
**Consumer Protection & Business
Committee**

HB 2059

Brief Description: Concerning real estate agency law, but only to clarify that the statutory duties of real estate brokers apply to all parties and prohibiting the delivery of buyer unfair practice letters to the seller of residential real estate.

Sponsors: Representatives Gregerson, Leavitt, Morgan, Vick, Gilday, Rude, Chapman, Barkis and Lekanoff.

Brief Summary of Bill

- Prohibits real estate brokers from presenting a "buyer unfair practice letter," defined as a written communication from a buyer, or someone acting on a buyer's behalf, reasonably read to be intended to persuade a seller of residential real estate to sell to a buyer because of a status, trait, class, or characteristic identified in Washington's Law Against Discrimination, or any related law.
- Provides that brokers rendering real estate brokerage services owe statutory duties to all parties in a transaction.

Hearing Date: 1/27/22

Staff: Michelle Rusk (786-7153).

Background:

Real Estate Brokers.

The Department of Licensing is responsible for licensing and regulating real estate brokers, who must meet minimum age, education, and experience requirements to obtain a license to perform

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real estate brokerage services on behalf of a licensed real estate firm. Performing real estate brokerage services includes, but is not limited to, rendering the following services directly or indirectly on another's behalf for compensation: (1) listing, selling, purchasing, or renting real estate; (2) negotiating or offering to negotiate the purchase, sale, or lease of real estate; (3) advising buyers, sellers, landlords, or tenants in connection with real estate; and (4) advertising oneself to the public as engaging in such services.

A broker is an "agent" when the broker enters into an agency relationship with a buyer or seller to perform real estate brokerage services, which relationship may be created by written agreement or statute. Regardless of whether a broker is an agent, a broker owes to all parties to whom the broker renders real estate brokerage services certain duties, which may not be waived, including:

- exercising reasonable skill and care;
- dealing honestly and in good faith;
- presenting all written offers, notices, and other written communications to and from parties in a timely manner; and
- disclosing existing material facts a broker knows and are not apparent or readily ascertainable to a party.

A recent Washington State Court of Appeals case, *Falcon Properties, LLC v. Bowfits 1308, LLC*, stated that the statutory duties of brokers apply only to the broker's own client, not to other parties in a transaction.

Housing Discrimination Laws.

Federal, state, and local laws prohibit discrimination in the sale or rental of housing. The Washington Law Against Discrimination prohibits discrimination in real estate transactions or services based on race, color, creed, national origin, citizenship or immigration status, families with children, sex, marital status, sexual orientation, or honorably discharged veteran or military status. The law also protects persons from discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

Summary of Bill:

Real Estate Brokers.

A real estate broker who renders real estate brokerage services owes statutory duties to all parties, rather than to all parties to whom the broker renders real estate brokerage services.

A new statutory duty for real estate brokers is added, which requires brokers not to present, or facilitate the provision of, a "buyer unfair practice letter" to a seller, or other written communication related to a transaction that a seller instructs a broker in writing not to present. A "buyer unfair practice letter" means a written communication from a buyer, or someone acting on a buyer's behalf, reasonably read to be intended to persuade a seller of residential real estate to sell to a buyer because of a status, trait, class, or characteristic identified in Washington's Law

Against Discrimination relating to real estate transactions, facilities, or services, or any related law.

Refraining from presenting a buyer unfair practice letter is made an exception to a broker's duty to present all written offers, notices, and other written communications to and from parties in a timely manner.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.