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Code of Virginia
Title 54.1. Professions and Occupations
Chapter 21. Real Estate Brokers, Sales Persons and Rental Location Agents

§ 54.1-2130. Definitions.

As used in this article:

"Agency" refers to any relationship in which a real estate licensee represents or acts on behalf of a person as an agent with that person's express authorization in a commercial or residential real estate transaction, unless a different legal relationship is intended and agreed upon in the brokerage agreement. This article does not prevent a licensee and a client from establishing a written brokerage relationship in which the licensee operates as an independent contractor or assumes additional obligations beyond those outlined in this article. However, if a licensee agrees to additional obligations, they are responsible for fulfilling them as specified in the brokerage agreement.

A real estate licensee who enters a brokerage relationship through a written agreement explicitly stating they are acting as an independent contractor rather than an agent is bound by the obligations outlined in the agreement. Additionally, the licensee and their employees must comply with the provisions of subdivisions A 3 through 7 and subsections B and E of §§ 54.1-2131 through 54.1-2135, but otherwise, they have no obligations under those sections. Any real estate licensee representing a client in an agency relationship for a residential real estate transaction must act as either a standard agent or a limited service agent.

""Agent" refers to a real estate licensee who serves as (i) a standard agent in a residential real estate transaction, (ii) a limited service agent in a residential real estate transaction, or (iii) an agent in a commercial real estate transaction.

"Brokerage agreement" refers to a written contract that establishes a brokerage relationship between a client and a licensee. It must specify whether the real estate licensee will act as an agent or an independent contractor for the client.

"Brokerage relationship" refers to the contractual arrangement between a client and a real estate licensee, in which the licensee is hired to secure a seller, buyer, option holder, tenant, or landlord who is ready, willing, and able to complete a real estate transaction on the client's behalf.

"Client" means a person who has entered into a brokerage relationship with a licensee.

"Commercial real estate" refers to any property that is not (i) real estate with one to four residential units or (ii) property classified for assessment under § 58.1-3230. It does not include single-family residential units such as condominiums, townhouses, apartments, or homes within a subdivision when leased individually may be part of a larger building or parcel of real estate containing more than four residential units.

"Common source information company" refers to any person, firm, or corporation that gathers, compiles, or provides information on real estate for sale or lease, including but not limited to multiple listing services.

""Customer" refers to an individual who has not established a brokerage relationship with a licensee but receives ministerial acts from the licensee in a real estate transaction. Unless a formal brokerage relationship is established, the individual is presumed to be a customer rather than a client.

"Designated agent" or "designated representative" refers to a licensee appointed by a principal or supervising broker to represent a client when the broker is also representing another client in the same transaction. The designated representative must act solely as an independent contractor.

"Dual agent" or "dual representative" refers to a licensee who has a brokerage relationship with both the seller and buyer, or both the landlord and tenant, in the same real estate transaction. A dual agent maintains an agency relationship with the clients through brokerage agreements, while a dual representative operates as an independent contractor. A dual representative must act solely as an independent contractor.

"Independent contractor" refers to a real estate licensee who (i) establishes a brokerage relationship through an agreement that explicitly states they are acting as an independent contractor rather than an agent, (ii) fulfills the obligations outlined in the brokerage agreement, and (iii) complies with specific statutory provisions while having no additional duties beyond those specified in §§ 54.1-2131 through 54.1-2135.

"Licensee" means real estate brokers and salespersons as defined in Article 1 (§ 54.1-2100 et seq.).

" Limited service agent" is a real estate licensee who represents a client in a residential real estate transaction under a brokerage agreement that excludes one or more duties outlined in subdivision A 2 of §§ 54.1-2131 through 54.1-2134. While the agent's obligations are defined by the brokerage agreement, they must provide the client with all required federal, state, and authorized local disclosures at the time of entering the agreement. Additionally, they must disclose in writing:
(i) The client's rights and obligations under the Virginia Residential Property Disclosure Act (§ 55.1-700 et seq.); (ii) if the client is selling a condominium, the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the resale certificate required by § 55.1-2309; and
(iii) if the client is selling a property subject to the Property Owners' Association Act (§ 55.1-1800 et seq.), the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the resale certificate required by § 55.1-2309.

" Ministerial acts" refer to routine tasks that a real estate licensee may perform for a person without using discretion or independent judgment. These acts are typically administrative or procedural in nature and do not involve advising or making decisions on behalf of a client.

" Property management contract" refers to the formal written agreement established between a real estate owner and a property manager for overseeing the management of the property.

" Residential real estate" refers to real property that includes between one and four housing units, as well as the sale of lots designated for one to four residential dwellings.

"Standard agent" refers to a licensed individual who represents or acts on behalf of a client within an agency relationship in a residential real estate transaction. This agent is responsible for fulfilling the duties outlined in this article, along with any additional responsibilities agreed upon in the brokerage contract.

1995, cc. 741, 813; 2006, c. 627; 2008, cc. 851, 871; 2011, c. 461; 2012, c. 750; 2016, c. 334; 2023, cc. 387, 388.