

# VIRGINIA ACTS OF ASSEMBLY -- 2012 RECONVENED SESSION

## CHAPTER 750

*An Act to amend and reenact §§ 54.1-2105, 54.1-2105.03, 54.1-2106.1, 54.1-2130 through 54.1-2134, 54.1-2137, as it shall become effective, 54.1-2138, 54.1-2138.1, 54.1-2139, as it shall become effective, 54.1-2139.1, as it shall become effective, and 54.1-2141 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 54.1-2106.2, 54.1-2110.1, and 54.1-2139.01; and to repeal §§ 54.1-2139.2 and 54.1-2139.3 of the Code of Virginia, relating to the Real Estate Board; duties of real estate brokers and salespersons.*

[H 206]

Approved April 18, 2012

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2105, 54.1-2105.03, 54.1-2106.1, 54.1-2130 through 54.1-2134, 54.1-2137, as it shall become effective, 54.1-2138, 54.1-2138.1, 54.1-2139, as it shall become effective, 54.1-2139.1, as it shall become effective, and 54.1-2141 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 54.1-2106.2, 54.1-2110.1, and 54.1-2139.01 as follows:**

§ 54.1-2105. General powers of Real Estate Board; regulations; educational and experience requirements for licensure.

A. The Board may do all things necessary and convenient for carrying into effect the provisions of this chapter and may promulgate necessary regulations.

B. The Board shall adopt regulations establishing minimum educational requirements as conditions for licensure. Board regulations relating to initial licensure shall include the following requirements:

1. Every applicant for an initial license as a real estate salesperson shall have:

a. At a minimum, a high school diploma or its equivalent; and

b. Completed a course in the principles of real estate that carried an academic credit of at least four semester hours, but not less than 60 hours of classroom, correspondence, or other distance learning instruction, offered by an accredited university, college, community college, high school offering adult distributive education courses, or other school or educational institution offering an equivalent course.

2. Every applicant for an initial license as a real estate broker shall have:

a. At a minimum, a high school diploma or its equivalent; and

b. Completed not less than 12 semester hours of classroom or correspondence or other distance learning instruction in real estate courses offered by an accredited university, college, community college, or other school or educational institution offering equivalent courses.

3. Every applicant for a license by reciprocity as a real estate salesperson or real estate broker shall have:

a. Completed a course in the principles of real estate that is comparable in content and duration and scope to that required in subdivision B 1 or 12 semester hours of classroom or correspondence or other distance learning instruction in real estate courses that are comparable in content and duration and scope to that required in subdivision B 2; and

b. If currently licensed by another state as a real estate salesperson or broker, passed Virginia's examination.

C. The Board may waive any requirement under the regulations relating to education or experience when the broker or salesperson is found to have education or experience equivalent to that required. No regulation imposing educational requirements for initial licensure beyond those specified by law shall apply to any person who was licensed prior to July 1, 1975, and who has been continuously licensed since that time, except that licensure as a salesperson prior to such time shall not exempt a salesperson who seeks to be licensed as a broker from the educational requirements established for brokers.

D. The Board shall establish criteria to ensure that prelicensure and broker licensure courses meet the standards of quality deemed by the Board to be necessary to protect the public interests. For correspondence and other distance learning instruction offered by an approved provider, such criteria may include appropriate testing procedures. The Board may establish procedures to ensure the quality of the courses.

Noncollegiate institutions shall not be authorized to grant collegiate semester hours for academic credit.

The specific content of the real estate courses shall be in real estate brokerage, real estate finance, real estate appraisal, real estate law, and such related subjects as are approved by the Board.

*E. The Board may establish criteria delineating the permitted activities of unlicensed individuals employed by real estate licensees or under the supervision of a real estate broker.*

§ 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 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 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 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.

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.

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 to residential standard agency 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 three-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 standard agency.

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 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.

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.

*C. The Board shall establish procedures for the carryover of continuing education credits completed by licensees from the licensee's current license period to the licensee's next renewal period.*

§ 54.1-2106.1. Licenses required.

