

SB 164-FN - AS AMENDED BY THE HOUSE

03/13/2025 0723s
5Jun2025... 2222h

2025 SESSION

25-0627
06/02

SENATE BILL **164-FN**

AN ACT relative to homeowners and prohibiting certain types of listing agreements.

SPONSORS: Sen. Ricciardi, Dist 9; Sen. Pearl, Dist 17

COMMITTEE: Commerce

AMENDED ANALYSIS

This bill prohibits certain contracts or agreements between a provider and an owner under which the owner agrees to list the owner's residential real estate for sale with the provider which requires a lien.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to homeowners and prohibiting certain types of listing agreements.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Sections; Service Agreements in Residential Real Estate Transactions. Amend RSA 356-
2 A by inserting after section 16 the following new sections:

3 356-A:16-a Unfair Agreements to List Residential Real Estate.

4 I. Definitions. In this section:

5 (a) "Prohibited listing agreement" means a contract or agreement between a provider
6 and an owner under which the owner agrees to list the owner's residential real estate for sale and
7 that contains any of the terms or requirements set forth in paragraph II.

8 (b) "Owner" means an owner of an interest in residential real estate.

9 (c) "Provider" means a person or entity providing or offering to provide real estate
10 brokerage services.

11 (d) "Recording" means presenting a document to a register of deeds for official placement
12 in the records of the registry of deeds.

13 (e) "Residential real estate" means real estate consisting of not less than one nor more
14 than 4 residential dwelling units.

15 II. A provider shall not enter into, or offer to enter into, a prohibited listing agreement that
16 purports to:

17 (a) Bind any future owner not a party to the agreement;

18 (b) Allow for the assignment by the provider of a real estate brokerage service to a third
19 party without notice to or consent of the owner;

20 (c) Create a lien, encumbrance or other real property security interest; or

21 (d) Obligate the owner to pay a fee or commission to the provider upon a sale or transfer
22 of the residential real estate when the sale or transfer is not the result of a real estate brokerage
23 service provided by the provider.

24 III. A violation of this section constitutes an unfair or deceptive act or practice under RSA
25 358-A.

26 IV. A prohibited listing agreement in violation of this section is unenforceable. A person
27 may not record or cause to be recorded a prohibited listing agreement in violation of this section. A
28 prohibited listing agreement recorded in this state in violation of this section does not provide actual
29 or constructive notice against an otherwise bona fide purchaser or creditor. If a prohibited listing
30 agreement is recorded in violation of this section, a party with an interest in the residential real

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1 estate that is the subject of that prohibited listing agreement may apply to the superior court in the
2 county where the recording occurred for an order declaring the prohibited listing agreement void and
3 of no effect.

4 V. Nothing in this section affects a lien on residential real estate established under RSA
5 447:2.

6 356-A:16-b Rights of Recovery. If a prohibited listing agreement is recorded in violation of RSA
7 356-A:16-a, a party with an interest in the residential real estate that is the subject of the prohibited
8 listing agreement may recover actual damages, costs, and attorney's fees as may be proven against
9 the party who recorded the prohibited listing agreement.

10 2 Effective Date. This act shall take effect January 1, 2026.

**SB 164-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2025-0723s)**

AN ACT relative to homeowners and prohibiting certain types of service agreements.

FISCAL IMPACT:

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund</i>	None			
Expenditures*	Indeterminable			
<i>Funding Source</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source</i>	None			

*Expenditure = Cost of bill *Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	Indeterminable			
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	Indeterminable			

METHODOLOGY:

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

AGENCIES CONTACTED:

Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association