

FINAL BILL REPORT

SSB 5399

C 367 L 23
Synopsis as Enacted

Brief Description: Concerning future listing right purchase contracts.

Sponsors: Senate Committee on Business, Financial Services, Gaming & Trade (originally sponsored by Senators Mullet and Dozier).

Senate Committee on Business, Financial Services, Gaming & Trade
Senate Committee on Ways & Means
House Committee on Consumer Protection & Business

Background: Real Estate Brokers. The Department of Licensing is responsible for licensing and regulating real estate brokers, who must meet minimum age, education, and experience requirements to obtain a license to perform real estate brokerage services on behalf of a licensed real estate firm. Performing real estate brokerage services includes, but is not limited to, rendering the following services directly or indirectly on another's behalf for compensation:

- listing, selling, purchasing, or renting real estate;
- negotiating or offering to negotiate the purchase, sale, or lease of real estate;
- advising buyers, sellers, landlords, or tenants in connection with real estate; and
- advertising oneself to the public as engaging in such services.

A broker is an agent when the broker enters into an agency relationship with a buyer or seller to perform real estate brokerage services, which relationship may be created by written agreement or statute. Regardless of whether a broker is an agent, a broker owes to all parties to whom the broker renders real estate brokerage services certain duties, which may not be waived, including:

- exercising reasonable skill and care;
- dealing honestly and in good faith;
- presenting all written offers, notices, and other written communications to and from parties in a timely manner; and
- disclosing existing material facts a broker knows and are not apparent or readily ascertainable to a party.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Duration of Agency Relationship. "Agency relationship" means a written agreement between a real estate firm and a buyer or seller relating to the performance of real estate brokerage services.

Under existing statute, the agency relationship between a broker and a buyer or seller is until the earliest of the following:

- completion of performance by the broker;
- expiration of the term agreed upon by the parties;
- termination of relationship by mutual agreement between the parties; or
- termination of the relationship by notice from either party to the other. Such a termination does not affect the contractual rights of either party.

There is no limit under existing statute on how long an agency relationship can last. Nothing precludes an agent from providing a financial incentive in exchange for a future listing right purchase contract where a seller receives a financial incentive in exchange for providing an agent with the right to list their home at a future date.

Summary: The term "future listing right purchase contract" is defined as a contract granting an exclusive right to list residential real estate for sale in the future and includes, but is not limited to, any document recorded in the county where the real estate is located relating to the contract including the contract itself, a memorandum concerning the contract, or a deed of trust to secure the terms of the contract.

These contracts cannot last for more than five years. An owner has ten days after entering into one of these contracts to provide a notice of cancellation which allows the owner to get out of the contract without a penalty or further obligation. A future listing right purchase contract is prohibited from being used as a lien against real property.

The Washington Real Estate Commission is directed to convene a workgroup to examine practices used by real estate brokerage companies to market, establish, and enforce future listing right purchase contracts, and to report back to the Legislature by December 1, 2024, with findings and recommendations.

The attorney general may bring actions to enforce compliance with this section by making the provisions subject to the Consumer Protection Act.

Votes on Final Passage:

Senate	49	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: May 9, 2023