

REAL ESTATE BROKERS AND SALESMEN (1)

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Sec. 20-325d-1. Definitions

For the purposes of Sections 20-325d-1 through 20-325d-7, inclusive, of these regulations, the following terms shall have the meanings indicated:

- (a) "Broker" or "Real estate broker" means "real estate broker" as this term is defined by Connecticut General Statutes Section 20-311(1), as amended;
- (b) "Salesman" or "Real estate salesman" means "real estate salesman" as this term is defined by Connecticut General Statutes Section 20-311(2), as amended;
- (c) "Seller's Agent" or "Agent of the seller" means a real estate broker or real estate salesman who acts in a fiduciary capacity for the prospective seller or prospective lessor in a real estate transaction;
- (d) "Buyer's agent" or "Agent of the buyer" means a real estate broker or real estate salesman who acts in a fiduciary capacity for the prospective buyer or prospective lessee in a real estate transaction;
- (e) "Dual agent" means a real estate broker or real estate salesman who acts in a fiduciary capacity for both the prospective seller or prospective lessor and the prospective buyer or prospective lessee in a real estate transaction; and
- (f) "Licensee" means real estate broker and/or real estate salesman.

(Effective February 22, 1991; Amended effective September 28, 1995.)

Sec. 20-325d-2. Agency disclosure

(a) A real estate broker or real estate salesman, when acting as a seller's agent, shall make a written disclosure of whom the brokerage firm and its agents represent to prospective buyers or lessees, unless such prospective buyer or lessee is represented by another real estate broker. A real estate broker or real estate salesperson, when acting as a buyer's agent, shall make a written disclosure of whom the brokerage firm and its agents represent to prospective sellers or lessors, unless such prospective seller or lessor is represented by another real estate broker. The disclosure shall be in one of the following forms:

Dual Agency/Designated Agency

Disclosure Notice and Consent Agreement

Given to Persons Represented by the Same Brokerage Firm

Brokerage Firm: _____

Property Address: _____

Buyer (tenant): _____

Seller (landlord): _____

The brokerage firm has entered into a written agency relationship with both buyer and seller (or tenant and landlord). Buyer (tenant) is now interested in buying (leasing) seller's (landlord's) property. If this transaction proceeds, the brokerage firm will be a dual agent, since the brokerage firm represents both parties. Connecticut law allows a brokerage firm to be a dual agent, but only after both buyer and seller (or tenant and landlord) understand what dual agency is and consent to it.

Connecticut law also allows brokerage firms that are dual agents to appoint individual designated agents within their firm to solely represent buyer and seller (or tenant and landlord); again, this designation can only be made after both buyer and seller (or tenant and landlord) understand what designated agency is and consent to it.

Both buyer and seller (or tenant and landlord) are free to seek legal and tax advice with regard to this transaction, and with regard to all documents signed in connection with this transaction.

Understanding dual agency

Dual agency means that the brokerage firm, and all the brokers and salespersons for the firm (unless designated agency is chosen) act in a fiduciary capacity for both buyer and seller (or tenant and landlord). In dual agency, the brokerage firm does not represent either the buyer or seller (or tenant or landlord) exclusively, and the parties can not expect the brokerage firm's undivided loyalty.

The brokerage firm may not disclose to either the buyer or seller (or tenant or landlord) any personal, financial, or confidential information to the other party except as authorized by either party or required by law. The brokerage firm may not disclose, unless otherwise instructed by the respective party:

- To buyer (tenant) that seller (landlord) will accept less than the asking or listed price;

- To the seller (landlord) that the buyer (tenant) can pay a price greater than the price submitted in a written offer to the seller, unless otherwise instructed to do so in writing by the buyer (tenant);
- The motivation of either buyer or seller (or tenant or landlord) for selling, buying, leasing the property; and
- That buyer or seller will agree to financing terms other than those offered.

Dual agency consent

Buyer and seller (or landlord and tenant) understand dual agency and consent to the brokerage firm acting as a dual agent in this transaction.

Understanding designated agency

Designated agency means the appointment by the brokerage firm of one broker or salesperson (referred to as agent) affiliated with or employed by the brokerage firm to solely represent buyer (tenant) as a designated buyer's agent and appoint another to solely represent seller (landlord) as a designated seller's agent in this transaction.

A designated buyer's agent and designated seller's agent owe the party for whom they have been appointed undivided fiduciary obligations, such as loyalty, reasonable care, disclosure, obedience to lawful instruction, confidentiality and accountability. The designated agent is not deemed to be a dual agent, and thus does not owe fiduciary duties to the other party. A designated agent may use confidential information obtained about the other party while a designated agent for the benefit of the party for whom they have been appointed, however, information obtained before the designation is still confidential. In the case of designated agency, the brokerage firm is still considered a dual agent.

Appointment of designated agents

Buyer and seller (or landlord and tenant) understand designated agency and have agreed to the appointment of designated agents.

If designated agency has been agreed to, the following designated agents have been appointed:

_____ has been designated to solely represent buyer (tenant) as a designated buyer agent.

_____ has been designated to solely represent seller (landlord) as a designated seller agent.

Appointing broker/authorized agent: _____

Date: _____

Acknowledgment of buyer (tenant)

Acknowledgement of seller (landlord)

Signature(s)

Date

Signature(s)

Date

Print name(s)

Print name(s)

Form 2

Real Estate Agency Disclosure Notice

Given to Unrepresented Persons

This is not a contract. Connecticut law requires that you be given this notice disclosing whom the real estate licensee represents. The purpose of such disclosure is to enable you to make informed choices about your relationship with real estate licensees.

