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HOUSE BILL NO. 1907

Offered January 12, 2011

Prefiled January 11, 2011

A *BILL to amend and reenact §§ 54.1-2105.01, 54.1-2105.03, 54.1-2105.1, 54.1-2130, 54.1-2131, 54.1-2133, 54.1-2135, 54.1-2137, 54.1-2139, and 55-519 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-2139.1, 54.1-2139.2, 54.1-2139.3, and 54.1-2142.1 and by adding in Article 3 of Chapter 21 of Title 54.1 a section numbered 54.1-2146, relating to the Real Estate Board; licensure and practice of real estate professionals.*

Patrons—Miller, J.H. and Keam

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2105.01, 54.1-2105.03, 54.1-2105.1, 54.1-2130, 54.1-2131, 54.1-2133, 54.1-2135, 54.1-2137, 54.1-2139, and 55-519 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 54.1-2139.1, 54.1-2139.2, 54.1-2139.3, and 54.1-2142.1 and by adding in Article 3 of Chapter 21 of Title 54.1 a section numbered 54.1-2146 as follows:

§ 54.1-2105.01. Educational requirements for all salespersons within one year of licensure.

A. The Board shall establish guidelines for an educational curriculum of at least 30 hours of classroom, or correspondence or other distance learning, instruction, in specified areas, which shall be required of all salespersons within one year of issuance of a license by the Board. Failure of a new licensee to complete the 30-hour curriculum within one year of obtaining a real estate salesperson's license shall result in the license being placed on inactive status by the Board until the curriculum has been completed.

B. To establish the guidelines required by this section, the Board shall establish an industry advisory group to focus on the following three practice tracks: *composed of representatives of the practices of* (i) residential real estate, (ii) commercial real estate, and (iii) property management. The industry advisory group shall consist of licensed real estate salespersons and real estate brokers, ~~and who shall be appointed by and shall meet at the direction of the Board, at least annually, to update the guidelines in each of the three educational practice tracks.~~ The Board shall review and may approve educational curriculum curricula developed by an approved school or other provider of real estate education authorized by this chapter. The industry advisory group shall serve at no cost to the Board.

C. The guidelines in each of the three practice tracks curricula for new licensees shall include topics that new licensees need to know in their respective practices, including, ~~but not limited to,~~ contract writing, handling customer deposits, listing property, leasing property, agency, current industry issues and trends, property owners' and condominium association law, landlord-tenant law, Board regulations, and such other topics as designated by the Board. The continuing education requirements of this section for new licensees shall be in lieu of the continuing education requirements otherwise specified in this chapter and Board regulations.

§ 54.1-2105.03. Continuing education; relicensure of brokers and salespersons.

A. Board regulations shall include educational requirements as a condition for relicensure of brokers and salespersons to whom active licenses have been issued by the Board beyond those now specified by law as conditions for licensure.

1. Brokers to whom active licenses have been issued by the Board shall be required to satisfactorily complete courses of not less than 24 hours of classroom or correspondence or other distance learning instruction during each licensing term. Of the total 24 hours, the curriculum shall ~~include~~ consist of:

a. A minimum of eight required hours to include at least three hours of ethics and standards of conduct, two hours of fair housing, and the remaining three hours of legal updates and emerging trends, real estate agency, and real estate contracts;

b. A minimum of eight hours of courses relating to supervision and management of real estate agents and the management of real estate brokerage firms as are approved by the Board; and

c. Eight hours of general elective courses as are approved by the Board.

The Board may, on a year-by-year basis, adjust the required hours and course topics specified in this subdivision for the next succeeding year, applicable to a licensee in the next renewal period for his license, including the addition of topics deemed by the Board to be essential. Such designation or adjustment by the Board shall be made prior to September 1 of any given calendar year. The action of the Board in making such adjustment shall be subject to § 2.2-4012.1.

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The fair housing requirements shall include an update on current cases and administrative decisions under fair housing laws. If the licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real estate and shall not do so during the licensing term, training in fair housing shall not be required; instead, such licensee shall receive training in other applicable federal and state discrimination laws and regulations. The Board shall approve a continuing education curriculum of not less than two hours, and as of July 1, 2007, every applicant for relicensure as an active broker shall complete at a minimum one two-hour continuing education course on limited service agency prior to renewal or reinstatement of his license. If the licensee submits a notarized affidavit to the Board that certifies that he has taken a two-hour continuing education course on limited service agency between July 1, 2006, and June 30, 2007, offered by a school approved by the Board, which, in the determination of the Board, covered substantially the information in a continuing education course approved by the Board subsequent to July 1, 2007, the licensee may receive credit for the two hours of continuing education. If the licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real estate and shall not do so during the licensing term, training in limited service agency shall not be required. A licensee who takes one two-hour continuing education class on limited service agency shall satisfy the requirements for continuing education and may, but shall not be required to, take any further continuing education on limited service agency.

2. Salespersons to whom active licenses have been issued by the Board shall be required to satisfactorily complete courses of not less than 16 hours of classroom or correspondence or other distance learning instruction during each licensing term. Of the total 16 hours, the curriculum shall include consist of:

a. A minimum of eight required hours to include at least three hours of ethics and standards of conduct, two hours of fair housing, and the remaining three hours of legal updates and emerging trends, real estate agency, and real estate contracts; and

b. Eight hours of general elective courses as are approved by the Board.

