

SS HB 2636 -- TRANSACTIONS INVOLVING REAL ESTATE

PROPERTY DAMAGE (Section 379.135)

When an insurer pays any part of a claimant's property damage claim, the legal title automatically transfers to the insurer to the extent of the payment. The claimant keeps title only to the unpaid portion. The insurer does not need an assignment or any action by the claimant to enforce its rights.

An insured under an insurance policy shall not, before or after a claimed or covered loss, assign or otherwise transfer the insured's:

- (1) Duties under the policy; or
- (2) Rights or benefits arising from the policy or any duties owed by the insurer under the policy.

Any such instrument is against public policy, null and void, and unenforceable.

Nothing in this Section will be construed to prohibit an insured from exercising any express authority granted under an insurance policy to authorize or direct payment to, or to pay, a person for services, materials, or any other thing that may be, or is, covered under the policy.

RESIDENTIAL REAL PROPERTY TRANSACTIONS (Section 407.3600)

Under this bill, 14 days before entering into a contract that transfers an interest in residential real property, a wholesaler, as defined in the bill, acting as a grantee or a wholesaler's representative, must provide to the property owner a written disclosure statement. Requirements for the disclosure are described in the bill.

A wholesaler acting as a grantee must not enter into a binding contract that transfers an interest in residential property until both the wholesaler and the property owner sign and date the disclosure statement.

If the wholesaler acting as the grantee fails to make the disclosure before entering into the contract that transfers interest in the property, the owner of the property can cancel the contract before the close of the escrow without penalty and

the escrow agent will disburse any earnest money paid by the wholesaler to the owner within 30 days after the cancellation. Provisions of the bill must not be modified or waived by any agreement. Any portion of an agreement executed, modified, or extended after the effective date of the bill that modifies or waives provisions of the bill will be null and void.

Any violation of the bill will be considered an unlawful practice under the Missouri Merchandising Practices Act. A party that enters into an agreement without receiving the disclosure under the bill may bring a private action against a wholesaler. The Attorney General will have the authority to enforce the provisions of the bill and commence a civil action for any violations. If the court finds that a violation occurred, the court can grant relief as described in the bill.

MISSOURI RESIDENTIAL SALE LEASEBACK PROTECTION ACT (Section 442.920)

The bill also creates the "Missouri Residential Sale Leaseback Protection Act", which regulates sale leasebacks. A sale leaseback is defined as a transaction or series of transactions in which a seller sells residential real estate that is or was the seller's residence to another party and, as a condition of the sale, or as part of the same or a related transaction, enters into a lease or rental agreement to remain in or re-occupy the property.

In any sale leaseback transaction, a buyer is required to provide the seller with certain disclosures, described in the bill, alerting the seller of the nature of the transaction and advising them of certain actions they may wish to take. The disclosure must be provided to the seller not less than 14 days before the execution of any sale leaseback agreement, and the disclosure will be signed by both the seller and the buyer concurrently with the execution of the sale leaseback agreement.

Violation of this provision is subject to a fine of up to \$10,000 per violation. The Attorney General is permitted to enforce this provision by bringing a cause of action seeking injunctive relief, civil penalties, and restitution. A seller is also permitted to bring a civil action if harmed by a violation of this act. A seller may recover actual damages, statutory damages up to \$10,000, attorney's fees and costs, and any equitable or injunctive relief.

UNIFORM MORTGAGE MODIFICATION ACT (Sections 443.920 to 443.925)

This bill creates the "Uniform Mortgage Modification Act", establishing new procedures with respect to modifications of mortgages.

The bill provides that, for any mortgage modification, defined in the bill, all of the following apply:

- (1) The mortgage continues to secure the obligation as modified;
- (2) The priority of the mortgage is not affected by the modification;
- (3) The mortgage retains its priority regardless of whether a record of the mortgage modification is recorded in the public land records; and
- (4) The modification is not considered a novation.

This bill supersedes the Federal Electronic Signatures in Global and National Commerce Act, as permitted by that Act, except as otherwise provided in this bill.

The bill contains various exceptions.