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HOUSE BILL NO. 1684
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on General Laws
on _____)
(Patron Prior to Substitute—Delegate Sewell)

A BILL to amend and reenact §§ 54.1-2130 through 54.1-2134, 54.1-2137, 54.1-2138.1, 54.1-2139, 54.1-2139.01, and 54.1-2139.1 of the Code of Virginia, relating to duties of real estate brokers and salespersons; licensees engaged by buyers.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2130 through 54.1-2134, 54.1-2137, 54.1-2138.1, 54.1-2139, 54.1-2139.01, and 54.1-2139.1 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2130. Definitions.

As used in this article:

"Agency" means every relationship in which a real estate licensee acts for or represents a person as an agent by such person's express authority in a commercial or residential real estate transaction, unless a different legal relationship is intended and is agreed to as part of the brokerage agreement. Nothing in this article shall prohibit a licensee and a client from agreeing in writing to a brokerage relationship under which the licensee acts as an independent contractor or which imposes on a licensee obligations in addition to those provided in this article. If a licensee agrees to additional obligations, however, the licensee shall be responsible for the additional obligations agreed to with the client in the brokerage agreement. A real estate licensee who enters into a brokerage relationship based upon a written brokerage agreement that specifically states that the real estate licensee is acting as an independent contractor and not as an agent shall have the obligations agreed to by the parties in the brokerage agreement, and such real estate licensee and its employees shall comply with the provisions of subdivisions A 3 through 7 and subsections B and E of § 54.1-2131; subdivisions A 3 4 through 7 8 and subsections B and E of § 54.1-2132; subdivisions A 3 through 7 and subsections B and E of § 54.1-2133; subdivisions A 3 4 through 7 8 and subsections B and E of § 54.1-2134; and subdivisions A 2 through 6 and subsections C and D of § 54.1-2135 but otherwise shall have no obligations under §§ 54.1-2131 through 54.1-2135. Any real estate licensee who acts for or represents a client in an agency relationship in a residential real estate transaction shall either represent such client as a standard agent or a limited service agent.

31 "Agent" means a real estate licensee who is acting as (i) a standard agent in a residential real estate
32 transaction, (ii) a limited service agent in a residential real estate transaction, or (iii) an agent in a commercial
33 real estate transaction.

34 "Brokerage agreement" means the written agreement creating a brokerage relationship between a client
35 and a licensee. The brokerage agreement shall state whether the real estate licensee will represent the client as
36 an agent or an independent contractor.

37 "Brokerage relationship" means the contractual relationship between a client and a real estate licensee
38 who has been engaged by such client ~~for the purpose of procuring a seller, buyer, option, tenant, or landlord~~
39 ~~ready, able, and willing to sell, buy, option, exchange or rent real estate on behalf of a client to provide~~
40 *brokerage services.*

41 "*Brokerage services*" means (i) those activities described in subsection A of § 54.1-2131, subsection A of
42 § 54.1-2132, subsection A of § 54.1-2133, and subsection A of § 54.1-2134; (ii) activities requiring the
43 exercise of a licensee's professional judgment, discretion, advice, or counsel; or (iii) activities otherwise
44 performed in connection with procuring a seller, buyer, option, tenant, or landlord ready, able, and willing to
45 sell, buy, option, exchange, or rent real estate on behalf of the client with whom the licensee has an executed
46 brokerage agreement.

47 "Client" means a person who has entered into a brokerage relationship with a licensee.

48 "Commercial real estate" means any real estate other than (i) real estate containing one to four residential
49 units or (ii) real estate classified for assessment purposes under § 58.1-3230. Commercial real estate shall not
50 include single family residential units, including condominiums, townhouses, apartments, or homes in a
51 subdivision when leased on a unit by unit basis even though these units may be part of a larger building or
52 parcel of real estate containing more than four residential units.

53 "Common source information company" means any person, firm, or corporation that is a source, compiler,
54 or supplier of information regarding real estate for sale or lease and other data and includes, but is not limited
55 to, multiple listing services.

56 "Customer" means a person who has not entered into a brokerage relationship with a licensee but for
57 whom a licensee performs ministerial acts in a real estate transaction. Unless a licensee enters into a
58 brokerage relationship with such person, it shall be presumed that such person is a customer of the licensee
59 rather than a client.

60 "Designated agent" or "designated representative" means a licensee who has been assigned by a principal
61 or supervising broker to represent a client when a different client is also represented by such principal or
62 broker in the same transaction. A designated representative shall only act as an independent contractor.

63 "Dual agent" or "dual representative" means a licensee who has a brokerage relationship with both seller
64 and buyer, or both landlord and tenant, in the same real estate transaction. A dual agent has an agency
65 relationship under brokerage agreements with the clients. A dual representative has an independent contractor
66 relationship under brokerage agreements with the clients. A dual representative shall only act as an
67 independent contractor.

