
By: Senators Collins, Hollinger, Teitelbaum, Craig, and Dyson

Introduced and read first time: January 28, 1997

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Real Estate Licensing Reform Act**

3 FOR the purpose of providing for the form and content of the written disclosure of
4 representation that is required of real estate licensees in residential real estate
5 transactions; providing when and under what conditions real estate licensees may
6 act as dual agents in residential real estate transactions; establishing standard duties
7 that real estate licensees owe to clients or customers in residential real estate
8 transactions; establishing requirements for brokerage agreements in residential real
9 estate transactions; providing that the duties of real estate licensees under this Act
10 supersede the duties of licensees under the common law of the State; authorizing
11 the Real Estate Commission to adopt regulations to carry out this Act; defining
12 certain terms; providing for a delayed effective date; and generally relating to
13 standards for real estate licensees in residential real estate transactions.

14 BY repealing and reenacting, with amendments,

15 Article - Business Occupations and Professions
16 Section 17-322(a) and (b)(3), (4), (10), (11), (14), (15), (32), (33), and (34) and
17 17-528
18 Annotated Code of Maryland
19 (1995 Replacement Volume and 1996 Supplement)

20 BY adding to

21 Article - Business Occupations and Professions
22 Section 17-528 through 17-531 and 17-533 through 17-543 to be under the new part
23 "Part III. Duties of Licensees"
24 Annotated Code of Maryland
25 (1995 Replacement Volume and 1996 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Business Occupations and Professions**

2 17-322.

3 (a) [In this section, "handicap" and "familial status" each have the meanings
4 indicated in the Federal Fair Housing Act.] (1) IN THIS SECTION THE FOLLOWING
5 WORDS HAVE THE MEANINGS INDICATED.

6 (2) "BROKERAGE AGREEMENT" HAS THE MEANING INDICATED IN §
7 17-528 OF THIS TITLE.

8 (3) "FAMILIAL STATUS" HAS THE MEANING INDICATED IN THE
9 FEDERAL FAIR HOUSING ACT.

10 (4) "HANDICAP" HAS THE MEANING INDICATED IN THE FEDERAL FAIR
11 HOUSING ACT.

12 (5) "MATERIAL FACT" HAS THE MEANING INDICATED IN § 17-528 OF THIS
13 TITLE.

14 (b) Subject to the hearing provisions of § 17-324 of this subtitle, the Commission
15 may deny a license to any applicant, reprimand any licensee, or suspend or revoke a
16 license if the applicant or licensee:

17 (3) directly or through another person [willfully] KNOWINGLY makes a
18 misrepresentation or knowingly makes a false promise;

19 (4) intentionally or negligently fails to disclose to any person with whom the
20 applicant or licensee deals a material fact [that] OF WHICH the licensee [knows or
21 should know] HAS ACTUAL KNOWLEDGE and that relates to the PHYSICAL CONDITION
22 OF property with which the licensee or applicant deals;

23 (10) [accepts a listing contract to sell real property] ENTERS INTO A
24 BROKERAGE AGREEMENT that fails to [provide a definite termination date that is
25 effective automatically without notice from the buyer or the seller] COMPLY WITH §
26 17-541(C) OF THIS TITLE;

27 (11) accepts a [listing contract] BROKERAGE AGREEMENT to sell, LEASE,
28 OR EXCHANGE real property that provides for a "net" return to a seller OR LESSOR and
29 leaves the licensee free to sell OR LEASE the real property at any price higher than the
30 "net" price OR RENT;

31 (14) for any transaction in which the licensee has served as or on behalf of a
32 real estate broker, fails to furnish promptly to each party to the transaction a copy of:

33 (i) the [listing contract to sell or rent real property] BROKERAGE
34 AGREEMENT;

35 (ii) the contract of sale; or

36 (iii) the lease agreement;

37 (15) for any transaction in which the licensee has served as or on behalf of a
38 real estate broker, fails to keep a copy of any executed:

3

1 (i) [listing contract to sell or rent real property] BROKERAGE
2 AGREEMENT;

3 (ii) contract of sale; or

4 (iii) lease agreement;

5 (32) VIOLATES ANY PROVISION OF SUBTITLE 7, PART III OF THIS TITLE;

6 (33) violates any other provision of this title;

7 [(33)] (34) violates any regulation adopted under this title or any provision of
8 the code of ethics; or

9 [(34)] (35) violates § 17-320(d) of this subtitle by failing as a branch office
10 manager to exercise reasonable and adequate supervision over the provision of real estate
11 brokerage services by any sales agent or associate broker registered with that office.

12 PART III. DUTIES OF LICENSEES.

13 17-528.

14 (A) IN THIS PART III OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE
15 MEANINGS INDICATED.

16 (B) "AGENCY RELATIONSHIP" MEANS EACH RELATIONSHIP IN WHICH A
17 LICENSEE ACTS FOR OR REPRESENTS ANOTHER PERSON WITH THE PERSON'S
18 EXPRESS AUTHORITY IN A RESIDENTIAL REAL ESTATE TRANSACTION, UNLESS A
19 DIFFERENT BROKERAGE RELATIONSHIP IS AGREED ON AS PART OF A BROKERAGE
20 AGREEMENT.

21 (C) "BROKER" MEANS:

22 (1) A LICENSED REAL ESTATE BROKER, INCLUDING A CORPORATION,
23 LIMITED LIABILITY COMPANY, OR PARTNERSHIP THROUGH WHICH A LICENSED
24 REAL ESTATE BROKER PROVIDES REAL ESTATE BROKERAGE SERVICES UNDER §
25 17-321 OF THIS TITLE;

26 (2) LICENSEES AFFILIATED WITH THE BROKER; AND

27 (3) SUBAGENTS ACTING ON BEHALF OF THE BROKER.

28 (D) "BROKERAGE AGREEMENT" MEANS A WRITTEN AGREEMENT BETWEEN A
29 BROKER AND A CLIENT TO PROVIDE REAL ESTATE BROKERAGE SERVICES UNDER A
30 BROKERAGE RELATIONSHIP.

31 (E) (1) "BROKERAGE RELATIONSHIP" MEANS THE CONTRACTUAL
32 RELATIONSHIP UNDER A BROKERAGE AGREEMENT BETWEEN A CLIENT AND A
33 BROKER WHO HAS BEEN ENGAGED BY THE CLIENT TO PROVIDE REAL ESTATE
34 BROKERAGE SERVICES IN A RESIDENTIAL REAL ESTATE TRANSACTION.

35 (2) "BROKERAGE RELATIONSHIP" INCLUDES AN AGENCY
36 RELATIONSHIP AND A NONAGENCY RELATIONSHIP.

4

1 (F) "CLIENT" MEANS A PERSON WHO HAS ENTERED INTO A BROKERAGE
2 AGREEMENT WITH A BROKER UNDER A BROKERAGE RELATIONSHIP.

3 (G) (1) "COMMON SOURCE INFORMATION COMPANY" MEANS ANY PERSON
4 THAT IS A SOURCE, COMPILER, OR SUPPLIER OF INFORMATION REGARDING
5 RESIDENTIAL REAL ESTATE FOR SALE OR LEASE OR OTHER DATA.

6 (2) "COMMON SOURCE INFORMATION COMPANY" INCLUDES A
7 MULTIPLE LISTING SERVICE.

8 (H) (1) "CONFIDENTIAL INFORMATION" MEANS INFORMATION NOT
9 RELATED TO THE PHYSICAL CONDITION OF THE PROPERTY.

10 (2) "CONFIDENTIAL INFORMATION" INCLUDES INFORMATION THAT:

11 (I) EXCEPT AS OTHERWISE PROVIDED BY THIS PART III OF THIS
12 SUBTITLE, A CLIENT IN A RESIDENTIAL REAL ESTATE TRANSACTION REQUESTS TO
13 REMAIN CONFIDENTIAL;

14 (II) THE SELLER OR LESSOR WILL ACCEPT A PRICE OR RENT LESS
15 THAN THE PRICE OR RENT AS SET FORTH IN THE BROKERAGE AGREEMENT OR WILL
16 ACCEPT TERMS OTHER THAN THOSE CONTAINED IN THE BROKERAGE AGREEMENT;

17 (III) THE BUYER OR LESSEE IS WILLING TO PAY A PRICE OR RENT
18 HIGHER THAN THE PRICE OR RENT THE BUYER OR LESSEE OFFERED OR WILL
19 ACCEPT TERMS OTHER THAN THOSE CONTAINED IN THE OFFER OF THE BUYER OR
20 LESSEE;

21 (IV) DISCLOSES THE MOTIVATION OF A BUYER, LESSEE, SELLER, OR
22 LESSOR OR THE NEED OR URGENCY OF A SELLER TO SELL, A BUYER TO BUY, A
23 LESSOR TO LEASE, OR A LESSEE TO LEASE;

24 (V) DISCLOSES ANY FACTS THAT LED THE SELLER TO SELL, THE
25 BUYER TO BUY, THE LESSOR TO LEASE, OR THE LESSEE TO LEASE; OR

26 (VI) RELATES TO THE NEGOTIATING STRATEGY OF A CLIENT.

27 (I) (1) "CUSTOMER" MEANS A PERSON WHO HAS NOT ENTERED INTO A
28 BROKERAGE AGREEMENT WITH A LICENSEE BUT FOR WHOM A LICENSEE
29 PERFORMS MINISTERIAL ACTS IN A RESIDENTIAL REAL ESTATE TRANSACTION.

30 (2) EXCEPT AS PROVIDED IN § 17-539 OF THIS PART III OF THIS
31 SUBTITLE, UNLESS A LICENSEE ENTERS INTO A BROKERAGE AGREEMENT WITH A
32 PERSON, IT IS PRESUMED THAT THE PERSON IS A CUSTOMER OF THE LICENSEE
33 RATHER THAN A CLIENT.

34 (J) "LICENSEE" MEANS A LICENSED REAL ESTATE BROKER, LICENSED
35 ASSOCIATE REAL ESTATE BROKER, OR LICENSED REAL ESTATE SALESPERSON, AS
36 DEFINED IN § 17-101 OF THIS TITLE.

37 (K) (1) "MATERIAL FACT", EXCEPT AS OTHERWISE PROVIDED IN THIS
38 TITLE, MEANS A FACT OR PHYSICAL CONDITION RELATED TO THE PROPERTY THAT:

39 (I) IS ACTUALLY KNOWN BY A LICENSEE; AND

5

1 (II) COULD NOT BE ASCERTAINED OR DISCOVERED BY A
2 CUSTOMER OR CLIENT THROUGH A REASONABLE AND DILIGENT INSPECTION OF
3 THE PROPERTY.

4 (2) "MATERIAL FACT" DOES NOT INCLUDE:

5 (I) A LATENT OR HIDDEN PHYSICAL CONDITION RELATED TO THE
6 PROPERTY OF WHICH THE SELLER, LESSOR, OR LICENSEE HAS NO ACTUAL
7 KNOWLEDGE; OR

8 (II) CONFIDENTIAL INFORMATION NOT RELATED TO THE
9 PROPERTY.

10 (L) "MINISTERIAL ACT" MEANS AN ACT THAT A LICENSEE REGULARLY AND
11 CUSTOMARILY PERFORMS FOR A CUSTOMER.

12 (M) "NONAGENCY RELATIONSHIP" MEANS EVERY RELATIONSHIP, OTHER
13 THAN AN AGENCY RELATIONSHIP, IN WHICH A LICENSEE PROVIDES REAL ESTATE
14 BROKERAGE SERVICES TO A CLIENT IN ACCORDANCE WITH THE TERMS AND
15 CONDITIONS OF A BROKERAGE AGREEMENT THAT EXPRESSLY PROVIDES THAT THE
16 LICENSEE IS NOT ACTING AS AN AGENT FOR OR REPRESENTING THE CLIENT.

17 (N) "STANDARD DUTY" MEANS, IN THE ABSENCE OF A WRITTEN BROKERAGE
18 AGREEMENT TO THE CONTRARY, A DUTY OR OBLIGATION OF A LICENSEE WHO
19 ACTS FOR OR REPRESENTS A CLIENT IN AN AGENCY RELATIONSHIP AS PROVIDED IN
20 THIS PART III OF THIS SUBTITLE.

21 (O) (1) "SUBAGENT" MEANS A LICENSEE WHO ACTS ON BEHALF OF A
22 CLIENT OF ANOTHER BROKER.

23 (2) "SUBAGENT" INCLUDES A COOPERATING AGENT AS DEFINED IN §
24 17-532 OF THIS SUBTITLE.

25 (P) "TIMELY" MEANS A REASONABLE TIME UNDER THE PARTICULAR FACTS
26 AND CIRCUMSTANCES.

27 17-529.

28 THIS PART III OF THIS SUBTITLE APPLIES ONLY TO:

29 (1) THE SALE OR LEASE OF REAL PROPERTY IMPROVED BY ONE, TWO,
30 THREE, OR FOUR SINGLE-FAMILY UNITS; AND

31 (2) UNIMPROVED REAL PROPERTY ZONED FOR RESIDENTIAL USE BY
32 THE LOCAL ZONING AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH THE
33 REAL PROPERTY IS LOCATED.

34 17-530.

35 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DUTIES AND
36 OBLIGATIONS OF LICENSEES, REGARDLESS OF THE BROKERAGE RELATIONSHIP, AS
37 SET FORTH IN THIS PART III OF THIS SUBTITLE SHALL ABROGATE AND SUPERSEDE
38 THE DUTIES AND OBLIGATIONS OF LICENSEES UNDER THE COMMON LAW OF THE
39 STATE.

6

1 (B) TO THE EXTENT THAT IT IS INCONSISTENT WITH THIS PART III OF THIS
2 TITLE, THE COMMON LAW OF AGENCY IN THE STATE RELATIVE TO BROKERAGE
3 RELATIONSHIPS IN RESIDENTIAL REAL ESTATE TRANSACTIONS IS ABROGATED.

4 17-531.

5 THE COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THIS PART III OF
6 THIS SUBTITLE.

7 [17-528.] 17-532.

8 (a) (1) In this section the following words have the meanings indicated.

9 (2) "Buyer's agent" means a licensed real estate broker, licensed associate
10 real estate broker, or licensed real estate salesperson who represents a prospective buyer
11 or lessee in the acquisition of real estate for sale or for lease.

12 (3) "Cooperating agent" means a licensed real estate broker, licensed
13 associate real estate broker, or licensed real estate salesperson who:

14 (i) is not affiliated with or is not acting as the listing real estate broker
15 for a property; and

16 (ii) assists a prospective buyer or lessee as a subagent of the listing real
17 estate broker, in the acquisition of real estate for sale or for lease.

18 (4) "Designated [dual] agent" means a licensed associate real estate broker
19 or licensed real estate salesperson who has been designated by the real estate broker who
20 the associate real estate broker or licensed real estate salesperson is affiliated with to act
21 [as a dual agent] on behalf of AND REPRESENT a seller or lessor or buyer or lessee in
22 the purchase, sale, EXCHANGE, or lease of real estate that is listed with the real estate
23 broker.

24 (5) "DUAL AGENCY" MEANS THE RELATIONSHIP BETWEEN THE DUAL
25 AGENT AND THE SELLER AND BUYER OR THE LESSOR OR LESSEE.

26 [(5)] (6) "Dual agent" means a licensed real estate broker, licensed
27 associate real estate broker, or licensed real estate salesperson who acts IN A
28 BROKERAGE RELATIONSHIP as an agent for both the seller and the buyer or the lessor
29 and the lessee in the same real estate transaction.

30 [(6)] (7) "Seller's agent" means a licensed real estate broker, licensed
31 associate real estate broker, or licensed real estate salesperson who:

32 (i) is affiliated with or acts as the listing broker for real estate; and

33 (ii) assists a prospective buyer or lessee in the acquisition of real estate
34 for sale or for lease.

35 (b) (1) A licensee who participates in a residential real estate transaction as a
36 seller's agent, buyer's agent, or as a cooperating agent shall disclose in writing that the
37 licensee represents the seller or lessor or the buyer or lessee.

7

1 (2) [The] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,
2 THE disclosure shall occur not later than the first scheduled face-to-face contact with the
3 seller or lessor or the buyer or lessee.

4 (3) (i) In any residential real estate transaction involving a cooperating
5 agent as defined in this section, it shall be the obligation of the cooperating agent to make
6 the written disclosure to the buyer or lessee required under this section.

7 (ii) In any residential real estate transaction that does not involve a
8 cooperating agent as defined in this section, it shall be the obligation of the seller's agent,
9 as defined in this section, to make the written disclosure to the buyer or lessee required
10 under this section.

11 (4) In any residential real estate transaction involving a buyer's agent, it
12 shall be the obligation of the buyer's agent to make the written disclosure to the seller or
13 lessor or the agent of the seller or lessor as required under this section.

14 (5) IN ANY RESIDENTIAL REAL ESTATE TRANSACTION INVOLVING A
15 LICENSEE ACTING IN A NONAGENCY RELATIONSHIP, THE LICENSEE ACTING IN THE
16 NONAGENCY CAPACITY SHALL VERBALLY DISCLOSE TO THE CUSTOMER, OR A
17 LICENSEE REPRESENTING THE CUSTOMER, THE NONAGENCY RELATIONSHIP AT
18 THE TIME OF FIRST CONTACT, WHETHER FACE-TO-FACE OR VERBAL.

19 [(5) The written disclosure shall explain:

20 (i) the differences between a seller's agent, buyer's agent, cooperating
21 agent, and dual agent;

22 (ii) the duties of a licensee to exercise reasonable care and diligence
23 and maintain confidentiality;

24 (iii) that unless a licensee agrees to assist a buyer as a buyer's agent or
25 dual agent, the licensee represents the seller;

26 (iv) that regardless of who a licensee represents in a real estate
27 transaction, the licensee has a duty to treat each party fairly, promptly present each
28 written offer and counteroffer, respond truthfully to each question, disclose all material
29 facts that are known or should be known relating to a property, and offer each property
30 without discrimination;

31 (v) that a licensee is qualified to advise only on real estate matters and
32 that legal or tax advice should be obtained from a licensed attorney or accountant;

33 (vi) the need for an agreement with a seller's agent, buyer's agent, or
34 dual agent to be in writing and to include the duties and obligations of the agent, how and
35 by whom the agent will be compensated, and any fee-sharing arrangements with other
36 agents;

37 (vii) the duty of a buyer's agent to assist in the:

38 1. evaluation of a property, including the provision of a market
39 analysis of the property; and

8

1 2. preparation of an offer on a property and to negotiate in the
2 best interests of the buyer;

3 (viii) the possibility that a dual agency may arise in a real estate
4 transaction and the options that would become available to the buyer and seller or lessee
5 and lessor; and

6 (ix) that any complaints concerning a licensee may be filed with the
7 State Real Estate Commission.]

8 (6) THE WRITTEN DISCLOSURE SHALL SUBSTANTIALLY COMPLY WITH
9 THE FOLLOWING FORM:

10 UNDERSTANDING WHO REAL ESTATE AGENTS REPRESENT

11 REAL ESTATE AGENTS PROVIDE SERVICES TO DIFFERENT PEOPLE IN
12 DIFFERENT TYPES OF RELATIONSHIPS.

13 AGENTS WHO REPRESENT THE SELLER

14 SELLER'S AGENT: EXCLUSIVELY REPRESENTS THE SELLER OR LANDLORD,
15 WHETHER THE AGENT WORKS FOR THE REAL ESTATE COMPANY THAT LISTS AND
16 MARKETS THE PROPERTY OR FOR ANOTHER REAL ESTATE COMPANY. HIS OR HER
17 DUTY OF LOYALTY IS ONLY TO THE SELLER OR LANDLORD.

18 AGENTS WHO REPRESENT THE BUYER

19 BUYER'S AGENT: WORKS FOR A BUYER OR TENANT UNDER A WRITTEN
20 AGREEMENT THAT PROVIDES THAT THE AGENT WILL ACT ON THE BUYER'S OR
21 TENANT'S BEHALF IN LOCATING A PROPERTY TO BUY OR RENT. ASSISTS THE BUYER
22 OR TENANT IN EVALUATING PROPERTIES AND PREPARING OFFERS AND
23 NEGOTIATES IN THE BEST INTEREST OF THE BUYER OR TENANT. THE BUYER'S
24 AGENT FEE IS PAID UNDER THE TERMS OF THE WRITTEN AGREEMENT.

