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HOUSE BILL NO. 1684

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws on January 30, 2025)

(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.

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

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

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

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

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

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

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

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

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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 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 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 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 ~~3.~~ 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 \_\_\_\_\_  
445 Date Name (One Party)

446 \_\_\_\_\_  
447 Date Name (One Party)

448 \_\_\_\_\_  
449 Date Name (Other Party)

450 \_\_\_\_\_  
451 Date 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 \_\_\_\_\_  
486 Date Name (One Party)

487 \_\_\_\_\_  
488 Date Name (One Party)



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Date Name (One Party)

\_\_\_\_\_  
Date Name (One Party)

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

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

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

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

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

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

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

The undersigned do hereby acknowledge disclosure that:

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

- \_\_\_\_\_ Seller(s) and Buyer(s)
- \_\_\_\_\_ Landlord(s) and Tenant(s).

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

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

- Seller(s)  Buyer(s)  Landlord(s)  Tenant(s)
- As a (select one):
- standard agent  limited service agent  independent contractor

\_\_\_\_\_ (broker or salesperson) to act as Designated Agent or Representative for the other party as indicated below:

- Seller(s)  Buyer(s)  Landlord(s)  Tenant(s)
- As a (select one):
- standard agent  limited service agent  independent contractor

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

\_\_\_\_\_  
Date Name (One Party)

\_\_\_\_\_  
Date Name (One Party)

550 Date Name (One Party)  
 551 \_\_\_\_\_  
 552 Date 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.