3. *The Board shall approve a continuing education curriculum of not less than three hours, and as of July 1, 2012, every applicant for relicensure as an active broker or salesperson shall complete at a minimum one three-hour continuing education course on the changes effective as of July 1, 2011, to Article 3 (§ 54.1-2130 et seq.) prior to renewal or reinstatement of his license. If the licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real estate and shall not do so during the licensing term, training in residential representation shall not be required. A licensee who takes one two-hour continuing education class on residential representation shall satisfy the requirements for continuing education and may, but shall not be required to, take any further continuing education on residential representation.*

The Board may, on a year-by-year basis, readjust the required hours and course topics specified in this subdivision for the next succeeding year, applicable to a licensee in the next renewal period for his license, including the addition of topics deemed by the Board to be essential. Such designation or adjustment by the Board shall be made prior to September 1 of any given calendar year. The action of the Board in making such adjustment shall be subject to § 2.2-4012.1.

The fair housing requirements shall include an update on current cases and administrative decisions under fair housing laws. If the licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real estate and shall not do so during the licensing term, training in fair housing shall not be required; instead, such licensee shall receive training in other applicable federal and state discrimination laws and regulations.

The Board shall approve a continuing education curriculum of not less than two hours, and as of July 1, 2007, every applicant for relicensure as an active salesperson shall complete at a minimum one two-hour continuing education course on limited service agency prior to renewal or reinstatement of his license. If the licensee submits a notarized affidavit to the Board that certifies that he has ~~taken~~ completed a two-hour continuing education course on limited service agency between July 1, 2006, and June 30, 2007, offered by a school approved by the Board, which, in the determination of the Board, covered substantially the information in a continuing education course approved by the Board subsequent to July 1, 2007, the licensee may receive credit for the two hours of continuing education. If the licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real estate and shall not do so during the licensing term, training in limited service agency shall not be required. A licensee who takes one two-hour continuing education class on limited service agency shall satisfy the requirements for continuing education and may, but shall not be required to, take any further continuing education on limited service agency.

3-4. For correspondence and other distance learning instruction offered by an approved provider, the Board shall establish the appropriate testing procedures to verify completion of the course and require the licensee to file a notarized affidavit certifying compliance with the course requirements. The Board may establish procedures to ensure the quality of the courses. The Board shall not require testing for continuing education courses completed through classroom instruction.

B. Every applicant for relicensure as an active salesperson or broker shall complete the continuing education requirements prior to each renewal or reinstatement of his license. The continuing education requirement shall also apply to inactive licensees who make application for an active license. Notwithstanding this requirement, military personnel called to active duty in the armed forces of the United States may complete the required continuing education within six months of their release from active duty.

§ 54.1-2105.1. Other powers and duties of the Real Estate Board.

In addition to the provisions of §§ 54.1-2105.01 through 54.1-2105.04, the Board shall develop a residential property disclosure statement form for use in accordance with the provisions of Chapter 27 (§ 55-517 et seq.) of Title 55. *The Board shall also include on its website the notice required by subsection B of § 55-519.*

§ 54.1-2130. Definitions.

As used in this article:

"Agency" means every relationship in which a real estate licensee acts for or represents a person by such person's express authority in a real estate transaction, unless a different legal relationship is intended and is agreed to as part of the brokerage relationship. Agency includes representation of a client as a standard agent or a limited service agent. Nothing in this article shall prohibit a licensee and a client from agreeing in writing to a brokerage relationship under which the licensee acts as an independent contractor or which imposes on a licensee obligations in addition to those provided in this article. If a licensee agrees to additional obligations, however, the licensee shall be responsible for the additional obligations agreed to with the client in the brokerage agreement. A real estate licensee who enters into a brokerage relationship based upon a written brokerage agreement that specifically states that the real estate licensee is acting as an independent contractor and not as an agent shall have the obligations agreed to by the parties in the brokerage agreement, and such real estate licensee and its employees shall have no obligations under §§ 54.1-2131 through 54.1-2135 of this article.

"Brokerage agreement" means the *written agreement by which a real estate licensee represents a client in creating a brokerage relationship between a client and a licensee.*

"Brokerage relationship" means the contractual relationship between a client and a real estate licensee who has been engaged by such client for the purpose of procuring a seller, buyer, option, tenant, or landlord ready, able, and willing to sell, buy, option, exchange or rent real estate on behalf of a client.

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

"Common source information company" means any person, firm, or corporation that is a source, compiler, or supplier of information regarding real estate for sale or lease and other data and includes, but is not limited to, multiple listing services.

"Customer" means a person who has not entered into a brokerage relationship with a licensee but for whom a licensee performs ministerial acts in a real estate transaction. Unless a licensee enters into a brokerage relationship with such person, it shall be presumed that such person is a customer of the licensee rather than a client.

"Designated agent" or "designated representative" means a licensee who has been assigned by a principal or supervising broker to represent a client when a different client is also represented by such principal or broker in the same transaction.

"Dual agent" or "dual representative" means a licensee who has a brokerage relationship with both seller and buyer, or both landlord and tenant, in the same real estate transaction.

