

Minimum Service Requirements - By Jurisdiction

Executive Summary

MINIMUM SERVICE REQUIREMENTS

ANNUAL REPORT EXECUTIVE SUMMARY

November 2016

OVERVIEW

Few jurisdictions have recently enacted statutes or regulations that specifically include new broker minimum service requirements. However, for many years, a majority of the surveyed jurisdictions have addressed some required services, disclosures involving service-oriented duties, exclusive brokerage agreements, and waivers of mandatory duties.

DISCLOSURES

All surveyed jurisdictions require some disclosures regarding agency relationships, and more than one-third of the jurisdictions specifically require disclosures that address a licensee's duties. Four jurisdictions amended their relevant disclosure provisions between June 2014 and July 2015, and five jurisdictions revised those laws since July 2015. The only significant change since July 2015 was in Texas, which adopted new regulations related to its statutory disclosure requirements that were revised effective January 1, 2016.

EXCLUSIVE BROKERAGE AGREEMENTS

Twenty jurisdictions specifically provide that exclusive broker agreements must contain certain provisions. Of these, only five jurisdictions have recently added statutes that explicitly require an exclusive brokerage agreement to contain or reference recently enacted minimum service requirements. Forty-six percent of the surveyed jurisdictions specify provisions that all broker or licensee agreements generally must contain, but those jurisdictions do not address exclusive agreements.

Between June 2014 and July 2015, only four jurisdictions revised their laws addressing exclusive brokerage agreements, and none of the changes significantly amended the provisions explicitly relating to exclusive brokerage agreements. Since July 2015, only five jurisdictions revised those laws, and, again, all of the changes were either minor or not relevant to this survey.

REQUIRED SERVICES

Since 2004, 17 jurisdictions have enacted new provisions that explicitly require or add broker minimum service requirements. However, 70 percent of the surveyed jurisdictions have long-standing licensee duty requirements that are service-oriented. Thirty-seven percent of the surveyed jurisdictions provide service-oriented duties for licensees representing buyers or sellers. The most common service-oriented requirement involves a licensee accepting and transmitting offers and counteroffers.

Between June 2014 and July 2015, 11 jurisdictions revised their laws addressing minimum service requirements, and another 10 jurisdictions revised those laws between July 2015 and November 2016. The most significant changes since July 2015 were as follows:

- Georgia revised its general requirements regarding the delivery of a closing statement to require a licensee only to ensure that a client receives a closing statement;
- South Carolina rewrote its entire statutory chapter regarding real estate brokers, effective January 1, 2017; and
- Wisconsin significantly revised its real estate laws, including changing all "broker" references to "firm."

WAIVERS

Twenty-one jurisdictions explicitly permit the waiver of one or more of a broker's or a licensee's duties. Also, the Maine Real Estate Commission has issued a letter stating that a real estate seller or buyer may elect not to have a real estate licensee receive offers. Only Oklahoma and Idaho

expressly and without exception prohibit the waiver of their stated service requirements. The remaining jurisdictions do not address whether a licensee may waive duties.

Only two jurisdictions revised their laws regarding waivers between June 2014 and July 2015 and four jurisdictions revised those laws during the past year. None of the changes since June 2014 were significant and relevant to this survey.

Alabama

Alabama, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Alabama: General Agency Relationship Requirements**.

Alabama, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: Alabama: General Agency Relationship Requirements**.

Alabama, Required Services

Section 34-27-84(c) provides that when accepting an agreement to list an owner's property for sale, a *broker* or his or her licensee must, at a minimum, "accept delivery of and present to the consumer all offers, counteroffers, and addenda":

- to assist the consumer in negotiating offers, counteroffers, and addenda; and
- to answer the consumer's questions related to the transaction.

A 2005 amendment to § 34-27-84 deleted the former subsection (a)(6), which placed the same minimum standards on licensees.

A licensee must also fulfill his or her fiduciary duties to a client.

Licensee's duties set forth in Alabama's Real Estate Consumer's Agency and Disclosure Act supersede any duties based upon common law agency principles to the extent that those common law duties are inconsistent with the statutory duties.

For additional general information regarding a transaction broker's required duties, see **Agency: Alabama: Transaction Brokers**.

Statutory section 34-27-87 enacted 1995; § 34-27-85 amended 1995; § 34-27-84 amended 2005.

[Ala. Code §§ 34-27-84\(c\), -85, -87 \(2015\)](#)

Alabama, Waivers

No provisions specifically related to the waiver of minimum service requirements were located.

Alaska

Alaska, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Alaska: General Agency Relationship Requirements**.

Alaska, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located.

Alaska, Required Services

Unless the parties agree to additional duties in writing, a real estate licensee owes the following duties to each person to whom the licensee provides specific assistance:

- to use reasonable skill and care;
- to deal with honesty and in good faith;
- to present all written offers and other written communications to and from the person in a timely manner, even if the real estate is subject to an existing contract or the person is already a party to an existing contract to buy or lease real estate;
- except as otherwise provided, to disclose all known material information regarding the real estate's physical condition if it substantially adversely affects the real estate or a person's ability to perform his or her obligations in the transaction or if the information would "materially impair or defeat" the transaction's purpose;
- to account in a timely manner for all money and property received;

- before providing specific assistance or when entering into a contract to provide specific assistance, to provide a copy of the pamphlet outlining the duties of licensee relationships;
- before providing specific assistance, to obtain a signed document disclosing the licensee's relationship with the person;
- when a person signs a real estate offer, to provide the licensee a written statement indicating whether the licensee represents the buyer, seller, lessee, or lessor, or provides specific assistance to both the buyer and the seller as a neutral licensee;
- not to take actions that are adverse or detrimental to the represented person's interests;
- to disclose any conflict of interest;
- to advise the represented person to obtain expert advice on any matters related to the real estate transaction that are beyond the licensee's expertise; and
- not to disclose confidential information from or about the represented person without his or her written consent, except under subpoena or court order, even after the relationship terminates.

A licensee must also make a "good faith and continuous effort" to find real estate for a buyer he or she represents, except that a licensee need not:

- seek additional real estate to buy while the buyer is a party to an existing contract; or
- show the buyer real estate for which there is no written agreement to pay the licensee compensation.

Similarly, a real estate licensee who represents a seller must make a "good faith and continuous effort" to find a buyer for the real estate, except that a licensee need not seek additional offers while the real estate is subject to an existing contract for sale.

For additional general information regarding licensee's required duties, see **Agency: Alaska: General Agency Relationship Requirements** and for additional general information regarding a transaction broker's required duties, see **Agency: Alaska: Transaction Brokers**.

Statutory sections enacted 2004.

[Alaska Stat. §§ 08.88.615, .620 \(2015\)](#)

Alaska, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

However, Alaska statutes regarding the waiver of duties generally state that a real estate licensee or a person to whom a licensee provides specific assistance may not waive the general duties required by statute, except as follows:

- a seller or a lessor and a licensee may agree in writing to waive the requirement that a licensee must make a good faith and continuous effort to find a buyer or lessee for the seller's or lessor's real estate; and
- a buyer or a lessee and a licensee may agree in writing to waive the requirement that the licensee must make a good faith and continuous effort to find real estate for the buyer or lessee.

Statutory sections enacted 2004.

[Alaska Stat. §§ 08.88.620\(5\), \(6\); .625 \(2015\)](#)

Arizona

Arizona, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Arizona: General Agency Relationship Requirements**.

Arizona, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: Arizona: General Agency Relationship Requirements**.

Arizona, Required Services

No recently adopted statutes or regulations require a broker to provide specific minimum services.

However, Arizona law contains some service-oriented requirements. For example, a licensee owes a fiduciary duty to the client and must, among other things,

- protect and promote the client's interests;

- conform to the standards of practice and competence recognized in the professional community for the specific real estate discipline in which the salesperson or broker engages;
- exercise reasonable care in ensuring that information material to a client's interests and relevant to the contemplated transaction is obtained and accurately communicated to the client;
- take reasonable steps to assist a client in confirming the accuracy of relevant information; and
- recommend to a client that the client seek appropriate counsel regarding the "risks of pre-possession or post-possession of a property."

Furthermore, a seller's licensee must promptly submit to his client all offers to purchase or lease the listed property. A licensee must submit to the client all offers made before closing, even after the client has accepted an offer, unless the client instructs the licensee in writing to stop submitting offers or unless otherwise provided by contract. A licensee must "expeditiously perform" all acts required by a licensee and may not delay performance.

An Arizona Department of Real Estate Bulletin confirms that Arizona statutes do not prohibit limited-service listings, in which the seller pays the listing broker a flat fee to place the property in the MLS and agrees that the listing broker will perform no other services. However, it also points out that Arizona regulations provide that "[a] licensee owes a fiduciary duty to the client and shall protect and promote the client's interests." Thus, if the seller in a limited-service listing is deemed to be a "client", the Bulletin notes that the rule "can be interpreted to apply only to the extent of any written agreement between the broker and client on the services to be provided." Also, even a limited-service broker must comply with all real estate statutes and rules, so he or she, as a licensed employing broker, must keep records of all real estate transactions "handled by or through the broker."

For additional general information regarding licensees' duties, see **Agency: Arizona: General Agency Relationship Requirements**.

Statutory section amended 2011. Regulation R4-28-802 amended 2002; r. R4-28-1101 amended 2005; r. R4-28-1102 amended 1999.

[Ariz. Rev. Stat. § 32-2151.01\(A\) \(2016\)](#); Tom Adams & K. Michelle Lind, *FSBOs, Lenders, and Limited Representation Brokers*, 31-2 Ariz. Dep't of Real Estate Bulletin, at 8 (May 2005); [Ariz. Admin. Code R4-28-802\(B\), -1101, -1102 \(2015\)](#)

Arizona, Waivers

No statutory provisions specifically related to the waiver of broker minimum service requirements were located.

However, Arizona regulations generally provide that, except for owner-listed properties, negotiations must be "conducted exclusively through the principal's broker or the broker's representative" unless:

- the principal waives the requirement in writing; and
- no licensed representative of the broker is available for 24 hours.

A Bulletin issued by the Arizona Department of Real Estate asserts that sellers and limited-service brokers can satisfy the above rule by providing a written waiver, indicating that no licensed representative is available to present or negotiate the offer.

A seller's licensee must also submit to the client all offers made before closing, even after the client has accepted an offer, unless:

- the client instructs the licensee in writing to stop submitting offers; or
- the contract provides otherwise.

Bulletin issued 2005; regulation R4-28-802 amended 2002; regulation R4-28-1102 amended 1999.

Tom Adams & K. Michelle Lind, *FSBOs, Lenders, and Limited Representation Brokers*, 31-2 Ariz. Dep't of Real Estate Bulletin, at 8 (2005); [Ariz. Admin. Code R4-28-802, -1102 \(2015\)](#)

Arkansas

Arkansas, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Arkansas: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

Arkansas, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding agency agreements, see **Agency: Arkansas: General Agency Relationship Requirements**.

Arkansas, Required Services

GENERAL DUTIES

A licensee owes a client a "primary duty of absolute fidelity to protect and promote" the client's interests. This duty includes the following service-oriented obligations:

- to follow the client's lawful instructions, unless doing so would expose the licensee to liability from another party to the transaction;

- to disclose to the client material facts that the licensee knows or should know and that are not confidential information under a current or prior agency or dual agency relationship;
- to advise the client to "obtain expert advice concerning material matters when necessary or appropriate"; and
- to account in a timely manner for all funds and property received in which "the client has or may have an interest."

A client may not waive the above duties.

Arkansas regulations also provide that a licensee acting as an agent must protect and promote a client's interests, while dealing honestly with all parties. Also, a seller's listing firm must promptly present to the seller all offers received on a specific property. The licensee who receives an offer or an acceptance, and his or her supervising broker, must sign all offers or acceptances.

For additional general information regarding duties of licensees acting as agents, see **Agency: Arkansas: General Agency Relationship Requirements** and **Relationship with Sellers** and for additional general information regarding a transaction broker's required duties, see **Agency: Arkansas: Transaction Brokers**.

SELLER'S DUTIES

A licensee representing a seller or a lessor in an agency relationship must perform the following service-oriented duties, among other obligations:

- use "reasonable efforts to obtain a purchase or lease offer at a price and with terms acceptable to the seller or lessor";
- accept delivery of and present an offer to the seller or lessor in a timely manner;
- within the "scope of knowledge required for licensure, but without violating the limits of the licensee's authority,"
 - answer the client's questions "regarding the steps the seller or lessor must take to fulfill" a contract's terms;
 - provide information to a seller or lessor regarding known offers or counteroffers; and
 - assist the client in "developing, communicating, and presenting offers or counteroffers."

BUYER'S DUTIES

A licensee representing a buyer or lessee in an agency relationship must perform the following service-oriented duties:

- use "reasonable efforts to locate a property at a price and with purchase or lease terms acceptable to the buyer or lessee";
- within the "scope of knowledge required for licensure, but without violating the limits of the licensee's authority,"
 - answer the buyer's or lessee's questions regarding the steps the buyer must take to fulfill a contract's terms; and
 - provide information to the client regarding offers or counteroffers;
- assist the buyer or lessee in developing, communicating, and presenting offers or counteroffers; and
- present an offer to purchase or lease to the seller or lessor and accept delivery of and present any counteroffers to the buyer or lessee in a timely manner.

Statutory sections 17-42-316, 17-42-317, and 17-42-318 enacted 2011. Regulation 8.5 amended 1996; r. 10.12 amended 2007.

Ark. Code §§ 17-42-316, -317, -318 (LexisNexis 2016); [Ark. Real Estate Comm'n Regs. rr. 8.5, 10.12 \(2016\)](#)

Arkansas, Waivers

A client may not waive the licensee's general duties required by § 17-42-316.

A licensee must perform the duties required by §§ 17-42-317 or 17-42-318 unless the client agrees to waive the duties and signs a waiver that contains:

- a list of the fiduciary duties required by § 17-42-316;
- a list of the duties contained in §§ 17-42-317 or 17-42-318, set forth in a manner that allows the parties to indicate each duty being waived; and
- the following statement in at least 10-point boldface type:
Agreement to Waive

By signing below, I agree that the real estate licensee who represents me will not perform the duties that are initialed above. I also understand that in a proposed real estate transaction, no other real estate licensee will perform the waived duties, and I realize that I may need to hire other professionals such as an attorney.

If a licensee enters into an agency relationship with waived duties, all "reasonable efforts must be taken to inform other licensees" that:

- the licensee is not to transmit or keep others' funds, notwithstanding other applicable statutes and rules; and
- a "licensee for a buyer or lessee remains authorized to present offers to buy, lease, or rent real property directly to the licensee's principal," notwithstanding the waiver or a conflicting statute or rule.

Statutory sections enacted 2011.

Ark. Code §§ 17-42-316, -319 (LexisNexis 2016)

California

California, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: California: Other Relevant Provisions** and **Relationship with Sellers**.

California, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: California: General Agency Relationship Requirements** and **Relationship with Buyers**.

California, Required Services

No recently adopted California statutes or regulations require a broker to provide specific minimum services. However, California law contains some service-oriented requirements. For example, pursuant to the relevant language contained in the form set forth at Cal. Civ. Code § 2079.16, a buyer's agent must, among other things, disclose all known facts that materially affect the property's value or desirability. A seller's agent has the affirmative duty, among others, to disclose all material facts materially affecting the property's value or desirability.

A real estate licensee also owes a duty to a prospective purchaser of residential real property of one to four dwelling units or a manufactured home,

- to conduct a "reasonably competent and diligent visual inspection" of the property offered for sale, and

- to disclose to the prospective purchaser all facts materially affecting the property's value or desirability that an investigation would reveal, provided the broker has a written contract with the seller to find a buyer or cooperates with that broker to find a buyer.

For additional general information regarding licensee's duties, see **Agency: California: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

Statutory sections amended 1996.

[Cal. Civ. Code §§ 2079, 2079.16 \(2016\)](#)

California, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Colorado

Colorado, Disclosures

A broker acting as a single agent or transaction broker must disclose his or her duties and obligations to the seller and buyer or the landlord and tenant, using disclosure language approved by the commission and in compliance with § 12-61-808. Brokers must use Commission-approved forms. See Rules 725-1(F-1)—(F-7) for permitted and prohibited form modifications and other rules related to using the commission-approved forms.

A broker intending to work with a buyer or tenant as the seller's or landlord's agent must provide a written disclosure to the buyer or tenant containing, among other things, a list of the tasks that the agent intends to perform for the seller or landlord with the buyer or tenant.

For additional general information regarding required disclosures, see **Agency: Colorado: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

Statutory section amended 2008. Regulation F-4 amended 2006; rr. F-1 and F-7 amended effective 2011; rr. F-1, F-2, and F-3 amended 2016; rr. F-5 and F-6 history unknown.

Colo. Rev. Stat. Ann. § 12-61-803(1), (3), (5) (LexisNexis 2016); [4 Colo. Code Regs. § 725-1\(F-1\) through \(F-7\) \(2016\)](#)

Colorado, Exclusive Brokerage Agreements

Before acting on behalf of a party, a broker intending to establish a single agency relationship must enter into a written agency agreement, which must:

- disclose the agent's duties and responsibilities; and
- be timely furnished to the prospective party.

"Single agent" means "a broker who is engaged by and represents only one party in a real estate transaction." Exclusivity is not addressed.

For additional general information regarding licensee agreements, see **Agency: Colorado: General Agency Relationship Requirements, Relationship with Buyers, and Relationship with Sellers.**

Statutory sections amended 2008.

Colo. Rev. Stat. Ann. §§ 12-61-802(4), -808 (LexisNexis 2016)

Colorado, Required Services

BUYER'S AGENT'S DUTIES

A buyer's or tenant's agent is a limited agent with the following service-oriented duties, among others:

- to exercise reasonable skill and care;
- to promote the buyer's or tenant's interests with the "utmost good faith, loyalty, and fidelity";
- to seek a price and terms acceptable to the buyer or tenant, unless he is party to a purchase contract, lease, or letter of intent;
- to present all offers in a timely manner, even if the buyer or tenant is already party to a contract;

- to disclose to the buyer or tenant known adverse material facts;
- to counsel the buyer or tenant as to any known material benefits or risks of a transaction;
- to advise the buyer or tenant to obtain expert advice as to material matters beyond the broker's expertise; and
- to account in a timely manner.

SELLER'S AGENT'S DUTIES

A seller's or landlord's agent is a limited agent with the following service-oriented duties, among other duties:

- to exercise reasonable skill and care;
- to promote the seller's or landlord's interests with "utmost good faith, loyalty, and fidelity";
- to seek an acceptable price and terms, except that the broker need not seek additional offers while the property is subject to a sale or lease contract or a letter of intent to lease;
- to present all offers in a timely manner, even if the property is subject to a sale or lease contract or letter of intent to lease;
- to disclose to the seller or landlord known adverse material facts;
- to counsel the seller or landlord as to any known material benefits or risks of a transaction;
- to advise the seller or landlord to obtain expert advice as to material matters beyond the broker's expertise; and

- to account in a timely manner for money and property received.

COMMISSION STATEMENT

The Colorado Real Estate Commission has issued "CP-36 Commission Position on Minimum Service Requirements" in response to inquiries regarding minimum service requirements. The position statement clarifies that Colorado statutory law imposes the following minimum duties on every Colorado broker who serves as a transaction broker or an agent for a seller, landlord, buyer, or tenant:

- the minimum duties for an agent engaged by a seller or landlord are set forth in § 12-61-804 (as described above);
- the minimum duties for an agent working for a buyer or tenant are set forth in § 12-61-805 (as described above); and
- the minimum duties for a transaction broker are set forth in § 12-61-807.

The commission elaborates that Colorado statutes do not permit brokers to perform less than these statutory duties. However, § 12-61-803 "allows" a real estate broker to perform additional duties, which may "include, but are not limited to, holding open houses, property showings, providing a lockbox, use of multiple listing services or other information exchanges, etc." Any additional services must be documented in writing. A broker may not "solely perform 'additional' services which require a real estate broker's license, i.e. offering the real property of another for sale through advertisements, without providing the minimum duties required by single agency or transaction brokerage." The commission does not regulate fees or commissions charged for minimum or additional services provided.

For additional general information regarding licensee's duties, see **Agency: Colorado: General Agency Relationship Requirements, Relationship with Buyers, Relationship with Sellers, and Transaction Brokers.**

Statutory sections amended 2002.

Colo. Rev. Stat. Ann. §§ 12-61-804, -805 (LexisNexis 2016); [Dep't of Regulatory Agencies, Div. of Real Estate, CP-36 Commission Position on Minimum Service Requirements, Dec. 22, 2010.](#)

Colorado, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Connecticut

Connecticut, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Connecticut: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

Connecticut, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: Connecticut: Relationship with Buyers** and **Relationship with Sellers**.

Connecticut, Required Services

No recently adopted Connecticut statutes or regulations require a broker to provide specific minimum services.

However, Connecticut law contains some service-oriented requirements. For example, a buyer's or lessee's exclusive agent must:

- diligently attempt to find property within the prospective buyer's or lessee's specifications; and
- present all offers or counteroffers as quickly as possible, provided that, unless agreed otherwise, the licensee need not continue to show properties after an offer or counteroffer has been accepted.

Similarly, a licensee accepting an exclusive listing must:

- make a diligent effort to sell or lease the property listed; and

- submit all offers or counteroffers as quickly as possible, except that unless agreed otherwise, the listing real estate broker need not continue to market the property after an offer or counteroffer has been accepted.

