

SB 155 -- Redline

As Passed by the Senate to Enrolled -- Revise the real estate wholesaler law

Deletions ~~struck~~ · Insertions underlined

~~As (136th Passed General Assembly) by (Amended Senate Bill Number 155) ANACT To amend sections 4735.18 and 4735.24 and to enact section 5301.95 of the Senate Revised 136th Code General to Assembly amend Regular the Session law S. related to real estate wholesalers.~~

~~B. Be it enacted by the General Assembly of the State of Ohio:~~

~~No. SECTION 1.~~

~~155 That 2025-2026 sections Senators 4735.18 Brenner, and Ingram 4735.24 Cosponsors: be amended and section 5301.95 of the Revised Code be enacted to read as follows:~~

~~Senators Sec. Manning, Antonio, Blackshear, Cirino, Craig, DeMora, Gavarone, Hicks-Hudson, Liston, Patton, Reineke, Reynolds, Roegner, Smith, Timken, Weinstein, Wilson To amend sections 4735.18 and 4735.24 and to enact 1 section 5301.95 of the Revised Code to amend the 2 law related to real estate wholesalers.~~

~~3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:~~

~~Section 1.~~

~~That sections 4735.18 and 4735.24 be amended 4 and section 5301.95 of the Revised Code be enacted to read as 5 follows:~~

~~6 Sec.~~

(A) Subject to section 4735.32 of the ~~7~~ Revised Code, the superintendent of real estate, upon the ~~8~~ superintendent's own motion, may investigate the conduct of any ~~9~~ licensee.

Subject to division (E) of this section and section ~~10~~ 4735.32 of the Revised Code, the Ohio real estate commission ~~11~~ shall impose disciplinary sanctions upon any licensee who, ~~12~~ whether or not acting in the licensee's capacity as a real ~~13~~ estate broker or salesperson, or in handling the licensee's own ~~14~~ property, is found to have been convicted of a felony or a crime ~~15~~ of moral turpitude, and may impose disciplinary sanctions upon ~~16~~ any licensee who, in the licensee's capacity as a real estate ~~17~~ broker or salesperson, or in handling the licensee's own ~~18~~ property, ~~S. is found guilty of:~~

(1) Knowingly making any misrepresentation;

(2) Making any false promises with intent to influence, persuade, or induce;

(3) A continued course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise;

(4) Acting for more than one party in a transaction except as permitted by and in compliance with section 4735.71 of the Revised Code;

(5) Failure within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to others;

(6) Dishonest or illegal dealing, gross negligence, incompetency, or misconduct;

(7)(a) By final adjudication by a court, a violation of any municipal or federal civil rights law relevant to the protection of purchasers or sellers of real estate or, by final adjudication by a court, any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112.

of the Revised Code, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate, in the licensee's practice as a licensed real estate broker or salesperson;

(b) A second or subsequent violation of any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112.

of the Revised Code or any second or subsequent violation of municipal or federal civil rights laws relevant to purchasing or selling real estate whether or not there has been a final adjudication by a court, provided that such violation Am.

S.

~~155 Page 136th 2G.A. As Passed by the Senate property, is found guilty of:~~

~~19 arose (1) out Knowingly of making a any situation misrepresentation; wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate.~~

~~20 For (2) any Making second any offense false under promises this with division, intent the to commission influence, shall 21 suspend persuade, for a minimum of two months or induce; revoke the license of the broker or salesperson.~~

~~22 For (3) any A subsequent continued offense, course the of commission misrepresentation shall or revoke the making license 23 of false the promises broker through agents, salespersons, advertising, or 24 salesperson. otherwise;~~

~~25(8) (4)Procuring Actinga forlicense moreunder thanthis onechapter, partyfor inthe alicensee transactionor exceptany 26salesperson as permitted by andfraud, inmisrepresentation, complianceor withdeceit; section 4735.71 of the 27 Revised Code;~~

~~28(9) (5)Having Failureviolated withinor afailed reasonableto timecomply towith accountany forprovision orof sections 4735.51 to 294735.74 remitof anythe moneyRevised comingCode intoor thehaving licensee'swillfully possessiondisregarded whichor 30violated belongsany toother others;provisions of this chapter;~~

~~31(10) (6)As Dishonest a orreal illegalestate dealing,broker, grosshaving negligence,demanded, 32without incompetency,reasonable orcause, misconduct;other than from a broker licensed under this chapter, a commission to which the licensee is not entitled, or, as a real estate salesperson, having demanded, without reasonable cause, a commission to which the licensee is not entitled;~~

