

§13275. Disclosed dual agent

1. Consent agreement; disclosed dual agent. A real estate brokerage agency may act as a disclosed dual agent only with the informed written consent of all parties. Consent is presumed to be informed if the party signs an agreement that contains the following:

A. A description of the transactions in which the real estate brokerage agency will serve as a disclosed dual agent; [PL 1993, c. 679, §1 (NEW).]

B. A statement that, in serving as a disclosed dual agent, the real estate brokerage agency represents 2 clients whose interests are adverse and that the agency duties are limited; [PL 1993, c. 679, §1 (NEW).]

C. A statement that the disclosed dual agent may disclose any information to one party that the disclosed dual agent gains from the other party if that information is relevant to the transaction, except:

(1) The willingness or ability of the seller to accept less than the asking price;

(2) The willingness or ability of the buyer to pay more than has been offered;

(3) Confidential negotiating strategy not disclosed in the sales offer as terms of the sale; and

(4) The motivation of the seller for selling and the motivation of the buyer for buying; [PL 2005, c. 378, §15 (AMD); PL 2005, c. 378, §29 (AFF).]

D. A statement that the client may choose to consent or not consent to the disclosed dual agency; and [PL 1993, c. 679, §1 (NEW).]

E. A statement that the consent of the client has been given voluntarily and that the agreement has been read and understood. [PL 1993, c. 679, §1 (NEW).]

[PL 2005, c. 378, §15 (AMD); PL 2005, c. 378, §29 (AFF).]

2. Cause of action. A cause of action may not be brought on behalf of any person against a disclosed dual agent for making disclosures permitted or required by this subchapter and the disclosed dual agent does not terminate any client relationship by making disclosures permitted or required by this subchapter.

[PL 2005, c. 378, §16 (AMD); PL 2005, c. 378, §29 (AFF).]

3. Actual knowledge; information. In a disclosed dual agent situation each client and the real estate brokerage agency and its affiliated licensees are considered to possess only actual knowledge and information. There is no imputation of knowledge or information by operation of law among or between the clients, the real estate brokerage agency or its affiliated licensees.

[PL 1993, c. 679, §1 (NEW).]

4. Duty to parties. The duty of a disclosed dual agent to the client who is selling is the same as set forth in section 13273, and the duty to the client who is buying is the same as set forth in section 13274, except that:

A. A disclosed dual agent may not promote the interests of one party to the detriment of the other party except as required to comply with this section; and [PL 2005, c. 378, §17 (NEW); PL 2005, c. 378, §29 (AFF).]

B. A disclosed dual agent may disclose any information to one party that the disclosed dual agent gains from the other party if that information is relevant to the transaction, except:

(1) The willingness or ability of the seller to accept less than the asking price;

(2) The willingness or ability of the buyer to pay more than has been offered;

(3) Confidential negotiating strategy not disclosed in the sales offer as terms of the sale; and

(4) The motivation of the seller for selling and the motivation of the buyer for buying. [PL 2005, c. 378, §17 (NEW); PL 2005, c. 378, §29 (AFF).]
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SECTION HISTORY

PL 1993, c. 679, §1 (NEW). PL 2005, c. 378, §§15-17 (AMD). PL 2005, c. 378, §29 (AFF).

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