Regulation amended 1995.

[Conn. Agencies Regs. § 20-328-2a\(c\), \(e\) \(2016\)](#)

Connecticut, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Delaware

Delaware, Disclosures

In order to fulfill the mandatory duty to cooperate with all other licensees involved in a transaction, licensees must be reasonably available when a cooperating licensee requests him or her to undertake a required activity. However, he or she must first disclose the request to his or her client or customer and receive written authorization to perform the requested activity. If the client or customer does not authorize the licensee to perform the requested activity, the licensee may not undertake the activity. If the broker's or brokerage organization's business model includes offering all of the services set forth in the consumer information statement (instead of offering separate charges for distinct services), the statement is "sufficient disclosure and written authorization to undertake" the required services described in § 2935(b).

For additional general information regarding required disclosures, see **Agency: Delaware: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

Statutory section amended and renumbered 2011.

[Del. Code tit. 24, § 2935\(b\) \(2016\)](#)

Delaware, Exclusive Brokerage Agreements

Generally, listing agreements for the sale, lease, or exchange of real property, whether exclusive or open, must be:

- in writing; and
- signed by the seller, owner, and broker or broker's designee.

An exclusive business relationship or obligation for a customer or client to pay compensation to a licensee may be created only by "a written brokerage agreement signed by the customer or client as a separate document."

For general information regarding licensee agreements, see **Agency: Delaware: Relationship with Sellers.**

Statutory section amended and renumbered 2011. Regulation amended 2015.

[Del. Code tit. 24, § 2928 \(2016\); 24-2900 Code Del. Regs. § 8.1 \(2015\)](#)

Delaware, Required Services

Delaware law addresses the obligations, responsibilities and duties that a licensee owes to a customer or client, including some minimum service requirements. Generally, a licensee has several obligations and responsibilities, including the following service-oriented obligations:

- to perform the duties required by Chapter 29 of Title 24;
- to account timely for all money and property received;
- to inform parties of a transaction's progress;
- to perform ministerial tasks to assist the parties in complying with a contract's terms and conditions; and

- to disclose to all prospective buyers or tenants any known adverse material facts.

Note that subsection (g) of § 2973, which section was amended and renumbered as § 2936 in 2011, explicitly provided that the required services set forth in § 2973(b) did not apply to a common law agency relationship. However, that subsection does not exist in § 2936, as effective February 3, 2012.

Licenses also have a duty to cooperate with "all other Licensees involved in a transaction except when cooperation is not in the Customer's or Client's best interest." In order to cooperate, the licensee must be "reasonably available" when requested by his or her client or customer or by the cooperating licensee to act as follows:

- to accept delivery of and present offers and counteroffers to the client or customer;
- to assist the client or customer in "developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to offers and counteroffers" until the parties sign the sale agreement or lease and all contingencies are satisfied or waived;
- to answer the client's or customer's questions relating to "offers, counteroffers, notices, negotiations, and contingencies"; and
- to hold the escrow deposit.

Unless another licensee has already given a consumer a consumer information statement, a licensee must also provide the statement to the consumer no later than:

- the first scheduled appointment;
- the first showing of a property; or

- the making of an offer.

For additional general information regarding a licensee's duties, see **Agency: Delaware: General Agency Relationship Requirements**.

BUYER'S AGENT'S DUTIES

A written disclosure confirmation must include the language set forth in the state's regulations, which includes, among other things, that a broker (and any licensee working for the broker) has the duty:

- to respond accurately and honestly to a seller's questions;
- to disclose material facts about the transaction; and
- to submit promptly and through proper procedures all purchase offers.

SELLER'S AGENT'S DUTIES

A written disclosure confirmation must include the language set forth in the state's regulations, which includes, among other things, that a broker (and any licensee working for the broker) has the duty:

- to respond accurately and honestly to a potential purchaser's questions;
- to disclose material facts about properties; and

- to submit promptly all purchase offers.

Statutory sections renumbered and amended 2011. Regulation amended 2012.

[Del. Code tit. 24, §§ 2935, 2936, 2938 \(2016\); 24-2900 Code Del. Regs. § 9.5 \(2015\)](#)

Delaware, Waivers

Although Delaware laws require licensees to be "reasonably available" when a cooperating licensee asks the Delaware licensee to perform an activity described in § 2935(b), if the client or customer fails to authorize the licensee to perform the requested activity, the licensee may not do so. If the broker's or brokerage organization's business model includes offering all of the services explained in the Consumer Information Statement (instead of listing separate charges for distinct services), the statement is sufficient authorization to undertake the activities described in § 2935(b).

Note that subsection (g) of § 2973, which section was amended and renumbered as § 2936 in 2011, explicitly provided that the required services set forth in § 2973(b) did not apply to a common law agency relationship. However, that subsection does not exist in § 2936, as it is effective on February 3, 2012.

Statutory sections amended and renumbered 2011.

[Del. Code tit. 24, §§ 2935, 2936 \(2016\)](#)

District of Columbia

District Of Columbia, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: District of Columbia: General Agency Relationship Requirements** and **Other Relevant Provisions**.

District Of Columbia, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: District of Columbia: Relationship with Sellers**.

District Of Columbia, Required Services

No recently adopted District of Columbia statutes or regulations require a broker to provide specific minimum services. However, D.C. law contains some service-oriented requirements. For example, a licensee generally must, among other duties,

- not attempt to provide specialized professional services outside the licensee's experience without obtaining an expert's assistance or disclosing his lack of experience; and
- make a reasonable effort to ascertain all material facts concerning property.

A licensee must make a "reasonable effort to ensure that all written agreements for the sale, purchase, rental, lease, or exchange of real property set forth the exact agreement of the parties" and that copies are available to each party when signed.

BUYER'S AGENT'S DUTIES

A buyer's licensee must perform the following service-oriented duties, among others:

- promote the buyer's interests;
- seek property at a price and terms acceptable to the buyer, except that the licensee need not seek other properties if the buyer is party to a purchase contract, unless otherwise agreed;
- timely present all written offers or counteroffers, even if the buyer is already a party to a purchase contract;
- subject to § 42-1755(f), disclose to the buyer known material facts related to the property or the transaction; and
- timely account for all money and property received.

See § 42-1703(d) for similar duties that apply to a licensee engaged by a tenant.

SELLER'S AGENT'S DUTIES

A seller's licensee must perform the following service-oriented duties, among others:

- promote the seller's interests;
- seek a sale at the price and terms agreed upon in the brokerage relationship or acceptable to the seller, provided that the licensee generally need not seek additional offers while the property is subject to a sale contract;
- timely present all written offers or counteroffers, even if the property is already subject to a sale contract;
- disclose to the seller known material facts related to the property or concerning the transaction; and
- timely account for all money and property received.

See § 42-1703(c) for similar provisions that relate to a licensee engaged by a landlord.

For additional general information regarding licensee's duties, see **Agency: District of Columbia: General Agency Relationship Requirements, Relationship with Buyers, and Relationship with Sellers.**

Code section 42-1703 amended 1998; §§ 47-2853.191 and 47-2853.192 enacted 1999. Regulatory chapter amended 2016.

[D.C. Code §§ 42-1703; 47-2853.191, .192 \(2016\); D.C. Mun. Regs., tit. 17, §§ 2609.7, .9, .20 \(2016\)](#)

[District Of Columbia, Waivers](#)

No provisions specifically related to the waiver of broker minimum service requirements were located.

Florida

Florida, Disclosures

A single agent's duties must be fully described and disclosed to a party in writing, either in a separate document or as part of another document, such as a listing or representation agreement. The disclosure must be made before or at the earlier of the time of entering into the listing or representation agreement or the showing of property. If incorporated into another document, the notice must be at least the same size font and must be conspicuous so as to advise customers of the single agent's duties.

As of July 1, 2006, the statutory disclosure form was revised by omitting the confidential information statement, among other things. The first sentence of the disclosure is to be printed in uppercase and bold type. The single agent disclosure notice must include the information set forth in the form provided in § 475.278(3). Disclosure forms for no brokerage relationship situations are set forth in § 475.278(4). (The disclosure form for transaction brokers, which was previously set forth at § 475.278(2), expired effective July 1, 2008.)

The above disclosures generally apply to all residential sales, which include the sale of:

- improved residential property of four or fewer units;
- unimproved residential property intended for four or fewer units; or
- the sale of agricultural property of 10 acres or fewer.

However, these disclosure requirements do not apply as follows, among others:

- if a licensee knows that the potential seller or buyer is represented by a single agent or a transaction broker;
- if an owner is selling new residential units built by the owner and the circumstances should reasonably inform a potential buyer that the owner's employee or single agent is acting on the owner's behalf;

- responding to general factual questions about property advertised for sale; and
- situations in which a licensee's communications are limited to providing general factual information about the licensee's qualifications, background, and services.

For additional general information regarding required disclosures, see **Agency: Florida: General Agency Relationship Requirements** and **Other Relevant Provisions**.

Statutory section amended 2009.

[Fla. Stat. § 475.278 \(2016\)](#)

Florida, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located.

Florida, Required Services

The "Single Agent Notice" required by Florida statutes provides that a single agent has the following service-oriented duties, among others:

- obedience;
- full disclosure;
- accounting;
- skill, care, and diligence;
- timely presenting all offers and counteroffers, unless a party has directed the licensee otherwise in writing; and

- disclosing "all known facts that materially affect the value of residential real property and are not readily observable."

"Single agent" means "a broker who represents, as a fiduciary, either the buyer or seller but not both in the same transaction."

Section 475.278 also contains forms that list duties required of licensees in situations in which there is no brokerage relationship. (The disclosure form for transaction brokers, which was previously set forth at § 475.278(2), expired effective July 1, 2008.)

For additional general information regarding duties, see **Agency: Florida: General Agency Relationship Requirements**. For additional information regarding a transaction broker's required duties, see **Agency: Florida: Transaction Brokers**.

Statutory section 475.01 amended 2004; § 475.278 amended 2009.

[Fla. Stat. §§ 475.01\(1\)\(k\), .278\(3\) \(2016\)](#)

Florida, Waivers

The required "Single Agent Notice" provides that a single agent has the duty to present in a timely manner all offers and counteroffers, unless a party has directed the licensee otherwise in writing. No other provisions specifically related to minimum service requirement waivers were located. (The disclosure form for transaction brokers, which contained a similar provision, expired effective July 1, 2008.)

Statutory section amended 2009.

[Fla. Stat. § 475.278\(2\), \(3\) \(2016\)](#)

Georgia

Georgia, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Georgia: General Agency Relationship Requirements, Relationship with Buyers, and Relationship with Sellers**.

Georgia, Exclusive Brokerage Agreements

An exclusive brokerage agreement must:

- set forth its terms completely; and
- have a definite expiration date.

A licensee who obtains an offer may negotiate directly with an owner, a lessor, a purchaser, or a tenant if the licensee knows that the offeree has a written agreement in connection with the property that expressly provides the other licensee will *not* provide negotiation services.

For additional general agreement requirements, see **Agency: Georgia: General Agency Relationship Requirements** and **Relationship with Sellers**.

Statutory section amended 2016. Regulation amended 2003.

Ga. Code § 43-40-25 (LexisNexis 2016); Ga. Comp. R. & Regs. r. 520-1-.06 (2016)

Georgia, Required Services

No recently adopted Georgia statutes or regulations require a broker to provide specific minimum services.

However, Georgia law contains service-oriented requirements. For example, a licensee must, among other things,

- promptly tender to a customer or client any signed offer to purchase, sell, lease, or exchange property;
- provide a copy of any document used in a transaction to each individual signing the document; and
- provide a copy of an accepted and signed offer to each person signing the document and to each brokerage firm involved in the transaction.

As of July 1, 2016, Georgia's previous requirement that a licensee must deliver to the seller a complete, detailed closing statement, now requires only that a licensee must "timely ensure" that his or her client or customer receives a copy of any closing statement that is provided to the licensee at closing.

BUYER'S BROKER'S DUTIES

A buyer's broker must, among other duties,

- promote the buyer's interests;
- seek a property at a price and terms acceptable to the buyer, provided that the broker is not obligated to seek other properties for the buyer if the buyer is party to a purchase contract, unless the brokerage engagement so provides;
- timely present all offers to and from the buyer, even if the buyer is party to a purchase contract;
- disclose to the buyer known adverse material facts concerning the transaction;
- advise the buyer to obtain expert advice as to material matters beyond the broker's expertise; and
- timely account for all money and property received.

See § 10-6A-8 for similar provisions specifically applicable to a broker engaged by a tenant.

SELLER'S BROKER'S DUTIES

Similarly, a seller's broker must, among other duties,

- promote the seller's interests;

- seek a sale at the price and terms stated in the brokerage engagement or acceptable to the seller, except that the broker is not obligated to seek additional offers to purchase if the property is subject to a sale contract, unless the brokerage engagement so provides;
- timely present all offers to and from the seller, even if the property is subject to a sale contract;
- disclose to the seller known material facts concerning the transaction;
- advise the seller to obtain expert advice as to material matters beyond the broker's expertise; and
- timely account for all money and property received.

See § 10-6A-6 for similar provisions specifically applicable to a broker engaged by a landlord.

For additional general information regarding licensee's duties, see **Agency: Georgia: General Agency Relationship Requirements, Relationship with Buyers and Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Georgia: Transaction Brokers**.

Statutory sections 10-6A-5, 10-6A-6, 10-6A-7, and 10-6A-8 enacted 2000; § 43-40-25 amended 2016. Regulation amended 2012.

Ga. Code §§ 10-6A-5, -6, -7, -8; 43-40-25 (LexisNexis 2016); Ga. Comp. R. & Regs. r. 520-1-.10 (2016)
[Georgia, Waivers](#)

No provisions specifically related to the waiver of broker minimum service requirements were located. However, Georgia statutes provide that a broker who performs brokerage services for a client or customer owes the client or customer only the duties and obligations set forth in chapter 10-6A, unless the parties expressly agree otherwise in writing.

Statutory section enacted 2000.

Ga. Code § 10-6A-4 (LexisNexis 2016)

Guam

Guam, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Guam: General Agency Relationship Requirements**.

Guam, Exclusive Brokerage Agreements

A licensee may be disciplined for claiming, demanding or receiving compensation under any exclusive agreement authorizing or employing a licensee to sell, buy or exchange real estate for compensation if the agreement does not contain "a definite, specified date of final and complete termination."

Statutory section enacted 1971.

[Guam Code tit. 21, § 104302\(f\) \(2016\)](#)

Guam, Required Services

No recently adopted Guam statutes require a broker to provide specific minimum services.

However, Guam contains some service-oriented requirements. For example, within one month after closing a transaction in which title is conveyed through a licensed real estate broker, the broker must inform the seller and purchaser in writing of the selling price.

Statutory section enacted 1971.

[Guam Code tit. 21, § 104115 \(2016\)](#)

Guam, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Hawaii

Hawaii, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Hawaii: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers. Hawaii, Exclusive Brokerage Agreements**

An exclusive listing must state a definite termination date. For additional general information regarding licensee agreements, see **Agency: Hawaii: General Agency Relationship Requirements**.

Regulation amended 2001.

[Haw. Admin. R. § 16-99-3\(t\) \(2015\)](#)

Hawaii, Required Services

No recently adopted Hawaii statutes or regulations require a broker to provide specific minimum services.

However, Hawaii regulations contains some service-oriented requirements. For example, a licensee must, among other things,

- recommend a title examination, survey, or legal counsel if either party's interests so requires; and
- ensure that financial obligations and commitments are in writing, express the parties' agreements, and set forth essential terms and conditions, and that all parties receive copies.

Also, a buyer's licensee must immediately transmit all written offers to the listing broker with a written, unexpired exclusive listing contract on the property. The listing broker must immediately transmit the offer to the seller. If more than one offer is made before the owner has accepted an offer, any other offer presented to the broker must be immediately transmitted to the owner.

Hawaii's statutes also provide that the commission may punish a licensee for, among other actions:

- failing to account within a reasonable time for any funds belonging to others that may be in the licensee's possession or under his or her control; and

- failing to ascertain and disclose all material facts concerning every property for which the licensee accepts the agency.

For additional general information regarding a broker's duties, see **Agency: Hawaii: General Agency Relationship Requirements, Relationship with Buyers, and Relationship with Sellers.**

Statutory section amended 2015. Regulation amended 2001.

[Haw. Rev. Stat. § 467-14 \(2015\); Haw. Admin. R. § 16-99-3\(d\), \(f\), \(j\) \(2015\)](#)

Hawaii, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Idaho

Idaho, Disclosures

A licensee must give a prospective buyer or seller, at their first substantial business contact, the agency disclosure brochure adopted by the Idaho real estate commission. The agency disclosure brochure must, among other things, list the legal duties and obligations owed to the buyer or seller in each type of representation.

For additional disclosure requirements, see **Agency: Idaho: General Agency Relationship Requirements.**

Statutory section amended 2004.

[Idaho Code § 54-2085 \(2016\)](#)

Idaho, Exclusive Brokerage Agreements

Each seller representation agreement, whether exclusive or nonexclusive, must contain the following provisions:

- a beginning and an expiration date;

- a property description;
- price and terms;
- all fees or commissions;
- the signature of the owner or his or her representative; and
- the signature date.

Each buyer representation agreement, whether exclusive or nonexclusive, must contain the following provisions:

- a beginning and an expiration date;
- the buyer's financial obligations, including fees or commissions;
- the manner in which any fee or commission will be paid; and
- signatures and their dates.

An agreement may not contain a provision requiring the party signing the agreement to notify the broker of the party's intent to cancel the agreement after the expiration date, unless the agreement:

- states that it is completely nonexclusive; and
- contains no financial obligation, fee or commission due from the party signing the agreement.

For additional information regarding licensee agreements, see **Idaho: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

Statutory section amended 2009.

[Idaho Code § 54-2050\(1\), \(2\), \(3\) \(2016\)](#)

Idaho, Required Services

A brokerage and its licensees owe the following service-oriented agency duties, among others, to a client:

- to perform the terms of the written agreement;

- to exercise "reasonable skill and care";
- to "be available to the client to receive and timely present all written offers and counteroffers";
- to promote the client's best interests in good faith, honesty and fair dealing;
- to disclose to the client all adverse material facts that the licensee knows or reasonably should have known;
- to seek a buyer or property at a price and under terms and conditions acceptable to the party;
- to assist in negotiations; and
- to account for money or property received.

The duties set forth above "are mandatory and may not be waived or abrogated." However, a brokerage may charge a separate fee or commission for each service provided to the client.

If a buyer or seller is not represented by a brokerage, the party remains a customer, and the brokerage and its licensees are nonagents that owe the following legal duties:

- to perform ministerial acts to assist the buyer or seller in the sale or purchase;
- to perform with honesty, good faith, and reasonable skill and care;
- to account for money or property received; and

- to disclose to the buyer and seller all adverse material facts that the licensee knows or reasonably should have known.

If a customer has entered into a compensation agreement or a customer services agreement with a brokerage, the brokerage must "be available to the customer to receive and timely present all written offers and counteroffers." These duties are "mandatory and may not be waived or abrogated." However, a brokerage may charge a separate fee or commission for each service provided to the customer.

Also, when appropriate, a licensee must advise the client:

- to obtain professional inspections of the property; or
- to seek appropriate professional advice.

A licensee, for the benefit of a seller client and upon written request, must obtain reasonable proof of a buyer's financial ability to purchase by any appropriate method suitable to the transaction or, when necessary, by advising the client to consult with an accountant, lawyer or other professional.

Furthermore, a broker or sales associate must:

- promptly tender to the seller every written offer to purchase obtained on the real estate involved, up until time of closing;
- upon obtaining a signed and dated acceptance, promptly deliver copies of the accepted offer to both the buyer and the seller; and
- ensure that all purchase offers are in writing and contain the following specific provisions:
 - all terms and conditions, as directed by the buyer or seller;

- the earnest money form and amount;
- the responsible broker's name;
- a "representation confirmation" statement, as required by § 54-2085(4);
- if applicable to the transaction, the "consent to limited dual representation" as required by § 54-2088;
- a provision regarding the division of earnest money to be retained as forfeited payment if the transaction does not close;
- all appropriate signatures and their dates; and
- the property's legal description.

For additional general information regarding licensee's duties, see **Agency: Idaho: General Agency Relationship Requirements**.

Statutory section 54-2086 amended 2007; § 54-2087 amended 2009; § 54-2051 amended 2015.

[Idaho Code §§ 54-2051, -2086, -2087 \(2016\)](#)

Idaho, Waivers

The duties to a customer set forth in § 54-2086 and the duties to a client set forth in § 54-2087 "are mandatory and may not be waived or abrogated, either unilaterally or by agreement."

Section 54-2086 amended 2007; § 54-2087 amended 2009.

[Idaho Code §§ 54-2086\(3\), -2087\(8\) \(2015\)](#)

Illinois

Illinois, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Illinois: General Agency Relationship Requirements**.

Illinois, Exclusive Brokerage Agreements

All exclusive brokerage agreements must specify that "the sponsoring broker, through one or more sponsored licensees, must provide, at a minimum, the following services":

- accept delivery of and present to the client "offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease";
- assist the client in "developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to the offers and counteroffers until a lease or purchase agreement is signed and all contingencies are satisfied or waived"; and
- answer the client's questions relating to the offers, counteroffers, notices, and contingencies.