25 PRESUMPTION OF BUYER AGENCY

26 UNLESS YOU OR THE REAL ESTATE AGENT EXPRESSLY DECLINE TO DO SO,
27 THE LAW PRESUMES THAT THE AGENT WILL ACT ON THE BUYER'S OR TENANT'S
28 BEHALF. THE AGENT WILL NOT REPRESENT YOU EXCLUSIVELY AND YOU WILL
29 HAVE NO CONTRACTUAL OBLIGATION TO CONTINUE TO WORK WITH THE AGENT
30 NOR OWE ANY COMPENSATION TO THE AGENT UNLESS AND UNTIL YOU SIGN A
31 WRITTEN BROKERAGE AGREEMENT.

32 DUAL AGENCY

33 THE POSSIBILITY OF DUAL AGENCY ARISES WHEN THE BUYER'S AGENT AND
34 THE SELLER'S AGENT BOTH WORK FOR THE SAME REAL ESTATE COMPANY, AND
35 THE BUYER IS INTERESTED IN PROPERTY LISTED BY THAT COMPANY. BOTH
36 PARTIES MUST AGREE TO DUAL AGENCY BY SIGNING A CONSENT FOR DUAL
37 AGENCY FORM. FOR MORE INFORMATION, ASK THE REAL ESTATE AGENT FOR A
38 COPY OF THE CONSENT FOR DUAL AGENCY FORM.

9

1 THIS NOTICE IS INFORMATION REQUIRED BY LAW AND IS NOT A CONTRACT.

2 WE, THE
3 SELLERS/LANDLORDS
4 BUYERS/TENANTS ACKNOWLEDGE

5 RECEIPT OF A COPY OF THIS DISCLOSURE AND THAT
6 _____ AND _____ ARE WORKING AS:

7 (FIRM NAME) (FIRM NAME)
8 SELLER/LANDLORD'S AGENT
9 BUYER/TENANT'S AGENT
10 DUAL AGENT (SEE CONSENT FOR DUAL AGENCY FORM)

11 (YOU MAY CHECK MORE THAN ONE BOX.)

12 _____

13 SIGNATURE DATE SIGNATURE DATE

14 I CERTIFY THAT ON THIS DATE I MADE THE REQUIRED BROKERAGE
15 RELATIONSHIP DISCLOSURE TO THE INDIVIDUALS IDENTIFIED BELOW AND THEY
16 WERE UNABLE OR UNWILLING TO ACKNOWLEDGE RECEIPT OF A COPY OF THIS
17 DISCLOSURE STATEMENT.

18 _____

19 SIGNATURE OF AGENT DATE

20 _____

21 NAME OF INDIVIDUAL TO WHOM DISCLOSURE WAS MADE

22 _____

23 NAME OF INDIVIDUAL TO WHOM DISCLOSURE WAS MADE

24 [(c) Except as otherwise provided in subsection (d) of this section, a licensed real
25 estate broker, licensed associate real estate broker, or licensed real estate salesperson
26 may not act as a dual agent in this State.

27 (d) (1) (i) If a licensed real estate broker or a designee of the real estate
28 broker obtains the written informed consent of all parties to a real estate transaction, the
29 real estate broker may act as a dual agent in the transaction.

30 (ii) When acting as a dual agent in a real estate transaction, a real
31 estate broker or a designee of the real estate broker shall assign a licensed associate real
32 estate broker or licensed real estate salesperson affiliated with the real estate broker to
33 act as the designated dual agent on behalf of the seller or lessor and another licensed
34 associate real estate broker or licensed real estate salesperson affiliated with the real
35 estate broker to act as the designated dual agent on behalf of the buyer or lessee.

10

1 (iii) 1. Except as otherwise required by this title and except to the
2 designated dual agent's real estate broker or a designee of the real estate broker, a
3 designated dual agent may not disclose information that a seller or buyer in a real estate
4 transaction requests to remain confidential.

5 2. Except as otherwise required by this title, the real estate
6 broker or the designee of the real estate broker may not disclose confidential information
7 to the buyer or seller or the buyer or seller's dual agent in the same real estate
8 transaction.

9 (iv) If a real estate broker offers any financial bonuses to licensees
10 affiliated with the broker for the sale or lease of real property listed with the real estate
11 broker, the real estate broker shall provide to each party to a real estate transaction a
12 statement that discloses that financial bonuses are offered.

13 (2) The written consent shall identify each property for which the real estate
14 broker will serve as a dual agent.

15 (3) The written consent shall include a statement that:

16 (i) the real estate broker receives compensation on the sale of a
17 property listed only by the broker;

18 (ii) as a dual agent the real estate broker represents both the seller
19 and the buyer and there may be a conflict of interest because the interests of the seller
20 and the buyer may be different or adverse;

21 (iii) as a dual agent the real estate broker does not owe undivided
22 loyalty to either the seller or the buyer;

23 (iv) except as otherwise required by this title, a dual agent may not
24 disclose information that a seller or buyer in a real estate transaction requests to remain
25 confidential to the buyer or seller in the same real estate transaction;

26 (v) unless authorized by the seller, a dual agent may not tell a buyer
27 that the seller will accept a price lower than the listing price or accept terms other than
28 those contained in the listing agreement or suggest that the seller accept a lower price in
29 the presence of the buyer;

30 (vi) unless authorized by the buyer, a dual agent may not tell a seller
31 that the buyer is willing to pay a price higher than the price the buyer offered or accept
32 terms other than those contained in the offer of the buyer or suggest that the buyer pay
33 a higher price in the presence of the seller;

34 (vii) a dual agent may not disclose the motivation of a buyer or seller or
35 the need or urgency of a seller to sell or a buyer to buy;

36 (viii) except as otherwise required by this title, if the information is
37 confidential, a dual agent may not disclose any facts that lead the seller to sell;

38 (ix) the buyer or seller does not have to consent to the dual agency;

11

1 (x) the buyer or seller has voluntarily consented to the dual agency;
2 and

3 (xi) the terms of the dual agency are understood by the buyer or seller.

4 (e) (1) The State Real Estate Commission shall require a licensed real estate
5 broker, licensed associate real estate broker, or licensed real estate salesperson who
6 participates in a residential real estate transaction to utilize a standard disclosure form in
7 each real estate transaction that includes the information specified in subsection (b)(5) of
8 this section.

9 (2) The Real Estate Commission shall require a licensed real estate broker
10 who acts as a dual agent and a licensed real estate associate broker or licensed real estate
11 salesperson who acts as a designated dual agent in a real estate transaction to utilize a
12 standard consent form that includes the information specified in subsection (d)(3) of this
13 section.

14 (f) (1) The State Real Estate Commission shall prepare and provide a copy of:

15 (i) the standard disclosure form required under subsection (b) of this
16 section to each licensee in this State; and

17 (ii) the standard consent form required under subsection (d) of this
18 section to each licensee in this State.

19 (2) The disclosure form and the consent form shall be:

20 (i) written in a clear and coherent manner using words with common
21 and everyday meanings;

22 (ii) appropriately divided and captioned by their various sections; and

23 (iii) printed in at least 10 point type.]

24 (C) (1) A LICENSEE MAY ACT AS A DUAL AGENT ONLY WITH THE WRITTEN
25 CONSENT OF ALL CLIENTS TO THE TRANSACTION.

26 (2) A CLIENT WHO SIGNS A CONSENT FOR DUAL AGENCY FORM IN
27 ACCORDANCE WITH THIS SECTION IS PRESUMED TO HAVE GIVEN THE WRITTEN
28 CONSENT TO THE DUAL AGENCY RELATIONSHIP REQUIRED BY THIS SECTION.

29 (3) A WRITTEN CONSENT FOR DUAL AGENCY SHALL SUBSTANTIALLY
30 COMPLY WITH THE FOLLOWING FORM:

31 CONSENT FOR DUAL AGENCY

32 WHEN DUAL AGENCY MAY OCCUR

33 THE POSSIBILITY OF DUAL AGENCY ARISES WHEN:

34 [b5 THE BUYER OR TENANT BECOMES INTERESTED IN PURCHASING OR
35 LEASING A PROPERTY LISTED BY A REAL ESTATE COMPANY AND DESIRES TO
36 NEGOTIATE OR TO MAKE AN OFFER TO PURCHASE OR LEASE THE PROPERTY; AND

12

1 |b5 THE SELLER'S OR LANDLORD'S AGENT AND THE BUYER'S OR
2 TENANT'S AGENT WORK FOR THE SAME REAL ESTATE COMPANY.

3 BEFORE THE PARTIES CAN BE REPRESENTED BY DUAL AGENTS, THEY MUST
4 BOTH SIGN A CONSENT FOR DUAL AGENCY. IF THEY HAVE PREVIOUSLY SIGNED A
5 CONSENT FOR DUAL AGENCY, THEY MUST AFFIRM THEIR CONSENT FOR THE SALE
6 OF A PARTICULAR PROPERTY TO A PARTICULAR BUYER.

7 IMPORTANT CONSIDERATIONS BEFORE MAKING A DECISION ABOUT DUAL
8 AGENCY

9 |b5 A DUAL AGENT DOES NOT EXCLUSIVELY REPRESENT EITHER THE
10 SELLER/LANDLORD OR THE BUYER/TENANT AND THERE MAY BE A CONFLICT OF
11 INTEREST BECAUSE THE INTERESTS OF THE SELLER/LANDLORD AND
12 BUYER/TENANT MAY BE DIFFERENT OR ADVERSE.

13 |b5 AS A DUAL AGENT, THE REAL ESTATE AGENT DOES NOT OWE
14 UNDIVIDED LOYALTY TO EITHER THE SELLER/LANDLORD OR THE BUYER/TENANT.

