

**REAL ESTATE LICENSING AND REGISTRATION ACT - EXCLUSIONS, RIGHT TO
CANCEL SALES AGREEMENTS OR SALES CONTRACTS FOR WHOLESALE
TRANSACTIONS**

Act of Jul. 8, 2024, P.L. 545, No. 52

Cl. 63

Session of 2024

No. 2024-52

SB 1173

AN ACT

Amending the act of February 19, 1980 (P.L.15, No.9), entitled "An act establishing the State Real Estate Commission and providing for the licensing of real estate brokers and salesmen," in definitions, further providing for definitions; in application of the act and penalties, further providing for exclusions; and, in duties of licensees, providing for right to cancel sales agreements or sales contracts for wholesale transactions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definitions of "broker" and "salesperson" in section 201 of the act of February 19, 1980 (P.L.15, No.9), known as the Real Estate Licensing and Registration Act, are amended and the section is amended by adding definitions to read:

Section 201. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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"Broker." Any of the following:

(1) Any person who, for another and for a fee, commission or other valuable consideration:

[(1)] **(i)** negotiates with or aids any person in locating or obtaining for purchase, lease or an acquisition of interest in any real estate;

[(2)] **(ii)** negotiates the listing, sale, purchase, exchange, lease, time share and similarly designated interests, financing or option for any real estate;

[(3)] **(iii)** manages any real estate;

[(4)] **(iv)** represents himself to be a real estate consultant, counsellor, agent or finder;

[(5)] **(v)** undertakes to promote the sale, exchange, purchase or rental of real estate: Provided, however, That this provision shall not include any person whose main business is that of advertising, promotion or public relations;

[(5.1)] **(vi)** undertakes to perform a comparative market analysis; or

[(6)] **(vii)** attempts to perform any of the above acts.

(2) Any person who, whether for the person or for another, engages or attempts to engage in a wholesale transaction.

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"Residential property." Real property located within this Commonwealth that consists of not less than one and not more than four residential dwelling units.

"Salesperson." Any person employed by a licensed real estate broker to perform comparative market analyses or to list for sale, sell or offer for sale, to buy or offer to buy or to negotiate the

purchase or sale or exchange of real estate or to negotiate a loan on real estate or to lease or rent or offer to lease, rent or place for rent any real estate or collect or offer or attempt to collect rent for the use of real estate **or engage or attempt to engage in a wholesale transaction** for or in behalf of such real estate broker. No person employed by a broker to perform duties other than those activities as defined herein under "broker" shall be required to be licensed as a salesperson.

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"Wholesale transaction." Undertaking to promote the sale, exchange or purchase of an equitable interest or other interest in residential property with the intent to assign, sell or otherwise transfer the interest for a fee, commission or other valuable monetary consideration without having taken title as the owner of record of the interest.

Section 2. Section 304(1) of the act is amended to read:
Section 304. Exclusions.

Except as otherwise provided in this act, the provisions of this act shall not apply to the following:

(1) An owner of real estate with respect to property owned or leased by such owner. In the case of a partnership or corporation, this exclusion shall not extend to more than five of its partners or officers, respectively, nor to other partnership or corporation personnel or employees. **This exclusion shall not apply to a wholesale transaction.**

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Section 3. The act is amended by adding a section to read:
Section 610. Right to cancel sales agreements or sales contracts for wholesale transactions.

(a) A consumer who is party to a wholesale transaction shall have the right to cancel a sales agreement or sales contract that contains the information required under subsection (e) until midnight of the 30th day after the date when the consumer executed the agreement or contract, or until conveyance, whichever occurs first. A sales agreement or sales contract for a wholesale transaction that does not contain the information required under subsection (e) may be canceled at any time prior to conveyance. The right to cancel the sales agreement or sales contract shall not be waivable.

(b) Notice of cancellation shall be given by certified return receipt mail or by any other bona fide means of delivery, including electronic delivery or personal delivery, provided that the consumer obtains a receipt. A notice of cancellation given by a bona fide means of delivery shall be effective on the date postmarked, the date of electronic transmission or on the date of deposit of the notice with any bona fide means of delivery.

(c) Within ten business days after the receipt of a notice of cancellation, all payments of any kind made by the consumer shall be refunded to the consumer and an acknowledgment that the sales agreement or sales contract is void shall be sent by the broker or salesperson to the consumer. In the event of a cancellation under this section, any promotional prizes, gifts and premiums issued to the consumer shall remain the property of the consumer.

(d) A consumer who exercises the right of cancellation shall not be liable for any damages as a result of the exercise of that right.

(e) A sales agreement or sales contract for a wholesale transaction shall prominently include the following information which shall be disclosed in the manner and method that the commission shall establish by regulation:

(1) A statement that the agreement or contract is for a wholesale transaction in which the licensee intends to assign, sell or otherwise transfer the interest for a fee, commission

or other valuable monetary consideration without having taken title as the owner of record of the interest.

(2) A statement that the consumer has the right to obtain an appraisal of the property from a real estate appraiser certified under section 3 of the act of July 10, 1990 (P.L.404, No.98), known as the "Real Estate Appraisers Certification Act," to consult with a licensee not affiliated with the licensee's broker or to seek legal counsel before or after entering into the agreement or contract.

(3) A statement that the consumer has the right to cancel the agreement or contract until midnight of the 30th day after the date when the consumer executed the agreement or contract, or until conveyance, whichever occurs first, by certified return receipt mail or by any other bona fide means of delivery, including electronic delivery or personal delivery, provided that the consumer obtains a receipt.

(4) A statement that within ten business days after the receipt of a notice of cancellation, all payments of any kind made by the consumer shall be refunded to the consumer.

Section 4. This act shall take effect in 180 days.

APPROVED--The 8th day of July, A.D. 2024.

JOSH SHAPIRO