



Senate Bill 160 – Residential Property – Assignment of Contracts of Sale – Disclosure Requirements and Rescission

Position: Favorable

Maryland REALTORS® support SB 160 which requires individuals who conduct wholesaling transactions to disclose that fact to sellers and purchasers and provide them a rescission right.

The practice of real estate wholesaling occurs when a home seller attempts to sell their interest in a property to a wholesaler (the purchaser) who then sells the beneficial interest in the property to another purchaser who will assume title of the property. Wholesalers target properties that can be obtained well below market value that they believe can be sold for a higher price. After a wholesaler's offer to purchase is accepted, the wholesaler will then market the property with the intent of selling the property at a higher price.

These transactions often raise concerns that include:

- whether the wholesaler has fully disclosed to the eventual buyer that the transaction is an assignment rather than a traditional sale;
- whether the contingencies negotiated by the wholesaler extend to the new buyer; and,
- whether the wholesaler has properly advertised the property and their financial interests in it

SB 160 will clarify many of these concerns by providing an explicit disclosure to both the title holder/seller of the property and the end purchaser of the property who hopes to obtain title. The wholesaler's status as a facilitator will be disclosed and if it is not disclosed, the title holder/seller and the end purchaser will have an unconditional right to rescind the contract and receive any deposit money back.

SB 160 was amended by the House Committee last year and passed unanimously in that body. Although the Bar Association supported amendments offered last year, they may have additional amendments this year. The REALTORS® encourage a favorable report.

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