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**SENATE BILL 5399**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Mullet and Dozier

Read first time 01/16/23. Referred to Committee on Business, Financial Services, Gaming & Trade.

1 AN ACT Relating to future listing right purchase contracts;  
2 amending RCW 18.86.010 and 18.86.070; adding a new section to chapter  
3 18.86 RCW; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 18.86.010 and 2013 c 58 s 1 are each amended to read  
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Agency relationship" means the agency relationship created  
10 under this chapter or by written agreement between a real estate firm  
11 and a buyer and/or seller relating to the performance of real estate  
12 brokerage services.

13 (2) "Agent" means a broker who has entered into an agency  
14 relationship with a buyer or seller.

15 (3) "Broker" means broker, managing broker, and designated  
16 broker, collectively, as defined in chapter 18.85 RCW, unless the  
17 context requires the terms to be considered separately.

18 (4) "Business opportunity" means and includes a business,  
19 business opportunity, and goodwill of an existing business, or any  
20 one or combination thereof when the transaction or business includes  
21 an interest in real property.

1 (5) "Buyer" means an actual or prospective purchaser in a real  
2 estate transaction, or an actual or prospective tenant in a real  
3 estate rental or lease transaction, as applicable.

4 (6) "Buyer's agent" means a broker who has entered into an agency  
5 relationship with only the buyer in a real estate transaction, and  
6 includes subagents engaged by a buyer's agent.

7 (7) "Confidential information" means information from or  
8 concerning a principal of a broker that:

9 (a) Was acquired by the broker during the course of an agency  
10 relationship with the principal;

11 (b) The principal reasonably expects to be kept confidential;

12 (c) The principal has not disclosed or authorized to be disclosed  
13 to third parties;

14 (d) Would, if disclosed, operate to the detriment of the  
15 principal; and

16 (e) The principal personally would not be obligated to disclose  
17 to the other party.

18 (8) "Contract purchase price" means the amount of moneys paid to  
19 the seller as consideration for entering into a future listing right  
20 purchase contract.

21 (9) "Dual agent" means a broker who has entered into an agency  
22 relationship with both the buyer and seller in the same transaction.

23 ~~((+9))~~ (10) "Future listing right purchase contract" means a  
24 contractual right to obligating a seller to enter into a real estate  
25 listing agreement with a purchasing company in the future relating to  
26 the sale of a residential home, townhouse, or condominium.

27 (11) "Material fact" means information that substantially  
28 adversely affects the value of the property or a party's ability to  
29 perform its obligations in a real estate transaction, or operates to  
30 materially impair or defeat the purpose of the transaction. The fact  
31 or suspicion that the property, or any neighboring property, is or  
32 was the site of a murder, suicide or other death, rape or other sex  
33 crime, assault or other violent crime, robbery or burglary, illegal  
34 drug activity, gang-related activity, political or religious  
35 activity, or other act, occurrence, or use not adversely affecting  
36 the physical condition of or title to the property is not a material  
37 fact.

38 ~~((+10))~~ (12) "Principal" means a buyer or a seller who has  
39 entered into an agency relationship with a broker.

1        ~~((11))~~ (13) "Purchase date" means the date on which the  
2 contract purchase price is transferred to the seller by the company  
3 either by personal delivery or via wire, ACH, or other electronic  
4 means, or mailed by insured, certified, or registered United States  
5 mail.

6        (14) "Purchasing company" or "company" means a person or entity  
7 that enters into a future listing right purchase contract.

8        (15) "Real estate brokerage services" means the rendering of  
9 services for which a real estate license is required under chapter  
10 18.85 RCW.

11        ~~((12))~~ (16) "Real estate firm" or "firm" have the same meaning  
12 as defined in chapter 18.85 RCW.

13        ~~((13))~~ (17) "Real estate transaction" or "transaction" means an  
14 actual or prospective transaction involving a purchase, sale, option,  
15 or exchange of any interest in real property or a business  
16 opportunity, or a lease or rental of real property. For purposes of  
17 this chapter, a prospective transaction does not exist until a  
18 written offer has been signed by at least one of the parties.

19        ~~((14))~~ (18) "Seller" means an actual or prospective seller in a  
20 real estate transaction, or an actual or prospective landlord in a  
21 real estate rental or lease transaction, as applicable.

22        ~~((15))~~ (19) "Seller's agent" means a broker who has entered  
23 into an agency relationship with only the seller in a real estate  
24 transaction, and includes subagents engaged by a seller's agent.

25        ~~((16))~~ (20) "Subagent" means a broker who is engaged to act on  
26 behalf of a principal by the principal's agent where the principal  
27 has authorized the broker in writing to appoint subagents.

28        **Sec. 2.** RCW 18.86.070 and 2013 c 58 s 8 are each amended to read  
29 as follows:

30        (1) The agency relationships set forth in this chapter commence  
31 at the time that the broker undertakes to provide real estate  
32 brokerage services to a principal and continue until the earliest of  
33 the following:

34            (a) Completion of performance by the broker;

35            (b) Expiration of the term agreed upon by the parties;

36            (c) Termination of the relationship by mutual agreement of the  
37 parties; or

1 (d) Termination of the relationship by notice from either party  
2 to the other. However, such a termination does not affect the  
3 contractual rights of either party.

4 (2) No future listing right purchase contract shall have a term  
5 greater than five years from the purchase date.

6 (3) Except as otherwise agreed to in writing, a broker owes no  
7 further duty after termination of the agency relationship, other than  
8 the duties of:

9 (a) Accounting for all moneys and property received during the  
10 relationship; and

11 (b) Not disclosing confidential information.

12 NEW SECTION. Sec. 3. A new section is added to chapter 18.86  
13 RCW to read as follows:

14 A future listing right purchase contract may act as a lien on the  
15 property to which it relates and may be perfected by recording in the  
16 same manner that an easement, mortgage, or other interest in real  
17 property is recorded. All liens shall take priority by normal  
18 operation of law. Notwithstanding the foregoing, any such lien shall  
19 be subordinate to a financing, refinancing, or home equity line of  
20 credit the seller should seek subsequent to the effective date of the  
21 future listing right purchase contract.

22 NEW SECTION. Sec. 4. This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of  
24 the state government and its existing public institutions, and takes  
25 effect immediately.

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