A. No business entity, other than a sole proprietorship, shall act, offer to act, or advertise to act, as a real estate firm without a real estate firm license from the Board. Such firm may be granted a license in a fictitious name. No business entity shall be granted a firm license unless (i) every managing member of a limited liability company or officer of a corporation, *partner within a partnership, or associate within an association* who actively participates in the firm brokerage business holds a license as a real estate broker; and (ii) every employee or independent contractor who acts as a salesperson for such business entity holds a license as a real estate salesperson or broker. An individual holding a broker's license may operate a real estate brokerage firm which he owns as a sole proprietorship without any further licensure by the Board, although such individual shall not operate *the brokerage firm* in a fictitious name. *However, nothing herein shall be construed to prohibit a broker operating a brokerage firm from having a business entity separate from the brokerage firm for such broker's own real estate business, provided that such separate business entity otherwise complies with this section.* A non-broker-owned sole proprietorship shall obtain a license from the Board.

B. No individual shall act as a broker without a real estate broker's license from the Board. An individual who holds a broker's license may act as a salesperson for another broker. A broker ~~acting as a salesperson~~ may be an owner, member, or officer of a business entity salesperson as defined in subsection C.

C. No individual shall act as a salesperson without a salesperson's license from the Board. A business entity may act as a salesperson with a separate business entity salesperson's license from the Board. No business entity shall be granted a business entity salesperson's license unless every owner or officer who actively participates in the brokerage business of such entity holds a license as a salesperson or broker from the Board. The Board shall establish standards in its regulations for the names of business entity salespersons when more than one licensee is an owner or officer.

§ 54.1-2106.2. *Certification of audit on renewal of firm or sole proprietorship license.*

*When submitting a renewal of any firm or sole proprietorship license, the principal broker or supervising broker of the firm shall certify that he has audited or has caused to be audited the operations, policies, and procedures of the firm to assure compliance with the provisions of this chapter and with regulations adopted by the Board. Such audit shall be conducted at least once during each term of licensure, and the completed audit form developed by the Board, signed by the principal or supervising broker, shall be kept on the premises of the firm or sole proprietorship and shall be produced for inspection or copying upon request by an authorized agent of the Board.*

§ 54.1-2110.1. *Duties of supervising broker.*

A. *Each place of business and each branch office shall be supervised by a supervising broker. The supervising broker shall exercise reasonable and adequate supervision of the provision of real estate brokerage services by associate brokers and salespersons assigned to the branch office. The supervising broker may designate another broker to assist in administering the provisions required by this section, but such designation shall not relieve the supervising broker of responsibility for the supervision of the acts of all licensees assigned to the branch office.*

B. *As used in this section, "reasonable and adequate supervision" by the supervising broker shall include the following:*

1. Being available to all licensees under his supervision at reasonable times to review and approve all documents, including leases, contracts, brokerage agreements, and advertising as may affect the firm's clients and business;

2. Ensuring the availability of training opportunities and that the office has written procedures and policies that provide clear guidance in the following areas:

a. Handling of escrow deposits in compliance with law and regulation;

b. Complying with federal and state fair housing laws and regulations if the firm engages in residential brokerage, residential leasing, or residential property management;

c. Advertising and marketing of the brokerage firm;

d. Negotiating and drafting of contracts, leases, and brokerage agreements;

e. Exercising appropriate oversight and limitations on the use of unlicensed assistants, whether as part of a team arrangement or otherwise;

f. Creating agency or independent contractor relationships and elements thereof;

g. Distributing information on new or amended laws or regulations; and

h. Disclosing required information relating to the physical condition of real property;

3. Ensuring that the brokerage services are carried out competently and in accordance with the provisions of this chapter; and

4. Maintaining the records required by this subsection for three years. The records shall be furnished to the Board's agent upon request.

C. Any supervising broker who resides more than 50 miles from a branch office under his supervision, having licensees who regularly conduct business assigned to such branch office, shall certify in writing quarterly on a form provided by the Board that the supervising broker has complied with the requirements of this section.

#### § 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 agreement. ~~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 comply with the provisions of subdivisions A 3 through 7 and subsections B and E of § 54.1-2131; subdivisions A 3 through 7 and subsections B and E of § 54.1-2132; subdivisions A 3 through 7 and subsections B and E of § 54.1-2133; subdivisions A 3 through 7 and subsections B and E of § 54.1-2134; and subdivisions A 2 through 6 and subsections C and D of § 54.1-2135 but otherwise shall have no obligations under §§ 54.1-2131 through 54.1-2135. ~~However, any~~ Any real estate licensee who acts for or represents a client in an agency relationship shall either represent such client as a standard agent or a limited service agent.