"Independent contractor" means a real estate licensee who (i) enters into a brokerage relationship based upon a brokerage agreement that specifically states that the real estate licensee is acting as an independent contractor and not as an agent; (ii) shall have the obligations agreed to by the parties in the brokerage agreement; and (iii) shall have no obligations under §§ 54.1-2131 through 54.1-2135.

"Licensee" means real estate brokers and salespersons as defined in Article 1 (§ 54.1-2100 et seq.) of Chapter 24 of this title.

"Limited service representative" means a licensee who acts for or represents a client with respect to real property containing from one to four residential units, pursuant to a brokerage agreement that provides that the limited service representative will not provide one or more of the duties set forth in subdivision A 2 of §§ 54.1-2131, 54.1-2132, 54.1-2133, and 54.1-2134, inclusive. A limited service representative shall have the obligations set out in the brokerage agreement, except that a limited service representative shall provide the client, at the time of entering the brokerage agreement, copies of any and all disclosures required by federal or state law, or local disclosures expressly authorized by state law, and shall disclose to the client the following in writing: (i) the rights and obligations of the client under the Virginia Residential Property Disclosure Act (§ 55-517 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 condominium resale certificate required by § 55-79.97; and (iii) if the client is selling a property subject to the Property Owners' Association Act (§ 55-508 et seq.), the rights and obligations of

182 the client to deliver to the purchasers, or to receive as purchaser, the association disclosure packet
183 required by § 55-509.5. A limited service representative may act as the agent or representative of the
184 client only by so providing in writing in the brokerage agreement. If the brokerage agreement does not
185 so state, the limited service representative shall be deemed as acting as an independent contractor of the
186 client.

187 "Ministerial acts" means those routine acts which a licensee can perform for a person which do not
188 involve discretion or the exercise of the licensee's own judgment.

189 *"Property management agreement" means the written agreement between a property manager and*
190 *the owner of real estate for the management of the real estate.*

191 "Standard agent" means a licensee who acts for or represents a client in an agency relationship. A
192 standard agent shall have the obligations as provided in this article and any additional obligations agreed
193 to by the parties in the brokerage agreement.

194 § 54.1-2131. Licensees engaged by sellers.

195 A. A licensee engaged by a seller shall:

196 1. Perform in accordance with the terms of the brokerage relationship;

197 2. Promote the interests of the seller by:

198 a. Conducting marketing activities on behalf of the seller in accordance with the brokerage
199 agreement. In so doing, the licensee shall seek a sale at the price and terms agreed upon in the
200 brokerage relationship or at a price and terms acceptable to the seller; however, the licensee shall not be
201 obligated to seek additional offers to purchase the property while the property is subject to a contract of
202 sale, unless agreed to as part of the brokerage relationship or as the contract of sale so provides;

203 b. Assisting in the drafting and negotiating of offers and counteroffers, amendments, and addenda to
204 the real estate contract pursuant to § 54.1-2101.1 and in establishing strategies for accomplishing the
205 seller's objectives;

206 c. Receiving and presenting in a timely manner written offers and counteroffers to and from the
207 seller and purchasers, even when the property is already subject to a contract of sale; and

208 d. Providing reasonable assistance to the seller to satisfy the seller's contract obligations and to
209 facilitate settlement of the purchase contract.

210 3. Maintain confidentiality of all personal and financial information received from the client during
211 the brokerage relationship and any other information that the client requests during the brokerage
212 relationship be maintained confidential, unless otherwise provided by law or the seller consents in
213 writing to the release of such information;

214 4. Exercise ordinary care;

215 5. Account in a timely manner for all money and property received by the licensee in which the
216 seller has or may have an interest;

217 6. Disclose to the seller material facts related to the property or concerning the transaction of which
218 the licensee has actual knowledge; and

219 7. Comply with all requirements of this article, all applicable fair housing statutes and regulations,
220 and all other applicable statutes and regulations which are not in conflict with this article.

221 B. Licensees shall treat all prospective buyers honestly and shall not knowingly give them false
222 information. A licensee engaged by a seller shall disclose to prospective buyers all material adverse facts
223 pertaining to the physical condition of the property which are actually known by the licensee. As used
224 in this section, the term "physical condition of the property" shall refer to the physical condition of the
225 land and any improvements thereon, and shall not refer to: (i) matters outside the boundaries of the land
226 or relating to adjacent or other properties in proximity thereto, (ii) matters relating to governmental land
227 use regulations, and (iii) matters relating to highways or public streets. Such disclosure shall be made in
228 writing. A licensee shall not be liable to a buyer for providing false information to the buyer if the false
229 information was provided to the licensee by the seller or was obtained from a governmental entity or
230 from a person licensed, certified, or registered to provide professional services in the Commonwealth,
231 upon which the licensee relies, and the licensee did not (i) have actual knowledge that the information
232 was false or (ii) act in reckless disregard of the truth. No cause of action shall arise against any licensee
233 for revealing information as required by this article or applicable law. Nothing in this article shall limit
234 in any way the provisions of the Virginia Residential Property Disclosure Act (§ 55-517 et seq.).

