

1                                   **REAL ESTATE LISTING AGREEMENT**

2   **PROVISIONS**

3   2005 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: L. Alma Mansell**

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7   **LONG TITLE**

8   **General Description:**

9                   This bill modifies Real Estate provisions to address the use of exclusive listing  
10 agreements.

11 **Highlighted Provisions:**

12                   This bill:

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

16 **Monies Appropriated in this Bill:**

17                   None

18 **Other Special Clauses:**

19                   None

20 **Utah Code Sections Affected:**

21 ENACTS:

22                   **61-2-26**, Utah Code Annotated 1953

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

25                   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 listing agreement with a principal  
29 broker under Subsection (1)(c).

30           (b) "Closed" means that all documents contemplated in the parties' agreement have  
31 been signed or executed.

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

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

35           (I) real estate;

36           (II) an option on real estate; or

37           (III) an improvement on real estate; or

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

39           (I) real estate;

40           (II) an option on real estate; or

41           (III) an improvement on real estate;

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

44           (A) real estate;

45           (B) an option on real estate; or

46           (C) an improvement on real estate; and

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

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

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

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

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

56           (A) an offer;

57           (B) a counteroffer;

58           (C) a notice; and

- 59            (D) a contingency.
- 60            (b) A principal broker subject to an exclusive listing agreement need not comply with
- 61 Subsection (2)(a) after:
- 62            (i) an agreement for the sale, lease, or exchange of the real estate, option on real estate,
- 63 or improvement on real estate is:
- 64            (A) signed;
- 65            (B) all contingencies related to the sale, lease, or exchange are satisfied or waived; and
- 66            (C) the sale, lease, or exchange is closed; or
- 67            (ii) the exclusive listing agreement expires or terminates.
- 68            (3) A principal broker who violates this section is subject to Section 61-2-17.

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**Legislative Review Note**  
**as of 1-26-05 11:37 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0056**

**Real Estate Listing Agreement Provisions**

*28-Jan-05*

*3:52 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**