"Exclusive brokerage agreement" means a written brokerage agreement that:

- provides that the sponsoring broker has the sole right to act as the client's exclusive designated agent or representative; and
- meets the requirements of § 15-75 (which are listed above).

Illinois regulations also provide that an exclusive brokerage agreement must:

- be in writing; and
- indicate the minimum services that must be provided.

If a brokerage agreement fails to include language providing for minimum services or language waiving those minimum services, the brokerage agreement is considered to be non-exclusive.

For additional requirements that apply to both exclusive and nonexclusive agreements, see **Agency: Illinois: Relationship with Buyers** and **Relationship with Sellers**.

Statutory section 454/15-75 enacted 2004; § 454/1-10 amended 2015. Regulation amended 2016.

[225 Ill. Comp. Stat. 454/1-10, /15-75 \(2015\); Ill. Admin. Code tit. 68, § 1450.770 \(2016\)](#)

Illinois, Required Services

A licensee may be disciplined for failing to provide the minimum services required by § 454/15-75 when acting under an exclusive brokerage agreement. Section 454/15-75 requires that all exclusive brokerage agreements must specify that the sponsoring broker, through one or more sponsored licensees, must provide a minimum of the following services:

- accept delivery of and present offers and counteroffers to the client;
- assist the client in "developing, communicating, negotiating, and presenting offers, counteroffers and notices that relate to the offers and counteroffers until a lease or purchase agreement is signed and all contingencies are satisfied or waived"; and
- answer the client's questions regarding any offers, counteroffers, notices and contingencies.

For additional general information regarding licensee's duties, see **Agency: Illinois: General Agency Relationship Requirements**.

Statutory section 454/15-75 enacted 2004; § 454/20-20 amended 2015.

[225 Ill. Comp. Stat. 454/15-75, /20-20 \(2015\)](#)

Illinois, Waivers

Section 454/15-75, which sets minimum service requirements, does not address the waiver of any of the required services. However, § 454/15-15 provides that a licensee representing a client must timely present all offers to and from the client, unless the client has waived the duty.

Statutory section 454/15-75 enacted 2004; § 454/15-15 amended 2009.

[225 Ill. Comp. Stat. 454/15-15\(2\)\(B\), -75 \(2015\)](#)

Indiana

Indiana, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Indiana: General Agency Relationship Requirements**.

Indiana, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located.

Indiana, Required Services

NO AGENCY RELATIONSHIP

If a written agreement provides that a licensee does *not* have an agency relationship with the individual with whom the licensee is working, the licensee must perform at least the following duties:

- be available to receive and present in a timely manner offers and counteroffers for the purchase or lease of the individual's property if the individual is a seller or a landlord, or for the property the individual seeks to purchase or lease if the individual is a buyer or a tenant;
- assist in "negotiating, completing real estate forms, communicating, and timely presenting offers, counteroffers, notices, and various addenda relating to the offers and counteroffers" until a purchase agreement or lease is signed and all contingencies are satisfied or waived; and
- timely respond to "questions relating to offers, counter offers, notices, various addenda, and contingencies from the seller, landlord, buyer, or tenant" pertaining to the property.

If the licensee fails to perform the above duties and another licensee performs them, that performance does not constitute an agency relationship.

GENERAL REQUIREMENTS

Indiana law also contains some general service-oriented requirements. For example, a buyer's licensee must, among other duties,

- seek property with a price and terms satisfactory to the buyer or tenant;
- immediately present all purchase and lease offers to and from the buyer or tenant;
- advise the buyer or tenant to obtain expert advice on matters beyond the licensee's expertise; and
- timely account for all money and property received.

Similarly, a seller's or landlord's licensee must, among other duties,

- seek a price and terms satisfactory to the seller or landlord;

- immediately present all offers to and from the seller or landlord;
- advise the seller or landlord to obtain expert advice on matters beyond the licensee's expertise; and
- timely account for all money and property received.

For additional information regarding licensee's general duties, see **Agency: Indiana: Relationship with Sellers** and **Relationship with Buyers**.

Statutory sections 25-34.1-10-10 and 25-34.1-10-11 amended 1999; § 25-34.1-10-9.5 amended 2006.

[Ind. Code §§ 25-34.1-10-9.5, -10\(a\), -11 \(2016\)](#)

Indiana, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Iowa

Iowa, Disclosures

No disclosure provisions specifically relate to Iowa's recently enacted minimum service requirements.

However, generally, the required written disclosure must contain a statement of the licensee's duties to his client. For additional general information regarding required disclosures, see **Agency: Iowa: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

Statutory section amended 1997.

[Iowa Code § 543B.57 \(2016\)](#)

Iowa, Exclusive Brokerage Agreements

"Brokerage agreement" means a contract between a broker and a client that:

- establishes the relationship between the parties as to the brokerage services to be performed; and

- contains the provisions required in § 543B.56A, which establishes new minimum service requirements.

Thus, all brokerage agreements must contain the new minimum service requirements.

Iowa laws also generally require an exclusive agency or exclusive right-to-sell to indicate clearly that it is such an agreement. Furthermore, to enforce a protective clause beyond an exclusive listing contract's expiration,

- there must be a provision for the protective clause in the listing contract that establishes a definite protection period; and
- the broker must furnish to the listing party in writing and before the listing expires the names and contact information of persons to whom the property was presented during the active term of the listing and for whom protection is sought.

For additional general licensee agreement requirements, see **Agency: Iowa: General Agency Relationship Requirements** and **Relationship with Sellers**.

Statutory section amended 2013. Regulation amended 2011.

[Iowa Code § 543B.5\(7\) \(2016\)](#); [Iowa Admin. Code r. 193E-11.2 \(2016\)](#)
[Iowa, Required Services](#)

Iowa enacted broker minimum service requirements effective July 1, 2005. Pursuant to these requirements, a brokerage agreement must state that the broker will, at a minimum,

- accept delivery of and present to the client offers and counteroffers related to the client's property or the property that the client wants to purchase or lease;
- assist the client in developing, communicating, negotiating and presenting offers or counteroffers until an agreement is signed, all contingencies are satisfied or waived, and the transaction is complete;
- answer the client's questions relating to the brokerage and listing agreements, offers, counteroffers, notices and contingencies; and
- provide access to listed properties to prospective buyers.

The 2011 Iowa Legislature clarified as follows the purpose of § 543B.56A, which addresses the contents of brokerage agreements:

The purpose of this section is to promote the protection of the public by establishing minimum standards reasonably expected by the public in reliance upon the professional work product of real estate licensees. The reliance of the public and business community on sound professional opinions and assistance imposes on real estate licensees certain obligations both to their clients and to the public. The purpose of this section is also to assist in ensuring that licensees' obligations are met including licensees' exercising sound independent business judgment, striving to continuously improve professional business skills and knowledge in the industry, promoting sound and informative real estate reporting, and exercising the highest fiduciary duties to clients and the public.

Iowa statutes also provide that a licensee owes the following service-oriented duties to *all parties*:

- to disclose to each party all material adverse facts that the licensee knows, except material adverse facts that are known by the party, that the party could discover through a reasonably diligent inspection and that would be discovered by a reasonably prudent person under similar circumstances, that the disclosure of which is prohibited by law, and that are known to a person who conducts an inspection on the party's behalf; and
- to account within a reasonable time for all property coming into the licensee's possession that belongs to any party.

In addition, a licensee providing brokerage services to *a client* must perform the following service-related duties:

- to disclose to the client all information known by the licensee "that is material to the transaction and that is not known by the client or could not be discovered by the client through a reasonably diligent inspection"; and
- to fulfill any obligation that is within the agency agreement's scope, except those obligations that are inconsistent with other duties that the licensee has under law.

BUYER'S AGENT'S DUTIES

A licensee representing a buyer or tenant as an exclusive agent generally must perform the following service-oriented duties, among others:

- perform the terms of any written agreement with the client;

- seek acceptable prices and terms;
- present all written offers to and from the client in a timely manner;
- advise the buyer or tenant to obtain expert advice on material matters that are beyond the licensee's expertise; and
- account for all money and property received.

SELLER'S AGENT'S DUTIES

A licensee representing a seller or landlord as an exclusive agent generally must perform the following service-oriented duties, among others,

- perform the seller's written agreement's terms;
- seek an acceptable price and terms;
- present all written offers;
- advise the client to obtain expert advice for matters beyond the licensee's expertise; and
- account for all money and property received.

For additional information regarding a licensee's duties, see **Agency: Iowa: General Agency Relationship Requirements, Relationship with Buyers**, and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Iowa: Transaction Brokers**.

Statutory section 543B.56 amended 1996; § 543B.56A amended 2011; regulations effective 2002.

[Iowa Code §§ 543B.56, .56A \(2016\); Iowa Admin. Code r. 193E—12.3, .4 \(2016\)](#)

[Iowa, Waivers](#)

No provisions specifically related to the waiver of broker minimum service requirements were located.

[Kansas](#)

[Kansas, Disclosures](#)

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Kansas: General Agency Relationship Requirements**.

[Kansas, Exclusive Brokerage Agreements](#)

No provisions specifically regarding minimum service requirements as related to exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: Kansas: General Agency Relationship Requirements, Relationship with Buyers, Relationship with Sellers** and **Term of Relationship**.

As used in the real estate brokerage statutes, "exclusive agency agreement" means a written agency agreement that sets forth the terms and conditions of the relationship between a broker and his or her client and that does the following:

- grants the broker the exclusive right to represent the seller in the sale of the seller's property; and
- provides the broker will be compensated if the broker or any other person or entity produces a purchaser or if the property is sold during the listing agreement's term, unless the property is sold solely through the seller's efforts or to specifically exempted persons or entities.

"Exclusive right to sell agreement" means a written agency or transaction brokerage agreement that sets forth the terms and conditions of the relationship between a broker and his or her clients or customers and that does the following:

- grants the broker the exclusive right to assist the seller in the sale of the seller's property; and
- provides that the broker will be compensated if the broker, seller, or any other person or entity produces a purchaser or if the property is sold during the listing agreement's term to anyone other than specifically exempted persons or entities.

Statutory section amended 2010.

[Kan. Stat. § 58-30,102 \(2015\)](#)

Kansas, Required Services

No recently adopted Kansas statutes or regulations require a broker to provide specific minimum services. However, Kansas law contains specific "minimum requirements," as listed below, for agents representing buyers or sellers. Also, a broker must recommend to a client or customer that the client or customer retain an attorney "to answer any legal questions involved in any real estate transaction."

A broker must deliver to the seller in every real estate transaction a complete, detailed closing statement.

BUYER'S AGENT'S DUTIES

A buyer's agent must:

- promote the buyer's interests with good faith, loyalty, and fidelity;
- protect the buyer's confidences, unless disclosure is required;
- timely present all offers;
- advise the buyer to obtain expert advice for matters beyond the licensee's expertise;
- timely account for all money and property received;
- disclose to the buyer all known adverse material fact;
- disclose to the seller all known adverse material facts, including the buyer's financial ability to perform;
- perform the terms of the client's written agreement; and
- comply with all applicable laws.

SELLER'S AGENT'S DUTIES

A seller's agent must:

- promote the seller's interests with good faith, loyalty and fidelity;
- protect the seller's confidences, unless disclosure is required;
- timely present all offers;
- advise the seller to obtain expert advice for matters beyond the agent's expertise;
- timely account for all money and property received;
- disclose to the seller all known adverse material facts about the buyer;
- disclose to the buyer all known adverse material facts;
- perform the terms of the client's written agreement; and
- comply with all applicable laws.

For additional general information regarding licensee's duties, see **Agency: Kansas: Relationship with Buyers** and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Kansas: Transaction Brokers**.

Statutory section 58-30,107 amended 1997; §§ 58-3062 and 58-30,105 amended 2015. Regulation amended 2007.

[Kan. Stat. §§ 58-30,106, -30,107, -3062 \(2015\)](#); [Kan. Admin. Regs. 86-3-9 \(2016\)](#)

Kansas, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located, except, in the agency agreement,

- a buyer may instruct a broker not to submit offers after the client enters into a purchase contract; and
- a seller may instruct the broker not to submit offers after the seller has accepted an offer.

Statutory section 58-30,107 amended 1997; § 58-30,106 amended 2015.

[Kan. Stat. §§ 58-30,106, -30,107 \(2015\)](#)

Kentucky

Kentucky, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Kentucky: General Agency Relationship Requirements** and **Relationship with Sellers**.

Kentucky, Exclusive Brokerage Agreements

An exclusive listing contract may not contain an automatic continuation of the listing period beyond the fixed termination date.

For additional general contract requirements, see **Agency: Kentucky: Relationship with Sellers**.

Regulation amended 1975.

[201 Ky. Admin. Regs. 11:100 \(2015\)](#)

Kentucky, Required Services

Kentucky regulations provide that if a licensee has entered into a written agreement pursuant to which the licensee agrees to provide real estate brokerage services for a property owner, the licensee must, at a minimum:

- accept delivery and submit, without delay, all written offers to his principal, owner-client, or customer;
- accept earnest money deposits presented to him or her by other licensees;
- assist his or her principal, owner-client, or customer in "developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to offers and counteroffers" until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and
- answer his or her principal's, owner-client's, or customer's questions relating to offers, counteroffers, notices, and contingencies.

A licensee who represents a prospective purchaser, must submit without delay all written offers from the prospective purchaser-client or customer to:

- the property owner; or
- the property owner-client or customer's licensee who has agreed to provide one or more real estate brokerage services for compensation.

Also, generally, a licensee owes the following service-oriented duties, among others, to his client:

- reasonable care and diligence; and
- accounting.

The state's real estate commission must impose sanctions against a licensee who, among other things:

- fails to "account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession"; or
- fails or refuses to furnish on demand copies of a real estate document to a person who signed the document.

For additional general information regarding licensee's duties, see **Agency: Kentucky: General Agency Relationship Requirements.**

Also, Kentucky's regulations state that an agent may act in a "transaction brokerage situation." Accordingly, Kentucky's Buyer and Seller Agency Disclosure Statements contain a box to be checked if an agent represents only one or neither party as a client. Both forms note that the "other party(ies) is not represented and agrees to represent his/her own best interest. Any information provided the agent may be disclosed to the agent's client."

Statutory section amended 2009. Regulation 11:045 amended 2005; r. 11:400 amended 2006; r. 11:121 amended 2014.

[Ky. Rev. Stat. Ann. § 324.160 \(2016\)](#); [201 Ky. Admin. Regs. 11:121, :045, :400 \(2015\)](#); [Ky. Real Estate Comm'n, Agency Disclosure Statement—Seller \(Dec. 2011\)](#); [Ky. Real Estate Comm'n, Agency Disclosure Statement—Buyer \(Dec. 2011\)](#)

Kentucky, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Louisiana

Louisiana, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Louisiana: General Agency Relationship Requirements.**

Louisiana, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: Louisiana: Relationship with Sellers**.

Louisiana, Required Services

No recently adopted Louisiana statutes or regulations require a broker to provide specific minimum services.

However, Louisiana law contains some service-oriented requirements. For example, a licensee representing a client must, among other duties,

- seek a transaction at the price and terms stated in the agreement or acceptable to the client;
- timely present all offers to and from the client;
- timely account for all money and property received; and
- immediately present all written offers and counteroffers to buyers and sellers.

For additional general information regarding licensee's duties, see **Agency: Louisiana: General Agency Relationship Requirements, Relationship with Buyers, and Relationship with Sellers**.

Statutory section amended 2015.

[La. Rev. Stat. § 9:3893 \(2016\)](#)

Louisiana, Waivers

As of August 1, 2015, Louisiana eliminated a client's option to waive a licensee's duty to present all offers to and from the client.

Statutory section amended 2015.

[La. Rev. Stat. § 9:3893 \(2016\)](#)

Maine

Maine, Disclosures

Maine has adopted minimum service requirements effective July 1, 2006. Pursuant to the revised law, a real estate brokerage agency must provide in a timely manner to buyers and sellers of residential real property a meaningful, written real estate brokerage relationship disclosure form, as defined and mandated by rule. In this context, "residential real property" means real estate consisting of one to four residential dwelling units.

Statutory section amended 2005.

[Me. Rev. Stat. tit. 32, § 13279 \(2016\)](#)

Maine, Exclusive Brokerage Agreements

Maine has adopted minimum service requirements effective July 1, 2006. Pursuant to this enactment, a brokerage agreement between a real estate brokerage agency and a client must be in writing and, at a minimum, include the following:

- the client's signature;
- the "terms and conditions of the brokerage services to be provided";
- the "method or amount of compensation to be paid";
- the agreement's expiration date; and
- a statement that "the agreement creates an agency-client relationship."

Statutory section 13177, which previously addressed real estate brokerage contracts, was repealed effective July 1, 2006.

Statutory section amended 2011.

[Me. Rev. Stat. tit. 32, § 13177-A \(2016\)](#)

Maine, Required Services

Maine has enacted broker minimum service requirements effective July 1, 2006. Pursuant to these requirements, a real estate brokerage agency that provides services through a brokerage agreement for a client is generally bound by the duties of:

- loyalty;

- obedience;
- disclosure;
- confidentiality;
- reasonable care;
- diligence; and
- accounting.

SELLER AGENT DUTIES

The act defines "seller agent" as "a real estate brokerage agency that has entered into a written brokerage agreement with the seller in a real estate transaction to represent the seller as the real estate brokerage agency's client." A seller agent must:

- perform the brokerage agreement's terms;
- promote the seller's interests by exercising the agency duties set forth in § 13272, including:
 - seeking a sale at the price and terms stated in the brokerage agreement or acceptable to the seller, except that the seller agent need not seek additional purchase offers while the property is subject to a sale contract unless the brokerage agreement so provides;
 - presenting in a timely manner all offers to and from the seller, even if the property is subject to a sale contract;

- disclosing to the seller material facts of which the seller agent knows, or reasonably should have known, except as provided in § 13280;
- advising the seller to obtain expert advice on material matters that are beyond the seller agent's expertise; and
- accounting in a timely manner for all money and property received;
- exercise reasonable skill and care;
- comply with all requirements of the laws governing real estate commission brokerage licenses and any rules the commission adopts;
- comply with any applicable laws, rules, regulations or ordinances related to real estate brokerage;
- preserve confidential information provided by the seller that might have a negative impact on the seller's real estate activity, unless:
 - the seller grants consent to disclose the information;
 - disclosure of the information is required by law;
 - the information is made public or becomes public by the seller's words or conduct or from a source other than the seller agent; or
 - disclosure is necessary to defend the seller agent against a wrongful conduct accusation; and
- permit the seller's agent to promote alternative properties and list competing properties for sale without breaching any duty to the client.

A seller's agent has the following duties to a buyer:

- to treat all prospective buyers honestly and not knowingly give false information; and
- to disclose in a timely manner to a prospective buyer all material defects pertaining to the physical condition of the property of which the seller agent knew or should have known.

A seller agent is not liable to a buyer for providing false information to the buyer if:

- the false information was provided to the seller agent by his or her client; and
- the seller agent did not know, or should not reasonably have known, that the information was false. A seller agent is not obligated to discover latent defects in the property.

BUYER AGENT DUTIES

The act defines "buyer agent" as "a real estate brokerage agency that has entered into a written brokerage agreement with the buyer in a real estate transaction to represent the buyer as its client." A buyer agent must:

- perform the brokerage agreement's terms;
- promote the buyer's interests, by exercising the duties required by § 13272, including:
 - seeking property at a price and terms specified by the buyer, except the buyer agent need not seek other properties for the buyer while the buyer is a party to a purchase contract, unless provided by the brokerage agreement;
 - presenting in a timely manner all offers to and from the buyer;
 - disclosing to the buyer material facts of which the buyer agent knows, or reasonably should have known, except as provided by § 13280;
 - advising the buyer to obtain expert advice on material matters that are beyond the buyer agent's expertise; and
 - accounting in a timely manner for all money and property received;
- exercise reasonable skill and care, except that a buyer agent need not discover latent defects;
- comply with all requirements of the laws governing real estate commission brokerage licenses and any rules adopted by the commission;
- comply with any applicable laws, rules, regulations or ordinances related to real estate brokerage;
- preserve confidential information provided by the buyer that might have a negative impact on the buyer's real estate activity, unless:

- the buyer grants consent to disclose the information;
- disclosure is required by law;
- the information is made public or becomes public by the buyer's words or conduct or from a source other than the buyer agent; or
- disclosure is necessary to defend the buyer agent against a wrongful conduct action; and
- be able to promote other properties in which the buyer is interested to other buyers.

A buyer's agent must treat all prospective sellers honestly and not knowingly give them false information, including material facts about the buyer's financial ability to perform. A buyer agent is not liable to a seller for providing false information to the seller if:

- the information was provided to the buyer agent by the buyer agent's client; and
- the buyer agent did not know or, reasonably should not have known, the information was false.

TRANSACTION BROKER DUTIES

The act defines "transaction broker" as "a real estate brokerage agency that provides real estate brokerage services to one or more parties in a real estate transaction without a fiduciary relationship as a buyer agent, a seller agent, a subagent or a disclosed dual agent." A transaction broker:

- does not represent any party as a client; and
- is not bound by the duties set forth in §13272.

A transaction broker must:

- account in a timely manner for all money and property received;
- disclose in a timely manner to a buyer all material defects pertaining to the property's physical condition of which the transaction broker has actual knowledge;

- comply with all requirements of the laws governing real estate commission brokerage licenses and any rules adopted by the commission;
- comply with any applicable laws, rules, regulations or ordinances related to real estate brokerage;
- treat all parties honestly and not knowingly give false information; and
- perform such ministerial acts as may be agreed upon.

A transaction broker is not liable for providing false information if:

- the false information was provided to the transaction broker; and
- the transaction broker did not know the information was false.

A transaction broker is not obligated to discover a property's latent defects.

For additional information regarding a transaction broker's required duties, see **Agency: Maine: Transaction Brokers**.

Statutory sections 13271, 13272, 13273, and 13274 amended 2005; § 13283 enacted 2005.

[Me. Rev. Stat. tit. 32, §§ 13271\(4\), \(11\), \(13-A\); 13272; 13273; 13274; 13283 \(2016\)](#)

Maine, Waivers

No state statutes or regulations specifically related to the waiver of broker minimum service requirements were located. However, the Maine Real Estate Commission has stated as follows:

This letter responds to your request for a response from the Maine Real Estate Commission to the following question: May a real estate seller or buyer elect to *not* have a real estate licensee, who is providing brokerage services as a transaction broker as set forth under 32 M.R.S.A. §13283, receive offers in a real estate transaction? The answer is "yes."

(Emphasis added.)

Letter dated 2008.

[Letter from Carol J. Leighton, Dir., Maine Real Estate Comm'n, to Matthew J. Bester, Dep't of Justice-AntiTrust Div. \(Dec. 19, 2008\)](#)

Maryland

Maryland, Disclosures

Although Maryland has not recently adopted any statutes or regulations requiring a broker to provide specific minimum services or related disclosures, Maryland law generally requires some service-related disclosures. For example, the required written disclosure must include, among other disclosures, the licensee's duties:

- to treat each party fairly and honestly;
- to present each written offer and counteroffer promptly;
- to respond truthfully to questions; and
- to assist in evaluating the property, preparing an offer, and negotiating in the party's best interests.

For additional general disclosure requirements, see **Agency: Maryland: General Agency Relationship Requirements**, **Relationship with Buyers**, and **Relationship with Sellers**.

Statutory section amended 2016.

[Md. Code, Bus. Occ. & Prof. § 17-530 \(2016\)](#)

Maryland, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: Maryland: General Agency Relationship Requirements** and **Relationship with Sellers**.

Maryland, Required Services

No recently adopted Maryland statutes or regulations require a broker to provide specific minimum services.

However, Maryland law generally contains some service-oriented requirements. For example, a licensee must, among other duties,

- seek a sale or lease at a price and on terms acceptable to the client;
- unless otherwise specified in the brokerage agreement, present in a timely manner all written offers or counteroffers to and from the client;
- answer all questions truthfully; and
- timely account for all trust money received.

A licensee may not waive or modify the duties listed above.

For additional general information regarding licensee's duties, see **Agency: Maryland: General Agency Relationship Requirements, Relationship with Buyers**, and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Maryland: Transaction Brokers**.

Statutory section amended 2016.

[Md. Code, Bus. Occ. & Prof. § 17-532 \(2016\)](#)

Maryland, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located. However, a licensee may not waive or modify the general duties required by § 17-532. (Somewhat inconsistently, § 17-532 provides that, unless "otherwise specified in the brokerage agreement," the licensee has the duty to present in a timely manner all written offers or counteroffers to and from the client.)

Statutory section amended 2016.

[Md. Code, Bus. Occ. & Prof. § 17-532 \(2016\)](#)

Massachusetts

Massachusetts, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Massachusetts: General Agency Relationship Requirements** and **Relationship with Sellers**.

Massachusetts, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located.

Massachusetts, Required Services

No recently adopted Massachusetts statutes or regulations require a broker to provide specific minimum services. However, Massachusetts law contains some service-oriented requirements. For example, a licensee must submit all offers to the owner "forthwith." Also, a designated broker or salesperson has "an affirmative obligation to disclose known material defects in real property," and a dual agent or designated agent must account for funds.

For additional information regarding a transaction broker's required duties, see **Agency: Massachusetts: Transaction Brokers**.

Regulatory history unknown.

[Mass. Regs. Code tit. 254, § 3.00\(11\)\(d\); \(13\)\(b\), \(c\) \(2016\)](#)

Massachusetts, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Michigan

Michigan, Disclosures

A licensee disclosing the type of agency must use a form that substantially conforms to the form set forth in § 339.2517. That document must:

- include a list of the minimum duties that an agent providing services under any service provision agreement owes to the client;
- include a list of the services that a licensee acting pursuant to a service provision agreement must provide to his or her client; and

- note that a buyer or seller may waive specified individual services by executing a limited service agreement.

For additional general information regarding disclosure requirements, see **Agency: Michigan: General Agency Relationship Requirements**.

Statutory section amended 2008.

[Mich. Comp. Laws § 339.2517\(3\) \(2016\)](#)

Michigan, Exclusive Brokerage Agreements

No provisions specifically regarding "exclusive" brokerage agreements were located.

However, Michigan law requires service agreements. A "service provision agreement" is a "buyer agency agreement or listing agreement executed by a real estate broker and a client that establishes an agency relationship," and a "limited service agreement" is "a written service provision agreement by which the real estate broker and client establish an agency relationship in which certain enumerated services, as set forth in section 2512d(3)(b), (c), and (d), are knowingly waived in whole or part by the client." The required information related to a limited service agreement is set forth in § 339.2517(4).

For additional general information regarding licensee agreements, see **Agency: Michigan: Relationship with Sellers**.

Statutory sections amended 2008.

[Mich. Comp. Laws §§ 339.2501, .2517 \(2016\)](#)

Michigan, Required Services

A licensee acting pursuant to a service provision agreement must perform the duties imposed by § 339.2512d(2), which include, among others, performing the service provision agreement's

terms and providing a timely accounting of money and property received. The licensee must also provide the following services to his or her client:

- when representing a seller or lessor, market the client's property in the manner agreed upon in the service provision agreement;
- accept delivery of and present offers and counteroffers (the client may waive this service);
- assist in "developing, communicating, negotiating, and presenting offers, counteroffers, and related documents or notices until a purchase or lease agreement is executed by all parties and all contingencies are satisfied or waived" (the client may waive this service);
- after all parties have executed the purchase agreement, assist "as necessary to complete the transaction under the terms specified in the purchase agreement" (this client may waive this service); and
- for a broker or associate broker involved at the closing, furnish (or cause to be furnished) to the buyer and seller, "a complete and detailed closing statement signed by the broker or associated broker showing each party all receipts and disbursements affecting that party."

The client may waive in a limited service agreement those services so indicated above.

A licensee is subject to penalties if he or she fails to provide the above minimum services when acting pursuant to a service provision agreement, unless the client has expressly waived the service in writing as provided by § 339.2517(3).

Also, Michigan regulations provide that a licensee must:

- deliver purchase offers to a buyer "immediately after it has been signed by the buyer";

- deliver written offers to a seller upon receipt;
- deliver copies of an acceptance to the buyer and the seller; and
- ensure that all terms and conditions are included in a purchase offer.

For additional information regarding a transaction broker's required duties, see **Agency: Michigan: Transaction Brokers**.

Statutory sections 339.2512 and 339.2517 amended 2008; § 339.2512d enacted 2008. Regulatory history unknown.

[Mich. Comp. Laws §§ 339.2512, .2512d, .2517 \(2016\)](#); [Mich. Admin. Code r. 339.22307 \(2016\)](#)

Michigan, Waivers

A client may waive the following required services in whole or in part by executing a limited service agreement:

- accepting delivery of and presenting offers and counteroffers;
- assisting in "developing, communicating, negotiating, and presenting offers, counteroffers, and related documents or notices until a purchase or lease agreement is executed by all parties and all contingencies are satisfied or waived"; and
- after all parties have executed the purchase agreement, assisting "as necessary to complete the transaction under the terms specified in the purchase agreement."

A licensee must provide a client desiring to waive any of the above required services with a separate form, containing the information set forth in § 339.2517(4).

However, note that Michigan's regulation that requires certain specified services does not address waiver.

Statutory sections 339.2501 and 339.2517 amended 2008; § 339.2512d enacted 2008. Regulatory history unknown.

[Mich. Comp. Laws §§ 339.2501\(c\), .2512d\(3\), \(5\), .2517\(4\) \(2016\)](#); see [Mich. Admin. Code r. 339.22307 \(2016\)](#)

Minnesota

Minnesota, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. Generally, in a residential real property transaction, a licensee must provide, at his or her first substantive contact with a consumer, an agency disclosure form, which must provide, among other information, a description of the licensee's role under each relationship option.

For additional general information regarding required disclosures, see **Agency: Minnesota: General Agency Relationship Requirements, Relationship with Buyers and Relationship with Sellers.**

Statutory section amended 2015.

[Minn. Stat. § 82.67 \(2016\)](#)

Minnesota, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: Minnesota: Relationship with Buyers and Relationship with Sellers.**

Minnesota, Required Services

Minnesota law requires the following service-oriented duties:

- "[a]ll written offers to purchase or lease shall be promptly submitted in writing to the seller or lessor";
- licensees, when or before writing or presenting an offer, must disclose to a buyer or seller, that he or she may be required to pay certain closing costs, which may reduce the sale proceeds or increase the cash outlay at closing;
- licensees must furnish to the parties a true and accurate copy of:
 - listing agreements,
 - earnest money receipts,
 - purchase agreements,
 - contracts for deed,
 - option agreements,
 - closing statements,

- truth-in-housing forms,
- energy audits, and
- any other document that is material to the transaction and in the licensee's possession; and
- the listing broker or his or her designee must deliver (as of August 1, 2014, only if the broker is acting as the "transaction closing agent"):
 - to the seller at closing, a complete and detailed closing statement, showing all receipts and disbursements handled by the broker for the seller; and
 - to the buyer at closing, a complete and detailed statement showing the disposition of all money received from the buyer.

For additional information regarding a transaction broker's required duties, see **Agency: Minnesota: Transaction Brokers**.

Statutory section amended 2014.

[Minn. Stat. § 82.71 \(2016\)](#)

Minnesota, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Mississippi

Mississippi, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Mississippi: General Agency Relationship Requirements** and **Other Relevant Provisions**.

Mississippi, Exclusive Brokerage Agreements

BUYER REPRESENTATION AGREEMENT

An exclusive buyer representation agreement must be in writing and identify the terms and conditions under which the buyer will rely on the broker for the purchase of real estate, including:

- the sales price;
- the consideration to be paid;
- all parties' signatures; and
- a definite expiration date.

The buyer may terminate the agreement upon fifteen days' written notice to the buyer's agent. The "Exclusive Buyer Representation" agreement must "clearly indicate in the body of the document that it is such an agreement."

LISTING AGREEMENT

An exclusive listing agreement must be in writing, properly identify the property to be sold, and contain all of the terms and conditions, including:

- the sales price;
- the consideration to be paid;
- all parties' signatures; and
- a definite expiration date.

An "Exclusive Agency" or "Exclusive Right to Sell" listing must indicate in the body of the document that it is such an agreement.

For additional general licensee agreement requirements, see **Agency: Mississippi: General Agency Relationship Requirements**.

Regulatory history unknown.

[30-1601 Miss. Code R. § 3.2 \(2013\)](#)

Mississippi, Required Services

No recently adopted Mississippi statutes or regulations require a broker to provide specific minimum services. During the 2006 regular legislative session, [Senate Bill 2782](#), which would have provided that a licensee may be disciplined for failing to perform numerous services, did not pass into law.

However, existing Mississippi law contains some service-oriented requirements. For example, when an offer is made on property owned by a party with whom a broker has a listing agreement, the broker must:

- document and date an acceptance or rejection of the offer; and
- upon written request, provide a copy of the document to the person making the offer.

Also, a licensee may be disciplined for failing to:

- account for or to remit any funds that come into his or her possession that belong to others;
or
- furnish to all parties at signing, copies of all listings, contracts and agreements.

Statutory section amended 2016. Regulatory history unknown.

Miss. Code § 73-35-21 (LexisNexis 2016); [30-1601 Miss. Code R. § 3.1 \(2013\)](#)

Mississippi, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Missouri

Missouri, Disclosures

A licensee's general duties and obligations arising from a limited agency relationship must be disclosed in writing to the seller and the buyer (or to the landlord and the tenant) pursuant to §§ 339.760 to .780. Alternatively, a licensee engaged in any of the activities set forth in § 339.010 may act as an agent in accordance with the written agreement described in § 339.780.

No additional disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Missouri: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

Statutory section amended 2005.

[Mo. Rev. Stat. § 339.720\(1\) \(2016\)](#)

Missouri, Exclusive Brokerage Agreements

"Exclusive brokerage agreement" means a written agreement that "provides that the broker has the sole right, through the broker or through one or more affiliated licensees, to act as the exclusive limited agent, representative, or transaction broker of the client or customer that meets the requirements of section 339.780." Thus, all brokerage agreements must contain the new minimum service requirements, which requires that all exclusive brokerage agreements must specify that the broker or one or more affiliated licensees must provide, at a minimum, the following services:

- "accepting delivery of and presenting to the client or customer offers and counteroffers to buy, sell, or lease the client's or customer's property or the property the client or customer seeks to purchase or lease";
- assisting the client or customer to develop, communicate, negotiate and present offers, counteroffers and notices until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and
- answering the client's or customer's questions related to the offers, counteroffers, notices and contingencies.

The public may enter into written contracts with a broker that contain duties, obligations or responsibilities in addition to those specified in this section.

For additional general licensee agreement requirements, see **Agency: Missouri: Relationship with Buyers** and **Relationship with Sellers**.

Statutory section 339.780 amended 2005; § 339.710 amended 2010.

[Mo. Rev. Stat. §§ 339.710\(16\), .780\(7\) \(2016\)](#)

Missouri, Required Services

Missouri amended its statutes to include specific broker minimum service requirements. Pursuant to these requirements, a brokerage agreement must specify that the broker or one or more affiliated licensees, must provide, at a minimum, the following services:

- "accepting delivery of and presenting to the client or customer offers and counteroffers to buy, sell, or lease the client's or customer's property or the property the client or customer seeks to purchase or lease";
- assisting the client or customer to develop, communicate, negotiate and present offers, counteroffers and notices until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and
- answering the client's or customer's questions related to the offers, counteroffers, notices and contingencies.

BUYER'S AGENT'S OBLIGATIONS

Previously existing Missouri laws also generally contain service-oriented requirements. For example, a licensee representing a buyer or tenant is a limited agent with following service-oriented duties, among others:

- seeking an acceptable price and terms;
- timely presenting all written offers to and from the client unless a purchase or lease contract is in effect;

- disclosing adverse material facts that the licensee knows or should know;
- advising the client to obtain expert advice on matters beyond the licensee's expertise; and
- accounting in a timely manner for all money and property received.

BUYER'S AGENT'S DUTIES

A seller's or landlord's agent is a limited agent with the following service-oriented duties, among others:

- seeking an acceptable price and terms unless the property is subject to a sales contract;
- presenting all written offers to and from the client in a timely manner;
- disclosing to the client all adverse material facts the licensee knows or should know;
- advising the client to obtain expert advice on matters that are beyond the licensee's expertise; and
- accounting in a timely manner for all money and property.

For additional general information regarding licensee's duties, see **Agency: Missouri: Relationship with Buyers and Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Missouri: Transaction Brokers**.

Statutory sections 339.730 and 339.740 amended 1998; § 339.780 amended 2005.

[Mo. Rev. Stat. §§ 339.730\(1\), .740\(1\), .780\(7\) \(2016\)](#)

Missouri, Waivers

Missouri's recent amendments that establish broker minimum service requirements do not address the waiver of any of those required services. However, § 339.100 provides that a licensee may be disciplined for failing to inform a seller of all written offers, "unless otherwise instructed in writing by the seller."

Statutory section amended 2016.

[Mo. Rev. Stat. §§ 339.100\(17\)](#) (as effective until Jan. 1, 2017); [339.100\(17\) \(2016\)](#) (as effective on Jan. 1, 2017)

Montana

Montana, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Montana: General Agency Relationship Requirements** and **Relationship with Sellers**.

Montana, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located.

Montana, Required Services

Effective May 15, 2009,

- a seller's agent must participate in negotiations, unless the seller has waived the obligation in writing;
- a seller's agent must submit to the seller all offers and counteroffers until a pending transaction has been closed or the listing agreement terminates, unless the seller waives the obligation in writing;
- a buyer's agent must participate in negotiations, unless the buyer has waived the obligation in writing; and
- a buyer's agent must submit to the buyer all offers and counteroffers until an offer has been accepted or the agent's broker agreement terminates, unless the buyer waives the obligation in writing.

"Negotiations" include:

- efforts to "act as an intermediary between parties to a real estate transaction";
- "facilitating and participating in contract discussions";
- preparing offers, counteroffers, addendums, and "other writings"; and
- presenting offers and counteroffers.

Licensees, acting in various agency relationships, are also obligated to make certain disclosures to both buyers and sellers. Consistent with these duties, a licensee must "endeavor to ascertain all pertinent facts concerning each property in any transaction in which the licensee acts so that the licensee may fulfill the obligation to avoid error, exaggeration, misrepresentation, or concealment of pertinent facts."

A seller agent must fully account to the seller for any of the seller's funds or property that come into the seller agent's possession. Similarly, a buyer agent must fully account to the buyer for any of the buyer's funds or property that come into the buyer agent's possession.

Effective April 9, 2015, a licensee must obtain a written buyer broker or listing agreement before acting as a buyer agent or a seller agent. A licensee who is acting as a buyer agent or a seller agent without a written agreement is nevertheless obligated to comply with the requirements of chapter 37-51.

For general information regarding licensees' duties, see **Agency: Montana: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Montana: Transaction Brokers**.

Statutory sections amended 2015. Regulation amended 2012.

[Mont. Code §§ 37-51-102, -313 \(2015\); Mont. Admin. R. 24.210.641\(5\)\(m\)–\(p\) \(2015\)](#)

Montana, Waivers

The following may be waived in writing:

- an agent's duty to participate in negotiations;
- a seller's agent's duty to submit to the seller all offers and counteroffers until a pending transaction has been closed or the listing agreement terminates;
- a buyer's agent's duty to participate in negotiations; and
- a buyer's agent's duty to submit to the buyer all offers and counteroffers until an offer has been accepted or the agent's broker agreement terminates.

Regulation amended 2012.

[Mont. Admin. R. 24.210.641\(5\)\(m\)–\(p\) \(2015\)](#)

Nebraska

Nebraska, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Nebraska: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

Nebraska, Exclusive Brokerage Agreements

A designated broker intending to establish a single agency relationship with a seller or landlord must enter into a written agency agreement with the party to be represented. Except as provided in Neb. Rev. Stat. § 76-2422.01 (regarding asset management companies), the agreement must include, among other things, a licensee's duties and responsibilities as specified in § 76-2417. Similarly, a designated broker acting as a single agent for a buyer or tenant may enter into a written

agency agreement, and that agreement must include, among other things, a licensee's duties and responsibilities as specified in § 76-2418.

A designated broker who intends to establish an agency relationship in which the designated broker's duties and responsibilities exceed those contained in §§ 76-2417 and 76-2418 must enter into a written agency agreement that specifies the agent's duties and responsibilities, among other things.

Statutory section amended 2011.

[Neb. Rev. Stat. § 76-2422 \(2016\)](#)

Nebraska, Required Services

No recently adopted Nebraska statutes or regulations require a broker to provide specific minimum services. Although the Nebraska Real Estate Commission has noted the national interest in minimum service contracts, it emphasizes that Nebraska real estate laws are “fee-structure neutral.” As such, the “laws apply equally to all licensees . . . and do not impact whether a flat-fee or commission is charged.” Furthermore, the Commission does not involve itself in what, if anything, a licensee chooses to charge for services.

BUYER'S AGENT'S DUTIES

However, Nebraska law contains many service-oriented requirements. For example, a buyer's or a tenant's agent is a limited agent with the following service-oriented duties, among others:

- to promote the client’s interests with good faith, loyalty, and fidelity;
- to seek a price and terms acceptable to the client, except that the licensee need not seek other properties while the client is party to a purchase contract, a lease or a letter of intent to lease;
- to present all written offers to and from the client in a timely manner (unless the client is an asset management company);
- to disclose in writing to the client known adverse material facts;

- to advise the client to obtain expert advice as to material matters beyond the licensee's expertise; and
- to account in a timely manner for all money and property received.

SELLER'S AGENT'S DUTIES

Similarly, a seller's or a landlord's agent is a limited agent with the following service-oriented duties, among others:

- to promote the client's interests with good faith, loyalty, and fidelity;
- to seek a price and terms that are acceptable to the client, except that the licensee need not seek additional offers while the property is subject to a sale contract, a lease, or a letter of intent to lease;
- to present all written offers to and from the client in a timely manner (unless the client is an asset management company);
- to disclose in writing all adverse material facts actually known by the licensee;
- to advise the client to obtain expert advice as to material matters beyond the licensee's expertise; and
- to account in a timely manner for all money and property received.

For additional general information regarding a licensee's duties, see **Agency: Nebraska: Relationship with Buyers** and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Nebraska: Transaction Brokers**.

Statutory sections amended 2011.