235 C. A licensee engaged by a seller in a real estate transaction may, unless prohibited by law or the
236 brokerage relationship, provide assistance to a buyer or potential buyer by performing ministerial acts.
237 Performing such ministerial acts that are not inconsistent with subsection A shall not be construed to
238 violate the licensee's brokerage relationship with the seller unless expressly prohibited by the terms of
239 the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage
240 or agency relationship with such buyer or potential buyer.

241 D. A licensee engaged by a seller does not breach any duty or obligation owed to the seller by
242 showing alternative properties to prospective buyers, whether as clients or customers, or by representing
243 other sellers who have other properties for sale.

E. Licensees shall disclose brokerage relationships pursuant to the provisions of this article.
§ 54.1-2133. Licensees engaged by landlords to lease property.

A. A licensee engaged by a landlord shall:

1. Perform in accordance with the terms of the brokerage relationship;

2. Promote the interests of the landlord by:

a. Conducting marketing activities on behalf of the landlord pursuant to the brokerage agreement with the landlord. In so doing, the licensee shall seek a tenant at the rent and terms agreed in the brokerage relationship or at a rent and terms acceptable to the landlord; however, the licensee shall not be obligated to seek additional offers to lease the property while the property is subject to a lease or a letter of intent to lease under which the tenant has not yet taken possession, unless agreed as part of the brokerage relationship, or unless the lease or the letter of intent to lease so provides;

b. Assisting the landlord in drafting and negotiating leases and letters of intent to lease, and presenting in a timely manner all written leasing offers or counteroffers to and from the landlord and tenant pursuant to § 54.1-2101.1, even when the property is already subject to a lease or a letter of intent to lease; and

c. Providing reasonable assistance to the landlord to finalize the lease agreement.

3. Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the landlord consents in writing to the release of such information;

4. Exercise ordinary care;

5. Account in a timely manner for all money and property received by the licensee in which the landlord has or may have an interest;

6. Disclose to the landlord material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

7. Comply with all requirements of this article, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this article.

B. Licensees shall treat all prospective tenants honestly and shall not knowingly give them false information. A licensee engaged by a landlord shall disclose to prospective tenants all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. As used in this section, the term "physical condition of the property" shall refer to the physical condition of the land and any improvements thereon, and shall not refer to: (i) matters outside the boundaries of the land or relating to adjacent or other properties in proximity thereto, (ii) matters relating to governmental land use regulations, and (iii) matters relating to highways or public streets. Such disclosure shall be made in writing. A licensee shall not be liable to a tenant for providing false information to the tenant if the false information was provided to the licensee by the landlord or was obtained from a governmental entity or from a person licensed, certified, or registered to provide professional services in the Commonwealth, upon which the licensee relies, and the licensee did not (i) have actual knowledge that the information was false or (ii) act in reckless disregard of the truth. No cause of action shall arise against any licensee for revealing information as required by this article or applicable law. Nothing in this subsection shall limit the right of a prospective tenant to inspect the physical condition of the property.

C. A licensee engaged by a landlord in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to a tenant, or potential tenant, by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection A shall not be construed to violate the licensee's brokerage relationship with the landlord unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with such tenant or potential tenant.

D. A licensee engaged by a landlord does not breach any duty or obligation owed to the landlord by showing alternative properties to prospective tenants, whether as clients or customers, or by representing other landlords who have other properties for lease.

E. Licensees shall disclose brokerage relationships pursuant to the provisions of this article.
§ 54.1-2135. Licensees engaged to manage real estate.

A. A licensee engaged to manage real estate shall:

1. Perform in accordance with the terms of the property management agreement;

2. Exercise ordinary care;

3. Disclose in a timely manner to the owner material facts of which the licensee has actual knowledge concerning the property;

4. Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the owner consents in

305 writing to the release of such information;

306 5. Account for, in a timely manner, all money and property received in which the owner has or may
307 have an interest; and

308 6. Comply with all requirements of this article, fair housing statutes and regulations, and all other
309 applicable statutes and regulations which are not in conflict with this article.

310 B. Except as provided in the property management agreement, a licensee engaged to manage real
311 estate does not breach any duty or obligation to the owner by representing other owners in the
312 management of other properties.

313 C. A licensee may also represent the owner as seller or landlord if they enter into a brokerage
314 relationship that so provides; in which case, the licensee shall disclose such brokerage relationships
315 pursuant to the provisions of this article.

316 *D. Property management agreements shall be in writing and shall:*

317 1. *Have a definite termination date or duration; however, if a property management agreement does*
318 *not specify a definite termination date or duration, the agreement shall terminate 90 days after the date*
319 *of the agreement;*

320 2. *State the amount of the management fees and how and when such fees are to be paid;*

321 3. *State the services to be rendered by the licensee; and*

322 4. *Include such other terms as have been agreed to by the owner and the property manager.*

323 § 54.1-2137. Commencement and termination of brokerage relationships.

324 A. The brokerage relationships set forth in this article shall commence at the time that a client
325 engages a licensee and shall continue until (i) completion of performance in accordance with the
326 brokerage relationship or (ii) the earlier of (a) any date of expiration agreed upon by the parties as part
327 of the brokerage relationship or in any amendments thereto, (b) any mutually agreed upon termination of
328 the relationship, (c) a default by any party under the terms of the brokerage relationship, or (d) a
329 termination as set forth in subsection D of § 54.1-2139.

