

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 192

**Senator Brenner
Cosponsor: Senator Blessing**

A BILL

To amend sections 4735.01 and 4735.18 and to enact
section 5301.95 of the Revised Code to expand
the scope of activities for which a real estate
broker's license is required and to require
wholesalers to make certain disclosures in
transactions involving residential real
property.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4735.01 and 4735.18 be amended
and section 5301.95 of the Revised Code be enacted to read as
follows:

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Sec. 4735.01. As used in this chapter:

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(A) "Real estate broker" includes any person, partnership,
association, limited liability company, limited liability
partnership, or corporation, foreign or domestic, who ~~for~~
~~another, whether pursuant to a power of attorney or otherwise,~~
~~and who~~ for a fee, commission, or other valuable consideration,
or with the intention, or in the expectation, or upon the
promise of receiving or collecting a fee, commission, or other

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valuable consideration does ~~any either~~ of the following: 19

(1) Does any of the following for another, whether 20
pursuant to a power of attorney or otherwise: 21

(a) Sells, exchanges, purchases, rents, or leases, or 22
negotiates the sale, exchange, purchase, rental, or leasing of 23
any real estate; 24

~~(2)~~ (b) Offers, attempts, or agrees to negotiate the sale, 25
exchange, purchase, rental, or leasing of any real estate; 26

~~(3)~~ (c) Lists, or offers, attempts, or agrees to list, or 27
auctions, or offers, attempts, or agrees to auction, any real 28
estate; 29

~~(4)~~ (d) Buys or offers to buy, sells or offers to sell, or 30
otherwise deals in options on real estate; 31

~~(5)~~ (e) Operates, manages, or rents, or offers or attempts 32
to operate, manage, or rent, other than as custodian, caretaker, 33
or janitor, any building or portions of buildings to the public 34
as tenants; 35

~~(6)~~ (f) Advertises or holds self out as engaged in the 36
business of selling, exchanging, purchasing, renting, or leasing 37
real estate; 38

~~(7)~~ (g) Directs or assists in the procuring of prospects 39
or the negotiation of any transaction, other than mortgage 40
financing, which does or is calculated to result in the sale, 41
exchange, leasing, or renting of any real estate; 42

~~(8)~~ (h) Is engaged in the business of charging an advance 43
fee or contracting for collection of a fee in connection with 44
any contract whereby the broker undertakes primarily to promote 45
the sale, exchange, purchase, rental, or leasing of real estate 46

through its listing in a publication issued primarily for such 47
purpose, or for referral of information concerning such real 48
estate to brokers, or both, except that this division does not 49
apply to a publisher of listings or compilations of sales of 50
real estate by their owners; 51

~~+(9)-(i)~~ Collects rental information for purposes of 52
referring prospective tenants to rental units or locations of 53
such units and charges the prospective tenants a fee. 54

(2) Engages in the business of buying, selling, offering 55
to buy or sell, marketing for sale, exchanging, or otherwise 56
dealing in contracts, including novations and assignable 57
contracts, for the purchase or sale of residential real estate, 58
regardless of whether such business is conducted for another. 59

(B) "Real estate" includes leaseholds as well as any and 60
every interest or estate in land situated in this state, whether 61
corporeal or incorporeal, whether freehold or nonfreehold, and 62
the improvements on the land, but does not include cemetery 63
interment rights. 64

(C) "Real estate salesperson" means any person associated 65
with a licensed real estate broker to do or to deal in any acts 66
or transactions set out or comprehended by the definition of a 67
real estate broker, for compensation or otherwise. 68

(D) "Institution of higher education" includes all of the 69
following: 70

(1) A state institution of higher education, as defined in 71
section 3345.011 of the Revised Code; 72

(2) A nonprofit institution issued a certificate of 73
authorization under Chapter 1713. of the Revised Code; 74

(3) A private institution exempt from regulation under 75
Chapter 3332. of the Revised Code, as prescribed in section 76
3333.046 of the Revised Code. 77