[Neb. Real Estate Comm'n: Comm'n Comment, *What Are the Licensee's Duties* \(Summer 2005\); Neb. Rev. Stat. §§ 76-2417, -2418 \(2016\)](#)

Nebraska, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Nevada

Nevada, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Nevada: General Agency Relationship Requirements**.

Nevada, Exclusive Brokerage Agreements

Every brokerage agreement for an exclusive agency representation must:

- be in writing;
- have a "definite, specified and complete termination";
- contain no provision requiring the client to notify the real estate broker of his intention to cancel the exclusive features of the agreement; and
- be signed by both the client and the broker.

Regulations define "exclusive agency listing agreement" as an agreement between a broker and a seller or lessor that:

- meets the requirements of Nev. Rev. Stat. § 645.320;
- grants the broker "the exclusive right to represent the seller or lessor in the sale or lease of any property"; and
- gives the broker an "expectation of receiving compensation if the broker or any other person produces a purchaser or tenant in accordance with the terms of the exclusive agency listing agreement or if the property is sold or leased" during the agreement's term, unless the property is sold or leased solely through the seller's or the lessor's efforts or to a person who is specifically exempted under the agreement.

The regulations define an "exclusive buyer's brokerage agreement" and an "exclusive right to sell or lease listing agreement" similarly, except the references to expectation of compensation reflect the different parties involved.

An exclusive buyer's brokerage agreement may:

- authorize the specified broker to receive compensation from the property's seller or lessor (or his or her broker); and
- provide that the purchaser or tenant is not required to compensate the broker if the property is purchased or leased solely through the purchaser's or tenant's efforts.

Also, a broker with the exclusive authority to represent a client under an exclusive agency listing agreement, exclusive buyer's brokerage agreement or exclusive right to sell or lease listing agreement may authorize another licensee to negotiate directly with that client, provided the licensee obtains written authorization from the broker on the form provided by the Division. In this context, "negotiate" means:

- to "communicate, deliver, discuss or review the terms of an offer, counteroffer or proposal"; or
- to "communicate or assist in communication regarding an offer, counteroffer or proposal and preparing any response as directed."

For additional general information regarding licensee agreements, see **Agency: Nevada: General Agency Relationship Requirements**.

Statutory section amended 2003. Regulations effective 2008.

[Nev. Rev. Stat. § 645.320 \(2015\); Nev. Admin. Code §§ 645.0255, .026, .0265, .551, .541 \(2016\)](#)
[Nevada, Required Services](#)

Nevada law contains service-oriented requirements. For example, a licensee who has entered into a brokerage agreement must, among other things,

- seek a sale, purchase, option, rental, or lease of property at the price and terms stated in the agreement or acceptable to the client;

- present all offers as soon as practicable, unless the client waives that duty and signs a waiver of the duty on a Division-prescribed form; and
- disclose known material facts to the client.

The Commission interprets "present all offers" to include, without limitation:

- accepting delivery of or conveying an offer or a counteroffer;
- answering a client's questions regarding an offer or a counteroffer; and
- assisting a client in "preparing, communicating or negotiating" an offer or a counteroffer.

For additional general information regarding duties of licensees acting as agents, see **Agency: Nevada: General Agency Relationship Requirements, Relationship with Buyers and Relationship with Sellers**.

Statutory sections 645.252 and 645.254 amended 2007; § 645.300 enacted 1995. Regulation effective 2008.

[Nev. Rev. Stat. §§ 645.252, .254, .300 \(2015\)](#); [Nev. Admin. Code § 645.546 \(2016\)](#)

Nevada, Waivers

Except as explicitly permitted by subsection 645.254(4), a licensee may not waive the duties required by §§ 645.252 or 645.254. Subsection 645.254(4) permits a client to waive a licensee's duty to present all offers if the client signs a waiver of the duty on a form prescribed by the Division.

Statutory section 645.255 added 2007; § 645.254 amended 2007.

[Nev. Rev. Stat. §§ 645.254, .255 \(2015\)](#)

New Hampshire

New Hampshire, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: New Hampshire: General Agency Relationship Requirements, Relationship with Buyers, and Relationship with Sellers**.

New Hampshire, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding all listing contracts, see **Agency: New Hampshire: General Agency Relationship Requirements** and **Relationship with Buyers**.

New Hampshire, Required Services

No recently adopted New Hampshire statutes or regulations require a broker to provide specific minimum services.

However, New Hampshire law contains some service-oriented requirements. For example, a licensee who provides services pursuant to a brokerage agreement has the duties of diligence and accounting, among others.

BUYER'S LICENSEE'S DUTIES

Also, a buyer's or tenant's licensee must, among other things,

- promote the buyer's or tenant's interests;
- seek real estate at the price and terms specified by the buyer or tenant, except that the licensee need not seek other real estate if the buyer or tenant is party to a purchase contract or lease unless the brokerage agreement so provides;
- timely present offers to and from the buyer or tenant;
- timely account for money and property received;
- be able to perform ministerial acts, such as "showing property, preparing offers or agreements, and conveying those offers or agreements to the buyer or tenant and providing information and assistance concerning professional services not related to the real estate brokerage services"; and
- disclose to a prospective buyer or tenant, before he or she makes a written offer, any "material physical, regulatory, mechanical, or on-site environmental condition affecting the subject property of which the licensee has actual knowledge."

SELLER'S LICENSEE'S DUTIES

A seller's or landlord's licensee similarly must, among other things,

- promote the seller's or landlord's interests;
- seek a sale, lease, or exchange at the price and terms acceptable to the seller or landlord, except that the licensee need not seek additional purchase offers while the real estate is subject to a sale contract unless the brokerage agreement so provides;
- timely present all offers and agreements to and from the seller or landlord, even if the real estate is subject to a sale contract;
- timely account for all money and property received;
- be able to provide assistance to the buyer or tenant by "performing ministerial acts such as showing property, preparing offers or agreements, and conveying those offers or agreements to the seller or landlord and providing information and assistance concerning professional services not related to the real estate brokerage services"; and
- disclose to a prospective buyer or tenant, before he or she makes a written offer, any "material physical, regulatory, mechanical, or on-site environmental condition affecting the subject property of which the licensee has actual knowledge."

For additional general information regarding licensee's duties see **Agency: New Hampshire: Relationship with Buyers** and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: New Hampshire: Transaction Brokers**.

Statutory section 331-A:25-a enacted 1996; §§ 331-A:25-b and 331-A:25-c amended 2008.

[N.H. Rev. Stat. §§ 331-A:25-a, -b, -c \(2016\)](#)

[New Hampshire, Waivers](#)

No provisions specifically related to the waiver of broker minimum service requirements were located.

New Jersey

New Jersey, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: New Jersey: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

New Jersey, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: New Jersey: General Agency Relationship Requirements** and **Relationship with Sellers**.

New Jersey, Required Services

No recently adopted New Jersey statutes or regulations require a broker to provide specific minimum services. However, New Jersey law contains some service-oriented requirements. For example, a licensee must, among other things,

- “protect and promote, as he would his own,” his client’s or principal’s interests;
- make a reasonable effort to ascertain all material information concerning the property’s physical condition and the buyer’s financial qualifications;
- recommend that legal counsel be obtained whenever any party’s interests so require; and
- deliver to the maker of an offer or counteroffer a copy of the executed offer or counteroffer immediately upon signature.

Also, a licensee may be disciplined for failing:

- to account for or pay any money belonging to others; or
- to provide the client with a fully executed copy of any sale, exclusive sale or rental listing contract at signing.

For additional general information regarding licensee's duties, see **Agency: New Jersey: General Agency Relationship Requirements**. For additional information regarding a transaction broker's required duties, see **Agency: New Jersey: Transaction Brokers**.

Statutory section amended 2009. Regulatory section 5-6.2 amended 1993, r. 5-6.4 amended 2009.

N.J. Stat. § 45:15-17 (2016); N.J. Admin. Code tit. 11, §§ 5-6.2; -6.4 (LexisNexis 2016)

New Jersey, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

New Mexico

New Mexico, Disclosures

Before a broker generates or presents any written document that has the potential to become an express written agreement, he or she must disclose the broker's duties in writing to a prospective customer or client. The broker must also obtain a written acknowledgement of the disclosure from the prospective customer or client.

Regulation amended effective 2014.

[N.M. Admin. Code tit. 16, § 16.61.19.8 \(2016\)](#)

New Mexico, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: New Mexico: General Agency Relationship Requirements**.

New Mexico, Required Services

Before a broker generates or presents a written document that has the potential to become an express written agreement, he or she must disclose the broker's duties in writing to a prospective customer or client. The following referenced duties are service-oriented:

- performance of any and all written agreements made with the customer or client;
- assistance in completing the transaction, unless otherwise agreed in writing by the customer or client, including:
 - timely presenting all offers or counter-offers;

- assisting in complying with the contract's terms and conditions and closing the transaction;
- acknowledging that there may be matters that are outside the associate broker's or qualifying broker's knowledge or expertise and suggesting that the customer or client seek expert advice on those matters;
- prompt accounting; and
- disclosing in writing to the client or customer and to other involved brokers any potential conflict of interest; and
- disclosing in writing any known adverse material facts about the property, the transaction, or the parties' financial abilities to complete the transaction.

If the broker is not providing the service, advice or assistance described in regulation 16.61.19.8(D)(1) and (2) (regarding assisting the customer or client to complete the transaction),

- the customer or client must agree in writing that the broker is not expected to provide such service, advice or assistance; and
- the broker must disclose the agreement's existence in writing to the other brokers involved in the transaction.

S.B. 398, 49th Leg., 1st Sess. (N.M. 2009), which would have expressly imposed a minimum duty on real estate brokers, did not pass into law.

Also, New Mexico regulations provide that a licensee may work with a consumer pursuant to an express written agreement that does not provide for agency, in which case no agency relationship or duties are imposed.

For additional information regarding a transaction broker's required duties, see **Agency: New Mexico: Transaction Brokers**.

Regulation 16.61.19.9 amended 2012; r. 16.61.19.8 amended 2014.

[N.M. Admin. Code tit. 16, §§ 16.61.19.8; .9 \(2016\)](#)

New Mexico, Waivers

Regulation 16.61.19.8, which establishes minimum service requirements, was amended on both November 30, 2005, and December 15, 2005. The amendment on November 30 deleted a prior option for the customer or client to "agree otherwise in writing" to certain service-oriented duties. However, the amendment on

December 15 added that phrase back in, so that the regulation, as effective January 1, 2006, provides that a customer or client may agree to waive in writing the following duties:

- assistance in completing the transaction, including:
 - timely presenting all offers or counter-offers;
 - assisting in complying with the contract's terms and conditions and closing the transaction; and
- maintenance of certain confidential information.

If the broker is not providing the service, advice or assistance described in § 16.61.19.8(D)(1) and (2), regarding assisting the customer or client complete the transaction,

- the customer or client must agree in writing that the broker is not expected to provide such service, advice or assistance; and
- the broker must disclose the agreement's existence in writing to the other brokers involved in the transaction.

Regulation amended effective 2014.

[N.M. Admin. Code tit. 16, § 16.61.19.8 \(2016\)](#)

New York

New York, Disclosures

The agency disclosure form set forth at § 443(4) requires the following service-oriented fiduciary duties, among others:

- undivided loyalty;
- obedience; and
- accounting.

For additional general information regarding required disclosures, see **Agency: New York: General Agency Relationship Requirements, General Applicability of Provisions, Relationship with Buyers and Relationship with Sellers.**

Statutory section amended 2010.

N.Y. Real Prop. Law § 443(4) (2016)

New York, Exclusive Brokerage Agreements

In all commission agreements that provide for an exclusive listing of residential property, the broker must have attached to or printed on the listing (which must include the homeowner's signature) the following explanation in at least six-point type:

EXPLANATION:

An "exclusive right to sell" listing means that if you, the owner of the property, find a buyer for your house, or if another broker finds a buyer, you must pay the agreed commission to the present broker. An "exclusive agency" listing means that if you, the owner of the property find a buyer, you will not have to pay a commission to the broker. However, if another broker finds a buyer, you will owe a commission to both the selling broker and your present broker.

If a broker who is a member of a multiple listing service obtains an exclusive listing of residential property, the listing agreement must provide that the homeowner has the option of having all negotiated offers to purchase submitted through the listing or selling broker.

A real estate broker may not be a party to an exclusive listing contract that contains an automatic continuation of the listing period.

For additional general information regarding licensee agreements, see **Agency: New York: General Agency Relationship Requirements**.

Regulation 175.24 amended 2015; r. 175.15 history unknown.

N.Y. Comp. Codes R. & Regs. tit. 19, §§ 175.15, .24 (LexisNexis 2016)

New York, Required Services

No recently adopted New York statutes or regulations require a broker to provide specific minimum services. However, New York law contains some service-oriented requirements. For example, a broker must immediately deliver a copy of any instrument to all parties executing the document, if:

- the broker or a licensee under his or her supervision prepared the document; and
- the instrument relates to the broker's employment or to any matters pertaining to the transaction.

BUYER'S AGENT'S DUTIES

The disclosure form set forth at § 443(4) delineates that a buyer's agent has the following service-oriented duties, among others, to the buyer:

- full disclosure;
- obedience; and
- accounting.

SELLER'S AGENT'S DUTIES

The text of the disclosure form set forth at § 443(4) provides for the following service-oriented fiduciary duties, among others, to the seller:

- full disclosure;
- obedience; and
- accounting.

For additional general information regarding licensee's duties, see **Agency: New York: General Agency Relationship Requirements** and **Relationship with Buyers**.

Statutory section amended 2010. Regulation 175.12 amended 2015.

N.Y. Real Prop. Law § 443(4) (2016); N.Y. Comp. Codes R. & Regs. tit. 19, § 175.12 (LexisNexis 2016)

New York, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

North Carolina

North Carolina, Disclosures

No disclosure provisions specifically related to minimum service requirement disclosures were located. For general information regarding required disclosures, see **Agency: North Carolina: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

North Carolina, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: North Carolina: General Agency Relationship Requirements, Relationship with Buyers, Relationship with Sellers** and **Term of Relationship**.

North Carolina, Required Services

No recently enacted statutes or regulations require a broker to provide specific minimum services. For general information regarding licensees' duties, see **Agency: North Carolina: General Agency Relationship Requirements**.

However, North Carolina regulations generally provide that a broker must "immediately, but in no event later than five days" from the execution date, deliver to the parties copies of any required written agency agreement, contract, offer, lease (unless certain specified conditions are met), or option related to real property.

Also, note that the U.S. Department of Justice has recently suggested the following revisions to North Carolina Real Estate Commission Rules:

- the department urges the state commission to consider a revision to the "Working with Real Estate Agents" guide that brokers must provide to prospective clients that would "make clear that consumers can choose to purchase a variety of services from a broker"; and
- the department suggests that the commission should revise the rules to provide that "an entry-only broker's representation may end when the client's property has been entered successfully in the multiple listing service and she has completed any other requirements under the law, since entry in the MLS is the only task for which the client wishes to contract."

Regulation amended 2006.

[21 N.C. Admin. Code 58A.0106 \(2016\)](#); [Letter from U.S. Dep't of Justice, Antitrust Div. to Miriam Baer, Executive Dir., N.C. Real Estate Comm'n \(Sept. 3, 2010\)](#)

North Carolina, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

North Dakota

North Dakota, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: North Dakota: General Agency Relationship Requirements**.

North Dakota, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: North Dakota: Relationship with Buyers and Relationship with Sellers**.

North Dakota, Required Services

North Dakota law contains some service-oriented requirements. For example, a brokerage firm and its licensees that provide services pursuant to a written agency agreement have the duty of accounting to their clients.

A seller's agent must:

- promptly tender to the seller every written purchase offer;

- upon obtaining an acceptance, promptly deliver copies of the executed agreement to both the seller and the buyer;
- verify that all of the transaction's terms and conditions are included in the offer; and
- verify that the parties agree to any text changes before proceeding with the transaction.

Also, a licensee may be disciplined if:

- a broker fails to deliver to the party or parties the broker represented a complete detailed closing statement at the time the transaction is consummated, showing all of the receipts and disbursements the broker handled for the party or parties the broker represented;
- a licensee fails to reduce an offer to writing when a proposed purchaser asks the offer to be submitted to the seller; or
- a licensee fails to submit all offers to a seller if they are received before the seller accepts an offer in writing and until the broker knows of the acceptance.

For additional general information regarding duties of brokerage firms and licensees, see **Agency: North Dakota: General Agency Relationship Requirements**.

A licensee also has certain duties to a *customer*. If a buyer, a prospective buyer, or a seller is not represented in a real property transaction, the buyer or seller is a customer. The real estate brokerage firm and its licensees are nonagents that owe the following service-oriented duties to a customer:

- to "perform customary acts typically performed by real estate licensees in assisting a transaction to the transaction's closing or conclusion if these acts are to assist the customer for which the services are directly provided"; and
- to disclose to the customer any adverse material facts the licensee actually knows that pertain to the property's title, physical condition, and defects.

These duties are subordinate to the duties the real estate brokerage firm and the firm's licensees owe to a *client* in the same transaction.

For additional information regarding a transaction broker's required duties, see **Agency: North Dakota: Transaction Brokers**.

Statutory section 43-23-11.1 amended 2007; § 43-23-12.1 amended 2011. Regulation amended 1992.

[N.D. Cent. Code §§ 43-23-11.1, -12.1 \(2015\); N.D. Admin. Code § 70-02-03-06 \(2015\)](#)

North Dakota, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Ohio

Ohio, Disclosures

Each brokerage must have a written brokerage policy on agency to be given to prospective sellers and purchasers. The policy must include, among other things, an explanation of the permissible agency relationships available and the duties the agent owes the agent's client. These requirements related to providing a brokerage policy on agency apply only to:

- the sale or lease of vacant land;
- the sale of real estate with one to four residential units; or
- the leasing of residential premises, if the rental or lease agreement is for a term of more than 18 months.

Ohio regulations clarify that a licensee may not fail to deliver or present an offer because a party has declined to sign an agency disclosure statement or because "an agency disclosure statement was not received."

For additional disclosure requirements, see **Agency: Ohio: General Agency Relationship Requirements, Other Relevant Provisions, Relationship with Buyers, and Relationship with Sellers.**

Statutory section amended 2013. Regulation amended 2011.

[Ohio Rev. Code § 4735.56 \(2016\)](#); [Ohio Admin. Code § 1301:5-6-06 \(2015\)](#)

Ohio, Exclusive Brokerage Agreements

A broker who is representing a seller under an exclusive listing agreement may not advertise the property as "for sale by owner" or mislead the public to believe that the seller is not represented by a broker. Also, a licensee may be disciplined for negotiating the sale, exchange, or lease of real property directly with purchaser, lessor, or tenant, knowing that the person is represented by another broker under an exclusive agreement, except as provided by § 4735.75. Section 4735.75 permits a broker with the exclusive authority to represent a client to authorize other licensees to negotiate directly with that client, provided that:

- the authorization must be in writing; and

- the broker must comply with § 4735.621, which addresses waivers.

Negotiations conducted by a licensee pursuant to such an authorization do not create an agency relationship. In this context, "negotiate" means:

- delivering, communicating, discussing or reviewing the terms of an offer, counteroffer, or proposal; and
- "facilitating communication regarding an offer, counteroffer, or proposal and preparing any response as directed."

For general information regarding licensee agreements and the required contents of the consumer guide to agency relationships, see **Agency: Ohio: Exclusive Brokerage Agreements** and **Term of Relationship**.

Statutory section 4735.75 enacted 2006; §§ 4735.16 and 4735.18 amended 2011.

[Ohio Rev. Code §§ 4735.16\(B\)\(4\), .18\(A\)\(19\), .75 \(2016\)](#)

Ohio, Required Services

FIDUCIARY DUTIES

A licensee acting as a client's agent or subagent is the client's fiduciary and must use best efforts to further the client's interest, including the following service-oriented duties, among others:

- disclosing to the client any material fact that the licensee knows or should know that is not confidential information;
- advising the client to obtain expert advice when necessary or appropriate; and

- accounting in a timely manner for all money and property received.

Ohio regulations clarify that a licensee may not fail to deliver or present an offer because a party has declined to sign an agency disclosure statement or "an agency disclosure statement was not received."

A licensee must also perform the service-oriented duties set forth below.

BUYER'S AGENT'S DUTIES

A licensee representing a purchaser must:

- seek property at a price and with terms acceptable to the purchaser, provided that, unless the client so directs, the licensee need not seek additional possibilities if the purchaser is a party to a purchase or lease contract;
- answer the purchaser's questions and provide information regarding any offers or counteroffers within the scope of knowledge required for licensure;
- "[a]ssist the purchaser in developing, communicating, and presenting offers or counteroffers";
- present any offer to the seller or the seller's agent in a timely manner, even if the property is subject to a sale or lease contract;
- accept delivery of and present any counteroffers to the purchaser in a timely manner; and
- "[w]ithin the scope of knowledge required for licensure, answer the purchaser's questions regarding the steps the purchaser must take to fulfill the terms of any contract."

SELLER'S AGENT'S DUTIES

A licensee representing a seller must:

- seek a purchase offer at a price and with terms acceptable to the client, provided that, unless the client so directs, the licensee need not seek additional offers if the property is subject to a contract;
- answer the purchaser's questions and provide information regarding any offers or counteroffers within the scope of knowledge required for licensure;
- "[a]ssist the purchaser in developing, communicating, and presenting offers or counteroffers";
- present any purchase offer to the client in a timely manner, even if the property is subject to a sale or lease contract;
- accept delivery of and present any counteroffers in a timely manner;
- "[w]ithin the scope of knowledge required for licensure, answer the purchaser's questions regarding the steps the purchaser must take to fulfill the terms of any contract"; and
- provide the seller with a copy of any agency disclosure form signed by the purchaser.

