

Senator L. Alma Mansell proposes the following substitute bill:

1 **REAL ESTATE - EXCLUSIVE BROKERAGE AGREEMENTS**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: L. Alma Mansell**

6 **LONG TITLE**

7 **General Description:**

8 This bill modifies Real Estate provisions to address the use of exclusive brokerage
9 agreements.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms; and
13 ▶ addresses the scope of services that must be provided by a principal broker who
14 enters into an exclusive brokerage agreement with a client.

15 **Monies Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 ENACTS:

21 **61-2-26**, Utah Code Annotated 1953

23 *Be it enacted by the Legislature of the state of Utah:*

24 Section 1. Section **61-2-26** is enacted to read:

25 **61-2-26. Exclusive brokerage agreement.**



26 (1) As used in this section:

27 (a) "Client" means a person who makes an exclusive brokerage agreement with a
28 principal broker under Subsection (1)(c).

29 (b) "Closed" means that:

30 (i) all documents required to be executed under the contract are executed;

31 (ii) all monies required to be paid by either party under the contract are paid in the form
32 of collected or cleared funds;

33 (iii) the proceeds of any new loan are delivered by the lender to the seller; and

34 (iv) all applicable documents are recorded in the office of the county recorder for the
35 county in which the property is located.

36 (c) "Exclusive brokerage agreement" means a written agreement between a client and a
37 principal broker:

38 (i) (A) to list for sale, lease, or exchange:

39 (I) real estate;

40 (II) an option on real estate; or

41 (III) an improvement on real estate; or

42 (B) for representation in the purchase, lease, or exchange of:

43 (I) real estate;

44 (II) an option on real estate; or

45 (III) an improvement on real estate;

46 (ii) that gives the principal broker the sole right to act as the agent or representative of
47 the client for the purchase, sale, lease, or exchange of:

48 (A) real estate;

49 (B) an option on real estate; or

50 (C) an improvement on real estate; and

51 (iii) that gives the principal broker the expectation of receiving valuable consideration
52 in exchange for the principal broker's services.

53 (2) (a) Except as provided in Subsection (2)(b), a principal broker subject to an
54 exclusive brokerage agreement shall:

55 (i) accept delivery of and present to the client offers and counteroffers to buy, lease, or
56 exchange the client's property;

57 (ii) assist the client in developing, communicating, and presenting offers, counteroffers,
58 and notices; and

59 (iii) answer any question the client has concerning:

60 (A) an offer;

61 (B) a counteroffer;

62 (C) a notice; and

63 (D) a contingency.

64 (b) A principal broker subject to an exclusive brokerage agreement need not comply
65 with Subsection (2)(a) after:

66 (i) an agreement for the sale, lease, or exchange of the real estate, option on real estate,
67 or improvement on real estate is:

68 (A) signed;

69 (B) all contingencies related to the sale, lease, or exchange are satisfied or waived; and

70 (C) the sale, lease, or exchange is closed; or

71 (ii) the exclusive brokerage agreement expires or terminates.

72 (3) A principal broker who violates this section is subject to Section 61-2-17.

Fiscal Note
Bill Number SB0056s02

Real Estate - Exclusive Brokerage Agreements

16-Feb-05

8:20 AM

State Impact

Provisions of this legislation can be handled within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst