



SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

'14 OCT 15 P3:13

SENATE
S. No. 2432

RECEIVED BY: Jr.

Introduced by Senator Miriam Defensor Santiago

AN ACT
REQUIRING ALL PUBLISHERS OF REAL ESTATE LISTINGS TO APPLY FOR
ACCREDITATION FROM THE PROFESSIONAL REGULATORY BOARD OF
REAL ESTATE SERVICE AND TO ADHERE TO THE RIGHTS OF
REAL ESTATE PRACTITIONERS

EXPLANATORY NOTE

Today, real estate transactions are governed by R.A. No. 9646, aka the Real Estate Service Act, or RESA Law of 2009. The RESA Law, Section 2 states:

Section 2. *Declaration of Policy.* – The State recognizes the vital role of real estate service practitioners in the social political, economic development and progress of the country by promoting the real estate market, stimulating economic activity and enhancing government income from real property-based transactions. Hence, it shall develop and nurture through proper and effective regulation and supervision a corps of technically competent, responsible and respected professional real estate service practitioners whose standards of practice and service shall be globally competitive and will promote the growth of the real estate industry.

The Supreme Court recently upheld the constitutionality of the RESA Law in the 2014 case of *Remman Enterprises, Inc. v. Professional Regulatory Board of Real Estate Service*. The Supreme Court paid tribute to residential brokers by stating “that real estate developers at present constitute a sector that hires or employs the largest number of brokers, salespersons, appraisers, and consultants due to the sheer number of products they advertise and sell nationwide.”

Publishers of real estate listings have become a part of the real industry. However, unlike real estate practitioners, these publishers are not subject to any authority governing

the real estate activity, and therefore lack an essential degree of accountability over the information they publish.

The United States adopted the Real Estate Professionals' Bill of Rights. It provides for a government office that will govern real estate activity, and ensure an essential degree of accountability over information published, referring to people who publish proprietary listing data owned by real estate brokers and agents. It shall apply to all online and print media that publish listing information, including desktop and mobile appliances.

The Philippines may also adopt the Bill of Rights to ensure that proprietary real estate listing data are used in a manner that serves the interests of consumers, real estate practitioners, and publishers.

Under the RESA Law, Section 5, paragraphs (e) and (h), the Professional Regulatory Board of Real Estate Service is vested with the powers to:

(e) Monitor the conditions affecting the practice of real estate service and adopt such measures as may be proper for the enhancement of the profession and/or the maintenance of high professional, ethical and technical standards; . . .

(h) Safeguard and protect legitimate and licensed real estate service practitioners and, in coordination with the accredited and integrated professional organization of real estate service practitioners, monitor all forms of advertisements, announcements, signboards, billboards, pamphlets, brochures and others of similar nature concerning real estate and, where necessary, exercise its quasi-judicial and administrative powers to finally and completely eradicate the pernicious practices of unauthorized or unlicensed individuals;

In order to have the authority to publish real estate listings, this bill seeks to mandate all publishers to apply for an accreditation from the Professional Regulatory Board of Real Estate Service. As a continuing requirement for the accreditation, all publishers shall adhere to the Bill of Rights of Real Estate Practitioners.

In order to signify adherence to the Bill of Rights, a publisher shall display the Board's accreditation seal on their respective websites. Real estate practitioners will then

know the listing data is respected, the buyers will know the listing data is accurate, and sellers or developers will know their data is properly presented.

acs. *Miriam Defensor Santiago*
MIRIAM DEFENSOR SANTIAGO

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Office of the Secretary

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Introduced by Senator Miriam Defensor Santiago

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 AN ACT

2 REQUIRING ALL PUBLISHERS OF REAL ESTATE LISTINGS TO APPLY FOR
3 ACCREDITATION FROM THE PROFESSIONAL REGULATORY BOARD OF
4 REAL ESTATE SERVICE AND TO ADHERE TO THE RIGHTS OF
5 REAL ESTATE PRACTITIONERS

6 SECTION 1. *Short Title.* – This Act shall be known as the “Real Estate
7 Practitioners’ Bill of Rights.”

8 SECTION 2. *Definition of Terms.* – For purposes of this Act, the term:

9 a. “Listing” refers to proprietary real estate listing information originating from a
10 licensed real estate practitioner;

11 b. “Publisher” refers to any person or entity that collects, displays, or distributes
12 property listings that originated from a licensed real estate broker or agent including, but
13 not limited to, online and print publishers; and

14 c. “Real estate practitioners” refer to and consist of the following: real estate
15 consultant; real estate appraiser; real estate assessor; real estate broker; and real estate
16 salesperson.