Given to: _____ (Unrepresented person/persons)
on _____ (date)
Our firm _____ represents Seller Landlord
 Buyer Tenant

Unrepresented Person(s)'s Rights and Responsibilities

1. The brokers and salespersons (referred to as agents or licensees) in this transaction owe the other party to this transaction undivided fiduciary obligations, such as: loyalty, reasonable care, disclosure, obedience to lawful instruction, confidentiality and accountability. The agent(s) must put the other party's interest first and negotiate for the best terms and conditions for them, not for you.
2. All real estate agents, whether representing you or not, are obligated by law to treat all parties to a real estate transaction honestly and fairly.
3. You have the responsibility to protect your own interests. Carefully read all agreements to make sure they accurately reflect your understanding. If you need additional advice for legal, tax, insurance or other such matters, it is your responsibility to consult a professional in those areas.
4. Whether you are a buyer, seller, tenant, or landlord, you can choose to have the advice, assistance and representation of your own real estate brokerage firm and its agents. Do not assume that a real estate brokerage firm or its agents are representing you or are

acting on your behalf unless you have contracted in writing with that real estate brokerage firm.

Acknowledgment of unrepresented person(s)*

Acknowledgement of agent

Signature(s) Signature

Print name(s) Print name

Date: _____ Date: _____

*To be signed by the buyer/tenant when the agent represents the seller/landlord, or To be signed by the seller/landlord when the agent represents the buyer/tenant

(b)(i) A real estate broker or real estate salesperson, when acting as a dual agent, shall make a written disclosure of dual agency to all parties by using the dual agency consent agreement, Connecticut General Statutes section 20- 325g, or the dual agency designated agency disclosure notice and consent agreement as set forth in the Connecticut regulations concerning designated agency.

(ii) Real estate brokers who represent both buyers and sellers shall disclose the potential for a dual agency situation in their listing agreements and buyer agency agreements.

(Effective February 22, 1991; Amended effective September 28, 1995; Amended effective June 5, 2002.)

Secs. 20-325d-3 to 20-325d-4. [Repealed.]

(Repealed effective September 25, 1995.)

Secs. 20-325d-3 to 20-325d-4. [Repealed.]

(Repealed effective September 25, 1995.)

Sec. 20-325d-5. Time of disclosure

(a) Any licensee acting as a seller's agent or intending to act as a seller's agent shall give the disclosure required by Section 20-325d-2 of these regulations to the prospective buyer or lessee at the beginning of the first personal meeting concerning the prospective buyer's or lessee's specific real estate needs. The disclosure shall be signed by the prospective buyer or lessee and

the broker or salesman, and shall be attached to any offer, binder, option, agreement to purchase or lease. If the prospective buyer or lessee refuses to sign the disclosure, the seller's agent shall note this refusal on the line indicated for the prospective buyer's or lessee's signature.

(b) Any licensee acting as a buyer's agent or intending to act as a buyer's agent shall give the disclosure required by Section 20-325d-2 of these regulations to the seller or lessor or to the seller's or lessor's agent at the beginning of the first personal meeting with the seller or lessor or the seller's or lessor's agent concerning the seller's or lessor's real property. The disclosure shall be signed by the seller or lessor, or the seller's or lessor's agent, and the prospective buyer's agent, and shall be attached to any offer, binder, option, agreement to purchase or lease. If the seller, lessor or seller's or lessor's agent refuses to sign the disclosure, the prospective buyer's agent shall note this refusal on the line indicated for the seller's, lessor's or seller's or lessor's agent's signature.

(Effective February 22, 1991.; Amended effective September 28, 1995; Amended effective June 5, 2002.)

Sec. 20-325d-6. Disclosure by cooperating licensees

(a) The notices required by Connecticut General Statutes Section 20-325d need only be given once to each prospective seller, lessor, buyer or lessee by a real estate licensee.

(b) Any licensee acting as a cooperating licensee shall be responsible for providing the notice required by Connecticut General Statutes Section 20- 325d, unless no cooperating licensee is involved, in which case the seller's or buyer's agent or the dual agent shall be responsible for providing the notice.

(Effective February 22, 1991; effective September 28, 1995.)

Sec. 20-325d-7. Open houses, auctions

(a) The disclosure to prospective buyers or lessees required by Connecticut General Statutes Section 20-325d need not be given to individuals who attend an open house, provided that:

(1) the licensee, by sign, poster, pamphlet or other similar means, conspicuously discloses the licensee's agency relationship; and

(2) no personal meeting concerning the prospective buyer's or lessee's specific real estate needs is held. If such a meeting is held, the written disclosure shall be given at the beginning of the meeting.

(b) The disclosure to prospective buyers or lessees required by Connecticut General Statutes Section 20-325d need not be given to individuals who attend a real estate auction, provided that:

(1) the licensee, by sign, poster, pamphlet or other similar means, conspicuously discloses the licensee's agency relationship; and

(2) the licensee provides the disclosure to the successful bidder prior to the time a written offer to purchase is executed.

(Effective February 22, 1991; Amended effective September 28, 1995.)