For additional general information regarding licensee's duties, see **Agency: Ohio: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Ohio: Transaction Brokers**.

Statutory sections 4735.63 and 4735.65 amended 2006; § 4735.62 amended 2011. Regulation amended 2011.

[Ohio Rev. Code §§ 4735.62, .63, .65 \(2016\); Ohio Admin. Code § 1301:5-6-06 \(2015\)](#)

Ohio, Waivers

A client may not waive a licensee's general fiduciary duties, which are set forth in § 4735.62. Also, a licensee must perform the duties required under § 4735.63 (licensee representing a seller) or § 4735.65 (licensee representing a buyer) unless the client waives the duties and signs a waiver statement. The waiver, which will be established by rule, must contain:

- the fiduciary duties required by § 4735.62;
- a list of the duties required by § 4735.63 or § 4735.65, set forth in a manner that allows the parties to indicate which duties are being waived;
- a statement that no other licensee is required to perform the waived duty on the client's behalf;
- a statement that the client may hire legal counsel or other professionals; and
- the client's and the licensee's signatures and the date.

The "[Waiver of Duties Statement](#)" form, which is available from the Ohio Division of Real Estate and Professional Licensing, lists those duties a client may waive and those a client may not waive.

Statutory section enacted 2006.

[Ohio Rev. Code § 4735.621 \(2016\)](#)

Oklahoma

Oklahoma, Disclosures

As of November 1, 2013, a broker who is providing brokerage services to one or both parties must "describe and disclose in writing the broker's duties and responsibilities," as set forth in Okla. Stat. § 858-353, before the party or parties sign a real estate contract.

If a broker intends to perform fewer services than those required to complete a transaction, the broker must provide written disclosure to the party for whom the broker is providing services. The disclosure must:

- include a description of those steps in the transaction for which the broker will not perform services; and
- state that the broker assisting the other party is not required to provide assistance with these steps.

Statutory sections amended 2013.

[Okla. Stat. Ann. tit. 59, §§ 858-353, -355.1 \(2016\)](#)

Oklahoma, Exclusive Brokerage Agreements

As of November 1, 2013, a broker who is providing brokerage services to one or both parties must "describe and disclose in writing the broker's duties and responsibilities," as set forth in Okla. Stat. § 858-353, before the party or parties sign a real estate contract.

Statutory sections amended 2013.

[Okla. Stat. Ann. tit. 59, §§ 858-353, -355.1 \(2016\)](#)

Oklahoma, Required Services

As of November 1, 2013, a broker has the following mandatory duties and responsibilities to all parties in a transaction:

- to treat all parties with honesty;
- to exercise reasonable skill and care;
- unless specifically waived by a party, to be available to receive all written offers and counteroffers, to reduce offers or counteroffers to writing upon any party's request, and to present timely written offers and counteroffers;
- to account timely for all money and property received;
- to keep confidential information received from a party or a prospective party confidential, as required by § 858-353(4);
- to disclose information regarding the property, as required by the Residential Property Condition Disclosure Act; and

- to comply with all requirements of the Oklahoma Real Estate License Code and all applicable statutes and rules.

A broker also has the following duties and responsibilities only to a party for whom the broker is providing brokerage services:

- to inform the party "in writing when an offer is made that the party will be expected to pay certain costs, brokerage service costs and approximate amount of the costs"; and
- to keep the party informed.

A broker may not waive or abrogate the duties listed above.

Nothing in the Oklahoma Real Estate License Code prohibits a broker from entering into an agreement for other brokerage services, as long as the agreement is in compliance with the relevant state laws.

Statutory section 858-353 amended 2013; § 858-360 amended 2012.

[Okla. Stat. Ann. tit. 59, §§ 858-353, -360 \(2016\)](#)

Oklahoma, Waivers

As of November 1, 2013, a broker's duties and responsibilities are mandatory and may not be abrogated or waived by a broker. However, a party to the transaction may specifically waive the following broker's duties and responsibilities:

- to be available to receive all written offers and counteroffers;
- to reduce offers or counteroffers to writing upon any party's request; and
- to present timely written offers and counteroffers.

Statutory section amended 2013.

[Okla. Stat. Ann. tit. 59, § 858-353 \(2016\)](#)

Oregon

Oregon, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Oregon: General Agency Relationship Requirements**.

Oregon, Exclusive Brokerage Agreements

Every listing agreement must:

- state an expiration date;
- not require the seller to notify the licensee of the seller's intention to cancel the listing after the expiration date; and
- not subject the seller to the payment of two or more commissions for one sale if the seller lists the property with another broker after an earlier listing agreement expires or is terminated.

For additional general information regarding licensee agreements, see **Agency: Oregon: Relationship with Buyers.**

Regulation amended effective 2009.

[Or. Admin. R. 863-015-0130 \(2016\)](#)

Oregon, Required Services

No recently adopted Oregon statutes or regulations require a broker to provide specific minimum services.

However, Oregon law contains some service-oriented requirements.

BUYER'S AGENT'S DUTIES

A buyer's agent owes the buyer, other principals and their agents the duty, among others, to present all written offers and other written communications to and from the parties in a timely manner, whether or not the property is subject to a sale contract or the buyer is already party to a purchase contract. A buyer's agent also owes the buyer the following service-oriented duties:

- to account in a timely manner for money and property received; and
- unless otherwise agreed in writing, to make a continuous, good faith effort to find property for the buyer, except that a buyer's agent need not seek additional properties for a buyer subject to a purchase contract or show properties for which there is no written agreement to pay compensation to the buyer's agent.

SELLER'S AGENT'S DUTIES

A seller's agent owes the seller, other principals, and their agent the duty, among others, to present all written offers and other written communications to and from the parties in a timely manner, whether or not the property is subject to a sale contract or the buyer is party to a purchase contract. A seller's agent also owes the seller the following service-oriented duties:

- to account in a timely manner for money and property received; and
- unless otherwise agreed in writing, to make a continuous, good faith effort to find a buyer, unless the property is subject to a sales contract.

Furthermore, a licensee may be disciplined for failing:

- to account for or to remit any money within a reasonable time;
- to maintain a complete record; and
- to deliver, within a reasonable time, a completed copy of any purchase agreement or offer to the purchaser and the seller.

Also, unless all parties to the transaction agree in writing to delegate the closing function to another, a principal broker must promptly close any real estate transaction in which the broker is the listing broker.

For additional general information regarding licensees' duties, see **Agency: Oregon: Relationship with Buyers** and **Relationship with Sellers**.

Statutory section 696.301 amended 2007; §§ 696.805 and 696.810 amended 2005; § 696.870 amended 2001. Regulation amended 2009.

[Or. Rev. Stat. §§ 696.301, .805, .810, .870\(1\)\(a\), \(3\)\(a\) \(2015\); Or. Admin. R. 863-015-0150 \(2016\)](#)
Oregon, Waivers

The following may be waived in writing:

- a buyer's agent's duty to make a continuous, good faith effort to find property for the buyer; and
- a seller's agent's duty to make a continuous, good faith effort to find a buyer.

No other affirmative duties may be waived.

Statutory sections amended 2005.

[Or. Rev. Stat. §§ 696.805, .810 \(2015\)](#)

Pennsylvania

Pennsylvania, Disclosures

At the initial interview, a licensee must disclose to the consumer on a form adopted by the commission, the duties the broker owes in each relationship provided for by statute, among numerous other required disclosures. These required disclosures do not apply to commercial property sale or lease transactions unless the prospective buyer, tenant, seller or landlord is an individual.

For additional general information regarding required disclosures, see

Agency: Pennsylvania: General Agency Relationship Requirements, Relationship with Buyers and Relationship with Sellers.

Statutory section amended 2006.

[Pa. Stat. tit. 63, § 455.608 \(West 2016\)](#)

Pennsylvania, Exclusive Brokerage Agreements

An exclusive listing agreement may be comprised of either:

- a broker's exclusive agency; or
- an exclusive right-to-sell or right-to-lease.

In addition to the general agreement requirements contained in § 35.331, an exclusive listing agreement must include the following:

- the price;

- the commission, fees or other compensation expected;
- the agreement's duration;
- in the case of an exclusive right-to-sell agreement, a statement in bold that "the broker earns a commission on the sale of the property during the listing period by whomever made, including the owner"; and
- in the case of an exclusive right-to-lease agreement, a statement in bold that "the broker earns a commission on the lease of the property during the listing period by whomever made, including the lessor."

An exclusive listing agreement may *not* contain:

- a listing period longer than one year;
- an automatic renewal clause;
- a cancellation notice to terminate the agreement at the end of the listing period;
- the broker's authority to execute a signed sale or lease agreement for the owner or lessor;
- an option by the broker to purchase the property; or
- the broker's authority to confess judgment against the owner or lessor in the event of a sale or lease.

For additional general information regarding licensee agreements, see **Agency: Pennsylvania: General Agency Relationship Requirements, Relationship with Buyers and Relationship with Sellers**.

Regulation amended 2002.

[49 Pa. Code § 35.332 \(2015\)](#)

Pennsylvania, Required Services

A licensee, regardless of whether he or she is acting in an agency relationship with a consumer, owes all consumers the following duties, which may not be waived:

- to exercise reasonable professional skill and care;
- to deal honestly and in good faith;
- to present all written offers, notices and communications to and from parties in a timely manner, unless a seller waives the duty for a property that is subject to an existing contract for sale, provided certain conditions are met;
- to comply with the obligations imposed by the "Real Estate Seller Disclosure Act";
- to account in a timely manner for all money and property received;
- to provide the consumer at the initial interview with information required by § 608;
- to disclose any conflicts of interest;

- to advise the consumer to seek expert advice on matters beyond the licensee's expertise;
- to ensure that all services are provided in a reasonable, professional and competent manner;
- to advise the consumer regarding the transaction's status;
- to advise the consumer of tasks that must be completed;
- to present all offers and counter offers in a timely manner, unless a party has directed the licensee otherwise in writing; and
- to disclose any financial interest, including referral fees or commissions, that a licensee has in any services to be provided by another person.

BUYER'S BROKER'S DUTIES

In addition to the duties generally required of a licensee, a broker acting as a buyer's agent must:

- be loyal to the buyer by taking actions consistent with the buyer's interest;
- make a continuous and good faith effort to find property for the buyer, unless the buyer is subject to an existing sale contract; and
- disclose at first contact to the listing broker or, if no listing broker, to the seller, that the broker has been engaged as a buyer's agent.

SELLER'S BROKER'S DUTIES

In addition to the duties generally required of a licensee, a broker acting as an agent for the seller must:

- be loyal to the seller and take actions that are consistent with the seller's interest; and
- make a good faith effort to find a buyer for the property, unless the property is subject to an existing sale agreement.

For additional information regarding duties, see **Agency: Pennsylvania: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Pennsylvania: Transaction Brokers**.

Statutory section 455.606a amended 2009; §§ 455.606b and 455.606c amended 1998.

[Pa. Stat. tit. 63, §§ 455.606a, .606b, .606c \(West 2016\)](#)

Pennsylvania, Waivers

A licensee, regardless of whether he or she is acting in an agency relationship with a consumer, owes all consumers the duties set forth in § 455.606a, which explicitly may not be waived. However, of those provisions, the statute provides for limited waivers of the certain duties, as follows:

- to present all written offers, notices and communications to and from parties in a timely manner, unless a seller waives the duty for a property that is subject to an existing contract for sale, provided certain conditions are met; and
- to present all offers and counter offers in a timely manner, unless a party has directed the licensee otherwise in writing.

Statutory section amended 2009.

[Pa. Stat. tit. 63, § 455.606a \(West 2016\)](#)

Puerto Rico

Puerto Rico, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Puerto Rico: General Agency Relationship Requirements**.

Puerto Rico, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. However, generally, a brokerage contract may not contain an automatic renewal clause. Also, a licensee may not execute an "exclusive or semi-exclusive brokerage contract with any party without explaining the terms and conditions thereof and its expiration date."

For additional general information regarding licensee agreements, see **Agency: Puerto Rico: General Agency Relationship Requirements** and **Term of Relationship**.

Statutory section amended 2006.

20 P.R. Laws § 3054(a)(9) (LexisNexis 2016)

Puerto Rico, Required Services

No recently adopted Puerto Rico statutes require a broker to provide specific minimum services. However, Puerto Rico law contains some service-oriented requirements. For example, a licensee must present any offer in a diligent manner.

Statutory section amended 2006.

20 P.R. Laws § 3054(a)(18) (LexisNexis 2016)

Puerto Rico, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Rhode Island

Rhode Island, Disclosures

Rhode Island law presumes that all licensees in a real estate transaction are "transaction facilitators" unless the licensee obtains a buyer's, seller's, tenant's, or landlord's informed, written consent with an executed "mandatory relationship disclosure" to represent the person as a "designated client representative."

The Rhode Island real estate commission must approve a mandatory relationship disclosure that conforms to the statutory requirements. A licensee must provide a prospective buyer, seller, tenant, or landlord with a copy of the mandatory relationship disclosure and must obtain a signed acknowledgement of receipt of the document before the disclosure of any confidential information. If a buyer, seller, tenant, or landlord, refuses to sign the acknowledgement, the licensee must "set forth, sign and date a written declaration of the facts of the refusal."

The mandatory relationship disclosure must contain the following:

- a list of the types of representation or assistance available;
- a statement that a principal broker and his or her affiliated licensees must disclose their relationship as a designated client representative, transaction facilitator, or transaction coordinator;
- the legal duties and obligations owed to the buyer, seller, tenant, or landlord in each type of relationship;
- a notice that a licensee cannot act as a client representative for a party unless the licensee obtains the party's informed written consent with a signed mandatory relationship disclosure;
- a box for the party to select the type of representation or assistance that he or she desires;

- a box for the client or customer to "acknowledge the type of representation or assistance that a real estate licensee is offering to the other party in the same transaction";
- a statement that a principal broker may designate one or more affiliated licensees to act as the designated client representative of a seller or landlord and one or more licensees to act as the designated client representative of a buyer or tenant in the same transaction, if the licensee obtains the client's consent;
- a statement that if the principal broker appoints designated client representatives to represent clients on different sides of a transaction, he or she must act in a neutral capacity as a transaction coordinator, protect all parties' confidential information, and properly account for funds;
- a statement that all affiliated licensees not appointed as a designated client representative for that client may represent another party with conflicting interests;
- an explanation of the potential conflicts of interest if a licensee acts as a designated client representative or as a neutral transaction facilitator for more than one party in the same transaction;
- a statement that a principal broker and his or her affiliated licensees must disclose their relationships in any transaction;
- a statement that the failure of a licensee to give a prospective party the mandatory relationship disclosure in a timely manner or to obtain any other required written consent is a violation of Rhode Island real estate license law and may subject the licensee to disciplinary action;
- a statement that if a consumer wants to change the nature of his or her relationship from a customer relationship to a client relationship, the client relationship must be established no later than the preparation of a sales agreement, offer to purchase, or lease; and

- written confirmation from each party signing a mandatory relationship disclosure that he or she has received, read, and understood the disclosure and has consented to the confirmed relationship.

A licensee's relationship with a party as a designated client representative must be established, and the mandatory relationship disclosure must be executed, no later than the time a sales agreement, offer to purchase, or lease is prepared.

A licensee may not act as a designated client representative until he or she has complied with the above disclosure requirements.

Statutory section 5-20.6-9 enacted 2007; §§ 5-20.6-3 and 5-20.6-8 amended 2014.

[R.I. Gen. Laws §§ 5-20.6-3, -8, -9 \(2016\)](#)

Rhode Island, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. However, if a seller, buyer, landlord, or tenant and principal broker enter into a client representation contract, the contract must:

- be an express, written contract;
- include compensation terms;
- describe all services and limitations on services to be performed;
- state that a principal broker may appoint one or more affiliated licensees to act as the designated client representative for a seller or landlord and one or more affiliated licensees to act as the designated client representative for a buyer or tenant in the same transaction, if the licensee has obtained the client's consent; and

- be signed.

Statutory section enacted 2007.

[R.I. Gen. Laws § 5-20.6-10 \(2016\)](#)

Rhode Island, Required Services

GENERAL OBLIGATIONS

Rhode Island regulations provide that a licensee must make a "diligent effort to ascertain all pertinent information and facts," and reveal, in writing, all material information and facts to his or her principal and, when appropriate, to any other party. (The requirement that a licensee diligently transmit every written offer to the owner is not included in the state's regulations as amended in 2009.)

A licensee may be disciplined for accepting "an exclusive right to sell or lease or an exclusive agency and subsequently failing to make a diligent effort to sell or lease the listed property."

TRANSACTION FACILITATOR DUTIES

A transaction facilitator owes a customer the following duties:

- to perform "agreed upon ministerial acts timely and competently";
- to perform the above acts with "honesty, good faith, [and] reasonable skill and care";
- to account for money or property placed in the principal broker's care; and
- to protect confidential information when acting as a dual facilitator.

A licensee acting as a transaction facilitator does not owe any other fiduciary duties to a customer.

DESIGNATED CLIENT REPRESENTATIVE DUTIES

A licensee that represents a party as a designated client representative owes the following duties and obligations to his or her client:

- to perform the terms of any client representation contract with "reasonable skill and care";
- to "promote the client's best interest in good faith and honesty";
- to protect the client's confidential information;
- to perform "agreed upon ministerial acts timely and competently";
- to perform the above acts with "honesty, good faith, [and] reasonable care and skill"; and
- to account for money or property placed in the principal broker's care.

A designated client representative is "exclusively responsible" for performing duties owed to the client.

For additional information regarding a transaction broker's required duties, see **Agency: Rhode Island: Transaction Brokers**.

Statutory section 5-20.5-14 amended 2011; §§ 5-20.6-4 and 5-20.6-5 amended 2014. Regulatory chapter amended 2013.

[R.I. Gen. Laws §§ 5-20.5-14; -20.6-4, -5 \(2016\); 02-040-012 R.I. Code R. § 22 \(2016\) \(Commercial Licensing Regulation 11\)](#)

Rhode Island, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

South Carolina

South Carolina, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: South Carolina: General Agency Relationship Requirements, Relationship with Buyers**, and **Relationship with Sellers**.

South Carolina, Exclusive Brokerage Agreements

Effective until January 1, 2017 (§ 40-57-135(D)(4)(i))

In addition to the general agency agreement requirements, a listing agreement or buyer's representation agreement must be "clearly defined if intended to be either an 'exclusive agency' listing or buyer's representation agreement or 'exclusive right to sell' listing or 'exclusive right to buy' buyer's representation agreement," among other things.

Effective as of January 1, 2017 (§ 40-57-135(l)(2)(i))

In addition to the general agency agreement requirements, a listing agreement or buyer's representation agreement must "clearly must state, if applicable, that it is either an 'exclusive agency' listing or buyer's representation agreement or 'exclusive right to represent' listing contract or 'exclusive right to represent' buyer's representation contract," among other things.

For additional general information regarding licensee agreements, see **Agency: South Carolina: General Agency Relationship Requirements** and **Relationship with Sellers**.

Statutory section amended 2016.

[S.C. Code § 40-57-135\(D\)\(4\)\(i\)](#) (until Jan. 1, 2017), [-135\(I\)\(2\)\(i\) \(2016\)](#) (as of Jan. 1, 2017)

South Carolina, Required Services

OVERVIEW

Effective until January 1, 2017 (§§ 40-57-135(D), -137(A))

A real estate brokerage company providing services through an agency agreement is bound by the following service-oriented duties, among others:

- disclosure;
- diligence; and
- accounting.

A licensee must:

- upon receipt, prepare all offers in writing and promptly present them to the seller;
- upon obtaining a written acceptance, promptly deliver executed copies to all parties;
- ensure that all of the transaction's terms and conditions are included in the purchase offer; and
- ensure that changes or modifications made during negotiation are in writing and initialed and dated by both parties.

A licensee must also ensure that both the buyer and the seller receive a complete and detailed closing statement at closing.

Effective as of January 1, 2017 (§§ 40-57-135(H), -350(A))

A real estate brokerage firm providing services through an agency agreement is bound by the following service-oriented duties, among others:

- disclosure;

- diligence; and

- accounting.

A licensee must:

- upon receipt, prepare all offers in writing and promptly present them to the seller;

- upon obtaining a written acceptance, promptly deliver executed copies to all parties;

- ensure that all of the transaction's terms and conditions are included in the purchase offer; and

- ensure that changes or modifications made during negotiation are in writing and initialed and dated by both parties.

BUYER'S AGENT'S DUTIES

Effective until January 1, 2017 (§ 40-57-137(H))

A buyer's agent must provide the following service-oriented duties, among other duties:

- promote the buyer's interests;
- seek property at the price and terms stated in the brokerage agreement or acceptable to the buyer, except that the licensee generally need not seek additional properties once the buyer becomes a party to a sale contract;
- present in a timely manner all offers and counteroffers;
- generally, disclose to the buyer all relevant facts that the licensee knows or reasonably should know;
- advise the buyer to obtain expert advice on material matters beyond the licensee's expertise; and
- account in a timely manner for all money and property received.

