

ASSEMBLY, No. 5503

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 17, 2021

Sponsored by:

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

SYNOPSIS

Establishes residential property wholesaler license.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning residential property wholesalers and
2 supplementing Title 45 of the Revised Statutes.

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. As used in this act:

8 “Commission” means the New Jersey Real Estate Commission.

9 "Homeowner" means the individual who holds legal title to a
10 residential property.

11 “Residential property” means a property legally used for
12 residential purposes or held out as residential property, regardless
13 of whether the property is rented, vacant, or occupied by
14 homeowner.

15 “Residential property wholesaler” means a person or entity who
16 is in the business of purchasing or soliciting for purchase residential
17 properties, not to use as their residence. A residential property
18 wholesaler shall not include:

19 (1) a public official or employee who acts as a residential
20 property wholesaler in the course of their official duties;

21 (2) a person or entity who is in the business of purchasing
22 residential properties and substantially improving those properties
23 for the purpose of resale;

24 (3) attorneys licensed to practice law in this State; or

25 (4) persons licensed as a real estate broker, broker-salesperson,
26 or salesperson by the New Jersey Real Estate Commission.

27 “Solicit” means to advertise the accomplishments or abilities of a
28 residential property wholesaler, request that a homeowner list a
29 residential property for sale, or offer to purchase a homeowner’s
30 residential property through mail, oral communication, or electronic
31 communication.

32

33 2. a. No person or entity shall act as a residential property
34 wholesaler without first obtaining a valid residential property
35 wholesaler license.

36 b. An application for a residential property wholesaler license
37 and a renewal of a residential property wholesaler license shall be
38 submitted to the commission on a form and in a manner prescribed
39 by the commission, and shall contain the following information:

40 (1) a non-refundable application fee of \$200;

41 (2) documentation that the applicant possesses insurance, in a
42 type and amount to be determined by the commission;

43 (3) the name and address of the applicant or, if the applicant is
44 not a natural person, the name and address of the responsible
45 natural person; and

46 (4) the names of any New Jersey corporations, including all
47 limited liability corporations, in which the applicant has an equity
48 interest, regardless of whether the applicant has a direct equity

1 interest or whether the applicant's equity interest is held through
2 one or more tiers of a corporate structure, such as a parent-
3 subsidiary structure.

4 c. An applicant or licensed residential property wholesaler
5 shall notify the commission, in writing, within 72 hours of any
6 changes to the information contained in or submitted with the
7 application.

8 d. The commission, when satisfied with the examination of any
9 application and any further inquiry and investigations as the
10 commission shall deem proper as to the good character, competency
11 and integrity of the applicant, shall issue a license to an approved
12 residential property wholesaler upon payment of a fee in an amount
13 established by the commission. The license shall be renewable
14 every year upon payment of a renewal fee in an amount established
15 by the commission. The license may be revoked or suspended by
16 the commission for a violation of any of the provisions of this act or
17 for other good cause.

18 e. The commission shall not issue a residential property
19 wholesaler license to any person that has, within the six years
20 preceding the submission of application for licensure, been
21 convicted of any crime of fraud, dishonesty, breach of trust, or
22 deceit, or has been convicted for violating the "New Jersey
23 Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.).
24

25 3. a. No residential property wholesaler or applicant for a
26 residential property wholesaler license shall, in the course of
27 soliciting residential property:

28 (1) knowingly make any substantial misrepresentations, make
29 any false promises, untruthfully advertise, or engage in any conduct
30 that demonstrates bad faith, dishonesty, untrustworthiness, or
31 incompetency; or

32 (2) knowingly give false or misleading information when
33 completing a residential property wholesaler license application or
34 when providing changes of information to the commission.

35 b. The commission may revoke or refuse to issue a residential
36 property wholesaler license to a person with a significant history of
37 the conduct prohibited pursuant to this section.
38

39 4. a. A residential property wholesaler shall provide a
40 homeowner with a disclosure at least three days before presenting
41 an offer to purchase the homeowner's residential property. The
42 disclosure shall:

43 (1) inform the homeowner of how to access resources that
44 assess the fair value of residential properties including any private
45 real estate assessment tools as may be identified by the commission;

46 (2) inform the homeowner of the seller's ability to hire a real
47 estate agent or seek legal counsel; and

1 (3) identify any other resources deemed appropriate by the
2 commission.

3 b. The residential property wholesaler shall require the
4 homeowner to sign the disclosure and shall maintain a copy of the
5 signed disclosure in its records for a period of at least five years.
6

7 5. Any agreement of sale entered into by a residential property
8 wholesaler who is not licensed as a residential property wholesaler
9 at the time of the solicitation may be rescinded, at the sole option of
10 the homeowner, at any time prior to the transfer of the title to the
11 homeowner's residential property.
12

13 6. a. It shall be an unlawful practice for an individual or
14 entity, including but not limited to, a real estate broker or agent, or
15 the employee or representative of a broker or agent, to solicit real
16 property for sale or rental, or the listing of real property for sale or
17 rental, at any time after the individual or entity has notice that the
18 owner or other person with the right to sell, rent, lease, or approve
19 the sale, rental or lease of the real property does not desire to sell or
20 rent the real property, or does not desire to be solicited, either by
21 the individual or entity, or by any individual or entity.