330 B. Brokerage relationships agreements shall be in writing and shall have:

331 1. *Have a definite termination date; however, if a brokerage relationship does not specify a definite*
332 *termination date, the brokerage relationship shall terminate ninety 90 days after the date of the brokerage*
333 *relationship was entered into agreement;*

334 2. *State the amount of the brokerage fees and how and when such fees are to be paid;*

335 3. *State the services to be rendered by the licensee;*

336 4. *Include such other terms of the brokerage relationship as have been agreed to by the client and*
337 *the licensee; and*

338 5. *In the case of brokerage agreements entered into in conjunction with the client's consent to a dual*
339 *representation, the disclosures set out in subsection A of § 54.1-2139.*

340 C. Except as otherwise agreed to in writing, a licensee owes no further duties to a client after
341 termination, expiration, or completion of performance of the brokerage relationship, except to (i) account
342 for all moneys and property relating to the brokerage relationship and (ii) keep confidential all personal
343 and financial information received from the client during the course of the brokerage relationship and
344 any other information that the client requests during the brokerage relationship be maintained
345 confidential, unless otherwise provided by law or the client consents in writing to the release of such
346 information.

347 § 54.1-2139. Disclosed dual representation authorized.

348 A. A licensee may not act as a dual representative ~~only with~~ unless he has first obtained the written
349 consent of all ~~clients~~ parties to the transaction given after written disclosure of the consequences of such
350 dual representation. Such written consent and disclosure of the brokerage relationship as required by
351 this article shall be presumed to have been given as against any client who signs a disclosure as
352 provided in this section. (i) shall be writing and (ii) may be given to either party at the time prior to the
353 commencement of dual representation. The disclosure shall contain the following provisions:

354 1. *That following the commencement of dual representation, the licensee will be unable to advise*
355 *either party as to the terms, offers or counteroffers; however, the licensee may have previously advised*
356 *one party as to terms prior to the commencement of dual representation;*

357 2. *That the licensee cannot advise the buyer client as to the suitability of the property, its condition*
358 *(other than to make any disclosures as required by law of any licensee representing a seller), and*
359 *cannot advise either party as to repairs of the property to make or request;*

360 3. *That the licensee cannot advise either party in any dispute that might later arise relating to the*
361 *transaction;*

362 4. *That the licensee will be acting without familiarity with the client's needs, client's experience in*
363 *the market, or client's experience in handling real estate transactions unless he has gained that*
364 *information from earlier contact with the client; and*

365 5. *That either party may engage another licensee if he requires additional representation.*

366 B. Such disclosures shall not be deemed to comply with the requirements set out in this section if (i)

not signed by the client or (ii) given in a purchase agreement, lease or any other document related to a transaction. Any disclosure and consent that substantially complies with the following shall be deemed in compliance with this disclosure requirement:

DISCLOSURE OF DUAL REPRESENTATION

The undersigned do hereby acknowledge disclosure that:

The licensee
(Name of Broker, Firm or Salesperson as applicable)

represents more than one party as a dual representative in this real estate transaction as indicated below:

..... Seller(s) and Buyer(s)
..... Landlord(s) and Tenant(s).

The undersigned understand:

1. That following the commencement of dual representation, the licensee cannot advise either party as to the terms to offer or accept in any offer or counteroffer; however, the licensee may have advised one party as to such terms prior to the commencement of dual representation;

2. That the licensee cannot advise the buyer client as to the suitability of the property, its condition (other than to make any disclosures as required by law of any licensee representing a seller), and cannot advise either party as to what repairs of the property to make or request;

3. That the licensee cannot advise either party in any dispute that arises relating to the transaction;

4. That licensee may be acting without knowledge of the client's needs, client's knowledge of the market, or client's capabilities in dealing with the intricacies of real estate transactions; and

5. That either party may engage another licensee to represent their respective interests.

The undersigned by signing this notice do hereby acknowledge their informed consent to the disclosed dual representation by the licensee.

.....
Date Name (One Party)

.....
Date Name (One Party)

.....
Date Name (Other Party)

.....
Date Name (Other Party)

C. However, if the licensee has clearly and separately represented both parties to a transaction prior to the commencement of dual representation, then the following disclosure may be used in lieu of that contained in subsection B.

B. Such disclosure may be given in combination with other disclosures or provided with other information, but if so, the disclosure must shall be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box. Any disclosure which complies substantially in effect with the following shall be deemed in compliance with this disclosure requirement:

DISCLOSURE OF DUAL REPRESENTATION WITH PRIOR REPRESENTATION

The undersigned do hereby acknowledge disclosure that:

The licensee
(Name of Broker, Firm or Salesperson as applicable)

represents more than one party in this real estate transaction as indicated below:

..... Seller(s) and Buyer(s)
..... Landlord(s) and Tenant(s).

The undersigned understand that the foregoing dual representative may not disclose to either client or such client's

designated representative any information that has been given to the dual representative by the other client within the confidence and trust of the brokerage relationship except for that information which is otherwise required or permitted by Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia to be disclosed. The undersigned by signing this notice do hereby acknowledge their informed consent to the disclosed dual representation by the licensee.

.....
Date Name (One Party)

.....
Date Name (One Party)

.....
Date Name (Other Party)

.....
Date Name (Other Party)

D. The obligation to make the disclosures required by this section shall not relieve the licensee of the obligations set out in subsection B of § 54.1-2137 requiring all brokerage relationships to be set out in a written agreement between the licensee and the client.

