

Senate Study Bill 3133 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON BROWN)

A BILL FOR

1 An Act relating to the wholesaling of residential property by a
2 wholesaler, and providing civil penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 543B.6A Wholesaling of residential
2 property.

3 1. As used in this section:

4 a. "*Residential property*" means real property that includes
5 no less than one but no more than four dwelling units.

6 b. "*Wholesaler*" means a licensee, or a person represented
7 by a licensee, who holds an equitable interest, but not legal
8 title, in a residential property for the purpose of selling the
9 equitable interest to a buyer.

10 c. "*Wholesaling*" means the practice of a wholesaler entering
11 into an assignable contract with an owner of residential
12 property for the purpose of marketing and selling the equitable
13 interest of the residential property to another person.

14 2. A person must be licensed as a real estate broker
15 under this chapter, or be represented by a real estate broker
16 licensed under this chapter, to engage in wholesaling.

17 3. a. A wholesaler shall disclose all of the following
18 information in writing to all parties to a wholesale
19 transaction prior to executing a contract to purchase or to
20 convey an equitable interest to a buyer or other entity:

21 (1) The legal identities of all parties to the wholesale
22 transaction.

23 (2) An explanation of the wholesaling process, including
24 but not limited to disclosure that the wholesaler holds an
25 equitable interest in the residential property that is the
26 subject of the transaction and may not be able to convey title
27 to the property.

28 b. A wholesaler shall provide a copy of an executed agency
29 agreement to all parties to a wholesale transaction prior
30 to executing a contract to purchase or convey an equitable
31 interest to a buyer or other entity.

32 c. Notwithstanding provisions to the contrary contained in a
33 contract executed pursuant to this subsection, if a wholesaler
34 fails to comply with the disclosure requirement under paragraph
35 "a", the seller or the buyer may cancel the contract at any time

1 prior to the closing of the sale of the residential property
2 without penalty, and may retain any earnest money paid by the
3 wholesaler.

4 4. An individual engaged in wholesaling in violation of
5 this section shall be subject to a civil penalty of up to the
6 greater of ten thousand dollars, or ten percent of the sale
7 price of each residential property for which the individual
8 engaged in wholesaling in violation of this section.

9 5. The real estate commission shall adopt rules pursuant to
10 chapter 17A necessary to implement and administer this section.

11

EXPLANATION

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The inclusion of this explanation does not constitute agreement with

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the explanation's substance by the members of the general assembly.

14 This bill relates to the wholesaling of residential property
15 by a wholesaler. "Wholesaling", "residential property", and
16 "wholesaler" are defined in the bill.

17 The bill requires a person to be licensed as a real estate
18 broker, or to be represented by a licensee, to engage in
19 wholesaling. The bill permits a licensee to represent a
20 wholesaler in a wholesaling transaction.

21 The bill requires a wholesaler to disclose to all parties
22 to a wholesale transaction prior to executing a contract to
23 purchase or to convey an equitable interest to a buyer or other
24 entity the legal identities of all parties to the wholesale
25 transaction and an explanation of the wholesaling process,
26 including disclosure that the wholesaler holds an equitable
27 interest in the residential property and may not be able to
28 convey title to the property. The bill also requires the
29 wholesaler to provide a copy of an executed agency agreement to
30 all parties prior to executing the contract.

31 If a wholesaler fails to comply with the disclosure
32 requirements, the seller or the buyer may cancel the contract
33 at any time prior to the closing of the sale of residential
34 property without penalty, and may retain any earnest money paid
35 by the wholesaler.

S.F. _____

1 An individual engaged in wholesaling in violation of the
2 bill is subject to a civil penalty of up to the greater of
3 \$10,000, or 10 percent of the sale price of each residential
4 property for which the individual engaged in wholesaling in
5 violation of the bill.

6 The real estate commission shall adopt rules as necessary to
7 implement and administer the bill.