15 YOUR CHOICES CONCERNING DUAL AGENCY

16 WHEN A DUAL AGENCY SITUATION IN FACT ARISES, THE BUYER/TENANT AND
17 THE SELLER/LANDLORD HAVE THE FOLLOWING OPTIONS:

18 1. CONSENT IN WRITING TO DUAL AGENCY. IF THE BUYER'S
19 OR TENANT'S AGENT AND THE SELLER'S OR LANDLORD'S AGENT ARE TWO
20 DIFFERENT INDIVIDUALS WITH THE SAME REAL ESTATE COMPANY, EACH AGENT
21 WILL CONTINUE TO EXCLUSIVELY REPRESENT THE BUYER/TENANT AND THE
22 SELLER/LANDLORD AND WILL NOT ACT AS DUAL AGENTS. THE REAL ESTATE
23 BROKER OR DESIGNEE OF THE BROKER, HOWEVER, WILL ACT AS A DUAL AGENT.
24 HOWEVER, IF THE BUYER'S OR TENANT'S AGENT AND THE SELLER'S OR
25 LANDLORD'S AGENT IS THE SAME INDIVIDUAL, THE AGENT AND THE REAL ESTATE
26 BROKER OR DESIGNEE OF THE BROKER WILL NOT EXCLUSIVELY REPRESENT THE
27 BUYER/TENANT AND SELLER/LANDLORD AND WILL ACT ONLY AS A DUAL AGENT.

28 2. DO NOT CONSENT TO DUAL AGENCY. IF EITHER THE
29 BUYER/TENANT OR THE SELLER/LANDLORD REFUSES TO CONSENT IN WRITING TO
30 DUAL AGENCY, THE SELLER OR LANDLORD CONTINUES TO BE REPRESENTED BY
31 THE SELLER'S OR LANDLORD'S AGENT UNDER THE TERMS OF THE LISTING
32 AGREEMENT, AND THE BUYER OR TENANT HAS SEVERAL OPTIONS. THE BUYER OR
33 TENANT MAY CHOOSE TO ENTER INTO A WRITTEN BUYER OR TENANT AGENCY
34 AGREEMENT WITH AN AGENT FROM A DIFFERENT COMPANY IF HE OR SHE WANTS
35 AN AGENT TO PROVIDE EXCLUSIVE REPRESENTATION. ALTERNATIVELY, THE
36 BUYER OR TENANT MAY CHOOSE NOT TO BE REPRESENTED BY AN AGENT OF HIS
37 OR HER OWN, BUT SIMPLY TO RECEIVE ASSISTANCE FROM THE SELLER'S OR
38 LANDLORD'S AGENT, FROM ANOTHER AGENT IN THAT COMPANY, OR FROM A
39 COOPERATING AGENT FROM ANOTHER COMPANY.

40 DUTIES OF A DUAL AGENT

41 LIKE OTHER AGENTS, DUAL AGENTS MUST KEEP CONFIDENTIAL
42 INFORMATION ABOUT A CLIENT'S BARGAINING POSITION OR MOTIVATIONS UNLESS

13

1 THE CLIENT GIVES CONSENT TO DISCLOSE THE INFORMATION. FOR EXAMPLE, A
2 DUAL AGENT MAY NOT TELL THE OTHER PARTY, WITHOUT CONSENT OF THE
3 CLIENT:

4 |b5 ANYTHING THE CLIENT ASKS TO BE KEPT CONFIDENTIAL, EXCEPT
5 FOR MATERIAL FACTS ABOUT A PROPERTY THAT ARE REQUIRED TO BE DISCLOSED
6 TO THE OTHER PARTY;

7 |b5 THAT THE SELLER OR LANDLORD WOULD ACCEPT A LOWER PRICE
8 OR OTHER TERMS;

9 |b5 THAT THE BUYER OR TENANT WOULD ACCEPT A HIGHER PRICE OR
10 OTHER TERMS;

11 |b5 THE REASONS WHY A PARTY WANTS TO BUY/LEASE OR SELL/LEASE;
12 OR

13 |b5 THAT A PARTY NEEDS TO SELL/LEASE OR BUY/LEASE QUICKLY.

14 HOW DUAL AGENTS ARE PAID

15 ONLY THE DUAL AGENT'S COMPANY RECEIVES COMPENSATION ON THE SALE
16 OR LEASE OF A PROPERTY LISTED BY THAT COMPANY.

17 IF A FINANCIAL BONUS IS OFFERED TO AN AGENT WHO SELLS OR LEASES
18 PROPERTY THAT IS LISTED WITH THE AGENT'S COMPANY, THAT FACT MUST BE
19 DISCLOSED IN WRITING TO BOTH THE BUYER OR TENANT AND THE SELLER OR
20 LANDLORD.

21 I HAVE READ THE ABOVE INFORMATION, AND I UNDERSTAND THE TERMS OF
22 THE DUAL AGENCY.

23 I UNDERSTAND THAT I DO NOT HAVE TO CONSENT TO A DUAL AGENCY, AND THAT
24 IF I DO NOT CONSENT, THERE WILL NOT BE A DUAL AGENCY. I HEREBY
25 VOLUNTARILY CONSENT TO HAVE _____ ACT AS DUAL AGENT.

26 (FIRM NAME)

27 SELLER/LANDLORD'S AGENT IN THE SALE/LEASE OF THE PROPERTY AT: _____

28 BUYER/TENANT IN THE PURCHASE/LEASE OF ANY PROPERTY LISTED FOR SALE
29 OR LEASE WITH THE ABOVE REFERENCED FIRM.

30 _____

31 SIGNATURE DATE

SIGNATURE DATE

32 AFFIRMATION

33 THE UNDERSIGNED SELLER(S)/LANDLORD(S) HEREBY AFFIRMS CONSENT TO
34 DUAL AGENCY.

35 _____

15

1 (7) (I) THE USE OF DESIGNATED AGENTS IN A RESIDENTIAL REAL
2 ESTATE TRANSACTION SHALL BE DISCLOSED IN ACCORDANCE WITH THIS PART III
3 OF THIS SUBTITLE.

4 (II) ANY DISCLOSURE THAT COMPLIES SUBSTANTIALLY WITH
5 SUBSECTION (C)(3) OF THIS SECTION SHALL BE DEEMED TO BE IN COMPLIANCE WITH
6 THIS SECTION.

7 (D) (1) A LICENSEE WHO ELECTS TO PARTICIPATE IN A RESIDENTIAL REAL
8 ESTATE TRANSACTION AS A BUYER'S AGENT UNDER THE PRESUMPTION OF BUYER
9 AGENCY, AS PROVIDED IN § 17-539 OF THIS SUBTITLE, IS NOT REQUIRED TO
10 DISCLOSE TO THE BUYER OR LESSEE THE LICENSEE'S REPRESENTATION OF THE
11 BUYER OR LESSEE AS REQUIRED BY SUBSECTION (B) OF THIS SECTION IF:

12 (I) THE LICENSEE GIVES WRITTEN NOTICE TO THE BUYER OR
13 TENANT OF THE PRESUMPTION OF A BUYER AGENCY RELATIONSHIP AND THE
14 DUTIES OWED BY THE LICENSEE UNDER § 17-539(B)(2) OF THIS SUBTITLE NOT LATER
15 THAN THE FIRST SCHEDULED FACE-TO-FACE CONTACT WITH THE BUYER OR
16 LESSEE;

17 (II) THE BUYER OR LESSEE DOES NOT OBJECT TO THE
18 REPRESENTATION; AND

19 (III) THE LICENSEE COMPLIES WITH THE REQUIREMENTS OF §
20 17-539(B)(3) OF THIS SUBTITLE.

21 (2) A BUYER OR LESSEE IS NOT REQUIRED TO SIGN OR ACKNOWLEDGE
22 THE RECEIPT OF THE WRITTEN NOTICE AS PROVIDED IN SUBSECTION (D)(1) OF THIS
23 SECTION.

24 (3) A LICENSEE ACTING AS A BUYER AGENT UNDER THE PRESUMPTION
25 OF § 17-539 OF THIS SUBTITLE SHALL DISCLOSE THE LICENSEE'S REPRESENTATION
26 OF THE BUYER OR TENANT NOT LATER THAN THE FIRST SCHEDULED
27 FACE-TO-FACE CONTACT WITH THE SELLER OR LESSOR IN ACCORDANCE WITH THE
28 REQUIREMENTS OF (B)(6) OF THIS SECTION.

29 (4) (I) IN THE ABSENCE OF A WRITTEN BROKERAGE AGREEMENT, A
30 BUYER OR LESSEE SHALL HAVE NO CONTRACTUAL OBLIGATION TO CONTINUE TO
31 WORK WITH A LICENSEE ACTING AS A BUYER AGENT UNDER THE PRESUMPTION OF
32 § 17-539 NOR OWE ANY COMPENSATION TO THE LICENSEE.

33 (II) THIS PARAGRAPH DOES NOT PRECLUDE THE PAYMENT FROM
34 THE SELLER, LESSOR, OR OTHER LICENSEE OF COMPENSATION TO WHICH THE
35 LICENSEE OTHERWISE IS ENTITLED.

36 [(g)] (E) The provisions of this section apply only to residential real estate
37 transactions of REAL PROPERTY IMPROVED BY 1, 2, 3, or 4 single-family units.

38 [(h)] (F) This section does not apply to a lease of 125 days or less.

39 [(i)] (G) The Commission may adopt regulations to implement the provisions of
40 this section.

16

1 17-533.

2 (A) IN THE ABSENCE OF A BROKERAGE AGREEMENT TO THE CONTRARY, A
3 LICENSEE PROVIDING REAL ESTATE BROKERAGE SERVICES IN AN AGENCY
4 RELATIONSHIP SHALL HAVE THE STANDARD DUTIES PROVIDED IN §§ 17-534
5 THROUGH 17-543 OF THIS SUBTITLE.

6 (B) THIS PART III OF THIS SUBTITLE DOES NOT PROHIBIT A LICENSEE AND A
7 CLIENT FROM AGREEING IN WRITING TO A BROKERAGE RELATIONSHIP THAT
8 IMPOSES ON A LICENSEE DUTIES AND OBLIGATIONS LESS THAN OR IN ADDITION TO
9 THE STANDARD DUTIES PROVIDED IN §§ 17-534 THROUGH 17-543.

10 17-534.