17 SECTION 3. *Accreditation.* – In addition to its powers and functions under
18 Republic Act No. 9646, the Professional Regulatory Board of Real Estate Service (here
19 referred to as the “Board”) shall monitor all real estate listings, and ensure an essential

1 degree of accountability over information published, referring to corporations who
2 publish proprietary listing data owned by real estate practitioners.

3 In order to have the authority to publish real property listings owned by real estate
4 service practitioners, all publishers are required to apply for an accreditation from the
5 Board.

6 SECTION 4. *Real Estate Practitioners' Bill of Rights.* – As a continuing
7 requirement for an accreditation, all publishers of real estate listings are required to
8 adhere to the Real Estate Practitioners' Bill of Rights. A publisher shall display the
9 Board's accreditation seal on their respective websites as evidence of adherence to the
10 Bill of Rights.

11 The Bill of Rights shall apply to all online and print media that publish listing
12 information, including desktop and mobile applications.

13 SECTION 5. *Rights of Real Estate Professionals.* – Real Estate Practitioners shall
14 have the following rights:

15 1. The right to listing attribution.

16 The publisher agrees to conspicuously display the contact information
17 of the listing real estate practitioner at the top of every listing to eliminate
18 confusion as to who owns the listing and to credit the listing real estate
19 practitioner as the authoritative source.

20 2. The right to bar real estate practitioners from advertising on a listing they do
21 not own.

22 The publisher agrees to refrain from displaying any advertisement or to
23 use listing information in any manner that allows the diversion of prospective
24 buyer leads from the listing owner to anyone without consent of the listing
25 owner. The publisher agrees to refrain from any other misleading activity

1 that can contribute to consumer confusion as to the identity of the listing
2 owner.

- 3 3. The right to comprehensive reporting with audit capabilities.

4 The publisher agrees to provide to the listing owner (a) exportable
5 detailed reports of aggregate statistics regarding leads and traffic to the listing
6 on the publisher's site or (b) a mechanism by which the listing owner may
7 install or activate third party traffic analytics to receive such reports. A detail
8 incident reporting facility pertaining to violations of this Bill of Rights shall be
9 available to owners of listing data with real time dashboard.

- 10 4. The right to prohibit unauthorized use of listing data.

11 The publisher's terms and conditions of service shall not, with respect to
12 data (including listings) belonging to real estate practitioners, transfer
13 ownership in such data to the publisher, or grant the publisher the right to (a)
14 re-purpose the data, (b) create derivative works from the data, or (c) sublicense
15 the data.

- 16 5. The right to ensure that the publisher implements anti-screen mechanisms.

17 The publisher agrees to provide reasonable mechanisms aimed at
18 preventing screen scraping and unauthorized use of the listing data,
19 understanding that some listing information must be exposed to search
20 engines. The publisher agrees that its terms and conditions of service will
21 contain a prohibition against screen scraping.

- 22 6. The right to unbiased and comprehensive data display of all listings.

23 The publisher agrees to refrain from biasing or manipulating search
24 results and to base all search results solely upon the consumer's query and not
25 upon compensation by the listing owner.

- 26 7. The right to accuracy.

1 As the accuracy of listing data reflects on the real estate industry's
2 integrity and credibility, the publisher agrees to ensure that listing data are
3 properly identified and adequately presented:

4 a. *The publication of prompt updates.* The publisher agrees to
5 ensure that listing data are confirmed and updated or removed as
6 appropriate, at least every 24 hours, and to display that date on the
7 listing with name of the data provider.

8 b. *The requirement to safeguard against duplicate data.* The
9 publisher agrees to safeguard against the duplication of listing
10 information on its website.