(4) An institution with a certificate of registration from 78
the state board of career colleges and schools under Chapter 79
3332. of the Revised Code that is approved to offer degree 80
programs in accordance with section 3332.05 of the Revised Code. 81

(E) "Foreign real estate" means real estate not situated 82
in this state and any interest in real estate not situated in 83
this state. 84

(F) "Foreign real estate dealer" includes any person, 85
partnership, association, limited liability company, limited 86
liability partnership, or corporation, foreign or domestic, who 87
for another, whether pursuant to a power of attorney or 88
otherwise, and who for a fee, commission, or other valuable 89
consideration, or with the intention, or in the expectation, or 90
upon the promise of receiving or collecting a fee, commission, 91
or other valuable consideration, does or deals in any act or 92
transaction specified or comprehended in division (A) of this 93
section with respect to foreign real estate. 94

(G) "Foreign real estate salesperson" means any person 95
associated with a licensed foreign real estate dealer to do or 96
deal in any act or transaction specified or comprehended in 97
division (A) of this section with respect to foreign real 98
estate, for compensation or otherwise. 99

(H) Any person, partnership, association, limited 100
liability company, limited liability partnership, or 101
corporation, who, for another, in consideration of compensation, 102
by fee, commission, salary, or otherwise, or with the intention, 103

in the expectation, or upon the promise of receiving or 104
collecting a fee, does, or offers, attempts, or agrees to engage 105
in, any single act or transaction contained in the definition of 106
a real estate broker, whether an act is an incidental part of a 107
transaction, or the entire transaction, shall be constituted a 108
real estate broker or real estate salesperson under this 109
chapter. 110

(I) (1) The terms "real estate broker," "real estate 111
salesperson," "foreign real estate dealer," and "foreign real 112
estate salesperson" do not include a person, partnership, 113
association, limited liability company, limited liability 114
partnership, or corporation, or the regular employees thereof, 115
who perform any of the acts or transactions specified or 116
comprehended in division (A) of this section, whether or not 117
for, or with the intention, in expectation, or upon the promise 118
of receiving or collecting a fee, commission, or other valuable 119
consideration: 120

(a) With reference to real estate situated in this state 121
owned by such person, partnership, association, limited 122
liability company, limited liability partnership, or 123
corporation, or acquired on its own account in the regular 124
course of, or as an incident to the management of the property 125
and the investment in it; 126

(b) As receiver or trustee in bankruptcy, as guardian, 127
executor, administrator, trustee, assignee, commissioner, or any 128
person doing the things mentioned in this section, under 129
authority or appointment of, or incident to a proceeding in, any 130
court, or as a bona fide public officer, or as executor, 131
trustee, or other bona fide fiduciary under any trust agreement, 132
deed of trust, will, or other instrument that has been executed 133

in good faith creating a like bona fide fiduciary obligation; 134

(c) As a public officer while performing the officer's 135
official duties; 136

(d) As an attorney at law in the performance of the 137
attorney's duties; 138

(e) As a person who engages in the brokering of the sale 139
of business assets, not including the sale, lease, exchange, or 140
assignment of any interest in real estate; 141

(f) As a person who engages in the sale of manufactured 142
homes as defined in division (C) (4) of section 3781.06 of the 143
Revised Code, or of mobile homes as defined in division (O) of 144
section 4501.01 of the Revised Code, provided the sale does not 145
include the negotiation, sale, lease, exchange, or assignment of 146
any interest in real estate; 147

(g) As a person who engages in the sale of commercial real 148
estate pursuant to the requirements of section 4735.022 of the 149
Revised Code; 150

(h) As an oil and gas land professional in the performance 151
of the oil and gas land professional's duties, provided the oil 152
and gas land professional is not engaged in the purchase or sale 153
of a fee simple absolute interest in oil and gas or other real 154
estate and the oil and gas land professional complies with 155
division (A) of section 4735.023 of the Revised Code; 156

(i) As an oil and gas land professional employed by the 157
person, partnership, association, limited liability company, 158
limited liability partnership, or corporation for which the oil 159
and gas land professional is performing the oil and gas land 160
professional's duties. 161

(2) A person, partnership, association, limited liability company, limited liability partnership, or corporation exempt under division (I) (1) (a) of this section shall be limited by the legal interest in the real estate held by that person or entity to performing any of the acts or transactions specified in or comprehended by division (A) of this section.