~~33(11) (7)(a)Except Byas finalpermitted adjudicationunder bysection a4735.20 court,of athe violationRevised ofCode, 34having anypaid municipalcommissions or federalfees civilto, rightsor lawdivided relevantcommissions toor thefees 35with, protectionanyone ofnot purchaserslicensed oras sellersa of-real estate or,broker byor finalsalesperson 36under adjudicationthis bychapter aor court,anyone anynot unlawfuloperating discriminatoryas practicean 37out-of-state pertainingcommercial toreal theestate purchasebroker or salesalesperson ofunder realsection estate4735.022 prohibitedof bythe 38Revised ChapterCode; -4112-~~

~~of(12) theHaving Revisedfalsely Code,represented providedmembership thatin suchany violationreal 39estate aroseprofessional outassociation of awhich situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate, in the 41licensee licensee'sis practice not as a licensedmember; real estate broker or 42 salesperson;~~

~~43(13) (b)Having Aaccepted, secondgiven, or subsequentcharged violationof any unlawfulundisclosed 44commission, discriminatoryrebate, practice pertaining to the purchase or saleof direct ofprofit 45on realexpensitures estatemade prohibitedfor bya Chapterprincipal; -4112-~~

~~(14) Having offered anything of value other than the Revisedconsideration Coderecited in the sales contract as an inducement to a person to enter into a contract for the purchase or 46sale S.of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;~~

~~(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;~~

~~(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;~~

~~(17) Having advertised or placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's authorized agent;~~

~~(18) Having induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu of it a new contract with another principal;~~

~~(19) Having negotiated the sale, exchange, or lease of any real property directly with a seller, purchaser, lessor, or tenant knowing that such seller, purchaser, lessor, or tenant is represented by another broker under a written exclusive agency agreement, exclusive right to sell or lease listing agreement, or exclusive purchaser agency agreement with respect to such property except as provided for in section 4735.75 of the Revised Code;~~

~~(20) Having offered real property for sale or for lease without the knowledge and consent of Am. S.~~

~~155 Page136th 3G.A.-As Passed by the Senate any second or subsequent violation of municipal or federal civil 47 rights laws relevant to purchasing or selling real estate 48 whether or not there has been a final adjudication by a court, 49 provided that such violation arose out of a situation wherein 50 parties were engaged in bona fide efforts to purchase, sell, or 51 lease real estate-~~

~~Forthe anyowner secondor offense under this division, 52 the commissionowner's shallauthorized suspendagent, foror aon minimumany ofterms twoother months than orthose 53authorized revokeby the licenseowner ofor the brokerowner's orauthorized salesperson-agent;~~

~~For(21) Having published advertising, whether printed, radio, display, or of any 54other subsequentnature, offense,which thewas commissionmisleading shallor revokeinaccurate thein licenseany ofmaterial 55particular, theor brokerin any way having misrepresented any properties, terms, values, policies, or salesperson-services of the business conducted;~~

~~56(22) (8)Having Procuringknowingly awithheld licensefrom underor thisinserted chapter,in forany thestatement 57of licenseeaccount or invoice any salespersonstatement bythat fraud,made misrepresentation,it orinaccurate 58in deceit;any material particular;~~

~~59(23) (9)-Having violatedpublished or failedcirculated tounjustified complyor withunwarranted anythreats provisionof 60legal ofproceedings sectionswhich 4735.51tended to 4735.74or ofhad the Revisedeffect Codeof orharassing havingcompetitors 61 willfully disregarded or violatedintimidating anytheir othercustomers;provisions of this 62 chapter;~~

~~63(24) (10) Having As failed to real keep estate complete broker, and having accurate demanded, records without of 64 all reasonable transactions cause, for other a than period of three years from at the broker date licensed of under the this transaction, 65 such chapter, records to commission include copies of listing forms, earnest money receipts, offers to which purchase and acceptances of them, records of receipts and disbursements of all funds received by the licensee is as not broker entitled, and or, incident 66 to the licensee's transactions as a such, real and estate records salesperson, required having pursuant demanded, to without divisions 67(C)(4) reasonable and cause, (5) a of commission section 4735.20 of the Revised Code, and any other instruments or papers related to which the performance of any of the licensee acts is set not forth 68 in entitled, the definition of a real estate broker;~~

~~69(25) (11) Failure Except as permitted under section 4735.20 of the a 70 real Revised estate Code, broker having paid commissions or fees salesperson to, to or furnish divided all 71 parties commissions involved or in fees with, anyone not licensed as a real estate 72 transaction broker true or copies salesperson of under all this listings chapter and or other anyone agreements not to operating which 73 they as are and out-of-state party, commercial at real the estate time broker each or party salespersons signs 74 them; under section 4735.022 of the Revised Code;~~

75(26) S. Failure to maintain at all times a special or trust bank account in a depository of a state or federally chartered institution located in this state.

