

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act 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.

[H 1907]

Approved

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 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.

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

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

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

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

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

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

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

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

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

112 3 4. For correspondence and other distance learning instruction offered by an approved provider, the  
 113 Board shall establish the appropriate testing procedures to verify completion of the course and require  
 114 the licensee to file a notarized affidavit certifying compliance with the course requirements. The Board  
 115 may establish procedures to ensure the quality of the courses. The Board shall not require testing for  
 116 continuing education courses completed through classroom instruction.

117 B. Every applicant for relicensure as an active salesperson or broker shall complete the continuing

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

123 § 54.1-2105.1. Other powers and duties of the Real Estate Board.

124 In addition to the provisions of §§ 54.1-2105.01 through 54.1-2105.04, the Board shall develop a  
 125 residential property disclosure statement form for use in accordance with the provisions of Chapter 27  
 126 (§ 55-517 et seq.) of Title 55. *The Board shall also include on its website the notice required by*  
 127 *subsection B of § 55-519.*

128 § 54.1-2130. Definitions.

129 As used in this article:

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

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

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

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

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

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

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

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

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

166 "Licensee" means real estate brokers and salespersons as defined in Article 1 (§ 54.1-2100 et seq.) ~~of~~  
 167 ~~Chapter 21 of this title.~~

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

179 property subject to the Property Owners' Association Act (§ 55-508 et seq.), the rights and obligations of  
 180 the client to deliver to the purchasers, or to receive as purchaser, the association disclosure packet  
 181 required by § 55-509.5. A limited service representative may act as the agent or representative of the  
 182 client only by so providing in writing in the brokerage agreement. If the brokerage agreement does not  
 183 so state, the limited service representative shall be deemed as acting as an independent contractor of the  
 184 client.

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

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

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

192 § 54.1-2131. Licensees engaged by sellers.

193 A. A licensee engaged by a seller shall:

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

195 2. Promote the interests of the seller by:

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

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

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

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

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

212 4. Exercise ordinary care;

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

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

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

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

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

239 D. A licensee engaged by a seller does not breach any duty or obligation owed to the seller by

240 showing alternative properties to prospective buyers, whether as clients or customers, or by representing  
 241 other sellers who have other properties for sale.

242 E. Licensees shall disclose brokerage relationships pursuant to the provisions of this article.

243 § 54.1-2133. Licensees engaged by landlords to lease property.

244 A. A licensee engaged by a landlord shall:

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

246 2. Promote the interests of the landlord by:

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

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

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

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

262 4. Exercise ordinary care;

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

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

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

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

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

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

293 E. Licensees shall disclose brokerage relationships pursuant to the provisions of this article.

294 § 54.1-2135. Licensees engaged to manage real estate.

295 A. A licensee engaged to manage real estate shall:

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

297 2. Exercise ordinary care;

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

300 4. Maintain confidentiality of all personal and financial information received from the client during

301 the brokerage relationship and any other information that the client requests during the brokerage  
 302 relationship be maintained confidential unless otherwise provided by law or the owner consents in  
 303 writing to the release of such information;

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

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

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

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

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

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

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

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

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

321 § 54.1-2137. Commencement and termination of brokerage relationships.

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

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

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

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

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

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

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

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

345 § 54.1-2139. Disclosed dual standard agency authorized.

346 A. A licensee may ~~not~~ *act as a dual representative only with standard agent unless he has first*  
 347 *obtained the written consent of all clients parties to the transaction given after written disclosure of the*  
 348 *consequences of such dual standard agency. Such written consent and disclosure of the brokerage*  
 349 *relationship as required by this article shall be presumed to have been given as against any client who*  
 350 *signs a disclosure as provided in this section. shall be in writing and given to both parties prior to the*  
 351 *commencement of dual standard agency. The disclosure shall contain the following provisions:*

352 1. *That following the commencement of dual standard agency, the licensee will be unable to advise*  
 353 *either party as to the terms, offers or counteroffers; however, under the limited circumstances specified*  
 354 *in subsection C, the licensee may have previously discussed such terms with one party prior to the*  
 355 *commencement of dual standard agency;*

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

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

361 4. *That the licensee will be acting without knowledge of the client's needs, client's experience in the*

362 market, or client's experience in handling real estate transactions unless he has gained that information  
363 from earlier contact with the client under the limited circumstances specified in subsection C; and

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

365 B. Such disclosures shall not be deemed to comply with the requirements set out in this section if (i)  
366 not signed by the client or (ii) given in a purchase agreement, lease or any other document related to a  
367 transaction. Any disclosure and consent that substantially complies with the following shall be deemed  
368 in compliance with this disclosure requirement:

