

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS – AGENCY RELATIONSHIPS IN
RESIDENTIAL REAL ESTATE TRANSACTIONS

Introduced By: Representatives Lewiss, Shavers, Cerra, Winfield, and Picard

Date Introduced: February 11, 2004

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-20.6-2 and 5-20.6-8 of the General Laws in Chapter 5-20.6
2 entitled "Agency Relationships in Residential Real Estate Transactions" are hereby amended to
3 read as follows:

4 **5-20.6-2. Agency status.** -- (a) In the practice of real estate brokerage, real estate agents
5 are considered to be the agent of the seller of real estate unless there is [a signed disclosure form](#)
6 [as set forth in section 5-20.6-6](#) or an agreement in writing to the contrary between the buyer(s)
7 and agent, and the agreement is disclosed to all parties.

8 (b) As agent, the real estate broker and salesperson are obligated to perform the duties of
9 agency, as to whether the agent represents the seller or the buyer. The specific duties of the agent
10 are as set forth in section 5-20.6-6.

11 (c) A broker or salesperson, operating as a subagent in cooperation with a listing agent,
12 owes the same duties and fiduciary responsibility to the seller as the agent. A subagent has the
13 following additional duties:

14 (1) To keep the agent informed as to the buyer's progress in meeting contingencies in the
15 contract for sale or lease of real property; and

16 (2) To provide required services to buyers to consummate the sale.

17 (d) A broker who is associated with a real estate firm, not as principal broker in the firm,
18 shall be considered a subagent, and shall utilize the term "associate broker". An associate broker

1 may be affiliated with a real estate firm as either an employee or an independent contractor.

2 (e) A broker associate or salesperson may establish independent contractor status by an
3 appropriate written contract which essentially conforms to the exemption requirements under the
4 internal revenue code.

5 **5-20.6-8. Disclosed dual agency.** -- (a) "A real estate agent can legally be the agent of
6 both the seller and the buyer in a transaction, when the agent has signed a buyer agency
7 agreement with buyer or provided the buyer with a disclosure form as set forth in section 5-20.6-6
8 and buyer is purchasing property listed by the real estate firm of the agent."

9 (b) Disclosed dual agency can only exist with the knowledge and consent of seller and
10 buyer.

11 (c) Where the seller refuses the disclosed agency, then the agent is released from his or
12 her obligations to the buyer, but must continue to treat the buyer fairly and honestly and must not
13 reveal confidential information obtained from the buyer without approval of the buyer.

14 (d) When a buyer utilizing the services of a buyer's agent desires to make an offer on
15 property listed by the buyer's agent real estate firm, the following form must be signed by the
16 buyer, seller and agent:

17 State of Rhode Island

Date

18 DISCLOSED DUAL AGENCY

19 As the undersigned buyer and seller, it is agreed that the property on which offer is to be
20 made is presently listed with the firm of the undersigned agent, who had been earlier retained by
21 the buyer as the buyer's agent.

22 It is understood that agent cannot disclose confidential information obtained from either
23 party which would materially effect a purchase or sale decision by either party.

24 Agent will exercise diligent and reasonable skill and care in treating both parties honestly
25 and fairly and deal in good faith.

26 BUYER

SELLER

AGENT

27 _____

_____ COMPANY _____

28 SECTION 2. This act shall take effect upon passage.

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LC02400/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS – AGENCY RELATIONSHIPS IN
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1 This act would require that real estate agents be considered the agent of the seller unless
2 there is executed a statutory disclosure form to the contrary between the buyer(s) and agent, and
3 this form is disclosed to all parties.

4 This act would take effect upon passage.

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LC02400/SUB A
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