The account shall be noninterest-bearing, separate and distinct from any personal or other account of the broker, and, except as provided in division (A)(27) of this section, shall be used for the deposit and maintenance of all escrow funds, security deposits, and other moneys received by the broker in a fiduciary capacity.

The name, account number, if any, and location of the depository wherein such special or trust account is maintained shall be submitted in writing to the superintendent.

Checks drawn on such special or trust bank accounts are deemed to meet the conditions imposed by section 1349.21 of the Revised Code.

Funds deposited in the trust or special account in connection with a purchase agreement shall be maintained in accordance with section 4735.24 of the Revised Code.

(27) Failure to maintain at all times a special or trust bank account in a depository of a state or federally chartered institution in this state, to be used exclusively for the deposit and maintenance of all rents, security deposits, escrow funds, and other moneys received by the broker in a fiduciary capacity in the course of managing real property.

This account shall be separate and distinct from any other account maintained by the broker.

The name, account number, and location of the depository shall be submitted in writing to the superintendent.

This account may earn interest, which shall be paid to the property owners on a pro rata basis.

Division (A)(27) of this section does not apply to brokers who are not engaged in the management of real property on behalf of real property owners.

Am.

S.

~~155 Page 136th 4G.A. As Passed by the Senate (12) Having falsely represented membership in any real 76 estate professional association of which the licensee is not a 77 member;~~

~~78(28) (13) Having accepted, failed given, to or put charged definite any expiration undisclosed dates 79 in commission, all rebate, written or agency direct agreements profit to on which expenditures the made broker for is a 80 party; -principal;~~

~~81(29) (14) Having offered an anything unsatisfied offinal value judgment other or than lien the 82 consideration recited in the any sales court contract of a record an against inducement to 83 a person to enter into a contract for the purchase licensee or arising sale out of 84 real estate or having offered real estate or the improvements licensee's on conduct 85 real estate as a prize licensed in broker a lottery or scheme salesperson; -of chance;~~

~~86(30) (15) Failing Having to acted render in promptly the upon dual demand capacity a full and complete statement of real the estate expenditures 87 by the broker and or undisclosed salesperson principal, of funds advanced by or on behalf of a party to a real estate transaction to the broker or salesperson and for 88 the undisclosed purpose principal, of performing duties as a licensee under this chapter in any conjunction with the real estate transaction;~~

~~89(31) (16) Failure Having within guaranteed, a authorized, reasonable or time, permitted after any the 90 receipt person of the commission by the broker, to guarantee render future an profits accounting which to may and result pay from a real estate salesperson the 91 salesperson's resale earned share of real it; property;~~

~~92(32) (17) Performing Having advertised or placed a sign on any property service 93 offering it for sale another or constituting for rent without the consent practice of the law, 94 as owner determined or by the any owner's court authorized of agent; law;~~

~~95(33) (18) Having induced been any adjudicated party incompetent to by a contract court, of as sale provided~~

~~or 96 lease to break such contract for the purpose of substituting in 97 section 1105.301 of it the~~
~~a Revised new Code. contract with another principal;~~

~~98A (19) license Having revoked negotiated the sale, exchange, or lease suspended of any 99 real property~~
~~directly with a seller, purchaser, lessor, or 100 tenant knowing that such seller, purchaser, lessor, or~~
~~tenant is 101 represented by another broker under at this written division exclusive shall agency be~~
~~102 reactivated agreement, upon exclusive proof right to sell the or commission lease of listing the~~
~~agreement, removal 103 of or the exclusive disability. purchaser agency agreement with respect to such 104~~
~~S.~~

(34) Having authorized or permitted a person to act as an agent in the capacity of a real estate broker,
or a real estate salesperson, who was not then licensed as a real estate broker or real estate
salesperson under this chapter or who was not then operating as an out-of-state commercial real estate
broker or salesperson under section 4735.022 of the Revised Code;

(35) Having knowingly inserted or participated in inserting any materially inaccurate term in a
document, including naming a false consideration;

(36) Having failed to inform the licensee's client of the existence of an offer or counteroffer or
having failed to present an offer or counteroffer in a timely manner, unless otherwise instructed by the
client, provided the instruction of the client does not conflict with any state or federal law;

(37) Having failed to comply with section 4735.24 of the Revised Code;

(38) Having acted as a broker without authority, impeded the ability of a principal broker to perform
any of the duties described in section 4735.081 of the Revised Code, or impeded the ability a management
level licensee to perform the licensee's duties;

(39) Entering into a right-to-list home sale agreement;

(40) Having failed to comply with section 5301.95 of the Revised Code while acting as a wholesaler of
residential real property, as those terms are defined in that section.

