

**RCW 18.86.120 Pamphlet on the law of real estate agency—Content**  
**—Definition. (Effective until January 1, 2024.)** (1) The pamphlet required under RCW 18.86.030(1)(f) shall consist of the entire text of RCW 18.86.010 through 18.86.030 and 18.86.040 through 18.86.110 with a separate cover page. The pamphlet shall be 8 1/2 by 11 inches in size, the text shall be in print no smaller than 10-point type, the cover page shall be in print no smaller than 12-point type, and the title of the cover page "The Law of Real Estate Agency" shall be in print no smaller than 18-point type. The cover page shall be in the following form:

**The Law of Real Estate Agency**

This pamphlet describes your legal rights in dealing with a real estate firm or broker. Please read it carefully before signing any documents.

The following is only a brief summary of the attached law:

Sec. 1. Definitions. Defines the specific terms used in the law.

Sec. 2. Relationships between Brokers and the Public. Prescribes that a broker who works with a buyer or tenant represents that buyer or tenant—unless the broker is the listing agent, a seller's subagent, a dual agent, the seller personally or the parties agree otherwise. Also prescribes that in a transaction involving two different brokers licensed to the same real estate firm, the firm's designated broker and any managing broker responsible for the supervision of both brokers, are dual agents and each broker solely represents his or her client—unless the parties agree in writing that both brokers are dual agents.

Sec. 3. Duties of a Broker Generally. Prescribes the duties that are owed by all brokers, regardless of who the broker represents. Requires disclosure of the broker's agency relationship in a specific transaction.

Sec. 4. Duties of a Seller's Agent. Prescribes the additional duties of a broker representing the seller or landlord only.

Sec. 5. Duties of a Buyer's Agent. Prescribes the additional duties of a broker representing the buyer or tenant only.

Sec. 6. Duties of a Dual Agent. Prescribes the additional duties of a broker representing both parties in the same transaction, and requires the written consent of both parties to the broker acting as a dual agent.

Sec. 7. Duration of Agency Relationship. Describes when an agency relationship begins and ends. Provides that the duties of accounting and confidentiality continue after the termination of an agency relationship.

Sec. 8. Compensation. Allows real estate firms to share compensation with cooperating real estate firms. States that payment of compensation does not necessarily establish an agency relationship. Allows brokers to receive compensation from more than one party in a transaction with the parties' consent.

Sec. 9. Vicarious Liability. Eliminates the liability of a party for the conduct of the party's agent or subagent, unless the principal participated in or benefited from the

conduct or the agent or subagent is insolvent. Also limits the liability of a broker for the conduct of a subagent.  
Sec. 10. Imputed Knowledge and Notice. Eliminates the common law rule that notice to or knowledge of an agent constitutes notice to or knowledge of the principal.  
Sec. 11. Interpretation. This law establishes statutory duties which replace common law fiduciary duties owed by an agent to a principal.  
Sec. 12. Short Sale. Prescribes an additional duty of a firm representing the seller of owner-occupied real property in a short sale.

(2) (a) The pamphlet required under RCW 18.86.030(1)(f) must also include the following disclosure: When the seller of owner-occupied residential real property enters into a listing agreement with a real estate firm where the proceeds from the sale may be insufficient to cover the costs at closing, it is the responsibility of the real estate firm to disclose to the seller in writing that the decision by any beneficiary or mortgagee, or its assignees, to release its interest in the real property, for less than the amount the borrower owes, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including fees such as the real estate firm's commission.

(b) For the purposes of this subsection, "owner-occupied real property" means real property consisting solely of a single-family residence, a residential condominium unit, or a residential cooperative unit that is the principal residence of the borrower. [2013 c 58 § 13; 2012 c 185 § 2; 1997 c 217 § 7; 1996 c 179 § 13.]

**Real estate agency pamphlet—1997 c 217 §§ 1-6:** "Amendments set forth in sections 1 through 6 of this act are not required to be included in the pamphlet on the law of real estate agency required under RCW 18.86.030(1)(f) and 18.86.120 until January 1, 1998." [1997 c 217 § 8.]