"Brokerage agreement" means the written agreement creating a brokerage relationship between a client and a licensee. *The brokerage agreement shall state whether the real estate licensee will represent the client as an agent or an independent contractor.*

"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.

"Commercial real estate" means any real estate other than (i) real estate containing one to four residential units or (ii) real estate classified for assessment purposes under the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1. Commercial real estate shall not include single family residential units, including condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

"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. *A designated representative shall only act as an independent contractor.*

"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. *A dual agent has an agency relationship under brokerage agreements with the clients. A dual representative has an independent contractor relationship under brokerage agreements with the clients. A dual representative shall only act as an independent contractor.*

"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 comply with the provisions of subdivisions A 3 through 7 and subsections B and E of § 54.1-2131; subdivisions A 3 through 7 and subsections B and E of § 54.1-2132; subdivisions A 3 through 7 and subsections B and E of § 54.1-2133; subdivisions A 3 through 7 and subsections B and E of § 54.1-2134; and subdivisions A 2 through 6 and subsections C and D of § 54.1-2135 but otherwise 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.).

"Limited service ~~representative agent~~" means a licensee who acts for or represents a client with respect to real property containing from one to four residential *dwelling* units, pursuant to a brokerage agreement that provides that the limited service ~~representative agent~~ 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 agent~~ shall have the obligations set out in the brokerage agreement, except that a limited service ~~representative agent~~ 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 the client to deliver to the purchasers, or to receive as purchaser, the association disclosure packet required by § 55-509.5. ~~A limited service representative may act as the agent or representative of the client only by so providing in writing in the brokerage agreement. If the brokerage agreement does not so state, the limited service representative shall be deemed as acting as an independent contractor of the client.~~

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

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

*"Residential real estate" means real property containing from one to four residential dwelling units.*

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

§ 54.1-2131. Licensees engaged by sellers.

A. A licensee engaged by a seller shall:

1. Perform in accordance with the terms of the brokerage ~~relationship~~ agreement;
2. Promote the interests of the seller by:

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

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

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

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

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 seller 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 seller has or may have an interest;

6. Disclose to the seller 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, all applicable 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 buyers honestly and shall not knowingly give them false information. A licensee engaged by a seller shall disclose to prospective buyers all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. If a licensee has actual knowledge of the existence of defective drywall in a property, the licensee shall disclose the same to the prospective buyer. For purposes of this section, "defective drywall" means all defective drywall as defined in § 36-156.1. 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. No cause of action shall arise against any licensee for revealing information as required by this article or applicable law. Nothing in this article shall limit in any way the provisions of the Virginia Residential Property Disclosure Act (§ 55-517 et seq.).

C. A licensee engaged by a seller in a real estate transaction may, unless prohibited by law or the brokerage relationship agreement, provide assistance to a buyer or potential buyer 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 agreement with the seller unless expressly prohibited by the terms of the brokerage relationship agreement, nor shall performing such ministerial acts be construed to form a brokerage or agency relationship with such buyer or potential buyer.

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

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

*F. Nothing in this section shall be construed to require a licensee to disclose whether settlement services under Chapter 27.3 (§ 55-525.16 et seq.) of Title 55 will be provided by an attorney or a nonattorney settlement agent.*

§ 54.1-2132. Licensees engaged by buyers.

A. A licensee engaged by a buyer shall:

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

2. Promote the interests of the buyer by:

a. Seeking a property of a type acceptable to the buyer and at a price and on terms acceptable to the buyer; however, the licensee shall not be obligated to seek other properties for the buyer while the buyer is a party to a contract to purchase property unless agreed to as part of the brokerage relationship;

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

c. Receiving and presenting in a timely manner all written offers or counteroffers to and from the buyer and seller, even when the buyer is already a party to a contract to purchase property; and

d. Providing reasonable assistance to the buyer to satisfy the buyer's contract obligations and to facilitate settlement of the purchase contract;

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 buyer 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 buyer has or may have an interest;