(B) Whenever the commission, pursuant to section 4735.051 of the Revised Code, imposes disciplinary
sanctions for any violation of this section, the commission also may impose such sanctions upon the
broker with whom the salesperson is affiliated if the commission finds that the broker had knowledge of
the salesperson's actions that violated this section.

(C) The commission shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary
sanctions upon any foreign real estate dealer or salesperson who, in that capacity or in handling the
dealer's or salesperson's own property, is found guilty of any of the acts or omissions Am.

S.

~~155 Page 136th 5G.A. As Passed by the Senate property except as provided for in section 4735.75 of the~~
~~105 Revised Code;~~

~~106 specified (20) Having offered real property for sale or for comprehended lease in 107 division~~
~~without (A) the of knowledge this and section consent insofar as of the owner acts or the omissions~~
~~owner's pertain 108 to authorized foreign agent, real or estate. on any terms other than those authorized by~~
~~109 the owner or the owner's authorized agent;~~

~~110 If (21) the Having commission published imposes advertising, such whether sanctions printed, upon radio, a~~
~~111 foreign display, real or estate salesperson for a violation of any this other section, nature, the~~
~~which commission was also misleading may suspend or 112 revoke inaccurate the in license any of material the~~
~~particular, foreign or real in estate any dealer way with having whom 113 the misrepresented salesperson any is~~
~~properties, affiliated terms, if values, the policies, commission or finds 114 that services the dealer had~~
~~knowledge of the business salesperson's conducted; actions that violated this section.~~

~~115 (D) (22) The Having commission knowingly may withhold suspend, from in whole or inserted in any part,~~
~~116 the statement imposition of account the or penalty invoice of any suspension statement of that a made license~~
~~it under 117 this inaccurate section. in any material particular;~~

~~118 (E) (23) A Having person published licensed or under circulated this unjustified chapter who represents a~~
~~party to a transaction or 119 a unwarranted proposed threats transaction of involving legal the~~
~~proceedings sale, which purchase, tended exchange, to lease, or had management 120 of the real effect property~~
~~of that harassing is competitor or will be used in the cultivation, processing, dispensing, or~~
~~intimidating testing their of 121 medical customers; marijuana under Chapter 3796.~~

~~122 of (24) the Having Revised failed Code, to or keep who complete receives, and holds, accurate or~~
~~records disburses 123 funds off from all transactions for a period real of estate three brokerage year trust~~
~~from account the in date connection of with 124 such the a transaction, such shall records not to be~~
~~includes subject copies of listing 125 forms, earnest money receipts, offers to purchase disciplinary~~
~~and sanctions 126 under acceptances this of chapter them, solely records because of receipts and disbursements~~
~~of 127 all funds received by the licensee licensed as a person broker engaged and in incident activities~~
~~to permitted the under 128 this licensee's chapter transactions as such, and records required pursuant 129~~
~~to divisions (C)(4) and (5) of section 4735.20 of the Revised 130 Code, and any other instruments or~~
~~papers related to the activities 131 under performance Chapter of 3796. any of the acts set forth in the~~
~~definition of a 132 real estate broker;~~

~~133 S.~~

~~B.~~

~~No.~~

~~155 Page 6 As Passed by the Senate (25) Failure of a real estate broker or salesperson to 134 furnish all parties involved in a real estate transaction true 135 copies of all listings and other agreements to which they are a 136 party, at the time each party signs them;~~

~~137 (26) Failure to maintain at all times a special or trust 138 bank account in a depository of a state or federally chartered 139 institution located in this state.~~

~~The account shall be 140 noninterest bearing, separate and distinct from any personal or 141 other account of the broker, and, except as provided in division 142 (A)(27) of this section, shall be used for the deposit and 143 maintenance of all escrow funds, security deposits, and other 144 moneys received by the broker in a fiduciary capacity.~~

~~The name, 145 account number, if any, and location of the depository wherein 146 such special or trust account is maintained shall be submitted 147 in writing to the superintendent.~~

~~Checks drawn on such special 148 or trust bank accounts are deemed to meet the conditions imposed 149 by section 1349.21 of the Revised Code.~~

~~Funds deposited in the 150 trust or special account in connection with a purchase agreement 151 shall be maintained in accordance with section 4735.24 of the 152 Revised Code.~~

