



# Nebraska Real Estate Commission

## Disclosure of Brokerage Relationships in Real Estate Transactions For Tenants and Landlords

It is your right to know if the licensee involved is representing your interest in the transaction. The information contained in this disclosure is required by Nebraska law.

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### 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.

At the end of each of the four sections in this brochure, brokers were given space to include information specifying those brokerage relationships their firms offer, and identifying the services they can provide within each relationship. Broker supplements to this brochure are distinguished by print type, and are in addition to the language prepared and approved by the Nebraska Real Estate Commission.

### Tenant Agency

A tenant's limited agent is an agent who represents a tenant. A real estate licensee is a tenant's limited agent unless one of the written agreements or consents described in this brochure is in place. A tenant's agency may also be created by written agreement between you and a real estate broker. A tenant's limited agent, in addition to performing under the terms of any written agreement made with the tenant, exercises reasonable skill and care for the tenant and promotes the interests of the tenant with the utmost good faith, loyalty, and fidelity. A tenant's limited agent seeks a price and terms which are acceptable to the tenant; presents all written offers to and from the tenant in a timely manner; discloses, in writing, to the tenant all adverse material facts actually known by the limited agent; and advises the tenant to obtain expert advice on known matters beyond the limited agent's expertise. A tenant'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 tenant's limited agent shall not disclose any confidential information about the tenant unless required by statute or rule, or if failure to disclose would constitute fraudulent misrepresentation.

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

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

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

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

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

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

## **Landlord Agency**

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

landlord to obtain any necessary expert advice on known matters beyond the limited agent's expertise. A landlord'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 landlord's limited agent shall not disclose any confidential information about the landlord unless required to do so by statute or rule, or if failure to disclose would constitute fraudulent misrepresentation.

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

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

A landlord's limited agent owes no duty or obligation to a customer (tenant) except to disclose, in writing, all adverse material facts actually known by the landlord'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 landlord's ability to perform under a contract.

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

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

A landlord's limited agent must, if the tenant is not represented by another licensee, provide a list of tasks that the landlord's limited agent may perform for the tenant (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 landlord and the tenant. Both parties are clients of the licensee.

A limited dual agent has the same duties and obligations of a limited agent to a landlord *and* the same duties and responsibilities of a limited agent to a tenant 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 tenant is willing to pay more than the lease rate offered;
2. the landlord is willing to accept less than the lease rate; or
3. the motivating factors for any client.

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 tenant or landlord 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.

## Acknowledgement of Disclosure

Agent Copy - Retain in Records

\_\_\_\_\_  
(Printed Name of Licensee)

\_\_\_\_\_  
(Name of Company)

Nebraska statutes require that all licensees, whether brokers or salespersons, inform any and all prospective clients or customers about agency relationships in real estate transactions.

1. The licensee has informed me/us that the licensee will be acting as a:

- Limited Tenant's Agent  
 Limited Landlord's Agent (a written Agreement is necessary)  
 Limited Dual Agent (a written consent is necessary)  
 Common Law Agent of the \_\_\_\_\_  
(specify landlord or tenant, and a written agreement is necessary)

### AND

2. The licensee has informed me/us that the licensee will be providing brokerage services to me/us as a:

- Client, representing me/us  
 Customer, not representing me/us

### THIS IS NOT A CONTRACT

By signing below, I acknowledge that I have received the information contained in the pamphlet "Brokerage Relationships in Real Estate Transactions" and that it was given to me at the earliest practicable opportunity during or following the first substantial contact with me and, further, if applicable, as a customer, the licensee indicated on this form has provided me with a list of tasks the licensee may perform for me.

\_\_\_\_\_  
(Client or Customer Signature) (Date)

\_\_\_\_\_  
(Print Client or Customer Name)

\_\_\_\_\_  
(Client or Customer Signature) (Date)

\_\_\_\_\_  
(Print Client or Customer Name)