



Legislation Text

File #: 24-0490, Version: 0

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* **Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

City of Baltimore Council Bill

Introduced by: Councilmember Torrence

A Bill Entitled

An Ordinance concerning

Residential Property Wholesalers - The Do Not Call Act

For the purpose of requiring a person to obtain a license to act as a residential property wholesaler; defining certain terms; providing for the denial, suspension, or revocation of a residential property wholesaler license under certain circumstances; providing for judicial and appellate review of an administrative decision related to a residential property wholesaler license; imposing certain penalties; establishing protections to homeowners from certain solicitations; providing for a special effective date; and generally relating to the regulation of residential property wholesalers.

By repealing and re-ordaining, with amendments

Article 1 - Mayor, City council, and Municipal Agencies
Section 40-14(e)(2)
Baltimore City Code
(Edition 2000)

By repealing and re-ordaining, with amendments

Article 2 - Consumer Protections
Section 13-1(a)
Baltimore City Code
(Edition 2000)

By adding

Article 2 - Consumer Protections
Section 13-1(f) and 13-7
Baltimore City Code
(Edition 2000)

By adding

Article 15 - Licensing and Regulation
Sections 49-1 through 49-21, to be under the new subtitle designation,
“Subtitle 49. Residential Property Wholesalers”
Baltimore City Code
(Edition 2000)

Section 1. Be it ordained by the Mayor and City Council of Baltimore, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 15. Licensing and Regulation

**Subtitle 49
Residential Property Wholesalers**

Part 1. Definitions; General Provisions

§ 49-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Department.*

“Department” means the Department of Finance.

(c) *Director.*

“Director” means the Director of the Department of Finance.

(d) *Homeowner.*

“Homeowner” means the record owner of a residential property.

(e) *Residential property.*

“Residential property” means a property legally used or marketed for an individual to live in, regardless of whether such property is occupied by the owner of said property, rented to another individual, or vacant.

(f) *Residential property wholesaler.*

(1) *In general.*

“Residential property wholesaler” means a person who is in the business of purchasing, or soliciting for purchase, residential property that the person intends to use as anything other than their own residence.

(2) *Exclusions.*

“Residential property wholesaler” does not include:

- (i) a City official or employee performing official duties;
- (ii) a person who is in the business of purchasing residential properties and substantially improving those properties for the purpose of resale; or
- (iii) one of the following licensed professionals, when that professional is acting within the scope of their licensed practice area:
 - (A) an attorney licensed to practice law in the State;
 - (B) an associate real estate broker, as defined under § 17-101(c) of the State Business Occupations and Professions article;
 - (C) a licensed associate real estate broker, as defined under § 17-101(h) of the State Business Occupations and Professions article;
 - (D) a licensed real estate broker, as defined under § 17-101(i) of the State Business Occupations and Professions article; and
 - (E) a licensed real estate salesperson, as defined under § 17-101(j) of the State Business Occupations and Professions article.

(g) *Solicit*.

“Solicit” means, through mail, oral communication, or electronic communication:

- (1) to advertise the accomplishments or abilities of a residential property wholesaler;
- (2) to request that a homeowner list the homeowner’s residential property for sale; or
- (3) to offer to purchase a homeowner’s residential property.

§ 49-2. Rules and Regulations.

Subject to Title 4 {“Administrative Procedure Act - Regulations”} of the City General Provisions Article, the Housing Commissioner must adopt rules and regulations to carry out this subtitle.

§§ 49-3 to 49-4. *{Reserved}*

Part 2. Licensing

§ 49-5. License required.

(a) *In general*.

There is a residential property wholesaler license administered by the Department of Finance.

(b) *License required.*

No person may act as a residential property wholesaler without a currently effective license to do so from the Director or the Director's designee.

(b) *Application for license.*

The application for an initial or renewal residential property wholesaler license must:

- (1) be made in the form that the Director requires;
- (2) contain the information that the Director requires; and
- (3) include the documentation that the Director requires.

§ 49-6. Licensing prerequisites.

