 represent the owner in this transaction. A
60 wholesaler enters assignable contracts with owners
61 and seeks to sell or assign the wholesaler's
62 interest for a profit. The wholesaler may assign
63 the wholesaler's interest in the purchase contract
64 to a third party without the owner's consent before
65 closing. The wholesaler may charge a fee to the
66 third-party buyer separately for profit. The
67 agreed purchase price between the owner and
68 wholesaler may be below market value and is
69 conveyed voluntarily.

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

75 _____ (Property owner signature) _____ (date)

76

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 pursuant to 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.