(J) "Disabled licensee" means a person licensed pursuant to this chapter who is under a severe disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration.

(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker.

(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and renewed as required under this chapter or rules adopted under this chapter.

(O) "Suspended license" means the license status that 191
prohibits a licensee from providing services that require a 192
license under this chapter for a specified interval of time. 193

(P) "Reactivate" means the process prescribed by the 194
superintendent of real estate and professional licensing to 195
remove a license from an inactive, suspended, or broker's 196
license on deposit status to allow a licensee to provide 197
services that require a license under this chapter. 198

(Q) "Revoked" means the license status in which the 199
license is void and not eligible for reactivation. 200

(R) "Commercial real estate" means any parcel of real 201
estate in this state other than real estate containing one to 202
four residential units. "Commercial real estate" does not 203
include single-family residential units such as condominiums, 204
townhouses, manufactured homes, or homes in a subdivision when 205
sold, leased, or otherwise conveyed on a unit-by-unit basis, 206
even when those units are a part of a larger building or parcel 207
of real estate containing more than four residential units. 208

(S) "Out-of-state commercial broker" includes any person, 209
partnership, association, limited liability company, limited 210
liability partnership, or corporation that is licensed to do 211
business as a real estate broker in a jurisdiction other than 212
Ohio. 213

(T) "Out-of-state commercial salesperson" includes any 214
person affiliated with an out-of-state commercial broker who is 215
not licensed as a real estate salesperson in Ohio. 216

(U) "Exclusive right to sell or lease listing agreement" 217
means an agency agreement between a seller and broker that meets 218
the requirements of section 4735.55 of the Revised Code and does 219

both of the following: 220

(1) Grants the broker the exclusive right to represent the 221
seller in the sale or lease of the seller's property; 222

(2) Provides the broker will be compensated if the broker, 223
the seller, or any other person or entity produces a purchaser 224
or tenant in accordance with the terms specified in the listing 225
agreement or if the property is sold or leased during the term 226
of the listing agreement to anyone other than to specifically 227
exempted persons or entities. 228

(V) "Exclusive agency agreement" means an agency agreement 229
between a seller and broker that meets the requirements of 230
section 4735.55 of the Revised Code and does both of the 231
following: 232

(1) Grants the broker the exclusive right to represent the 233
seller in the sale or lease of the seller's property; 234

(2) Provides the broker will be compensated if the broker 235
or any other person or entity produces a purchaser or tenant in 236
accordance with the terms specified in the listing agreement or 237
if the property is sold or leased during the term of the listing 238
agreement, unless the property is sold or leased solely through 239
the efforts of the seller or to the specifically exempted 240
persons or entities. 241

(W) "Exclusive purchaser agency agreement" means an agency 242
agreement between a purchaser and broker that meets the 243
requirements of section 4735.55 of the Revised Code and does 244
both of the following: 245

(1) Grants the broker the exclusive right to represent the 246
purchaser in the purchase or lease of property; 247

(2) Provides the broker will be compensated in accordance 248
with the terms specified in the exclusive agency agreement or if 249
a property is purchased or leased by the purchaser during the 250
term of the agency agreement unless the property is specifically 251
exempted in the agency agreement. 252

The agreement may authorize the broker to receive 253
compensation from the seller or the seller's agent and may 254
provide that the purchaser is not obligated to compensate the 255
broker if the property is purchased or leased solely through the 256
efforts of the purchaser. 257