11 (A) A LICENSEE ACTING ON BEHALF OF A SELLER SHALL:

12 (1) PERFORM IN ACCORDANCE WITH THE TERMS OF THE BROKERAGE
13 AGREEMENT;

14 (2) PROMOTE THE INTERESTS OF THE SELLER BY:

15 (I) SEEKING A SALE AT A PRICE AND ON TERMS AGREED ON IN
16 THE BROKERAGE AGREEMENT OR AT A PRICE AND ON TERMS ACCEPTABLE TO THE
17 SELLER;

18 (II) PRESENTING IN A TIMELY MANNER ALL WRITTEN OFFERS OR
19 COUNTEROFFERS TO AND FROM THE SELLER, EVEN WHEN THE PROPERTY IS
20 ALREADY SUBJECT TO AN EXISTING CONTRACT OF SALE, UNLESS OTHERWISE
21 AGREED ON IN THE BROKERAGE AGREEMENT;

22 (III) DISCLOSING TO THE SELLER ALL MATERIAL FACTS OF WHICH
23 THE LICENSEE HAS ACTUAL KNOWLEDGE; AND

24 (IV) ACCOUNTING FOR IN A TIMELY MANNER ALL TRUST MONEY
25 RECEIVED BY THE LICENSEE FOR WHICH THE SELLER IS THE BENEFICIAL OWNER;

26 (3) EXERCISE ORDINARY CARE; AND

27 (4) COMPLY WITH:

28 (I) ALL REQUIREMENTS OF THIS TITLE;

29 (II) ALL APPLICABLE FEDERAL, STATE, AND LOCAL FAIR HOUSING
30 LAWS AND REGULATIONS; AND

31 (III) ALL OTHER APPLICABLE LAWS AND REGULATIONS THAT ARE
32 NOT INCONSISTENT WITH THIS TITLE.

33 (B) NOTWITHSTANDING SUBSECTION (A)(2)(I) OF THIS SECTION, A LICENSEE
34 ACTING ON BEHALF OF A SELLER IS NOT OBLIGATED TO SEEK ADDITIONAL OFFERS
35 TO PURCHASE A PROPERTY WHILE THE PROPERTY IS SUBJECT TO AN EXISTING
36 CONTRACT OF SALE, UNLESS OTHERWISE AGREED ON IN THE BROKERAGE
37 AGREEMENT.

17

1 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A LICENSEE ACTING ON
2 BEHALF OF A SELLER MAY NOT DISCLOSE CONFIDENTIAL INFORMATION RECEIVED
3 FROM THE SELLER DURING THE BROKERAGE RELATIONSHIP AND ANY OTHER
4 INFORMATION THAT THE SELLER REQUESTS TO BE MAINTAINED AS CONFIDENTIAL,
5 UNLESS THE SELLER CONSENTS IN WRITING TO THE DISCLOSURE OF THE
6 CONFIDENTIAL INFORMATION.

7 (D) A LICENSEE ACTING ON BEHALF OF A SELLER SHALL:

8 (1) TREAT ALL BUYERS HONESTLY AND NOT KNOWINGLY GIVE FALSE
9 INFORMATION; AND

10 (2) DISCLOSE TO PROSPECTIVE BUYERS ALL MATERIAL FACTS
11 PERTAINING TO THE PHYSICAL CONDITION OF THE PROPERTY THAT ARE
12 ACTUALLY KNOWN BY THE LICENSEE.

13 (E) A LICENSEE ACTING ON BEHALF OF A SELLER IS NOT LIABLE TO A BUYER
14 FOR PROVIDING FALSE INFORMATION TO THE BUYER IF:

15 (1) THE FALSE INFORMATION WAS PROVIDED TO THE LICENSEE BY THE
16 SELLER; AND

17 (2) THE LICENSEE DID NOT:

18 (I) HAVE ACTUAL KNOWLEDGE THAT THE INFORMATION WAS
19 FALSE; OR

20 (II) ACT IN RECKLESS DISREGARD OF THE TRUTH.

21 (F) A CAUSE OF ACTION MAY NOT ARISE AGAINST A LICENSEE FOR
22 DISCLOSING INFORMATION AS REQUIRED BY THIS TITLE OR APPLICABLE LAW.

23 (G) THIS TITLE DOES NOT LIMIT, IN ANY WAY, THE PROVISIONS OF THE
24 MARYLAND RESIDENTIAL PROPERTY DISCLOSURE ACT UNDER § 10-702 OF THE
25 REAL PROPERTY ARTICLE.

26 (H) (1) A LICENSEE ACTING ON BEHALF OF A SELLER MAY, EXCEPT AS
27 PROHIBITED BY LAW, PROVIDE ASSISTANCE TO A BUYER OR POTENTIAL BUYER BY
28 PERFORMING MINISTERIAL ACTS.

29 (2) PERFORMING THE MINISTERIAL ACTS MAY NOT BE CONSTRUED TO:

30 (I) VIOLATE THE LICENSEE'S BROKERAGE RELATIONSHIP WITH
31 THE SELLER UNLESS EXPRESSLY PROHIBITED BY THE TERMS OF THE BROKERAGE
32 AGREEMENT; OR

33 (II) FORM A BROKERAGE RELATIONSHIP BETWEEN THE LICENSEE
34 AND THE BUYER OR POTENTIAL BUYER.

35 (I) A LICENSEE ACTING ON BEHALF OF A SELLER DOES NOT BREACH ANY
36 DUTY OR OBLIGATION OWED TO THE SELLER BY:

37 (1) SHOWING OTHER AVAILABLE PROPERTIES TO POTENTIAL BUYERS,
38 WHETHER AS CLIENTS OR CUSTOMERS; OR

18

1 (2) REPRESENTING OTHER SELLERS WHO HAVE IDENTICAL OR SIMILAR
2 PROPERTIES FOR SALE.

3 (J) A LICENSEE ACTING ON BEHALF OF A SELLER SHALL DISCLOSE THE
4 BROKERAGE RELATIONSHIP WITH THE SELLER UNDER § 17-532 OF THIS SUBTITLE.

5 17-535.

6 (A) A LICENSEE ACTING ON BEHALF OF A BUYER SHALL:

7 (1) PERFORM IN ACCORDANCE WITH THE TERMS OF THE BROKERAGE
8 AGREEMENT;

9 (2) PROMOTE THE INTERESTS OF THE BUYER BY:

10 (I) SEEKING PROPERTY AT A PRICE AND ON TERMS ACCEPTABLE
11 TO THE BUYER;

12 (II) PRESENTING IN A TIMELY MANNER ALL WRITTEN OFFERS OR
13 COUNTEROFFERS TO AND FROM THE BUYER, EVEN WHEN THE BUYER IS ALREADY
14 A PARTY TO AN EXISTING CONTRACT OF SALE TO PURCHASE PROPERTY, UNLESS
15 OTHERWISE AGREED ON IN THE BROKERAGE AGREEMENT;

16 (III) DISCLOSING TO THE BUYER ALL MATERIAL FACTS OF WHICH
17 THE LICENSEE HAS ACTUAL KNOWLEDGE; AND

18 (IV) ACCOUNTING FOR IN A TIMELY MANNER ALL TRUST MONEY
19 RECEIVED BY THE LICENSEE FOR WHICH THE BUYER IS THE BENEFICIAL OWNER;

20 (3) EXERCISE ORDINARY CARE; AND

21 (4) COMPLY WITH:

22 (I) ALL REQUIREMENTS OF THIS TITLE;

23 (II) ALL APPLICABLE FEDERAL, STATE, AND LOCAL FAIR HOUSING
24 LAWS AND REGULATIONS; AND

25 (III) ALL OTHER APPLICABLE LAWS AND REGULATIONS THAT ARE
26 NOT INCONSISTENT WITH THIS TITLE.

27 (B) NOTWITHSTANDING SUBSECTION (A)(2)(I) OF THIS SECTION, A LICENSEE
28 ACTING ON BEHALF OF A BUYER IS NOT OBLIGATED TO SEEK OTHER PROPERTIES
29 FOR THE BUYER WHILE THE BUYER IS A PARTY TO AN EXISTING CONTRACT OF
30 SALE TO PURCHASE PROPERTY, UNLESS OTHERWISE AGREED ON IN THE
31 BROKERAGE AGREEMENT.

32 (C) EXCEPT AS OTHERWISE REQUIRED BY THIS TITLE, A LICENSEE ACTING
33 ON BEHALF OF A BUYER MAY NOT DISCLOSE CONFIDENTIAL INFORMATION
34 RECEIVED FROM THE BUYER DURING THE BROKERAGE RELATIONSHIP AND ANY
35 OTHER INFORMATION THAT THE BUYER REQUESTS DURING THE BROKERAGE
36 RELATIONSHIP TO BE MAINTAINED AS CONFIDENTIAL, UNLESS THE BUYER
37 CONSENTS IN WRITING TO THE DISCLOSURE OF THE CONFIDENTIAL INFORMATION.

19

1 (D) (1) A LICENSEE ACTING ON BEHALF OF A BUYER SHALL TREAT ALL
2 SELLERS HONESTLY AND MAY NOT KNOWINGLY GIVE FALSE INFORMATION.

3 (2) A CAUSE OF ACTION MAY NOT ARISE AGAINST A LICENSEE FOR
4 DISCLOSING INFORMATION AS REQUIRED BY THIS TITLE OR APPLICABLE LAW.

5 (E) A LICENSEE ACTING ON BEHALF OF A BUYER IS NOT LIABLE TO A SELLER
6 FOR PROVIDING FALSE INFORMATION TO THE SELLER IF:

7 (1) THE FALSE INFORMATION WAS PROVIDED TO THE LICENSEE BY THE
8 BUYER; AND

9 (2) THE LICENSEE DID NOT:

10 (I) HAVE ACTUAL KNOWLEDGE THAT THE INFORMATION WAS
11 FALSE; OR

12 (II) ACT IN RECKLESS DISREGARD OF THE TRUTH.

13 (F) (1) A LICENSEE ACTING ON BEHALF OF A BUYER MAY, EXCEPT AS
14 PROHIBITED BY LAW, PROVIDE ASSISTANCE TO THE SELLER OR POTENTIAL SELLER
15 BY PERFORMING MINISTERIAL ACTS.

