

AREC Draft Regulations for Broker Price Opinions

1. A “broker’s price opinion” means an estimate prepared by a licensee that details the probable selling price of real estate and provides a varying level of detail about the real estate’s condition, market, and neighborhood, and information about sales of comparable real estate. A “market analysis” is similar to a broker price opinion but is usually limited to comparison to other real property currently or recently in the market place; whereas, the preparer of a broker price opinion may utilize other basis for the report. In the preparation or issuance of a broker price opinion or market analysis, usage of the terms “market value”, “appraised value” or “appraisal”, shall be presumed to be in violation of Ark.Code. Ann. 17-42-103(2(d))and subject to appropriate sanctions. It is highly recommended that a licensee avoid other general references to “value” of the property when preparing or issuing a broker price opinion or market analysis. A report in which a broker price opinion is prepared or issued by a real estate licensee must include within the body of the written report or in a separate cover letter the following:

- (a) A brief description of the subject property.
- (b) The basis used to determine the broker’s price opinion to include any applicable market data and with regard to commercial properties, the computation of capitalization, including the capitalization rate;

21 | (c) Any assumptions or limiting conditions used to determine the broker price
22 | opinion (Examples: repairs, items to be removed from property, zoning change,
23 | new or different access other than what is currently available, special financing,
24 | hazardous waste, nuisance removal, etc.)

25 | (d) A disclosure of any existing or contemplated interest of every licensee who
26 | prepares or provides the broker price opinion, including, without limitation, the
27 | possibility of a licensee representing the seller or lessor, or the buyer or lessee;

28 | (e) The names and signatures of the licensee who prepared or issued the broker
29 | price opinion and of the principal broker or designated executive broker with
30 | whom the licensee is associated;

31 | (f) The name of the real estate firm with whom the licensee who prepared or issued
32 | the broker price opinion is licensed; and

33 | (g) The date of issuance of the broker price opinion;

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35 | (h) In at least 14-point bold type, the following disclaimer:

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37 | ***Notwithstanding any preprinted language to the contrary, this opinion is not an***

38 | ***appraisal of the market value of the property. If an appraisal is desired, the***

39 | ***services of a licensed or certified appraiser must be obtained. Pursuant to Ark.***

40 | ***Code. Ann. 17-42-103(2(d), a broker price opinion or market analysis issued by a***

41 *real estate licensee shall not contain the terms “market value”, “appraised*
42 *value”, or “appraisal”.*

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44 *Any reference in the report to a specific marketing time period is for illustrative*
45 *purposes only and does not obligate the licensee or broker to sell the property*
46 *within the stated timeframe or act as a representation or guarantee that the*
47 *property will be sold within such timeframe.*

48
49 *Unless otherwise indicated, the broker price opinion assumes without*
50 *investigation a fee simple title ownership interest without any reservation of*
51 *minerals, subsurface rights, or otherwise.*

52
53 *This broker price opinion report is to be used solely for purposes allowed by state*
54 *and federal law. If the report is to be used for any purpose not specifically*
55 *allowed by state and federal law, legal counsel should be consulted.*

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57 2. A licensee shall furnish to the Principal Broker or Designated Executive Broker
58 with whom the licensee is associated, copies of all broker price opinion reports,
59 including the cover letter described above, which shall be maintained on file in
60 accordance with the record keeping requirements of this chapter.

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62 | 3. A licensee may produce or transmit a written broker price opinion electronically
63 | to any person entitled to receive it. A broker price opinion that is submitted
64 | electronically is subject to any regulations relating to recordkeeping as adopted
65 | pursuant to this chapter, including inclusion of the cover letter required in 1 above.

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67 | 4. A principal broker or designated executive broker is responsible for the
68 | preparation and issuance of a broker price opinion by any licensee who is
69 | associated with the broker unless the broker price opinion was prepared or issued
70 | independently and without permission or authority from the broker. If the
71 | principal broker or designated executive broker learns that a licensee has prepared
72 | or issued a broker price opinion independently, that broker must comply with
73 | Commission Regulation 10.1(a) by immediately notifying the Commission in
74 | writing and forwarding such licensee's license to the Commission.