

# H.B. 91

## REAL ESTATE RELATED AMENDMENTS

Representative **Gage Froerer** proposes the following amendments:

1. Page 143, Line 4411 through Page 145, Line 4473:

4411 (1) As used in this section:

**(a) "Agency agreement" means a written agreement between a client and a principal broker:**  
**(i)(A) to list for sale, lease, or exchange real estate, an option on real estate, or an improvement on real estate; or**  
**(B) for representation in the purchase, lease, or exchange of real estate, an option on real estate, or an improvement on real estate; and**  
**(ii) that gives the principal broker the expectation of receiving valuable consideration in exchange for the principal broker's services.**

4412 {~~(a)~~} **(b)** "Client" means a person who makes an {~~exclusive brokerage~~} **agency**  
agreement with a

4413 principal broker {~~under Subsection (1)(c)~~} .

4414 {~~(b)~~} **(c)** "Closed" means that:

4415 (i) the documents required to be executed under the contract are executed;

4416 (ii) the money required to be paid by either party under the contract is paid in the form  
4417 of collected or cleared funds;

4418 (iii) the proceeds of any new loan are delivered by the lender to the seller; and

4419 (iv) the applicable documents are recorded in the office of the county recorder for the  
4420 county in which the real estate is located.

4421 {~~(c) "Exclusive brokerage agreement" means a written agreement between a client and a~~  
4422 **principal broker:**

4423 ~~—— (i) (A) to list for sale, lease, or exchange:~~

4424 ~~—— (I) real estate;~~

4425 ~~—— (H) an option on real estate; or~~

4426 ~~—— (HH) an improvement on real estate; or~~

4427 ~~—— (B) for representation in the purchase, lease, or exchange of:~~

4428 ~~—— (I) real estate;~~

4429 ~~—— (H) an option on real estate; or~~

4430 ~~—— (HH) an improvement on real estate;~~

4431 ~~—— (ii) that gives the principal broker the sole right to act as the agent or representative of~~

4432 ~~the client for the purchase, sale, lease, or exchange of:~~

4433 ~~—— (A) real estate;~~

4434 ~~—— (B) an option on real estate; or~~  
4435 ~~—— (C) an improvement on real estate; and~~  
4436 ~~—— (iii) that gives the principal broker the expectation of receiving valuable consideration~~  
4437 ~~in exchange for the principal broker's services. }~~  
4438 (2) (a) Except as provided in Subsection (2)(b), a principal broker subject to an  
4439 ~~{-exclusive brokerage-}~~ agency agreement shall:  
4440 (i) accept delivery of and present to the client ~~{-offers and counteroffers-}~~ an offer or  
counteroffer to buy, lease, or  
4441 exchange the client's real estate;  
4442 (ii) assist the client in developing, communicating, and presenting ~~{-offers, counteroffers,~~  
4443 ~~and notices-}~~ an offer, counteroffer, or notice ; and  
4444 (iii) answer any question the client has concerning:  
4445 (A) an offer;  
4446 (B) a counteroffer;  
4447 (C) a notice; and  
4448 (D) a contingency.  
4449 (b) A principal broker subject to an ~~{-exclusive brokerage-}~~ agency agreement need not comply  
4450 with Subsection (2)(a) after:  
4451 (i) (A) an agreement for the sale, lease, or exchange of the real estate, option on real  
4452 estate, or improvement on real estate is signed;  
4453 (B) the contingencies related to the sale, lease, or exchange are satisfied or waived; and  
4454 (C) the sale, lease, or exchange is closed; or  
4455 (ii) the ~~{-exclusive brokerage-}~~ agency agreement expires or terminates.  
4456 ~~{(3) A principal broker who contracts with a person for services under an agreement that~~  
4457 ~~is not an exclusive brokerage agreement shall:~~  
4458 ~~—— (a) provide the person with a written disclosure of the specific services that the~~  
4459 ~~principal broker will provide; and~~  
4460 ~~—— (b) obtain the person's acknowledgment of receipt on the written disclosure.~~  
4461 ~~—— (4) (a) A principal broker who represents a client under an exclusive brokerage~~  
4462 ~~agreement may negotiate a transaction with a person who, pursuant to Subsection (3), does not~~  
4463 ~~have an exclusive brokerage agreement with another principal broker if the principal broker~~  
4464 ~~provides a written disclosure to the person that states clearly that the principal broker:~~  
4465 ~~—— (i) does not act as the person's agent; and~~  
4466 ~~—— (ii) will not assist the person to:~~  
4467 ~~—— (A) complete a form;~~  
4468 ~~—— (B) negotiate the terms of the transaction; or~~  
4469 ~~—— (C) review or execute a closing document.~~  
4470 ~~—— (b) The division may not subject a principal broker who complies with this Subsection~~  
4471 ~~(4) to discipline for engaging in activities for which an agency agreement is required. }~~

4472            {+} (3) {+}    {~~5~~}    A principal broker who violates this section is subject to Sections  
61-2f-404  
4473    and 61-2f-405.