

By Senator Collins

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1 A bill to be entitled
2 An act relating to duties of a real estate licensee;
3 amending s. 475.278, F.S.; revising the duties of real
4 estate licensees when providing certain forms of
5 representation to buyers, sellers, or both; defining
6 the term "limited confidentiality"; revising the
7 contents of certain disclosures; providing an
8 effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (2) and paragraphs (a) and (c) of
13 subsection (3) of section 475.278, Florida Statutes, are amended
14 to read:

15 475.278 Authorized brokerage relationships; presumption of
16 transaction brokerage; required disclosures.—

17 (2) TRANSACTION BROKER RELATIONSHIP.—A transaction broker
18 provides a limited form of representation to a buyer, a seller,
19 or both in a real estate transaction but does not represent
20 either in a fiduciary capacity or as a single agent. The duties
21 of the real estate licensee in this limited form of
22 representation include all of the following:

23 (a) Dealing honestly and fairly.~~†~~

24 (b) Accounting for all funds.~~†~~

25 (c) Using skill, care, and diligence in the transaction.~~†~~

26 (d) Disclosing all known facts that materially affect the
27 value of residential real property and are not readily
28 observable to the buyer.~~†~~

29 (e) Presenting all offers and counteroffers in a timely

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30 manner, unless a party has previously directed the licensee
31 otherwise in writing.†

32 (f) Sharing information on the property and responding to
33 inquiries from any licensees representing prospective buyers.

34 (g) At the seller's or lessor's direction, making the
35 property available for showing to prospective buyers.

36 (h) Publicly advertising or marketing the listed property
37 in or on a publicly accessible publication, platform, or website
38 within 1 calendar day after the start date of a written listing
39 agreement, unless the seller opts out of such advertising or
40 marketing. A seller may opt out of public advertising or
41 marketing if he or she signs a disclosure and opt-out form
42 adopted by the commission which includes, but is not limited to:

43 1. Expressly requesting in writing that the seller's agent
44 withhold the listed property from all public marketing or
45 advertising and outlining the specific reasons for the request
46 in writing; and

47 2. Acknowledging that:

48 a. Real estate licensees representing prospective buyers
49 may not be aware the seller's property is available for sale or
50 lease;

51 b. The seller's property will not be displayed on Internet
52 platforms or websites that are used by the general public to
53 search for property listings;

54 c. Real estate licensees and prospective buyers may not be
55 aware of the terms and conditions under which the seller is
56 offering the property for sale; and

57 d. The reduction in exposure of the listed property may
58 reduce the number of offers to purchase or lease the listed

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59 property and negatively impact the seller's ability to sell the
60 listed property at terms favorable to the seller.

61 (i) Maintaining limited confidentiality, unless waived in
62 writing by a party. As used in this paragraph, the term "limited
63 confidentiality" means the licensee cannot disclose any of the
64 following:

65 1. That the seller is willing to accept a price lower than
66 the listed amount.

67 2. That the buyer is willing to pay more than the submitted
68 offer.

69 3. The motivation of any party for buying or selling the
70 property.

71 4. That a seller or buyer is open to financing terms other
72 than those stated.

73 5. Any other information a party has requested to remain
74 confidential.

75 (j)~~(g)~~ Any additional duties that are mutually agreed to
76 with a party.

77 (3) SINGLE AGENT RELATIONSHIP.—

78 (a) *Single agent; duties.*—The duties of a real estate
79 licensee owed to a buyer or seller who engages the real estate
80 licensee as a single agent include the following:

81 1. Dealing honestly and fairly;

82 2. Loyalty;

83 3. Confidentiality;

84 4. Obedience;

85 5. Full disclosure;

86 6. Accounting for all funds;

87 7. Skill, care, and diligence in the transaction;

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88 8. Presenting all offers and counteroffers in a timely
89 manner, unless a party has previously directed the licensee
90 otherwise in writing; ~~and~~

91 9. Sharing information on the property and responding to
92 inquiries from any licensees representing prospective buyers;

93 10. At the seller's or lessor's direction, making the
94 property available for showing to prospective buyers;

95 11. Within 1 calendar day after the beginning date of the
96 term of any written listing agreements authorizing the licensee
97 to sell the client's property, publicly advertising or marketing
98 the listed property for sale in or on a publication, platform,
99 or website that is broadly accessible to the general public. A
100 seller may opt out of public advertising if he or she signs a
101 disclosure and opt-out form adopted by the commission which
102 includes, but is not limited to:

103 a. Expressly requesting in writing that the seller's agent
104 withhold the listed property from all public marketing or
105 advertising and outlining the specific reasons for the request
106 in writing; and

107 b. Acknowledging that:

108 (I) Real estate licensees representing prospective buyers
109 may not be aware the seller's property is available for sale;

110 (II) The seller's property will not be displayed on
111 Internet platforms or websites that are used by the general
112 public to search for property listings;

113 (III) Real estate licensees and prospective buyers may not
114 be aware of the terms and conditions under which the seller is
115 offering the property for sale; and

116 (IV) The reduction in exposure of the listed property may

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117 reduce the number of offers to purchase the listed property and
 118 negatively impact the seller's ability to sell the listed
 119 property at terms favorable to the seller; and

120 12. Disclosing all known facts that materially affect the
 121 value of residential real property and are not readily
 122 observable.