68 "Independent contractor" means a real estate licensee who (i) enters into a brokerage relationship based
69 upon a brokerage agreement that specifically states that the real estate licensee is acting as an independent
70 contractor and not as an agent; (ii) shall have the obligations agreed to by the parties in the brokerage
71 agreement; and (iii) shall comply with the provisions of subdivisions A 3 through 7 and subsections B and E
72 of § 54.1-2131; subdivisions A 3 through 7 and subsections B and E of § 54.1-2132; subdivisions A 3
73 through 7 and subsections B and E of § 54.1-2133; subdivisions A 3 through 7 and subsections B and E of
74 § 54.1-2134; and subdivisions A 2 through 6 and subsections C and D of § 54.1-2135 but otherwise shall
75 have no obligations under §§ 54.1-2131 through 54.1-2135.

76 "Licensee" means real estate brokers and salespersons as defined in Article 1 (§ 54.1-2100 et seq.).

77 "Limited service agent" means a licensee who acts for or represents a client in a residential real estate
78 transaction pursuant to a brokerage agreement that provides that the limited service agent will not provide
79 one or more of the duties set forth in subdivision A 2 of §§ § 54.1-2131, *subdivision A 3 of § 54.1-2132,*
80 *subdivision A 2 of § 54.1-2133, and subdivision A 3 of § 54.1-2134; inclusive.* A limited service agent shall
81 have the obligations set out in the brokerage agreement, except that a limited service agent shall provide the
82 client, at the time of entering the brokerage agreement, copies of any and all disclosures required by federal
83 or state law, or local disclosures expressly authorized by state law, and shall disclose to the client the
84 following in writing: (i) the rights and obligations of the client under the Virginia Residential Property
85 Disclosure Act (§ 55.1-700 et seq.); (ii) if the client is selling a condominium, the rights and obligations of
86 the client to deliver to the purchasers, or to receive as purchaser, the resale certificate required by § 55.1-2309
87 ; and (iii) if the client is selling a property subject to the Property Owners' Association Act (§ 55.1-1800 et
88 seq.), the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the resale

89 certificate required by § 55.1-2309.

90 "Ministerial acts" means those routine acts ~~which~~ that a licensee can perform for a person ~~which~~ that do
91 not involve discretion or the exercise of the licensee's own judgment.

92 "Property management agreement" means the written agreement between a property manager and the
93 owner of real estate for the management of the real estate.

94 "Residential real estate" means real property containing from one to four residential dwelling units and the
95 sale of lots containing one to four residential dwelling units.

96 "*Showing property*" means (i) taking a prospective buyer or tenant to a property, obtaining access to such
97 property, and taking the individual through the property, including entering a property to provide a live,
98 virtual tour to a prospective buyer or tenant who is not physically present; (ii) responding to questions or
99 providing information about such property that is not of public record while at the property; or (iii)
100 otherwise providing brokerage services while at the property.

101 "Standard agent" means a licensee who acts for or represents a client in an agency relationship in a
102 residential real estate transaction. A standard agent shall have the obligations as provided in this article and
103 any additional obligations agreed to by the parties in the brokerage agreement.

104 **§ 54.1-2131. Licensees engaged by sellers.**

105 A. A licensee engaged by a seller shall:

106 1. Perform in accordance with the terms of the brokerage agreement;

107 2. Promote the interests of the seller by:

108 a. Conducting marketing activities on behalf of the seller in accordance with the brokerage agreement. In
109 so doing, the licensee shall seek a sale at the price and terms agreed upon in the brokerage agreement or at a
110 price and terms acceptable to the seller; however, the licensee shall not be obligated to seek additional offers
111 to purchase the property while the property is subject to a contract of sale, unless agreed to as part of the
112 brokerage agreement or as the contract of sale so provides;

113 b. Assisting in the drafting and negotiating of offers and counteroffers, amendments, and addenda to the
114 real estate contract pursuant to § 54.1-2101.1 and in establishing strategies for accomplishing the seller's
115 objectives;

116 c. Receiving and presenting in a timely manner written offers and counteroffers to and from the seller and
117 purchasers, even when the property is already subject to a contract of sale; and

118 d. Providing reasonable assistance to the seller to satisfy the seller's contract obligations and to facilitate
119 settlement of the purchase contract;

120 3. Maintain confidentiality of all personal and financial information received from the client during the
121 brokerage relationship and any other information that the client requests during the brokerage relationship be
122 maintained confidential, unless otherwise provided by law or the seller consents in writing to the release of
123 such information;

124 4. Exercise ordinary care;

125 5. Account in a timely manner for all money and property received by the licensee in which the seller has
126 or may have an interest;

127 6. Disclose to the seller material facts related to the property or concerning the transaction of which the
128 licensee has actual knowledge; and

129 7. Comply with all requirements of this article, all fair housing statutes and regulations for residential real
130 estate transactions as applicable, and all other applicable statutes and regulations ~~which~~ that are not in
131 conflict with this article.

132 B. Licensees shall treat all prospective buyers honestly and shall not knowingly give them false
133 information. A licensee engaged by a seller shall disclose to prospective buyers all material adverse facts
134 pertaining to the physical condition of the property ~~which~~ that are actually known by the licensee. If a
135 licensee has actual knowledge of the existence of defective drywall in a residential property, the licensee shall
136 disclose the same to the prospective buyer. For purposes of this section, "defective drywall" means all
137 defective drywall as defined in § 36-156.1. As used in this section, the term "physical condition of the
138 property" ~~shall refer~~ refers to the physical condition of the land and any improvements thereon, and ~~shall~~
139 does not refer to (i) matters outside the boundaries of the land or relating to adjacent or other properties in
140 proximity thereto, (ii) matters relating to governmental land use regulations, or (iii) matters relating to
141 highways or public streets. Such disclosure shall be made in writing. No cause of action shall arise against
142 any licensee for revealing information as required by this article or applicable law. Nothing in this article
143 shall limit in any way the provisions of the Virginia Residential Property Disclosure Act (§ 55.1-700 et seq.)
144 applicable to residential real estate transactions.

145 C. A licensee engaged by a seller in a real estate transaction may, unless prohibited by law or the
146 brokerage agreement, provide assistance to a buyer or potential buyer by performing ministerial acts.

147 Performing such ministerial acts that are not inconsistent with subsection A shall not be construed to violate
148 the licensee's brokerage agreement with the seller unless expressly prohibited by the terms of the brokerage
149 agreement, nor shall performing such ministerial acts be construed to form a brokerage relationship with such
150 buyer or potential buyer.

151 D. A licensee engaged by a seller does not breach any duty or obligation owed to the seller by showing
152 alternative properties to prospective buyers, whether as clients or customers, or by representing other sellers
153 who have other properties for sale.

154 E. Licensees in residential real estate transactions shall disclose brokerage relationships pursuant to the
155 provisions of this article.

156 F. Nothing in this section shall be construed to require a licensee to disclose whether settlement services
157 under Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 will be provided by an attorney or a nonattorney
158 settlement agent.

159 *G. A licensee engaged by a seller shall not be required to enter into a brokerage agreement with a*
160 *prospective buyer to show property to the prospective buyer when such showing is conducted pursuant to and*
161 *in accordance with a brokerage agreement entered into with a seller client.*

162 **§ 54.1-2132. Licensees engaged by buyers.**

163 A. A licensee engaged by a buyer shall:

164 1. *Enter into a brokerage agreement with the prospective buyer prior to showing property to such*
165 *prospective buyer;*

166 2. Perform in accordance with the terms of the brokerage agreement;

167 ~~2.~~ 3. Promote the interests of the buyer by:

168 a. Seeking a property of a type acceptable to the buyer and at a price and on terms acceptable to the buyer;
169 however, the licensee shall not be obligated to seek *or show* other properties for the buyer while the buyer is a
170 party to a contract to purchase property unless agreed to as part of the brokerage relationship;

171 b. Assisting in the drafting and negotiating of offers and counteroffers, amendments, and addenda to the
172 real estate contract pursuant to § 54.1-2101.1 and in establishing strategies for accomplishing the buyer's
173 objectives;

174 c. Receiving and presenting in a timely manner all written offers or counteroffers to and from the buyer
175 and seller, even when the buyer is already a party to a contract to purchase property; and

176 d. Providing reasonable assistance to the buyer to satisfy the buyer's contract obligations and to facilitate
177 settlement of the purchase contract;

178 ~~3~~. 4. Maintain confidentiality of all personal and financial information received from the client during the
179 brokerage relationship and any other information that the client requests during the brokerage relationship be
180 maintained confidential unless otherwise provided by law or the buyer consents in writing to the release of
181 such information;

182 ~~4~~. 5. Exercise ordinary care;

183 ~~5~~. 6. Account in a timely manner for all money and property received by the licensee in which the buyer
184 has or may have an interest;

185 ~~6~~. 7. Disclose to the buyer material facts related to the property or concerning the transaction of which the
186 licensee has actual knowledge; and

187 ~~7~~. 8. Comply with all requirements of this article, all fair housing statutes and regulations for residential
188 real estate transactions as applicable, and all other applicable statutes and regulations ~~which~~ *that* are not in
189 conflict with this article.

190 B. Licensees shall treat all prospective sellers honestly and shall not knowingly give them false
191 information. If a licensee has actual knowledge of the existence of defective drywall in a residential property,
192 the licensee shall disclose the same to the buyer. For purposes of this section, "defective drywall" means all
193 defective drywall as defined in § 36-156.1. No cause of action shall arise against any licensee for revealing
194 information as required by this article or applicable law. In the case of a residential transaction, a licensee
195 engaged by a buyer shall disclose to a seller whether or not the buyer intends to occupy the property as a
196 principal residence. The buyer's expressions of such intent in the contract of sale shall satisfy this requirement
197 and no cause of action shall arise against any licensee for the disclosure or any inaccuracy in such disclosure,
198 or the nondisclosure of the buyer in this regard.

199 C. A licensee engaged by a buyer in a real estate transaction may, unless prohibited by law or the
200 brokerage agreement, provide assistance to the seller, or prospective seller, by performing ministerial acts.
201 Performing such ministerial acts that are not inconsistent with subsection A shall not be construed to violate
202 the licensee's brokerage agreement with the buyer unless expressly prohibited by the terms of the brokerage
203 agreement, nor shall performing such ministerial acts be construed to form a brokerage relationship with such
204 seller.

205 D. A licensee engaged by a buyer does not breach any duty or obligation to the buyer by showing
206 properties in which the buyer is interested to other prospective buyers, whether as clients or customers, by
207 representing other buyers looking at the same or other properties, or by representing sellers relative to other
208 properties.

209 E. Licensees in residential real estate transactions shall disclose brokerage relationships pursuant to the
210 provisions of this article.

211 F. Nothing in this section shall be construed to require a licensee to disclose whether settlement services
212 under Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 will be provided by an attorney or a nonattorney
213 settlement agent.

214 ~~G. Notwithstanding any other provision of law requiring written brokerage agreements or governing the~~
215 ~~duties of licensees, nothing in this chapter shall be construed to require that a written agreement between a~~
216 ~~licensee and a prospective buyer be executed prior to the licensee's showing properties to the prospective~~
217 ~~buyer.~~

218 **§ 54.1-2133. Licensees engaged by landlords to lease property.**

219 A. A licensee engaged by a landlord shall:

220 1. Perform in accordance with the terms of the brokerage agreement;

221 2. Promote the interests of the landlord by:

222 a. Conducting marketing activities on behalf of the landlord pursuant to the brokerage agreement with the
223 landlord. In so doing, the licensee shall seek a tenant at the rent and terms agreed in the brokerage agreement
224 or at a rent and terms acceptable to the landlord; however, the licensee shall not be obligated to seek
225 additional offers to lease the property while the property is subject to a lease or a letter of intent to lease under
226 which the tenant has not yet taken possession, unless agreed as part of the brokerage agreement, or unless the
227 lease or the letter of intent to lease so provides;

228 b. Assisting the landlord in drafting and negotiating leases and letters of intent to lease, and presenting in a
229 timely manner all written leasing offers or counteroffers to and from the landlord and tenant pursuant to §
230 54.1-2101.1, even when the property is already subject to a lease or a letter of intent to lease; and

231 c. Providing reasonable assistance to the landlord to finalize the lease agreement;

232 3. Maintain confidentiality of all personal and financial information received from the client during the
233 brokerage relationship and any other information that the client requests during the brokerage relationship be

234 maintained confidential, unless otherwise provided by law or the landlord consents in writing to the release of
235 such information;

236 4. Exercise ordinary care;

237 5. Account in a timely manner for all money and property received by the licensee in which the landlord
238 has or may have an interest;

239 6. Disclose to the landlord material facts related to the property or concerning the transaction of which the
240 licensee has actual knowledge; and

241 7. Comply with all requirements of this article, fair housing statutes and regulations for residential real
242 estate transactions as applicable, and all other applicable statutes and regulations ~~which~~ *that* are not in
243 conflict with this article.

244 B. Licensees shall treat all prospective tenants honestly and shall not knowingly give them false
245 information. A licensee engaged by a landlord shall disclose to prospective tenants all material adverse facts
246 pertaining to the physical condition of the property ~~which~~ *that* are actually known by the licensee. If a
247 licensee has actual knowledge of the existence of any pipe, pipe or plumbing fitting, fixture, solder, or flux
248 that does not meet the federal Safe Drinking Water Act definition of "lead free" pursuant to 42 U.S.C. §
249 300g-6 in a residential property, the licensee shall disclose the same to the prospective tenant. As used in this
250 section, the term "physical condition of the property" ~~shall refer~~ *refers* to the physical condition of the land
251 and any improvements thereon, and ~~shall does~~ not refer to: (i) matters outside the boundaries of the land or
252 relating to adjacent or other properties in proximity thereto, (ii) matters relating to governmental land use
253 regulations, and (iii) matters relating to highways or public streets. Such disclosure shall be made in writing.
254 No cause of action shall arise against any licensee for revealing information as required by this article or
255 applicable law. Nothing in this subsection shall limit the right of a prospective tenant to inspect the physical
256 condition of the property.

257 C. A licensee engaged by a landlord in a real estate transaction may, unless prohibited by law or the
258 brokerage agreement, provide assistance to a tenant, or potential tenant, by performing ministerial acts.
259 Performing such ministerial acts that are not inconsistent with subsection A shall not be construed to violate
260 the licensee's brokerage relationship with the landlord unless expressly prohibited by the terms of the
261 brokerage agreement, nor shall performing such ministerial acts be construed to form a brokerage relationship
262 with such tenant or potential tenant.

263 D. A licensee engaged by a landlord does not breach any duty or obligation owed to the landlord by
264 showing alternative properties to prospective tenants, whether as clients or customers, or by representing
265 other landlords who have other properties for lease.

266 E. Licensees in residential real estate transactions shall disclose brokerage relationships pursuant to the
267 provisions of this article.

268 *F. A licensee engaged by a landlord shall not be required to enter into a brokerage agreement with a*
269 *prospective tenant to show property to the prospective tenant when such showing is conducted pursuant to*
270 *and in accordance with a brokerage agreement entered into with a landlord client.*

271 **§ 54.1-2134. Licensees engaged by tenants.**

272 A. A licensee engaged by a tenant shall:

273 1. *Enter into a brokerage agreement with the prospective tenant prior to showing property to such*
274 *prospective tenant;*

275 2. Perform in accordance with the terms of the brokerage agreement;

276 ~~2.~~ 3. Promote the interests of the tenant by:

277 a. Seeking a lease at a rent and with terms acceptable to the tenant; however, the licensee shall not be
278 obligated to seek *or show* other properties for the tenant while the tenant is a party to a lease or a letter of
279 intent to lease exists under which the tenant has not yet taken possession, unless agreed to as part of the
280 brokerage agreement, or unless the lease or the letter of intent to lease so provides;

281 b. Assisting in the drafting and negotiating of leases, letters of intent to lease, and rental applications, and
282 presenting, in a timely fashion, all written offers or counteroffers to and from the tenant and landlord pursuant
283 to § 54.1-2101.1, even when the tenant is already a party to a lease or a letter of intent to lease; and

284 c. Providing reasonable assistance to the tenant to finalize the lease agreement;

285 ~~3.~~ 4. Maintain confidentiality of all personal and financial information received from the client during the
286 brokerage relationship and any other information that the client requests during the brokerage relationship be
287 maintained confidential unless otherwise provided by law or the tenant consents in writing to the release of
288 such information;

289 ~~4.~~ 5. Exercise ordinary care;

290 ~~5.~~ 6. Account in a timely manner for all money and property received by the licensee in which the tenant
291 has or may have an interest;

292 6. 7. Disclose to the tenant material facts related to the property or concerning the transaction of which the
293 licensee has actual knowledge; and

294 7. 8. Comply with all requirements of this article, fair housing statutes and regulations for residential real
295 estate transactions as applicable, and all other applicable statutes and regulations ~~which~~ *that* are not in
296 conflict with this article.

297 B. Licensees shall treat all prospective landlords honestly and shall not knowingly give them false
298 information. If a licensee has actual knowledge of the existence of defective drywall in a residential property,
299 the licensee shall disclose the same to the prospective tenant. For purposes of this section, "defective drywall"
300 means all defective drywall as defined in § 36-156.1. No cause of action shall arise against any licensee for
301 revealing information as required by this article or applicable law.

302 C. A licensee engaged by a tenant in a real estate transaction may provide assistance to the landlord or
303 prospective landlord by performing ministerial acts. Performing such ministerial acts that are not inconsistent
304 with subsection A shall not be construed to violate the licensee's brokerage relationship with the tenant unless
305 expressly prohibited by the terms of the brokerage agreement, nor shall performing such ministerial acts be
306 construed to form a brokerage relationship with the landlord or prospective landlord.

307 D. A licensee engaged by a tenant does not breach any duty or obligation to the tenant by showing
308 properties in which the tenant is interested to other prospective tenants, whether as clients or customers, by
309 representing other tenants looking for the same or other properties to lease, or by representing landlords
310 relative to other properties.

311 E. Licensees in residential real estate transactions shall disclose brokerage relationships pursuant to the
312 provisions of this article.

313 ~~F. Notwithstanding any other provision of law requiring written brokerage agreements or governing the~~
314 ~~duties of licensees, nothing in this chapter shall be construed to require that a written agreement between a~~
315 ~~licensee and a prospective tenant be executed prior to the licensee's showing properties to the prospective~~
316 ~~tenant.~~

317 **§ 54.1-2137. Commencement and termination of brokerage relationships; brokerage agreements**
318 **required.**

319 A. The brokerage relationships set forth in this article shall commence at the time that a client engages a
320 licensee *to provide brokerage services* and shall continue until (i) completion of performance in accordance

321 with the brokerage agreement or (ii) the earlier of (a) any date of expiration agreed upon by the parties as part
322 of the brokerage agreement or in any amendments thereto, (b) any mutually agreed upon termination of the
323 brokerage agreement, (c) a default by any party under the terms of the brokerage agreement, or (d) a
324 termination as set forth in subsection G of § 54.1-2139.