369 DISCLOSURE OF DUAL STANDARD AGENCY

370 The undersigned do hereby acknowledge disclosure that:

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

373 represents more than one party as a dual standard agent  
374 in this real estate transaction as indicated below:

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

377 The undersigned understand:

378 1. That following the commencement of dual standard agency, the  
379 licensee cannot advise either party as to the terms to offer or  
380 accept in any offer or counteroffer; however, the licensee may have  
381 advised one party as to such terms prior to the commencement of  
382 dual standard agency;

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

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

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

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

395 The undersigned by signing this notice do hereby acknowledge  
396 their informed consent to the disclosed dual standard agency  
397 by the licensee.

398 .....  
399 Date Name (One Party)

400 .....  
401 Date Name (One Party)

402 .....  
403 Date Name (Other Party)

404 .....  
405 Date Name (Other Party)

406 C. However, if the licensee is currently representing a party as a standard agent and that party  
407 desires to engage in a real estate transaction with another current client represented by the licensee as  
408 a standard agent, the licensee may engage in dual standard agency provided that prior to  
409 commencement of such dual standard agency the following disclosure may be used in lieu of that  
410 contained in subsection B.

411 Otherwise, the dual standard agent shall make the disclosure contained in subsection B. Further, if  
412 the licensee represents one party as an independent contractor and another party as a standard agent,  
413 the licensee may engage in dual representation only if the disclosure in subsection B is given.

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

418 DISCLOSURE OF DUAL REPRESENTATION STANDARD AGENCY WITH EXISTING CLIENTS

419 The undersigned do hereby acknowledge disclosure that:

420 The licensee .....  
421 (Name of Broker, Firm or Salesperson as applicable)  
422 represents more than one party in this real estate transaction as  
423 indicated below:

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

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

436 .....  
437 Date Name (One Party)  
438 .....  
439 Date Name (One Party)  
440 .....  
441 Date Name (Other Party)  
442 .....  
443 Date Name (Other Party)

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

447 *E. No cause of action shall arise against a dual representative standard agent for making*  
448 *disclosures of brokerage relationships as provided by this article. A dual representative standard agent*  
449 *does not terminate any brokerage relationship by the making of any such allowed or required disclosures*  
450 *of dual representation standard agency.*

451 *D F. In any real estate transaction, a licensee may withdraw, without liability, from representing a*  
452 *client who refuses to consent to a disclosed dual representation standard agency thereby terminating the*  
453 *brokerage relationship with such client. Such withdrawal shall not prejudice the ability of the licensee to*  
454 *continue to represent the other client in the transaction nor to limit the licensee from representing the*  
455 *client who refused the dual representation standard agency in other transactions not involving dual*  
456 *representation standard agency.*

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

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

472 ~~DISCLOSURE OF THE USE OF DESIGNATED REPRESENTATIVES~~  
473 ~~The undersigned do hereby acknowledge disclosure that:~~  
474 ~~The licensee .....  
475 (Name of Broker and Firm)  
476 represents more than one party in this real estate transaction as  
477 indicated below:  
478 ..... Seller(s) and Buyer(s)~~

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

490 ~~The principal or supervising broker has assigned~~  
 491 ~~..... to act as Designated Representative~~  
 492 ~~(Licensee/Sales Associate)~~  
 493 ~~for the one party as indicated below:~~

494 ~~..... Seller(s) or ..... Buyer(s)~~  
 495 ~~..... Landlord(s) or ..... Tenant(s).~~

496 ~~and~~  
 497 ~~..... to act as Designated Representative~~  
 498 ~~(Licensee/Sales Associate)~~  
 499 ~~for the other party as indicated below:~~

500 ~~..... Seller(s) or ..... Buyer(s)~~  
 501 ~~..... Landlord(s) or ..... Tenant(s)~~

502 ~~.....~~  
 503 ~~Date Name (One Party)~~  
 504 ~~.....~~  
 505 ~~Date Name (One Party)~~  
 506 ~~.....~~  
 507 ~~Date Name (Other Party)~~  
 508 ~~.....~~  
 509 ~~Date Name (Other Party)~~

510 *§ 54.1-2139.1. Designated standard agency authorized.*

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

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

526 *DISCLOSURE OF THE USE OF DESIGNATED STANDARD AGENTS*

527 *The undersigned do hereby acknowledge disclosure that:*  
 528 *The licensee .....*  
 529 *(Name of Broker and Firm)*  
 530 *represents more than one party in this real estate transaction as*  
 531 *indicated below:*