(a) *In general.*

An initial or renewal application for a residential real property wholesaler license must include:

- (1) a non-refundable application fee not to exceed \$1,000;
- (2) proof that the applicant possesses insurance of the type and in the amount required by the Director;
- (3) name and address of the applicant or, if the applicant is an organization and not an individual, the name and address of the owner or registered agent of the organization; and
- (4) any and all Maryland entities, including all limited liability corporations, in which the applicant has an equity interest, regardless of whether the applicant has a direct equity interest or if the applicant's equity interest is held through one or more tiers of a corporate structure, such as a parent-subsiidiary structure.

(b) *Criminal history.*

An applicant may only be issued a residential property wholesaler license if, after the Director or the Director's designee has performed a criminal history records search of the applicant, it has been determined that the applicant has not, within the past 6 years:

- (1) been convicted of any crime of fraud, dishonesty, breach of trust, or other crime involving moral turpitude; or
- (2) been convicted for violating the State Public Ethics Law, as found in Title 5 of the State General Provisions article.

(c) *Change in information.*

An applicant or licensed residential property wholesaler shall notify the Director or the Director's designee of any changes in the information contained in or submitted with the application in writing and within 72 hours of the change.

§ 49-7. License term and renewal.

(a) *Term.*

A residential property wholesaler license expires annually on the anniversary of its issuance.

(b) *Renewal.*

- (1) Before a license expires, the licensed residential property wholesaler may apply to renew the license for an additional 1-year term.
- (2) The renewal application must be submitted to the Director with the applicable annual fee for the license at least 30 days before the current license expires.

§ 49-8 to 49-9. *{Reserved}*

Part 3. License holders

§ 49-10. **Prohibited conduct.**

(a) *In general.*

A residential property wholesaler or applicant for a residential property wholesaler license may not:

- (1) in the course of soliciting residential property, knowingly:
 - (i) make any substantial misrepresentations;
 - (ii) make any false promises;
 - (iii) untruthfully advertise; or
 - (iv) engage in any conduct which demonstrates:
 - (A) bad faith;
 - (B) dishonesty;
 - (C) untrustworthiness; or
 - (D) incompetency; or
- (2) knowingly give false or misleading information when:
 - (i) completing a residential property wholesaler license application; or
 - (ii) providing changes of information to the Department.

(b) *Grounds for refusal.*

The Department may refuse or revoke a residential property wholesaler license if the residential property wholesaler or applicant for a residential property wholesaler license has a significant history of engaging in the prohibited conduct listed in subsection (a) of this section.

§ 49-11. **Disclosure required.**

(a) In general.

A residential property wholesaler must disclose the information listed in subsection (b) of this section to a homeowner at least 3 days before presenting an offer to purchase the homeowner's residential property.

(b) Required information.

The disclosure must:

(1) inform the homeowner of how to access resources that assess the fair value of a residential property, including any real estate assessment tools that the Department has identified; and

(2) inform the homeowner of the homeowner's ability:

(i) to hire a real estate agent;

(ii) to seek legal counsel; and

(iii) to use and pursue any alternative resources identified by the Department.

(c) Signature required.

The residential property wholesaler must require the homeowner to sign the disclosure as evidence of provision of the disclosure to homeowner.

§§ 49-12 to 49-14. *{Reserved}*

Part 4. Administrative Sanctions

§ 49-15. Denial, suspension, or revocation of license.

(a) In general.

Subject to the provisions of § 49-16 of this subtitle, the Director may, for any of the causes listed in

subsection (b) of this section:

- (1) suspend or revoke a residential property wholesaler license or renewal license; or
- (2) deny an application for a residential property wholesaler license or renewal license.

(b) *Causes.*

The causes for which the Director may take an action described under subsection (a) of this section include:

- (1) making any material false statement in an application for an initial or renewal license;
- (2) fraudulently or deceptively obtaining an initial or renewal license for oneself or another;
- (3) fraudulently or deceptively using a license; or
- (4) failing to comply with any provision of this subtitle or of any rule or regulation adopted under this subtitle.

§ 49-16. Notice and hearing.

The Director may not take an action described in subsection (a) of § 49-15 {“Denial, suspension, or revocation of license”} of this subtitle, unless the Director first gives the licensee:

- (1) not less than 10 days notice in writing of the Director’s intent to deny, suspend, or revoke the license, renewal license, or application; and
- (2) an opportunity to be heard as to why the license, renewal license, or application should not be denied, suspended, or revoked.

§ 49-17. Judicial and appellate review.