6. Disclose to the buyer 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, all applicable 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 sellers honestly and shall not knowingly give them false information. If a licensee has actual knowledge of the existence of defective drywall in a property, the licensee shall disclose the same to the buyer. For purposes of this section, "defective drywall" means all defective drywall as defined in § 36-156.1. No cause of action shall arise against any licensee for revealing information as required by this article or applicable law. In the case of a residential transaction, a licensee engaged by a buyer shall disclose to a seller whether or not the buyer intends to occupy the property as a principal residence. The buyer's expressions of such intent in the contract of

sale shall satisfy this requirement and no cause of action shall arise against any licensee for the disclosure or any inaccuracy in such disclosure, or the nondisclosure of the buyer in this regard.

C. A licensee engaged by a buyer in a real estate transaction may, unless prohibited by law or the brokerage ~~relationship~~ *agreement*, provide assistance to the seller, or prospective seller, 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~~ *agreement* with the buyer unless expressly prohibited by the terms of the brokerage ~~relationship~~ *agreement*, nor shall performing such ministerial acts be construed to form a brokerage relationship with such seller.

D. A licensee engaged by a buyer does not breach any duty or obligation to the buyer by showing properties in which the buyer is interested to other prospective buyers, whether as clients or customers, by representing other buyers looking at the same or other properties, or by representing sellers relative to other properties.

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

*F. Nothing in this section shall be construed to require a licensee to disclose whether settlement services under Chapter 27.3 (§ 55-525.16 et seq.) of Title 55 will be provided by an attorney or a nonattorney settlement agent.*

§ 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~~ *agreement*;

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~~ *agreement* 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~~ *agreement*, 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. If a licensee has actual knowledge of the existence of defective drywall in a property, the licensee shall disclose the same to the prospective tenant. For purposes of this section, "defective drywall" means all defective drywall as defined in § 36-156.1. 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. 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~~ *agreement*, 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~~ *agreement*, 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.

§ 54.1-2134. Licensees engaged by tenants.

A. A licensee engaged by a tenant shall:

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

2. Promote the interests of the tenant by:

a. Seeking a lease at a rent and with terms acceptable to the tenant; however, the licensee shall not be obligated to seek other properties for the tenant while the tenant is a party to a lease or a letter of intent to lease exists under which the tenant has not yet taken possession, unless agreed to as part of the brokerage ~~relationship~~ *agreement*, or unless the lease or the letter of intent to lease so provides;

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

c. Providing reasonable assistance to the tenant 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 tenant 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 tenant has or may have an interest;

6. Disclose to the tenant 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 landlords honestly and shall not knowingly give them false information. If a licensee has actual knowledge of the existence of defective drywall in a property, the licensee shall disclose the same to the prospective tenant. For purposes of this section, "defective drywall" means all defective drywall as defined in § 36-156.1. No cause of action shall arise against any licensee for revealing information as required by this article or applicable law.

C. A licensee engaged by a tenant in a real estate transaction may provide assistance to the landlord or prospective landlord 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 tenant unless expressly prohibited by the terms of the brokerage ~~relationship~~ *agreement*, nor shall performing such ministerial acts be construed to form a brokerage relationship with the landlord or prospective landlord.

D. A licensee engaged by a tenant does not breach any duty or obligation to the tenant by showing properties in which the tenant is interested to other prospective tenants, whether as clients or customers, by representing other tenants looking for the same or other properties to lease, or by representing landlords relative to other properties.

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

§ 54.1-2137. (Effective July 1, 2012) Commencement and termination of brokerage relationships.

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

B. Brokerage agreements shall be in writing and shall:

1. Have a definite termination date; however, if a brokerage ~~relationship~~ *agreement* does not specify a definite termination date, the brokerage ~~relationship~~ *agreement* shall terminate 90 days after the date of the brokerage agreement;

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

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

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

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

C. Except as otherwise agreed to in writing, a licensee owes no further duties to a client after termination, expiration, or completion of performance of the brokerage ~~relationship~~ *agreement*, except to (i) account for all moneys and property relating to the brokerage relationship and (ii) keep confidential all personal and financial information received from the client during the course of 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 client consents in writing to the release of such information.

§ 54.1-2138. Disclosure of brokerage relationship.

