

REAL ESTATE - EXCLUSIVE BROKERAGE AGREEMENTS

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: L. Alma Mansell

House Sponsor: Gordon E. Snow

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ addresses the scope of services that must be provided by a principal broker who

enters into an exclusive brokerage agreement with a client.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

61-2-26, Utah Code Annotated 1953

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

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

61-2-26. Exclusive brokerage agreement.

(1) As used in this section:

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

(b) "Closed" means that:

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

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

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

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

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

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

(I) real estate;

(II) an option on real estate; or

(III) an improvement on real estate; or

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

(I) real estate;

(II) an option on real estate; or

(III) an improvement on real estate;

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

(A) real estate;

(B) an option on real estate; or

(C) an improvement on real estate; and

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

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

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

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

(iii) answer any question the client has concerning:

(A) an offer;

(B) a counteroffer;

(C) a notice; and

(D) a contingency.

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

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

(A) signed;

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

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

(ii) the exclusive brokerage agreement expires or terminates.

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