



The Department of Justice also is entrusted with enforcing this nation's antitrust laws. For more than 100 years, since the passage of the Sherman Antitrust Act, the Department of Justice has worked to promote free and unfettered competition in all sectors of the American

economy through its civil and criminal enforcement programs. In particular, the Department has a long history of enforcement efforts in the real estate area that includes several cases involving restrictions on access to multiple listing services and other restraints limiting competition among real estate brokers. The Department recently sent a letter to the Oklahoma State Legislature opposing pending legislation similar to House Bill 156.⁴

The FTC and the Department of Justice also jointly advocated against the passage of regulations proposed by the Texas Real Estate Commission that would have restricted

the Texas Real Estate Commission decided to study the consequences of the proposed legislation or regulation before deciding whether to adopt such restrictions.⁶

Industry Background

The Proposed Legislation

House Bill 156 would amend existing law governing the provision of real estate services in Alabama. Among other amendments to this law, the bill would require real estate professionals to provide a minimum of services when accepting an agreement to list a home:

owner's property for sale. Specifically, House Bill 156 reads:

when accepting an agreement to list an owner's property for sale, the broker or his

The proposed legislation, if enacted, is likely to reduce competition and harm Alabama consumers in two significant ways. First, consumers who want to perform for themselves some

decide to do. For example, based on an informal review of Alabama regulations and Section 1-

disclosure requirement would ensure that the client understands exactly what he or she has or has

Endnotes

¹ Federal Trade Commission Act, 15 U.S.C. § 45.

² Letter from FTC and the Justice Department to Massachusetts State Representative Paul Kujawski (Oct. 6, 2004); Letter from FTC and the Justice Department to Standing Committee on the Unlicensed Practice of Law, State Bar of Georgia (Mar. 20, 2003); Letters from the FTC and the Justice Department to Speaker of the Rhode Island House of Representatives and to the President of the Rhode Island Senate, *et al.* (June 30, 2003 and Mar. 28, 2003); Letter from the FTC and the Justice Department to President of the North Carolina State Bar (July 11, 2002); Letter from the FTC and the Justice Department to Speaker of the Rhode Island House of Representatives, *et al.* (Mar. 29, 2002); Letter from the FTC and the Justice Department to the Ethics Committee of the North Carolina State Bar (Dec. 14, 2001); Letter from the FTC and the Justice Department to the Supreme Court of Virginia (Jan. 3, 1997); Letter from the FTC and the Justice Department to the Virginia State Bar (Sept. 20, 1996). These letters can be found at

<http://www.ftc.gov/be/advofile.htm>. See also Brief *Amicus Curiae* of the United States of America and the Federal Trade Commission in *Lorrie McMahon v. Advanced Title Services Company of West Virginia*, 607 S.E.2d 519 (W. Va. 2004) (filed May 25, 2004), at <http://www.ftc.gov/be/V040017.pdf>; Brief *Amicus Curiae* of the Federal Trade Commission and the United States of America in On Review of ULP Advisory Opinion 2003-2 (filed July 28, 2003), at <http://www.ftc.gov/os/2003/07/georgiabrief.pdf>.

³ FTC Workshop, POSSIBLE ANTICOMPETITIVE EFFORTS TO RESTRICT COMPETITION ON THE INTERNET (Oct. 10, 2002), *written statements and transcript available at*, <http://www.ftc.gov/opp/ecommerce/anticompetitive/agenda.htm>.

⁴ See Letter from R. Hewitt Pate, Assistant Att'y Gen. to Oklahoma State Representative Todd Heitt (Apr. 8, 2005), at http://www.usdoj.gov/atr/public/press_releases/2005/208486.htm#letter.

⁵ See Letter from FTC and the Justice Department to Loretta R. DeHay, Gen. Counsel, Texas Real Estate Comm'n. (Apr. 20, 2005), at http://www.usdoj.gov/atr/public/press_releases/2005/208653a.htm.

⁶ See Press Release issued by Texas Real Estate Commission (April 26, 2005), at http://www.trec.state.tx.us/pdf/press_releases/20050426-minBrokSvcsRuleUpdate.pdf. See Richard Mize, *House*