A. Upon having a substantive discussion about a specific property or properties with an actual or prospective buyer or seller who is not the client of the licensee and who is not represented by another licensee, a licensee shall disclose any broker relationship the licensee has with another party to the transaction. Further, except as provided in § 54.1-2139, *54.1-2139.1, 54.1-2139.2, or 54.1-2139.3*, such disclosure shall be made in writing at the earliest practical time, but in no event later than the time when specific real estate assistance is first provided. 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 this disclosure requirement:

DISCLOSURE OF BROKERAGE RELATIONSHIP

The undersigned do hereby acknowledge disclosure that:

The licensee .....(*name of broker or salesperson*)  
associated with .....

Name of Brokerage Firm

represents the following party in a real estate transaction:

..... Seller(s)	or	..... Buyer(s)
..... Landlord(s)	or	..... Tenant(s)
.....		.....
Date		Name
.....		.....
Date		Name

B. A licensee shall disclose to an actual or prospective landlord or tenant, who is not the client of the licensee and who is not represented by another licensee, that the licensee has a brokerage relationship with another party or parties to the transaction. Such disclosure shall be in writing and included in all applications for lease or in the lease itself, whichever occurs first. If the terms of the lease do not provide for such disclosure, disclosure shall be made in writing no later than the signing of the lease. Such disclosure requirement shall not apply to lessors or lessees in single or multifamily residential units for lease terms of less than two months.

C. If a licensee's relationship to a client or customer changes, the licensee shall disclose that fact in writing to all clients and customers already involved in the specific contemplated transaction.

D. Copies of any disclosures relative to fully executed purchase contracts shall be kept by the licensee for a period of three years as proof of having made such disclosure, whether or not such disclosure is acknowledged in writing by the party to whom such disclosure was shown or given.

E. A limited service ~~representative~~ *agent* shall also make the disclosure required by § 54.1-2138.1.

§ 54.1-2138.1. Limited service agent, contract disclosure required.

A. A licensee may act as a limited service ~~representative~~ *agent* only pursuant to a written brokerage agreement in which the limited service ~~representative~~ *agent* (i) discloses that the licensee is acting as a limited service ~~representative~~ *agent*; (ii) provides a list of the specific services that the licensee will provide to the client; and (iii) provides a list of the specific duties of a standard agent set out in subdivision A 2 of § 54.1-2131, subdivision A 2 of § 54.1-2132, subdivision A 2 of § 54.1-2133, or subdivision A 2 of § 54.1-2134, as applicable, that the limited service ~~representative~~ *agent* will not provide to the client. Such disclosure shall be conspicuous and printed either in bold lettering or all capitals, and shall be underlined or in a separate box. In addition, a disclosure that contains language that complies substantially in effect with the following shall be deemed in compliance with this disclosure requirement:

"By entering into this brokerage agreement, the undersigned do hereby acknowledge their informed consent to the limited service ~~representation~~ *agent* by the licensee and do further acknowledge that neither the other party to the transaction nor any real estate licensee representing the other party is under any legal obligation to assist the undersigned with the performance of any duties and responsibilities of the undersigned not performed by the limited service ~~representative~~ *agent*."

*A limited service agent shall disclose dual agency in accordance with § 54.1-2139.*

B. A licensee engaged by one client to a transaction and dealing with an unrepresented party or with a party represented by a limited service ~~representative~~ *agent* and who, without additional compensation, provides such other party information relative to the transaction or undertakes to assist such other party in securing a contract or with such party's obligations thereunder, shall not incur liability for such actions except in the case of gross negligence or willful misconduct. A licensee does not create a brokerage relationship by providing such assistance or information to the other party to the transaction. A licensee dealing with a client of a limited service ~~representative~~ *agent* may enter into an agreement

with that party for payment of a fee for services performed or information provided by that licensee. Such payment shall not create a brokerage relationship; however, the licensee providing such services or information for a fee shall be held to the ordinary standard of care in the provision of such services or information.

§ 54.1-2139. (Effective July 1, 2012) Disclosed dual agency and dual representation authorized in a residential real estate transaction.