(X) "Seller" means a party in a real estate transaction 258
who is the potential transferor of property. "Seller" includes 259
an owner of property who is seeking to sell the property and a 260
landlord who is seeking to rent or lease property to another 261
person. 262

(Y) "Resigned" means the license status in which a license 263
has been voluntarily and permanently surrendered to or is 264
otherwise in the possession of the division of real estate and 265
professional licensing, may not be renewed or reactivated in 266
accordance with the requirements specified in this chapter or 267
the rules adopted pursuant to it, and is not associated with a 268
real estate broker. 269

(Z) "Bona fide" means made in good faith or without 270
purpose of circumventing license law. 271

(AA) "Associate broker" means an individual licensed as a 272
real estate broker under this chapter who does not function as 273
the principal broker or a management level licensee. 274

(BB) "Brokerage" means a corporation, partnership, limited 275
partnership, association, limited liability company, limited 276

liability partnership, or sole proprietorship, foreign or 277
domestic, that has been issued a broker's license. "Brokerage" 278
includes the affiliated licensees who have been assigned 279
management duties that include supervision of licensees whose 280
duties may conflict with those of other affiliated licensees. 281

(CC) "Credit-eligible course" means a credit or noncredit- 282
bearing course that is both of the following: 283

(1) The course is offered by an institution of higher 284
education. 285

(2) The course is eligible for academic credit that may be 286
applied toward the requirements for a degree at the institution 287
of higher education. 288

(DD) "Distance education" means courses required by 289
divisions (B) (6) and (G) of section 4735.07, divisions (F) (6) 290
and (J) of section 4735.09, and division (A) of section 4735.141 291
of the Revised Code in which instruction is accomplished through 292
use of interactive, electronic media and where the teacher and 293
student are separated by distance or time, or both. 294

(EE) "Licensee" means any individual licensed as a real 295
estate broker or salesperson by the Ohio real estate commission 296
pursuant to this chapter. 297

(FF) "Management level licensee" means a licensee who is 298
employed by or affiliated with a real estate broker and who has 299
supervisory responsibility over other licensees employed by or 300
affiliated with that real estate broker. 301

(GG) "Oil and gas land professional" means a person 302
regularly engaged in the preparation and negotiation of 303
agreements for the purpose of exploring for, transporting, 304
producing, or developing oil and gas mineral interests, 305

including, but not limited to, oil and gas leases and pipeline 306
easements. 307

(HH) "Principal broker" means an individual licensed as a 308
real estate broker under this chapter who oversees and directs 309
the operations of the brokerage. 310

(II) "Right-to-list home sale agreement" means an 311
agreement whereby the owner of residential real estate agrees to 312
provide another person with exclusive rights to list the real 313
estate for sale at a future date in exchange for monetary 314
consideration, or an equivalent to monetary consideration, and 315
that meets one or both of the following: 316

(1) The agreement states that it runs with the land or 317
otherwise purports to bind future owners of the residential real 318
estate; 319

(2) The agreement purports to be a lien, encumbrance, or 320
other real property security interest. 321

(JJ) "Wholesaler" has the same meaning as in section 322
5301.95 of the Revised Code. 323

Sec. 4735.18. (A) Subject to section 4735.32 of the 324
Revised Code, the superintendent of real estate, upon the 325
superintendent's own motion, may investigate the conduct of any 326
licensee. Subject to division (E) of this section and section 327
4735.32 of the Revised Code, the Ohio real estate commission 328
shall impose disciplinary sanctions upon any licensee who, 329
whether or not acting in the licensee's capacity as a real 330
estate broker or salesperson, or in handling the licensee's own 331
property, is found to have been convicted of a felony or a crime 332
of moral turpitude, and may impose disciplinary sanctions upon 333
any licensee who, in the licensee's capacity as a real estate 334

broker or salesperson, or in handling the licensee's own 335
property, is found guilty of: 336