A prospective buyer who uses a licensee's services, but does not establish an agency relationship, is considered a customer, who must receive:

- an explanation of agency relationships, including the customer's right to choose no representation;
- an explanation of the scope of services the licensee will provide; and

- fairness, honesty, and accurate information.

Effective as of January 1, 2017 (§ 40-57-350(E)(1), (L))

A buyer's agent must provide the following service-oriented duties, among other duties:

- perform the terms of the written brokerage agreement with the buyer;
- promote the buyer's interests;
- seek property at the price and terms stated in the brokerage agreement or acceptable to the buyer, except that the licensee need not seek additional properties once the buyer becomes a party to a sale contract unless the brokerage agreement provides otherwise;
- present in a timely manner all offers and counteroffers;
- generally, disclose to the buyer all relevant facts that the licensee knows or reasonably should know;
- advise the buyer to obtain expert advice on material matters beyond the licensee's expertise; and
- account in a timely manner for all money and property received in which the buyer has or may have an interest.

A real estate brokerage firm may offer transaction brokerage to potential buyers and sellers. A transaction broker may either (a) be a single agent of a party in a transaction, giving the other party customer service, or (b) facilitate the transaction without representing either party. A licensee

operating as a transaction broker must disclose to buyers their role and duties in offering customer services, which include the following service-oriented duties:

- accounting for all funds;
- disclosing material adverse facts that affect the transaction or the property's value or condition and that are not readily ascertainable;
- promptly presenting all written offers and counteroffers;
- limited confidentiality, unless waived in writing; and
- additional duties that are entered into by separate agreement.

Prospective buyers who do not choose to establish an agency relationship, but who use a brokerage firm's services, are "customers." A licensee *may* offer the following services to a customer as a single agent or as a transaction broker including, but not limited to:

- identifying and showing property for sale, lease, or exchange;
- providing statistics and information on property;
- providing "preprinted real estate forms, contracts, leases, and related exhibits and addenda";
- acting as a scribe when preparing real estate documents;
- providing a list of professionals, such as architects, engineers, surveyors, inspectors, lenders, insurance agents, and attorneys; and

- identifying schools, shopping facilities, places of worship, and other similar facilities.

A licensee offering services to a customer *must*:

- timely present all written offers to and from the parties, even when the property is subject to a sale contract;
- timely account for all money and property received by the broker on a party's behalf;
- provide a meaningful explanation of brokerage relationships;
- provide an explanation of the scope of services the licensee is to provide;
- be fair and honest and provide accurate information;
- keep information confidential as the customer requests in writing; and
- disclose known material facts regarding the property or the transaction.

SELLER'S AGENT'S DUTIES

Effective until January 1, 2017 (§ 40-57-137(C))

A seller's agent must perform the following service-oriented duties, among others:

- promote the seller's interests;
- seek a sale at the price and terms set forth in the brokerage agreement or as acceptable to the seller, except that generally the licensee need not seek additional offers while the property is subject to a sale contract;
- present in a timely manner all offers and counteroffers to and from the seller, even if the property is subject to a sale contract;
- generally, disclose to the seller all relevant facts that the licensee knows or should know;
- advise the seller to obtain expert advice on matters beyond the licensee's expertise; and
- account in a timely manner for all money and property received.

Effective as of January 1, 2017 (§ 40-57-350(C)(1), (L))

A seller's agent must perform the following service-oriented duties, among others:

- promote the seller's interests;
- seek a sale at the price and terms set forth in the brokerage agreement or as acceptable to the seller, except that a brokerage firm need not seek additional offers while the property is subject to a sale contract, unless the brokerage agreement provides otherwise;
- present in a timely manner all offers and counteroffers to and from the seller, even if the property is subject to a sale contract;
- generally, disclose to the seller all relevant facts that the seller's agent knows or should know;
- advise the seller to obtain expert advice on matters beyond the licensee's expertise; and

- account in a timely manner for all money and property received in which the seller has or may have an interest.

A real estate brokerage firm may offer transaction brokerage to potential buyers and sellers. A transaction broker may either (a) be a single agent of a party in a transaction, giving the other party customer service, or (b) facilitate the transaction without representing either party. A licensee operating as a transaction broker must disclose to sellers their role and duties in offering customer services, which include the following service-oriented duties:

- accounting for all funds;
- disclosing material adverse facts that affect the transaction or the property's value or condition and that are not readily ascertainable;
- promptly presenting all written offers and counteroffers;
- limited confidentiality, unless waived in writing; and
- additional duties that are entered into by separate agreement.

Sellers who do not choose to establish an agency relationship, but who use a brokerage firm's services, are "customers." A licensee *may* offer the following services to a customer as a single agent or as a transaction broker including, but not limited to:

- identifying and showing property for sale, lease, or exchange;
- providing statistics and information on property;
- providing "preprinted real estate forms, contracts, leases, and related exhibits and addenda";

- acting as a scribe when preparing real estate documents;
- providing a list of professionals, such as architects, engineers, surveyors, inspectors, lenders, insurance agents, and attorneys; and
- identifying schools, shopping facilities, places of worship, and other similar facilities.

A licensee offering services to a customer *must*:

- timely present all written offers to and from the parties, even when the property is subject to a sale contract;
- timely account for all money and property received by the broker on a party's behalf;
- provide a meaningful explanation of brokerage relationships;
- provide an explanation of the scope of services the licensee is to provide;
- be fair and honest and provide accurate information;
- keep information confidential as the customer requests in writing; and
- disclose known material facts regarding the property or the transaction.

For additional general information regarding a licensee's duties, see **Agency: South Carolina: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with**

Sellers. For additional information regarding a transaction broker's required duties, see **Agency: South Carolina: Transaction Brokers.**

Statutory section 40-57-135 amended 2016; § 40-57-137 amended 2016 and renumbered as § 40-57-350.

[S.C. Code §§ 40-57-135\(D\); -137\(A\), \(C\), \(H\) \(2016\)](#) (effective until Jan. 1, 2017); [40-57-135\(H\); 350\(A\), \(C\)\(1\), \(E\)\(1\), \(L\) \(2016\)](#) (effective Jan. 1, 2017)

South Carolina, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

South Dakota

South Dakota, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: South Dakota: General Agency Relationship Requirements.**

South Dakota, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: South Dakota: General Agency Relationship Requirements, Relationship with Buyers, Relationship with Sellers and Term of Relationship.**

South Dakota, Required Services

No recently adopted South Dakota statutes or regulations require a broker to provide specific minimum services. However, unprofessional conduct includes, among other things:

- the failure to account for or to remit, within a reasonable time, any amounts that belong to others and come into the licensee's possession;
- the failure to deliver to the seller at the time the transaction is consummated, a complete, detailed closing statement;
- the failure to deliver to the buyer a complete statement showing all amounts received from the buyer and how those amounts were disbursed; and

- upon obtaining a signed acceptance of an offer, the failure to give a copy to the purchaser and the seller promptly.

Also, South Dakota law contains the specific service-oriented requirements listed below.

BUYER'S AGENT'S DUTIES

A licensee representing a buyer or tenant must, among other duties,

- promote the client's interests with "utmost good faith, loyalty, and fidelity";
- seek a price and terms acceptable to the client, except that the licensee need not seek other properties if the client is a party to a purchase or lease contract;
- present all written offers to and from the client in a timely manner, whether or not the client is party to a purchase or lease contract;
- disclose to the client known adverse material facts;
- advise the client to obtain expert advice as to material matters beyond the licensee's expertise; and
- account in a timely manner for all money and property received.

SELLER'S AGENT'S DUTIES

A licensee representing a seller or landlord must, among other duties,

- promote the client’s interests with “utmost good faith, loyalty, and fidelity”;
- seek a price and terms that are acceptable to the client, except that the licensee need not seek additional offers while the property is subject to a sale or lease contract;
- present all written offers to and from the client in a timely manner, whether or not the property is subject to a sale or lease contract;
- disclose to the client all known adverse material facts;
- advise the client to obtain expert advice as to material matters beyond the licensee’s expertise; and
- account in a timely manner for all money and property received.

For additional general information regarding licensee’s duties, see **Agency: South Dakota: General Applicability of Provisions, Relationship with Buyers** and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: South Dakota: Transaction Brokers**.

Statutory sections 36-21A-132 and 36-21-136 enacted 1998; § 36-21a-71 amended 2013.

[S.D. Codified Laws §§ 36-21A-71, -132, -136 \(2016\)](#)

South Dakota, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Tennessee

Tennessee, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. (See **Waivers** for disclosure requirements related to waived duties.) For general information regarding required disclosures, see **Agency: Tennessee: General Agency Relationship Requirements**.

Tennessee, Exclusive Brokerage Agreements

Negotiating and executing an exclusive agency listing agreement or an exclusive right-to-sell listing agreement with a prospective seller establishes an agency relationship.

Statutory section amended 2006.

Tenn. Code § 62-13-401 (LexisNexis 2016)

Tennessee, Required Services

Unless "specifically and individually waived, in writing by a client," a licensee has the following duties:

- to schedule "all property showings on behalf of the client";
- to receive offers and counteroffers;
- to forward promptly all offers and counteroffers to the client;
- within the scope of the licensee's expertise, to answer any questions the client may have in negotiating a successful purchase agreement; and
- to advise the client regarding the forms, procedures and steps that are needed after executing the purchase agreement for a successful closing.

Pursuant to Tennessee regulations, a broker or affiliate broker must:

- tender promptly every written offer obtained on a property until all parties sign a contract;
- upon obtaining a proper acceptance or a counteroffer, promptly deliver copies signed by the seller to both the purchaser and the seller;
- make certain that all terms and conditions of the real estate transaction are included in the purchase contract; and
- if an offer is rejected, request the seller to note the rejection on the offer and return it to the offeror or his or her agent.

For additional general information regarding a licensee's duties, see **Agency: Tennessee: General Agency Relationship Requirements**. For additional information regarding a transaction broker's required duties, see **Agency: Tennessee: Transaction Brokers**.

Statutory section 62-13-403 amended 1996; § 62-13-404 amended 2006. Regulation amended 2006.

Tenn. Code §§ 62-13-403, -404 (LexisNexis 2016); [Tenn. Comp. R. & Regs. 1260-2-.08 \(2015\)](#)

Tennessee, Waivers

The duties listed in § 62-13-404(3) may be "specifically and individually waived, in writing by a client." Upon waiver of any of the listed duties, the consumer's agent must advise the consumer in writing that the consumer may not "expect or seek assistance" from any other licensees in the transaction to perform the duties.

Statutory section amended 2006.

Tenn. Code § 62-13-404 (LexisNexis 2016)

Texas

Texas, Disclosures

As of January 1, 2016, a licensee who represents a party in a proposed real estate transaction must, at their first substantive communication, provide the party with a written notice in at least a 10-point font that describes, among other things, the "basic duties and obligations a broker has to a party to a real estate transaction that the broker represents." A licensee is not required to provide this notice if:

- the proposed transaction is for a residential lease for less than one year, and the parties are not considering a sale;
- the licensee meets with a party who the licensee knows is represented by another licensee;
or
- the communication occurs at a property that is "held open for any prospective buyer or tenant and the communication concerns that property."

Effective February 1, 2016, Texas regulations adopt the *Information About Brokerage Services Form*, TREC No. IABS 1-0, which is available from the Texas Real Estate Commission. Each active real estate broker and sales agent must provide:

- a link to the *Texas Real Estate Commission Information About Brokerage Services form*, in at least a 10-point font, in a "readily noticeable place" on the business's website homepage;
and
- the form, as required by § 1101.558.

For the purposes of § 1101.558, a licensee may provide the form:

- by personal delivery by the licensee;
- by first class mail or overnight common carrier delivery service;

- in the body of an email; or
- as an attachment to an email, or a link within an email's body, with a specific reference to the IABS Form in the email's body.

Providing a link to the form in an email's footnote or signature block does *not* satisfy these delivery requirements.

A licensee may reproduce the form, provided:

- the form's text is copied verbatim; and
- the spacing, borders, and placement of the text are identical to that in the form's published version, except that the licensee may complete the "Broker Contact Information" section.

For additional general information regarding required disclosures, see **Agency: Texas: General Agency Relationship Requirements, Relationship with Buyers, and Relationship with Sellers.**

Statutory section amended 2015. Regulation 531.20 amended 2016.

[Tex. Occ. Code § 1101.558 \(2015\)](#); [22 Tex. Admin. Code § 531.20 \(2016\)](#); [Tex. Real Estate Comm'n, Texas Real Estate Commission Information About Brokerage Services form \(Nov. 2, 2015\)](#)

Texas, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located.

Texas, Required Services

A broker who either represents a party in a real estate transaction or lists real estate for sale for a party pursuant to an exclusive agreement "is that party's agent." The broker:

- may not instruct another broker to violate § 1101.652(b)(22);
- must inform the party if the broker receives material information related to the transaction, including the broker's receipt of an offer; and
- must, at a minimum, answer the party's questions and present any offer to or from the party.

A licensee with the authority to bind a party under a power of attorney or a property management agreement is also a party to the lease or sale.

The sole delivery of an offer to a party does not violate § 1101.652(b)(22) if:

- the party's broker consents;
- a copy of the offer is sent to the party's broker, unless not allowed by a governmental agency using a sealed bid process; and
- the person delivering the offer does not engage in another activity that directly or indirectly violates § 1101.652(b)(22).

For additional general information regarding licensee's duties, see **Agency: Texas: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Texas: Transaction Brokers**.

Statutory section amended 2005.

[Tex. Occ. Code § 1101.557 \(2015\)](#)

Texas, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Utah

Utah, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Utah: General Agency Relationship Requirements**.

Utah, Exclusive Brokerage Agreements

An "exclusive brokerage agreement" means a brokerage agreement that gives the principal broker the sole right to act as the client's agent or representative for the purchase, sale, lease, or exchange of real estate, a real estate option, or a real estate improvement.

Generally, a principal broker subject to an exclusive brokerage agreement must:

- "accept delivery of and present to the client offers and counteroffers to buy, lease, or exchange the client's real estate";
- help the client develop, communicate, and present offers, counteroffers, and notices; and
- answer any question the client has concerning an offer, counteroffer, notice, and contingency.

A principal broker subject to an exclusive brokerage agreement need not comply with the above duties after:

- the parties have signed an agreement for the sale, lease, or exchange of real estate, a real estate option, or a real estate improvement;
- related contingencies are satisfied or waived; and
- the sale, lease, or exchange is closed or the exclusive brokerage agreement expires or terminates.

For additional general licensee agreement requirements, see **Agency: Utah: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

Statutory section amended 2014.

Utah, Required Services

Utah enacted a statute regarding broker minimum service requirements in 2005. Pursuant to these requirements, a principal broker "subject to an exclusive brokerage agreement must:

- accept delivery of and present to the client offers and counteroffers to buy, lease, or exchange the client's real estate;
- help the client develop, communicate and present offers, counteroffers and notices; and
- answer the client's questions regarding any offer, counteroffer, notice, and contingency.

The principal broker need not comply with the above requirements after:

- an agreement for the sale, lease, or exchange is signed; the contingencies are satisfied or waived; and the sale, lease, or exchange is closed; or
- the agreement expires or terminates.

Utah regulations also contain general service-oriented requirements. For example, an individual licensee owes a principal the following service-related fiduciary duties, among others:

- full disclosure;
- reasonable care and diligence;
- safe holding and accounting for all money or property received; and

- any additional duties created by agreement.

Also, an individual licensee must, "in order to offer any property for sale or lease, make reasonable efforts to verify the accuracy and content of the information and data to be used" to market the property and provide a copy of the signed lease or purchase agreement to the party for whom the licensee is an agent.

It is unlawful for a licensed person to fail:

- to account for or to remit within a reasonable time money that belongs to another; or
- to voluntarily furnish a copy of a document to the parties before and after the document is executed.

For additional general information regarding licensee's duties, see **Agency: Utah: General Agency Relationship Requirements, Relationship with Buyers, and Relationship with Sellers.**

Statutory section 61-2f-308 amended 2014; § 61-2f-401 amended 2016. Regulation amended 2016.

[Utah Code §§ 61-2f-308\(2\), -401 \(2016\); Utah Admin. Code R162-2f-401a\(1\), \(6\), \(12\) \(2016\)](#)

Utah, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Vermont

Vermont, Disclosures

Vermont's mandatory agency disclosure form lists the general duties that a consumer "can expect" from an agent. See [Vt. Real Estate Comm'n, Mandatory Consumer Disclosure form \(May 27, 2010\)](#).

No other disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Vermont: Relationship with Buyers and Relationship with Sellers.**

Vermont, Exclusive Brokerage Agreements

A buyer service agreement must contain:

- an identification of the agreement in boldface type at the top, stating either “NONEXCLUSIVE (Open) BUYER AGENCY AGREEMENT,” “EXCLUSIVE BUYER AGENCY AGREEMENT,” or “EXCLUSIVE RIGHT TO REPRESENT BUYER” (each type of agreement must be on a separate form);
- the agreement’s date;
- a specific expiration date;
- the effective date, if different from the agreement's date;
- all authorized terms of the agency;
- a description of the services the firm will perform under the contract, including any limitations;
- a provision for avoiding dual agency and other conflicts in the firm's seller service agreements;
- a statement of the transaction fee or other compensation to be paid the brokerage firm, its computation method, and the person who will pay it;
- all parties’ signatures; and
- a "clear description of whether, and how, cooperating agents will be compensated."

Similarly, a seller service agreement must contain:

- an identification of the type of seller service agreement in boldface type at the top, stating either “NONEXCLUSIVE (Open) AGENCY MARKETING AGREEMENT,” “EXCLUSIVE AGENCY MARKETING AGREEMENT,” or “EXCLUSIVE RIGHT TO MARKET AGREEMENT” (each type of agreement must be on a separate form);
- a clear property description and its location;
- the “price, terms and conditions upon which the brokerage firm has authorization to market the property”;
- the specific brokerage services the firm will provide, including any limitations;
- the agreement’s date;
- a specific expiration date;
- the effective date, if different from the agreement's date;
- a provision for avoiding dual agency and other conflicts;
- a statement of the transaction fee or other compensation to be paid, the method of computing the compensation, and the person who will pay it;
- the owners’ and licensee’s signatures;
- a "clear description of whether, and how, cooperating brokerage firms will be compensated"; and

- a "clear description of whether, and how, the buyer's brokerage firm will be compensated.

For additional general information regarding licensee agreements, see **Agency: Vermont: General Agency Relationship Requirements, Relationship with Buyers, Relationship with Sellers, and Term of Relationship**.

Regulatory chapter amended 2015.

[04-030-290 Vt. Code R. §§ 4.9, 4.10 \(2015\)](#)

Vermont, Required Services

No recently adopted Vermont statutes or regulations require a broker to provide specific minimum services.

However, Vermont law contains some service-oriented requirements. For example, an agent owes the duties of a fiduciary, including the following service-oriented duties:

- acting for the client's benefit in all matters related to the agency relationship;
- disclosing all known material facts about the transaction;
- disclosing any knowledge "gained from other parties to the client's transaction"; and
- acting with reasonable care, loyalty, and obedience.

Also, until closing, a brokerage firm must submit all offers to the principal.

For additional general information regarding licensee's duties, see **Agency: Vermont: General Agency Relationship Requirements**.

Regulatory chapter amended 2015.

[04-030-290 Vt. Code R. §§ 1.8\(n\), 4.3\(c\), 4.4\(d\) \(2015\)](#)

Vermont, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Virgin Islands

Virgin Islands, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: Virgin Islands: General Agency Relationship Requirements**.

Virgin Islands, Exclusive Brokerage Agreements

An exclusive listing must:

- be in writing;
- fully set forth its terms; and
- have a definite expiration date.

Regulatory history unknown.

27-15 V.I. Code R. § 422-1 (2016)

Virgin Islands, Required Services

No recently adopted Virgin Islands statutes require a broker to provide specific minimum services. However, Virgin Islands law contains some service-oriented requirements. For example, a licensee generally may be disciplined for the following actions, among others:

- failing within a reasonable time to account for or remit any funds in his or her possession that belong to others; or
- failing to furnish a copy of any written instrument to any party that executed it.

Statutory section amended 1986.

V.I. Code tit. 27, § 429 (LexisNexis 2016)

Virgin Islands, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Virginia

Virginia, Disclosures

Virginia statutes require a limited service agent to provide specific disclosure requirements. A licensee may act as a limited service agent in a residential real estate transaction only pursuant to a written brokerage agreement in which the agent:

- discloses that he or she is acting as a limited service agent;
- provides a list of the specific services the licensee will provide to the client; and
- provides a list of a standard agent's specific duties, as set forth in § 54.1-2131(A)(2) (licensees engaged by sellers), § 54.1-2132(A)(2) (licensees engaged by buyers), § 54.1-2133(A)(2) (licensees engaged by landlords), or § 54.1-2134(A)(2) (licensees engaged by tenants), as applicable, that the limited service agent will not provide to the client.

The disclosure must be:

- conspicuous;
- printed in either bold or all capitals; and
- underlined or in a separate box.

Also, a disclosure that contains language that complies substantially with the following is "deemed in compliance" with the disclosure requirement:

By entering into this brokerage agreement, the undersigned do hereby acknowledge their informed consent to the limited service agent in a residential real estate transaction 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 agent.

For general information regarding other required disclosures, see **Agency: Virginia: General Agency Relationship Requirements**.

Statutory sections amended 2016.

