

**Senator L. Alma Mansell** proposes the following substitute bill:

**REAL ESTATE LISTING AGREEMENT**

**PROVISIONS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: L. Alma Mansell**

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**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

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

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



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

27 (1) As used in this section:

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

30 (b) "Closed" means that:

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

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

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

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

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

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

40 (I) real estate;

41 (II) an option on real estate; or

42 (III) an improvement on real estate; or

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

44 (I) real estate;

45 (II) an option on real estate; or

46 (III) an improvement on real estate;

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

49 (A) real estate;

50 (B) an option on real estate; or

51 (C) an improvement on real estate; and

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

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

56 (i) accept delivery of and present to the client offers and counteroffers to buy, lease, or

57 exchange the client's property;

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

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

61 (A) an offer;

62 (B) a counteroffer;

63 (C) a notice; and

64 (D) a contingency.

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

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

69 (A) signed;

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

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

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

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

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**Fiscal Note**  
**Bill Number SB0056s01**

**Real Estate Listing Agreement Provisions**

*10-Feb-05*

*1:51 PM*

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**State Impact**

Provisions of this legislation can be handled within existing budgets.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**