New State Laws Seek to Address Lack of Transparency in Real Estate Wholesaling

Description

Article by Michael Holden

In November, the Ohio state legislature passed Senate Bill 155, promulgating regulations on real estate wholesaling in an effort to address lack of transparency and predatory practices against vulnerable homeowners in this emerging trend.

Real estate wholesaling is considered an entry level â??investment strategy,â?• where a wholesaler identifies likely targets, usually distressed or undervalued properties, negotiates with the owner to come to an agreement on a contract for sale, then assigns the contract directly to an investor who actually purchases the property.

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The wholesaler receives a fee for acting as the middleman in identifying properties and bringing them to the investor, but invests no funds in the purchase, makes no improvements, and often secures the property for the investor at an amount far below market value.

Harm to homeowners

Supporters of the Ohio legislation have cited several concerns, Including:

- Lack of transparency, where wholesalers cloud the truth of their role as middleman
- Pressure on sellers to release property considerably below market price
- Inadequate consumer protection against fraudulent claims by the wholesaler
- No required fiduciary duty to the client, such as a real estate agent would have
- Little to no requirement to disclose the details behind the purchase

To address these concerns, Ohioâ??s new law encompasses several provisions, most importantly that the wholesaler provide a written disclosure to the seller that includes in part:

- The seller is entitled to seek legal advice before entering into the agreement
- A wholesaler is acting on their own behalf and does not represent the owner
- The wholesaler seeks to sell or assign their interest for a profit
- The wholesaler may assign their interest in the purchase contract to a third party without the ownerâ??s consent before closing
- The agreed purchase price may be below market value and is conveyed voluntarily

Ohio is not the first state to enact legislation to protect consumers from potential harm from this new stratagem.

Tennessee SB 909/Pub. Ch. 72 was signed into law on March 25,2025 and went into effect immediately. It requires wholesalers to clarify their intent to assign or sell their equitable interest and detail the nature of their interest in the property.

North Dakota HB 1125, effective Aug. 1, 2025, broadened the stateâ??s real estate wholesale laws to include not only residential properties, but all real estate wholesale transactions.

Maryland HB 124/Chapter 508 and companion bill SB 160/Chapter 509, effective Oct.1, 2025, require wholesalers to disclose their intent to assign or sell their equitable interest in the property. The failure to disclose grants the property owner the right to cancel the contract without penalty and invokes additional penalties against the wholesaler.

Oklahoma SB 1075, effective Nov. 1, 2025, requires wholesalers to disclose their intent to assign or sell their equitable interest, advises homeowners to seek legal advice before signing and gives homeowners the right to cancel the agreement within two business days.

Connecticut HB 7287/Public Act 25-168, effective July 1, 2026, requires wholesalers to register with the Department of Consumer Protection. The act outlines specific requirements for wholesale contracts, such as a 3-day-right to cancel, and prohibits wholesalers from setting a closing date more than 90 days after the contract is signed, to keep deals from dragging on indefinitely.

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The new Ohio law does not mince words when it comes to what will happen if wholesalers fail to follow these provisions, noting, â??Any violation of this section is an unfair or deceptive act or practice in violation of section 1345.02 of the Revised Code. A party that enters into an agreement without receiving the disclosures required in this section has a cause of action against a wholesaler and is entitled to the same relief available to a consumer under section 1345.09 of the Revised Code. All powers and remedies available to the attorney general to enforce sections 1345.01 to 1345.13 of the Revised Code are available to the attorney general to enforce this section.â?•

The Ohio Realtors Association had lobbied for the passage of the bill and testified before the legislature prior to the vote last fall.

Realtor Brian Bainbridge reported that his client had been offered $100,000 for property worth $150,000. â??The wholesalerâ??s job is to find a homeowner that doesnâ??t know any better â?? 75-80% of the time they target senior citizens and then con them into agreeing to part with the property for a fraction of what it is worth,â?• he said.

Realtor Seth Task highlighted the important safeguards in the legislation saying, â??Ohioans deserve to sell their homes in an environment free from predatory practices that strip them of equity, and this legislation provides essential protections against bad actors in the real estate industry.â?•

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