
SUBSTITUTE HOUSE BILL 2059

State of Washington

67th Legislature

2022 Regular Session

By House Consumer Protection & Business (originally sponsored by Representatives Gregerson, Leavitt, Morgan, Vick, Gilday, Rude, Chapman, Barkis, and Lekanoff)

READ FIRST TIME 02/02/22.

1 AN ACT Relating to real estate agency law, but only to clarify
2 that the statutory duties of real estate brokers apply to all parties
3 and prohibiting the delivery of buyer unfair practice letters to the
4 seller of residential real estate; and amending RCW 18.86.010 and
5 18.86.030.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 18.86.010 and 2013 c 58 s 1 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Agency relationship" means the agency relationship created
12 under this chapter or by written agreement between a real estate firm
13 and a buyer and/or seller relating to the performance of real estate
14 brokerage services.

15 (2) "Agent" means a broker who has entered into an agency
16 relationship with a buyer or seller.

17 (3) "Broker" means broker, managing broker, and designated
18 broker, collectively, as defined in chapter 18.85 RCW, unless the
19 context requires the terms to be considered separately.

20 (4) "Business opportunity" means and includes a business,
21 business opportunity, and goodwill of an existing business, or any

1 one or combination thereof when the transaction or business includes
2 an interest in real property.

3 (5) "Buyer" means an actual or prospective purchaser in a real
4 estate transaction, or an actual or prospective tenant in a real
5 estate rental or lease transaction, as applicable.

6 (6) "Buyer unfair practice letter" means a written communication
7 or image from a buyer, or someone acting on a buyer's behalf,
8 reasonably interpreted to be intended to persuade a seller of
9 residential real estate to sell to a buyer because of a status,
10 trait, class, or characteristic identified in RCW 49.60.222 or any
11 related law.

12 (7) "Buyer's agent" means a broker who has entered into an agency
13 relationship with only the buyer in a real estate transaction, and
14 includes subagents engaged by a buyer's agent.

15 ((+7)) (8) "Confidential information" means information from or
16 concerning a principal of a broker that:

17 (a) Was acquired by the broker during the course of an agency
18 relationship with the principal;

19 (b) The principal reasonably expects to be kept confidential;

20 (c) The principal has not disclosed or authorized to be disclosed
21 to third parties;

22 (d) Would, if disclosed, operate to the detriment of the
23 principal; and

24 (e) The principal personally would not be obligated to disclose
25 to the other party.

26 ((+8)) (9) "Dual agent" means a broker who has entered into an
27 agency relationship with both the buyer and seller in the same
28 transaction.

29 ((+9)) (10) "Material fact" means information that substantially
30 adversely affects the value of the property or a party's ability to
31 perform its obligations in a real estate transaction, or operates to
32 materially impair or defeat the purpose of the transaction. The fact
33 or suspicion that the property, or any neighboring property, is or
34 was the site of a murder, suicide or other death, rape or other sex
35 crime, assault or other violent crime, robbery or burglary, illegal
36 drug activity, gang-related activity, political or religious
37 activity, or other act, occurrence, or use not adversely affecting
38 the physical condition of or title to the property is not a material
39 fact.

1 ~~((10))~~ (11) "Principal" means a buyer or a seller who has
2 entered into an agency relationship with a broker.

3 ~~((11))~~ (12) "Real estate brokerage services" means the
4 rendering of services for which a real estate license is required
5 under chapter 18.85 RCW.

6 ~~((12))~~ (13) "Real estate firm" or "firm" have the same meaning
7 as defined in chapter 18.85 RCW.

8 ~~((13))~~ (14) "Real estate transaction" or "transaction" means an
9 actual or prospective transaction involving a purchase, sale, option,
10 or exchange of any interest in real property or a business
11 opportunity, or a lease or rental of real property. For purposes of
12 this chapter, a prospective transaction does not exist until a
13 written offer has been signed by at least one of the parties.

14 ~~((14))~~ (15) "Seller" means an actual or prospective seller in a
15 real estate transaction, or an actual or prospective landlord in a
16 real estate rental or lease transaction, as applicable.

17 ~~((15))~~ (16) "Seller's agent" means a broker who has entered
18 into an agency relationship with only the seller in a real estate
19 transaction, and includes subagents engaged by a seller's agent.

20 ~~((16))~~ (17) "Subagent" means a broker who is engaged to act on
21 behalf of a principal by the principal's agent where the principal
22 has authorized the broker in writing to appoint subagents.

23 **Sec. 2.** RCW 18.86.030 and 2013 c 58 s 3 are each amended to read
24 as follows:

25 (1) Regardless of whether a broker is an agent, ~~((the))~~ a broker
26 ~~((owes to all parties to whom the broker))~~ who renders real estate
27 brokerage services owes the following duties to all parties, which
28 may not be waived:

29 (a) To exercise reasonable skill and care;

30 (b) To deal honestly and in good faith;

31 (c) To present all written offers, written notices and other
32 written communications to and from either party in a timely manner,
33 regardless of whether the property is subject to an existing contract
34 for sale or the buyer is already a party to an existing contract to
35 purchase, except that a broker shall not present a buyer unfair
36 practice letter or other written communication related to a
37 prospective transaction that a seller instructs a broker in writing
38 not to present;

1 (d) To disclose all existing material facts known by the broker
2 and not apparent or readily ascertainable to a party; provided that
3 this subsection shall not be construed to imply any duty to
4 investigate matters that the broker has not agreed to investigate;

5 (e) To account in a timely manner for all money and property
6 received from or on behalf of either party;

7 (f) To provide a pamphlet on the law of real estate agency in the
8 form prescribed in RCW 18.86.120 to all parties to whom the broker
9 renders real estate brokerage services, before the party signs an
10 agency agreement with the broker, signs an offer in a real estate
11 transaction handled by the broker, consents to dual agency, or waives
12 any rights, under RCW 18.86.020(1)(e), 18.86.040(1)(e),
13 18.86.050(1)(e), or 18.86.060(2)(e) or (f), whichever occurs
14 earliest; (~~and~~)

15 (g) To disclose in writing to all parties to whom the broker
16 renders real estate brokerage services, before the party signs an
17 offer in a real estate transaction handled by the broker, whether the
18 broker represents the buyer, the seller, both parties, or neither
19 party. The disclosure shall be set forth in a separate paragraph
20 entitled "Agency Disclosure" in the agreement between the buyer and
21 seller or in a separate writing entitled "Agency Disclosure(~~(-)~~)";
22 and

23 (h) To refrain from presenting or facilitating the provision of a
24 buyer unfair practice letter to a seller.

25 (2) Unless otherwise agreed, a broker owes no duty to conduct an
26 independent inspection of the property or to conduct an independent
27 investigation of either party's financial condition, and owes no duty
28 to independently verify the accuracy or completeness of any statement
29 made by either party or by any source reasonably believed by the
30 broker to be reliable.

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