

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 553

By: Senator C. Penzo

For An Act To Be Entitled

AN ACT TO ADD AN EXEMPTION TO REAL ESTATE LICENSURE;
TO CREATE THE ARKANSAS REAL ESTATE WHOLESALE CONSUMER
PROTECTION ACT; AND FOR OTHER PURPOSES.

Subtitle

TO ADD AN EXEMPTION TO REAL ESTATE
LICENSURE; AND TO CREATE THE ARKANSAS
REAL ESTATE WHOLESALE CONSUMER PROTECTION
ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-42-104(c), concerning exemptions to real estate licensure, is amended to read as follows:

(c) A person or entity shall not ~~under any circumstance~~ qualify for an exemption under this section if the person or entity:

(1) Obtains an equitable interest in real estate with knowledge that the interest was obtained on behalf of a person or entity that intends to gain an interest in the real estate ~~other than that of ownership; or~~

(2) Publicly markets for sale an equitable interest in a contract for the purchase of residential real property between a property owner and a prospective purchaser; or

(3) Strategically circumvents the requirement for licensure thereby eliminating remedies available to consumers through the commission.

SECTION 2. Arkansas Code § 17-42-109(b), concerning civil penalties for engaging in unlicensed real estate activity, is amended to read as



follows:

(b) The fact that a person offers to engage in or offers to perform any practice, act, or operation set forth in § 17-42-103(10) or § 17-42-104(c) without a license is prima facie evidence that the person is engaged in unlicensed real estate activity.

SECTION 3. Arkansas Code Title 18, Chapter 12, is amended to add an additional subchapter to read as follows:

Subchapter 8 – Arkansas Real Estate Wholesale Consumer Protection Act

18-12-801. Title.

This subchapter shall be known and may be cited as the “Arkansas Real Estate Wholesale Consumer Protection Act”.

18-12-802. Definitions.

As used in this subchapter:

(1) “Residential real property” means real property with fewer than five (5) dwelling units;

(2) “Wholesale buyer” means a person or entity that enters into a purchase contract for residential real property as the buyer for the purpose of assigning the contract to another person or entity; and

(3) “Wholesale seller” means a person or entity that:

(A) Enters into a purchase contract for residential real property as the seller;

(B) Does not hold legal title to the real property; and

(C) Assigns the contract to another person or entity.

18-12-803. Disclosure required.

Before a wholesale buyer or wholesale seller enter into any binding agreement regarding the transfer of residential real property:

(1) A wholesale buyer shall disclose in writing attached to the contract to a seller that the buyer is a wholesale buyer; and

(2) A wholesale seller shall disclose in writing attached to the contract to a buyer that the seller is a wholesale seller and that the wholesale seller may not be able to convey title to the property.

18-12-804. Failure to disclose.

(a) Notwithstanding any other provisions contained in the contract for sale, if a wholesale buyer fails to disclosure any information as required by this subchapter, the seller may terminate the contract for sale at any time before closing without penalty and may retain any earnest money paid by the wholesale buyer.

(b) Notwithstanding any other provisions contained in the contract for sale, if a wholesale seller violates this subchapter, the buyer may terminate the contract for sale at any time before closing without penalty and shall be refunded all earnest money paid by the buyer.