

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Introduced**

## **House Bill 3501**

By Delegates Lucas, W. Clark, and Ferrell

[Introduced March 18, 2025; referred to the  
Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §30-40A-1, §30-40A-2, and §30-40A-3, relating to creating the West Virginia  
3 Abolishment of Wholesaling Act, providing definitions for the Act, providing exceptions,  
4 and abolishing and prohibiting wholesaling in West Virginia.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 40A. THE WEST VIRGINIA ABOLISHMENT OF WHOLESALING ACT.**

### **§30-40A-1. Definitions.**

1 As used in this article, unless the context otherwise requires:

2 (1) "Commission" means the West Virginia Real Estate Commission.

3 (2) "Designated broker" means a licensee designated by a real estate brokerage firm to act  
4 on behalf of the brokerage firm.

5 (3) "Licensee" means a real estate broker, an associate real estate broker, or a real estate  
6 salesperson who is associated with a real estate brokerage firm.

7 (4) "Real estate", "real property", "realty", or words of like import, means any interest or  
8 estate in land, including leaseholds, whether such interest or estate is corporeal, incorporeal,  
9 freehold, or nonfreehold, and whether situated in this state or elsewhere: *Provided*, That the  
10 meaning as used in this chapter does not include oil, gas, or mineral leases, nor does it include any  
11 other mineral leasehold, mineral estate, or mineral interest of any nature whatsoever.

12 (5) "Real estate broker", or "broker", means any person that, for another, for a fee,  
13 commission, salary, or other consideration, or with the intention or expectation of receiving or  
14 collecting such compensation from another, engages in or offers or attempts to engage in, either  
15 directly or indirectly by a continuing course of conduct or by a single act or transaction, any of the  
16 following acts:

17 (A) Lists, offers, attempts, or agrees to list real estate or any interest in that real estate, or  
18 any improvements affixed on that real estate for sale, exchange, or lease.

19 (B) Sells, exchanges, purchases, or leases real estate or any interest in that real estate, or

20 any improvements affixed on that real estate.

21 (C) Offers to sell, exchange, purchase, or lease real estate or any interest in that real  
22 estate, or any improvements affixed on that real estate.

23 (D) Negotiates or offers, attempts, or agrees to negotiate the sale, exchange, purchase, or  
24 leasing of real estate or any interest in that real estate, or any improvements affixed on that real  
25 estate.

26 (E) Buys, sells, offers to buy or sell, or otherwise deals in options on real estate or any  
27 interest in that real estate, or any improvements on that real estate.

28 (F) Who is a licensee under this chapter and performs any of the acts set out in this section  
29 while acting in the licensee's own behalf.

30 (G) Advertises or holds out as being engaged in the business of buying, selling,  
31 exchanging, or leasing of real estate or any interest in that real estate, or any improvements on  
32 that real estate.

33 (H) Assists or directs in the procuring of prospects, calculated to result in the sale,  
34 exchange, or leasing of real estate or any interest in that real estate, or any improvements on that  
35 real estate.

36 (I) Publicly markets for sale an equitable interest in a contract for the purchase of real  
37 property between a property owner and a prospective purchaser.

38 (6) "Real estate salesperson" means any person that for a fee, compensation, salary, or  
39 other consideration, or in the expectation or upon the promise of that compensation, is employed  
40 or engaged by a licensed real estate broker to do any act or deal in any transaction for or on behalf  
41 of such licensed real estate broker.

**§30-40A-2. Real estate brokers and salespersons - Exceptions.**

1 (a) The term "real estate broker" or "real estate salesperson" does not include:

2 (1) Any person, partnership, association, corporation, or limited liability company who is a  
3 bona fide owner or lessor or who accepts or markets leasehold interests in residential or

4 agricultural property and performs any of the aforesaid acts with reference to property owned or  
5 leased by them, nor does it apply to regular employees thereof, when the acts are performed in the  
6 regular course of or as an incident to the management of the property and the investment therein.

7 (2) An attorney at law, admitted to practice in this state, handling sales of real estate in the  
8 course of estate or guardianship administration in district court, or trust administration, bankruptcy  
9 proceedings, receiverships, or like actions subject to approval by a court of competent jurisdiction,  
10 or sales of real estate arising in the usual course of the practice of law.

11 (3) Any person selling real estate as an auctioneer, provided the sale is advertised as a  
12 bona fide public auction.

13 (4) Any bank or trust company or any of its officers or employees in the performance of  
14 their duties as an officer or employee of the bank or trust company.

15 (5) Any person holding in good faith a duly executed power of attorney from the owner,  
16 authorizing a final consummation and execution for the sale, purchase, lease, or exchange of real  
17 estate when such acts are not of a recurrent nature and done with the intention of evading this  
18 section.

19 (6) Any person while acting as a receiver, trustee, administrator, executor, guardian, or  
20 under court order, or while acting under authority of a deed, trust, or will.

21 (7) Public officers while performing their duties.

22 (b) This section does not exempt from the definition of "real estate broker" or "real estate  
23 salesperson" for consideration publicly marketing for sale an equitable interest in a contract for the  
24 purchase of real property between a property owner and a prospective purchaser.

**§30-40A-3. Wholesaling prohibited in West Virginia.**

25 (a) As used in this section:

26 (1) "Residential real property" means real property with fewer than five dwelling units.

27 (2) "Wholesaler" means a person that enters an agreement to make income or profit from  
28 the transfer of or equitable interest in residential real property.

29           **(b) The practice and regulation of wholesaling is hereby abolished and wholesaling shall**  
30 **from this point onward be illegal in West Virginia.**

31           **(c) Notwithstanding any other provision contained in a contract for sale of residential real**  
32 **property, if any person engages in wholesaling, the seller may cancel the contract for sale at any**  
33 **time before the close of escrow without penalty and may retain any earnest money paid by the**  
34 **wholesaler. The Real Estate Commission shall make any rulings concerning prohibitions of this**  
35 **section.**

36           **(d) Notwithstanding any other provision contained in the contract for sale, if any person**  
37 **engages in wholesaling, the buyer may cancel the contract for sale at any time before the close of**  
38 **escrow without penalty and must be refunded all earnest money paid by the buyer. The Real**  
39 **Estate Commission shall make rulings concerning the prohibitions of this section.**

NOTE: The purpose of this bill is to create the West Virginia Abolishment of Wholesaling Act, provide definitions for the act, provide exceptions, and abolish and prohibit wholesaling.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.