16 (2) PERFORMING THE MINISTERIAL ACTS MAY NOT BE CONSTRUED TO:

17 (I) VIOLATE THE LICENSEE'S BROKERAGE RELATIONSHIP WITH
18 THE BUYER UNLESS EXPRESSLY PROHIBITED BY THE TERMS OF THE BROKERAGE
19 AGREEMENT; OR

20 (II) FORM A BROKERAGE RELATIONSHIP BETWEEN THE LICENSEE
21 AND THE SELLER.

22 (G) A LICENSEE ACTING ON BEHALF OF A BUYER DOES NOT BREACH ANY
23 DUTY OR OBLIGATION TO THE BUYER BY:

24 (1) SHOWING IDENTICAL OR SIMILAR PROPERTIES IN WHICH THE
25 BUYER IS OR MAY BE INTERESTED TO OTHER PROSPECTIVE BUYERS, WHETHER AS
26 CLIENTS OR CUSTOMERS;

27 (2) REPRESENTING OTHER BUYERS LOOKING FOR PROPERTIES
28 IDENTICAL TO OR SIMILAR TO PROPERTY SOUGHT BY THE BUYER; OR

29 (3) BY REPRESENTING SELLERS OF PROPERTIES IDENTICAL OR
30 SIMILAR TO PROPERTY SOUGHT BY THE BUYER.

31 (H) A LICENSEE ACTING ON BEHALF OF A BUYER SHALL DISCLOSE THE
32 BROKERAGE RELATIONSHIP WITH THE BUYER UNDER § 17-532 OF THIS SUBTITLE.

33 17-536.

34 (A) A LICENSEE ACTING ON BEHALF OF A LESSOR SHALL:

35 (1) PERFORM IN ACCORDANCE WITH THE TERMS OF THE BROKERAGE
36 AGREEMENT;

20

1 (2) PROMOTE THE INTERESTS OF THE LESSOR BY:

2 (I) SEEKING A LESSEE AT THE RENT AND ON THE TERMS AGREED
3 IN THE BROKERAGE AGREEMENT OR AT A RENT AND ON TERMS ACCEPTABLE TO
4 THE LESSOR;

5 (II) PRESENTING IN A TIMELY MANNER ALL WRITTEN OFFERS OR
6 COUNTEROFFERS TO AND FROM THE LESSOR, EVEN WHEN THE PROPERTY IS
7 ALREADY SUBJECT TO AN EXISTING LEASE, UNLESS OTHERWISE AGREED ON IN THE
8 BROKERAGE AGREEMENT;

9 (III) DISCLOSING TO THE LESSOR ALL MATERIAL FACTS OF WHICH
10 THE LICENSEE HAS ACTUAL KNOWLEDGE; AND

11 (IV) ACCOUNTING FOR IN A TIMELY MANNER ALL TRUST MONEY
12 RECEIVED BY THE LICENSEE FOR WHICH THE LICENSEE IS THE BENEFICIAL OWNER;

13 (3) EXERCISE ORDINARY CARE; AND

14 (4) COMPLY WITH ALL REQUIREMENTS OF:

15 (I) THIS TITLE;

16 (II) FEDERAL, STATE, AND LOCAL FAIR HOUSING LAWS AND
17 REGULATIONS; AND

18 (III) ALL OTHER APPLICABLE LAWS AND REGULATIONS THAT ARE
19 NOT INCONSISTENT WITH THIS TITLE.

20 (B) NOTWITHSTANDING SUBSECTION (A)(2)(I) OF THIS SUBTITLE, A LICENSEE
21 ACTING ON BEHALF OF A LESSOR IS NOT OBLIGATED TO SEEK ADDITIONAL OFFERS
22 TO LEASE A PROPERTY WHILE THE PROPERTY IS SUBJECT TO AN EXISTING LEASE
23 UNDER WHICH THE LESSEE HAS NOT YET TAKEN POSSESSION, UNLESS OTHERWISE
24 AGREED ON IN THE BROKERAGE AGREEMENT.

25 (C) EXCEPT AS OTHERWISE PROVIDED BY THIS TITLE, A LICENSEE ACTING
26 ON BEHALF OF A LESSOR MAY NOT DISCLOSE CONFIDENTIAL INFORMATION
27 RECEIVED FROM THE LESSOR DURING THE BROKERAGE RELATIONSHIP AND ANY
28 OTHER INFORMATION THAT THE LESSOR REQUESTS DURING THE BROKERAGE
29 RELATIONSHIP TO BE MAINTAINED CONFIDENTIAL, UNLESS THE LESSOR CONSENTS
30 IN WRITING TO THE DISCLOSURE OF THE CONFIDENTIAL INFORMATION.

31 (D) A LICENSEE ACTING ON BEHALF OF A LESSOR SHALL:

32 (1) TREAT ALL LESSEES HONESTLY AND NOT KNOWINGLY GIVE FALSE
33 INFORMATION; AND

34 (2) DISCLOSE TO POTENTIAL LESSEES ALL MATERIAL FACTS
35 PERTAINING TO THE PHYSICAL CONDITION OF THE PROPERTY THAT ARE
36 ACTUALLY KNOWN BY THE LICENSEE.

37 (E) A LICENSEE ACTING ON BEHALF OF A LESSOR MAY NOT BE LIABLE TO A
38 LESSEE FOR PROVIDING FALSE INFORMATION TO THE LESSEE IF:

21

1 (1) THE FALSE INFORMATION WAS PROVIDED TO THE LICENSEE BY THE
2 LESSOR; AND

3 (2) THE LICENSEE DID NOT:

4 (I) HAVE ACTUAL KNOWLEDGE THAT THE INFORMATION WAS
5 FALSE; OR

6 (II) ACT IN RECKLESS DISREGARD OF THE TRUTH.

7 (F) (1) A CAUSE OF ACTION MAY NOT ARISE AGAINST A LICENSEE FOR
8 DISCLOSING INFORMATION AS REQUIRED BY THIS TITLE OR OTHER APPLICABLE
9 LAW.

10 (2) THIS SECTION DOES NOT LIMIT THE RIGHT OF A PROSPECTIVE
11 LESSEE TO INSPECT THE PHYSICAL CONDITION OF THE PROPERTY BEFORE
12 ENTERING INTO A LEASE.

13 (G) (1) A LICENSEE ACTING ON BEHALF OF A LESSOR MAY, EXCEPT AS
14 PROHIBITED BY LAW, PROVIDE ASSISTANCE TO A LESSEE OR POTENTIAL LESSEE BY
15 PERFORMING MINISTERIAL ACTS.

16 (2) PERFORMING MINISTERIAL ACTS UNDER THIS SUBSECTION MAY
17 NOT BE CONSTRUED TO:

18 (I) VIOLATE THE LICENSEE'S BROKERAGE RELATIONSHIP WITH
19 THE LESSOR, UNLESS EXPRESSLY PROHIBITED BY THE TERMS OF THE BROKERAGE
20 AGREEMENT; OR

21 (II) FORM A BROKERAGE AGREEMENT BETWEEN THE LICENSEE
22 AND THE LESSEE OR POTENTIAL LESSEE.

23 (H) A LICENSEE ACTING ON BEHALF OF A LESSOR DOES NOT BREACH ANY
24 DUTY OR OBLIGATION OWED TO THE LESSOR BY:

25 (1) SHOWING OTHER AVAILABLE PROPERTIES TO POTENTIAL LESSEES,
26 WHETHER AS CLIENTS OR CUSTOMERS; OR

27 (2) REPRESENTING OTHER LESSORS WHO HAVE IDENTICAL OR SIMILAR
28 PROPERTIES FOR LEASE.

29 (I) A LICENSEE ACTING ON BEHALF OF A LESSOR SHALL DISCLOSE THE
30 BROKERAGE RELATIONSHIP WITH THE LESSOR UNDER § 17-532 OF THIS TITLE.

31 17-537.

32 (A) A LICENSEE ACTING ON BEHALF OF A LESSEE SHALL:

33 (1) PERFORM IN ACCORDANCE WITH THE TERMS OF THE BROKERAGE
34 AGREEMENT;

35 (2) PROMOTE THE INTERESTS OF THE LESSEE BY:

36 (I) SEEKING A LEASE AT A RENT AND ON TERMS ACCEPTABLE TO
37 THE LESSEE;

1 (II) PRESENTING IN A TIMELY FASHION ALL WRITTEN OFFERS OR
2 COUNTEROFFERS TO AND FROM THE LESSEE, EVEN WHEN THE LESSEE IS ALREADY
3 A PARTY TO AN EXISTING LEASE, UNLESS OTHERWISE AGREED ON IN THE
4 BROKERAGE AGREEMENT;

5 (III) DISCLOSING TO THE LESSEE ALL MATERIAL FACTS OF WHICH
6 THE LICENSEE HAS ACTUAL KNOWLEDGE; AND

7 (IV) ACCOUNTING FOR IN A TIMELY MANNER ALL TRUST MONEY
8 RECEIVED BY THE LICENSEE FOR WHICH THE LESSEE IS THE BENEFICIAL OWNER;

9 (3) EXERCISE ORDINARY CARE; AND

10 (4) COMPLY WITH ALL REQUIREMENTS OF:

11 (I) THIS TITLE;

12 (II) FEDERAL, STATE, AND LOCAL FAIR HOUSING LAWS AND
13 REGULATIONS; AND

14 (III) ALL OTHER APPLICABLE LAWS AND REGULATIONS THAT ARE
15 NOT INCONSISTENT WITH THIS TITLE.

16 (B) NOTWITHSTANDING SUBSECTION (A)(2)(I) OF THIS SECTION, A LICENSEE
17 ACTING ON BEHALF OF A LESSEE IS NOT OBLIGATED TO SEEK OTHER PROPERTIES
18 FOR THE LESSEE WHILE THE LESSEE IS A PARTY TO AN EXISTING LEASE UNDER
19 WHICH THE LESSEE HAS NOT YET TAKEN POSSESSION, UNLESS OTHERWISE AGREED
20 ON IN THE BROKERAGE AGREEMENT.

