

1 that the person or entity marketing or selling the rights or interests is engaged in
2 wholesaling. "Wholesaling" includes but is not limited to the following:

3 (a) Entering into a contract to purchase residential real property with the
4 intent of assigning or selling the contractual rights to another party before taking
5 possession or legal ownership of such residential real property.

6 (b) Simultaneously consummating or closing two separate transactions
7 relative to the same residential real property, including one transaction with the
8 original owner and seller of the residential real property and another transaction with
9 the end buyer, without the purchaser providing all funds needed to close the sale
10 transaction with the original owner and seller and without the intent to reside in,
11 occupy, or otherwise materially improve the residential real property.

12 * * *

13 §1448.5. Wholesale agreements; residential real property

14 A. A wholesaler shall prominently disclose all of the following in writing to
15 the seller of residential real property, which is the subject of wholesaling, before the
16 execution of each related contract or written agreement:

17 (1) That the wholesaler has an intent to assign, transfer, convey, or sell the
18 wholesaler's contractual rights to, or equitable interest in, the subject residential real
19 property for a higher price than what is offered to the seller, or will otherwise market
20 the wholesaler's contractual rights or equitable interests for financial gain.

21 (2) That the seller should seek legal advice before signing each contract or
22 written agreement relative to the seller's residential real property.

23 (3) That the seller has the right to cancel any contract or written agreement
24 relative to the seller's residential real property for any reason and without penalty for
25 at least five calendar days after the execution of each related contract or written
26 agreement.

27 B. A wholesaler shall not directly or indirectly do any of the following:

28 (1) Act or purport to act as an advisor or consultant or in any other manner
29 represent that the wholesaler is acting on behalf of the seller whether pursuant to a
30 mandate, power of attorney, or otherwise.

1 (2) Represent himself as holding any license or certification or being a
2 member of a licensed profession without possession of the license or certification.

3 (3) Impose, file, record, or place any lien, privilege, mortgage, or other
4 encumbrance on the residential real property, which is the subject of wholesaling, or
5 otherwise cloud the title of such property.

6 (4) Engage in any deceptive or unfair trade practice involving residential real
7 property or the execution of unlawful real estate service agreements in violation of
8 R.S. 51:1429.

9 C.(1) Any seller that enters into a contract or written agreement involving
10 wholesaling has the right to cancel the contract or written agreement for any reason
11 and without penalty for at least five calendar days after the date of execution of each
12 related contract or written agreement by either the seller or the wholesaler,
13 whichever is later.

14 (2)(a) Any contract or written agreement involving wholesaling shall
15 conspicuously include the date and time by which the contract or written agreement
16 may be canceled by the seller. The date and time shall be included within a notice
17 which shall be located in immediate proximity to the space reserved for the seller's
18 signature and shall contain the following language:

19 "NOTICE REQUIRED BY LOUISIANA LAW: You may cancel this
20 contract at any time before 11:59 PM of [Insert Date]. [Insert Name of Wholesaler]
21 CANNOT ask you to sign or have you sign any cash sale, conveyance or deed, or
22 any other document until your right to cancel this contract has ended. See the
23 attached notice of cancellation form for an explanation of this right. It is advisable
24 that you find your own attorney before signing the contract. The law requires this
25 contract to contain the entire agreement. You should not rely upon any other written
26 or oral agreement or promise."

27 (b) The commission shall publish and maintain a mandatory cancellation
28 notice form on its website, which shall include, at a minimum, the language required
29 by this Paragraph.

1 (c) A wholesaler shall include the mandatory cancellation notice form
2 required by this Paragraph at no cost to the seller with each contract or written
3 agreement involving wholesaling.

4 D.(1) Failure to include any of the required disclosures outlined in this
5 Section or any other violation of this Section shall render the contract or written
6 agreement involving wholesaling immediately voidable and terminable at any time
7 prior to transfer of title of the residential real property by the seller, at the seller's
8 sole discretion.

9 (2) Upon seller's written notice to the wholesaler of the seller's election to
10 void and terminate such contract or written agreement pursuant to Paragraph (1) of
11 this Subsection, the contract or written agreement shall be invalid and unenforceable
12 by the wholesaler.

13 E.(1) Upon a termination by the seller prior to the expiration of the rescission
14 period outlined in Subsection C of this Section, the wholesaler shall be entitled to
15 receive a full return of any deposit involved in the wholesaling transaction. Upon any
16 other termination exercised by a seller in accordance with this Section, the seller
17 shall be entitled to receive any deposit involved in the wholesaling transaction.

18 (2) Any deposit involved in a wholesaling transaction shall be kept in either
19 the account of the seller or an escrow account maintained in this state with a
20 federally insured financial institution.

21 (3) Any contract or written agreement involving wholesaling shall include
22 a deposit of not less than one percent of the purchase price, which shall be held in
23 escrow in accordance with this Section.

24 F. Any violation of this Section shall constitute both an unfair trade practice,
25 which may be enforced by the attorney general, public protection division, consumer
26 protection section, and a violation of this Chapter, which may be enforced by the
27 commission.

28 G. In addition to any other remedy provided by law, any person who violates
29 the provisions of this Section shall be subject to a civil penalty not to exceed five
30 thousand dollars per violation to be imposed and collected by the commission.

1 Section 2. The provisions of this Act shall not apply to any contracts or written
2 agreements, regarding the wholesaling of residential real property, that were completed prior
3 to the effective date of this Act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____