(1) Knowingly making any misrepresentation; 337

(2) Making any false promises with intent to influence, 338
persuade, or induce; 339

(3) A continued course of misrepresentation or the making 340
of false promises through agents, salespersons, advertising, or 341
otherwise; 342

(4) Acting for more than one party in a transaction except 343
as permitted by and in compliance with section 4735.71 of the 344
Revised Code; 345

(5) Failure within a reasonable time to account for or to 346
remit any money coming into the licensee's possession which 347
belongs to others; 348

(6) Dishonest or illegal dealing, gross negligence, 349
incompetency, or misconduct; 350

(7) (a) By final adjudication by a court, a violation of 351
any municipal or federal civil rights law relevant to the 352
protection of purchasers or sellers of real estate or, by final 353
adjudication by a court, any unlawful discriminatory practice 354
pertaining to the purchase or sale of real estate prohibited by 355
Chapter 4112. of the Revised Code, provided that such violation 356
arose out of a situation wherein parties were engaged in bona 357
fide efforts to purchase, sell, or lease real estate, in the 358
licensee's practice as a licensed real estate broker or 359
salesperson; 360

(b) A second or subsequent violation of any unlawful 361
discriminatory practice pertaining to the purchase or sale of 362

real estate prohibited by Chapter 4112. of the Revised Code or 363
any second or subsequent violation of municipal or federal civil 364
rights laws relevant to purchasing or selling real estate 365
whether or not there has been a final adjudication by a court, 366
provided that such violation arose out of a situation wherein 367
parties were engaged in bona fide efforts to purchase, sell, or 368
lease real estate. For any second offense under this division, 369
the commission shall suspend for a minimum of two months or 370
revoke the license of the broker or salesperson. For any 371
subsequent offense, the commission shall revoke the license of 372
the broker or salesperson. 373

(8) Procuring a license under this chapter, for the 374
licensee or any salesperson by fraud, misrepresentation, or 375
deceit; 376

(9) Having violated or failed to comply with any provision 377
of sections 4735.51 to 4735.74 of the Revised Code or having 378
willfully disregarded or violated any other provisions of this 379
chapter; 380

(10) As a real estate broker, having demanded, without 381
reasonable cause, other than from a broker licensed under this 382
chapter, a commission to which the licensee is not entitled, or, 383
as a real estate salesperson, having demanded, without 384
reasonable cause, a commission to which the licensee is not 385
entitled; 386

(11) Except as permitted under section 4735.20 of the 387
Revised Code, having paid commissions or fees to, or divided 388
commissions or fees with, anyone not licensed as a real estate 389
broker or salesperson under this chapter or anyone not operating 390
as an out-of-state commercial real estate broker or salesperson 391
under section 4735.022 of the Revised Code; 392

(12) Having falsely represented membership in any real	393
estate professional association of which the licensee is not a	394
member;	395
(13) Having accepted, given, or charged any undisclosed	396
commission, rebate, or direct profit on expenditures made for a	397
principal;	398
(14) Having offered anything of value other than the	399
consideration recited in the sales contract as an inducement to	400
a person to enter into a contract for the purchase or sale of	401
real estate or having offered real estate or the improvements on	402
real estate as a prize in a lottery or scheme of chance;	403
(15) Having acted in the dual capacity of real estate	404
broker and undisclosed principal, or real estate salesperson and	405
undisclosed principal, in any transaction;	406
(16) Having guaranteed, authorized, or permitted any	407
person to guarantee future profits which may result from the	408
resale of real property;	409
(17) Having advertised or placed a sign on any property	410
offering it for sale or for rent without the consent of the	411
owner or the owner's authorized agent;	412
(18) Having induced any party to a contract of sale or	413
lease to break such contract for the purpose of substituting in	414
lieu of it a new contract with another principal;	415
(19) Having negotiated the sale, exchange, or lease of any	416
real property directly with a seller, purchaser, lessor, or	417
tenant knowing that such seller, purchaser, lessor, or tenant is	418
represented by another broker under a written exclusive agency	419
agreement, exclusive right to sell or lease listing agreement,	420
or exclusive purchaser agency agreement with respect to such	421

property except as provided for in section 4735.75 of the 422
Revised Code; 423

(20) Having offered real property for sale or for lease 424
without the knowledge and consent of the owner or the owner's 425
authorized agent, or on any terms other than those authorized by 426
the owner or the owner's authorized agent; 427