21 (C) EXCEPT AS OTHERWISE REQUIRED BY THIS TITLE, A LICENSEE ACTING
22 ON BEHALF OF A LESSEE MAY NOT DISCLOSE CONFIDENTIAL INFORMATION
23 RECEIVED FROM THE LESSEE DURING THE BROKERAGE RELATIONSHIP AND ANY
24 OTHER INFORMATION THAT THE LESSEE REQUESTS DURING THE BROKERAGE
25 RELATIONSHIP TO BE MAINTAINED CONFIDENTIAL, UNLESS THE LESSEE CONSENTS
26 IN WRITING TO THE DISCLOSURE OF THE INFORMATION.

27 (D) (1) A LICENSEE ACTING ON BEHALF OF A LESSEE SHALL TREAT ALL
28 LESSORS HONESTLY AND NOT KNOWINGLY GIVE FALSE INFORMATION.

29 (2) A CAUSE OF ACTION MAY NOT ARISE AGAINST ANY LICENSEE FOR
30 DISCLOSING INFORMATION AS REQUIRED BY THIS TITLE OR ANOTHER APPLICABLE
31 LAW.

32 (E) A LICENSEE ACTING ON BEHALF OF A LESSEE IS NOT LIABLE TO A LESSOR
33 FOR PROVIDING FALSE INFORMATION TO THE LESSOR IF:

34 (1) THE FALSE INFORMATION WAS PROVIDED TO THE LICENSEE BY THE
35 LESSEE; AND

36 (2) THE LICENSEE DID NOT:

37 (I) HAVE ACTUAL KNOWLEDGE THAT THE INFORMATION WAS
38 FALSE; OR

23

1 (II) ACT IN RECKLESS DISREGARD OF THE TRUTH.

2 (F) (1) A LICENSEE ACTING ON BEHALF OF A LESSEE MAY, EXCEPT AS
3 PROHIBITED BY LAW, PROVIDE ASSISTANCE TO THE LESSOR OR POTENTIAL LESSOR
4 BY PERFORMING MINISTERIAL ACTS.

5 (2) PERFORMING MINISTERIAL ACTS UNDER THIS SUBSECTION MAY
6 NOT BE CONSTRUED TO:

7 (I) VIOLATE THE LICENSEE'S BROKERAGE RELATIONSHIP WITH
8 THE LESSEE, UNLESS EXPRESSLY PROHIBITED BY THE TERMS OF THE BROKERAGE
9 AGREEMENT; OR

10 (II) FORM A BROKERAGE RELATIONSHIP BETWEEN THE LICENSEE
11 AND THE LESSOR OR PROSPECTIVE LESSOR.

12 (G) A LICENSEE ACTING ON BEHALF OF A LESSEE DOES NOT BREACH ANY
13 DUTY OR OBLIGATION TO THE LESSEE BY:

14 (1) SHOWING IDENTICAL OR SIMILAR PROPERTIES IN WHICH THE
15 LESSEE IS OR MAY BE INTERESTED TO OTHER POTENTIAL LESSEES, WHETHER AS
16 CLIENTS OR CUSTOMERS;

17 (2) REPRESENTING OTHER LESSEES SEEKING TO LEASE PROPERTIES
18 IDENTICAL OR SIMILAR TO PROPERTY SOUGHT BY THE LESSEE; OR

19 (3) REPRESENTING OTHER LESSORS WHO HAVE IDENTICAL OR SIMILAR
20 PROPERTIES FOR LEASE.

21 (H) A LICENSEE ACTING ON BEHALF OF A LESSEE SHALL DISCLOSE THE
22 BROKERAGE RELATIONSHIP WITH THE LESSEE UNDER § 17-532 OF THIS SUBTITLE.

23 17-538.

24 EXCEPT AS OTHERWISE PROVIDED IN THE BROKERAGE AGREEMENT, A
25 LICENSEE, REGARDLESS OF THE BROKERAGE RELATIONSHIP, OWES NO DUTY TO:

26 (1) CONDUCT AN INDEPENDENT INSPECTION OF THE PROPERTY FOR
27 THE BENEFIT OF THE SELLER, LESSOR, BUYER, OR LESSEE;

28 (2) INDEPENDENTLY VERIFY THE ACCURACY OR COMPLETENESS OF
29 ANY STATEMENT MADE TO A LICENSEE BY A SELLER, LESSOR, BUYER, LESSEE, OR
30 ANY THIRD PARTY INSPECTOR;

31 (3) CONDUCT AN INDEPENDENT INVESTIGATION OF THE BUYER'S OR
32 LESSEE'S FINANCIAL HISTORY FOR THE BENEFIT OF A SELLER OR LESSOR;

33 (4) VERIFY THE ACCURACY OR COMPLETENESS OF ANY STATEMENT
34 MADE BY A POTENTIAL BUYER OR LESSEE REGARDING THE BUYER'S OR LESSEE'S
35 FINANCIAL HISTORY OR FINANCIAL ABILITY TO PURCHASE OR LEASE THE
36 PROPERTY; OR

37 (5) OBTAIN OR EVALUATE A CREDIT REPORT AS TO A BUYER OR
38 LESSEE.

24

1 17-539.

2 (A) A LICENSEE ASSISTING A POTENTIAL BUYER OR LESSEE IN LOCATING
3 RESIDENTIAL REAL PROPERTY FOR PURCHASE OR LEASE IS PRESUMED TO ACT ON
4 BEHALF OF THE POTENTIAL BUYER OR LESSEE AS A CLIENT IN AN AGENCY
5 RELATIONSHIP UNLESS EITHER THE LICENSEE OR THE POTENTIAL BUYER OR
6 LESSEE DO NOT CONSENT TO THE AGENCY RELATIONSHIP.

7 (B) A LICENSEE ACTING ON BEHALF OF A POTENTIAL BUYER OR LESSEE
8 UNDER THE PRESUMPTION OF THE BROKERAGE RELATIONSHIP WITH THE BUYER
9 OR LESSEE UNDER THIS SECTION SHALL:

10 (1) DISCLOSE THE BROKERAGE RELATIONSHIP WITH THE BUYER OR
11 LESSEE UNDER § 17-532 OF THIS SUBTITLE;

12 (2) IN THE ABSENCE OF A BROKERAGE AGREEMENT TO THE
13 CONTRARY, OWE THE BUYER OR LESSEE THE STANDARD DUTIES SET FORTH IN §
14 17-535 OR § 17-537;

15 (3) ENTER INTO A BROKERAGE AGREEMENT WITH THE BUYER OR
16 LESSEE BEFORE THE EARLIER OF:

17 (I) NEGOTIATING THE PURCHASE OR LEASE OF A SPECIFIC
18 PROPERTY; OR

19 (II) PRESENTING AN OFFER TO PURCHASE OR LEASE A SPECIFIC
20 PROPERTY.

21 (C) SUBJECT TO SUBSECTION (B)(3) OF THIS SECTION, A LICENSEE ACTING ON
22 BEHALF OF A POTENTIAL BUYER OR LESSEE UNDER THE PRESUMPTION OF THE
23 BROKERAGE RELATIONSHIP WITH THE BUYER OR LESSEE UNDER THIS SECTION
24 MAY PROVIDE REAL ESTATE BROKERAGE SERVICES ON BEHALF OF THE BUYER OR
25 LESSEE IN LOCATING RESIDENTIAL REAL PROPERTY FOR PURCHASE OR LEASE,
26 INCLUDING SHOWING THE PROPERTY, WITHOUT A BROKERAGE AGREEMENT.

27 (D) THIS SECTION DOES NOT:

28 (1) REQUIRE A LICENSEE OR A BUYER OR LESSEE TO CONSENT TO THE
29 CREATION OF THE PRESUMED BROKERAGE RELATIONSHIP; OR

30 (2) PROHIBIT A LICENSEE AND A BUYER OR LESSEE FROM ENTERING
31 INTO A BROKERAGE AGREEMENT BEFORE THE LICENSEE PROVIDES REAL ESTATE
32 BROKERAGE SERVICES ON BEHALF OF THE BUYER OR LESSEE.

33 17-540.

34 (A) (1) A LICENSEE PROVIDING REAL ESTATE BROKERAGE SERVICES IN A
35 NONAGENCY BROKERAGE RELATIONSHIP DOES NOT ACT FOR OR REPRESENT THE
36 CLIENT AND NO AGENCY RELATIONSHIP EXISTS.

37 (2) A LICENSEE PROVIDING REAL ESTATE BROKERAGE SERVICES IN A
38 NONAGENCY BROKERAGE RELATIONSHIP OWES ONLY THE DUTIES SET OUT IN THIS
39 SECTION.

25

1 (B) A LICENSEE PROVIDING REAL ESTATE BROKERAGE SERVICES TO A
2 CLIENT IN A NONAGENCY RELATIONSHIP SHALL:

3 (1) PERFORM IN ACCORDANCE WITH THE TERMS OF THE BROKERAGE
4 AGREEMENT;

5 (2) EXERCISE ORDINARY CARE;

6 (3) COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL FAIR
7 LEASING LAWS AND REGULATIONS;

8 (4) TREAT ALL PARTIES TO THE TRANSACTION HONESTLY AND NOT
9 KNOWINGLY GIVE FALSE INFORMATION;

10 (5) DISCLOSE TO THE CLIENT AND CUSTOMER ALL MATERIAL FACTS
11 PERTAINING TO THE PHYSICAL CONDITION OF THE PROPERTY THAT ARE
12 ACTUALLY KNOWN BY THE LICENSEE; AND

13 (6) NOT BE LIABLE TO A CUSTOMER FOR PROVIDING FALSE
14 INFORMATION TO A CUSTOMER IF THE FALSE INFORMATION WAS PROVIDED TO
15 THE LICENSEE BY THE CLIENT AND THE LICENSEE DID NOT:

16 (I) HAVE ACTUAL KNOWLEDGE THAT THE INFORMATION WAS
17 FALSE; OR

18 (II) ACT IN RECKLESS DISREGARD OF THE TRUTH.

19 (C) A CAUSE OF ACTION MAY NOT ARISE AGAINST A LICENSEE FOR
20 DISCLOSING INFORMATION AS REQUIRED BY THIS TITLE OR ANOTHER APPLICABLE
21 LAW.