[Va. Code §§ 54.1-2138\(E\), -2138.1 \(2016\)](#)

Virginia, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located.

Virginia, Required Services

BUYER'S AGENT'S DUTIES

A buyer's agent must perform the following service-oriented duties, among other duties:

- promote the buyer's interests, by:
 - seeking a property of a type, at a price, and on terms acceptable to the buyer, except that a licensee need not seek other properties for the buyer if the buyer is a party to a purchase contract, unless otherwise agreed;
 - assisting in drafting and negotiating offers, counteroffers, contract amendments, and contract addenda and in establishing strategies;
 - receiving and timely presenting all written offers or counteroffers, even if the buyer is already a party to a purchase contract; and
 - providing "reasonable assistance to the buyer to satisfy the buyer's contract obligations and to facilitate settlement of the purchase contract";
- account in a timely manner for money and property received; and

- disclose to the buyer known material facts related to the property or concerning the transaction, including the existence of defective drywall.

See § 54.1-2134 for similar provisions related to a licensee engaged by a tenant.

SELLER'S AGENT'S DUTIES

A seller's agent must perform the following service-oriented duties among other duties:

- promote the seller's interests by:
 - conducting marketing activities on the seller's behalf by seeking a sale at an acceptable price and terms, provided that the licensee need not seek additional offers if the property is subject to a sale contract, unless otherwise agreed;
 - assisting in drafting and negotiating offers, counteroffers, contract amendments, and contract addenda and in establishing strategies;
 - receiving and presenting in a timely manner written offers and counteroffers, even if the property is already subject to a sale contract; and
 - providing "reasonable assistance to the seller to satisfy the seller's contract obligations and to facilitate settlement of the purchase contract"; and
- account in a timely manner for money and property received; and
- disclose to the seller known material facts related to the property or concerning the transaction.

See § 54.1-2133 for similar provisions that apply to a licensee engaged by a landlord.

For additional general information regarding licensee's duties, see **Agency: Virginia: Relationship with Buyers** and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Virginia: Transaction Brokers**.

Statutory sections amended 2016.

[Va. Code §§ 54.1-2131, -2132, -2133, -2134 \(2016\)](#)

Virginia, Waivers

A "limited service agent" is "a licensee who acts for or represents a client in a residential real estate transaction pursuant to a brokerage agreement that provides that the limited service agent will not provide" one or more of the duties statutorily required of standard agents. "Residential real estate" means:

- real property with one to four residential dwelling units; and
- "the sale of lots containing one to four residential dwelling units."

Thus, the parties may waive one or more of the licensee's mandatory duties, in which case the licensee becomes a limited service agent. As a limited service agent, a licensee has the obligations set out in the brokerage agreement, except that he or she must also:

- provide the client, at the time of entering the brokerage agreement, with copies of all required disclosures (see **Disclosures**); and
- disclose the following in writing: the client's rights and obligations under the Virginia Residential Property Disclosure Act; a condominium resale certificate, if applicable; and an association disclosure packet, if the client is selling property subject to the Property Owners' Association Act.

If a licensee enters into a brokerage relationship based on a written brokerage agreement specifically stating that the licensee is acting as an independent contractor, the

licensee has the obligations the parties agreed to in the brokerage agreement. In that case, the real estate licensee and its employees have no obligations under §§ 54.1-2131 through 54.1-2135, except as follows:

- § 54.1-2131(A)(3)–(7), (B), and (E) (regarding certain duties of licensees engaged by sellers);
- § 54.1-2132(A)(3)–(7), (B), and (E) (regarding certain duties of licensees engaged by buyers);
- § 54.1-2133(A)(3)–(7), (B), and (E) (regarding certain duties of licensees engaged by landlords);
- § 54.1-2134(A)(3)–(7), (B), and (E) (regarding certain duties of licensees engaged by tenants); and
- § 54.1-2135(A)(2)–(6), (C), and (D) (regarding certain duties of licensees engaged to manage real estate).

Generally, these mandatory duties include maintaining confidentiality, exercising ordinary care, accounting, disclosing material facts, complying with legal requirements, treating parties honestly, and disclosing brokerage relationships.

A real estate licensee who acts for or represents a client in an agency relationship in a residential real estate transaction must represent the client as either a standard agent or a limited service agent.

For additional general information regarding required disclosures, see **Agency: Virginia: General Agency Relationship Requirements**.

Statutory sections amended 2016.

[Va. Code §§ 54.1-2130, -2131, -2132, -2133, -2134, -2135 \(2016\)](#)

Washington

Washington, Disclosures

A broker must provide a pamphlet on real estate agency law in the form set forth in § 18.86.120 to all parties to whom the broker renders real estate brokerage services, before the earliest of the time the party:

- signs an agency agreement with the broker;
- signs an offer in a transaction handled by the broker;
- consents to dual agency; or
- waives any rights under §§ 18.86.020(1)(e), .040(1)(e), .050(1)(e), or .060(2) (e) or (f).

The pamphlet required by § 18.86.030(1)(f) addresses a broker's duties.

For additional general information regarding required disclosures, see **Agency: Washington: General Agency Relationship Requirements**.

Statutory sections amended 2013.

[Wash. Rev. Code §§ 18.86.030\(1\)\(f\), .120 \(2016\)](#)

Washington, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located.

Washington, Required Services

GENERAL DUTIES

No recently adopted Washington statutes or regulations require a broker to provide specific minimum services. However, Washington law contains service-oriented requirements. For example, a broker owes the following service-oriented duties (which may not be waived), among others, to all parties to whom the broker renders real estate brokerage services:

- to present timely all written offers and communications to and from either party, regardless of whether the property or buyer is subject to an existing contract;

- to disclose all known material facts that are not apparent or readily ascertainable;
- to account timely for all money and property received;
- to provide a pamphlet on real estate agency law in the form set forth in § 18.86.120 to all parties to whom the broker renders real estate brokerage services, before the earliest of the party
 - signing an agency agreement or an offer,
 - consenting to dual agency, or
 - waiving any rights; and
- to make the required disclosures in writing to all parties before the party signs an offer, which disclosures must be set forth in a separate paragraph or document entitled "Agency Disclosure."

A real estate licensee must furnish to each buyer and each seller at closing of every transaction for which the licensee provides brokerage services, "a complete detailed closing statement as it applies to the buyer and a complete detailed closing statement as it applies to the seller."

The duties required by chapter 18.86 are "statutory duties and not fiduciary duties," and the chapter supersedes an agent's fiduciary duties to a principal under common law.

For additional duties that are required of buyer's and seller's agents, see below.

BUYER'S AGENT'S DUTIES

Unless a buyer's agent agrees to additional duties in writing, a buyer's agent's duties are limited to those general duties listed above and the following, which may not be waived except as expressly provided:

- to be loyal to the buyer by taking no action that is adverse to the buyer's interest in a transaction;
- to disclose in a timely manner any conflicts of interest;
- to advise the buyer to seek expert advice on matters beyond the agent's expertise;
- not to disclose any confidential information from or about the buyer, except under subpoena or court order; and
- unless otherwise agreed in writing after the buyer's agent has complied with § 18.86.030(1)(f) (regarding delivery of the required pamphlet), to make "a good faith and continuous effort" to find property for the buyer; except that a buyer's agent need not:
 - seek additional properties while the buyer is a party to an existing purchase contract; or
 - show properties if there is no written agreement to pay compensation to the buyer's agent.

SELLER'S AGENT'S DUTIES

Unless a seller's agent agrees to additional duties in writing, a seller's agent's duties are limited to those general duties listed above and the following, which may not be waived except as expressly provided:

- to be loyal to the seller by taking no action that is adverse to the seller's interests;
- to disclose timely to the seller any conflicts of interest;
- to advise the seller to seek expert advice on matters beyond the agent's expertise;

- not to disclose confidential information from or about the seller, except under subpoena or court order; and
- unless otherwise agreed in writing after the seller's agent has complied with § 18.86.030(1)(f) (regarding delivery of the required pamphlet), to make "a good faith and continuous effort" to find a buyer for the property, except that a seller's agent need not seek additional offers if the property is subject to an existing sale contract.

For additional information regarding duties, see **Washington: General Agency Relationship Requirements, Relationship with Buyers** and **Relationship with Sellers**.

Statutory sections amended 2013. Regulation amended 2010.

[Wash. Rev. Code §§ 18.86.030, .040, .050, .110, .120 \(2016\)](#); [Wash. Admin. Code 308-124D-205 \(2016\)](#)

Washington, Waivers

GENERAL DUTIES

The duties required by § 18.86.030(1) may not be waived.

SELLER'S AGENT'S DUTIES

The seller's agent's duties, as set forth in § 18.86.040(1), may not be waived, except that the parties may agree in writing to waive a seller's agent's duty to make a "good faith and continuous effort" to find a buyer for the property, unless the property is subject to an existing sale contract.

BUYER'S AGENT'S DUTIES

The buyer's agent's duties, as set forth in § 18.86.050(1), may not be waived, except that the parties may agree in writing to waive a buyer's agent's duty to make a "good faith and continuous effort" to find property for the buyer, unless the buyer is party to an existing purchase contract or the property to be shown has no written agreement to pay compensation to the buyer's agent.

Statutory sections amended 2013.

[Wash. Rev. Code §§ 18.86.030, .040, .050 \(2016\)](#)

West Virginia, Disclosures

No disclosure provisions specifically related to minimum service requirements were located. For general information regarding required disclosures, see **Agency: West Virginia: General Agency Relationship Requirements** and **Relationship with Buyers**.

West Virginia, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: West Virginia: General Agency Relationship Requirements**.

West Virginia, Required Services

No recently adopted West Virginia statutes or regulations require a broker to provide specific minimum services.

However, West Virginia law contains some service-oriented requirements. For example, a licensee owes duties to the consumer, which include, but are not limited to,

- supplying a copy of the contract to each person signing the contract;
- promptly delivering every written offer received; and
- ensuring that all the terms and conditions of a transaction are contained in any contract the licensee prepares.

For additional general information regarding licensee's duties, see **Agency: West Virginia: Relationship with Sellers**.

Statutory section enacted 2002.

[W. Va. Code § 30-40-26 \(2016\)](#)

West Virginia, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.

Wisconsin

Wisconsin, Disclosures

No firm, and no licensee associated with a firm, may negotiate on behalf of a party who is not the firm's client unless the firm or associated licensee provides the party with a copy of the written disclosure statement set forth in § 452.135(1)(a). The required disclosure statement addresses a firm's duties to its customers, among other things. A firm providing brokerage services as a subagent to a principal firm, a subagent, or a licensee associated with the subagent must also provide a copy of the written disclosure statement to any person who:

- is not the principal firm's client; and
- receives brokerage services from the subagent within the scope of the subagent's agreement with the principal firm.

Also, a firm must provide a client with a copy of the written disclosure statement, as set forth in § 452.135(2)(a), no later than the time the firm enters into an agency agreement with the client. The required disclosure statement addresses a firm's duties to its clients, among other things. If a client enters into an agency agreement with a firm to receive brokerage services related to real estate primarily to be used as residential property containing one to four dwelling units, and the written disclosure statement is not incorporated into the agency agreement, the firm must request the client's signed acknowledgment that the client has received a copy of the statement.

For a summary of other relevant provisions, see **Agency: Wisconsin: General Agency Relationship Requirements, Other Relevant Provisions** and **Relationship with Sellers**.

Statutory section amended 2016.

[Wis. Stat. Ann. § 452.135 \(2016\)](#)

Wisconsin, Exclusive Brokerage Agreements

A firm may provide services simultaneously to more than one party in different transactions, unless the firm agrees with the client that it is to provide brokerage services only to that client.

If the firm and a client agree that the firm is to provide services only to that client, the agency agreement must state that agreement.

For a summary of other relevant provisions, see **Agency: Wisconsin: General Agency Relationship Requirements** and **Relationship with Sellers**.

Statutory section amended 2016.

[Wis. Stat. Ann. § 452.138 \(2016\)](#)

Wisconsin, Required Services

DUTIES TO ALL PARTIES

A firm providing brokerage services to a party owes that party all of the following duties:

- to provide brokerage services honestly and fairly;
- to provide brokerage services with reasonable skill and care;
- unless prohibited by law, to disclose timely in writing all material adverse facts that the firm knows and the party does not know or cannot discover through reasonably vigilant observation, unless disclosure is prohibited by law;
- to keep confidential any information:
 - given to the firm in confidence, or
 - that the firm knows a reasonable person would want to be kept confidential, unless the information must be disclosed by law or disclosure is specifically authorized;
- unless prohibited by law, to provide, within a reasonable time after request, accurate information about market conditions that affect the transaction;
- to safeguard trust funds and other property the firm holds; and
- if the firm is negotiating on behalf of a party, to present contract proposals in an objective and unbiased manner and disclose the proposals' advantages and disadvantages.

Wisconsin's regulations require a licensee engaging in a real estate practice that involves real estate improved with a structure to conduct a "reasonably competent and diligent inspection of accessible areas of the structure and immediately surrounding areas of the property to detect observable, material adverse facts." For vacant land that is accessible, the licensee must "conduct a reasonably competent and diligent inspection of the vacant land to detect observable material adverse facts." If a licensee engages a qualified third party to conduct a property inspection or investigation of material facts, the licensee may rely on the third party's results if the licensee obtains a written report of the inspection or investigation and delivers a copy of the report to all interested parties.

The state's regulations also prohibit a licensee from refusing to draft or submit a written proposal unless its terms would be contrary to the other party's specific instructions. Withholding written proposals is prohibited. A licensee must promptly present all written proposals to the licensee's client or customer. Also, licensees must "present all written proposals in an objective and unbiased

manner to their clients and customers" and inform their clients and customers of a proposal's advantages and disadvantages.

DUTIES TO A CLIENT

A firm providing brokerage services to a client owes the client the duties listed above and the following additional duties:

- to represent the client's interests loyally by placing the client's interests ahead of:
 - the firm's interests; and
 - the interests of persons who are not the firm's clients, by "not disclosing to persons in the transaction other than the firm's clients information or advice the disclosure of which is contrary to the interests of a client of the firm, unless the disclosure is required by law";
- to provide, when the client requests, information and advice on matters that are material to the transaction and that are within the scope of the firm's knowledge, skills, and training;
- to disclose to the client all known information that is:
 - material to the transaction; and
 - not known by the client or discoverable through reasonably vigilant observation, except for confidential information and disclosures that are prohibited by law;
- to fulfill any obligation required by the agency agreement or any client order that is within the agreement's scope, provided it is not inconsistent with another duty or law; and
- to negotiate on behalf of the client.

For a summary of other relevant provisions, see **Agency: Wisconsin: General Agency Relationship Requirements** and **Relationship with Sellers**. For additional information regarding a transaction broker's required duties, see **Agency: Wisconsin: Transaction Brokers**.

Statutory section amended 2016. Regulations amended 2012.

[Wis. Stat. Ann. § 452.133 \(2016\)](#); [Wis. Admin. Code REEB §§ 24.07, .13 \(2016\)](#) (as amended by [Emergency Rule 1620](#))

Wisconsin, Waivers

The duties imposed by § 452.133(1), (2)(a), (2)(am), (2)(b), (2)(c), (4) and (5) may not be waived. However, a client may waive, in part or in full, the duty under § 452.133(2)(d) (regarding the duty to

negotiate on behalf of the client). However, that waiver is not effective unless the firm or its associated licensee provides the client with a written disclosure containing:

- a copy of the text of §§ 452.133(2)(d) and 452.01(5m);
- a statement that, because of the client's waiver, the firm and its associated licensee will have no legal duty to perform the duty imposed by § 452.133(2)(d); and
- a statement that, because of the client's waiver, the client may require an attorney's or other service provider's assistance to fulfill the client's goals and contractual duties.

Statutory section amended 2016.

[Wis. Stat. Ann. § 452.133\(6\) \(2016\)](#)

Wyoming

Wyoming, Disclosures

No disclosure provisions specifically related to minimum service requirements were located.

However, generally, before engaging in any "discussions or arrangements incidental to a sale, purchase, exchange or lease" of real estate and before entering into any written agreement, a licensee must disclose in writing the applicable agency, intermediary, or customer relationships, which disclosure must contain the following service-oriented items, among others:

- a description of the different agency, intermediary, or customer relationships allowed and an explanation of the duties and obligations owed under each;
- a conspicuous statement of duties and obligations that are owed by an agent, but not an intermediary; and
- a statement that an established relationship cannot be modified without the buyer's or seller's written consent and that the buyer or seller may negotiate different compensation as a condition of consenting to a relationship change.

In this context, open house showings, preliminary conversations, and requests for factual information do not constitute "discussions or arrangements incidental to a sale, purchase, exchange or lease."

Also, a licensee may act as an agent (or a subagent) only pursuant to a written agreement that discloses the licensee's duties and responsibilities.

For additional general information regarding required disclosures, see **Agency: Wyoming: General Agency Relationship Requirements** and **Relationship with Sellers**.

Statutory section 33-28-306 amended 2011; § 33-28-302 amended 2015.

Wyo. Stat. § 33-28-302, -306 (LexisNexis 2016)

Wyoming, Exclusive Brokerage Agreements

No provisions specifically regarding exclusive brokerage agreements were located. For general information regarding licensee agreements, see **Agency: Wyoming: General Agency Relationship Requirements** and **Relationship with Sellers**.

Wyoming, Required Services

GENERAL REQUIREMENTS

Wyoming regulations provide that a responsible broker or a licensee acting on the broker's behalf must deliver at signing to the executing parties a hard or electronic copy of any document, if the instrument was prepared by the responsible broker or under his or her supervision, or is within his or her control. The broker or licensee must "prepare the purchase offer and acceptance form, exchange contract form or other inducement document form for the voluntary transfer of freehold or non-freehold real estate to include but not be limited to" items specified by regulation. Cooperating responsible brokers or their licensees must present offers and negotiate only through the listing responsible broker or their licensees unless the listing responsible broker gives written consent to contact the principal. A broker or a broker's licensee must present all offers "as expeditiously as possible." Also, a responsible broker must ensure that "his agents comply with minimum Commission requirements when preparing contracts and obtaining signatures."

The commission may discipline a licensee for the following omissions, among others:

- failing to advise the buyer and seller, at the time an offer is presented, of a proposed sale's terms, including estimated discounts and closing costs;

- failing to submit all written offers to a buyer or a seller;
- failing to account for all funds or property received from others; and
- failing to deliver a completed copy of any document to all parties within a reasonable time.

A responsible broker must deliver at closing to the parties in a real estate transaction "a complete, detailed closing statement showing all of the receipts and disbursements handled by the licensee in his office for the parties unless a clear and accurate accounting is furnished by another broker or a funds holder."

A licensee may complete real estate forms and must explain to the parties the effects of the forms, if the licensee is performing real estate activities for the transaction.

BUYER'S AGENT'S DUTIES

A buyer's agent must, among other duties,

- promote the buyer's interests with good faith, loyalty and fidelity;
- seek a price and terms that are acceptable to the buyer, except that the licensee need not seek additional properties if the buyer is party to a purchase contract;
- present all offers to and from the buyer in a timely manner, whether or not the buyer is already a party to a purchase contract;
- disclose to the buyer known adverse material facts;

- counsel the buyer as to known material benefits or risks of a transaction;
- account in a timely manner; and
- advise the buyer to obtain expert advice as to material matters beyond the licensee's expertise.

SELLER'S AGENT'S DUTIES

A seller's agent must, among other duties,

- promote the seller's interests with good faith, loyalty and fidelity;
- seek a price and terms that are acceptable to the seller, except that the licensee need not seek additional offers if the property is subject to a sale contract;
- present all offers to and from the seller in a timely manner, whether or not the property is subject to a sale contract;
- disclose to the seller known adverse material facts;
- counsel the seller as to known material benefits or risks of a transaction;
- advise the seller to obtain expert advice as to material matters beyond the licensee's expertise;
- account in a timely manner; and

- inform the seller that he or she may be vicariously liable for acts of the seller's agent or subagent that the seller approved.

LICENSEES WORKING WITH BUYERS AND SELLERS AS CUSTOMERS

A licensee working with a buyer or seller who is a customer must perform the following service-oriented duties, among others:

- present all offers and counteroffers in a timely manner, whether or not the property is subject to a sale contract;
- advise the parties to obtain expert advice as to material matters beyond the licensee's expertise;
- account in a timely manner for all money and property received;
- keep the parties fully informed;
- assist the parties "in complying with the terms and conditions of any contract which may include closing the transaction"; and
- disclose to all prospective buyers and sellers any known adverse material facts.

In this context, "customer" means a party to a real estate transaction who has established no intermediary or agency relationship with any licensee in the transaction.

For additional general information regarding licensee's duties, see **Agency: Wyoming: General Agency Relationship Requirements, Relationship with Buyers, and Relationship with**

Sellers. For additional information regarding a transaction broker's required duties, see **Agency: Wyoming: Transaction Brokers.**

Statutory section 33-28-304 amended 2009; § 33-28-310 enacted 2009; § 33-28-303 amended 2011; § 33-28-111 amended 2014; § 33-28-302 amended 2015. Regulation amended 2015.

Wyo. Stat. §§ 33-28-111, -302, -303, -304, -310 (LexisNexis 2016); [9824 Wyo. Code R. ch. 3, § 1 \(2016\)](#)

Wyoming, Waivers

No provisions specifically related to the waiver of broker minimum service requirements were located.