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# MARYLAND COMMISSIONER OF FINANCIAL REGULATION CONSUMER ADVISORY

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July 31, 2023

## New Consumer Protections for Real Estate Listing Agreements and Other Residential Service Agreements

Certain real estate brokers have been offering cash payments to Maryland homeowners in exchange for granting the broker the exclusive right to serve as the listing agent when the homeowner sells the property. In contrast to normal listing agreements, these types of products typically apply for very long terms, may contain other unusual features, and generally present an enhanced potential for unfair, deceptive, abusive, or otherwise illegal practices.

The Maryland General Assembly recently passed Senate Bill 579, codified at Real Property Code Section 14, Subtitle 8 (RP 14-801 et seq.), which **outlaws certain of these and similar agreements defined as a Residential Service Agreement (RSA)**. RP 14-801 et seq. became effective June 1, 2023. The [Maryland Office of Financial Regulation \(OFR\)](#) issues this advisory to assist Maryland consumers in understanding RSAs and what to do if they have already entered into an RSA.

### What is an RSA?

RP 14-801 defines an RSA as a contract where a provider ("Service Provider") agrees to either assist the consumer in selling or purchasing a residential property or in performing maintenance on a residential property.

### What agreements are prohibited?

RP 14-803 outlaws the following RSAs:

- 1) RSAs that are effective for more than one year;
- 2) RSAs that bind subsequent buyers or heirs;
- 3) RSAs that give the Service Provider an interest in the residential property; or
- 4) RSAs that allow the Service Provider to transfer their rights under the RSA to a third party without notice to the consumer.

### What is excluded from the law?

RP 14-802 excludes a number of common products, practices or services from the definition of an RSA. Among others, these include home warranties, utility providers, and mechanics liens. See Real Property Code section 14-802(B) for the complete list of exclusions.

## What risks do RSAs pose to Maryland consumers?

- RSAs Often Function as Loans or Extensions of Credit

With many RSAs, the Service Provider gives the consumer money in exchange for signing the RSA and expects it or potentially a portion of the sales price to be repaid if the consumer does not use the real estate services of the RSA who provided the funds. By expecting repayment of this money, the transaction can be considered the equivalent to a loan (or extension of credit). Because RSAs are a new product, consumers may not fully understand that they are basically borrowing money (particularly if they never use the product or service), negotiate key terms, or realize the actual cost of the money they received. Because of these factors, consumers may end up overpaying for what they receive.

- RSAs May Involve a Long-Term Commitment

Many RSAs involve long-term commitments that the consumer may both forget and not inform heirs who may inherit the property. The Service Provider does not forget and records the RSA or some evidence thereof in the land records which serves as a trigger to enforcement at a future date. RSAs frequently include substantial cancellation and non-compliance costs if a consumer uses a different provider during the term of the agreement or attempts to terminate the agreement.

Forgetting about the RSA may expose the consumer, or the consumer's heirs, to substantial and unnecessary costs. For example, if a consumer entered an RSA in 2022 granting the Service Provider the exclusive right to act as a real estate broker for listing purposes for the next 40 years, the consumer may not remember the RSA in 2040 when they want to sell the house. Because the Service Provider recorded either the RSA or evidence of the RSA in land records, the parties will discover the RSA during the sale process. The consumer may end up paying substantial amounts to both the broker who actually listed the property and the Service Provider.

## What if I already entered into an RSA?

RP 14-801 et seq. became effective June 1, 2023, and does not expressly cancel RSAs entered before that date. If you previously entered into an RSA, you may wish to consult an attorney. Additionally, you may file a complaint against the Service Provider with OFR at the following link: [www.labor.maryland.gov/finance/consumers/comphow.shtml](http://www.labor.maryland.gov/finance/consumers/comphow.shtml). Depending upon the specifics of your RSA, the RSA may be void and unenforceable under Maryland law or you may have other defenses to any attempt to enforce the RSA.

If you have questions, please contact OFR's Consumer Services Unit by phone at 410-230-6077 or by email at [CSU.Complaints@maryland.gov](mailto:CSU.Complaints@maryland.gov).

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*The Office of Financial Regulation, a division of the Maryland Department of Labor, is Maryland's consumer financial protection agency and financial services regulator. For more information, please visit our website at [www.labor.maryland.gov/finance](http://www.labor.maryland.gov/finance).*



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