
A BILL FOR AN ACT

RELATING TO EXCLUSIVE LISTING AGREEMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act shall be known, and may be cited, as
2 the Exclusive Listing Agreements Act.

3 SECTION 2. The legislature finds that long-term exclusive
4 listing agreements, and the recording of exclusive listing
5 agreements, unfairly encumbers a property owner's title, reduces
6 their equity, and has an anti-competitive effect on the sale of
7 real property.

8 Accordingly, the purpose of this Act is to:

- 9 (1) Establish as void and unenforceable under state law
10 that governs unfair and deceptive practices, certain
11 exclusive listing agreements for the sale of
12 residential real property, including exclusive listing
13 agreements that last longer than twelve months;
- 14 (2) Prohibit the recording of exclusive listing agreements
15 of any duration for the sale of residential real
16 property or any memoranda or notice of an exclusive
17 listing agreement with the bureau of conveyances;



1 (3) Establish that exclusive listing agreements made or
 2 presented for recording or filing with the bureau of
 3 conveyances in violation of this Act shall not be
 4 enforceable, have any legal effect, or provide actual
 5 or constructive notice to any person interested in the
 6 residential real property identified in the exclusive
 7 listing agreement, or operate as a lien, encumbrance,
 8 or security interest; and

9 (4) Establish certain remedies.

10 SECTION 3. Chapter 481B, Hawaii Revised Statutes, is
 11 amended by adding a new section to part I to be appropriately
 12 designated and to read as follows:

13 **"§481B- Exclusive listing agreements; prohibited. (a)**
 14 **An exclusive listing agreement is void and unenforceable under**
 15 **this chapter if the agreement:**

16 (1) Lasts longer than twelve months from the date the
 17 agreement was made;

18 (2) Purports to run with the land or be binding on future
 19 owners of interests in the real property;



1 (3) Allows for assignment of the right to provide services
2 without notice to and the consent of the owner of the
3 residential real property; or

4 (4) Purports to create a lien, encumbrance, or other real
5 property security interest.

6 (b) It is unlawful to present for recording or filing, or
7 otherwise attempt to record to file, with the bureau of
8 conveyances an exclusive listing agreement of any duration or
9 any memoranda or notice of an exclusive listing agreement.

10 (c) It is unlawful to enforce, or attempt to enforce, an
11 exclusive listing agreement that is made, or that is presented
12 for recording or filing with the bureau of conveyances, in
13 violation of this section.

14 (d) An exclusive listing agreement that is made or
15 presented for recording or filing with the bureau of conveyances
16 in violation of this section shall not be enforceable, have any
17 legal effect, or provide actual or constructive notice to any
18 person interested in the residential real property that is
19 identified in the exclusive listing agreement.

20 (e) An exclusive listing agreement that is made or is
21 presented for recording or filing with the bureau of conveyances



1 in violation of this section shall not operate as a lien,
2 encumbrance, or security interest.

3 (f) No owner or buyer shall be required to record any
4 document to remove an exclusive listing agreement that is made
5 or is presented for recording or filing with the bureau of
6 conveyances in violation of this section.

7 (g) If an exclusive listing agreement, notice, or
8 memorandum of the agreement is recorded in violation of this
9 section, then a person with an interest in the real property
10 that is subject to the agreement may apply to a court of
11 competent jurisdiction in the county where the real property is
12 located to record a court order declaring the agreement, notice,
13 or memorandum of agreement void and unenforceable.

14 (h) A violation of this section shall be deemed an unfair
15 or deceptive practice in accordance with section 480-2, and
16 shall be subject to the provisions of chapter 480, as well as
17 the provisions of this chapter.

18 (i) In addition to any other rights provided by law, any
19 person with an interest in real property identified by a
20 recording that is void and unenforceable under subsection (a)
21 may recover damages, costs, and attorney's fees that may be



1 proved against the service provider named in the void exclusive
2 listing agreement. Any actual damages, costs, and attorney's
3 fees that are proved against the service provider shall not be
4 offset by the consideration paid by the service provider to the
5 owner of the real property.

6 (j) A service provider has no right to a refund of the
7 consideration paid to the owner in connection with a void
8 exclusive listing agreement.

9 (k) For the purposes of this section:

10 "Exclusive listing agreement" means a contract or agreement
11 providing an exclusive right to list or sell residential real
12 property, including a contract or agreement to enter into an
13 agreement or arrangement.

14 "Residential real property" means real property located in
15 the State that is used primarily for personal, family, or
16 household purposes and consists of one to four dwelling units.

17 "Service provider" means a legal person, including an
18 entity or organization, who provides a service related to real
19 property, including a real estate broker or real estate
20 salesperson. For purposes of this definition, "real estate



1 broker" and "real estate salesperson" have the same meaning as
2 defined in section 467-1."

3 SECTION 4. New statutory material is underscored.

4 SECTION 5. This Act shall take effect on July 1, 2040.



Report Title:

Exclusive Listing Agreements; Residential Real Property;
Prohibitions; Bureau of Conveyances; Unfair or Deceptive
Practices; Remedies

Description:

Establishes as void and enforceable under state law that governs unfair and deceptive practices, certain exclusive listing agreements for the sale of residential real property. Prohibits the recording of exclusive listing agreements of any duration for the sale of residential real estate with the Bureau of Conveyances. Establishes that certain exclusive listing agreements shall not be enforceable, have any legal effect, or provide actual or constructive notice, or operate as a lien, encumbrance, or security interest. Establishes certain remedies. Takes effect 7/1/2040. (SD1)

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