(21) Having published advertising, whether printed, radio, 428
display, or of any other nature, which was misleading or 429
inaccurate in any material particular, or in any way having 430
misrepresented any properties, terms, values, policies, or 431
services of the business conducted; 432

(22) Having knowingly withheld from or inserted in any 433
statement of account or invoice any statement that made it 434
inaccurate in any material particular; 435

(23) Having published or circulated unjustified or 436
unwarranted threats of legal proceedings which tended to or had 437
the effect of harassing competitors or intimidating their 438
customers; 439

(24) Having failed to keep complete and accurate records 440
of all transactions for a period of three years from the date of 441
the transaction, such records to include copies of listing 442
forms, earnest money receipts, offers to purchase and 443
acceptances of them, records of receipts and disbursements of 444
all funds received by the licensee as broker and incident to the 445
licensee's transactions as such, and records required pursuant 446
to divisions (C) (4) and (5) of section 4735.20 of the Revised 447
Code, and any other instruments or papers related to the 448
performance of any of the acts set forth in the definition of a 449
real estate broker; 450

(25) Failure of a real estate broker or salesperson to 451
furnish all parties involved in a real estate transaction true 452
copies of all listings and other agreements to which they are a 453
party, at the time each party signs them; 454

(26) Failure to maintain at all times a special or trust 455
bank account in a depository of a state or federally chartered 456
institution located in this state. The account shall be 457
noninterest-bearing, separate and distinct from any personal or 458
other account of the broker, and, except as provided in division 459
(A) (27) of this section, shall be used for the deposit and 460
maintenance of all escrow funds, security deposits, and other 461
moneys received by the broker in a fiduciary capacity. The name, 462
account number, if any, and location of the depository wherein 463
such special or trust account is maintained shall be submitted 464
in writing to the superintendent. Checks drawn on such special 465
or trust bank accounts are deemed to meet the conditions imposed 466
by section 1349.21 of the Revised Code. Funds deposited in the 467
trust or special account in connection with a purchase agreement 468
shall be maintained in accordance with section 4735.24 of the 469
Revised Code. 470

(27) Failure to maintain at all times a special or trust 471
bank account in a depository of a state or federally chartered 472
institution in this state, to be used exclusively for the 473
deposit and maintenance of all rents, security deposits, escrow 474
funds, and other moneys received by the broker in a fiduciary 475
capacity in the course of managing real property. This account 476
shall be separate and distinct from any other account maintained 477
by the broker. The name, account number, and location of the 478
depository shall be submitted in writing to the superintendent. 479
This account may earn interest, which shall be paid to the 480
property owners on a pro rata basis. 481

Division (A) (27) of this section does not apply to brokers 482
who are not engaged in the management of real property on behalf 483
of real property owners. 484

(28) Having failed to put definite expiration dates in all 485
written agency agreements to which the broker is a party; 486

(29) Having an unsatisfied final judgment or lien in any 487
court of record against the licensee arising out of the 488
licensee's conduct as a licensed broker or salesperson; 489

(30) Failing to render promptly upon demand a full and 490
complete statement of the expenditures by the broker or 491
salesperson of funds advanced by or on behalf of a party to a 492
real estate transaction to the broker or salesperson for the 493
purpose of performing duties as a licensee under this chapter in 494
conjunction with the real estate transaction; 495