11 c. *The disclosure of the data source.* The publisher agrees to
12 conspicuously disclose and display the original source of the data.

13 d. *Listing data to be faithfully displayed.* Publishers agree
14 to faithfully display listing data and to refrain from limiting, editing or
15 otherwise modifying original listing data or images. Unless authorized
16 by owner of the listing, no additional data shall appear on any "property
17 detail" page.

18 e. *The publication of an accuracy disclaimer and copyright*
19 *notice.* The publisher agrees to display an accuracy disclaimer and
20 copyright notice attributing the copyright holder of the information.

21 8. The right to prohibit automated property valuations

22 The publisher agrees to refrain from displaying or linking to automated
23 property valuations in conjunction with any listing without the consent of the
24 owner of the property or the listing.

25 9. The right to ensure that ratings, titles and superlative designations are based on
26 accreditation and objective criteria.

1 The publisher agrees not to sell, display, or otherwise bestow upon a
2 real estate practitioner a rating, title, or superlative designation that implies that
3 the real estate practitioner possesses skills or knowledge that he or she may not
4 have. A publisher that decorates a real estate practitioner agrees to base the
5 decoration on transparent, verifiable, and appropriate criteria, including but not
6 limited to, prior or current client feedback, peso production, number of listings,
7 number of sales, average sales price, average days-on-market, or other such
8 measures. A publisher displaying individual feedback comments from prior or
9 current clients about the real estate practitioner agrees to provide the real estate
10 practitioner with a mechanism by which to respond publicly and directly to
11 each comment. The publisher agrees to provide a prominent link or
12 conspicuous notice describing in detail the basis for each rating, title, or
13 superlative designation.

14 10. The right to be free from questionable sales practices.

15 The publisher agrees to refrain from (a) using or facilitating the use by
16 others of real estate practitioner's contact information for sales purposes, and (b)
17 requiring any contract with real estate practitioner for a period greater than 30
18 days that does not give the real estate practitioner a right to cancel with 10 days'
19 notice.

20 The Board reserves the right to revise the Bill of Rights because information
21 technology and the public's use of it tend to progress and evolve rapidly.

22 SECTION 6. *Real Estate Professionals' Rights Notification.* – The real estate
23 practitioners' rights as enumerated in Section 4 shall be prominently displayed on the
24 Board's website. Such notification shall also contain a brief description of the procedure

1 on how to file a complaint for violation of any of the rights enumerated as well as the
2 necessary contact information provided by the Board to handle such complaints.

3 SECTION 7. *Period of Implementation.* – The Board shall be the agency primarily
4 responsible in the enforcement and implementation of this Act. Within sixty (60) days
5 from the effectivity of this Act, the Board shall formulate and issue the necessary
6 implementing rules and regulations and shall mobilize available resources to assure the
7 effective implementation of this Act.

8 SECTION 8. *Penalties and Fines.* – In the enforcement of this Act, the Board
9 shall impose fines against publishers for violation of this Act. For failure to observe any
10 of the rights enumerated in Section 3 and for any unauthorized publication of real estate
11 listings, a minimum fine of two thousand pesos (₱2,000) but not to exceed four thousand
12 pesos (₱4,000) for the first violation; a minimum fine of five thousand pesos (₱5,000) but
13 not to exceed seven thousand pesos (₱7,000) for the second violation; and a minimum
14 fine of eight thousand pesos (₱8,000) but not to exceed ten thousand pesos (₱10,000) and
15 suspension of accreditation for a period of one month for the third and succeeding
16 violations. In case the violation is committed by a publisher, which is not accredited by
17 the Board, the penalty shall be double the fine.

18 SECTION 9. *Separability Clause.* – If any provision or part hereof, is held invalid
19 or unconstitutional, the remainder of the law or the provision not otherwise affected shall
20 remain valid and subsisting.

21 SECTION 10. *Repealing Clause.* – Any law, presidential decree or issuance,
22 executive order, letter of instruction, administrative order, rule or regulation contrary to
23 or is inconsistent with the provision of this Act is hereby repealed, modified, or amended
24 accordingly.

1 SECTION 11. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
2 after its publication in at least two (2) newspapers of general circulation.

Approved,

/fldp11oct2014