22 17-541.

23 (A) BEFORE ENTERING INTO A BROKERAGE RELATIONSHIP, A LICENSEE
24 SHALL ADVISE THE PROSPECTIVE CLIENT OF:

25 (1) THE TYPE OF BROKERAGE RELATIONSHIP PROPOSED BY THE
26 BROKER;

27 (2) THE DUTIES AND OBLIGATIONS TO BE UNDERTAKEN BY THE
28 BROKER;

29 (3) THE BROKER'S COMPENSATION; AND

30 (4) WHETHER THE BROKER IS AUTHORIZED TO COOPERATE WITH
31 OTHER BROKERS TO:

32 (I) FACILITATE THE SALE, LEASE, PURCHASE, OR EXCHANGE OF
33 THE PROPERTY; AND

34 (II) PAY COMPENSATION TO OR RECEIVE COMPENSATION FROM
35 ANOTHER BROKER WHO MAY PARTICIPATE IN THE TRANSACTION WHETHER ON
36 BEHALF OF THE CLIENT OR ANOTHER PARTY TO THE TRANSACTION.

26

1 (B) EXCEPT AS PROVIDED IN § 17-539 OF THIS SUBTITLE, A BROKERAGE
2 RELATIONSHIP COMMENCES AT THE TIME THAT A CLIENT ENTERS INTO A
3 BROKERAGE AGREEMENT AND SHALL CONTINUE UNTIL:

4 (1) THE COMPLETION OF PERFORMANCE IN ACCORDANCE WITH THE
5 BROKERAGE AGREEMENT; OR

6 (2) THE EARLIER OF:

7 (I) ANY DATE OF EXPIRATION AS AGREED ON BY THE PARTIES IN
8 THE BROKERAGE AGREEMENT OR IN ANY AMENDMENTS TO THE BROKERAGE
9 AGREEMENT;

10 (II) ANY MUTUALLY AGREED ON TERMINATION OF THE
11 BROKERAGE RELATIONSHIP;

12 (III) A DEFAULT BY ANY PARTY UNDER THE TERMS OF THE
13 BROKERAGE AGREEMENT; OR

14 (IV) A TERMINATION UNDER § 17-532 OF THIS SUBTITLE.

15 (C) THE BROKERAGE AGREEMENT SHALL:

16 (1) HAVE A DEFINITE TERMINATION DATE THAT IS EFFECTIVE
17 AUTOMATICALLY WITHOUT NOTICE FROM THE CLIENT;

18 (2) STATE THE AMOUNT OF COMPENSATION TO BE PAID TO THE
19 BROKER AND WHETHER THE BROKER IS AUTHORIZED TO RECEIVE THE
20 COMPENSATION FROM A PERSON OTHER THAN THE CLIENT;

21 (3) STATE WHETHER THE BROKER IS AUTHORIZED TO COOPERATE
22 WITH OTHER BROKERS AND SHARE COMPENSATION WITH THE OTHER BROKERS
23 AND THE AMOUNT OF THE COMPENSATION;

24 (4) SPECIFY THE DUTIES AND OBLIGATIONS OF THE BROKER,
25 INCLUDING ANY DUTIES AND OBLIGATIONS OTHER THAN THE STANDARD DUTIES
26 AND OBLIGATIONS UNDER THIS PART III OF THIS TITLE;

27 (5) EXPLAIN THE EVENTS OR CONDITIONS THAT WILL ENTITLE THE
28 BROKER TO A COMMISSION OR OTHER COMPENSATION; AND

29 (6) CONTAIN A PROVISION FOR THE CANCELLATION OF THE
30 BROKERAGE RELATIONSHIP BY EITHER THE CLIENT OR THE BROKER.

31 (D) EXCEPT AS OTHERWISE PROVIDED IN THE BROKERAGE AGREEMENT, A
32 LICENSEE SHALL HAVE NO FURTHER DUTIES OR OBLIGATIONS TO A CLIENT AFTER
33 THE TERMINATION, EXPIRATION, OR COMPLETION OF PERFORMANCE OF THE
34 BROKERAGE RELATIONSHIP, EXCEPT TO:

35 (1) ACCOUNT FOR ALL TRUST MONEY IN THE LICENSEE'S POSSESSION
36 IN ACCORDANCE WITH THIS TITLE; AND

37 (2) EXCEPT AS OTHERWISE PROVIDED BY THIS TITLE OR ANOTHER
38 LAW, KEEP CONFIDENTIAL ALL PERSONAL AND FINANCIAL INFORMATION

27

1 RECEIVED FROM THE CLIENT DURING THE COURSE OF THE BROKERAGE
2 RELATIONSHIP AND ANY OTHER INFORMATION THAT THE CLIENT REQUESTS
3 DURING THE BROKERAGE RELATIONSHIP TO BE KEPT CONFIDENTIAL, UNLESS:

4 (I) THE CLIENT CONSENTS IN WRITING TO THE DISCLOSURE OF
5 THE INFORMATION; OR

6 (II) THE INFORMATION BECOMES PUBLIC FROM A SOURCE OTHER
7 THAN THE LICENSEE.

8 (E) THE PAYMENT OR PROMISE OF PAYMENT OF COMPENSATION TO A
9 LICENSED REAL ESTATE BROKER BY A SELLER, LESSOR, BUYER, OR LESSEE, OR BY A
10 LICENSEE ACTING FOR A SELLER, LESSOR, BUYER, OR LESSEE:

11 (1) IS NOT DETERMINATIVE OF WHETHER A BROKERAGE
12 RELATIONSHIP HAS BEEN CREATED OR EXISTS; AND

13 (2) DOES NOT CREATE OR DETERMINE THE EXISTENCE OF A
14 BROKERAGE RELATIONSHIP BETWEEN A BROKER AND A SELLER, LESSOR, BUYER,
15 LESSEE, OR LICENSEE.

16 17-542.

17 (A) EXCEPT AS OTHERWISE PROVIDED IN THE BROKERAGE AGREEMENT, A
18 LICENSEE MAY NOT BE DEEMED TO BE AN AGENT OR SUBAGENT OF OR TO HAVE AN
19 AGENCY RELATIONSHIP WITH A COMMON SOURCE INFORMATION COMPANY.

20 (B) A LICENSEE MAY NOT BE DEEMED TO BE AN AGENT OR SUBAGENT OF
21 ANY CLIENT OF ANOTHER BROKER SOLELY BY REASON OF A LICENSEE'S
22 PARTICIPATION IN OR USE OF A COMMON SOURCE INFORMATION COMPANY.

23 17-543.

24 (A) A CLIENT IS NOT LIABLE FOR:

25 (1) A MISREPRESENTATION MADE BY A LICENSEE IN CONNECTION
26 WITH A BROKERAGE RELATIONSHIP, UNLESS THE CLIENT:

27 (I) KNEW OF THE MISREPRESENTATION; AND

28 (II) FAILED TO TAKE REASONABLE STEPS IN A TIMELY MANNER TO
29 CORRECT THE MISREPRESENTATION; OR

30 (2) THE NEGLIGENCE, GROSS NEGLIGENCE, OR INTENTIONAL ACTS OF
31 A LICENSEE.

32 (B) A BROKER OR LICENSEE AFFILIATED WITH A BROKER WHO HAS A
33 BROKERAGE RELATIONSHIP WITH A CLIENT OR WHO COOPERATES WITH ANOTHER
34 BROKER AS A SUBAGENT TO ASSIST IN PROVIDING REAL ESTATE BROKERAGE
35 SERVICES TO THE CLIENT MAY NOT BE LIABLE FOR:

36 (1) A MISREPRESENTATION MADE BY THE ASSISTING BROKER OR A
37 LICENSEE AFFILIATED WITH THE ASSISTING BROKER, UNLESS THE BROKER OR
38 LICENSEE AFFILIATED WITH THE BROKER:

28

1 (I) KNEW OF THE ASSISTING BROKER'S OR LICENSEE'S
2 MISREPRESENTATION; AND

3 (II) FAILED TO TAKE REASONABLE STEPS TO CORRECT THE
4 MISREPRESENTATION IN A TIMELY MANNER; OR

5 (2) THE NEGLIGENCE, GROSS NEGLIGENCE, OR INTENTIONAL ACTS OF
6 THE ASSISTING BROKER OR LICENSEES AFFILIATED WITH THE ASSISTING BROKER.

7 (C) (1) CLIENTS AND LICENSEES ARE DEEMED TO POSSESS ONLY THE
8 KNOWLEDGE AND INFORMATION OF WHICH THE CLIENT OR LICENSEE HAS ACTUAL
9 KNOWLEDGE.

10 (2) KNOWLEDGE OR INFORMATION AMONG OR BETWEEN CLIENTS AND
11 LICENSEES MAY NOT BE IMPUTED.

12 (D) THIS TITLE DOES NOT LIMIT THE LIABILITY AMONG OR BETWEEN
13 CLIENTS AND LICENSEES IN ANY MATTER INVOLVING UNLAWFULLY
14 DISCRIMINATORY HOUSING PRACTICES.

15 (E) THIS TITLE DOES NOT AFFECT A PERSON'S RIGHT TO RESCIND A
16 RESIDENTIAL REAL ESTATE TRANSACTION.

17 (F) THIS TITLE DOES NOT LIMIT THE LIABILITY OF:

18 (1) A SELLER, BUYER, LESSOR, OR LESSEE FOR MISREPRESENTATION,
19 NEGLIGENCE, GROSS NEGLIGENCE, OR INTENTIONAL ACTS IN CONNECTION WITH A
20 RESIDENTIAL REAL ESTATE TRANSACTION; OR

21 (2) A LICENSEE FOR MISREPRESENTATION, NEGLIGENCE, GROSS
22 NEGLIGENCE, OR INTENTIONAL ACTS IN CONNECTION WITH A RESIDENTIAL REAL
23 ESTATE TRANSACTION.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the regulations and code
25 of ethics adopted by the Real Estate Commission shall be consistent with this Act. If any
26 provision of the regulations or code of ethics conflicts with this Act as of the effective date
27 of this Act, the Commission shall amend the provision of the regulations or code of ethics
28 to comply with this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 1998.