



# Nebraska Real Estate Commission

## Detailed Information on Brokerage Relationships in Real Estate Transactions For Buyers and Sellers

Statutory Reference: [Neb. Rev. Stat. §76-2401 through 76-2430](#)

### General Information

Nebraska licensed real estate brokers and their associate brokers and salespersons are required by law to disclose the type of brokerage relationship they have with the buyers, tenants, sellers, or landlords to whom they are providing services in a real estate transaction. The buyers, tenants, sellers, or landlords may be either clients or customers of a licensee. A client of a licensee is a person or entity who has a brokerage relationship with that licensee. A customer of a licensee involved in a real estate transaction is a person or entity who does not have a brokerage relationship with that licensee, and who is not represented by any other licensee.

There are several types of brokerage relationships that are possible, and you, whether a client or a customer, should understand them at the time a licensee begins to provide brokerage services to you in a real estate transaction. They are: 1) Buyer Limited Agency; 2) Tenant Limited Agency; 3) Seller Limited Agency; 4) Landlord Limited Agency; 5) Dual Limited Agency; and 6) Common Law Agency.

The licensee who is offering brokerage services to you, or who is providing brokerage services for a particular property, must make certain disclosures regarding his/her brokerage relationship in the transaction. These disclosures must be made at the earliest practicable opportunity during or following the first substantial contact with a buyer, tenant, seller, or landlord who does not have a written agreement for brokerage services with another licensee.

All real estate licensees providing brokerage services are buyer's or tenant's limited agents (NO WRITTEN AGREEMENT IS NECESSARY) unless:

1. the licensee has entered into a written agreement with a seller (a listing agreement) or a landlord (a management or leasing agreement) to represent the seller or landlord as their limited agent;

2. the licensee is providing brokerage services as a subagent of another broker who has an agency relationship with a client;
3. the licensee is providing brokerage services under a written consent to dual agency ; or
4. the licensee is operating under a written common law agency agreement with a client.

### Buyer Agency

A buyer's limited agent is an agent who represents a buyer. A real estate licensee is a buyer's limited agent unless one of the written agreements or consents described in this brochure is in place. A buyer's agency may also be created by written agreement between you and a real estate broker. A buyer's limited agent, in addition to performing under the terms of any written agreement made with the buyer, exercises reasonable skill and care for the buyer and promotes the interests of the buyer with the utmost good faith, loyalty, and fidelity. A buyer's limited agent seeks a price and terms which are acceptable to the buyer; presents all written offers to and from the buyer in a timely manner; discloses, in writing, to the buyer all adverse material facts actually known by the limited agent; and advises the buyer to obtain expert advice on known matters beyond the limited agent's expertise. A buyer's limited agent must account for all money and property received, and must comply with all applicable federal, state, and local statutes, rules, and ordinances.

*(Buyer Agency, continued)*

A buyer's limited agent shall not disclose any confidential information about the buyer unless required by statute or rule, or if failure to disclose would constitute fraudulent misrepresentation.

A buyer's limited agent may retain and compensate other brokers as subagents only with the written agreement of the buyer. (Subagents have the same duties and obligations as the buyer's limited agents.)

A buyer's limited agent may show the same property to competing buyers, and assist competing buyers in attempting to purchase said property, without breaching any duty or obligation to their client.

A buyer's limited agent owes no duty or obligation to a customer (seller) except to disclose, in writing, all adverse material facts actually known by the licensee. Adverse material facts may include adverse material facts concerning the buyer's financial ability to perform the terms of the transaction.

A buyer's limited agent must also act honestly and fairly in their dealings with a seller.

A buyer's limited agent owes no duty to conduct an independent investigation of the buyer's financial condition for the benefit of the seller, or to independently verify the accuracy or completeness of statements made by the buyer or any independent inspector.

A buyer's limited agent must, if the seller is not represented by another licensee, provide a list of tasks that the buyer's limited agent may perform for the seller (customer).

## **Seller Agency**

A seller's limited agent is an agent who has entered into a written agreement to represent a seller. A seller's limited agent performs under the terms of the written agreement; exercises reasonable skill and care for the seller; and promotes the interests of the seller with the utmost good faith, loyalty, and fidelity. A seller's limited agent seeks a price and terms which are acceptable to the seller; presents all written offers to and from the seller in a timely manner; discloses, in writing, to the seller all adverse material facts actually known by the limited agent; and advises the seller to obtain any necessary expert advice on known matters beyond the limited agent's expertise. A seller's

limited agent must account for all money and property received, and must comply with all applicable federal, state, and local statutes, rules, and ordinances.

A seller's limited agent shall not disclose any confidential information about the seller unless required to do so by statute or rule, or if failure to disclose would constitute fraudulent misrepresentation.

A seller's limited agent may retain and compensate other brokers as subagents only with the written agreement of the seller. (Subagents have the same duties and obligations as the seller's limited agent.)

A seller's limited agent may show and list alternative or competing properties without breaching any duty or obligation to the seller.

A seller's limited agent owes no duty or obligation to a customer (buyer) except to disclose, in writing, all adverse material facts actually known by the seller's limited agent. An adverse material fact may include:

1. environmental hazards affecting the property required by law to be disclosed;
2. physical condition of the property;
3. material defects in the property;
4. material defects in the title to the property; and
5. material limitations on the seller's ability to perform under a contract.

A seller's limited agent must also act honestly and fairly in his or her dealings with a buyer.

A seller's limited agent owes no duty to conduct an independent inspection of the property for the benefit of the buyer, or to independently verify the accuracy or completeness of any statement made by the seller or an independent inspector.

A seller's limited agent must, if the buyer is not represented by another licensee, provide a list of tasks that the seller's limited agent may perform for the buyer (customer).

## Limited Dual Agency

A limited dual agency is an agent who, *with the written, informed consent* of all parties to a contemplated real estate transaction, represents both the seller and the buyer. Both parties are clients of the licensee.

A limited dual agent has the same duties and obligations of a limited agent to a seller *and* the same duties and responsibilities of a limited agent to a buyer except as set out below.

A limited dual agent may disclose any information to one client that is gained from the other, if the information is relevant to the transaction or the client, except that a limited dual agent *cannot* disclose the following without the informed written consent of the client to whom the information pertains:

1. the buyer is willing to pay more than the purchase price offered;
2. the seller is willing to accept less than the asking price;
3. the motivating factors for any client; or
4. a client will agree to financing terms other than those offered.

The limited dual agent cannot disclose to one client any confidential information about the other unless required by statute or rule, or if failure to disclose would constitute fraudulent misrepresentation.

## Common Law Agency

The duties and obligations of an agent under a common law agency agreement exceed the duties and obligations of a limited agent as described in this pamphlet and in Nebraska Statutes, [Neb. Rev. Stat. § 76-2401 through 76-2430](#). For example, a licensee who is authorized by the principal to bind the principal to terms or conditions in a real estate transaction would be a common law agent. A buyer or seller and the real estate broker must enter into this type of agency through a written agreement which specifies the agent's duties and responsibilities, including the duty of confidentiality and the terms of compensation. An agreement such as this will be subject to the common law requirements of agency applicable to real estate licensees.