~~153 (27) Failure to maintain at all times a special or trust 154 bank account in a depository of a state or federally chartered 155 institution in this state, to be used exclusively for the 156 deposit and maintenance of all rents, security deposits, escrow 157 funds, and other moneys received by the broker in a fiduciary 158 capacity in the course of managing real property.~~

~~This account 159 shall be separate and distinct from any other account maintained 160 by the broker.~~

~~The name, account number, and location of the 161 depository shall be submitted in writing to the superintendent.~~

~~162 This account may earn interest, which shall be paid to the 163 property owners on a pro rata basis.~~

~~164 S.~~

~~B.~~

~~No.~~

~~155 Page 7 As Passed by the Senate Division (A)(27) of this section does not apply to brokers 165 who are not engaged in the management of real property on behalf 166 of real property owners.~~

~~167 (28) Having failed to put definite expiration dates in all 168 written agency agreements to which the broker is a party;~~

~~169 (29) Having an unsatisfied final judgment or lien in any 170 court of record against the licensee arising out of the 171 licensee's conduct as a licensed broker or salesperson;~~

~~172 (30) Failing to render promptly upon demand a full and 173 complete statement of the expenditures by the broker or 174 salesperson of funds advanced by or on behalf of a party to a 175 real estate transaction to the broker or salesperson for the 176 purpose of performing duties as a licensee under this chapter in 177 conjunction with the real estate transaction;~~

~~178 (31) Failure within a reasonable time, after the receipt 179 of the commission by the broker, to render an accounting to and 180 pay a real estate salesperson the salesperson's earned share of 181 it;~~

~~182 (32) Performing any service for another constituting the 183 practice of law, as determined by any court of law;~~

~~184 (33) Having been adjudicated incompetent by a court, as 185 provided in section 5122.301 of the Revised Code.~~

~~A license 186 revoked or suspended under this division shall be reactivated 187 upon proof to the commission of the removal of the disability.~~

~~188 (34) Having authorized or permitted a person to act as an 189 agent in the capacity of a real estate broker, or a real estate 190 salesperson, who was not then licensed as a real estate broker 191 or real estate salesperson under this chapter or who was not 192 then operating as an out-of-state commercial real estate broker 193 S.~~

~~B.~~

~~No.~~

~~155 Page 8 As Passed by the Senate or salesperson under section 4735.022 of the Revised Code;~~

~~194 (35) Having knowingly inserted or participated in 195 inserting any materially inaccurate term in a document, 196 including naming a false consideration;~~

~~197 (36) Having failed to inform the licensee's client of the 198 existence of an offer or counteroffer or having failed to 199 present an offer or counteroffer in a timely manner, unless 200 otherwise instructed by the client, provided the instruction of 201 the client does not conflict with any state or federal law;~~

~~202 (37) Having failed to comply with section 4735.24 of the 203 Revised Code;~~

~~204 (38) Having acted as a broker without authority, impeded 205 the ability of a principal broker to perform any of the duties 206 described in section 4735.081 of the Revised Code, or impeded 207 the ability a management level licensee to perform the 208 licensee's duties;~~

~~209 (39) Entering into a right-to-list home sale agreement;~~

~~210 (40) Having failed to comply with section 5301.95 of the 211 Revised Code while acting as a wholesaler of residential real 212 property, as those terms are defined in that section.~~

~~213 (B) Whenever the commission, pursuant to section 4735.051 214 of the Revised Code, imposes disciplinary sanctions for any 215 violation of this section, the commission also may impose such 216 sanctions upon the broker with whom the salesperson is 217 affiliated if the commission finds that the broker had knowledge 218 of the salesperson's actions that violated this section.~~

~~219 (C) The commission shall, pursuant to section 4735.051 of 220 the Revised Code, impose disciplinary sanctions upon any foreign 221 S.~~

~~B.~~

~~No.~~

~~155 Page 9 As Passed by the Senate real estate dealer or salesperson who, in that capacity or in 222 handling the dealer's or salesperson's own property, is found 223 guilty of any of the acts or omissions specified or comprehended 224 in division (A) of this section insofar as the acts or omissions 225 pertain to foreign real estate.~~

~~If the commission imposes such 226 sanctions upon a foreign real estate salesperson for a violation 227 of this section, the commission also may suspend or revoke the 228 license of the foreign real estate dealer with whom the 229 salesperson is affiliated if the commission finds that the 230 dealer had knowledge of the salesperson's actions that violated 231 this section.~~

~~232 (D) The commission may suspend, in whole or in part, the 233 imposition of the penalty of suspension of a license under this 234 section.~~

~~235 (E) A person licensed under this chapter who represents a 236 party to a transaction or a proposed transaction involving the 237 sale, purchase, exchange, lease, or management of real property 238 that is or will be used in the cultivation, processing, 239 dispensing, or testing of medical marijuana under Chapter 3796.~~

