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HOUSE BILL 2059

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State of Washington

67th Legislature

2022 Regular Session

By Representatives Gregerson and Leavitt

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 from a buyer, or someone acting on a buyer's behalf, reasonably read  
8 to be intended to persuade a seller of residential real estate to  
9 sell to a buyer because of a status, trait, class, or characteristic  
10 identified in RCW 49.60.222 or any related law.

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

14 ((+7)) (8) "Confidential information" means information from or  
15 concerning a principal of a broker that:

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

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

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

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

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

25 ((+8)) (9) "Dual agent" means a broker who has entered into an  
26 agency relationship with both the buyer and seller in the same  
27 transaction.

28 ((+9)) (10) "Material fact" means information that substantially  
29 adversely affects the value of the property or a party's ability to  
30 perform its obligations in a real estate transaction, or operates to  
31 materially impair or defeat the purpose of the transaction. The fact  
32 or suspicion that the property, or any neighboring property, is or  
33 was the site of a murder, suicide or other death, rape or other sex  
34 crime, assault or other violent crime, robbery or burglary, illegal  
35 drug activity, gang-related activity, political or religious  
36 activity, or other act, occurrence, or use not adversely affecting  
37 the physical condition of or title to the property is not a material  
38 fact.

39 ((+10)) (11) "Principal" means a buyer or a seller who has  
40 entered into an agency relationship with a broker.

1        ~~((11))~~ (12) "Real estate brokerage services" means the  
2 rendering of services for which a real estate license is required  
3 under chapter 18.85 RCW.

4        ~~((12))~~ (13) "Real estate firm" or "firm" have the same meaning  
5 as defined in chapter 18.85 RCW.

6        ~~((13))~~ (14) "Real estate transaction" or "transaction" means an  
7 actual or prospective transaction involving a purchase, sale, option,  
8 or exchange of any interest in real property or a business  
9 opportunity, or a lease or rental of real property. For purposes of  
10 this chapter, a prospective transaction does not exist until a  
11 written offer has been signed by at least one of the parties.

12        ~~((14))~~ (15) "Seller" means an actual or prospective seller in a  
13 real estate transaction, or an actual or prospective landlord in a  
14 real estate rental or lease transaction, as applicable.

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

18        ~~((16))~~ (17) "Subagent" means a broker who is engaged to act on  
19 behalf of a principal by the principal's agent where the principal  
20 has authorized the broker in writing to appoint subagents.

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

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

27        (a) To exercise reasonable skill and care;

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

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

37        (d) To disclose all existing material facts known by the broker  
38 and not apparent or readily ascertainable to a party; provided that

1 this subsection shall not be construed to imply any duty to  
2 investigate matters that the broker has not agreed to investigate;

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

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

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

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

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

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