

Legislation Text

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Amending Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades and Professions," by adding a new Chapter, entitled "Residential Property Wholesalers," to regulate the solicitation of purchases of real property and require certain disclosures by property purchasers to homeowners, and amending Chapter 9-1100 of The Philadelphia Code, entitled "Fair Practices Ordinance: Protections Against Unlawful Discrimination," to provide protections to homeowners from solicitation and related problems, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 9 of The Philadelphia Code is hereby amended to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS.

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CHAPTER 9-1100. FAIR PRACTICES ORDINANCE: PROTECTIONS AGAINST UNLAWFUL DISCRIMINATION

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§ 9-1108. Unlawful Housing and Real Property Practices.

(1) It shall be an unlawful housing and real property practice to deny or interfere with the housing accommodation, commercial property or other real property opportunities of an individual or otherwise discriminate based on his or her race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, disability, marital status, age, source of income, familial status, or domestic or sexual violence victim status, including, but not limited to, the following:

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[(m) For any real estate broker or agent, or the employee or representative of any such broker or agent, to solicit any real property for sale or rental, or the listing of any real property for sale or rental, at any time after such broker, agent, employee or representative shall have notice that any owner or other person having the right to sell, rent, lease, or approve the sale, rental or lease of such real property does not desire to sell or rent such real property, or does not desire to be solicited, either by such broker or agent, or by any and all brokers or agents.]

(2) *It shall be an unlawful housing and real property practice for any individual or entity, including but not limited to, any real estate broker or agent, or the employee or representative of any such broker or agent, to solicit any real property for sale or rental, or the listing of any real property for sale or rental, at any time after such individual or entity shall have notice that any owner or other person having the right to sell, rent, lease, or*

approve the sale, rental or lease of such real property does not desire to sell or rent such real property, or does not desire to be solicited, either by such individual or entity, or by any and all individuals or entities.

(a) The Commission, or such other entity as determined by the Managing Director, is authorized to create and maintain a public list of real property owners who have expressed a desire to not be solicited to sell or rent their real property (Do Not Solicit List). Any real property owner who appears on the Do Not Solicit List may request in writing that the Commission remove their name from the Do Not Solicit List. The Commission will then remove the real property owner's name from the Do Not Solicit List within thirty (30) days of such a request.

(b) The inclusion on this Do Not Solicit List of any real property owner shall be deemed a desire not to sell or rent their real property and a desire not to be solicited under this Section 9-1108(2).

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CHAPTER 9-5200. RESIDENTIAL PROPERTY WHOLESALERS

§ 9-5201. Definitions.

(1) Administrative Agency. The Managing Director's Office, or such other agency as the Mayor may designate to administer and enforce the provisions of this Chapter.

(2) Homeowner. The record owner or equitable owner of a residential property.

(3) Residential Property. All property legally used or held out for individuals to live in, regardless of whether such property is occupied by the owners of said property, rented, or vacant.

(4) Solicit. To advertise the accomplishments or abilities of a Residential Property Wholesaler, request that a Homeowner list their residential property for sale, or offer to purchase a Homeowner's Residential Property through mail, oral communication, or electronic communication.

(5) Residential Property Wholesaler. Any person or entity who is in the business of purchasing or soliciting for purchase Residential Properties, not to use as their residence.. A Residential Property Wholesaler shall not include any City or other public official or employee who acts as a Residential Property Wholesaler in the course of their official duties; any person or entity who is in the business of purchasing residential properties and substantially improving those properties for the purpose of resale; or the following licensed professionals when acting within the scope of their licensed practice area: (1) attorneys licensed to practice law in Pennsylvania, and (2) persons licensed by the Pennsylvania Real Estate Commission under the Pennsylvania Real Estate Licensing and Registration Act.

§ 9-5202. License Required.

(1) No person or entity shall act as a Residential Property Wholesaler unless that person or entity possesses a valid Residential Property Wholesaler License.

§ 9-5203. License Issuance; Renewal.

(1) Applications for Residential Property Wholesaler Licenses and Residential Property Wholesaler

License Renewals shall be filed on forms to be provided by the Administrative Agency.

(a) Residential Property Wholesaler Licenses and Residential Property Wholesaler License Renewals shall be issued pursuant to such rules as established by the Administrative Agency and shall be valid for one year.

(b) All application and renewal forms must include:

(i) a non-refundable application fee of two hundred dollars (\$200);

(ii) proof that the applicant possesses insurance, in such type and amount as the Administrative Agency shall require;

(iii) name and address of applicant or, if the applicant is not a natural person, the name and address of a responsible natural person;;

(iv) any and all Pennsylvania corporations, including all limited liability corporations, in which the applicant has an equity interest, regardless of whether the applicant has a direct equity interest or applicant's equity interest is held through one or more tiers of a corporate structure, such as parent-subsidiary structure.

(c) An applicant may only be issued a Residential Property Wholesaler License if, after a criminal history records search of the applicant has performed by the Administrative Agency, it has been determined that the applicant has not, within the past six years, been convicted of any crime of fraud, dishonesty, breach of trust or deceit, or has been convicted for violating the Public Official and Employee Ethics Law.

(d) An applicant or licensed Residential Property Wholesaler shall notify the Administrative Agency, in writing, within seventy-two (72) hours of any changes in the information contained in or submitted with the application.

§ 9-5204. Prohibited Conduct.

(1) No Residential Property Wholesaler or applicant for a Residential Property Wholesaler License shall, in the course of soliciting Residential Property:

(a) knowingly make any substantial misrepresentations, make any false promises, untruthfully advertise, or engage in any conduct which demonstrates bad faith, dishonesty, untrustworthiness, or incompetency; or

(b) knowingly give false or misleading information when completing a Residential Property Wholesaler License application or when providing changes of information to the Administrative Agency.

(2) A significant history of violation of the prohibited conduct listed in this Section 9-5204, will be cause for refusal of a Residential Property Wholesaler License or revocation of a Residential Property Wholesaler License.

§ 9-5205. Disclosure Required.

(1) A Residential Property Wholesaler must provide a Homeowner with a Disclosure at least three (3) days before presenting an offer to purchase Homeowner's Residential Property. The Disclosure must:

(a) inform the Homeowner of how to access resources that assess the fair value of residential properties including, but not limited to, the City of Philadelphia Office of Property Assessment's website and any private real estate assessment tools as may be identified by the Administrative Agency by regulation;

(b) inform the Homeowner of the seller's ability to hire a real estate agent; to seek legal counsel; and identify any other resources deemed appropriate by the Administrative Agency.

(2) The Residential Property Wholesaler must require the Homeowner to sign the Disclosure as evidence of provision of the Disclosure to Homeowner.

§ 9-5206. *Enforcement.*

(1) Any agreement of sale entered into by a Residential Property Wholesaler who was not licensed as a Residential Property Wholesaler at the time of the solicitation may be rescinded at any time prior to the transfer of the title to the Homeowner's Residential Property at the sole option of the Homeowner.

(2) A violation of any other provision of this Chapter, shall be a Class III offense subject to the fines set forth in Section 1-109 of The Philadelphia Code

SECTION 2. Effective Date. This Ordinance shall take effect 60 days after it becomes law.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.