~~240 of the Revised Code, or who receives, holds, or disburses funds 241 from a real estate brokerage trust account in connection with 242 such a transaction, shall not be subject to disciplinary 243 sanctions under this chapter solely because the licensed person 244 engaged in activities permitted under this chapter and related 245 to activities under Chapter 3796.~~

~~246-Sec.~~

~~(A) Except as otherwise provided in this 247 section, when earnest money connected to a real estate purchase 248 agreement is deposited in a real estate broker's trust or 249 special account, the broker shall maintain that money in the 250 account in accordance with the terms of the purchase agreement 251 until S. one of the following occurs:~~

(1) The transaction closes and the broker disburses the earnest money to the closing or escrow agent or otherwise disburses the money pursuant to the terms of the purchase agreement.

(2) The parties provide the broker with separate written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts pursuant to those instructions.

(3) The broker receives a copy of a final court order that specifies to whom the earnest money is to be awarded and the broker acts pursuant to the court order.

(4) The transaction is canceled by the record owner of residential property under division (C) (1) of section 5301.95 of the Revised Code, and the broker disburses the earnest money to the record owner pursuant to that division.

(5) The earnest money becomes unclaimed funds as defined in division (M)(2) of section 169.02 of the Revised Code and, after providing the notice that division (E) of section 169.03 of the Revised Code requires, the broker has reported the unclaimed funds to the director of commerce pursuant to section 169.03 of the Revised Code and has remitted all of the earnest money to the director.

(B) A purchase agreement may provide that in the event of a dispute regarding the disbursement of the earnest money, the broker will return the money to the purchaser without notice to the parties unless, within two years from the date the earnest money was deposited in the broker's trust or special account, the broker has received one of the following:

(1) Written instructions signed by both parties specifying how the money is to be disbursed;

Am.

S.

~~155 Page 136th 10G.A. As Passed by the Senate until one of the following occurs:~~

~~252(2) (1)Written The notice transactionthat closesa andcourt theaction broker disburses the 253 earnest~~

~~money to the resolve closing or escrow agent or otherwise 254 disburses the money dispute pursuant has to been the filed. terms of the purchase 255 agreement.~~

~~256 (C)(1) (2) If The the parties provide dispute the broker disbursement with of separate the written earnest 257 money instructions and that the both purchase parties agreement have contains signed the that provision specify described how in division (B) of this section, not later than the 258 first broker day is of to September disburse following the two year anniversary date of the deposit of the earnest money and in the broker's account, the broker acts shall 259 return pursuant the earnest money to those the instructions, purchaser unless the parties provided the broker with written instructions or a notice of a court action as described in division (B) of this section.~~

~~260 (2) (3) If The the broker receives cannot allocate copy the of purchaser at final the court time order the disbursement is due, after providing the notice that 261 division specifies (E) to of whom section 169.03 of the Revised Code requires, the broker shall report the earnest money is as to unclaimed be funds awarded to and the 262 director broker of acts commerce pursuant to section 169.03 of the court Revised order. Code and remit all of the earnest money to the director.~~

~~263 Sec. (4) The transaction is canceled by the record owner of 264 residential property under division (C)(1) of section 5301.95 of 265 the Revised Code, and the broker disburses the earnest money to 266 the record owner pursuant to that division.~~

~~267 (5) The earnest money becomes unclaimed funds as defined 268 in division (M)(2) of section 169.02 of the Revised Code and, 269 after providing the notice that division (E) of section 169.03 270 of the Revised Code requires, the broker has reported the 271 unclaimed funds to the director of commerce pursuant to section 272 169.03 of the Revised Code and has remitted all of the earnest 273 money to the director.~~

~~274 (B) A purchase agreement may provide that in the event of 275 a dispute regarding the disbursement of the earnest money, the 276 broker will return the money to the purchaser without notice to 277 the parties unless, within two years from the date the earnest 278 money was deposited in the broker's trust or special account, 279 the broker has received one of the following:~~

~~280 S.~~

~~B.~~

~~No.~~

~~155 Page 11 As Passed by the Senate (1) Written instructions signed by both parties specifying 281 how the money is to be disbursed;~~

~~282 (2) Written notice that a court action to resolve the 283 dispute has been filed.~~

~~284 (C)(1) If the parties dispute the disbursement of the 285 earnest money and the purchase agreement contains the provision 286 described in division (B) of this section, not later than the 287 first day of September following the two year anniversary date 288 of the deposit of the earnest money in the broker's account, the 289 broker shall return the earnest money to the purchaser unless 290 the parties provided the broker with written instructions or a 291 notice of a court action as described in division (B) of this 292 section.~~