A. A licensee may not act as a dual ~~standard~~ agent *or dual representative in a residential real estate transaction* unless he has first obtained the written consent of all parties to the transaction given after written disclosure of the consequences of such dual ~~standard~~ agency *or dual representation*. A dual agent has an agency relationship under the brokerage agreements with the clients. A dual representative has an independent contractor relationship under the brokerage agreements with the clients. Such disclosure shall be in writing and given to both parties prior to the commencement of such dual ~~standard~~ agency *or dual representation*. The disclosure shall contain the following provisions:

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 STANDARD AGENCY

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 standard agent 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 standard agency, 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 standard agency;
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 standard agency by the licensee.

.....	.....
Date	Name (One Party)
.....	.....
Date	Name (One Party)
.....	.....
Date	Name (Other Party)
.....	.....
Date	Name (Other Party)

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

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

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 this disclosure requirement:

**DISCLOSURE OF DUAL STANDARD AGENCY WITH EXISTING CLIENTS**

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 understands that the foregoing dual standard agent may not disclose to either client any information that has been given to the dual standard agent 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 standard agency 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.

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

F. In any real estate transaction, a licensee may withdraw, without liability, from representing a client who refuses to consent to a disclosed dual standard agency 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 standard agency in other transactions not involving dual standard agency.

B. If the licensee is currently representing a party as an agent or independent contractor representative and that party desires to engage in a real estate transaction with another existing client represented by the licensee, the licensee may engage in dual representation provided that prior to commencement thereof the disclosure required by this section is given to both of the licensee's existing clients.

C. If the licensee is currently representing a party as an agent or independent contractor representative and the licensee proposes to represent a new client in a dual representation, the licensee may only engage in such dual representation if prior to commencement thereof, the disclosure required by this section is given to the licensee's one existing client and one new client.

D. Such disclosures shall not be deemed to comply with the requirements 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. However, such written consent and disclosure of the brokerage relationship as required by this article shall be presumed to have been given as against any client who signs a disclosure as required in this section.

E. 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.

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

*G. In any real estate transaction, a licensee may withdraw, without liability, from representing a client who refuses to consent to a disclosed dual agency or dual representation hereby 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 agency or dual representation in other transactions not involving the dual agency or dual representation.*

*H. The dual agency or dual representation disclosure in a residential transaction shall contain the following provisions and disclosure that substantially complies with the following shall be deemed in compliance with this disclosure requirement:*

DISCLOSURE OF DUAL AGENCY OR DUAL REPRESENTATION

IN A RESIDENTIAL REAL ESTATE TRANSACTION

The undersigned do hereby acknowledge disclosure that:

The licensee \_\_\_\_\_ (name of broker or salesperson) associated with \_\_\_\_\_ (Brokerage Firm) represents more than one party in this residential real estate transaction as follows:

A. Brokerage Firm represents the following party (select one):

☐ Seller(s) ☐ Buyer(s) ☐ Landlord(s) ☐ Tenant(s)

As a (select one):

☐ standard agent ☐ limited service agent ☐ independent contractor

Brokerage Firm represents another party (select one):

☐ Seller(s) ☐ Buyer(s) ☐ Landlord(s) ☐ Tenant(s)

As a (select one):

☐ standard agent ☐ limited service agent ☐ independent contractor

B. Brokerage Firm disclosure and client acknowledgement of the following (select one):

☐ Brokerage Firm represents two existing clients in the transaction and the undersigned acknowledge the following:

The undersigned understand that the foregoing dual agent or dual representative may not disclose to either client any information that has been given to the dual agent or 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.

☐ Brokerage Firm represents one existing client and one new client in the transaction and the undersigned acknowledge the following:

The undersigned understand:

1. That following the commencement of dual agency or 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 agency or 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 the 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 at additional cost 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)

§ 54.1-2139.01. Disclosed dual agency and dual representation in commercial real estate transactions authorized.

A. A licensee may act as a dual agent or dual representative in a commercial real estate transaction only with the written consent of all clients to the transaction. A dual agent has an agency relationship under the brokerage agreements with the clients. A dual representative has an independent contractor relationship under the brokerage agreements with the clients. Such written consent and disclosure of the brokerage relationship as required by this article shall be presumed to have been given as against any client who signs a disclosure as provided in this section.