**Effective date—1997 c 217 § 7:** "Section 7 of this act takes effect January 1, 1998." [1997 c 217 § 10.]

**RCW 18.86.120 Pamphlet on real estate brokerage in Washington—Content—Definition. (Effective January 1, 2024.)** The pamphlet required under RCW 18.86.030(1)(f) shall be formatted so it can be easily reviewed by a buyer or seller, including a legible font and font size. The pamphlet shall be in the following form:

## **Real Estate Brokerage in Washington**

### **Introduction**

This pamphlet provides general information about real estate brokerage and summarizes the laws related to real estate brokerage relationships. It describes a real estate broker's duties to the seller/landlord and buyer/tenant. Detailed and complete information about real estate brokerage relationships is available in chapter 18.86 RCW.

If you have any questions about the information in this pamphlet, contact your broker or the designated broker of your broker's firm.

## **Licensing and Supervision of Brokers**

To provide real estate brokerage services in Washington, a broker must be licensed under chapter 18.85 RCW and licensed with a real estate firm, which also must be licensed. Each real estate firm has a designated broker who is responsible for supervising the brokers licensed with the firm. Some firms may have branch offices that are supervised by a branch manager and some firms may delegate certain supervisory duties to one or more managing brokers.

The Washington State Department of Licensing is responsible for enforcing all laws and rules relating to the conduct of real estate firms and brokers.

## **Agency Relationship**

In an agency relationship, a broker is referred to as an "agent" and the seller/landlord and buyer/tenant is referred to as the "principal." For simplicity, in this pamphlet, seller includes landlord, and buyer includes tenant.

### **For Sellers**

A real estate firm and broker must enter into a written services agreement with a seller to establish an agency relationship. The firm will then appoint one or more brokers to be agents of the seller. The firm's designated broker and any managing broker responsible for the supervision of those brokers are also agents of the seller.

### **For Buyers**

A real estate firm and broker(s) who perform real estate brokerage services for a buyer establish an agency relationship by performing those services. The firm's designated broker and any managing broker responsible for the supervision of that broker are also agents of the buyer. A written services agreement between the buyer and the firm must be entered into before, or as soon as reasonably practical after, a broker begins rendering real estate brokerage services to the buyer.

### **For both Buyer and Seller - as a Limited Dual Agent**

A limited dual agent provides limited representation to both the buyer and the seller in a transaction. Limited dual agency requires the consent of each principal in a written services agreement and may occur in two situations: (1) When the buyer and the seller are represented by the same broker, in which case the broker's designated broker and any managing broker responsible for the supervision of that broker are also limited dual agents; and (2) when the buyer and the seller are represented by different brokers in the same firm, in which case each broker solely represents the principal the broker was appointed to represent, but the broker's designated broker and any managing broker responsible for the supervision of those brokers are limited dual agents.

### **Duration of Agency Relationship**

Once established, an agency relationship continues until the earliest of the following:

- (1) Completion of performance by the broker;
- (2) Expiration of the term agreed upon by the parties;
- (3) Termination of the relationship by mutual agreement of the parties; or

(4) Termination of the relationship by notice from either party to the other. However, such a termination does not affect the contractual rights of either party.

### **Written Services Agreement**

A written services agreement between the firm and principal must contain the following:

- (1) The term (duration) of the agreement;
- (2) Name of the broker(s) appointed to act as an agent for the principal;
- (3) Whether the agency relationship is exclusive (which does not allow the principal to enter into an agency relationship with another firm during the term) or nonexclusive (which allows the principal to enter into an agency relationship with multiple firms at the same time);
- (4) Whether the principal consents to limited dual agency;
- (5) The terms of compensation;
- (6) In an agreement with a buyer, whether the broker agrees to show a property when there is no agreement or offer by any party or firm to pay compensation to the broker's firm; and
- (7) Any other agreements between the parties.

