

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0694.01 Richard Sweetman x4333

SENATE BILL 23-077

SENATE SPONSORSHIP

Hinrichsen,

HOUSE SPONSORSHIP

(None),

Senate Committees
Local Government & Housing

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROHIBITING THE INCLUSION OF CERTAIN TERMS IN A**
102 **BROKER ENGAGEMENT CONTRACT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill states that, with certain exceptions, a broker engagement contract for the sale of a residential premises must not:

- Purport to be a covenant running with the land or to be binding on future owners of interests in the real property;
- Allow for assignment of the right to provide service without notice and agreement of the owner of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

- residential premises; or
- Purport to create a recordable lien, encumbrance, or other real property security interest. Any such lien, encumbrance, or other real property security interest is void and unenforceable.

The bill defines a "broker engagement contract" as a written contract in which a seller, buyer, landlord, or tenant of a residential premises becomes the client of a broker and promises to pay the broker a valuable consideration or agrees that the broker may receive a valuable consideration from another person in exchange for the broker producing a seller, buyer, tenant, or landlord ready, able, and willing to sell, buy, or rent the residential premises or for performing other services.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 12-10-403.5 as
3 follows:

4 **12-10-403.5. Broker engagement contracts - residential**
5 **premises - prohibited terms - definition.** (1) AS USED IN THIS SECTION,
6 UNLESS THE CONTEXT OTHERWISE REQUIRES, "BROKERAGE ENGAGEMENT
7 CONTRACT" MEANS A WRITTEN CONTRACT IN WHICH A SELLER, BUYER,
8 LANDLORD, OR TENANT OF A RESIDENTIAL PREMISES BECOMES THE CLIENT
9 OF A BROKER AND PROMISES TO PAY THE BROKER A VALUABLE
10 CONSIDERATION OR AGREES THAT THE BROKER MAY RECEIVE A VALUABLE
11 CONSIDERATION FROM ANOTHER PERSON IN EXCHANGE FOR THE BROKER:

12 (a) PRODUCING A SELLER, BUYER, TENANT, OR LANDLORD READY,
13 ABLE, AND WILLING TO SELL, BUY, OR RENT THE RESIDENTIAL PREMISES;
14 OR

15 (b) PERFORMING OTHER SERVICES.

16 (2) A BROKER ENGAGEMENT CONTRACT MUST NOT:

17 (a) PURPORT TO BE A COVENANT RUNNING WITH THE LAND OR TO
18 BE BINDING ON FUTURE OWNERS OF INTERESTS IN THE REAL PROPERTY;

19 (b) ALLOW FOR ASSIGNMENT OF THE RIGHT TO PROVIDE SERVICE

1 WITHOUT NOTICE AND AGREEMENT OF THE OWNER OF THE RESIDENTIAL
2 PREMISES; OR

3 (c) PURPORT TO CREATE A RECORDABLE LIEN, ENCUMBRANCE, OR
4 OTHER REAL PROPERTY SECURITY INTEREST. ANY SUCH LIEN,
5 ENCUMBRANCE, OR OTHER REAL PROPERTY SECURITY INTEREST IS VOID
6 AND UNENFORCEABLE.

7 (3) THIS SECTION DOES NOT APPLY TO:

8 (a) A HOME WARRANTY SERVICE CONTRACT, AS DEFINED IN
9 SECTION 12-10-901 (2)(a);

10 (b) A BUILDING WARRANTY OR SIMILAR PRODUCT THAT COVERS
11 THE COST OF MAINTENANCE OF A MAJOR HOUSING OR BUILDING SYSTEM,
12 SUCH AS A PLUMBING OR AN ELECTRICAL SYSTEM, FOR A SPECIFIC PERIOD
13 OF TIME AFTER THE DATE ON WHICH A HOUSE OR BUILDING IS SOLD;

14 (c) AN INSURANCE CONTRACT;

15 (d) AN OPTION TO PURCHASE, A PUT REQUIREMENT TO PURCHASE,
16 A RIGHT OF FIRST OFFER, OR A RIGHT OF REFUSAL;

17 (e) A DECLARATION CREATED IN THE FORMATION OF A COMMON
18 INTEREST COMMUNITY, AS DEFINED IN SECTION 38-33.3-103 (8), OR AN
19 AMENDMENT TO THE DECLARATION;

20 (f) A MAINTENANCE OR REPAIR AGREEMENT ENTERED INTO BY A
21 UNIT OWNERS' ASSOCIATION, AS DEFINED IN SECTION 38-33.3-103 (3);

22 (g) A LOAN OR A COMMITMENT TO MAKE OR RECEIVE A LOAN,
23 WHICH LOAN OR COMMITMENT IS SECURED BY REAL ESTATE;

24 (h) A SECURITY AGREEMENT UNDER THE "UNIFORM COMMERCIAL
25 CODE" RELATING TO THE SALE OR RENTAL OF PERSONAL PROPERTY OR
26 FIXTURES;

27 (i) WATER, SEWER, ELECTRICAL, TELEPHONE, CABLE, OR OTHER

1 REGULATED UTILITY SERVICE PROVIDERS; OR

2 (j) A PROPERTY MANAGEMENT AGREEMENT BY WHICH THE OWNER
3 OF REAL PROPERTY CONTRACTS WITH A PARTY TO PROVIDE MANAGEMENT
4 SERVICES FOR THE MAINTENANCE, OWNERSHIP, OPERATION, OR LEASE OF
5 A RESIDENTIAL PREMISES.

6 **SECTION 2. Act subject to petition - effective date -**
7 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
8 the expiration of the ninety-day period after final adjournment of the
9 general assembly; except that, if a referendum petition is filed pursuant
10 to section 1 (3) of article V of the state constitution against this act or an
11 item, section, or part of this act within such period, then the act, item,
12 section, or part will not take effect unless approved by the people at the
13 general election to be held in November 2024 and, in such case, will take
14 effect on the date of the official declaration of the vote thereon by the
15 governor.

16 (2) This act applies to broker engagement contracts executed or
17 renewed on or after the applicable effective date of this act.