

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 553

5 By: Senator C. Penzo
6

For An Act To Be Entitled

8 AN ACT TO ADD AN EXEMPTION TO REAL ESTATE LICENSURE;
9 TO CREATE THE ARKANSAS REAL ESTATE WHOLESALE CONSUMER
10 PROTECTION ACT; AND FOR OTHER PURPOSES.
11

Subtitle

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13 TO ADD AN EXEMPTION TO REAL ESTATE
14 LICENSURE; AND TO CREATE THE ARKANSAS
15 REAL ESTATE WHOLESALE CONSUMER PROTECTION
16 ACT.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 17-42-104(c), concerning exemptions to real
23 estate licensure, is amended to read as follows:

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

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

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

32 (3) Strategically circumvents the requirement for licensure
33 thereby eliminating remedies available to consumers through the commission.
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35 SECTION 2. Arkansas Code § 17-42-109(b), concerning civil penalties
36 for engaging in unlicensed real estate activity, is amended to read as



1 follows:

2 (b) The fact that a person offers to engage in or offers to perform
3 any practice, act, or operation set forth in § 17-42-103(10) or § 17-42-
4 104(c) without a license is prima facie evidence that the person is engaged
5 in unlicensed real estate activity.

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

9 Subchapter 8 – Arkansas Real Estate Wholesale Consumer Protection Act

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11 18-12-801. Title.

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

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15 18-12-802. Definitions.

16 As used in this subchapter:

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

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

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

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

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

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

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28 18-12-803. Disclosure required.

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

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

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

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1 18-12-804. Failure to disclose.

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

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

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