(31) Failure within a reasonable time, after the receipt 496
of the commission by the broker, to render an accounting to and 497
pay a real estate salesperson the salesperson's earned share of 498
it; 499

(32) Performing any service for another constituting the 500
practice of law, as determined by any court of law; 501

(33) Having been adjudicated incompetent by a court, as 502
provided in section 5122.301 of the Revised Code. A license 503
revoked or suspended under this division shall be reactivated 504
upon proof to the commission of the removal of the disability. 505

(34) Having authorized or permitted a person to act as an 506
agent in the capacity of a real estate broker, or a real estate 507
salesperson, who was not then licensed as a real estate broker 508
or real estate salesperson under this chapter or who was not 509
then operating as an out-of-state commercial real estate broker 510

or salesperson under section 4735.022 of the Revised Code; 511

(35) Having knowingly inserted or participated in 512
inserting any materially inaccurate term in a document, 513
including naming a false consideration; 514

(36) Having failed to inform the licensee's client of the 515
existence of an offer or counteroffer or having failed to 516
present an offer or counteroffer in a timely manner, unless 517
otherwise instructed by the client, provided the instruction of 518
the client does not conflict with any state or federal law; 519

(37) Having failed to comply with section 4735.24 of the 520
Revised Code; 521

(38) Having acted as a broker without authority, impeded 522
the ability of a principal broker to perform any of the duties 523
described in section 4735.081 of the Revised Code, or impeded 524
the ability a management level licensee to perform the 525
licensee's duties; 526

(39) Entering into a right-to-list home sale agreement; 527

(40) Having failed to comply with section 5301.95 of the 528
Revised Code while acting as a wholesaler of residential real 529
property. 530

(B) Whenever the commission, pursuant to section 4735.051 531
of the Revised Code, imposes disciplinary sanctions for any 532
violation of this section, the commission also may impose such 533
sanctions upon the broker with whom the salesperson is 534
affiliated if the commission finds that the broker had knowledge 535
of the salesperson's actions that violated this section. 536

(C) The commission shall, pursuant to section 4735.051 of 537
the Revised Code, impose disciplinary sanctions upon any foreign 538

real estate dealer or salesperson who, in that capacity or in 539
handling the dealer's or salesperson's own property, is found 540
guilty of any of the acts or omissions specified or comprehended 541
in division (A) of this section insofar as the acts or omissions 542
pertain to foreign real estate. If the commission imposes such 543
sanctions upon a foreign real estate salesperson for a violation 544
of this section, the commission also may suspend or revoke the 545
license of the foreign real estate dealer with whom the 546
salesperson is affiliated if the commission finds that the 547
dealer had knowledge of the salesperson's actions that violated 548
this section. 549

(D) The commission may suspend, in whole or in part, the 550
imposition of the penalty of suspension of a license under this 551
section. 552

(E) A person licensed under this chapter who represents a 553
party to a transaction or a proposed transaction involving the 554
sale, purchase, exchange, lease, or management of real property 555
that is or will be used in the cultivation, processing, 556
dispensing, or testing of medical marijuana under Chapter 3796. 557
of the Revised Code, or who receives, holds, or disburses funds 558
from a real estate brokerage trust account in connection with 559
such a transaction, shall not be subject to disciplinary 560
sanctions under this chapter solely because the licensed person 561
engaged in activities permitted under this chapter and related 562
to activities under Chapter 3796. of the Revised Code. 563

Sec. 5301.95. (A) For the purposes of this section: 564

(1) "Residential real property" means real property 565
containing one to four dwelling units. 566

(2) "Superintendent of real estate" has the same meaning 567

as in section 4735.01 of the Revised Code. 568

(3) "Wholesaler" means a person or entity that for a fee, 569
commission, or other valuable consideration, or with the 570
intention, in the expectation, or upon the promise of receiving 571
or collecting a fee, commission, or other valuable 572
consideration, enters into a purchase contract for residential 573
real property either: 574