325 *B. Except as otherwise provided in this article, a licensee shall enter into a brokerage agreement with a*
326 *prospective client prior to providing brokerage services. A licensee shall not be required to enter into a*
327 *brokerage agreement prior to preparing property-specific materials with the intent to obtain a brokerage*
328 *relationship with a prospective client.*

329 C. Brokerage agreements shall be in writing and shall:

330 1. Have a definite termination date; however, if a brokerage agreement does not specify a definite
331 termination date, the brokerage agreement shall terminate 90 days after the date of the brokerage agreement;

332 2. State the amount of the brokerage fees and how and when such fees are to be paid;

333 3. State the services to be rendered by the licensee;

334 4. Include such other terms of the brokerage relationship as have been agreed to by the client and the
335 licensee; and

336 5. In the case of brokerage agreements entered into in conjunction with the client's consent to a dual
337 representation, the disclosures set out in subsection A of § 54.1-2139.

338 ~~C.~~ D. Except as otherwise agreed to in writing, a licensee owes no further duties to a client after
339 termination, expiration, or completion of performance of the brokerage agreement, except to (i) account for
340 all moneys and property relating to the brokerage relationship and (ii) keep confidential all personal and
341 financial information received from the client during the course of the brokerage relationship and any other
342 information that the client requests during the brokerage relationship be maintained confidential, unless
343 otherwise provided by law or the client consents in writing to the release of such information.

344 **§ 54.1-2138.1. Limited service agent in a residential real estate transaction, contract disclosure**
345 **required.**

346 A. A licensee may act as a limited service agent in a residential real estate transaction only pursuant to a
347 written brokerage agreement in which the limited service agent (i) discloses that the licensee is acting as a
348 limited service agent; (ii) provides a list of the specific services that the licensee will provide to the client;
349 and (iii) provides a list of the specific duties of a standard agent set out in subdivision A 2 of § 54.1-2131,

350 subdivision A 2 3 of § 54.1-2132, subdivision A 2 of § 54.1-2133, or subdivision A 2 3 of § 54.1-2134, as
351 applicable, that the limited service agent will not provide to the client. Such disclosure shall be conspicuous
352 and printed either in bold lettering or all capitals, and shall be underlined or in a separate box. In addition, a
353 disclosure that contains language that complies substantially in effect with the following shall be deemed in
354 compliance with this disclosure requirement:

355 "By entering into this brokerage agreement, the undersigned do hereby acknowledge their informed
356 consent to the limited service agent in a residential real estate transaction by the licensee and do further
357 acknowledge that neither the other party to the transaction nor any real estate licensee representing the other
358 party is under any legal obligation to assist the undersigned with the performance of any duties and
359 responsibilities of the undersigned not performed by the limited service agent."

360 A limited service agent shall disclose dual agency in accordance with § 54.1-2139.

361 B. A licensee engaged by one client to a residential real estate transaction and dealing with an
362 unrepresented party or with a party represented by a limited service agent and who, without additional
363 compensation, provides such other party information relative to the transaction or undertakes to assist such
364 other party in securing a contract or with such party's obligations thereunder, shall not incur liability for such
365 actions except in the case of gross negligence or willful misconduct. A licensee does not create a brokerage
366 relationship by providing such assistance or information to the other party to the transaction. A licensee
367 dealing with a client of a limited service agent may enter into an agreement with that party for payment of a
368 fee for services performed or information provided by that licensee. Such payment shall not create a
369 brokerage relationship; however, the licensee providing such services or information for a fee shall be held to
370 the ordinary standard of care in the provision of such services or information.

371 **§ 54.1-2139. Disclosed dual agency and dual representation authorized in a residential real estate**
372 **transaction.**

373 A. A licensee may not act as a dual agent or dual representative in a residential real estate transaction
374 unless he has first obtained the written consent of all parties to the transaction given after written disclosure
375 of the consequences of such dual agency or dual representation. A dual agent has an agency relationship
376 under the brokerage agreements with the clients. A dual representative has an independent contractor
377 relationship under the brokerage agreements with the clients. Such disclosure shall be in writing and given to
378 both parties prior to the commencement of such dual agency or dual representation.

379 B. If the licensee is currently representing a party as an agent or independent contractor representative and
380 that party desires to engage in a real estate transaction with another existing client represented by the
381 licensee, the licensee may engage in dual representation provided that prior to commencement thereof the
382 disclosure required by this section is given to both of the licensee's existing clients.

383 C. If the licensee is currently representing a party as an agent or independent contractor representative and
384 the licensee proposes to represent a new client in a dual representation, the licensee may only engage in such
385 dual representation if prior to commencement thereof, the disclosure required by this section is given to the
386 licensee's one existing client and one new client.

387 D. Such disclosures shall not be deemed to comply with the requirements in this section if (i) not signed
388 by the client or (ii) given in a purchase agreement, lease, or any other document related to a transaction.
389 However, such written consent and disclosure of the brokerage relationship as required by this article shall be
390 presumed to have been given as against any client who signs a disclosure as required in this section.

391 E. The obligation to make the disclosures required by this section shall not relieve the licensee of the
392 obligations set out in subsection ~~B~~ C of § 54.1-2137 requiring all brokerage relationships to be set out in a
393 written agreement between the licensee and the client.