~~293 (2) If the broker cannot locate the purchaser at the time 294 the disbursement is due, after providing the notice that 295 division (E) of section 169.03 of the Revised Code requires, the 296 broker shall report the earnest money as unclaimed funds to the 297 director of commerce pursuant to section 169.03 of the Revised 298 Code and remit all of the earnest money to the director.~~

~~299 Sec.~~

~~300 (1) "Residential real property" means real property that 301 is improved by a building or other structure that has one to 302 four dwelling units.~~

~~303 (2)(a) "Wholesaler" means a person or entity that for a 304 fee, commission, or other valuable consideration, or with the 305 intention, in the expectation, or upon the promise of receiving 306 or collecting a fee, commission, or other valuable 307 consideration, enters into a purchase contract for residential 308 real property either:~~

~~309 (i) S. As the grantee, and assigns or novates that contract to another person or entity;~~

~~(ii) As the grantor, and, without holding legal title to that real property, assigns or novates that contract to another person or entity.~~

~~(b) "Wholesaler" does not include either of the following:~~

~~(i) An individual who assigns or novates a contract described in division (A)(2)(a) of this section to another individual who is related by blood.~~

~~(ii) A person or entity that assigns or novates such a contract to a parent, affiliate, subsidiary, or affiliated group under common control with the person or entity.~~

~~(B)(1) Before entering into a binding contract that transfers an interest in residential real property, a wholesaler acting as the grantee or the wholesaler's representative, if applicable, shall provide to the record owner a conspicuous written disclosure statement, separate from the purchase contract or agreement, printed in boldface type in a font size not less than twelve points, and in substantially the~~

following form:

"Ohio law requires a wholesaler acting as a grantee, before entering into a contract or agreement that conveys an interest in residential real property, to provide certain information to the record owner in a conspicuous manner printed in boldface type in a font size not less than twelve points.

Failure by a wholesaler to present or complete this form is an unfair or deceptive act or practice.

Any person who enters into an agreement that conveys an interest in residential real property to a wholesaler acting as a grantee without receiving this disclosure has a cause of action against the wholesaler.

A wholesaler acting as a grantee is prohibited from entering into a binding Am.

S.

155 Page 136th 12G.A. As Passed by the Senate (i) As the grantee, and assigns or novates that contract 310 to another person or entity;

311 contract (ii) to As acquire the an grantor, interest and, in without residential holding real legal property title unless to this 312 statement that is real signed property, and assigns dated or by novates the that record contract owner to of another the 313 property. person or entity.

314 The (b) owner "Wholesaler" acknowledges does that not the include person either presenting this document is a wholesaler, as defined by section 5301.95 of the following Revised Code, and that all buyers and sellers of real estate are entitled to seek legal or professional advice before entering into any agreement or contract regarding the purchase or sale of property, including an agreement with a wholesaler.

315 A (i) wholesaler An is individual acting who on assigns the or wholesaler's novates own a behalf contract and 316 does described not in represent division the (A)(2)(a) owner of in this section transaction. to another 317 individual who is related by blood.

318 (ii) A person wholesaler or enters entity assignable that contracts assigns with or owners novates and such seeks a 319 contract to a sell parent, affiliate, subsidiary, or affiliated assign group the 320 wholesaler's under interest common for control a with profit. the person or entity.

321 The (B)(1) Before entering into a binding contract that 322 transfers an interest in residential real property, a wholesaler 323 may acting assign as the grantee or the wholesaler's representative, interest if in 324 applicable, shall provide to the record owner a conspicuous 325 written disclosure statement, separate from the purchase 326 contract or to agreement, printed in boldface type in a font third size party 327 without not less than twelve points, and in substantially the following owner's 328 consent form: before closing.

329 The "Ohio law requires a wholesaler acting may as charge a grantee, fee 330 before entering into a contract or agreement that conveys an 331 interest in residential real property, to provide certain 332 information to the record third-party owner buyer in separately a for conspicuous profit. manner printed 333 in boldface type in a font size not less than twelve points.

334 The Failure agreed by purchase a price wholesaler between to the present owner or and complete wholesaler this may form be is below an market 335 value unfair and or is deceptive conveyed act voluntarily. or practice. Any The person owner who acknowledges enters disclosure into of 336 the an information agreement provided that conveys an interest in residential this real form 337 by property signing to and a dating wholesaler below: acting as a grantee without receiving 338 S.

(Property owner signature) (date) (Wholesaler signature)

(date)" (2) 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 by this section.