(a) *Judicial review.*

A person aggrieved by a decision of the Director under this subtitle may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) *Stays.*

- (1) The filing of a petition for judicial review does not automatically stay the decision of the Director.
- (2) On motion and after a hearing, the court may grant a stay as provided in the Maryland Rules of Procedure.

(c) *Appellate review.*

A party to the judicial review may appeal the court’s final judgment to the Appellate Court of Maryland in accordance with the Maryland Rules of Procedure.

§§ 49-18 to 49-19. {Reserved}

Part 4. Enforcement

§ 49-20. Enforcement by environmental citation.

(a) In general.

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of an environmental citation under City Code Article 1, Subtitle 40 {"Environmental Control Board"}.

(b) Process not exclusive.

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

§ 49-21. Penalties.

(a) In general.

A person who violates any provision of this subtitle, including any offense listed in § 49-16 of this subtitle as potential cause for a denial, suspension, or revocation of a license, or any provision of a rule or regulation adopted under this subtitle, is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 for each offense.

(b) Each day a separate offense.

Each day that a violation continues is a separate offense.

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 40-14. Offenses to which subtitle applies.

(e) Provisions and penalties enumerated.

(2) Article 15. Licensing and Regulation

. . . .

Subtitle 48. Short-Term Residential Rentals

§ 48-6. License required {for host}	\$500
§ 48-16. {Operational requirements for} hosting platforms	\$1,000
§ 48-21. {Offenses there listed as cause for} denial, suspension, or revocation of license	\$500

All other provisions

\$250

Subtitle 49. Residential Property Wholesalers

§ 49-5. License required.

\$500

§ 49-11. *{Offenses there listed as cause for}* denial
suspension, or revocation of license

\$500

All other provisions

\$250

Article 2. Consumer Protections

Subtitle 13. Real Estate Practices - Brokers, etc.

§ 13-1. Definitions.

(a) *In general.*

This subtitle shall apply to real estate brokers, real estate salesmen, [and] real estate dealers, and residential property wholesalers as herein defined.

(f) *Residential property wholesaler.*

(1) *In general.*

“Residential property wholesaler” means a person who is in the business of purchasing, or soliciting for purchase, residential property that the person intends to use as anything other than their own residence.

(2) *Exclusions.*

“Residential property wholesaler” does not include:

- (i) a City official or employee performing official duties;
- (ii) a person who is in the business of purchasing residential properties and substantially improving those properties for the purpose of resale; or
- (iii) one of the following licensed professionals, when that professional is acting within the scope of their licensed practice area:

- (A) an attorney licensed to practice law in the State;
- (B) an associate real estate broker, as defined under § 17-101(c) of the State Business Occupations and Professions article;
- (C) a licensed associate real estate broker, as defined under § 17-101(h) of the State Business Occupations and Professions article;
- (D) a licensed real estate broker, as defined under § 17-101(i) of the State Business Occupations and Professions article; and
- (E) a licensed real estate salesperson, as defined under § 17-101(j) of the State Business Occupations and Professions article.

§ 13-7. Prohibited conduct - Solicitation.

(a) In general.

A person may not solicit a real property for sale or rental, or solicit the listing of a real property for sale or rental, if the person has received notice that an owner or another person who has the right to sell, rent, lease, or approve the sale, rental or lease of the real property, does not desire:

- (i) to sell the real property;*
- (ii) to rent the real property; or*
- (iii) to be solicited to sell or rent the real property.*

(b) "Do not solicit" List.

(1) Authorization to establish.

The Department of Finance, or such other entity as determined by the City Administrator, may create and maintain a public "Do Not Solicit" List of real property owners who have expressed a desire to not be solicited to sell or rent their real property.

(2) List management.

- (i) A real property owner who appears on the “Do Not Solicit” List may request in writing that the Department remove the real property owner’s name from the “Do Not Solicit” List.
- (ii) Within 30 days of receipt of a request made under subparagraph (i) of this paragraph, the Department must remove the real property owner’s name from the “Do Not Solicit” List.

(3) Intent.

A real property owner included on the “Do Not Solicit” List has given notice that the real property owner:

- (i) does not desire to sell or rent the real property; and
- (ii) does not desire to be solicited to sell or rent the real property.

Section 2. And be it further ordained, That this Ordinance takes effect on the 180th day after the date it is enacted.