22 b. The commission shall create and maintain a public list of
23 real property owners who have expressed a desire to not be solicited
24 to sell or rent their real property, which shall be known as the "Do
25 Not Solicit List." Upon written request from a real property owner,
26 the commission shall remove a real property owner's name from the
27 "Do Not Solicit List" within 30 days. Inclusion on the "Do Not
28 Solicit List" of any real property owner shall qualify as notice that
29 the real property owner does not desire to sell or rent the real
30 property and does not desire to be solicited pursuant to the act.
31

32 7. For the purpose of investigating whether a person has
33 engaged in, or is engaging in, any act or practice declared unlawful
34 pursuant to this act, or for the purpose of investigating the
35 character, competency, integrity or methods of operation of
36 applicants, licensees or registrants hereunder, or of any owner or
37 operator of any residential property wholesaler, the commission
38 shall have the power to:

39 a. require any person to file on such form as may be prescribed
40 by the commission, a statement or report in writing under oath, or
41 otherwise, as to the facts and circumstances concerning any matter
42 being investigated;

43 b. administer oaths or affirmations and examine any person in
44 connection with any investigation;

45 c. inspect any premises and examine and impound any record,
46 book, computer, electronic database, recording device, document,
47 account, paper or other tangible thing, without prior notification, in
48 connection with any investigation;

1 d. hold investigative hearings and issue subpoenas to compel
2 the attendance of any person or the production of any record, book,
3 computer, electronic database, recording device, document,
4 account, paper or other tangible thing in connection with any
5 investigation; and

6 e. apply to the Superior Court for an order compelling
7 compliance with any subpoena or other request for information.
8

9 8. A person who violates any provision of this act shall be
10 subject to a penalty of \$2,000 for each offense, to be sued for and
11 recovered by and in the name of the commission pursuant to the
12 provisions of the "Penalty Enforcement Law of 1999," P.L.1999,
13 c.274 (C.2A:58-10 et seq.).

14 If any person acts or attempts to act as a residential property
15 wholesaler or holds himself or herself out as being able to act as a
16 residential property wholesaler in violation of the provisions of this
17 act, each day during which the violation continues shall constitute
18 an additional, separate, and distinct offense for the purposes of this
19 section.
20

21 9. This act shall take effect on the first day of the seventh
22 month next following the date of enactment but the commission
23 may take such anticipatory administrative action in advance thereof
24 as shall be necessary for the implementation of the act.
25
26

27 STATEMENT

28

29 This bill establishes a residential property wholesaler license
30 under the New Jersey Real Estate Commission. Under the bill,
31 "residential property wholesaler" means a person or entity who is in
32 the business of purchasing or soliciting for purchase residential
33 properties, not to use as their residence. A residential property
34 wholesaler is not to include:

35 (1) a public official or employee who acts as a residential
36 property wholesaler in the course of their official duties;

37 (2) a person or entity who is in the business of purchasing
38 residential properties and substantially improving those properties
39 for the purpose of resale;

40 (3) attorneys licensed to practice law in this State; or

41 (4) persons licensed as a real estate broker, broker-salesperson,
42 or salesperson by the New Jersey Real Estate Commission

43 The bill provides that person or entity is permitted to act as a
44 residential property wholesaler without first obtaining a valid
45 residential property wholesaler license. Application for a
46 residential property wholesaler license and a renewal of a
47 residential property wholesaler license is to be submitted to the

1 New Jersey Real Estate Commission on a form and in a manner
2 prescribed by the commission.

3 The bill provides that no residential property wholesaler or
4 applicant for a residential property wholesaler license is permitted
5 to, in the course of soliciting residential property:

6 (1) knowingly make any substantial misrepresentations, make
7 any false promises, untruthfully advertise, or engage in any conduct
8 that demonstrates bad faith, dishonesty, untrustworthiness, or
9 incompetency; or

10 (2) knowingly give false or misleading information when
11 completing a residential property wholesaler license application or
12 when providing changes of information to the commission.

13 Under the bill, a residential property wholesaler is to provide a
14 homeowner with a disclosure at least three days before presenting
15 an offer to purchase the homeowner's residential property. The
16 residential property wholesaler is to require the homeowner to sign
17 the disclosure and maintain a copy of the signed disclosure in its
18 records for a period of at least five years.

19 Pursuant to the bill, any agreement of sale entered into by a
20 residential property wholesaler who was not licensed as a
21 residential property wholesaler at the time of the solicitation may be
22 rescinded, at the sole option of the homeowner, at any time prior to
23 the transfer of the title to the homeowner's residential property.

24 Furthermore, the bill states that it is an unlawful practice for a
25 real estate broker or agent, or the employee or representative of a
26 broker or agent, to solicit any real property for sale or rental, or the
27 listing of any real property for sale or rental, at any time after the
28 broker, agent, employee or representative has notice that the owner
29 or other person with the right to sell, rent, lease, or approve the sale,
30 rental or lease of such real property does not desire to sell or rent
31 such real property, or does not desire to be solicited, either by the
32 broker or agent, or by any broker or agent.

33 Under the bill, the commission is to create and maintain a public
34 list of real property owners who have expressed a desire to not be
35 solicited to sell or rent their real property, to be known as the "Do
36 Not Solicit List." Inclusion on the "Do Not Solicit List" of any real
37 property owner is to qualify as notice that the real property owner
38 does not desire to sell or rent the real property and does not desire
39 to be solicited.

40 The bill also provides that the commission is to have certain
41 powers for the purpose of investigating whether a person has
42 engaged in, or is engaging in, any act or practice declared unlawful
43 pursuant to the bill, or for the purpose of investigating the character,
44 competency, integrity or methods of operation of applicants,
45 licensees or registrants hereunder, or of any owner or operator of
46 any residential property wholesaler.

47 A person that violates the provisions of the bill is to be subject to
48 a penalty of \$2,000 for each offense.