

GREEN SHEET REDIGEST

HB 853

2026 Regular Session

McMakin

ADVERTISING: Provides relative to misleading solicitations by nongovernment entities.

DIGEST

Present law provides for definitions for the "Louisiana Real Estate License Law".

Proposed law adds the definitions of "residential real property", "wholesaler", and "wholesaling".

Proposed law provides for what a wholesaler shall prominently disclose in writing to the seller of residential real property, which is the subject of wholesaling, before the execution of each related contract or written agreement.

Proposed law provides that a wholesaler shall not directly or indirectly do any of the following:

- (1) Act or purport to act as an advisor or consultant or in any other manner represent that the wholesaler is acting on behalf of the seller, whether pursuant to a mandate, power of attorney, or otherwise.
- (2) Represent himself as holding any license or certification or being a member of a licensed profession without possession of the license or certification.
- (3) Impose, file, record, or place any lien, privilege, mortgage, or other encumbrance on the residential real property, which is the subject of wholesaling, or otherwise cloud the title of such property.
- (4) Engage in any deceptive or unfair trade practice involving residential real property or the execution of unlawful real estate service agreements in violation of present law.

Proposed law provides that a seller who enters into a contract or written agreement involving wholesaling has the right to cancel the contract or written agreement for any reason and without penalty.

Proposed law provides what shall be included in any contract or written agreement involving wholesaling.

Proposed law requires the La. Real Estate Commission (commission) to publish and maintain a mandatory cancellation notice form on its website which shall include, at a minimum, the language required by proposed law.

Proposed law provides that a wholesaler shall include the mandatory cancellation notice form required by proposed law at no cost to the seller with each contract or written agreement involving wholesaling.

Proposed law provides that failure to include any of the required disclosures outlined in proposed law or any other violation of proposed law shall render the contract or written agreement involving wholesaling immediately voidable and terminable at any time prior to transfer of title of the residential real property by the seller, at the seller's sole discretion.

Proposed law provides that upon the seller's written notice to the wholesaler of the seller's election to void and terminate such contract or written agreement pursuant to proposed law, the contract or written agreement shall be invalid and unenforceable by the wholesaler.

Proposed law provides that upon a termination exercised by the seller in accordance with proposed law, the seller is entitled to receive any earnest money deposit involved in the

wholesaling transaction and that upon a termination by the seller prior to the expiration of the rescission period outlined in proposed law, the wholesaler is entitled to receive a full return of any earnest money deposit involved in the wholesaling transaction.

Proposed law provides that any earnest money deposit or security deposit involved in a wholesaling transaction shall be kept in either the account of the seller or an escrow account maintained in this state with a federally insured financial institution.

Proposed law provides that any contract or written agreement involving wholesaling includes an earnest money deposit of not less than 1% of the purchase price, which shall be held in escrow in accordance with proposed law.

Proposed law provides that any violation of proposed law constitutes both an unfair trade practice, which may be enforced by the attorney general, public protection division, consumer protection section, and a violation of present and proposed law which may be enforced by the commission.

Proposed law provides that, in addition to any other remedy provided by law, any person who violates the provisions of proposed law is subject to a civil penalty not to exceed \$5000 per violation to be imposed and collected by the commission.

Proposed law provides that the provisions of proposed law do not apply to any contracts or written agreements, regarding the wholesaling of residential real property, that were completed prior to the effective date of proposed law.

(Adds R.S. 37:1431(35)-(37) and 1448.5)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Add that any contract or written agreement involving wholesaling shall include an earnest money deposit of not less than 1% of the purchase price, which shall be held in escrow in accordance with proposed law.
2. Add that in addition to any other remedy provided by law, any person who violates the provisions of proposed law shall be subject to a civil penalty not to exceed \$5000 per violation to be imposed and collected by the commission.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Change the cancellation without penalty period for a wholesaling agreement from 14 calendar days to five calendar days.
3. Clarify that upon a termination exercised by a seller in accordance with any provision of proposed law, the seller shall be entitled to receive any earnest money deposit involved in the wholesaling transaction.
4. Add that upon a termination by the seller prior to the expiration of the rescission period outlined in proposed law, the wholesaler shall be entitled to receive a full return of any earnest money deposit involved in the wholesaling transaction.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the reengrossed bill

1. Makes technical changes.