CE. No cause of action shall arise against a dual representative for making disclosures of brokerage relationships as provided by this article. A dual representative does not terminate any brokerage relationship by the making of any such allowed or required disclosures of dual representation.

DF. In any real estate transaction, a licensee may withdraw, without liability, from representing a client who refuses to consent to a disclosed dual representation thereby terminating the brokerage relationship with such client. Such withdrawal shall not prejudice the ability of the licensee to continue to represent the other client in the transaction nor to limit the licensee from representing the client who refused the dual representation in other transactions not involving dual representation.

E. A principal or supervising broker may assign different licensees affiliated with the broker as designated representatives to represent different clients in the same transaction to the exclusion of all other licensees in the firm. Use of such designated representatives shall not constitute dual representation if a designated representative is not representing more than one client in a particular real estate transaction; however, the principal or broker who is supervising the transaction shall be considered a dual representative as provided in this article. Designated representatives may not disclose, except to the affiliated licensee's broker, personal or financial information received from the clients during the brokerage relationship and any other information that the client requests during the brokerage relationship be kept confidential, unless otherwise provided for by law or the client consents in writing to the release of such information.

F. Use of designated representatives in a real estate transaction shall be disclosed in accordance with the provisions of this article. Such disclosure may be given in combination with other disclosures or provided with other information, but if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box. Any disclosure which complies substantially in effect with the following shall be deemed in compliance with such disclosure requirement:

~~DISCLOSURE OF THE USE OF DESIGNATED REPRESENTATIVES~~

~~The undersigned do hereby acknowledge disclosure that:~~

~~The licensee~~

~~..... (Name of Broker and Firm)~~

~~represents more than one party in this real estate transaction as~~

~~indicated below:~~

~~..... Seller(s) and Buyer(s)~~

~~..... Landlord(s) and Tenant(s).~~

~~The undersigned understands that the foregoing dual representative may not disclose to either client or such client's designated representative any information that has been given to the dual representative by the other client within the confidence and trust of the brokerage relationship except for that information which is otherwise required or permitted by Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia to be disclosed. The undersigned by signing this notice do hereby acknowledge their informed consent to the disclosed dual~~

~~483 representation by the licensee.~~
~~484 The principal or supervising broker has assigned~~
~~485 to act as Designated Representative~~
~~486 (Licensee/Sales Associate)~~
~~487 for the one party as indicated below:~~
~~488 Seller(s) or Buyer(s)~~
~~489 Landlord(s) or Tenant(s).~~
~~490 and~~
~~491 to act as Designated Representative~~
~~492 (Licensee/Sales Associate)~~
~~493 for the other party as indicated below:~~
~~494 Seller(s) or Buyer(s)~~
~~495 Landlord(s) or Tenant(s)~~
~~496~~
~~497 Date Name (One Party)~~
~~498~~
~~499 Date Name (One Party)~~
~~500~~
~~501 Date Name (Other Party)~~
~~502~~
~~503 Date Name (Other Party)~~

504 § 54.1-2139.1. Designated representation authorized.

505 A. A principal or supervising broker may assign different licensees affiliated with the broker as
 506 designated representatives to represent different clients in the same transaction to the exclusion of all
 507 other licensees in the firm. Use of such designated representatives shall not constitute dual
 508 representation if a designated representative is not representing more than one client in a particular
 509 real estate transaction; however, the principal or broker who is supervising the transaction shall be
 510 considered a dual representative as provided in this article. Designated representatives may not disclose,
 511 except to the affiliated licensee's broker, personal or financial information received from the clients
 512 during the brokerage relationship and any other information that the client requests during the
 513 brokerage relationship be kept confidential, unless otherwise provided for by law or the client consents
 514 in writing to the release of such information.

515 B. Use of designated representatives in a real estate transaction shall be disclosed in accordance
 516 with the provisions of this article. Such disclosure may be given in combination with other disclosures
 517 or provided with other information, but if so, the disclosure shall be conspicuous, printed in bold
 518 lettering, all capitals, underlined, or within a separate box. Any disclosure that complies substantially in
 519 effect with the following shall be deemed in compliance with such disclosure requirement:

520 DISCLOSURE OF THE USE OF DESIGNATED REPRESENTATIVES

521 The undersigned do hereby acknowledge disclosure that:

522 The licensee

523 (Name of Broker and Firm)

524 represents more than one party in this real estate transaction as
 525 indicated below:

526 Seller(s) and Buyer(s)

527 Landlord(s) and Tenant(s).

528 The undersigned understand that the foregoing dual representative
 529 may not disclose to either client or such client's designated
 530 representative any information that has been given to the dual
 531 representative by the other client within the confidence and trust
 532 of the brokerage relationship except for that information which
 533 is otherwise required or permitted by Article 3 (§ 54.1-2130 et
 534 seq.) of Chapter 21 of Title 54.1 of the Code of Virginia to be
 535 disclosed. The undersigned by signing this notice do hereby
 536 acknowledge their informed consent to the disclosed dual
 537 representation by the licensee.