(C)(1) If a wholesaler acting as the grantee fails to make the disclosures required by 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, as defined in section 1349.20 of the Revised Code, shall disburse any earnest money paid by the wholesaler to the record owner within thirty days after such cancellation.

(2) No provision of this section shall be modified or waived by any oral or written agreement.

Any portion of an agreement that is executed, modified, or extended after the effective date of this section that modifies or waives a duty under division (B) of this section or a remedy under division (C) of this section is void ab initio and unenforceable.

(3) Any violation of this section is an unfair or deceptive act or practice in violation of section 1345.02 of the Revised Code.

A party that enters into an agreement without receiving the disclosures required in this section has a cause of action against a wholesaler and is entitled to the same relief available to a consumer under section 1345.09 of the Revised Code.

All powers and remedies available to the attorney general to enforce sections 1345.01 to 1345.13 of the

Revised Code are available to the attorney general to enforce this section.

SECTION 2.

That existing sections 4735.18 and 4735.24 of the Revised Code are hereby repealed.

Am.

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~~155 Page136th 13G.A. As Passed by the Senate this disclosure has a cause of action against the wholesaler.~~

~~ASpeaker 339 _____ wholesaler of acting as a grantee is prohibited from entering into 340 a binding contract to acquire an interest in residential real 341 property unless this statement is signed and dated by the recordHouse 342 owner of theRepresentatives. property.~~

~~343President The _____ owner acknowledges that the person presenting this 344 document is a wholesaler, as defined by section 5301.05 of the 345Senate. Revised Code, and that the owner is advised to seek legal advice 346 before entering into any agreement or contract with the 347 wholesaler.~~

~~APassed wholesaler _____, is20 _____ actingApproved on _____, the20 _____ wholesaler'sGovernor. own 348 behalf and does not represent the owner in this transaction.~~

~~AAn. 349 wholesaler enters assignable contracts with owners and seeks to 350 sell or assign the wholesaler's interest for a profit.~~

~~TheS. 351 wholesaler may assign the wholesaler's interest in the purchase 352 contract to a third party without the owner's consent before 353 closing.~~

~~The wholesaler may charge a fee to the third-party 354 buyer separately for profit.~~

~~The agreed purchase price between 355 the owner and wholesaler may be below market value and is 356 conveyed voluntarily.~~

~~357 The owner acknowledges disclosure of the information 358 provided in this form by signing and dating below:~~

~~359 _____ (Property owner signature) _____ (date) 360 _____ (Wholesaler signature) _____ (date)" 361 (2) A wholesaler acting as the grantee shall not enter 362 into a binding contract~~

~~that transfers an interest in 363 residential real property until both the wholesaler and the 364 record owner of the property sign and date the disclosure 365 statement required by this section.~~

~~366 (C)(1) If a wholesaler acting as the grantee fails to make 367 S.~~

~~155 Page136th 14G.A. As Passed by the Senate the disclosures required by this section before entering into a 368 binding contract that transfers an interest in residential real 369 property, the record owner of the residential real property may 370 cancel the contract at any time prior to the close of escrow 371 without penalty and the escrow or closing agent, as defined in 372 section 1349.20 of the Revised Code, shall disburse any earnest 373 money paid by the wholesaler to the record owner within thirty 374 days after such cancellation.~~

~~375The (2)section Nonumbering provisionof law of thisa sectiongeneral shalland bepermanent modifiednature oris 376complete waivedand byin anyconformity oralwith orthe writtenRevised agreement.Code.~~

~~AnyDirector, portionLegislative ofService anCommission. 377 agreement that is executed, modified, or extended after the 378 effective date of this section that modifies or waives a duty 379 under division (B) of this section or a remedy under division 380 (C) of this section is void ab initio and unenforceable.~~

~~381Filed (3)in Anythe violationoffice of thisthe sectionSecretary isof anState unfairat orColumbus, 382Ohio, deceptiveon actthe or _____ practiceday in violation of section _____,A. 1345.02 of the 383 Revised Code.~~

~~AD. party that enters into an agreement without 384 receiving the disclosures required in this section has a cause 385 of action against a wholesaler and is entitled to the same 386 relief available to a consumer under section 1345.00 of the 387 Revised Code.~~

~~All20 _____ powers and remedies available to the attorney 388 general to enforce sections 1345.01 to 1345.13 of the Revised 389 Code are available to the attorney general to enforce this 390 section.~~

~~391Secretary Sectionof 2.State.~~

~~ThatFile existingNo. sections 4735.18 and 4735.24 of 392 the Revised Code are hereby repealed.~~

~~393 _____ Effective Date _____~~