123 (c) *Contents of disclosure.*—

124 1. Single agent duties disclosure.—The notice required
 125 under subparagraph (b)1. must include the following information
 126 in the following form:

127
 128 SINGLE AGENT NOTICE

129
 130 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS
 131 SINGLE AGENTS DISCLOSE TO BUYERS AND SELLERS THEIR DUTIES.

132
 133 As a single agent, ...(insert name of Real Estate Entity
 134 and its Associates)... owe to you the following duties:

- 135 1. Dealing honestly and fairly;
- 136 2. Loyalty;
- 137 3. Confidentiality;
- 138 4. Obedience;
- 139 5. Full disclosure;
- 140 6. Accounting for all funds;
- 141 7. Skill, care, and diligence in the transaction;
- 142 8. Presenting all offers and counteroffers in a timely

143 manner, unless a party has previously directed the licensee
 144 otherwise in writing; ~~and~~

- 145 9. Acting in good faith to publicly advertise the listing

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146 to prospective buyers on a platform or website accessible to the
147 public and licensees representing prospective buyers or tenants;

148 10. Sharing information on a listed property with all
149 licensees representing prospective buyers or tenants and making
150 the property available for showing to such buyers or tenants;
151 and

152 11. Disclosing all known facts that materially affect the
153 value of residential real property and are not readily
154 observable.

.....

.....

Date

Signature

156
157 2. Transition disclosure.—To gain the principal’s written
158 consent to a change in relationship, a licensee must use the
159 following disclosure:

161 CONSENT TO TRANSITION TO
162 TRANSACTION BROKER

163
164 FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER
165 OR SELLER AS A SINGLE AGENT TO CHANGE FROM A SINGLE AGENT
166 RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN ORDER
167 FOR THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE
168 TRANSACTION BY PROVIDING A LIMITED FORM OF REPRESENTATION TO
169 BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP
170 CANNOT OCCUR WITHOUT YOUR PRIOR WRITTEN CONSENT.

171
172 As a transaction broker, ...(insert name of Real Estate Firm and

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173 its Associates)..., provides to you a limited form of
174 representation that includes the following duties:

- 175 1. Dealing honestly and fairly;
- 176 2. Accounting for all funds;
- 177 3. Using skill, care, and diligence in the transaction;
- 178 4. Disclosing all known facts that materially affect the
179 value of residential real property and are not readily
180 observable to the buyer;
- 181 5. Presenting all offers and counteroffers in a timely
182 manner, unless a party has previously directed the licensee
183 otherwise in writing;
- 184 6. Acting in good faith to publicly advertise a seller's
185 listing to prospective buyers on a platform or website
186 accessible to the public and licensees representing prospective
187 buyers or tenants;
- 188 7. Sharing information on a listed property with all
189 licensees representing prospective buyers or tenants and making
190 the property available for showing to such buyers or tenants;
- 191 8. Limited confidentiality, unless waived in writing by a
192 party. This limited confidentiality will prevent disclosure that
193 the seller will accept a price less than the asking or listed
194 price, that the buyer will pay a price greater than the price
195 submitted in a written offer, of the motivation of any party for
196 selling or buying property, that a seller or buyer will agree to
197 financing terms other than those offered, or of any other
198 information requested by a party to remain confidential; and
- 199 ~~9.7.~~ Any additional duties that are entered into by this or
200 by separate written agreement.

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202 Limited representation means that a buyer or seller is not
 203 responsible for the acts of the licensee. Additionally, parties
 204 are giving up their rights to the undivided loyalty of the
 205 licensee. This aspect of limited representation allows a
 206 licensee to facilitate a real estate transaction by assisting
 207 both the buyer and the seller, but a licensee will not work to
 208 represent one party to the detriment of the other party when
 209 acting as a transaction broker to both parties.

210

211I agree that my agent may assume the role and
 212 duties of a transaction broker. [must be initialed or signed]

213

Section 2. This act shall take effect July 1, 2025.