



Real Estate Licensee Duties to the Client

A.C.C. R4-28-1101

You have questions, we have answers.

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The licensee shall also deal fairly with all other parties to a transaction.

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A. A licensee participating in a real estate transaction shall disclose in writing to all other parties any information the licensee possesses that materially or adversely affects the consideration to be paid by any party to the transaction, including:

1. Any information that the seller or lessor is or may be unable to perform;
2. Any information that the buyer or lessee is, or may be, unable to perform;
3. Any material defect existing in the property being transferred; and
4. The existence of a lien or encumbrance on the property being transferred.

B. A licensee shall expeditiously perform all acts required by the holding of a license. A licensee shall not delay performance, either intentionally or through neglect.

C. A licensee shall not allow a controversy with another licensee to jeopardize, delay, or interfere with the initiation, processing, or finalizing of a transaction on behalf of a client. This prohibition does not obligate a licensee to agree to alter terms of any employment or compensation agreement or to relinquish the right to maintain an action to resolve a controversy.

D. A real estate salesperson or broker shall not act directly or indirectly in a transaction without informing the other parties in the transaction, in writing and before the parties enter any binding agreement, of a present or prospective interest or conflict in the transaction, including that the:

1. Salesperson or broker has a license and is acting as a principal;
2. Purchaser or seller is a member of the salesperson's, broker's, or designated broker's immediate family;
3. Purchaser or seller is the salesperson's or broker's employing broker, or owns or is employed by the salesperson's or broker's employing broker; or
4. Salesperson or broker, or a member of the salesperson's or broker's immediate family, has a financial interest in the transaction other than the salesperson's or broker's receipt of compensation for the real estate services.

E. A salesperson or broker shall not accept compensation from or represent more than one party to a transaction without the prior written consent of all parties.

F. A salesperson or broker shall not accept any compensation, including rebate or other consideration; directly or indirectly for any goods or services provided to a person if the goods or services are related to or result from a real estate transaction, without that person's prior written acknowledgement of the compensation. This prohibition does not apply to compensation paid to a broker by a broker who represents a party in the transaction.

G. The services that a salesperson or broker provides to a client or a customer shall conform to the standards of practice and competence recognized in the professional community for the specific real estate discipline in which the salesperson or broker engages. A salesperson or broker shall not undertake to provide professional services concerning a type of property or service that is outside the salesperson's or broker's field of competence without engaging the assistance of a person who is competent to provide those services; unless the salesperson's or broker's lack of expertise is first disclosed to the client in writing and the client subsequently employs the salesperson or broker.

H. A salesperson or broker shall exercise reasonable care in ensuring that the salesperson or broker obtains information material to a client's interests and relevant to the contemplated transaction and accurately communicates the information to the client. A salesperson or broker is not required to have expertise in subject areas other than those required to obtain salesperson's or broker's license. A salesperson or broker shall take reasonable steps to assist a client in confirming the accuracy of information relevant to the transaction.

I. A salesperson or broker shall not:

1. Permit or facilitate occupancy in a person's real property by a third party without prior written authorization from the person, or;
2. Deliver possession prior to closing unless expressly instructed to do so by the owner of the property or property interest being transferred.

J. A salesperson or broker shall recommend to a client that the client seek appropriate counsel from insurance, legal, tax and accounting professionals regarding the risks of prepossession or post-possession of a property.