

CHAPTER 242
SB 164-FN - FINAL VERSION

x03/13/2025 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 struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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:

1 242:1 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 and an
6 owner under which the owner agrees to list the owner's residential real estate for sale and that contains
7 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 brokerage
10 services.

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

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

15 II. A provider shall not enter into, or offer to enter into, a prohibited listing agreement that purports
16 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 party
19 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 of
22 the residential real estate when the sale or transfer is not the result of a real estate brokerage service
23 provided by the provider.

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

25 IV. A prohibited listing agreement in violation of this section is unenforceable. A person may not
26 record or cause to be recorded a prohibited listing agreement in violation of this section. A prohibited
27 listing agreement recorded in this state in violation of this section does not provide actual or constructive
28 notice against an otherwise bona fide purchaser or creditor. If a prohibited listing agreement is recorded
29 in violation of this section, a party with an interest in the residential real estate that is the subject of that
30 prohibited listing agreement may apply to the superior court in the county where the recording occurred
31 for an order declaring the prohibited listing agreement void and of no effect.

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

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1 356-A:16-b Rights of Recovery. If a prohibited listing agreement is recorded in violation of RSA 356-
2 A:16-a, a party with an interest in the residential real estate that is the subject of the prohibited listing
3 agreement may recover actual damages, costs, and attorney's fees as may be proven against the party
4 who recorded the prohibited listing agreement.

5 242:2 Effective Date. This act shall take effect January 1, 2026.

Approved: July 15, 2025
Effective Date: January 01, 2026