538 The principal or supervising broker has assigned
 539 to act as Designated Representative
 540 (Licensee/Sales Associate)

541 for the one party as indicated below:
 542 Seller(s) or Buyer(s)
 543 Landlord(s) or Tenant(s).
 544 and
 545 to act as Designated Representative
 546 (Licensee/Sales Associate)
 547 for the other party as indicated below:
 548 Seller(s) or Buyer(s)
 549 Landlord(s) or Tenant(s)
 550
 551 Date Name (One Party)
 552
 553 Date Name (One Party)
 554
 555 Date Name (Other Party)
 556
 557 Date Name (Other Party)

558 § 54.1-2139.2. Disclosed dual representation authorized.

559 A. A licensee may act as a dual representative only with the written consent of all clients to the
 560 transaction. Such written consent and disclosure of the brokerage relationship as required by this article
 561 shall be presumed to have been given as against any client who signs a disclosure as provided in this
 562 section.

563 B. Such disclosure may be given in combination with other disclosures or provided with other
 564 information, but if so, the disclosure shall be conspicuous, printed in bold lettering, all capitals,
 565 underlined, or within a separate box. Any disclosure which complies substantially in effect with the
 566 following shall be deemed in compliance with this disclosure requirement:

567 DISCLOSURE OF DUAL REPRESENTATION

568 The undersigned do hereby acknowledge disclosure that:

569 The licensee

570 (Name of Broker, Firm or Salesperson as applicable)

571 represents more than one party in this real estate transaction as
 572 indicated below:

573 Seller(s) and Buyer(s)

574 Landlord(s) and Tenant(s).

575 The undersigned understand that the foregoing dual representative
 576 may not disclose to either client or such client's designated
 577 representative any information that has been given to the dual
 578 representative by the other client within the confidence and
 579 trust of the brokerage relationship except for that information
 580 which is otherwise required or permitted by Article 3 (§ 54.1-2130
 581 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia to be
 582 disclosed. The undersigned by signing this notice do hereby
 583 acknowledge their informed consent to the disclosed dual
 584 representation by the licensee.

585

586 Date Name (One Party)

587

588 Date Name (One Party)

589

590 Date Name (Other Party)

591

592 Date Name (Other Party)

593 C. No cause of action shall arise against a dual representative for making disclosures of brokerage
 594 relationships as provided by this article. A dual representative does not terminate any brokerage
 595 relationship by the making of any such allowed or required disclosures of dual representation.

596 D. In any real estate transaction, a licensee may withdraw, without liability, from representing a
 597 client who refuses to consent to a disclosed dual representation thereby terminating the brokerage
 598 relationship with such client. Such withdrawal shall not prejudice the ability of the licensee to continue

to represent the other client in the transaction or to limit the licensee from representing the client who refused the dual representation in other transactions not involving dual representation.

§ 54.1-2139.3. Designated representatives authorized.

A. A principal or supervising broker may assign different licensees affiliated with the broker as designated representatives to represent different clients in the same transaction to the exclusion of all other licensees in the firm. Use of such designated representatives shall not constitute dual representation if a designated representative is not representing more than one client in a particular real estate transaction; however, the principal or broker who is supervising the transaction shall be considered a dual representative as provided in this article. Designated representatives may not disclose, except to the affiliated licensee's broker, personal or financial information received from the clients during the brokerage relationship and any other information that the client requests during the brokerage relationship be kept confidential, unless otherwise provided for by law or the client consents in writing to the release of such information.

B. Use of designated representatives in a real estate transaction shall be disclosed in accordance with the provisions of this article. Such disclosure may be given in combination with other disclosures or provided with other information, but if so, the disclosure shall be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box. Any disclosure which complies substantially in effect with the following shall be deemed in compliance with such disclosure requirement:

DISCLOSURE OF THE USE OF DESIGNATED REPRESENTATIVES

The undersigned do hereby acknowledge disclosure that:

The licensee

(Name of Broker and Firm)

represents more than one party in this real estate transaction as indicated below:

..... Seller(s) and Buyer(s)

..... Landlord(s) and Tenant(s).

The undersigned understand that the foregoing dual representative may not disclose to either client or such client's designated representative any information that has been given to the dual representative by the other client within the confidence and trust of the brokerage relationship except for that information which is otherwise required or permitted by Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia to be disclosed. The undersigned by signing this notice do hereby acknowledge their informed consent to the disclosed dual representation by the licensee.

The principal or supervising broker has assigned

..... to act as Designated Representative
(Licensee/Sales Associate)

for the one party as indicated below:

..... Seller(s) or Buyer(s)

..... Landlord(s) or Tenant(s).

and

..... to act as Designated Representative
(Licensee/Sales Associate)

for the other party as indicated below:

..... Seller(s) or Buyer(s)

..... Landlord(s) or Tenant(s)

.....

Date Name (One Party)

.....

Date Name (One Party)

.....

Date Name (Other Party)

.....

Date Name (Other Party)

§ 54.1-2142.1. Liability for false information.

