



ARIZONA HOUSE OF REPRESENTATIVES

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House: COM DP 9-0-0-1

SB 1218: exclusive agreements; residential property sales

Sponsor: Senator Kavanagh, LD 3

Caucus & COW

Overview

Outlines unlawful practices for an exclusive property engagement agreement (Agreement).

History

The Arizona Department of Real Estate (ADRE) regulates the real estate industry and real estate professionals. Individuals who engage in real estate transactions including selling, purchasing, listing or offering to list real estate, businesses or business opportunities must be licensed as a real estate broker (A.R.S. §§ [32-2101](#), [32-2122](#)).

Provisions

1. Delineates unlawful practices for an *exclusive property engagement agreement* which is a contract or agreement that provides an exclusive right to a person to list or sell residential real estate. (Sec. 1)
2. Stipulates an Agreement is void if the listing services do not begin within one year after the execution of the Agreement by the parties. (Sec. 1)
3. Prohibits a court from:
 - a) enforcing an Agreement made or recorded in violation of Agreement provisions; and
 - b) imposing a constructive trust in the residential real estate that is the subject of the agreement or on the disposition proceeds of a related residential real estate transaction. (Sec. 1)
4. Requires any consideration that was paid to a homeowner relating to a contract or agreement that violates Agreement provisions to be forfeited. (Sec. 1)
5. Deems a contract or agreement made or recorded in violation of Agreement provisions as void and unenforceable. (Sec. 1)
6. Deems a contract or agreement that violates Agreement provisions and is recorded before the effective date of certain enforcement provisions as void. (Sec. 1)
7. Instructs ADRE to:
 - a) execute and record in each county recorder's office a document that disclaims the validity and enforceability of any contract or agreement or any related liens or assignments that violate Agreement provisions; and
 - b) display such document on the department's website. (Sec. 1)
8. Specifies an act or practice in violation of Agreement provisions is:
 - a) an unlawful practice in accordance with consumer fraud statutes; and

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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- b) subject to enforcement through private action and by the Attorney General. (Sec. 1)
- 9. Subjects a person who violates Agreement provisions to liability and penalties in accordance with statute relating to recording false documents. (Sec. 1)
- 10. Specifies that the prescribed remedies are not the exclusive remedies for a violation. (Sec. 1)
- 11. Defines *residential real estate*. (Sec. 1)
- 12. Contains legislative findings. (Sec. 2)
- 13. Contains a severability clause. (Sec. 3)