(a) As the grantee, and assigns or novates that contract 575
to another person or entity; 576

(b) As the grantor, and, without holding legal title to 577
that real property, assigns or novates that contract to another 578
person or entity. 579

(B) Before entering into a binding contract that transfers 580
an interest in residential real property: 581

(1) A wholesaler acting as the grantee or the wholesaler's 582
representative, if applicable, shall disclose to the record 583
owner, in writing, on a form approved by the superintendent of 584
real estate, all of the following: 585

(a) That the grantee is a wholesaler and is acquiring the 586
property with the intention to make a profit; 587

(b) That the wholesaler may assign the wholesaler's 588
interest to a third party, which may be any party selected by 589
the wholesaler at any time prior to closing, and may collect a 590
fee from the ultimate buyer of the property, separate from any 591
fees included in the contract between the record owner and the 592
wholesaler; 593

(c) That the record owner acknowledges the purchase price 594
may be less than the actual market value of the property and the 595

record owner's agreement to transfer the property to the 596
wholesaler for that price is voluntary; 597

(d) Whether the wholesaler holds an active real estate 598
broker or salesperson license under Chapter 4735. of the Revised 599
Code; 600

(e) If the wholesaler holds an active real estate broker 601
or salesperson license, that the wholesaler is acting as a 602
principal, does not represent the record owner, and is not 603
acting as the record owner's broker or agent in the transaction; 604

(f) That the record owner is advised to seek legal advice 605
before entering into the agreement. 606

(2) A wholesaler acting as the grantor shall disclose to 607
the grantee, in writing, on a form approved by the 608
superintendent, all of the following: 609

(a) That the grantor is a wholesaler that holds an 610
equitable interest in the property and may not be able to convey 611
title to the property; 612

(b) Whether the wholesaler holds an active real estate 613
broker or salesperson license under Chapter 4735. of the Revised 614
Code; 615

(c) If the wholesaler holds an active real estate broker 616
or salesperson license, that the wholesaler is acting as 617
principal, does not represent the grantee, and is not acting as 618
the grantee's broker or agent in the transaction; 619

(d) That the grantee is advised to seek legal advice 620
before entering into the agreement. 621

(C) The superintendent shall create and make available 622
forms for the purposes of divisions (B)(1) and (2) of this 623

section. The forms shall include instructions for completion and 624
space in which the parties to the contract shall acknowledge 625
receipt by signing and dating the form. 626

(D) (1) If a wholesaler fails to make the disclosures 627
required by this section before entering into a binding contract 628
that transfers an interest in residential real property: 629

(a) In the case of a contract in which the wholesaler is 630
the grantee, the record owner of the residential real property 631
may cancel the contract at any time prior to the close of escrow 632
without penalty and may retain any earnest money paid by the 633
wholesaler; 634

(b) In the case of a contract in which the wholesaler is 635
the grantor of the residential real property, the grantee may 636
cancel the contract for sale at any time prior to the close of 637
escrow without penalty and shall be refunded all earnest money 638
paid by the grantee. 639

(2) No provision of this section shall be modified or 640
waived by any oral or written agreement. Any portion of an 641
agreement that is executed, modified, or extended after the 642
effective date of this section that modifies or waives a duty 643
under division (B) of this section or a remedy under division 644
(D) of this section is void ab initio and unenforceable. 645

(3) Any violation of this section is an unfair or 646
deceptive act or practice in violation of section 1345.02 of the 647
Revised Code. A party that enters into an agreement without 648
receiving the disclosures required in this section has a cause 649
of action against any other party to that agreement and is 650
entitled to the same relief available to a consumer under 651
section 1345.09 of the Revised Code. All powers and remedies 652

available to the attorney general to enforce sections 1345.01 to 653
1345.13 of the Revised Code are available to the attorney 654
general to enforce this section. 655

Section 2. That existing sections 4735.01 and 4735.18 of 656
the Revised Code are hereby repealed. 657