For the purposes of §§ 54.1-2131 through 54.1-2135, a licensee shall not be liable for providing

657 *false information if the information was (i) provided to the licensee by the licensee's client; (ii) obtained*
658 *from a governmental entity; (iii) obtained from a nongovernmental person or entity that obtained the*
659 *information from a governmental entity; or (iv) obtained from a person licensed, certified, or registered*
660 *to provide professional services in the Commonwealth, upon which the licensee relies, and the licensee*
661 *did not (a) have actual knowledge that the information was false or (b) act in reckless disregard of the*
662 *truth.*

663 *§ 54.1-2146. Licensee maintenance of records.*

664 *Any document or record required to be maintained by a licensee under this chapter may be an*
665 *electronic record in accordance with the Uniform Electronic Transactions Act (§ 59.1-479 et seq.).*

666 *§ 55-519. Required disclosures.*

667 *A. With regard to transfers described in § 55-517, the owner of the residential real property shall*
668 *furnish to a purchaser a residential property disclosure statement in a form provided by the Real Estate*
669 *Board stating that the owner makes the following representations as to the real property:*

670 *1. The owner makes no representations with respect to the matters set forth and described at a*
671 *website maintained by the Real Estate Board and that the purchaser is advised to consult this website*
672 *for important information about the real property; and*

673 *2. The owner represents that there are no pending enforcement actions pursuant to the Uniform*
674 *Statewide Building Code (§ 36-97 et seq.) that affect the safe, decent, sanitary living conditions of the*
675 *property of which the owner has been notified in writing by the locality, except as disclosed on the*
676 *disclosure statement, nor any pending violation of the local zoning ordinance that the violator has not*
677 *abated or remedied under the zoning ordinance, within a time period set out in the written notice of*
678 *violation from the locality or established by a court of competent jurisdiction, except as disclosed on the*
679 *disclosure statement.*

680 *B. At the website referenced in subdivision A 1, the Real Estate Board shall include language*
681 *providing notice to the purchaser that by delivering the residential property disclosure statement:*

682 *1. The owner makes no representations or warranties as to the condition of the real property or any*
683 *improvements thereon, and purchasers are advised to exercise whatever due diligence a particular*
684 *purchaser deems necessary including obtaining a certified home inspection, as defined in § 54.1-500, in*
685 *accordance with terms and conditions as may be contained in the real estate purchase contract, but in*
686 *any event, prior to settlement on a parcel of residential real property;*

687 *2. The owner makes no representations with respect to any matters that may pertain to parcels*
688 *adjacent to the subject parcel and that purchasers are advised to exercise whatever due diligence a*
689 *particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and*
690 *conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement*
691 *on a parcel of residential real property;*

692 *3. The owner makes no representations to any matters that pertain to whether the provisions of any*
693 *historic district ordinance affect the property and purchasers are advised to exercise whatever due*
694 *diligence a particular purchaser deems necessary with respect to any historic district designated by the*
695 *locality pursuant to § 15.2-2306, including review of any local ordinance creating such district or any*
696 *official map adopted by the locality depicting historic districts, in accordance with terms and conditions*
697 *as may be contained in the real estate purchase contract, but in any event, prior to settlement on a parcel*
698 *of residential real property;*

699 *4. The owner makes no representations with respect to whether the property contains any resource*
700 *protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act*
701 *(§ 10.1-2100 et seq.) adopted by the locality where the property is located pursuant to § 10.1-2109 and*
702 *that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to*
703 *determine whether the provisions of any such ordinance affect the property, including review of any*
704 *official map adopted by the locality depicting resource protection areas, in accordance with terms and*
705 *conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement*
706 *on a parcel of residential real property;*

707 *5. The owner makes no representations with respect to information on any sexual offenders registered*
708 *under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2 and that purchasers are advised to exercise whatever*
709 *due diligence they deem necessary with respect to such information, in accordance with terms and*
710 *conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement*
711 *pursuant to that contract;*

712 *6. The owner represents that there are no pending enforcement actions pursuant to the Uniform*
713 *Statewide Building Code (§ 36-97 et seq.) that affect the safe, decent, sanitary living conditions of the*
714 *property of which the owner has been notified in writing by the locality, except as disclosed on the*
715 *disclosure statement, nor any pending violation of the local zoning ordinance which the violator has not*
716 *abated or remedied under the zoning ordinance, within a time period set out in the written notice of*
717 *violation from the locality or established by a court of competent jurisdiction, except as disclosed on the*
718 *disclosure statement;*

719 7. The owner makes no representations with respect to whether the property is within a dam break
720 inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence
721 they deem necessary with respect to whether the property resides within a dam break inundation zone,
722 including a review of any map adopted by the locality depicting dam break inundation zones;

723 87. The owner makes no representations with respect to the presence of any stormwater detention
724 facilities located on the property and purchasers are advised to exercise whatever due diligence they
725 deem necessary to determine the presence of any stormwater detention facilities on the property, in
726 accordance with terms and conditions as may be contained in the real estate purchase contract, but in
727 any event, prior to settlement pursuant to that contract; and

728 98. The owner makes no representations with respect to the presence of any wastewater system,
729 including the type or size thereof or associated maintenance responsibilities related thereto, located on
730 the property and purchasers are advised to exercise whatever due diligence they deem necessary to
731 determine the presence of any wastewater system on the property, in accordance with terms and
732 conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement
733 pursuant to that contract.

734 2. That the provisions of §§ 54.1-2135, 54.1-2137, 54.1-2139, and 54.1-2139.1 of this act shall
735 become effective on July 1, 2012.