

Sec. 20-328-2a. Duties to parties.

(a) A licensee shall not undertake to provide professional services concerning a property or its value where the licensee has a present or contemplated interest unless such interest is specifically disclosed to all affected parties.

(b) A licensee shall not acquire an interest in or buy for himself or herself, any member of the licensee's immediate family, the licensee's firm or any member thereof, or any entity in which the licensee has a substantial ownership interest, property listed with the licensee, without disclosing to the listing owner the licensee's relationship to the prospective buyer or lessee. In selling or leasing property owned by the licensee or in which the licensee has any interest, the licensee shall reveal the extent of his or her ownership or interest to the prospective buyer or lessee.

(c) A licensee accepting an exclusive right to sell or lease listing or an exclusive agency to sell or lease listing shall make a diligent effort to sell or lease the property listed. A licensee who agrees to become an exclusive agent of a prospective buyer or lessee shall make a diligent effort to find a property within the prospective buyer's or lessee's specifications.

(d) (1) No licensee shall submit to an owner a written offer to purchase or lease real property unless either (A) such offer contains the essential terms and conditions of the offer, including the manner in which the purchase is to be financed; or (B) such offer is conditioned upon the later execution of a bond for deed or complete agreement for sale.

(2) No licensee shall submit to an owner a written agreement or a bond for deed for the sale of real estate which contains a mortgage contingency clause which conditions the prospective buyer's performance on obtaining a mortgage from a third party unless the contingency clause includes at least the following: (A) the principal amount of the mortgage the prospective buyer shall obtain; (B) the time period within which the mortgage commitment shall be obtained; and (C) the term of years of the mortgage.

(e) (1) The listing broker shall submit all offers or counter-offers to the seller, owner or lessor as quickly as possible. Unless the listing broker and the seller, owner or lessor agree otherwise, the listing broker shall not be obligated to continue to market the property after an offer or counter-offer has been accepted. After the acceptance of an offer or counter-offer, the listing broker shall advise any other offerors that an offer or counter-offer on the listed property has been accepted.

(2) A licensee acting as the agent of the buyer or lessee shall present all offers or counter-offers to the prospective buyer or lessee as quickly as possible. Unless a licensee acting as the agent of the prospective buyer or lessee and the buyer or lessee agree otherwise, the licensee shall not be obligated to continue to show properties to the prospective buyer or lessee after an offer or counter-offer has been accepted.

(f) (1) All dealings concerning property exclusively listed with an agent shall be conducted with the listing agent, and not the seller, owner or lessor. A licensee may contact the seller, owner or lessor of property exclusively listed with an agent if the listing agent consents to the contact or the licensee, after diligent effort, is unable to communicate with the listing agent or a licensee designated by the listing agent to service the listing in the listing agent's absence.

(2) All dealings concerning a prospective buyer or lessee who is exclusively represented

by an agent shall be conducted with the prospective buyer's or lessee's agent, and not with the prospective buyer or lessee. A licensee may contact a prospective buyer or lessee who is exclusively represented by an agent if the agent representing the prospective buyer or lessee consents to the contact or the licensee, after diligent effort, is unable to communicate with the prospective buyer's or lessee's agent or a licensee designated by the buyer's or lessee's agent to service the buyer or lessee in the buyer's or lessee's agent's absence.

(g) No signs shall be placed on any property which relate to a real estate transaction without the written consent of the owner or the lessor, or his or her duly authorized agent or fiduciary.

(h) In the sale or lease of property which is exclusively listed with a broker pursuant to an exclusive right to sell or lease listing or an exclusive agency to sell or lease listing, the broker shall cooperate with other brokers upon mutually agreed upon terms when it is in the best interests of the party or parties for whom the broker is acting.

(Effective May 18, 1990; Amended September 28, 1995; Amended December 27, 2024)