



Senate Select Committee on Housing January 31, 2024

Chair Reynolds, Vice Chair Johnson, Ranking Member Craig and members of the Senate Select Committee on Housing, thank you for the opportunity to testify today on behalf of Ohio REALTORS®. My name is Andrew Huffman and I am the Assistant Vice President of Government Affairs. While most of the testimony provided to this committee has focused on housing supply challenges, my testimony today will highlight two housing policies this committee should consider that would protect consumers and Ohio small businesses from the often-predatory practice of real estate wholesaling and improve transparency within the homebuying process through the use of buyer representation agreements.

Formed in 1910, Ohio REALTORS® is the state's largest professional trade association with over 36,000 members representing both residential and commercial practitioners. The state of Ohio entrusts licensed real estate professionals to be the conduit between homeowners and buyers by helping their clients navigate the maze of forms and complexities associated with purchasing or selling a property.

Last week this committee received testimony on the practice of real estate wholesaling. We would encourage lawmakers to consider policies aimed at protecting Ohio's consumers and small businesses from this predatory approach to selling and buying property. Real estate wholesaling involves the practice where an individual enters a contract with a property owner and then assigns the rights to that contract, often to a 3rd party investor, for an assignment fee. Wholesalers deceive vulnerable homeowners into believing that the wholesaler is actually purchasing the property and they capitalize off a homeowner's lack of knowledge about the value of their home. Their business model is dependent on obtaining a property at the lowest price possible, so they offer far below market value hoping to be able to re-sell the contract for the actual market price, depriving Ohioans from equity in their home. The homeowner only discovers the true intention of the wholesaler at the time of closing, when they find that the home was sold for much more than what was originally offered to them and to a 3rd party investor who they have never interacted with. Additionally, if the wholesaler fails to find an end buyer, the property can be tied up for months on end and the deal can be cancelled, with few or no penalties to the wholesaler.

Issues also arise involving wholesalers violating Ohio's licensing laws by actively advertising and marketing properties as if they were licensed real estate professionals. There is little oversight and state law offers limited protection to Ohioans being exploited by this practice. Certain states have banned wholesaling activity entirely and others have passed laws requiring a wholesaler to provide disclosure to the property owner. Senator Brenner has recently introduced SB 192 to protect Ohioans against being taken advantage of by wholesalers by



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providing oversight of this practice and requiring that proper disclosure is provided to the homeowner to ensure they are fully aware of the deal they are entering.

Separately, Ohio REALTORS® is exploring ways to improve transparency within the homebuying process and we believe the best way to accomplish that goal is to have all brokers enter into written representation agreements with their clients. This practice is standard for listing brokers; however, it is not mandatory for brokers representing buyers. Due to recent changes in the industry, the longstanding practice where compensation was handled through the multiple listing service (MLS) with listing brokers offering compensation to the buyer brokers will likely change. As fewer listing brokers offer to share commissions with buyer brokers, homebuyers will be faced with negotiating and paying commission fees directly to their brokers. Without a written representation agreement, there is uncertainty and confusion regarding the terms of representation and how the broker will be compensated. By requiring written representation agreements, homebuyers will have a clear understanding of what services they should expect as well as the commission structure of their broker. It will also provide security and assurance to a brokerage before they spend countless hours with a client.

State law already requires brokerages to provide clients with a consumer guide to agency, which explains what types of agency relationships the brokerage offers. However, this form does not specify the terms of representation nor commission structure. Additionally, the Ohio Revised Code (ORC) already contains language in ORC 4735.55 that specifies what should be contained in a written representation agreement. However, that statute does not require them to be used, it only specifies what they must contain if they are used by a brokerage. While Ohio REALTORS® have long advocated for the use of written representation agreements, unless these agreements are required by state law, we can expect continued inconsistency of their usage. Therefore, we would ask that this code section be amended to set a standard for the use of written representation agreements by real estate brokers, similar to the consumer guide to agency.

Chair Reynolds and members of the committee, thank you for allowing me to testify, I look forward to working with you on these proposals and would be happy to answer any questions at this time.