SENATE BILL REPORT
SB 5399

As of January 20, 2023

Title: An act relating to future listing right purchase contracts.

Brief Description: Providing for future listing right purchase contracts.

Sponsors: Senators Mullet and Dozier.

Brief History:
Committee Activity: Business, Financial Services, Gaming & Trade: 1/24/23.

Brief Summary of Bill

- Limits the duration of future listing right purchase contracts to a term no longer than five years.
- Allows future listing right purchase contracts to act as liens that are subordinate to home financing, refinancing, or home equity line of credit.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE

Staff: Clinton McCarthy (786-7319)

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

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- 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.

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 of Bill: The term "future listing right purchase contract" is defined as a contractual right that obligates a seller to enter into a real estate listing agreement with a purchasing company in the future relating to the sale of a residential home, townhouse, or condominium. These contracts cannot last longer than five years from the purchase date, which is the date on which the prospective seller agrees with the purchasing company to give their future listing right to the purchasing company in exchange for moneys paid to the seller as consideration for entering into a future listing right contract.

Listing right purchase contracts are permitted to act as a lien that is subordinate to a financing, refinancing or home equity line of credit.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.