

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

400U0293

SENATE BILL NO. 64

Introduced by: The Committee on Commerce and Energy at the request of the South Dakota
Real Estate Commission

1 FOR AN ACT ENTITLED, An Act to revise provisions regarding broker price opinions,
2 comparative market analyses, and appraisals.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 36-21A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 For the purposes of this chapter, the terms, broker price opinion and comparative market
7 analysis, mean an estimate prepared by a licensed broker or salesperson that details the probable
8 selling price or leasing price of a particular parcel of or interest in real property and provides a
9 varying level of detail about the property's condition, market and neighborhood, and information
10 on comparable properties, but does not include an automated valuation model. A broker price
11 opinion or a comparative market analysis is not an appraisal.

12 Section 2. That § 36-21A-6 be amended to read as follows:

13 36-21A-6. For the purposes of this chapter, a broker or a real estate broker is any person who
14 does any of the following:

15 (1) For another and for compensation or consideration or with the intention or



- 1 expectation of receiving compensation or consideration, directly or indirectly, lists,
2 sells, exchanges, buys, rents, manages, offers or attempts to negotiate a sale, option,
3 exchange, purchase, lease or rental of an interest in real property, or a mobile or
4 manufactured home which has been registered under the provisions of chapters 32-3
5 to 32-5B, inclusive, unless licensed under chapter 32-7A to sell used mobile or
6 manufactured homes, or advertises or holds himself out as engaged in such activities;
- 7 (2) For another and for compensation or consideration or with the intention or
8 expectation of receiving compensation or consideration, directly or indirectly,
9 negotiates or offers or attempts to negotiate a loan, secured or to be secured by a
10 mortgage or other encumbrance on real property;
- 11 (3) For another and for compensation or consideration or with the intention or
12 expectation of receiving compensation or consideration, directly or indirectly, lists,
13 sells, exchanges, buys, rents, manages, offers or attempts to negotiate a sale, option,
14 exchange, purchase, lease or rental of any business opportunity or business, or its
15 goodwill, inventory or fixtures, or any interest therein;
- 16 (4) For another and for compensation or consideration or with the intention or
17 expectation of receiving compensation or consideration, directly or indirectly, offers,
18 sells or attempts to negotiate the sale of property that is subject to the registration
19 requirements concerning subdivided land;
- 20 (5) Charges a fee for undertaking to promote the sale or lease of real property by means
21 of listing in a publication primarily for such purpose;
- 22 (6) Engages wholly or in part in the business of selling real property to the extent that a
23 pattern of selling real property is established, ~~whether or not the real property is~~
24 ~~owned by the person~~ unless exempted under the provisions of this chapter;

- 1 (7) Is employed by or on behalf of any owner of lots or other parcels of real property for
- 2 compensation or consideration to sell the real property or any part thereof;
- 3 (8) Appraises, offers, attempts or agrees to appraise real property unless licensed or
- 4 certified to appraise under some other provision of South Dakota law. Any person
- 5 performing an appraisal pursuant to this subdivision shall comply with the uniform
- 6 standards established by the secretary pursuant to § 36-21B-3;
- 7 (9) For another and for compensation or consideration or with the intention or
- 8 expectation of receiving compensation or consideration, directly or indirectly,
- 9 prepares or offers to prepare a broker price opinion or a comparative market analysis;
- 10 (10) Auctions, offers, attempts or agrees to auction real estate unless licensed to auction
- 11 real property under some other provision of South Dakota law; or
- 12 ~~(10)~~ (11) Buys or offers to buy or sell or otherwise deals in options to buy real property.