

complete, without charge, any and all instruments incident thereto including, but not limited to, preliminary purchase agreements and earnest money receipts, deeds, mortgages, leases, assignments, releases, contracts for sale of realty, and bills of sale.

## ARGUMENTS

### REASONS WHY YOU SHOULD VOTE YES ON PROPOSITION NO. 103

The Arizona Supreme Court, by recent decision, has decreed that licensed real estate brokers or salesmen may no longer draft or fill-in the customary documents necessary to a real estate transaction, no matter how small or routine it may be. The decision requires that when dealing with a broker, the buyer or seller, or both, must employ a lawyer to do this work. This obviously adds additional expense to both parties whether necessary or not.

For many years the State of Arizona has required that in order for a real estate broker or salesman to obtain a license he must, in addition to having the necessary moral qualifications, pass an examination given by the Real Estate Commissioner. This examination is a comprehensive one and the applicant must demonstrate a sound knowledge of all of the forms and documents incident to a real estate transaction. A broker applicant must have had at least three years experience as a salesman prior to taking the examination.

Real estate brokers in Arizona, and throughout the nation, have always prepared the customary documents at no additional cost to buyer or seller. They are qualified by training and examination to do so and are bound by a rigid Code of Ethics.

We urge you to vote YES on Amendment 103 to restore the right to draft or fill-in these forms to the brokers or salesmen who have performed this service for so many years. Passage of this amendment will eliminate the unwarranted and unnecessary additional expense to the buying or selling public without in any way deterring those who may, of their own free choice, choose to consult an attorney if they wish.

Your YES vote will help restore to you your right to choose.

ARIZONA ASSOCIATION OF REALTORS, INC., Stewart M. Winter, President, 2711 Kiva Place, Tucson, Arizona; Carl H. Stockland, 1st Vice Pres., 6822 North 57th Dr., Glendale, Ariz.; Henry Brodersen, 2nd Vice Pres., 2340 E. Heatherbrae Dr., Phoenix, Ariz.; W. J. B. Schimfessel, Secretary, 513 W. Virginia, Phoenix, Ariz.

(This statement has been approved by J. Mercer Johnson, Legal Counsel)

**ARGUMENT IN OPPOSITION TO INITIATIVE MEASURE 103**

The Constitution of the State of Arizona is a sacred document designed to preserve and protect the basic rights of all individuals. It was not designed to confer special rights and privileges upon any particular class or group of citizens. By the means of Proposition 103, an association of real estate agents seeks to amend the Constitution for the purpose of obtaining special rights and privileges beyond the restrictions and control of the Legislature.

The ordinary function of a real estate agent is to induce persons to buy or sell real estate. In order to protect his compensation and terms of employment, the agent now has the choice of preparing his own agreement or seeking the services of an attorney. Once the buyer and seller are brought together they also may prepare their own agreements and legal documents or they may seek the services of an attorney to assist them. The law, however, has always prohibited the real estate agent who is not a lawyer from preparing the legal instruments which will govern the rights of the parties. The reason for this law is apparent. The real estate agent needs no formal education. He must only pass a simple examination to be licensed. His licensing in no manner assures the public that he has any understanding of the legal implications of real estate instruments. Only the public, and not lawyers, will suffer for his errors.

The real estate agents make it appear that they are offering under Proposition 103 to perform the services of drawing legal instruments free of charge in order to reduce the cost of buying and selling real estate. The real purpose of Proposition 103 is to discourage the parties in a transaction from seeking competent independent legal advice. Such advice can point out beforehand the pitfalls in the real estate agent's proposal and may defeat the agent's objective of making a sale as fast as possible to get his commission. If there is a bona fide purpose to reduce the cost of real estate transactions, the real estate agents should reduce their commissions which are responsible for the high cost of selling.

The real estate agents in their petition are asking for a constitutional guarantee of the right to engage in the practice of real estate law without the responsibility imposed upon lawyers by their education, canons of ethics, and court supervision. It is the public interest, and not that of lawyers, which is involved in this Proposition.

For these reasons it is recommended that you vote "No" on Proposition 103.

**STATE BAR OF ARIZONA, John C. Haynes, Jr., President, Tucson; John M. Favour, First Vice President, Prescott; Richard H. Elliott, Treasurer, Phoenix; Joseph S. Jenckes, Jr., President-Elect, Phoenix; Charles W. Stokes, Second Vice President, Coolidge; D. E. Phillips, Executive Secretary, Phoenix.**

The following is the form and number in which the question will be printed on the Official Ballot:

**AN INITIATIVE MEASURE AMENDING THE CONSTITUTION OF ARIZONA BY ADDING ARTICLE XXVI.**

**(SUMMARY)**

**PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA RELATING TO RIGHTS OF LICENSED REAL ESTATE BROKERS AND SALESMEN TO PREPARE INSTRUMENTS INCIDENT TO PROPERTY TRANSACTIONS AND AMENDING THE CONSTITUTION OF ARIZONA BY ADDING A NEW ARTICLE 26.**

If you favor the above law, vote YES; if opposed, vote NO.

103

236,856

YES

64,507

NO