532 *..... Seller(s) and Buyer(s)*  
 533 *..... Landlord(s) and Tenant(s).*

534 *The undersigned understand that the foregoing dual standard agent*  
 535 *may not disclose to either client or such client's designated*  
 536 *standard agent any information that has been given to the dual*

537 standard agent by the other client within the confidence and trust  
538 of the brokerage relationship except for that information which  
539 is otherwise required or permitted by Article 3 (§ 54.1-2130 et  
540 seq.) of Chapter 21 of Title 54.1 of the Code of Virginia to be  
541 disclosed. The undersigned by signing this notice do hereby  
542 acknowledge their informed consent to the disclosed dual  
543 standard agency by the licensee.

544 The principal or supervising broker has assigned  
545 ..... to act as Designated Standard

546 Agent

547 (Licensee/Sales Associate)

548 for the one party as indicated below:

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

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

551 and

552 ..... to act as Designated Standard

553 Agent

554 (Licensee/Sales Associate)

555 for the other party as indicated below:

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

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

558 .....

559 Date Name (One Party)

560 .....

561 Date Name (One Party)

562 .....

563 Date Name (Other Party)

564 .....

565 Date Name (Other Party)

566 § 54.1-2139.2. Disclosed dual representation authorized.

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

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

575 DISCLOSURE OF DUAL REPRESENTATION

576 The undersigned do hereby acknowledge disclosure that:

577 The licensee .....

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

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

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

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

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

593 .....

594 Date Name (One Party)  
 595 .....  
 596 Date Name (One Party)  
 597 .....  
 598 Date Name (Other Party)  
 599 .....  
 600 Date Name (Other Party)

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

604 *D. In any real estate transaction, a licensee may withdraw, without liability, from representing a*  
 605 *client who refuses to consent to a disclosed dual representation thereby terminating the brokerage*  
 606 *relationship with such client. Such withdrawal shall not prejudice the ability of the licensee to continue*  
 607 *to represent the other client in the transaction or to limit the licensee from representing the client who*  
 608 *refused the dual representation in other transactions not involving dual representation.*

609 § 54.1-2139.3. Designated representatives authorized.

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

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

625 DISCLOSURE OF THE USE OF DESIGNATED REPRESENTATIVES

626 The undersigned do hereby acknowledge disclosure that:

627 The licensee .....

628 (Name of Broker and Firm)

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

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

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

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

643 The principal or supervising broker has assigned  
 644 ..... to act as Designated Representative  
 645 (Licensee/Sales Associate)

646 for the one party as indicated below:

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

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

649 and

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

652 for the other party as indicated below:  
 653 ..... Seller(s) or ..... Buyer(s)  
 654 ..... Landlord(s) or ..... Tenant(s)  
 655 .....  
 656 Date Name (One Party)  
 657 .....  
 658 Date Name (One Party)  
 659 .....  
 660 Date Name (Other Party)  
 661 .....  
 662 Date Name (Other Party)

663 § 54.1-2142.1. Liability for false information.

664 For the purposes of §§ 54.1-2131 through 54.1-2135, a licensee shall not be liable for providing  
665 false information if the information was (i) provided to the licensee by the licensee's client; (ii) obtained  
666 from a governmental entity; (iii) obtained from a nongovernmental person or entity that obtained the  
667 information from a governmental entity; or (iv) obtained from a person licensed, certified, or registered  
668 to provide professional services in the Commonwealth, upon which the licensee relies, and the licensee  
669 did not (a) have actual knowledge that the information was false or (b) act in reckless disregard of the  
670 truth.

671 § 54.1-2146. Licensee maintenance of records.

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

674 § 55-519. Required disclosures.

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

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

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

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

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

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

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

707 4. The owner makes no representations with respect to whether the property contains any resource  
708 protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act  
709 (§ 10.1-2100 et seq.) adopted by the locality where the property is located pursuant to § 10.1-2109 and  
710 that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to  
711 determine whether the provisions of any such ordinance affect the property, including review of any

712 official map adopted by the locality depicting resource protection areas, in accordance with terms and  
713 conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement  
714 on a parcel of residential real property;

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

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

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

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

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

742 *C. Any buyer who is a party to a real estate purchase contract subject to this section may provide in*  
743 *such contract that the disclosures provided on the Real Estate Board website be printed off and*  
744 *provided to such buyer.*

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