### **A Broker's Duties to All Parties**

A broker owes the following duties to all parties in a transaction:

- (1) To exercise reasonable skill and care;
- (2) To deal honestly and in good faith;
- (3) To timely present all written offers, written notices, and other written communications to and from either party;
- (4) To disclose all existing material facts known by the broker and not apparent or readily ascertainable to a party. A material fact includes information that substantially adversely affects the value of the property or a party's ability to perform its obligations in a transaction, or operates to materially impair or defeat the purpose of the transaction. However, a broker does not have any duty to investigate matters that the broker has not agreed to investigate;
- (5) To account in a timely manner for all money and property received from or on behalf of either party;
- (6) To provide this pamphlet to all parties to whom the broker renders real estate brokerage services and to any unrepresented party;
- (7) To disclose in writing who the broker represents; and
- (8) To disclose in writing any terms of compensation offered by a party or a real estate firm to a real estate firm representing another party.

### **A Broker's Duties to the Buyer or Seller**

A broker owes the following duties to their principal (either the buyer or seller):

- (1) To be loyal to their principal by taking no action that is adverse or detrimental to their principal's interest in a transaction;
- (2) To timely disclose to their principal any conflicts of interest;
- (3) To advise their principal to seek expert advice on matters relating to the transaction that are beyond the broker's expertise;
- (4) To not disclose any confidential information from or about their principal; and
- (5) To make a good faith and continuous effort to find a property for the buyer or to find a buyer for the seller's property, until the

principal has entered a contract for the purchase or sale of property or as agreed otherwise in writing.

### **Limited Dual Agent Duties**

A limited dual agent may not advocate terms favorable to one principal to the detriment of the other principal. A broker, acting as a limited dual agent, owes the following duties to both the buyer and seller:

- (1) To take no action that is adverse or detrimental to either principal's interest in a transaction;
- (2) To timely disclose to both principals any conflicts of interest;
- (3) To advise both principals to seek expert advice on matters relating to the transaction that are beyond the limited dual agent's expertise;
- (4) To not disclose any confidential information from or about either principal; and
- (5) To make a good faith and continuous effort to find a property for the buyer and to find a buyer for the seller's property, until the principals have entered a contract for the purchase or sale of property or as agreed otherwise in writing.

### **Compensation**

In any real estate transaction, a firm's compensation may be paid by the seller, the buyer, a third party, or by sharing the compensation between firms. To receive compensation from any party, a firm must have a written services agreement with the party the firm represents (or provide a "Compensation Disclosure" to the buyer in a transaction for commercial real estate).

A services agreement must contain the following regarding compensation:

- (1) The amount the principal agrees to compensate the firm for broker's services as an agent or limited dual agent;
- (2) The principal's consent, if any, and any terms of such consent, to compensation sharing between firms and parties; and
- (3) The principal's consent, if any, and any terms of such consent, to compensation of the firm by more than one party.

### **Short Sales**

A "short sale" is a transaction where the seller's proceeds from the sale are insufficient to cover seller's obligations at closing (e.g., the seller's outstanding mortgage is greater than the sale price). If a sale is a short sale, the seller's real estate firm must disclose to the seller that the decision by any beneficiary or mortgagee, to release its interest in the property for less than the amount the seller owes to allow the sale to proceed, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including real estate firms' compensation. [2023 c 318 § 11; 2013 c 58 § 13; 2012 c 185 § 2; 1997 c 217 § 7; 1996 c 179 § 13.]

**Effective date—2023 c 318:** See note following RCW 18.86.010.

**Real estate agency pamphlet—1997 c 217 §§ 1-6:** "Amendments set forth in sections 1 through 6 of this act are not required to be included in the pamphlet on the law of real estate agency required

under RCW 18.86.030(1)(f) and 18.86.120 until January 1, 1998." [1997 c 217 § 8.]

**Effective date—1997 c 217 § 7:** "Section 7 of this act takes effect January 1, 1998." [1997 c 217 § 10.]