394 F. No cause of action shall arise against a dual agent or dual representative for making disclosures of
395 brokerage relationships as provided by this article. A dual agent or dual representative does not terminate any
396 brokerage relationship by the making of any such allowed or required disclosures of dual agency or dual
397 representation.

398 G. In any real estate transaction, a licensee may withdraw, without liability, from representing a client
399 who refuses to consent to a disclosed dual agency or dual representation hereby terminating the brokerage
400 relationship with such client. Such withdrawal shall not prejudice the ability of the licensee to continue to
401 represent the other client in the transaction nor to limit the licensee from representing the client who refused
402 the dual agency or dual representation in other transactions not involving the dual agency or dual
403 representation.

404 H. The dual agency or dual representation disclosure in a residential transaction shall contain the
405 following provisions and disclosure that substantially complies with the following shall be deemed in
406 compliance with this disclosure requirement:

407 DISCLOSURE OF DUAL AGENCY OR DUAL REPRESENTATION IN A RESIDENTIAL REAL

408 ESTATE TRANSACTION

409 The undersigned do hereby acknowledge disclosure that:

410 The licensee _____ (name of broker or salesperson) associated with
411 _____ (Brokerage Firm) represents more than one party in this residential real estate
412 transaction as follows:

413 A. Brokerage Firm represents the following party (select one):

414 Seller(s) Buyer(s) Landlord(s) Tenant(s)

415 As a (select one):

416 standard agent limited service agent independent contractor

417 Brokerage Firm represents another party (select one):

418 Seller(s) Buyer(s) Landlord(s) Tenant(s)

419 As a (select one):

420 standard agent limited service agent independent contractor

421 B. Brokerage Firm disclosure and client acknowledgement of the following (select one):

422 Brokerage Firm represents two existing clients in the transaction and the undersigned acknowledge the
423 following:

424 The undersigned understand that the foregoing dual agent or dual representative may not disclose to either
425 client any information that has been given to the dual agent or representative by the other client within the
426 confidence and trust of the brokerage relationship except for that information which is otherwise required or
427 permitted by Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia to be
428 disclosed.

429 Brokerage Firm represents one existing client and one new client in the transaction and the undersigned
430 acknowledge the following:

431 The undersigned understand:

432 1. That following the commencement of dual agency or representation, the licensee cannot advise either
433 party as to the terms to offer or accept in any offer or counteroffer; however, the licensee may have advised
434 one party as to such terms prior to the commencement of dual agency or representation;

435 2. That the licensee cannot advise the buyer client as to the suitability of the property, its condition (other
436 than to make any disclosures as required by law of any licensee representing a seller), and cannot advise

437 either party as to what repairs of the property to make or request;

438 3. That the licensee cannot advise either party in any dispute that arises relating to the transaction;

439 4. That the licensee may be acting without knowledge of the client's needs, client's knowledge of the
440 market, or client's capabilities in dealing with the intricacies of real estate transactions; and

441 5. That either party may engage another licensee at additional cost to represent their respective interests.

442 The undersigned by signing this notice do hereby acknowledge their informed consent to the disclosed
443 dual representation by the licensee.

444 a _____

445 bDate Name (One Party)

446 c _____

447 dDate Name (One Party)

448 e _____

449 fDate Name (Other Party)

450 g _____

451 hDate Name (Other Party)

452 **§ 54.1-2139.01. Disclosed dual agency and dual representation in commercial real estate**
453 **transactions authorized.**

454 A. A licensee may act as a dual agent or dual representative in a commercial real estate transaction only
455 with the written consent of all clients to the transaction. A dual agent has an agency relationship under the
456 brokerage agreements with the clients. A dual representative has an independent contractor relationship under
457 the brokerage agreements with the clients. Such written consent and disclosure of the brokerage relationship
458 as required by this article shall be presumed to have been given as against any client who signs a disclosure
459 as provided in this section.

460 B. Such disclosure may be given in combination with other disclosures or provided with other
461 information, but if so, the disclosure shall be conspicuous, printed in bold lettering, all capitals, underlined, or
462 within a separate box. Any disclosure which complies substantially in effect with the following shall be
463 deemed in compliance with this disclosure requirement:

464 **DISCLOSURE OF DUAL AGENCY OR DUAL REPRESENTATION IN A COMMERCIAL REAL**
465 **ESTATE TRANSACTION**

466 The undersigned do hereby acknowledge disclosure that:

467 The licensee _____ (name of broker or salesperson) associated
468 with _____ (Brokerage Firm) represents more than one party in this commercial real estate
469 transaction as follows:

470 Brokerage Firm represents the following party (select one):

471 Seller(s) Buyer(s) Landlord(s) Tenant(s)

472 As a (select one):

473 agent independent contractor

474 Brokerage Firm represents another party (select one):

475 Seller(s) Buyer(s) Landlord(s) Tenant(s)

476 As a (select one):

477 agent independent contractor

478 The undersigned understand that the foregoing dual agent or dual representative may not disclose to either
479 client any information that has been given to the dual agent or representative by the other client within the
480 confidence and trust of the brokerage relationship except for that information which is otherwise required or
481 permitted by Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia to be
482 disclosed.