B. 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 this disclosure requirement:

DISCLOSURE OF DUAL AGENCY OR DUAL REPRESENTATION  
IN A COMMERCIAL REAL ESTATE TRANSACTION

The undersigned do hereby acknowledge disclosure that:

The licensee \_\_\_\_\_ (name of broker or salesperson) associated with \_\_\_\_\_ (Brokerage Firm) represents more than one party in this commercial real estate transaction as follows:

Brokerage Firm represents the following party (select one):

☐ Seller(s) ☐ Buyer(s) ☐ Landlord(s) ☐ Tenant(s)

As a (select one):

☐ standard agent ☐ limited service agent ☐ independent contractor

Brokerage Firm represents another party (select one):

☐ Seller(s) ☐ Buyer(s) ☐ Landlord(s) ☐ Tenant(s)

As a (select one):

☐ standard agent ☐ limited service agent ☐ independent contractor

The undersigned understand that the foregoing dual agent or dual representative may not disclose to either client any information that has been given to the dual agent or 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)

C. 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.

D. 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.

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

§ 54.1-2139.1. (Effective July 1, 2012) Designated standard agency or designated representation authorized.

A. A principal or supervising broker may assign different licensees affiliated with the broker as designated ~~standard~~ agent or representative to represent different clients in the same transaction to the exclusion of all other licensees in the firm. Use of such designated ~~standard~~ agents or representatives shall not constitute dual ~~standard~~ agency or representation if a designated ~~standard~~ agent or 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 ~~standard~~ agent or representative as provided in this article. Designated ~~standard~~ agents or 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 ~~standard~~ agents or 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 that complies substantially in effect with the following shall be deemed in compliance with such disclosure requirement:

DISCLOSURE OF THE USE OF DESIGNATED ~~STANDARD~~ AGENTS  
OR 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 ~~standard~~ agent or representative may not disclose to either client or such client's designated ~~standard~~ agent or representative any information that has been given to the dual ~~standard~~ agent or 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 standard agency by the licensee.

The principal or supervising broker has assigned  
..... to act as Designated ~~Standard~~ Agent or Representative  
(Licensee/Sales Associate broker or salesperson)  
for the one party as indicated below:

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

☐ Seller(s)   ☐ Buyer(s)   ☐ Landlord(s)   ☐ Tenant(s)

As a (select one):

☐ standard agent   ☐ limited service agent   ☐ independent contractor  
..... to act as Designated ~~Standard~~ Agent or Representative  
(Licensee/Sales Associate broker or salesperson)

for the other party as indicated below:

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

☐ Seller(s)   ☐ Buyer(s)   ☐ Landlord(s)   ☐ Tenant(s)

As a (select one):

☐ standard agent   ☐ limited service agent   ☐ independent contractor

The undersigned by signing this notice do hereby acknowledge their 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. 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.*

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

*E. In any real estate transaction, a licensee may withdraw, without liability, from representing a client who refuses to consent to a disclosed designated agency or representation agreement 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 or to limit the licensee from representing the client who refused the designated agency or representation relationship in other transactions not involving designated representation.*

§ 54.1-2141. Brokerage relationship not created by using common source information company.

No licensee representing a buyer or tenant shall be deemed to have a brokerage relationship with a seller, landlord or other licensee solely by reason of using a common source information company. However, nothing contained in this article shall be construed to prevent a common source information company from requiring, as a condition of participation in or use of such common source information, that licensees providing information through such company disclose the nature of the brokerage relationship with the client, including, but not limited to, whether the licensee is acting as (i) an independent contractor, (ii) a limited service ~~representative agent~~, or (iii) a ~~transaction broker, facilitator or in some other capacity~~ *standard agent* as provided in the brokerage agreement. A common source information company may, but shall not be obligated to, require disclosure of a standard agency relationship, and may adopt rules providing that absent any disclosure, a licensee providing information through such company may be assumed to be acting as a standard agent. A common source information company shall have the right, but not the obligation, to make information about the nature of brokerage relationships available to its participants and to settlement service it provides including, without limitation, title insurance companies, lenders, and settlement agents.

**2. That §§ 54.1-2139.2 and 54.1-2139.3 of the Code of Virginia are repealed.**

**3. That the provisions of this act shall become effective on July 1, 2012, except that the provisions of § 54.1-2106.2 added by this act shall become effective on January 1, 2013.**