483 The undersigned by signing this notice do hereby acknowledge their informed consent to the disclosed
484 dual representation by the licensee.

485 a _____

486 bDate Name (One Party)

487 c _____

488 dDate Name (One Party)

489 e _____

490 fDate Name (One Party)

491 g _____

492 hDate Name (One Party)

493 C. The obligation to make the disclosures required by this section shall not relieve the licensee of the
494 obligations set out in subsection ~~B~~ C of § 54.1-2137 requiring all brokerage relationships to be set out in a
495 written agreement between the licensee and the client.

496 D. No cause of action shall arise against a dual representative for making disclosures of brokerage
497 relationships as provided by this article. A dual representative does not terminate any brokerage relationship
498 by the making of any such allowed or required disclosures of dual representation.

499 E. In any real estate transaction, a licensee may withdraw, without liability, from representing a client who
500 refuses to consent to a disclosed dual representation thereby terminating the brokerage relationship with such
501 client. Such withdrawal shall not prejudice the ability of the licensee to continue to represent the other client
502 in the transaction or to limit the licensee from representing the client who refused the dual representation in

503 other transactions not involving dual representation.

504 § 54.1-2139.1. Designated standard agency or designated representation authorized in a residential
505 real estate transaction.

506 A. A principal or supervising broker may assign different licensees affiliated with the broker as designated
507 agent or representative to represent different clients in the same residential real estate transaction to the
508 exclusion of all other licensees in the firm. Use of such designated agents or representatives shall not
509 constitute dual agency or representation if a designated agent or representative is not representing more than
510 one client in a particular real estate transaction; however, the principal or broker who is supervising the
511 transaction shall be considered a dual agent or representative as provided in this article. Designated agents or
512 representatives may not disclose, except to the affiliated licensee's broker, personal or financial information
513 received from the clients during the brokerage relationship and any other information that the client requests
514 during the brokerage relationship be kept confidential, unless otherwise provided for by law or the client
515 consents in writing to the release of such information.

516 B. Use of designated agents or representatives in a residential real estate transaction shall be disclosed in
517 accordance with the provisions of this article. Such disclosure may be given in combination with other
518 disclosures or provided with other information, but if so, the disclosure shall be conspicuous, printed in bold
519 lettering, all capitals, underlined, or within a separate box. Any disclosure that complies substantially in effect
520 with the following shall be deemed in compliance with such disclosure requirement:

521 DISCLOSURE OF DESIGNATED AGENTS OR REPRESENTATIVES IN A RESIDENTIAL REAL
522 ESTATE TRANSACTION

523 The undersigned do hereby acknowledge disclosure that:

524 The licensee _____ (Name of Broker and Firm) represents more than one party in this
525 residential real estate transaction as indicated below:

526 _____ Seller(s) and Buyer(s)

527 _____ Landlord(s) and Tenant(s).

528 The undersigned understand that the foregoing dual agent or representative may not disclose to either
529 client or such client's designated agent or representative any information that has been given to the dual agent
530 or representative by the other client within the confidence and trust of the brokerage relationship except for
531 that information which is otherwise required or permitted by Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of

532 Title 54.1 of the Code of Virginia to be disclosed.

533 The principal or supervising broker has assigned _____ to act as Designated Agent or
534 Representative (broker or salesperson) for the one party as indicated below:

535 Seller(s) Buyer(s) Landlord(s) Tenant(s)

536 As a (select one):

537 standard agent limited service agent independent contractor

538 _____ (broker or salesperson) to act as Designated Agent or Representative for the
539 other party as indicated below:

540 Seller(s) Buyer(s) Landlord(s) Tenant(s)

541 As a (select one):

542 standard agent limited service agent independent contractor

543 The undersigned by signing this notice do hereby acknowledge their consent to the disclosed dual
544 representation by the licensee.

545 a _____

546 bDate Name (One Party)

547 c _____

548 dDate Name (One Party)

549 e _____

550 fDate Name (One Party)

551 g _____

552 hDate Name (One Party)

553 C. The obligation to make the disclosures required by this section shall not relieve the licensee of the
554 obligations set out in subsection ~~B~~ C of § 54.1-2137 requiring all brokerage relationships to be set out in a
555 written agreement between the licensee and the client.

556 D. No cause of action shall arise against a designated agent or representative for making disclosures of
557 brokerage relationships as provided by this article. A designated agent or representative does not terminate
558 any brokerage relationship by the making of any such allowed or required disclosures of dual representation.

559 E. In any residential real estate transaction, a licensee may withdraw, without liability, from representing a
560 client who refuses to consent to a disclosed designated agency or representation agreement thereby
561 terminating the brokerage relationship with such client. Such withdrawal shall not prejudice the ability of the
562 licensee to continue to represent the other client in the transaction or to limit the licensee from representing
563 the client who refused the designated agency or representation relationship in other transactions not involving
564 designated representation.